

# Consultation:

## Amending allergen information provisions contained within domestic food information legislation for food prepacked for direct sale

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### **Summary**

Which? supports this initiative across the UK governments to improve the information available to consumers about allergens in food. The current labelling rules are inadequate and it is essential that the requirements for pre-packed food for direct sale (PPDS) are strengthened to better reflect the different circumstances in which businesses are providing food in this way. Allergen labelling, including the information provided when buying food online, should also be reviewed more widely and best practice for risk management of allergens effectively promoted.

Legislative rather than best practice solutions are needed for the current labelling gaps. The approach to PPDS should be driven by the need to provide consumers with clear, accurate and comprehensive information at the point they make their choice – while only allowing exemptions (eg verbal communication) in genuinely exceptional circumstances.

Option 4, mandating the name of the food, full ingredients labelling and the highlighting of 14 allergens should be a requirement where food is mass produced across chain or national businesses that produce standardised food choices. Some flexibility should still be allowed for other types of businesses where they are smaller and may have a frequently changing menu. Overall, the focus must be on ensuring that businesses are much more aware of the ingredients that they are using in their products and the severity of the consequences they could have for some consumers with allergies.

## Introduction

Which? supports this initiative to improve the information available to consumers about allergens in food, with a particular focus on PPDS.

We agree that current allergen information rules are too limited and that the UK should make changes to legislation to address this. In particular, we are concerned about:

- the nature of exemptions under the current Food Information Regulations from allergen labelling for PPDS that which apply to national chains as well as small businesses
- the extent to which allergens are currently considered as part of wider food safety management within food businesses – so that consideration is given to the appropriateness of including ingredients that are or contain common allergens, as well as whether they should be labelled.

Under the current rules, full ingredients listing and highlighting of allergens (from those on a list of the 14 most common ones) is required on pre-packaged foods. There is an exemption for non-pre-packaged foods that enables this information to be given verbally, with a notice on display to prompt people to ask if they need allergen information. This exemption also applies to pre-packaged foods for direct sale.

This category can include products that are sold in a cafe, for example, where the business pre-prepares products in advance for peak periods. But the way the legislation applies, also exempts national sandwich shops and other chain cafes/ fast food outlets that have standardised food items ready prepared on the premises. Foods sold pre-packed for direct sale by supermarkets (such as pizza, cheese, deli meat or rotisserie chicken) are also exempt.

This exemption is too broad and we are therefore pleased that the government is considering how to address this.

## Consultation questions

Which? has responded to the questions that are most relevant.

### Pre-packed for direct sale (PPDS) definition (15)

The Food Standards Agency (FSA) PPDS definition is as follows:

**"Prepacked foods for direct sale (PPDS):** This applies to foods that have been packed on the same premises from which they are being sold. Foods prepacked for direct sale are treated in the same way as non-prepacked foods in EU FIC's labelling provisions. For a product to be considered 'prepacked for direct sale' one or more of the following can apply:

- It is expected that the customer is able to speak with the person who made or packed the product to ask about ingredients.
- Foods that could fall under this category could include meat pies made on site and sandwiches made and sold from the premises in which they are made".

This works as a general definition of PPDS, but it does not differentiate sufficiently between the circumstances in which PPDS may be provided in order to be an adequate basis for determining exemptions.

#### Non-prepacked food (16)

We agree that the government should also review the way that allergen information is presented to consumers for other types of non-pre-packed food. This should include food not packed, such as loose items sold to the consumer without packing and meals served in a restaurant or café and non-prepacked food ordered via distance selling, for example, a takeaway pizza ordered over the phone or via the internet.

#### Preferred policy option for PPDS (18-25)

Four main options are proposed:

1. No regulatory change - but developing best practice guidance
2. Making it a requirement for "ask the staff" labels to be shown on foods
3. Mandating the name of the food and any of the 14 allergens to be provided on pre-packaged foods for direct sale
4. Mandating that the name of the food, full ingredients listing and the highlighting of any of the 14 allergens.

We do not consider that Option 1, which would merely rely on best practice guidance, rather than regulation, would be appropriate unless the UK is constrained in introducing new requirements and this is the only approach.

Of the other options, we do not consider that the proposed approaches provide sufficient distinction for the types of premises that would be exempt, taking into account the type of service and food they provide. A more nuanced, but practical, approach is needed that ensures consumers have the essential information they require.

The approach to PPDS should be driven by the need to provide consumers with clear, accurate and comprehensive information at the point they make their choice – while only allowing exemptions (eg verbal communication) in genuinely exceptional circumstances.

There does not, for example, seem to be any reason why national chains, such as sandwich shops, supermarkets and take-aways that have standard products sold nationally should be treated any differently from the requirements for pre-packaged foods and so option 4 seems appropriate.

There is still a case for recognising that smaller businesses that are producing "one off" items of food, or food from a regularly changing menu, for direct sale, as they do for other menu options, should have a less onerous approach - but they should still be able to give information on the presence of any of the 14 allergens, as they would have to give this information if asked. Option 3 should therefore be appropriate – with Option 2 ("ask the staff") in very limited circumstances.

There is also a need to promote the importance of allergen advice for other items that are not pre-packed - and the requirement to give this verbally along with clear and prominent signage.

As well as tightening up labelling, there is a role for best practice guidance in terms of managing risks from allergens. This includes decisions about the choice of ingredients, for example, and consideration of whether an alternative would be more appropriate.

The Food Standards Agency and Trading Standards Services also need to take enforcement of the labelling and information requirements seriously.

#### Exemptions (26-30)

The exemptions that are proposed are based on distinguishing businesses in terms of the number of employees they have or the number of outlets/ branches, turnover or units sold. We think that these are all important considerations but the focus should also be on the nature of the product produced, the circumstances in which it is sold and the extent to which the ingredients used could be regularly changed or not.

#### Reporting on non-fatal anaphylactic shock incidents (41)

There should be a requirement for non-fatal anaphylactic shock incidents to be reported to the local authority and FSA. This will enable a fuller understanding of the extent to which these incidents occur and also enable any risk management or labelling issues to be addressed as soon as possible.

**Which?  
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