

AUSTRALIAN BEVERAGES COUNCIL

Submission for Proposal P1044 Plain English Allergen Labelling

27 February 2020



About the Australian Beverages Council Limited

The Australian Beverages Council Limited [ABCL] has been the leading peak body representing the non-alcoholic beverage industry for more than 70 years, and the only dedicated industry representative of its kind in Australia.

The ABCL represents approximately 90 per cent of the non-alcoholic beverage industry's production volume and our Member companies are some of Australia's largest drinks manufacturers. The ABCL also represents many small and medium-sized companies across the country. Collectively, the ABCL's Members contribute more than \$7 billion to the Australian economy and they employ over 50,000 people across the nation. The industry also pays \$1.2 billion in taxes per annum and for every one direct employee who works in the beverage manufacturing industry, there are 4.9 jobs required elsewhere in the economy to produce and retail beverages.

The ABCL strives to advance the industry as a whole, as well as successfully representing the range of beverages produced by our Members. These include carbonated soft drinks, energy drinks, sports and electrolyte drinks, frozen drinks, bottled and packaged waters, 100 per cent juice and fruit drinks, cordials, iced teas, ready-to-drink coffees, flavoured milk products and flavoured plant milks.

The unified voice of the ABCL offers Members a presence beyond individual representation to promote fairness in the standards, regulations, and policies concerning non-alcoholic beverages. The ABCL plays a role in educating consumers on making informed choices which encourage balance, moderation and common sense.

The ABCL advocates on issues such as portion sizes, environmental sustainability, nutritional labelling, responsible industry marketing and advertising, and canteen guidelines, among others. Our Members listen to consumers and adapt their products accordingly by making positive changes and standing by a commitment to promote greater choice, appropriate portions and by developing an ever increasing range of low and no kilojoule products.

The ABCL is an important conduit between the non-alcoholic beverage industry and governments, supporting the Australian Government, State and Territory Governments and Local Councils.

The ABCL introduced a dedicated juice division, Juice Australia [JA] (formerly Fruit Juice Australia), in 2009 and a dedicated water division, the Australasian Bottled Water Institute [ABWI], in 2011. Through these divisions, and various committees, our organisation and Members continue to adapt and flourish.

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Background

The ABCL makes the following submission relating to the assessment of Proposal (P1044) by Food Standard Australia New Zealand [FSANZ] which seeks to require mandatory declaration of allergen information to be clearer and more consistent for consumers through the use of plain English allergen labelling (PEAL).

The purpose of the assessment carried out by FSANZ in relation to this Proposal was to conduct further risk assessment work to inform possible changes to allergen declaration requirements, which included:

- a literature review of consumer awareness, understanding, attitudes and behaviour in relation to food allergen labelling;
- an updated safety risk assessment and;
- the development of regulatory options and consideration of the costs and benefits ⁽¹⁾.

Based on the findings of the above assessment work, FSANZ provided three regulatory options for consideration:

Option 1: Maintain the status quo (i.e. no change to allergen declaration requirements).

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.

Findings of the assessment work concluded that Option 3 provides the greatest net benefit and is therefore the preferred option.

⁽¹⁾ [Second Call for Submissions – Proposal P1044 Plain English Allergen Labelling](#)

The Australian Beverages Council's Position and Points for Consideration

The ABCL, advocating on behalf of the non-alcoholic beverages industry in Australia, would like to indicate its strong support for preferred Option 3, with modifications to FSANZ's proposed amendments to the Code which comprise:

- The separate declaration of:
 - molluscs;
 - individual tree nuts: almond, Brazil nut, cashew, hazelnut, macadamia, pecan, pine nut, pistachio and walnut;
 - wheat, barley, rye, oats or spelt or their hybrids.
- The use of mandatory specified terms of the allergen source when declaring allergens.
- For packaged foods:
 - the declaration of allergens in the statement of ingredients using bold font and in a separate emboldened allergen summary statement;
 - the use of the mandated specified term 'Gluten' in the allergen summary statement if present from wheat, barley, rye, oats or spelt or their hybrids;
 - 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.

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.

The use of mandatory specified terms of the allergen source when declaring allergens

The ABCL supports the use of mandatory specified terms of the allergen source when declaring allergens. However, further clarity is required as to whether the singular or plural term is to be used, where appropriate. For example, the list of '*Mandatory specified terms ('required names') for allergen declarations*' (Section 5.9, Table 2) identifies oats and sulphites as plural, whereas, all other foods are identified as singular.

The declaration of allergens in the statement of ingredients using bold font and in a separate emboldened allergen summary statement

The ABCL supports the use of bold font in the declaration of allergens in principle, as bold typing of statements is already common practice outside the ingredient statement. It is the view of the ABCL that bold typing of declared allergens in the ingredients list and in a separate allergen summary statement may impact legibility requirements. In particular, font size below 5pt and some types of printing may not have the capability to print bold type.

Therefore, the ABCL recommends consideration towards a principle – based requirement which stipulates prominence rather than overly descriptive wording. Examples of prominence may include boxing, italics, bold typing or formatting of font. A principle – based requirement would provide flexibility around the separation and prominence of other advisory statements on the label (e.g. Contains Caffeine), which are also declared using bold font and are of similar importance as summary statements. This flexibility would address the unintended consequence of bold typing both summary statements and warning/advisory statements.

The separate declaration of ‘gluten’ and ‘wheat’ in allergen summary statement

The ABCL supports the use of the mandated specified term ‘gluten’ if present from wheat, barley, rye, oats or spelt or their hybrids, to be declared in the allergen summary statement. Additionally, the ABCL supports the separate declaration of ‘wheat’ in the allergen summary statement when wheat or wheat hybrids are present and are declared in the statement of ingredients.

The separate declaration of individual tree nuts and use of the mandated specified term ‘Tree nut’ in allergen summary statement

The ABCL supports the use of the mandated specified term ‘Tree nut’ in the allergen summary statement when individual tree nuts e.g. almond, Brazil nut, cashew, hazelnut, macadamia, pecan, pine nut, pistachio and walnut are declared in the statement of ingredients.

The declaration of allergens when used in processing aids

In packaged foods, the ABCL seeks further clarity on the declaration of allergens when used in processing aids. Currently, a processing aid is not required to be declared in the ingredient statement (even when it contains allergens). For example, in the case of a processing aid which contains almond, the allergen summary statement requirement is 'Tree nut'. The more prescriptive term 'almond' would be more appropriate to avoid confusion for consumers. The ABCL recommends adopting the same requirement as *'foods not required to bear a label or display a statement of ingredients'*; where this indicates that the same mandatory specified terms required for the statement of ingredients is also used for summary statement declarations. In this example, the summary statement would declare *'Contains Almond'*.

Implementation of Transition Period

The ABCL supports FSANZ's proposal to implement a transition period for compliance of foods products to be sold: *'a transition period commencing on the variation's date of commencement and ending 24 months after the date of commencement'*.

The ABCL does not support a post – transition period outlined in the Variation as *'post – transition means the 12-month period commencing on the day after the transition period ends'*. The ABCL recommend a stock-in-trade provision (similarly to CoO) to allow product to remain in market for duration of shelf-life. This will allow industry to manage minimum order quantity constraints as well as minimizing the number of label changes that are currently underway, and in the future (i.e. HSR, added sugar labelling).

Additional Recommendations

Table to Schedule 9-3

The ABCL recommends the review of the following:

- Positioning of fish, crustaceans and molluscs – within closer proximity to each other;
- Positioning of peanut – within closer proximity to tree nut grouping;
- Column 2 exemption: for 'tree nuts', the following should be noted as exemptions from of 'tree nuts': Chestnuts; Coconut (from fruit of the palm *Cocos nucifera*); Hazelnuts; Japanese horse-chestnut; Pili nuts; Sapucaia nut.

Standard 1.2.3-7 (3)

This requirement states that the position of an allergen summary statement is to be distinctly separated from the statement of ingredients and located directly below. This is highly prescriptive and, in some situations, may not be achievable without compromising other information on the label. It is the view of the ABCL that this positional requirement may cause issues for smaller packages or products. The ABCL recommends that the implementation of a principles – based approach (as recommended in the bold typing of allergen declarations and allergen summary statement) would address this overly prescriptive requirement. Therefore, the ABCL also recommends the positional requirements of the summary statement to be in close proximity to and in the same view as the statement of ingredients.

Conclusion

The ABCL, acting on behalf of the non-alcoholic refreshment beverages industry in Australia, **supports** the proposed approach by FSANZ to Proposal P1044 Plain English Allergen Labelling in the implementation of **Option 3** with some modifications:

1. Further clarity on singular vs plural use in mandatory specified term;
2. Consideration towards a principles-based approach with bold-typing of allergen summary statements as well as ingredient statements;
3. Further clarity on the declaration of allergens when used as processing aids in packaged foods;
4. Consideration towards a stock-in-trade provision as a post-transition period recommendation;
5. Review of positioning of some allergen terms listed in the table in Schedule 9-3;
6. Review of the overly prescriptive positioning of a summary statement below statement of ingredients.

The ABCL would like to thank FSANZ for the opportunity to make a submission on Proposal P1044 Plain English Allergen Labelling.

For further information:

To discuss this submission or any aspect contained therein, please contact:

Ms. Lianna McGeary
Technical and Regulatory Affairs Manager
Australian Beverages Council
M: + 61 411 957 982
E: Lianna@ausbev.org