



**Australian Government**

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**Department of Industry and Science**

**Submission to the Senate Economics References  
Committee**

**Inquiry into third-party certification of food**

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## Terms of Reference

On 13 May 2015, the Senate referred the following matters to the Economics References Committee for inquiry and report by 30 November 2015:

- a) the extent of food certification schemes and certifiers in Australia including, but not limited to, schemes related to organic, kosher, halal and genetically-modified food and general food safety certification schemes;
- b) current labelling requirements of food certification schemes;
- c) the need for labelling on products produced by companies that pay certification fees;
- d) whether current schemes provide enough information for Australian consumers to make informed purchasing decisions;
- e) details regarding certification fees paid by food producers and/or manufacturers, and the potential for these to impact on prices for consumers;
- f) the importance of food certification schemes in relation to export market access and returns to producers;
- g) the extent and adequacy of information available to the public about certifiers including, but not limited to, certification processes, fees and financial records; and any related matters.

## Executive Summary

Food businesses usually seek third-party certifications when certifications deliver them a business benefit, such as better promoting their products to particular consumer segments and gaining access to new export markets. Third-party certifications can cover a wide range of matters including: consumer values such as quality or compatibility with religious and/or other belief systems; nutrition; ingredients; and production processes. Certifications are carried out by a range of organisations whose operations depend on the nature and purpose of the certifications they provide.

This submission focusses on voluntary third-party certifications used by businesses to promote the attributes of their food products for consumer marketing purposes, and does not concern country of origin labelling or cases where third-party certification might be a statutory requirement.

The Department of Industry and Science (department) considers that, where possible, voluntary third-party certifications related to consumer values are best managed by businesses without government intervention. This approach recognises that the decision to obtain certification is largely a commercial decision where a business sees commercial advantage in being favourably recognised by consumers as meeting certain standards or employing particular practices. Where this is the case, businesses are best placed to make decisions to obtain certifications and to label certified products as they see commercially fit.

The department considers that Australian Consumer Law provides adequate protections in relation to the labelling of consumer preferences for food products and that current food regulation balances the need to protect and inform consumers with the need to avoid unnecessary costs to businesses. A range of avenues are available to consumers to verify third-party certification claims without the need to mandate further information disclosure. However, there may be opportunities to improve consumer access to government information in circumstances when third-party food certification schemes utilise certification trade marks (CTMs) approved by IP Australia and the Australian Competition and Consumer Commission as meeting particular standards.

With valuable new growth markets continuing to emerge in Asia and the Middle East, export growth will offer wealth creation opportunities throughout Australia's food supply chain and support local jobs, particularly in regional areas. Being able to demonstrate attributes of food products through certifications such as kosher, halal and organic, provides Australian businesses with advantages in many export markets. While the department acknowledges community concerns in relation to halal certification, the department considers that many of these concerns arise from a lack of understanding about how certification schemes operate and existing protections under Australian Consumer Law.

## Introduction

The Department of Industry and Science's (department) vision is to enable growth and productivity in Australia's globally competitive industries. The department works with key industry and government stakeholders to achieve this through: streamlining regulation; supporting businesses to increase investment and improve capability; and supporting science and commercialisation.

The department is a focal point for the development and consideration of policies and programmes affecting Australia's food processing industries through its responsibilities under the Commonwealth Administrative Arrangements Order for:

- food processing industry policy;
- country of origin labelling;
- manufacturing and commerce including industry and marketing development;
- marketing of manufactures and services; and
- industry innovation policy and technology diffusion.

As part of this role, the department provides policy advice to portfolio Ministers on food processing industry policy matters and maintains links with other Australian Government departments and agencies responsible for developing and implementing Government policies relevant to the food industry.

The department is also responsible for delivering a range of programmes that are relevant to food businesses and manages the Single Business Service, which enables businesses of all sizes to efficiently find information, services and links to government programmes. This service includes insights into business improvement strategies and information on planning, starting and running a business, as well as referrals to assistance programmes such as the Entrepreneurs' Programme and the R&D Tax Incentive.

The department is also implementing the Government's Industry Innovation and Competitiveness Agenda which is focussed on creating a strong and competitive economy to provide the appropriate economic incentives for businesses to grow. The Industry Innovation and Competitiveness Agenda includes a range of initiatives to encourage innovation and entrepreneurship, including the establishment of the Food and Agribusiness Growth Centre to foster collaborative partnerships between industry, research and governments to develop practical pathways to boost productivity and reduce regulatory burden in food industries.

## Significance of Australia's food processing industry

Australia's food processing industry accounts for 1.6 per cent of Australia's gross domestic product<sup>1</sup>, and makes a significant contribution to regional Australia through employment and supply opportunities for Australian agricultural producers.

In 2014–15, total employment in food and beverage manufacturing was approximately 228 700 people, representing 26.5 per cent of Australia's total manufacturing employment.<sup>2</sup> Food, beverage and tobacco products manufacturing produced \$25.4 billion in value added in 2013–14 accounting for 25.5 per cent of Australia's manufacturing value added.

Australia exports over half the food it produces and the outlook for food export growth is positive due to continued consumption growth, particularly in Asia and the Middle East. Total exports of Australian food, beverage and tobacco products were worth over \$25.7 billion in 2014–15, an increase of 16.9 per cent from 2013–14.<sup>3</sup>

## Existing regulatory frameworks in the food industry

The institutional structures and administration of Australia's food industry regulation are complex due to the devolved nature of many activities and the need to balance production and consumer marketing aspects of food with food safety and export requirements. Australian Government departments with direct policy and administrative responsibilities for regulating food include: the Department of Health (food safety and labelling); the Department of Agriculture (primary food production, imported foods, biosecurity and export food certification); and to a lesser extent, The Treasury (Australian Consumer Law).

Australia's food standards are developed by Food Standards Australia New Zealand (FSANZ) under the Commonwealth *Food Standards Australia New Zealand Act 1991* (FSANZ Act), which is administered by the Department of Health. The standards are incorporated into the Food Standards Code and prescribe obligations for the composition, production, handling and labelling of food for sale. Requirements in the Food Standards Code are enforceable under State and Territory laws, while the Department of Agriculture is responsible for food safety inspection of imported foods under the *Imported Food Control Act 1992*. The Food Standards Code does not refer to labelling of third-party certifications.

Australian Consumer Law contained in the *Competition and Consumer Act 2010* prohibits a person, in trade or commerce, from engaging in misleading or deceptive conduct. This prohibition is not limited to the supply of goods or services and creates a broad, economy-wide norm of conduct. In general, claims made in relation to goods such as food products must be clear, accurate and not misleading.

Trade mark registration is also relevant to third-party certification schemes. In some cases, branding associated with third-party food certification is registered with IP Australia, the Commonwealth regulator responsible for the Australian trade marks, patents, designs and plant breeder's rights systems. IP Australia and the Australian Competition and Consumer Commission are responsible for registration of certification trademarks, a number of which relate to third-party food accreditation schemes.

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<sup>1</sup> ABS, Australian National Accounts: National Income, Expenditure and Product, Cat. No. 5206.0

<sup>2</sup> ABS *Labour Force, Australia, detailed quarterly*, Cat. No. 6291.0.55.003

<sup>3</sup> ABS *International Trade in Goods and Services*, Cat. No. 5368.0

## Third-party food certification schemes in Australia

### **The extent of food certification schemes and certifiers in Australia including, but not limited to, schemes related to organic, kosher, halal and genetically-modified food and general food safety certification schemes**

The food industry is a multi-billion dollar global industry offering increasing quantity, diversity, and complexity of food products to consumers worldwide. This allows consumers to make purchasing decisions based on a range of values, but also requires more complex and integrated systems to ensure that food safety standards are monitored and met and that consumer values can be communicated in an increasingly competitive market.

In order to meet consumer demand and build market share, particularly in export markets, food businesses seek third-party certifications for a range of matters relevant to their products. Product attributes where third-party certifications are commonly applied include:

- consumer values such as quality, provenance, sustainability, animal welfare, production methods and compatibility with religious and/or other belief systems;
- nutrition and ingredient information;
- technical aspects of production;
- food safety and quality assurances; and
- implementation of private standards required by food retailers.

Some third-party certifications are used to meet statutory requirements in areas such as food safety and animal welfare requirements, while others are voluntary certifications used by food businesses to promote distinguishing attributes of their products to consumers. Third party certifications generally fall into this latter category.

Third-party certifications are provided by a range of organisations whose operations depend on the nature and purpose of the certifications they provide. Certifications generally provide third-party verification of particular attributes of food products and/or production processes in the interest of readily communicating a more compelling value proposition to customers.

The following provides illustrative examples of some, not all, certifications available in the food industry. Third-party certification schemes often develop in response to consumer values, so new certifications are likely to emerge and existing certifications are likely to evolve as consumer values change over time.

### ***Food Ingredients and Health Claims***

Voluntary third-party certifications schemes in relation to food ingredients and health claims provide opportunities for food businesses to differentiate their products based on ingredient content and nutritional claims.

Some third-party certification schemes enable food businesses to use a logo (such as a certification trade mark) on the packaging of products that meet the requirements of the scheme. By requiring food businesses to comply with rules for use of the relevant trade mark or logo, such endorsements provide customers with greater certainty about the quality and nature of foods available for purchase.

Certification trade marks can be registered under the *Trade Marks Act 1995* which is administered by IP Australia. The Australian Competition and Consumer Commission must be satisfied that certain criteria including competition and consumer protection concerns are met before a certification trade mark can be registered. There are currently 135 registered certification trade marks for food, beverage or agricultural goods.<sup>4</sup>

The Heart Foundation Tick is a certification trade mark registered as part of a self-funded health programme to promote healthier food choices through use of the Tick logo on foods that meet the programme's nutritional criteria.<sup>5</sup> The programme helps businesses promote products that are lower in certain nutrients (eg. saturated fat, sodium) and/or higher in others (eg. fibre, wholegrains) compared with other foods in the same food category. Products using the Heart Foundation Tick need to be tested by a National Association of Testing Authorities, Australia (NATA) accredited laboratory. Packaging and promotional materials must be approved prior to use and products are subject to random audits. More than 2 000 food products carried the Tick across 80 food categories in 2014. These foods are listed on the Heart Foundation's website.<sup>6</sup>

The logo used by the Coeliac Endorsement Programme is a trade mark owned and administered by Coeliac Australia under a licence agreement. All products using the logo must be third party tested and re-tested annually by a NATA accredited laboratory or if manufactured overseas, by a member of the International Laboratory Accreditation Cooperation. Businesses pay an annual fee for the right to use the logo on their food packaging and promotion in addition to paying for the testing.<sup>7</sup>

Australia's gluten free market was worth approximately US\$90 million in 2013 and is expected to increase.<sup>8</sup> While existing food labelling requirements for ingredients provide information to enable experienced shoppers to identify foods that are gluten free, the logo provides a value added reference point and endorsed products are listed on the Coeliac Australia website.

### ***Production methods***

Primary production and food processing methods have both environmental and animal welfare implications and may affect the composition of food products sold to markets through the choice of inputs and practices in the food production process. While Australian food businesses are legally required to abide by animal welfare, environmental and production standards, some consumers may still seek additional requirements in relation to these attributes that may be validated or endorsed through third-party certification. Key examples include certification of agricultural practices as organic, animal slaughter practices and accreditation of products as free range.

Organic foods are produced in the absence of synthetic chemicals (such as pesticides or artificial fertilisers), have not been exposed to irradiation and do not contain genetically modified components. While organic produce has traditionally occupied a niche market, Australia's organic industry has experienced strong growth in recent years. Industry estimates

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<sup>4</sup> In addition to foods, these registered marks can include seeds, live animals, plants and flowers.

<sup>5</sup> [www.heartfoundation.org.au/information-for-professionals/heart-foundation-tick/Pages/default.aspx](http://www.heartfoundation.org.au/information-for-professionals/heart-foundation-tick/Pages/default.aspx)

<sup>6</sup> [www.heartfoundation.org.au/SiteCollectionDocuments/Tick\\_Shopping\\_List.pdf](http://www.heartfoundation.org.au/SiteCollectionDocuments/Tick_Shopping_List.pdf)

<sup>7</sup> [www.coeliac.org.au/uploads/65701/ufiles/Endorsement/EndorsementInfoPack.pdf](http://www.coeliac.org.au/uploads/65701/ufiles/Endorsement/EndorsementInfoPack.pdf)

<sup>8</sup> [www.just-food.com/management-briefing/germany-canada-australia-among-other-growth-markets\\_id123020.aspx](http://www.just-food.com/management-briefing/germany-canada-australia-among-other-growth-markets_id123020.aspx)



indicate Australia's production of organic food was worth \$1.41 billion in 2014 with exports of these products valued at over \$228 million.<sup>9</sup>

Organic operators wishing to produce, process and/or handle organic produce for export (as well as products described as biodynamic, biological, ecological or a similar term) must meet the requirements of the *Export Control (Organic Produce Certification) Orders* and the 2009 National Standard for Organic and Bio-Dynamic Produce (AS6000), and importing country requirements.

Under the National Standard, producers need to be certified by an approved organic certifying organisation. The Department of Agriculture plays a regulatory role in approving and auditing organisations that issue organic export certificates. There are currently six approved certifying organisations listed on the Department of Agriculture website. The National Standard also applies to domestic and imported foods but is not compulsory and certification is therefore voluntary.

### ***Religious certification***

The main types of religious certification carried out in Australia are kosher for the Jewish market, and halal for the Muslim market. Both certifications have specific requirements in relation to how meat is slaughtered, the ingredients that can be used and requirements to prevent cross-contamination of products. While there is no requirement for halal or kosher products sold in Australia to be certified to a particular standard, producers may seek voluntary certification in order to promote their products to these consumer groups.

Kosher certification is useful for food businesses seeking to export to Israel and the United States, while the domestic market for kosher products (including some food purchasers who are not Jewish) may exceed 1.1 million people.<sup>10</sup>

Halal certification is required by a number of Australia's export markets. To meet importing country requirements, exports of red meat and red meat products to many markets need to be jointly certified by the Department of Agriculture and an Islamic organisation that has an Approved Arrangement with the Department of Agriculture. There are currently 22 Islamic Organisations listed on the Department of Agriculture's website as having an Approved Arrangement. Further information in relation to exports of halal products is provided later in this submission.

The department is aware of some consumer concerns in relation to halal certification of food. **Attachment A** clarifies some of the common misperceptions about halal certification.

### **Current labelling requirements of food certification schemes**

Generally, third-party certification is a commercial opportunity that individual businesses undertake voluntarily to promote attributes of their products to consumers. Within the Food Labelling Hierarchy<sup>11</sup> (see **Attachment B**), third-party certification schemes often concern *consumer values issues* (reflecting consumer perceptions and ethical views) where labelling decisions are initiated by industry in response to consumer demand and labelling is usually not compulsory. Where third-party certification schemes concern consumer values, the

<sup>9</sup> Calculated from figures in Australian Organic Report 2014 [http://austorganic.com/wp-content/uploads/2015/05/AO\\_Report\\_2014\\_web.pdf](http://austorganic.com/wp-content/uploads/2015/05/AO_Report_2014_web.pdf)

<sup>10</sup> [www.kosher.org.au/content/australian-kosher-market](http://www.kosher.org.au/content/australian-kosher-market)

<sup>11</sup> The Food Labelling Hierarchy is a framework that provides a principles-based approach for decisions on government intervention in food labelling based on risk.

department supports the voluntary labelling approach of the Food Labelling Hierarchy as it provides businesses with flexibility to respond quickly to the changing values of consumers and there are often strong market incentives for businesses paying for certifications to label their products accordingly.

While third-party certifications may provide greater credence and added visual appeal on packaging, food businesses are still free to market their products as having a certifiable attribute without actually contracting and paying a certifier to gain a certification. Such representations are subject to the Australian Consumer Law contained in the *Competition and Consumer Act 2010* which prohibits false or misleading representations. The Australian Consumer Law is enforced by the Australian Competition and Consumer Commission, and State and Territory offices of fair trading. A range of penalties apply for breaches of the Australian Consumer Law.

#### **The need for labelling on products produced by companies that pay certification fees**

The department considers it important that businesses have flexibility to efficiently manage their production costs, which includes obtaining third-party certifications and labelling certified products as they see commercially fit. Given the range of third-party certification schemes available in the food industry, it is not practical to promote and label all product certifications in all situations, and any such requirement would unnecessarily increase business compliance costs and increase the cost of food to consumers. Increased regulation of third-party certifications in food labelling could also pose a disincentive to businesses seeking certifications that support innovation in their operations and/or access to new export markets.

The department notes concerns expressed by some consumers about the labelling of products that are halal certified. As discussed below, there are considerable opportunities for Australian producers to export halal products and the department considers it is important to ensure that export growth is not hampered by unnecessary regulation. **Attachment A** clarifies some key misperceptions that have been raised in relation to halal certification.

The department is aware of businesses that have obtained halal certification predominantly to fulfil the obligations of a specific contract or to market to a particular export destination. In these circumstances, the relevant businesses have made voluntary commercial decisions to have their products certified but may not need to label their products for the purpose of the relevant contract nor be able to restructure their activities to promote the certification to their wider markets. Further operational complications may arise when not all the products from a particular operation need to be halal (eg a product destined for the general market could be processed in accordance with halal criteria but may later be stored with non-halal product thereby invalidating its halal status).

As previously indicated, there are often strong market incentives for businesses paying for certifications to label their products accordingly, and a range of options are available to consumers to investigate the certification status of foods they purchase.

#### **Whether current schemes provide enough information for Australian consumers to make informed purchasing decisions**

Consumer values can have endless possibilities and a wide range of processes and product attributes are potentially subjectable to third-party certification. The department cannot comment on the adequacy of information available to consumers in all cases, but notes that third-party certification schemes generally have an incentive to provide consumers with

enough information on product attributes in order to inform purchasing decisions, since the business models of many schemes generally depend on raising consumer awareness and demonstrating commercial value in food businesses associating with schemes.

Mobile applications, websites, social media, point-of-sale materials and other forms of communication are used to provide consumer access to information about in third-party certification schemes and product attributes. In some cases the information provided by these sources is not based on formal certifications but comes from private research undertaken by consumer groups. Consumers are also able to contact food businesses and third-party certification organisations directly to seek further clarification about products and certifications. The Food Standards Code requires the name and address of the supplier of the food to be listed on the label.

The department considers there are sufficient avenues for consumers to verify third-party certifications that are of particular concern to them without the need to mandate further information disclosure on food businesses. Consumer protections under the Australian Consumer Law also provide safeguards to consumers.

In circumstances when a third-party food certification scheme utilises a certification trade mark (CTM), which has been approved by IP Australia and the Australian Competition and Consumer Commission as meeting particular standards, there may be opportunities to improve consumer access to the rules for use of the CTM such as more convenient information disclosure through an appropriate medium where consumers often seek such information.<sup>12</sup>

#### **Details regarding certification fees paid by food producers and/or manufacturers, and the potential for these to impact on prices for consumers**

Third-party certifications are generally a commercial decision for businesses who normally balance the costs of obtaining a particular certification against the expected financial returns from doing so. As the fees paid are commercial matters between food businesses and certifying organisations, the department does not have information on the fees that are paid although the websites of some certification organisations do disclose their fees.

Australia's food and grocery retailing sector is very competitive and cost-conscious. Market incentives are such that businesses are unlikely to unreasonably increase the price of their products through third-party certification schemes, unless there is likely to be a tangible benefit.

While there has been some consumer concern about the cost of halal certification on food, the Australian Food and Grocery Council<sup>13</sup> indicates on its website that *"the costs of [halal] certification for major food and beverage manufacturers are negligible in terms of the total manufacturing cost base and highly unlikely to influence wholesale pricing. Companies that pursue Halal certification generally do so in order to increase sales opportunities to a broader range of consumers"*.<sup>14</sup>

<sup>12</sup> Rules for certification trade marks can be found on the IP Australia website <http://www.ipaustralia.gov.au/get-the-right-ip/trade-marks/types-of-trade-marks/certification-trade-mark/certification-rules/>. This also provides the CTM number which enables information on the trade mark to be found via IP Australia's searchable database ATMOSS. There may be opportunities to make this information more accessible.

<sup>13</sup> The Australian Food and Grocery Council is a member-based industry association which represents food and grocery manufacturing businesses in Australia

<sup>14</sup> <http://www.afgc.org.au/about-afgc/our-policies/halal-certification/>

While the ability to access certification often depends on the nature of the certification being sought, the department notes that there is some choice and competition amongst the providers of some third-party certifications. For example, the Department of Agriculture website indicates that 22 Islamic Organisations currently have an Approved Arrangement to certify red meat and red meat products as halal for export. Similarly, the Department of Agriculture website lists six organisations that issue organic export certificates.

The department considers it appropriate that fees paid for third-party certifications are determined by market forces and that governments continue to support an environment that enables competition between different providers.

### **The importance of food certification schemes in relation to export market access and returns to producers**

As mentioned previously, third-party food certifications play an important role in assisting businesses to access key export markets, particularly in relation to products that are halal.

Halal production is a requirement of a number of Australia's export markets including Bahrain, Brunei, Egypt, Indonesia, Iran, Iraq, Jordan, Kuwait, Malaysia, Oman, Qatar, Saudi Arabia and the United Arab Emirates. In 2013–14, the total value of Australia's halal certified exports of red meat and red meat products to these countries was more than \$1.4 billion.<sup>15</sup> Australia also exports halal meat products to a number of other countries including China, the United States, Singapore, Thailand and Japan. The trend for Australian meat processors to slaughter animals in accordance with halal requirements has increased opportunities to export our meat products to countries that are predominantly Muslim.<sup>16</sup>

Opportunities for Australian exports of halal food and beverages are significant with many of Australia's key trading partners having significant and growing Muslim populations. According to the Dubai Chamber of Commerce and Industry, the global market for halal food was worth US\$1.1 trillion in 2013 and is estimated to increase to US\$1.6 trillion by 2018.<sup>17</sup>

Kosher certification is useful for exporting to Israel and the United States and businesses may choose to gain certification to secure one-off export contracts and/or expand their markets.

There are also opportunities for exports of organic foods. Industry estimates suggest Australia's organic food exports were valued at over \$228 million in 2014.<sup>18</sup> The main exported organic products were meat, processed foods, dairy, wine and beverages, and fruit and vegetables, and major export destinations included North America, Europe, Singapore/Malaysia, Hong Kong and Japan.<sup>19</sup>

<sup>15</sup> Department of Agriculture

<sup>16</sup> IBIS World, Meat Processing report, Products and Markets  
<http://clients1.ibisworld.com.au/reports/au/industry/productsandmarkets.aspx?indid=90>

<sup>17</sup> Dubai Chamber report, 2014 <http://www.dubaichamber.com/en/news/dubai-chamber-report-shows-increasing-preference-for-halal-food-as-global-market-grows-to-us1-1-trillion-in-2013>

<sup>18</sup> Calculated from figures provided in Australian Organic Report 2014  
[http://austorganic.com/wp-content/uploads/2015/05/AO\\_Report\\_2014\\_web.pdf](http://austorganic.com/wp-content/uploads/2015/05/AO_Report_2014_web.pdf)

<sup>19</sup> [http://austorganic.com/wp-content/uploads/2015/05/AO\\_Report\\_2014\\_web.pdf](http://austorganic.com/wp-content/uploads/2015/05/AO_Report_2014_web.pdf)

**The extent and adequacy of information available to the public about certifiers including, but not limited to, certification processes, fees and financial records; and any related matters**

Third-party food certification may be something that food businesses see as commercial-in-confidence to their operations and market positioning strategies. Similarly, some third-party certification schemes may be competitive business pursuits themselves, requiring some commercial confidentiality.

Third-party food certification entities do operate within the usual business registration and disclosure framework that applies across Australia. If a certification entity is a public company or a large proprietary company, it must provide the Australian Securities and Investment Commission (ASIC) with an annual financial report within four months of the end of the financial year. Small proprietary companies are required to provide an annual financial report and directors' report if specifically requested to do so by certain shareholders or ASIC.

Third-party certification entities that are registered as charities or not-for-profit organisations with the Australian Charities and Not-for-Profits Commission must submit an Annual Information Statement, and those with annual revenue in excess of \$250,000 must submit a financial report.

If a business has submitted an Annual Information Statement, financial report or directors' report, the report may be found on either the Australian Charities and Not-for-Profits Commission's website or through the ASIC website, or the business can be approached direct for a copy of its annual report.

## Attachment A: Consumer concerns in relation to halal certification

The department is aware of consumer campaigns about halal certification of Australian food products. Given the potential for misinformation from these campaigns to disadvantage Australian industry, the department takes this opportunity to clarify key claims about halal certification and emphasise the importance of fostering a globally competitive food industry in Australia with flexibility to manage halal certifications based on commercial motivations.

Australian food businesses are trade exposed, competing against import alternatives in the domestic market as well as challenging for market share in international markets. With valuable new growth markets continuing to emerge in Asia and the Middle East, the department considers it important that policy encourages Australian food businesses to think globally and overcome the challenges of exporting to unfamiliar markets. For Australian food businesses, new export growth contributes to wealth creation throughout Australia's food supply chain and also supports local jobs, particularly in regional areas.

One way through which Australian food businesses compete globally is by obtaining third party certifications that enable them to promote the attributes of their food products to targeted consumer segments. In export markets such as, but not limited to, Malaysia, Indonesia and the Gulf Cooperation Council, halal certification is highly valued by consumers. To promote the attributes of their products whilst also managing production costs efficiently and flexibly, Australian businesses often produce food products with a range of voluntary certifications, including halal, so that their full production runs can be sold into both domestic and international markets.

The department considers that individual businesses are best placed to make consumer marketing decisions concerning halal certification for their food products. Similarly, the department considers that individual businesses are best placed to determine whether any production, certification and labelling costs associated with halal certification deliver commercial advantage.

### **Halal certification is unlikely to add significant costs to Australian food products.**

- In a market economy like Australia, businesses balance the costs of obtaining halal certification against the expected financial returns from doing so.
- The department is not privy to the commercial costs of halal certification. However it considers that domestic and international food markets are competitive and price-conscious, and that market incentives are such that Australian businesses are very unlikely to noticeably increase the costs of their products through halal certification. Similarly, businesses are unlikely to obtain voluntary halal certification if they perceive it would do their business financial harm.
- The Australian Food and Grocery Council notes on its website that *“the costs of [halal] certification for major food and beverage manufacturers are negligible in terms of the total manufacturing cost base and highly unlikely to influence wholesale pricing ... [and that] ... companies that pursue halal certification generally do so in order to increase sales opportunities to a broader range of consumers”*.

**Halal certification entities and food businesses are required to comply with Australian Consumer Law.**

- All Australian businesses come under the Australian Consumer Law which prohibits misleading or deceptive conduct and false or misleading representations in trade and commerce, including in relation to claims that food products meet certain consumer values such as halal

**Halal certification entities and food businesses are required to comply with Australia's business licencing, registration and disclosure frameworks.**

- There are a range of government registration and licencing requirements for businesses operating in Australia. Most businesses in Australia need to register their business with the Australian Government. Businesses operating as sole traders, partnerships or trusts generally need to register their business name with the Australian Securities and Investment Commission (ASIC). Businesses operating as companies also need to register as companies with ASIC.
- Small proprietary companies are only required to provide an annual financial report and directors' report if specifically requested to do so by certain shareholders or by ASIC. Public companies and large proprietary companies must provide ASIC with an annual financial report within four months of the end of the financial year.
- Charities and not-for-profit organisations registered with the Australian Charities and Not-for-Profits Commission must submit an Annual Information Statement, and those with annual revenue in excess of \$250,000 must submit a financial report.

**Halal certification is not a tax.**

- Obtaining halal certification is a voluntary third-party certification that businesses undertake at their choosing usually to promote the attributes of their food products and to access new growth opportunities in export markets.

**Halal certification can help Australian businesses access new growth opportunities.**

- Australia is considered a mature food market with consumption increasing modestly in line with population growth. In contrast, much of Asia and the Middle East have rapidly expanding middle class consumer segments which are increasingly demanding Australia's high quality food.
- World markets for halal products represent a wealth creation opportunity for Australian businesses. The Dubai Chamber of Commerce and Industry forecasts the global halal food industry will be worth US\$1.6 trillion by 2018.
- Australian food businesses generally seek halal certification to expand their sales into new export markets, which has flow on benefits of increasing local production and Australian jobs.

**All Australian businesses are legally obliged to meet the minimum requirements for the handling and slaughter of animals, regardless of whether or not they are halal certified.**

- Animal welfare is important to Australian livestock producers and food manufacturing businesses. The methods used in Australian abattoirs for the production of halal meat are in accordance with Australian and international animal welfare standards.
- All animals slaughtered for human consumption in Australia, including those slaughtered as halal, must be produced in accordance with the *Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption*. This Standard stipulates requirements for animal welfare including a required outcome of ‘the minimisation of the risk of injury, pain and suffering and the least practical disturbance to animals’.

**Food business may still see commercial value in promoting their products with halal certification even if their ingredients are inherently halal.**

- While the contents of many food products may be inherently halal, business may still see commercial value in seeking halal certification for the purposes of communicating to consumers that their processing machinery, storage and utensils are also used and cleaned consistent with halal requirements.
- For some processed foods, which are made from multiple ingredients (some not obvious) along with additives and emulsifiers, consumers may be unable to fully determine if the final product is halal. In such circumstances, businesses may see commercial value in seeking halal certification so as to more clearly convey the halal attributes of their products to consumers.



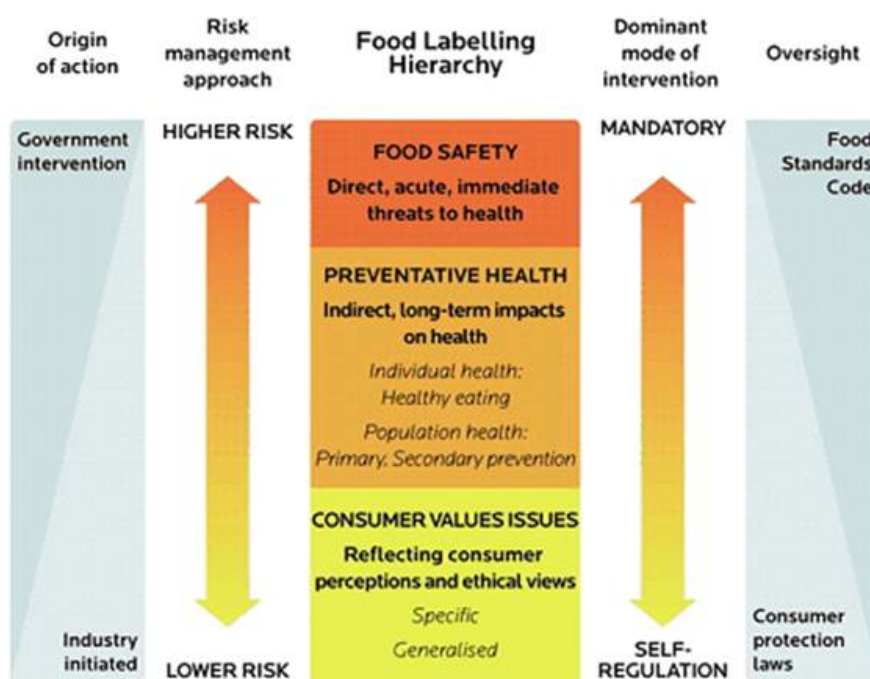
## Attachment B: Current food labelling requirements and the Food Labelling Hierarchy

Current food labelling requirements are set out in the Australia New Zealand Food Standards Code which covers standards that are relevant to all foods (Chapter 1 of the Code) and specific requirements applying to certain food products including cereals, meat, eggs, fish, fruit, vegetables, edible oils, dairy products, beverages, sugars and honey (Chapter 2). These Chapters also cover matters such as substances added to food, contaminants and residues, foods requiring pre-market clearances (eg food produced using genetic technologies) and compositional requirements.

The Australia and New Zealand Ministerial Forum on Food Regulation has agreed to a labelling hierarchy framework that provides a principles-based approach for decisions on government intervention based on risk. The Food Labelling Hierarchy (Figure 1 below) has three tiers which cover in descending order of importance:

- *Food Safety (direct, acute and immediate threats to health)*
  - labelling in relation to food safety is primarily initiated by government and is referenced in the Food Standards Code;
- *Preventative Health (indirect, long-term impacts on health including chronic disease)*
  - labelling in relation to preventative health may be initiated by government, or in tandem with stakeholders, including industry; and
- *Consumer Values Issues (reflecting consumer perceptions and ethical views)*
  - labelling of consumer values is generally initiated by industry in response to consumer demand and is usually not compulsory.

**Figure 1:** Food Labelling Hierarchy<sup>20</sup>



<sup>20</sup> <http://www.health.gov.au/internet/main/publishing.nsf/Content/foodsecretariat-strategic-statement>

In practice, the Food Standards Code has mandatory food labelling requirements for purposes such as nutrition and food safety but does not include requirements in relation to consumer values.

The department notes that the hierarchy was agreed to by Australian, State and Territory Ministers in response to a review of food labelling law and policy undertaken in 2011.<sup>21</sup> In considering labelling requirements, Ministers agreed that a market-driven, self-regulatory approach to consumer value concerns, such as halal labelling, is likely to be more responsive to consumer needs than a regulatory response.

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<sup>21</sup> N Blewett, N Goddard, S Pettigrew, C Reynolds, H Yeatman "Labelling Logic: Review of food Labelling Law and Policy", Commonwealth of Australia, Canberra, 2011.