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## European Commission DG SANCO Consultation

### Public Consultation on Guidelines relating to the provision of information on substances or products causing allergies or intolerances as listed in Annex II of Regulation (EU) No 1169/2011 on the provision of food information to consumers

#### Response from the Government Chemist

As UK Government Chemist, I am responsible under certain Acts of Parliament<sup>1</sup> for providing independent analytical measurement and expert opinion to help avoid or resolve the disputes over scientific data which arise from time to time between local authorities and the businesses that they regulate. My public remit also covers wider advice to UK government and other affected parties on the role of analytical measurement in effective policy, standards and regulations. My staff liaise with regulatory services involved in sampling, analysis and product testing linked to the investigation of alleged non-compliances. I am pleased to be able to respond to this consultation particularly as some of the aspects covered may be the subject of future referee casework<sup>2</sup>. I have looked at the consultation and believe it is reasonable and helpful guidance. I offer some comments below on the guidance and in addition, outside of the immediate subject matter of the guidance, comment on the analytical measurement dimension.

I believe that providing food information relating to substances or products which cause allergies is beneficial to consumers. Coordinating the application of the legislation that gives effect to this across all the member states of the EU is important to prevent barriers to trade and to facilitate free movement of consumers with allergies and food intolerances. Thus I applaud DG Sanco for these guidelines. The guidance initially focuses on the provisions in the main legislation (Regulation 1169/2011) that relate to allergens and it is helpful to have this detail in one place. However some preliminary remarks to explain that the document reproduces text from the legislation in order to assist the reader by such a focus would make the document more attractive to the many readers who are not accustomed to legislative language. Similarly phrases such as "... ingredients deriving thereof, *a priori*,..." (page 8) may be somewhat outside the language of some stakeholders. Thus, I believe some further effort should be made to simplify the language of the guidance and render it more approachable for those stakeholders unaccustomed to reading legislation.

The provision of examples of how labels or information could be conveyed is the most helpful part of the guidance and I concur with the intention of the examples and confirm I view them as coherent with the legislation. There is one aspect in which the guidance is perhaps not as clear as it might be. On page 10, Part III.2, it is made clear that provision of the mandatory allergen/intolerance information must be available and easily accessible. Hence it is not acceptable to provide allergen/intolerance information only upon request by the consumer.

<sup>1</sup> Boley, N. Government Chemist Legislation, Annual Statement of Statutory Scope, January 2014, available at <http://www.governmentchemist.org.uk/News.aspx?m=2&amid=1790>

<sup>2</sup> Michael J Walker and Kirstin Gray, 2013, *Quis custodiet* – a Review of the Resolution of Disputed Chemical Results in the UK Official Feed and Food Control System 2010 – 2011, *J Assoc Public Analysts* (Online) 2013, 41, 1-27



However at the bottom of page 10 the guidance, in a pragmatic approach, appears to allow national measures to permit the giving of information on request. The guidance should better explain how these elements of guidance differ and preferable advise on one single approach.

Turning now to measurement issues, which I do understand are somewhat outside the immediate scope of the consultation. However it would be remiss of me not to mention that there remains a lack of accurate analytical measurement methods available for the allergenic species listed in the new Annex II of Regulation (EU) No 1169/2011. In particular, there is a paucity of metrologically-traceable methods for the determination of allergens, which will make the revised Regulation difficult for member states to enforce.

Current methodologies for the detection, based on enzyme-linked immunosorbent assay (ELISA) techniques, have been shown to be inadequate in many cases, due to both poor specificity and sensitivity.<sup>3,4</sup> The inability of laboratories, whether enforcement, monitoring or industry-based, to accurately quantify many of the listed allergenic species could undermine the laudable aim of the legislation.

Thank you for this opportunity to comment.

Yours sincerely



**Derek Craston**  
**The Government Chemist**

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<sup>3</sup> . Johnson *et al.*, 2014, A multi-laboratory evaluation of a clinically-validated incurred quality control material for analysis of allergens in food, , *Food Chemistry*, 148, 30-36, <http://www.sciencedirect.com/science/article/pii/S0308814613013800>)

<sup>4</sup> Cryer *et al* 2013, Towards Absolute Quantification of Allergenic Proteins in Food—Lysozyme in Wine as a Model System for Metrologically Traceable Mass Spectrometric Methods and Certified Reference Materials, *J AOAC Int.*, 96, 1350-1361