



AUSTRALIAN
**FOOD &
GROCERY**
COUNCIL

AFGC SUBMISSION

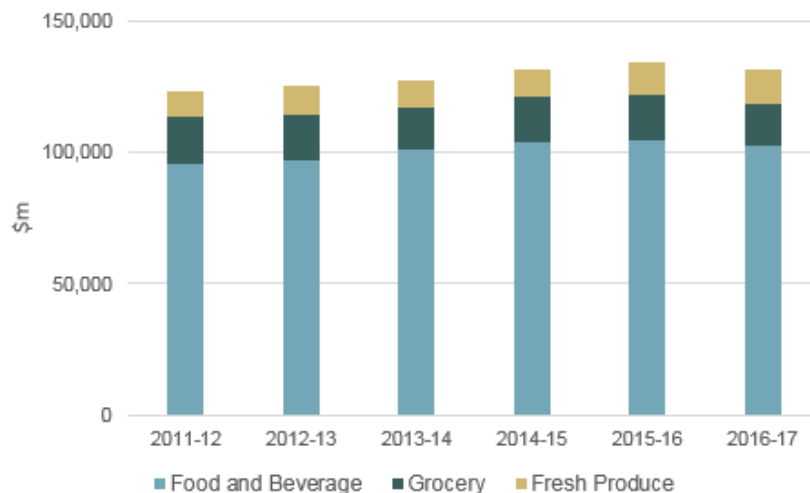
RESPONSE TO: *FSANZ SECOND CALL FOR
SUBMISSIONS – PROPOSAL P1044 PLAIN ENGLISH
ALLERGEN LABELLING*

Sustaining Australia

PREFACE

The Australian Food and Grocery Council (AFGC) is the leading national organisation representing Australia's food, drink and grocery manufacturing industry. The membership of AFGC comprises more than 180 companies, subsidiaries and associates which constitutes in the order of 80 per cent of the gross dollar value of the processed food, beverage and grocery products sectors.

Composition of industry turnover (2016-17)



With an annual turnover in the 2016-17 financial year of \$131.3 billion, Australia's food and grocery manufacturing industry makes a substantial contribution to the Australian economy and is vital to the nation's future prosperity. Manufacturing of food, beverages and groceries in the fast-moving consumer goods sector is Australia's largest manufacturing industry, representing 36 per cent of total manufacturing turnover in Australia.

The diverse and sustainable industry is made up of over 36,086 businesses and accounts for over \$72.5 billion of the nation's international trade. These businesses range from some of the largest globally significant multinational companies to small and medium enterprises. Industry made \$2.9 billion in capital investment in 2016-17 on research and development.

The food and grocery manufacturing sector employs more than 324,450 Australians, representing almost 40 per cent of total manufacturing employment in Australia. Many food manufacturing plants are located outside the metropolitan regions. The industry makes a large contribution to rural and regional Australia economies, with almost 42 per cent of the total persons employed being in rural and regional Australia. It is essential for the economic and social development of Australia, and particularly rural and regional Australia, that the magnitude, significance and contribution of this industry is recognised and factored into the Government's economic, industrial and trade policies.

Australians and our political leaders overwhelmingly want a local, value-adding food and grocery manufacturing sector.

INTRODUCTION

The Australian Food and Grocery Council (AFGC) makes this submission in response to the Food Standards Australia and New Zealand (FSANZ) second call for submissions for Proposal P1044 – Plain English Allergen Labelling.

FSANZ has assessed a proposal requiring mandatory food allergen declarations to be made clearer and in plain English, and has prepared a draft food regulatory measure.

The AFGC has consulted with its Members and provides the following feedback to FSANZ for consideration.

The AFGC membership includes food manufacturers, importers and marketers that will be significantly impacted by FSANZ's proposal to change the Food Standards Code (the Code).

The consultation documents have been reviewed and the comments below relate to these specific documents:

- [2nd Call for submissions](#)
- [Supporting Document 1 - Summary of submissions](#)
- [Supporting Document 2 - Consumer Literature Review](#)
- [Supporting Document 3 - Safety Risk Assessment](#)
- [Supporting Document 4 - Costs and Benefits](#)

In response to the Consultation, this submission will expand upon the AFGC's views in three sections:

- General Comments
- Specific Comments
- Responses to Questions

GENERAL COMMENTS

The AFGC welcomes the opportunity to comment on the Second Call for Submissions – *Proposal P1044 Plain English Allergen Labelling*.

The AFGC fully supports the objective of P1044 to further help consumers make informed choices and manage their risk associated with consumption of allergens. However, when it reviews reported cases of allergic response and anaphylaxis, it appears that many of these arise from incorrect allergen labelling (i.e. non-compliance with the current provisions of the Code on the part of the manufacturer or importer). And further, there is limited evidence of adverse responses occurring where the allergic consumer has read the label of a correct-labelled food. The AFGC therefore holds the view that the current allergen labelling requirements of the Code are largely 'fit for purpose'. While suggested improvements to the current provisions are always welcome for consideration, the AFGC does not anticipate the implementation of PEAL outcomes will result in a major reduction consumer anaphylaxis and related allergic responses in Australia and New Zealand.

The AFGC and the Allergen Bureau have developed a number of resources for broader industry to use with the intention to reduce allergens in the food supply. The [Food Industry Guide to Allergen Management and Labelling \(2019\)](#) is relevant to all sectors of the food industry involved in supply, handling, production, distribution and sale of foods and, provides:

- an overview of the requirements outlined in the Code regarding food allergens that require labelling;
- an overview of food allergy and food intolerance;
- guidance on the management of food allergens in the manufacture and supply of foods;
- information on the testing for allergens; and
- guidelines for declaring mandatory and voluntary allergen information for foods.

(FSANZ has acknowledged this Guide in the Consultation Papers and the AFGC and Allergen Bureau will update and refine the guidance in this industry document to support future changes and additions to the Code).

The Allergen Bureau's [resources](#) for industry include the [Allergen Risk Review Website](#) which is a freely available interactive guide designed to assist the food industry with understanding the allergen status of its products.

To affect a greater reduction in allergy and anaphylaxis incidents in Australia and New Zealand, the AFGC calls upon the food regulation enforcement agencies to assist in the promotion of these resources to industry so that all of industry is compliant with the relevant regulations and employing best practice in allergen management. Further, border surveillance of imported food needs to be prioritised with the primary focus being to ensure that allergens contained in imported foods are

accurately declared on the label (and while formatting of this allergen messaging is important, the AFGC considers this to be a secondary priority after accuracy).

The AFGC recognises that consumers with food allergies and their carers need clear and consistent information on food labelling and that this favours a more prescriptive approach to allergen messaging (by food regulators). However, to counter this, for industry to sustainably and viably implement the outcomes of this proposal across a broad range of products, a degree of flexibility around allergen messaging is required. The AFGC is optimistic that FSANZ will seek to balance these competing interests and recommend an outcome that serves both stakeholders equally well.

SPECIFIC COMMENTS

PREFERRED OPTION

The AFGC has reviewed FSANZ's assessment and proposed options and supports option 3 (the preferred option of FSANZ) **with modifications**.

Option 3 – declare allergens using mandatory specified terms in bold font, with additional requirements to declare in the statement of ingredients as well as a separate allergen summary statement

PRESENTATION OF ALLERGEN DECLARATIONS

LOCATION

The AFGC is supportive of the summary statement being in close proximity to the statement of the ingredients list i.e. in the same field of vision.

However, the highly prescriptive nature of the proposal to require the allergen summary statement to be located directly below and distinctly separated from the statement of ingredients [new section 1.2.3—7 (3)] cannot be achieved on all labels, especially in the case of small packs or those with unusual shapes/configurations.

This overly prescriptive requirement could be addressed through a principles-based approach. The AFGC recommends to FSANZ to stipulate the positional requirements of the summary statement as being *in close proximity to and in the same view* as the statement of ingredients. Where label space is very limited due to small pack sizes and/or packaging format constraints, the allergen summary statement may not appear as a stand-alone and other relevant text such as the precautionary allergen labels (PAL) may appear on the same line as the 'contains' statement.

FORMAT

The AFGC is supportive of the principle to declare of allergens in the statement of ingredients using bold font and an emboldened allergen summary statement; this has been promoted by the AFGC and Allergen Bureau to industry as best practice and adopted on a voluntary basis by a large number of food and beverage manufacturers.

However, the AFGC wishes to alert FSANZ of some current technological constraints on bolding allergen names in selected ingredients lists e.g. where labels are printed in-store using digital printing (rather than commercial printing presses) and where allergens are printed on inner packs by inkjet or stamping. Bolding of inkjet printing may make the text less legible, especially below 5 pt. font size.

While the bolding proposed could be achieved for most labels, the AFGC recommends FSANZ to consider an exemption for in-store, digitally printed labels and inkjet-printed and stamped declarations on inner packs.

The AFGC is also mindful that small and medium enterprises may not have the capacity to effect bolding routinely.

The AFGC requests consideration towards a principles-based requirement which stipulates prominence rather than overly prescriptive styling and formatting. Principles-based would also give some flexibility around the separation and prominence of other advisory/warning statements (e.g. Contains Caffeine) which are also declared in bold-type and, arguably, they are as important as allergen summary statements. This would address the unintended consequence of bold typing both summary statements and warning/advisory statements. Examples of prominence could include: boxing, italics, bold typing, underlining or other formatting of font.

In addition, the AFGC raises a concern regarding restrictions on text formatting for allergens not required to be declared in Australia and New Zealand. For example, celery or mustard which are required to be declared in some other jurisdictions might be bolded on products imported from overseas. The AFGC wishes to clarify that such ingredients may be highlighted using a different text type e.g. bolded and/or italicised.

PREFIX

The AFGC agrees that the position that the prefix 'Contains' be mandated for use in the allergen summary statement to assist with consistency in the use and presentation of the statement.

USE OF PARENTHESES

The AFGC agrees that there is no need to specify the use of parenthesis in the ingredients list, and agrees that industry is best placed to manage how mandatory terms are displayed as part of the ingredients names.

COLOUR

The AFGC agrees that there is no need to specify the colour for allergen declarations.

TERMINOLOGY

MANDATING PEAL TERMS

The AFGC agrees that allergens be declared using mandatory specified terms ('required name') when making allergen declarations as per the table to Schedule 9.

Mandated names assist in a standardised, consistent and clear allergen declaration and help decrease consumer confusing making allergens easier to identify for food allergic consumers, and aligns with Canadian and US regulations.

The AFGC also seeks clarification regarding exemptions to allergen labelling e.g. alcohol distilled from wheat and products of those exemptions (see current Code 1.2.3—4 (3)) e.g. vinegar derived from alcohol distilled from wheat. The variation standard in the proposal has made changes specifically Subsection 3 (specifically 1.2.3—4 (3)) which has been deleted from the draft proposal [see page 37 in the [2nd Call for submissions](#) under 1.2.3—4 (4)]. This is a concern as it is now less clear that ‘products of’ or ‘derivatives of’ exempted allergens are also exempt.

SYNONYMS

The AFGC agrees to use terminology for allergens that should reflect the source allergen, and synonyms which are not the name of the source allergen should not be used with the exception of ‘soy’, ‘soya, and ‘soybean’.

The AFGC supports the rationale that ‘soya’ and ‘soybean’ are very similar to ‘soy’ and are recognisable as referring to the allergen as they incorporate the term ‘soy’. We also support that the term ‘soy’ should always be used in the allergen summary statement as this is the simplest and most accurate summary term for this allergen.

DECLARING FISH, CRUSTACEA AND MOLLUSCS

CLARIFYING MOLLUSC DECLARATIONS REQUIREMENTS

The AFGC agrees in principle to amend the Code to require the separate declaration of ‘molluscs’ and is supportive of this proposal.

However, the AFGC recommends that the Code be amended to define molluscs as *marine* molluscs only. Further clarity is required on the ordinary dictionary meaning ‘molluscs’ and whether the proposed recommendations are enough for consumers to make appropriate decisions on what foods are covered under ‘molluscs’.

It requests that terrestrial molluscs (such as common garden snails) be excluded from this requirement as their inclusion would represent an additional mandatory declaration for industry to manage and it is noted that the intent of P1044 is not to add further allergens (and any such proposal to introduce new mandatory declarations would need to follow a due regulatory process).

The AFGC also notes that although Schedule 22 defines such foods as molluscs, crustaceans and fish, this Schedule is intended to categorise foods for assigning agricultural pesticide permissions, and, is not intended for allergen declaration purposes.

DECLARING TREE NUTS

INDIVIDUAL TREE NUT DECLARATIONS IN THE STATEMENT OF INGREDIENTS

The AFGC agrees in principle to the separate declaration of individual tree nuts: almond, Brazil nut, cashew, hazelnut, macadamia, pecan, pine nut, pistachio and walnut.

The AFGC believes that a strong consumer awareness and education campaign will be required when the changes are affected, as under current legislation a product containing e.g. chestnut would be labelled as containing tree nuts.

In addition, currently under Standard 1.2.3-4 (1) (b) (ix) a declaration is required for 'tree nuts' other than coconut from the fruit of the palm *Cocos nucifera*. For clarity and consistency and to provide certainty to the consumer, the AFGC recommends exemptions under tree nuts should be more prescriptive and be noted under the Table to Schedule 9 (i.e. item 4, Column 2).

USE OF THE TERM 'TREE NUT'

The AFGC is in broad agreement with the principle of the use of the mandated specified term 'Tree nut' in the allergen summary statement *if* individual tree nuts are declared in the statement of ingredients.

However, it also advocates that food manufacturers be permitted to declare the individual tree nuts in the allergen summary statement if they wish rather than the term 'tree nut'. A further option for manufacturers might be a summary statement of 'contains tree nut (almond)'; however, this will lengthen the text of the summary statement in an already-crowded label and therefore, is not likely to be used widely by industry.

The AFGC is concerned about the less informative consequence of using the term 'tree nut' in a summary statement, particularly with individual portion packs, which are labelled with only mandatory statements. 'Contains Tree Nut' is less helpful to consumers than 'Contains Almond'. While the ingredients list of the primary pack will inform the specific nut, this primary label is not reliably available to the food allergic consumer at the time of consumption, especially in the case of food service portion packs e.g. sauce packs provided at fast food outlets.

The AFGC supports adopting the same requirement as 'foods not required to bear a label or display a statement of ingredients' i.e. that the same mandatory specified terms required for the statement of ingredients on packaged foods should be used for summary statement declarations. To be clear, in this scenario, the summary statement would declare 'Contains Almond'.

CEREAL DECLARATION REQUIREMENTS

The AFGC supports in principle the declaration of individual cereals and their hybridised strains (as detailed in Schedule 9-3) within the ingredient list. This is similar to the proposed treatment of tree nuts (see **Declaring Tree Nuts** above) in that each specific cereal should be declared. This is helpful for consumers who are sensitive to only certain types of cereal and allows for more informed decision making. Declaration of the individual cereals in the ingredient list effectively communicates

to both consumers that are gluten intolerant and to those consumers that may be immunologically sensitive (IgE mediated) to wheat and other cereals.

Where these individual cereals and hybrids contain gluten, the specific term 'gluten' should be used as an alert term in the summary statement: 'Contains Gluten'. Much like the term 'tree nut', the term 'gluten' alone is sufficient as an alert phrase to prompt consumers to seek further information on the specific cereal(s) contained in the food from the ingredient list.

AFGC supports in principle the use of the specified term 'gluten' in the allergen summary statement, but seeks additional flexibility to allow manufacturers to declare the individual cereals e.g. oats, rye, barley in the allergen summary statement rather than just 'gluten' if they choose to. This later approach e.g. 'contains barley' may be helpful on, for example, individual portion packs where the full ingredients list is not readily available and would be more useful to sensitive consumers than 'contains gluten' alone.

Additionally, the AFGC supports not to require 'gluten' declarations in the summary statement for barley, rye, oats, and spelt if these cereal ingredients do not contain gluten due to breeding techniques or processing to remove gluten proteins. These cereal names may still be declared voluntarily or as an accurate ingredient name in the ingredients list but the formatting requirement for allergen declarations (i.e. bolding) would not apply to the cereal name in this instance.

The FSANZ risk assessment which accompanies the review paper notes there are distinct allergies for wheat which are independent of gluten. In the event that individual cereals present in a food do not contain gluten but contain wheat or its hybridised strains or wheat antigens (as has been reported in some varieties of barley and oats), the specified cereals should be bolded in the ingredient list and the specified term 'wheat' should be declared in the summary statement. In short, if 'gluten' is not present in the summary statement to alert the wheat-allergic consumer to the possible presence of wheat (and to refer them to an ingredients list for further information), then the term 'wheat' must be included in the summary statement.

For foods not required to bear a label or a statement of ingredients, a declaration of the individual cereal names would be required but not 'gluten': 'Contains Oats'. A declaration of gluten may however be provided voluntarily.

INDIVIDUAL PORTION PACKS

The AFGC refers to the following sections of the current Code regarding Individual Portion Packs:

- 1.2.1—6(3)** If the food for sale is sold in packaging that includes individual packages for servings that are intended to be used separately (***individual portion packs***), but which:
- (a) are not designed for individual sale; and
 - (b) have a surface area of 30 cm² or greater;

then the individual portion pack is also required to *bear a label, with the information referred to in subsection 1.2.1—8(3).

1.2.1—8(3) For subsection 1.2.1—6(3), the information is warning statements and declarations in accordance with sections 1.2.3—3 and 1.2.3—4.

The AFGC notes the reference above to the *current* 1.2.3—4 which is proposed to be deleted and replaced and be added to (with 1.2.3—5, 1.2.3—6, 1.2.3—7 or 1.2.3—8). Without amendment, 1.2.1—8(3) does not recognise these additional sections and it is not clear to industry if these additional requirements are intended to apply to individual portion packs.

The AFGC further notes that FSANZ is not proposing to change requirements for food for sale in small packages or for food sold to caterers and strongly advocates that requirements for individual portion packs are similarly not changed. To be clear, the AFGC does not support a requirement for a full ingredients list and summary statement on Individual Portion Packs. The AFGC does support for consistency, the use of the mandatory specified terms (on Individual Portion Packs).

FOODS FOR SPECIAL MEDICAL PURPOSES

The AFGC seeks exemption from the prescriptive labelling format for [Foods for special medical purposes](#), noting that these are distributed through restricted and controlled channels which adds a further layer of food allergic consumer protection.

Foods for special medical purposes are largely imported from overseas. In some cases, the regulatory requirements of overseas jurisdictions conflict with those that FSANZ is proposing for the Australia and New Zealand meaning that compliance using a common label is impossible e.g. the regulatory authorities in the European Union are not accepting of an allergen summary statement. However, due to the small volume of the Australian and New Zealand market for foods with medical-purpose, a unique label for an import is not feasible and the outcome would be withdrawal of a much-needed product from the local markets.

LIST OF SPECIFIED TERMS

The AFGC agrees broadly in principle with specified terms for declaring allergens.

However, the AFGC seeks some flexibility on the use of singular and plural terms (as per table 2 mandatory 'required names' under section 5.9 of the proposal page 27) for allergens to avoid incorrect grammar which might be confusing to consumers and in some cases, even misleading.

Some examples:

- The use of the term 'contains peanut' in the summary statement of a peanut bar implies the bar contains a single peanut which is misleading when it contains several peanuts.
- Oats and sulphites are identified as plural whereas all other foods are identified as singular. Are these prescribed statements or is there some flexibility in terms of singular and plural uses

e.g. in the case of a summary statement, if there is more than type one tree nut in the formulation, is it acceptable to declare 'Contains Tree nuts' as opposed to the current requirement which is singular (i.e. 'Contains Tree Nut')?

- FSANZ proposes that if an ingredient name itself refers to the allergen then this is a sufficient allergen declaration. In the example of 'Mineral salt (sodium metabisulphite)', the proposed requirement for 'sulphites' rather than sulphite would require either 'Mineral salt (sodium metabisulphites)' which is not quite correct or, 'Mineral salt (sodium metabisulphite) (sulphites)' which is repetitive.

AFGC also draws attention to clause 1.2.3-6 (3) of the draft standard. The requirements is for the specific (allergen) terms to be listed separately each time they are present as an ingredient or as a component of an ingredient. This would result in multiple appearances of the same allergens in the ingredients list, increasing its length. The AFGC finds this repetitive and is not convinced that the possible consumer benefit justifies the additional label space consumed. To further illustrate by way of example 'Cheese Pasta Sauce':

Ingredients: Water, cream (**milk**), cheddar cheese (**milk**), butter (**milk**), parmesan cheese (**milk**), salt, garlic powder, flavour (**milk**). *Noting that, in this example, the flavour is included at under 5%.*

Arguably, a literate milk-allergic consumer will read the first mention of milk in the ingredients list and determine this product to be unsuitable for consumption. It's not clear to AFGC how mentioning 'milk' another four times will further aid this decision, especially in the case of lesser ingredients, such as the flavour, where the incremental milk contribution is likely to be insignificant compared to contributions from milk sources present at great levels of inclusion. On this basis, the AFGC requests that the subsequent listing of each ingredient that is, or contains, a specific allergen after the first listing of allergen is voluntary not mandatory (because it represents no additional benefit or risk to the allergic consumer).

The AFGC recommends that on relevant sections of the FSANZ website, 'referred names' (in relation to allergens) are used be consistent within their information. For example, where the term 'shellfish' is used where, it should be updated to 'crustacean'.

IMPLEMENTATION

The food industry is facing multiple potential labels change within the next 1-3 years; arising from wide-impacting requirements such Allergen Labelling, Added Sugar Labelling and Health Star Rating. The cost and complexity this introduces to industry cannot be underestimated. Costs associated with label changes sourced from the AFGC's membership range from AUD5,000-20,000 per SKU. These costs vary according to several factors such as the type of packaging and label (e.g. plastic versus paper), the printing process (flexographic, lithographic or other), the minimum volume

required for a print run, existing label stock (which due to the low volume of the Australian and New Zealand market can be two or three years stock of labels) and associated label costs. It is estimated the impact of PEAL will be similar to that of the revised Country of Origin labelling requirements introduced by the Australian Competition and Consumer Commission (ACCC) in 2016.

Increasingly, industry is under pressure from other government agencies to reduce packaging waste. Changing labels regularly for other regulatory requirements resulting in both food and packaging waste is in direct conflict with these environmental sustainability directives.

The AFGC agrees in principle with **Transition period** of a period commencing on the variation's date of commencement and ending 24 months after the date of commencement.

However, the AFGC does not agree with the **Post-transition period** of a 12 month period commencing on the day after the transition period ends. Twelve months will not allow for all in-date stock-in-trade manufactured before or during the 2 years transition period to be sold.

For products with long shelf lives, it will be impossible to comply with the proposed stock-in-trade provision. Further, the multiple pending label changes mentioned above (PEAL, Health Star Rating, Added Sugar Labelling and future proposals), will require a co-ordinated and flexible approach in order to avoid prohibitive cost and complexity. These changes will impact most of the food and beverage products on offer to consumers directly as well as some of those used by the food service industry.

The AFGC favours the approach of the ACCC where goods manufactured after a specified date are required to be labelled according to the new requirements and stock-in-trade made before this date is not required to comply with the new requirements. This is also the approach that the Therapeutic Goods Administration has taken with implementation of new allergen labelling requirements for therapeutic goods¹. If this option is offered by FSANZ, any product manufactured before the commencement date would be deemed compliant until the end of its nominated shelf-life.

As noted earlier in the submission, when the current requirements for allergen labelling are undertaken correctly (by industry), there is minimal association with adverse outcomes (for food allergic consumers). This would indicate that minor, technical labelling inconsistencies with PEAL outcomes are unlikely to represent a significant public health risk and, beyond the transition and post-transition arrangements, the AFGC trusts that minor variations in formatting would not trigger a recall but that the appropriate enforcement agency will approach the manufacturer/importer to agree on a plan to bring products into compliance.

¹ TGA New labelling requirements. <https://www.tga.gov.au/labelling-changes-information-sponsors>

COMMUNICATION AND EDUCATION

The AFGC is very supportive and strongly encourages a communication strategy to consumers, allergy peak bodies (including clinicians and consumer advocates), industry and other stakeholders. It is imperative that consumers are informed about the amendments in the draft variation (if they are approved) and, the resulting label changes.

QUESTIONS

The AFGC has addressed many of the questions below in the submission above but for convenience the information has been provided in the question-and-answer format below noting that where necessary, it refers back to the comments in the main submission for further detail.

Questions for submitters

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

Feedback from AFGC Members indicates that the changes will implicate most packaged food items. Given the high prevalence wheat-based ingredients in the food supply (across many categories), the change to both 'wheat' and 'gluten' will, for some members, impact the label of every stock keeping unit (SKU) it manufactures. In short, the impending change to labelling is huge and will introduce significant cost and complexity to industry.

The variations between the FSANZ proposal and the AFGC & Allergen Bureau's *2019 Food Industry Guide to Allergen Management and Labelling for Australia and New Zealand* will also require businesses following the guidance to make labelling changes.

Further, while PAL is not within the scope of this proposal, it is expected that industry will change PAL statements to use the mandated specified terms. Therefore any label currently carrying a PAL statement may need to be updated.

Questions for submitters

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

Option 2: Declare allergens using mandatory specified terms in bold font.

Option 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.

Both options will invite complexity and cost, as described further below:

MANDATORY SPECIFIED TERMS

AFGC notes that specified terms in the proposal are not mandated in the current regulation or recommended industry guidance, therefore according to the new draft, ingredient lists will need to be updated.

BOLDED TEXT

AFGC notes that bolding expands the length of an ingredient list, therefore manufacturers that do not currently employ bold font for allergen names will find that their ingredient lists will become longer. Digitally-printed labels (such as in-store bakery and deli products) are space constrained and the additional space required may dictate a larger label which has flow-on effects to printing machinery and overall package dimensions. For labels printed on a commercial printing press, the expanded ingredient list may result in other information needing to be re-located to another section of the label, or off-label.

As mentioned earlier in this submission, bold text printed by ink-jetting or stamping may be less legible than text that is not bolded. Examples include text in small font sizes, and ink-jetted text. The AFGC indicates that the proposed bolding requirements may not be implemented in all circumstances.

ALLERGEN SUMMARY STATEMENT

Further to the AFGC's earlier comments, the requirement to have the allergen summary statement 'directly below' and 'distinctly separated' from the statement of ingredients will not be achievable on all labels. While industry will aim to present the allergy summary statement as proposed, industry requires some flexibility regarding placement and will commit to these two label elements being in the same field of (consumer) vision. Further, on smaller labels or labels with specific constraints, other text e.g. PAL 'may contain' statement will be required to start on the same line as the summary statement.

DECLARE THE ALLERGEN – EACH AND EVERY TIME

Feedback from AFGC members indicate that the proposal to declare the allergen "for each ingredient that is or contains that food" (each and every time it appears) within the ingredient list will implicate many packaged food items by extending the length in a space that is already limited, and may disrupt information flow.

AFGC recommends that for multiple references to the same allergen in an ingredient statement e.g. cream (milk), butter (milk), whey powder (milk) be replaced with a requirement for one, first mention only declaration e.g. cream (milk), butter, whey powder.

COSTS

The AFGC is unable to provide any specific estimates of the costs to industry of any changes to the proposed drafting. However, labels will have to be changed for both options and more so for option 3. A general range of costs, based on Country of Origin Labelling changes, is \$5000 to \$20,000 per SKU which includes artwork design, human resources (to affect the changes), write-offs and out-of-stock costs.

As noted elsewhere in the submission, there are a number of potential regulatory and non-regulatory changes on the agenda such as Health Star Rating (HSR) System and added sugar labelling which

could have a significant impact across the industry. It is likely there will be a number of changes to the labelling. A way of mitigating those costs would be to ensure companies are provided ample time to make changes so they can be accommodated in the usual business cycle of packaging renewal. Please see the section **IMPLEMENTATION**.

Questions for submitters

- 3. Is there likely to be a material difference in the 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?**

The AFGC is unable to provide any specific comment on measures of the material difference in the benefit to consumers between Options 2 and 3 nor on the consumer ease of assessment between the two options. Unfortunately, it does not have consumer data to support a response.

Questions for submitters

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

The AFGC advocates for an alternative approach for transition and post-transition (stock-in-trade) provisions. Please refer to the section **IMPLEMENTATION** for details.

The AFGC agrees in principle with Transition period of 24 months after the date of commencement, however, it does not agree with the Post-transition period of a 12 month period commencing on the day after the transition period ends.

Long shelf life foods require a longer duration time for stock-in-trade provisions for numerous reasons - labels updates may not occur in the first year of the transition period, minimum (large) volume of production for foods, and seasonal variations to name a few.

As mandatory allergen declaration is already established, and the intention of this proposal is to make the existing allergen labelling clearer, the AFGC estimates there is no additional health and safety risk (the allergens are already declared on the label) associated with extending the overall time of the proposed stock-in-trade provisions.

Questions for submitters

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?

The AFGC anticipates that the proposed changes will have impacts beyond labelling costs, as previously outlined.

These impacts range from:

- refunding or replacing stock that is non-compliant after the stock-in-trade period ends;
- education/training of regulatory staff and consumer support teams;
- ingredient information will require updating on websites;
- updating the industry guidance resources such as the Allergen Bureau VITAL, and 2019 Food Industry Guide and potentially the *Product Information Form* to align with the proposed changes (it will most likely require updates to the data dictionary and subsequently to the online portals and the guidance materials);
- mandatory provisions will also trigger adjustment and alignment with precautionary allergen labelling;
- consumers potentially will seek out more information to resolve confusion or clarify understanding between old and new packaging; and
- new barcodes will need to be generated and issued with GS1 that will impact significantly on both manufacturers and retailers if most products need to change their barcode.

Questions for submitters

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

The AFGC fully supports the objective of P1044 to further help consumers make informed choices and manage their risk associated with consumption of allergens. Notwithstanding this, the AFGC has identified some areas within the proposal, many of which have been previously outlined, that need further clarification or consideration.

Some additional considerations are:

PRESCRIPTION OF TERMINOLOGY

The following points relate to the proposed prescriptive nature of required names.

SCHEDULE 9 - USE OF PLURAL OR SINGULAR TERMINOLOGY

The AFGC seeks clarity as to whether the singular or plural term can be used, wherever grammatically appropriate. There is inconsistency with the terms listed in the table in which some terms as plural (e.g. oats) and some as singular (e.g. soybean).

The AFGC seeks flexibility on the use of singular and plural terms for allergens to avoid incorrect and possible misleading of consumers and in some instances may read poorly, and therefore, flexibility for use of singular and plural allergen terms should be permitted.

IS A REQUIRED NAME A SPECIFIC WORD?

Following on from the above point, the AFGC seeks clarity as to how required names are intended to fit within section 1.1.1—8 *Compliance with requirements for mandatory statements or words*. Specifically, the AFGC asks if a required name is a '*specific word*' as per section 1.1.1—8? If not, does this mean that a required name can be modified (changed from singular to plural or vice versa) as appropriate?

ALLERGEN SUMMARY STATEMENTS

The AFGC raises an issue in relation to PAL and prescribing the use of required names only within the summary statement (Scenario 1) which may result in consumer confusion if the information in PAL statements conflict with the ingredient list and allergen summary statements. By allowing some flexibility in allergen summary statements (especially for a generic term 'tree nut', 'gluten') a consumer is more informed about the presence of the cross-contact and the intentionally added allergens (Scenario 2 & 3).

Scenario 1.	Scenario 2.	Scenario 3.
Contains tree nut	Contains tree nut (cashew)	Contains cashew
May be present: tree nut	May be present: tree nut (almond)	May be present: almond

EMBOLDENING OF OTHER ALLERGENS OR INGREDIENTS OF INTEREST

The AFGC seeks clarify on whether bolding of additional allergens - which arises in imported foods where mandatory declarations are required in other jurisdictions (e.g. mustard and celery in the European Union) - is permitted in the ingredients list?

The AFGC raises the issue of other ingredients that are of interest to consumers (e.g. caffeine) as well as including other foods that require mandatory advisory or warning statements (e.g. phenylalanine) that may be declared in bold to provide a contrast with other text. We seek clarification as to whether this current permission will be retained for non-allergen substances.

REQUIREMENT FOR SEPARATE DECLARATIONS BETWEEN FISH, CRUSTACEA AND MOLLUSCS

As outlined previously under section **DECLARING FISH, CRUSTACEA AND MOLLUSCS**, the AFGC supports the intention of this for consistency and clarity of mollusc declarations to enable food allergic consumers make safer food choices.

However, the AFGC raises its concern regarding the definition of mollusc and its broader meaning which would impact if it is not confined to marine molluscs. If terrestrial molluscs are included, this is an additional declaration requiring additional hygiene controls established for garden snails as their presence are difficult to control and resulting PAL statements: 'May contain molluscs'.

FOODS FOR SPECIAL MEDICAL PURPOSES (FSMP)

The AFGC raises the issue of the proposed variations to allergen declarations which apply to FSMP and requests an exemption to this category of foods.

The reasons for this are:

- restrictions to selling channels already apply to FSMPs;
- these products are recommended following health professional advice;
- volumes are often small, especially those products that are for very specialised metabolic disorders. They are almost exclusively imported, and may need costly over-stickering to comply with local prescriptive requirements around the allergen summary statement terminology and placement. For instance, the EU specifically prohibits allergen summary statements;
- thus sharing of labels with other English-speaking EU countries will not be possible under this proposal (without the requested exemption).

CONCLUDING REMARKS

P1044 represents an opportunity to reduce the risk of adverse response in food allergic consumers, a goal shared by all stakeholders. The food industry will continue to meet the information needs of consumers regarding allergens to the best of its ability, and it will seek new ways of meeting those needs. And, it will continue to support the mandatory labelling requirements when justified by strong evidence of the public health and safety benefit, or benefit to consumers' understanding of the nature of food products.

The AFGC would welcome consideration of its comments by FSANZ and is ready to engage with FSANZ further if indicated.