

Ai GROUP SUBMISSION

Response to FSANZ
Proposal P1031 – Allergen
Labelling Exemptions

SEPTEMBER 2015



About Australian Industry Group

The Australian Industry Group (Ai Group) is a peak industry association in Australia which, along with its affiliates, represents the interests of more than 60,000 businesses in an expanding range of sectors: manufacturing, engineering, construction, automotive, food, transport, information technology, telecommunications, call centres, labour hire, printing, defence, mining equipment and supplies, airlines, health and other industries. The businesses which we represent employ more than one million people. Ai Group members operate small, medium and large businesses across a range of industries. Ai Group is closely affiliated with many other employer groups and directly manages a number of those organisations.

The Ai Group represents the Australian and New Zealand confectionery industry through its Confectionery Sector, comprising manufacturers of chocolate, sugar and gum confectionery; suppliers of ingredients, machinery, packaging materials and services to the industry, and wholesaler and distributor firms. The Ai Group has approximately 130 confectionery sector members. Major confectionery manufacturing plants are principally located in New South Wales, Tasmania and Victoria, including in a number of regional locations (eg Ballarat and Lithgow) and in South Australia, Queensland and New Zealand where SME businesses are based.

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Submission: Proposal P1031 – Allergen Labelling Exemptions

The Australian Industry Group (Ai Group) Confectionery Sector welcomes the opportunity to make a submission in response to Food Standards Australia New Zealand's (FSANZ) Proposal P1031 – Allergen Labelling Exemptions.

General comments

The Ai Group Confectionery Sector supports in principle Proposal P1031 to allow for specific exemptions from mandatory allergen declarations where available evidence indicates the production methods used remove or reduce allergenic proteins to levels that are of negligible risk to allergenic consumers. In particular, those food/ingredients assessed by this proposal include:

- fully refined soybean oil
- tocopherols and phytosterols from the deodoriser distillate of fully refined soybean oil
- glucose syrup derived from wheat starch, and
- distilled alcohol from wheat or whey.

Specific comments

The Ai Group Confectionery Sector notes FSANZ's risk assessment concluded that:

1. soybean oil that has undergone a complete refining treatment presents negligible risk to soybean allergenic consumers;
2. tocopherols and phytosterols that are removed in the last stage of refining of soybean oil, are therefore also unlikely to contain detectable protein, and also present negligible risk;
3. alcohol distilled from wheat or whey presents negligible risk to wheat allergenic and coeliac individuals or milk allergen individuals, respectively; and
4. based on the available evidence and likely consumption of wheat-derived glucose syrup that has been purified and prepared with a gluten content of 10-20mg/kg is likely to present a negligible risk to the majority of wheat allergenic individuals and would also be suitable for those with coeliac disease.

However, to ensure the gluten levels in glucose syrup are as low as technically achievable, the proposal is for wheat-derived glucose syrup to be exempt from mandatory labelling where the residual gluten content is $\leq 10\text{mg/kg}$.

The Ai Group Confectionery Sector supports the proposed exemption from labelling for fully refined soybean oil, tocopherols and phytosterols derived from soybean based deodoriser distillate, alcohol distillates from wheat or whey, and for wheat-derived glucose syrup but does not support the proposed limit of $\leq 10\text{mg/kg}$.

The confectionery industry proposes that FSANZ reconsider the approach for glucose syrup derived from wheat and approve no upper limit for gluten in line with good manufacturing

processes, consistent with international regulatory practice, risk and cost effectiveness, and failing that, the limit is set at 20mg/kg and not 10mg/kg.

The progression of this proposal has the potential to significantly improve the clarity of food labelling, remove consumer confusion especially for the allergenic consumer, provide consumers with more food choices, promote consistency between local and international food standards and facilitate an internationally competitive food industry.

Glucose syrup derived from wheat

Level of risk

FSANZ risk assessment concluded that the level of protection associated with wheat-derived glucose syrup with gluten content of 10 to 20mg/kg is similar.

“Based on the available clinical evidence and likely single meal consumption, FSANZ concluded that wheat-derived glucose syrup with a gluten content of 10-20mg/kg is likely to present negligible risk to the majority of wheat allergenic consumers.”

International consistency

Despite FSANZ’s commentary, the proposed Australia/New Zealand allergen labelling exemption for wheat-derived glucose syrup with gluten content $\leq 10\text{mg/kg}$ is not consistent with the European Union (EU) labelling exemption. Unlike the proposed Australia/New Zealand approach, the EU does not specify a gluten limit, though in practice reflects good manufacturing practice ie where compliance is set up for less than 20mg/kg. Similar to Australia/New Zealand this region is predominantly a wheat-based glucose syrup market.

It would be anomalous and inconsistent to allow for gluten free to mean $\leq 20\text{mg/kg}$ in food and to only exempt mandatory labelling of wheat-based glucose syrup with a gluten limit of $\leq 10\text{mg/kg}$ in Australia and New Zealand.

For Australia and New Zealand to deviate from international practice will disadvantage local glucose syrup and confectionery manufacturers where different standards apply in different markets leading to commercial inefficiencies, impose higher costs and disadvantage local producers.

Cost effectiveness

The data presented by FSANZ indicates that Australian glucose syrup production is designed to provide:

- $< 10\text{mg/kg}$ gluten in 100% of samples;
- $< 5\text{mg/kg}$ in 90% of samples (page 9 of the Proposal paper references 90% $< 5\text{mg/kg}$ and page 26 of Supporting Document 1 references 95% with $< 5\text{mg/kg}$); and

- *“analytical data from Australian produced glucose syrup shows that in 95% of samples tested, gluten levels were below the limit of detection at <3mg/kg”* (page 5 of the Proposal paper).

However, it is understood that the gluten in Australian glucose syrup is mostly $\leq 10\text{mg/kg}$ and a local glucose manufacturer has indicated that in order to consistently achieve glucose syrup with gluten content at the level proposed by FSANZ will impose significant extra cost, without demonstrated benefit.

The proposed gluten level of $\leq 10\text{mg/kg}$ will add production costs, establish requirement for differential product standards for domestic and export markets as well as increased testing and adds no tangible benefit for the consumer.

Additionally, to manufacture glucose syrup consistently to the more restrictive proposed Australia/New Zealand standard further disadvantages the producers' competitiveness in export markets.

Consumption data

The dietary exposure assessment used by FSANZ is based on:

- an arbitrary consumption amount of 100g representing a single eating occasion,
- assumptions regarding the levels of glucose syrup in confectionery, and
- assumptions that all glucose syrup in confectionery is always from wheat.

The likelihood of all confectionery products containing glucose syrup with 20mg/kg gluten and 50% wheat-derived glucose syrup is therefore unlikely.

The levels of glucose syrup in confectionery vary, as FSANZ notes. FSANZ has suggested the glucose syrup range in confectionery is in the order of 5-67% and bases its calculations on 50% glucose content – recognising, however, that the majority of confectionery products contain less than 50% glucose syrup.

To add to the examples provided by FSANZ (Supporting Document 1, page 26) chocolate typically doesn't contain glucose syrup, however filled chocolate style products, as discussed in the proposal, would include glucose in the centre fillings. These centres typically comprise approximately 25-30% and variable glucose content depending on the type of filling. A chocolate coated confectionery with centre filling typically would contain approximately 13-30% total glucose syrup.

By contrast to the marshmallow example provided in the proposal (containing 67% glucose syrup), industry data indicates an alternate level of less than 30% in a marshmallow formulation.

At times, confectionery manufacturers may also interchange wheat-derived glucose syrup with corn glucose syrup or other alternate non-gluten syrups, such as tapioca.

The likelihood of all confectionery containing 50% glucose syrup is therefore an over estimation.

Furthermore calculating gluten intake based on the highest (overestimated) consumption deemed to be consumed in a single sitting ie 100g with a maximum glucose syrup content of 50%, repeatedly seeks to overestimate potential gluten intake.

The Ai Group Confectionery Sector note that the 100g amount is derived from the 2007 Australian National Children's Nutrition and Physical Activity Survey (ANCNPA) 97.5th percentile (high consumers) consumption, based on grams per day, in the absence of per consumption occasion data. The mean consumption of confectionery intake is in the order of approximately 12-15g/day for 2-6 year olds and 19g/day for 7-16 year olds.

By comparison the Australian Bureau of Statistics (ABS) 2011-12 Australian Health Survey nutrition results found that the mean daily energy intake from chocolate and confectionery amounts to approximately 2.2% of total energy for all consumers. However, for 2-3 year olds this was 2.4% of total energy, for 4-8 year olds 2.3% of total energy and for 9-13 year olds 3% of total daily energy.

The total mean daily energy intake for 9-13 year old males and females, for example, was 8603kJ. Therefore, 3% of energy (based on 8603kJ) derived from chocolate and sugar confectionery consumption – assuming it all contains wheat-derived glucose syrup – represents approximately 258kJ and is likely to equate to approximately 13g of chocolate or 20g of confectionery.

The Australian Dietary Guidelines suggest a serve of treat/discretionary foods equates to the amount that delivers approximately 500-600kJ and provides 25g of chocolate and 40g of sugar confectionery as serve examples.

100g (based on consumption of 75-91g for 7-16 year old in the 97.5 percentile consumers) of confectionery consumed in a single occasion does not represent typical everyday consumption and certainly does not reflect the Australian Dietary Guidelines or industry recommendation.

The industry recommended serve size is approximately 25g of chocolate or sugar confectionery.

Therefore, a 100g mixed lolly bag, or single occasion consumption, may comprise confectionery with variable glucose containing product and variable gluten levels. The following will provide 1mg of wheat protein.

- a 26g of jellies with 36% glucose syrup and residual protein level of 20mg/kg,
- 25g of chocolate with centre filling with 30% glucose syrup and residual protein level of 10mg/kg,
- 28g of marshmallow with 27% glucose syrup and residual protein level of 20mg/kg, and
- 20g of hard boil confectionery with 55% glucose syrup and residual protein level of 10mg/kg.

- Alternatively, a 125g homogenous mixed bag of lollies containing jellies, chocolate with centre fillings, marshmallows and hard toffees – all based on a 50% glucose syrup (from wheat sources) with an average gluten content of 12mg/kg would deliver 1mg of wheat protein.

WTO obligations

FSANZ regards the proposal will provide greater alignment with regulatory requirements in international jurisdictions, thus removing impediments and supporting international trade. As such Australia and New Zealand's obligations to notify to the WTO under WTO Technical Barriers to Trade or Sanitary and Phytosanitary Measures Agreement wasn't considered necessary.

Although the proposed allergen labelling exemption for wheat-derived glucose syrup does more closely align with international provisions, the recommended level of $\leq 10\text{mg/kg}$ designed to ensure the gluten content is as low as technically achievable it is not internationally consistent and will therefore continue to be a barrier trade.

Cost benefit/regulatory impact

This proposal has been assessed to have minor regulatory impact and net benefit to all key stakeholders – consumers, industry and government.

While consumers will benefit from clearer food labelling and increased food choice, the compliance cost to regulators associated with the exemption for wheat glucose syrup will remain, as will the imposition of additional production, management and compliance cost to wheat-derived glucose syrup producers and to wheat glucose syrup users as harmonisation will not be achieved.

Thank you again for the opportunity to comment on Proposal P1031 – Allergen Labelling Exemptions. The Ai Group Confectionery Sector supports the proposed exemptions from labelling for fully refined soybean oil, tocopherols and phytosterols derived from soybean based deodoriser distillate, alcohol distillates from wheat or whey as they are internationally consistent and evidence based. We propose FSANZ reconsider the approach for wheat-derived glucose syrup aligning with good manufacturing processes and no upper level for gluten or failing that, with a more internationally consistent level of 20mg/kg but not 10mg/kg.

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