13 May 2024

Dear FSANZ,

**RE: Proposed Draft Guidelines on the Provision of Food Information for Prepackaged Foods offered via E-commerce.**

Allergy & Anaphylaxis Australia has responded to the questions on the proposed guidelines.

***Questions***

*The Chair and Co-chairs of the working group have, following our informal meeting at CCFL47, sought to bring committee members together around wording that express our agreed objectives in these guidelines. We kindly ask that you answer the following questions related to the newly proposed wording regarding the text in square brackets following the first round of consultations.*

1. ***Would you object to the suggested wording for the text in square brackets under the ‘Purpose’ section? Please provide a rationale in your response.*** 
   1. *The purpose of these guidelines is to ensure consumers buying prepackaged foods via e-commerce have the information needed to make informed choices, similar to the information they would find on the physical label of the food [, as well as other considerations for prepackaged foods offered for sale via e-commerce.]*

A&AA does not object to the wording in square brackets. The additional information is beneficial as it communicates that there are further considerations that are unique to the purchase of prepackaged food through e-commerce that should be considered. The considerations specific to prepackaged food purchased through e-commerce are outlined in Section 5.

A&AA reiterates previously highlighted concerns about the online information for prepackaged foods at times not being consistent with ingredient labelling and allergen summary statements on the package. This is a risk to consumers with food allergy. Consumers with food allergy require accurate ingredient and allergen information on the e-page, that is consistent with the on-pack information, to allow them to make an informed decision prior to purchase. The person buying the packaged food online may be different to the person receiving the food when it arrives and presumptions may be made around the food being safe for the individual with food allergy. A discrepancy between online ingredient information and information on pack could potentially contribute to an allergic reaction.

The A&AA position is that the e-commerce information on food allergen content must be the same, not similar, to the information they would find on the physical label of the food. This critical information allows the consumer to make an informed choice on safety of the food product.

1. ***Would you object to the inclusion and suggested wording for the ‘indication of durability’, accompanied by a clause-specific definition of ‘durability’ in Section 5.1? Please provide a rationale in your response.***

A&AA does not object to the inclusion of the wording ‘indication of durability’ clarified with a definition in Section 5.1. It is important to clearly differentiate ‘durability’ from ‘best before’ or ‘use by’ date, acknowledging that e-commerce has circumstances that are unique to the process, with potential time delays between the online order and the delivery of the prepackaged food. It is reasonable that consumers expect, when ordering prepackaged food via e-commerce, that it is fit for consumption.

It is acknowledged that the definition of durability is specific to this clause.

1. ***Would you object to the position and suggested wording of the ‘durability’ definition in Section 5.1? Please provide a rationale in your response.***

*[An indication of durability of prepackaged food is encouraged to be provided.] [For the purpose of this clause, “durability” means the period between the point of delivery and the best-before or use-by date in which the food retains its specific properties when properly stored.]*

A&AA does not object to the position and suggested wording of the ‘durability’ definition in Section 5.1. It is acknowledged that external events, such as war, lockdowns and natural disasters may significantly impact many aspects of trade and supply. It is therefore reasonable to state that an indication of durability should be encouraged, but cannot be made compulsory.

1. ***Would you object to keeping the wording of Section 5.3 regarding the Small Unit Exemption the same as suggested in the first consultation? Please provide a rationale in your response.***

*[****5.3*** *The labelling exemption of small units as outlined in Section 6 of the General Standard for Labelling of Prepackaged Foods (CXS 1-1985) does not apply unless justified in specific situations or circumstances.]*

A&AA does not object tokeeping the wording of Section 5.3, ''The labelling exemption of small units as outlined in Section 6 of the General Standard for Labelling of Prepackaged Foods (CXS 1-1985) does not apply.'' However, we are concerned with the qualifying statement, ''unless justified in specific circumstances.'' We believe that vendors selling prepacked foods via e-commerce should have all of the required information from the supplier, even if the information is not present on the physical small packet. The physical constraints of a small unit are not relevant to an e-commerce page.

1. ***Would you object to the new wording for Section 5.4 regarding costs for the consumer? Please provide a rationale in your response.***

*[****5.4*** *The information on the prepackaged foods offered for sale in e-commerce shall be provided without any additional costs for the consumer.]*

A&AA does not object to the new wording for Section 5.4 regarding costs for the consumer. Consumers should not bear additional costs beyond the indirect costs of using electronic data to access information that is sometimes critical in assessing whether the product is safe for them to consume. A&AA does not want cost to be a barrier to consumers with food allergy accessing allergen information that is critical to them in making an assessment of whether a product is suitable to purchase.

Yours sincerely,



Maria Said AM,

CEO

Allergy & Anaphylaxis Australia

* ***START -***

***PROPOSED DRAFT GUIDELINES ON THE PROVISION OF FOOD INFORMATION FOR PREPACKAGED FOODS OFFERED VIA E-COMMERCE***

***1. PURPOSE***

***1.1*** *The purpose of these guidelines is to ensure consumers buying prepackaged foods via e-commerce have the information needed to make informed choices, similar to the information they would find on the physical label of the food[, as well as other considerations for prepackaged foods offered for sale via e-commerce.]*

***2. SCOPE***

***2.1*** *These guidelines apply to the food information required, or provided voluntarily, that is displayed on the product information e-page for prepackaged foods offered for sale via e-commerce, and to certain aspects relating to the presentation thereof.*

***2.2*** *They do not apply to information that is required on the label of prepackaged foods at the point of delivery as set out in the General Standard for Labelling of Prepackaged Foods (CXS 1-1985).*

***3. DEFINITIONS***

*The following terms shall be used in conjunction with Section 2 of the General Standard for Labelling of Prepackaged Foods (CXS 1-1985) for the purposes of applying this text.*

*“At the point of delivery” means the moment when consumers receive prepackaged food.*

*“E-commerce” means the production, distribution, marketing, sale or delivery of goods and services by electronic means as applicable to foods.”*

*“Food information” means the information that is the subject of a Codex text about a prepackaged food.*

*“Prior to the point of e-commerce sale” means provided before consumers commit to ordering and purchasing the food.*

*“Product information e-page” means the virtual space on any consumer–facing transactional electronic platform, which is intended to facilitate informed e-commerce sale.*

***4. GENERAL PRINCIPLES***

*The general principles in Section 3 of the General Standard for the Labelling of Prepackaged Foods (CXS 1- 1985) are applicable to food information shown on the product information e-page of the prepackaged food that is being offered for sale.*

***5. FOOD INFORMATION PRINCIPLES***

***5.1*** *The food information required to be provided on the label of a prepackaged food or in associated labelling, shall be provided on the product information e-page of the prepackaged food prior to the point of e-commerce sale, except to the extent otherwise expressly provided in these guidelines, or any other Codex text.*

*This includes the following food information indicated in/by:*

* *Section 4 and Section 5 of the General Standard for the Labelling of Prepackaged Foods (CXS 1-1985) except information required by 4.6 and 4.7.1; [An indication of durability of prepackaged food is encouraged to be provided.] [For the purpose of this clause, “durability” means the period between the point of delivery and the best-before or use-by date in which the food retains its specific properties when properly stored.]*
* *Section 3 of the Guidelines on Nutrition Labelling (CXG 2-1985);*
* *Any other relevant Codex text.*

***5.2*** *A statement shall appear on the product information e-page prior to the point of e-commerce sale to direct the consumer to check the food information on the physical label before consumption.*

*[****5.3*** *The labelling exemption of small units as outlined in Section 6 of the General Standard for Labelling of Prepackaged Foods (CXS 1-1985) does not apply unless justified in specific situations or circumstances.]*

*[****5.4*** *The information on the prepackaged foods offered for sale in e-commerce shall be provided without any additional costs for the consumer.]*

***6. OPTIONAL FOOD INFORMATION PRIOR TO THE POINT OF E-COMMERCE SALE***

*Section 7 of the General Standard for Labelling of Prepackaged Foods (CXS 1-1985) is applicable to food information shown to consumers on the product information e-page for the prepackaged food that is being offered for sale.*

***7. PRESENTATION OF MANDATORY FOOD INFORMATION***

***7.1*** *Food information required by these guidelines shall be clear, prominent, and readily legible by the consumer under normal settings and conditions of use for a product information e-page.*

***7.2*** *The language or languages on a product information e-page shall be suitable to the consumer in the country in which the food is marketed and to which it may be delivered.*