



November 19, 2021

Division of Dockets Management
Food and Drug Administration
Department of Health and Human Services
5630 Fishers Lane, Room 1061
Rockville, MD 20852

Re: FDA-2021-N-0929-0001; Food and Drug Administration New Era of Smarter Food Safety Summit on E-Commerce; Public Meeting; Request for Comments

To Whom It May Concern:

I am writing on behalf of the Asthma and Allergy Foundation of America (AAFA) regarding Smarter Food Safety and E-Commerce. AAFA, along with our Kids with Food Allergies division, is the leading patient organization for Americans with asthma and allergies, and the oldest asthma and allergy patient group in the world. In addition to community education, AAFA advocates for policies that support the 32 million children and adults in the U.S. with life-threatening food allergies.

We are grateful for the critical role FDA plays for our community in regulating food labeling with regard to allergens. The clear, plain-language package labeling that FDA has implemented under the Food Allergen Labeling and Consumer Protection Act (FALCPA) allows consumers to identify foods that contain the top eight allergens (plus, soon, sesame), and safely prevent reactions. In addition to specific information on the top allergens, the full ingredient lists required on packaged foods help our community identify other potential allergy triggers.

Advances in technology along with the COVID epidemic have changed the ways we buy food. Like other Americans, families handling food allergies have shifted to extensive use of e-commerce to order groceries delivered to the home.

Our concern is that even for products required to have ingredient and allergen labeling, this information is not always accessible when groceries are ordered online. While it should not be difficult to make this information available, it is not always available or easy to view. Our community has shared a number of stories reflecting how they were unable to find ingredient or allergen information to safely avoid their allergens:

- 1) My name is Mariah Reeves from Houston, Texas and I would like to share my experience buying food online from our local grocery store. There have been multiple times where allergy warnings that are on the actual product are not listed online at all, and multiple times where the information is inaccurate. One particular time was when I bought Little Debbie Snacks. Having a toddler with severe peanut, tree nut, and egg



allergies, I thoroughly read all nutrition labels both at the store/online when purchased, and again before serving. I checked the label for the Little Debbie Snacks and saw that it was ok to serve to my son. When I received my order, however, the snacks stated that they contained eggs, which is not what it stated online. If I had served them to my son it could've been deadly.

Similar situations have occurred multiple times in our household, and I have just been forced to no longer buy new products unless I'm in the store. We are only able to buy tried and trusted foods online. It is important for labeling to be accurate, including across all mediums, not only for convenience, but also for safety.

- 2) My name is Heather Bryan from Maryville, Tennessee and I would like to share my experience. There are some products that I have to google search to try to find their ingredients in order to order them from the grocery store online because there is no photo of the label or no ingredients are listed. There are times I still can't find the ingredients via a google search. During the pandemic, we only shopped online. We still try to limit our trips inside the store to limited occasions.

Since it has been allowed for products to put words like "non-dairy" or "vegan" or "allergy friendly" on the front of the box, it should be required a photo of the back of the packaging and an ingredients list with warnings be available to consumers to verify these claims. I have to return a GoGo Squeeze now that Target at the time of purchase only had a photo of the front of the box. They have recently updated this product thankfully.

My grocery store, Kroger, also has incredibly frustrating disclaimer under the product information: "Actual product packaging and materials may contain additional and/or different ingredient, nutritional, or proper usage information than the information displayed on our website. You are responsible for reading labels, warnings, and directions prior to using or consuming a product. If you have food sensitivities or allergies, you should always read the actual product labels to confirm the safety of the product for your situation. Content on this website is for general reference purposes only and is not intended to substitute for advice by a physician, pharmacist, or other licensed health care professional. You should not use the information presented on this website for self-diagnosis or for treating a health problem. All products may not be available in all stores. See your local store for specific offerings. Kroger assumes no liability for inaccuracies or misstatements regarding any product."

I have had to return bread, dairy free yogurt, vegan ice cream, various non-dairy products because when I received the item at pickup the label was different, additional language was on the packing that was not shown online, etc. I've called. I've complained. I've requested products be updated on their website. One response



was: we are just trying to get more of our products up online, if you see an issue let us know, and we will ask our web team to update it.

I don't think that responsibility should be on me to fix their website.

We have a three-step review process at our house to try to make sure that we don't end up with a dangerous allergen- look at online/in store, look at the label when putting the food away, look at it before we use the food to cook/prepare. We do this process every time. However, we are the parents of a child with food allergies, I know if someone else looks to order online, and it doesn't have the allergen- they may never check it again and then could serve it to our child which would have a dangerous/deadly outcome.

There is absolutely no reason that these stores should be able to advertise a product for sale and not have an accurate photo and/or description containing the ingredients of the product that I am agreeing to buy. We would not allow them to offer products for sale that have alcohol in them without notice, so why would we allow them to not disclose any other ingredient?

- 3) My name is Brittany Copeland from Columbia, MO and I would like to share my experience shopping for allergy-safe foods for my toddler son online. I have had multiple experiences where I simply gave up shopping online because I could not guarantee that the food labels I was looking at were accurate. Either I found conflicting ingredient labels between the manufacturer website and the distributor/store site, or there was no label displayed at all. In one case I purchased some granola bars online because the packaging indicated it was safe for my son, but when they arrived the outer box and the inner packaging had different ingredients and I had to contact the store's customer service line to determine which was accurate. This is extremely frustrating and is just one more obstacle that we as allergy parents have to deal with.
- 4) My name is Jennifer Brown from Mathiston, MS and I would like to share my experience. My experience with looking up information on a food to make sure it's safe is the lack of information that the company has on that product that is not gluten. Companies seem like they are more concerned about a product being gluten free than other allergens. The lack of information if they use shared equipments. Explain why the same product is different. Example of the same candy. A small candy doesn't have an allergens that someone has. But! that same candy that is bigger has the allergen in it. Why? This is also the same as calling them as well. The Oreo's company is the worst and they would not tell me the ingredients in their products. They label chocolate but not what the chocolate contains. Secondly ordering online. It the same with looking up a product in the store that I have stated. The lack of information and care to give that information. Have different site say one thing while other say



something different. Example. I will look up a product and some "allergies" person claiming they are experiencing saying a product has these food allergies, but other sites don't. SnackSafety Dave Bloom is horrible about this and he even bullies parents. I can go on forever with this. I'm sure you will get a lot the same problem.

- 5) My name is Jaimee Culpepper from Bozeman, MT and I would like to share my experience. My daughter is severely allergic to dairy and eggs. Online shopping is a huge time saver. We shop at Smith's/Kroger and we use online shopping every week, but we sometimes get products we have to give away or just throw away.

The areas that need to be improved are:

- There will often be 3-5 photos of the product, none of which include the label. For example, they'll show the top, front, back, a skewed front shot tilted right and a skewed front shot tilted left. None of which show the label on the back. We have sometimes gambled and purchased items that had no label shown, only to give them away once received.
- when the label is not photographed, ingredients are listed about 60-70% of the time. This has improved over the years I've done this, but it is still not 100% of products.
- when ingredients are listed, the allergen statement is often not as specific as the actual label. For example, the online allergen statement will say, "may include: wheat, soy, dairy, and eggs." The actual package will, however, say "may include: wheat and soy and made in a facility that might also process dairy and eggs." For us, the online labeling indicates the product is unsafe, but the specific packaging indicates that it is a product we could use. With limited options, accurate online labeling would be very useful.
- for unlabeled products, it would be nice if you could have the products set aside to be checked upon pick-up. Perhaps you could flag certain products for this purpose as you are shopping. This would also help the store know which products need better online labeling.
- we have also had some issues with substitutions. Even though we mark no substitutions and have indicated that we have allergies on our account, we have still had them substitute our requested soy ice cream with dairy ice cream. The dairy ice cream was also put in the bag with other frozen products. Which could make them unsafe for some children.
- on occasion, we purchase dairy cheese for our other children. When we do, we indicate that it needs to be bagged separately because of severe food allergies. This notation is sometimes noticed and followed, and at other times completely ignored. We've had dairy cheese thrown in with un-bagged fresh produce before. This makes all the produce unsafe for us to eat. Perhaps educating the staff about the seriousness of potential cross-



contamination and making some kind of special flag on certain accounts would help to make this part of the process more consistently safe.

Overall, we have about 85-90% success with our purchases. We have to go to the store to find specific products about once a month to do more specific label research and the rest of the time we make-do with what's properly labeled online.

On another note- we tried online shopping with Costco during quarantine and nothing is labeled or accurate there. This was a huge inconvenience that resulted in large losses of money as we gambled with products. We appreciate your attention to remedying this situation, The Culpepper Family

- 6) My name is Susan Freel from Providence, RI and I would like to share my experience. Without proper labeling, my family and I would not be able to eat many foods due to the number of food allergies that both my children have since they were infants. Complete and accurate allergen labeling is not only vital to the safety of my family, but we also are very brand loyal to those brands that do have proper labeling. This is an everyday issue for us and other food allergic individuals and families.

- 7) My name is Angela Miller from Louisville, KY and I would like to share my experience. Trying to shop online for food during the pandemic for my 2 boys that have multiple food allergies was extremely frustrating. In order to ensure that a food was safe for my child I would frequently have to navigate out of the shopping site to Google to each specific item in order to read the ingredients label. This is actually too cumbersome to do, so instead my husband who was working multiple 12 hour shifts as an ICU nurse in a Covid unit would stop and shop in person at stores with severely limited hours at the beginning of the pandemic. It would have been so much easier if we could have easily read the information in the shopping apps.

For the first 2 months of the pandemic he was the only person leaving the house to limit exposure for ourselves and others in case he brought Covid-19 home. If there were good labeling requirements online, I could have relieved some of the burden from him by having orders delivered or ready for pickup.

My youngest son who has over a dozen foods he is allergic to, made many sacrifices, and dietary changes during the pandemic...solely related to not being able to use online services. It is not uncommon for us to shop at 3 different groceries in order to find brands and products he can safely consume. My husband worked 12-14 hours and then had to wait to shop in person after the senior only shopping hours...meaning he would frequently sleep for less than 6 hours before returning to work with Covid-19 patients. He only shopped at one grocery in order to limit exposure and save time. Meaning there were even less options for safe foods for my youngest child. If online ordering would have been a safe choice we could have struggled so much less to safely feed my children during the pandemic.



- Slightly unrelated, but still important to note, if there was better food labeling online we could have participated in the food programs offered through our schools. But I was unable to find many of the items and brands online that were supplying the food programs. Often these items are not labeled for individual sale with ingredients and nutritional information. The staff distributing foods were unable to go back and forth to check the ingredient list on the boxes that these foods are distributed in to the schools. Often these products were not available except through companies that supply the school. It was near impossible to look online to find ingredient lists of products that are not readily available for purchase by individual consumers. If all products, even the products provided to restaurant or wholesale distributors were required to list the ingredient labels information online it would benefit many children who can't safely participate in the government sponsored food programs.
- 8) Nicole Lam: There is no way we could have grocery shopped online with allergies during the pandemic (or ever). It was so beyond stressful to get and keep food in the house to begin with. I am in an area hard hit by the pandemic, it was very scary and trying - food insecurity was real and add to that the seriousness and stress of allergy management. Throw in food shortages and trying to substitute trusted products. There's just no way that online groceries was a feasible option.
 - 9) Liz Humble: I have to buy only known products because the online apps do not list cross contaminants. At one point they did not list ingredients and that was very hard to work with.
 - 10) Jessica Wilson Curran: Throughout the height of the pandemic, unlike many in my community, I felt entirely unable to purchase groceries without shopping in person. It is impossible to check labels through most online grocery providers. But really this is just piece of the bigger issue. Why is it that we cannot have accurate, reliable and concise food labeling in the US? Why is it that the absence of an allergy warning statement does not mean a product is safe? Why is it that we, the consumers, have to often do what feels like forensic investigation to determine if a food item is safe for our loved one to consume? This should be mandatory, yet it is very clear that it is not and likely because it would. It into profits. So instead the allergy community has to either play Russian roulette in the hopes that a label portrays the reality, or bypass many, many packaged items. Shameful!
 - 11) iamjoytru_I noticed sometimes the label doesn't match up with the online description. So something I thought was safe to buy wasn't safe at all. I still read all labels before opening anything.
 - 12) Liamslonglist: Yes, we have wasted several hundred of dollars ordering online from what looks okay and free of everything online and then the actual package gets here



- and it ends up saying may contain dairy etc etc etc or processed in a facility that also uses dairy, nuts etc etc etc.
- 13) Jillseaney: Sprouts does their online ordering through Instacart. They don't include ingredients list online. A few items will show a blurred picture of the ingredients but mostly I have to google. It's a huge hassle!!!
- 14) j.hoppa @kidswithfoodallergies my son was diagnosed with severe food allergies at 6 months old & is anaphylactic to a majority of food. When we found out corn was severely dangerous to him, I spent 30 minutes in the middle of frys crying for my son. The amount of foods that have some derivative of corn as fillers is astounding. Of the 12 major allergies for food, my son has 11. Having to google every ingredient to find out what was in foods that were being labeled as organic and vegan still is challenging to this day. So many alternatives presented still are filled with corn/ soy fillers. It's devastating trying to feed your child these "healthier" alternatives to find out that companies aren't helping those like my family! We cannot order groceries online because swap outs or substitutes can be deadly in our home. It's been a year now and we still dread the grocery store trips or trying to explain to a 2 year now why he can't eat what other kids do at school because they can make him very sick. Thank God I stumbled upon @elsenutrition on my own. To this day, it is the only formula / toddler supplement that didn't end up with him doing weeks of follows ups & ER visits. #foodallergyawareness #foodallergymom
- 15) chris10j36: My daughter has 5 of the top 8 allergens. Online shopping is not an option. It goes back to the exact product, with the exact ingredients not being represented that makes it dangerous and a hassle. Although I've tried... I don't end up with the products that are safe for her. My shopping includes 2 grocery trips primarily no processed foods in order to get what we need. Not 1 store has our needs that is cost effective.
- 16) Caileighguy: I learned about my daughter's food allergies during the pandemic when we weren't comfortable shopping in stores. We had to throw away almost everything we had in our cupboards and weren't able to fill them again until we had thoroughly researched safe foods. Full information is rarely available when online shopping so I had to research every product on each manufacturer website. I don't mind if online grocery stores warn that food labels can change, always check the package, etc. but I appreciate an image of an ingredients label as a starting off point.

We strongly urge the FDA to issue guidance ensuring that allergen and ingredient information, as well as other nutrition information, is displayed at the point of sale for food in e-commerce. Specifically, we urge FDA to ensure that allergen, ingredient, and nutrition information is readily available on the e-commerce suite in an easy-to-read format for all products required to have such information on the package.



Asthma and Allergy
Foundation of America

We would be happy to work with the FDA to further discuss our community's experience, and to help develop effective guidelines that create clarity for online sellers while keeping our community healthy and safe.

Thank you for your time and attention. If you have any questions, please contact AAFA's Director of Advocacy and Special Projects, Jenna Riemenschneider, at jennar@aafa.org.

Sincerely,

Kenneth Mendez
President and Chief Executive Officer
Asthma and Allergy Foundation of America