

Chapter 4

Food labelling

Introduction

4.1 This chapter covers food labelling issues raised in relation to honey, including the level of detail in the honey standard, country-of-origin labelling (CoOL), enforcement of standards and labelling, and potential changes to the content of labels with regard to health information.

Food labelling standards

4.2 Food Standards Australia New Zealand (FZANZ) is responsible for the development and administration of the Australian New Zealand Food Standards Code (the Food Standards Code). The Food Standards Code includes general food safety requirements and commodity specific requirements. The code also includes maximum levels for contaminants, and Maximum Residue Limits (MRLs), which are the maximum amounts of agricultural and veterinary chemicals permitted in specific commodities including honey to ensure that the chemicals do not pose an undue hazard to human health.¹

4.3 The Food Standards Code has a number of standards relevant to bee products, including Standard 1.2.2 Food Identification Requirements; Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations and Standard 2.8.2 – Honey. The Food Standards Code is enforced by state and territory agencies for food within Australia and the Department of Agriculture for food that is imported.² Additional food labelling requirements are also set out in the *Competition and Consumer Act 2010* (CC Act). The CC Act requires that labels are used to provide information that is not false or misleading.³

4.4 In 2011, the independent Panel for the Review of Food Labelling Law and Policy, commissioned by the Australia and New Zealand Food Regulation Ministerial Council, presented its final report *Labelling Logic*, which noted that the approach to food labelling was 'ad hoc' and had evolved in a sporadic fashion to address issues raised by the competing interests of consumers, industry and government.⁴

1 Department of Agriculture, *Submission 79*, pp 11–12; Australian Pesticides and Veterinary Medicines Authority, *Maximum Residue Limits (MRL) in Food and Animal Feedstuff*, <http://www.apvma.gov.au/residues/standard.php>, (accessed 4 June 2014).

2 Department of Agriculture, *Submission 79*, pp 11–12.

3 Business.Gov.Au, *Labelling Fair Trading*, <http://www.business.gov.au/BusinessTopics/Fairtrading/Pages/Labelling.aspx>, (accessed 26 March 2014).

4 Review of Food Labelling Law and Policy, *Labelling Logic: Review of Food Labelling Law and Policy* (2011), January 2011, p. 1.

4.5 The Council of Australian Governments, Legislative and Governance Forum on Food Regulation, responded to the Labelling Logic report and proposed actions to balance the need to improve the information for consumers against the need for marketing flexibility, minimising the regulatory burden on industry and barriers to trade. There was support, or in principle support, for many of the 61 recommendations in the response.⁵ However, during this inquiry the committee has received evidence identifying continuing concerns about food labelling, which are discussed below.

The honey food standard

4.6 This section covers the honey food standard and issues raised during the inquiry including the level of detail in the standard, chemical contamination and the presence of non-honey products.⁶ Food standard 2.8.2 on honey requires that honey must contain no less than 60 per cent reducing sugars, no more than 21 per cent moisture, and provides that:

honey means the natural sweet substance produced by honey bees from the nectar of blossoms or from secretions of living parts of plants or excretions of plant sucking insects on the living parts of plants, which honey bees collect, transform and combine with specific substances of their own, store and leave in the honey comb to ripen and mature.⁷

4.7 The More Than Honey inquiry also identified issues with honey imports and standards, including price competition, level playing fields and labelling of blended products. The More Than Honey inquiry recommended that the Commonwealth government pursue the development product standard for honey and other bee products with regard to food standard and chemical contamination in line with those in force in the European Union.⁸ Capilano Honey submitted that the honey standard lacks detail, and is not representative of international standards of substance for honey, such as those of the European Union, Canada and China.⁹

4.8 The Australian Food and Grocery Council urged caution about changing the honey food standard, particularly in relation to potential trade barriers, but was somewhat supportive of alignment with international standards.¹⁰

4.9 FSANZ informed the committee that the European standard for honey contains a number of compositional and quality parameters that are not appropriate for

5 Legislative and Governance Forum on Food Regulation (FoFR), *Response to the Recommendations of Labelling Logic: Review of Food labelling Law and Policy (2011)*, December 2011.

6 See, for example, Capilano Honey Ltd., *Submission 39*, p. 6; Australian Honey Bee Industry Council, *Submission 63*, p. 10; Mr Benjamin Hooper, South Australian Apiarists Association Incorporated, *Committee Hansard*, 15 April 2014, pp 4, 8.

7 Food Standard 2.8.2, *Honey*, p. 1.

8 Standing Committee on Primary Industries and Resources, *More Than Honey: the future of the Australian honey bee and pollination industries*, May 2008, p. xxi.

9 Capilano Honey Ltd., *Submission 39*, p. 6.

10 Australian Food and Grocery Council, *Submission 51*, p. 9.

Australia as they do not relate to public health and safety or to misleading or deceptive conduct. FSANZ also noted that the Food Standards Code was created on the basis of 'minimum effective regulation' to remove unnecessary prescription that could stifle innovation.¹¹

4.10 Several witnesses also raised concerns about chemicals in imported honey, including suggestions that there may be some chemicals which are not permitted for agricultural use in Australia that may be present in imported honey as a result of their use in agriculture overseas.¹² FSANZ informed the committee that: 'There are no agricultural and veterinary chemicals that are permitted in honey for sale that are not also permitted to be used in Australian agriculture.'¹³ Concerns raised by submitters about testing for chemicals and residues in imported honey¹⁴ are also discussed in Chapter 2.

Non-honey products

4.11 This section discusses concerns raised about whether the honey standard adequately deals with non-honey products such as corn syrup.¹⁵ FSANZ informed the committee that, regardless of whether the honey was domestic or imported, the presence of corn syrup in a product labelled as honey would breach the honey standard:

The honey standard has been designed and has a definition which specifically requires honey to be the product that is produced by bees interacting with plants, and not bees fed on sucrose or dextrose or whatever sugar they might be fed on or any other sugar product. ... Honey is a prescribed name—it is one of the few prescribed names in the food code—and so a product that is on the shelf as honey must be that particular product and cannot be corn syrup.¹⁶

4.12 FSANZ clarified that a product containing a combination of honey and added sugars may be sold under another name, for example, sweetened honey.¹⁷

4.13 In January 2011, the Labelling Logic report recommended that:

11 Food Standards Australia New Zealand, *answer to written question on notice*, 20 May 2014, (received 27 May 2014).

12 Mr Colin Cooper, New South Wales Apiarists Association, *Committee Hansard*, 20 May 2014, pp 6–7; Mr Trevor Weatherhead, Australian Honey Bee Industry Council, *Committee Hansard*, 20 May 2014, p. 34.

13 Food Standards Australia New Zealand, *answer to question on notice*, 20 May 2014, (received 27 May 2014).

14 Dr Doug Somerville, *Submission 28*, p. 8; NSW Apiarists Association, *Submission 58*, pp 19–20. Australian Honey Bee Industry Council, *Submission 63*, p. 10.

15 Mr Leigh Duffield, *Submission 31*, p. 3.

16 Mr Peter May, Department of Agriculture, *Committee Hansard*, 20 May 2014, p. 59.

17 Food Standards Australia New Zealand, *answer to question on notice*, 20 May 2014, (received 27 May 2014).

...where sugars, fats or vegetable oils are added as separate ingredients in a food, the terms ‘added sugars’ and ‘added fats’ and/or ‘added vegetable oils’ be used in the ingredient list as the generic term, followed by a bracketed list (e.g., added sugars (fructose, glucose syrup, honey), added fats (palm oil, milk fat) or added vegetable oils (sunflower oil, palm oil)).¹⁸

4.14 The government response to the Labelling Logic report indicated that, in respect of this recommendation, it proposed to request FSANZ to undertake a technical evaluation and provide advice on the proposed changes to the ingredient listing and Nutrition Information Panel prior to considering any amendments to the Food Standards Code.¹⁹ The committee asked FSANZ whether an approach similar to Labelling Logic recommendation could be applied to the ingredients in honey products such as corn syrup and additives. FSANZ responded to the committee stating that:

The *Australia New Zealand Food Standards Code* currently requires honey products containing ingredients, such as corn syrup and additives, to include a statement of ingredients which lists the ingredients in the product. Ingredients must be declared in descending order of ingoing weight using a common name or a name that describes the true nature of the ingredient.

FSANZ's work on [the relevant] Recommendation...is considering the technical aspects of applying the proposed approach to ingredients lists to all foods including honey products. FSANZ expects to provide its technical evaluation and advice to the COAG Legislative and Governance Forum on food Regulation in mid-2015.²⁰

Committee view

4.15 The committee notes that food labelling as a whole is a vexed issue. Despite multiple reviews and inquiries, there has been little action to improve labelling standards. The current system is bad for both consumers and producers, but there has been a lack of action on the part of successive governments.

4.16 The committee notes the honey industry's proposal for a revised honey standard²¹ and that the industry is discussing the proposal with FSANZ. From the evidence put before it, the committee considers that addressing the concerns discussed below about country-of-origin labelling and enforcement of standards and labelling may be more likely to assist the honey industry than changes to the honey standard.

18 Review of Food Labelling Law and Policy, *Labelling Logic: Review of Food Labelling Law and Policy (2011)*, January 2011, p. 9.

19 Legislative and Governance Forum on Food Regulation (FoFR), *Response to the Recommendations of Labelling Logic: Review of Food labelling Law and Policy (2011)*., December 2011, p. 21.

20 Food Standards Australia New Zealand, *answer to written question on notice*, 20 May 2014, (received 27 May 2014).

21 Australian Honey Bee Industry Council, *Submission 63*, p. 10; Mr Trevor Weatherhead, Australian Honey Bee Industry Council, *Committee Hansard*, 20 May 2014, p. 34.

Country-of-origin labelling

4.17 A number of submitters raised concerns about country-of-origin labelling (CoOL) for honey products.²² Some submitters suggested that imported honey is often blended with local honey or substituted for local honey to keep prices down.²³ It was also suggested that honey may be shipped through intermediate countries to disguise the true origin.²⁴ However this view was not universal; Dr McKee from Capilano Honey informed the committee that in his view the honey sold in supermarkets was generally Australian.²⁵

4.18 Other submitters noted confusion for consumers about the meanings of the terms 'made from imported and Australian product', 'made from imported and local ingredients', 'Packed in Australia', 'Australian Honey', and 'Made in Australia'.²⁶ The When Bee Foundation submitted that:

Consumers are often willing to pay a premium if they believe they are supporting Australian producers. As it stands there is confusion surrounding the “Made in Australia” claim on many products that are actually a blend of imported and Australian honey. This confusion is likely to result in customers genuinely wishing to support Australian beekeepers but inadvertently diverting their investment to imported products.²⁷

4.19 Another submitter queried the terminology 'Made in', suggesting that the use of the words 'Made in' should result in a product that was actually produced (not just packed) in the country claimed however this is not currently the case.²⁸ The Australian Food and Grocery Council submitted its view on country-of-origin Labelling:

Current CoOL requirements as set out in the Australian Consumer Law allow the “*Made in Australia*” claim only when a substantial transformation of the ingredients has occurred during manufacture. Importing honey and blending it with Australian honey would not be considered a substantial transformation according to current court decisions. The use of a “*Made in Australia*” claim under these conditions would appear to be potentially

22 Mr Ian Zadow, Australian Honey Bee Industry Council, *Committee Hansard*, 15 April 2014, p. 25; Beechworth Honey Group, *Submission 52*, pp 13–14; Australian Honey bee Industry Council Inc., *Submission 63*, p. 14; Crop Pollination Association Inc. (Vic), *Submission 14*, pp 7–8; Mr Gary Montgomery, *Submission 43*, p. 1; Mr John Edmonds, *Submission 44*, pp 1–2; Mr David and Wendy Mumford, *Submission 30*, pp 4–6.

23 Mr Peter Warhurst, *Submission 18*, p. 2; Mr Gary Montgomery, *Submission 43*, p. 2; The Western Australian Farmers Federation Inc., *Submission 72*, p. 5.

24 Mr Gary Montgomery, *Submission 43*, p. 2;

25 Dr Benjamin McKee, Capilano Honey Ltd, *Committee Hansard*, 20 May 2014, p. 43.

26 Apple and Pear Australia Ltd., *Submission 24*, p. 7; Mr Gary Montgomery, *Submission 43*, p. 1; Beechworth Honey Group, *Submission 52*, p. 13; Australian Honey bee Industry Council Inc., *Submission 63*, p. 14.

27 When Bee Foundation, *Submission 65*, p. 21.

28 Mr Moss MacGibbon and Mr Andrew McCallum, *Submission 69*, p. 4.

misleading to consumers and in likely contravention of the Australian Consumer Law.²⁹

4.20 FSANZ clarified that the Food Standards Code currently requires that most packaged foods, including packaged honey products, are labelled with a statement on the package indicating the country where the food was made, produced, grown, manufactured or packaged and whether the food is constituted from ingredients imported into that country or from local and imported ingredients.³⁰

4.21 Some submitters and witnesses suggested that the percentage of each ingredient and its country of origin should be on the product label.³¹ Others were comfortable with just the imported percentage of the consumable contents appearing on the label.³² FSANZ informed the committee that:

In December 2003, the then Australia and New Zealand Food Regulation Ministerial Council approved a policy guideline for country of origin labelling of food which states that country of origin labelling should apply to whole foods, not to individual ingredients...Food producers or suppliers can however voluntarily label food to indicate what percentage of the product is from Australia and whether it is the main product or an additive, as long as such labelling is not misleading or deceptive, in accordance with Australia Consumer Law.³³

Committee view

4.22 From the evidence that it has received, the committee considers that country-of-origin labelling requirements are not effective and may require reform. The committee notes suggestions by some submitters that country-of-origin labelling be dealt with as part of a broader country-of-origin labelling reform, rather than developing specific provisions for honey products.³⁴ The committee generally supports that approach and notes the opportunity provided by the current inquiry into the country-of-origin labelling by the House of Representatives Standing Committee on Agriculture.³⁵

29 Australian Food and Grocery Council, *Submission 51*, p. 6.

30 FSANZ, *answer to written question on notice*, 20 May 2014, received 27 May 2014.

31 Mr Peter Warhurst, *Submission 18*, p. 2; John Edmonds, *Submission 44*, p. 1; Ms Serena Dorf, *Submission 56*, pp 3–4; VFF State Beekeeping Branch, *Submission 75*, p. 8; Mr David and Wendy Mumford, *Submission 30*, pp 4–5; Mr Daniel Jones, Queensland Beekeepers Association, *Committee Hansard*, 20 May 2014, p. 16.

32 Mr Moss MacGibbon and Mr Andrew McCallum, *Submission 69*, pp 4–5.

33 FSANZ, *answer to written question on notice*, 20 May 2014, received 27 May 2014.

34 Australian Food and Grocery Council, *Submission 51*, p. 3; Capilano Honey, *Submission 39*, p. 6; Beechworth Honey Group, *Submission 52*, p. 13.

35 House of Representatives Standing Committee on Agriculture and Industry, http://www.aph.gov.au/Parliamentary_Business/Committees/House/Agriculture_and_Industry/Food_Labelling/Terms_of_Reference, (accessed 4 April 2014).

4.23 Subject to the recommendations of the current country-of-origin labelling inquiry, the committee encourages the Commonwealth government to consider developing a country-of-origin labelling system that presents consumers with an accurate picture of a product's contents.

Enforcement of standards and labelling requirements

4.24 Putting to one side the question of the appropriateness of standards and labelling requirements, some submitters raised serious concerns about the enforcement of the honey food standard for imported products and blended honey which may contain corn syrup or other additives.³⁶ Several submitters identified examples of products being sold as Australian honey that, in their view, were not honey and had misleading information about the origin of the product. In particular, some submitters expressed frustration at the seeming lack of action taken by the ACCC, and the timeliness of any action that was taken.³⁷

4.25 The AHBIC raised concerns with the ACCC in September 2012, regarding misleading advertising for a honey product imported from Turkey called Victoria Honey. The ACCC replied in October, 2012 to say that the product may breach the Australian consumer laws and that details had been lodged in the ACCC database.³⁸

4.26 Subsequent testing of the product by the AHBIC and Victoria Health in October 2013 showed that the product was probably maize sugar syrup.³⁹ Hence, there were concerns about misleading advertising for both the origin of the product and its compliance with the honey standard. The ACCC began reconsideration of the complaint in November 2013.

4.27 Two other potential cases of imported non-honey products being sold as honey were identified by the industry and referred to the ACCC and the Victorian government.⁴⁰ A fourth product was reported to the committee during this inquiry.⁴¹

4.28 The ACCC informed the committee that following its investigation the supplier of Victoria Honey had removed all the product from its retail stores and its wholesale customers had also agreed to remove stock from shelves. The supplier claimed that they had been misled about the composition of the product. The ACCC informed the supplier of its intended enforcement action in March 2014 and the

36 South Australian Apiarists' Association Inc. *Submission 4*, p. 2; Australian Honey Bee Industry Council Inc., *Submission 63*, pp 10–13; NSW Apiarists Association, *Submission 58*, pp 19–20; Capilano Honey Ltd., *Submission 39*, p. 6; Victorian Apiarists' Association, *Submission 40*, pp 7–8.

37 Mr John Edmonds, *Submission 44*, p. 1. Australian Honey Bee Industry Council, *Submission 63*, pp 11–14; Leigh Duffield, *Submission 31*, p. 4; Victorian Apiarists' Association, *Submission 40*, pp 7–8.

38 Australian Honey Bee Industry Council, *Submission 63*, p. 11.

39 Australian Honey Bee Industry Council, *Submission 63*, pp 11–12.

40 Australian Honey Bee Industry Council, *Submission 63*, pp 11–14.

41 Mr Trevor Weatherhead, *Committee Hansard*, 20 May 2014, p. 30.

supplier sought more time to respond. The ACCC also indicated that it intends to communicate the enforcement outcome expected as a result of its initial investigation to industry and publicly, in order to help bring about change in the broader honey industry.⁴² In correspondence to the committee, the ACC indicated that:

- Even once lodgement of the initial complaint in the ACCC database had taken place, a decision not to pursue follow-up action was consistent with the ACCC's *Compliance and Enforcement Policy* which states that the ACCC will focus on matters involving widespread conduct and/or significant consumer detriment.
- In the absence of health or safety risks to consumers, the ACCC does not generally request a recall of a product without first giving the supplier the opportunity to respond to the allegations being made.⁴³

4.29 The AHBIC advised the committee that it had raised the issues discussed above with the Minister and the Department of Agriculture. The department informed the committee that it:

...assessed the concerns and nature of the complaint being raised. There were no food safety concerns raised and as the matters related to misrepresentation through use of brand names and mislabelling to deceive the consumer (labelled as honey when the product was not honey), the issue was considered primarily a consumer law matter, which the industry association had already referred to the appropriate consumer law agencies...⁴⁴

4.30 However, following questioning by the committee, the department acknowledged that food labelling offences may apply under Section 3 of the *Imported Food Control Act 1992*, which is administered by the Department of Agriculture.⁴⁵ Where the goods description is false, such as labelling synthetic honey as natural honey, this would contravene the applicable standards and where proven, the goods would be considered a 'failing food'.⁴⁶ Failing food may be treated to be brought into compliance (re-label with appropriate goods description), exported or destroyed⁴⁷ and a holding order issued to increase border inspection of subsequent imports.⁴⁸ The department informed the committee that:

42 ACCC, *Additional information*, received 13 May 2014, p. 4.

43 ACCC, *Additional information*, received 13 May 2014, p. 3.

44 Department of Agriculture, *answer to written question on notice 12*, 26 May 2014, (received 3 June 2014).

45 Department of Agriculture, *answer to written question on notice 12*, 26 May 2014, (received 3 June 2014); Department of Agriculture, *Submission 79*, p. 11.

46 *Imported Food Control Act 1992*, ss 3, 14, and 16.

47 *Imported Food Control Act 1992*, s. 14.

48 *Imported Food Control Act 1992*, s. 15.

The issues detailed in the Hansard are about product in the market place and the department understands these concerns have been raised with the relevant state or territory authorities and the Australian Competition and Consumer Commission.

If these agencies were to take action and prove that the importer was deceiving the consumer through misrepresenting synthetic honey, the department could consider additional action under the Imported Food Control Act on provision of this evidence, such as where the importer knowingly imported synthetic honey but labelled it as natural honey (Section 8A labelling offence and/or Section 15).⁴⁹

Committee view

4.31 The committee is concerned about the time taken by the ACCC to resolve issues concerning Victoria Honey, and notes that other instances remain unresolved. Given that timeliness is one of the principles underlying the ACCC's *Compliance and Enforcement policy*,⁵⁰ the committee encourages the ACCC to resolve complaints over labelling in a more timely fashion than has been evident in the instances outlined above.

Health labelling

4.32 This section covers concerns raised by some submitters about potential changes to front-of-pack health labelling systems for food products.⁵¹

4.33 In December 2013 the Legislative and Governance Forum on Food Regulation (the Forum) endorsed a Health Star Rating Calculator. The voluntary Health Star Rating System is intended to give consumers at-a-glance information about the food they are buying through a star rating scale of half to five stars for packaged food products in Australia. The Forum also agreed to the development of a process for addressing anomalies in the Health Star Rating System.⁵² The Health Star Rating Advisory Committee is considering the process for addressing anomalies in the Health Star Rating Calculator.⁵³

4.34 Beechworth Honey Group submitted that a 'traffic light' system, or something similar would be problematic for the Australian honey industry because honey, while it is a natural sweetener, is predominantly composed of sugars, and would

49 Department of Agriculture, *answer to written question on notice 12*, 26 May 2014, (received 3 June 2014).

50 *ACCC Compliance and Enforcement Policy*, February 2014, p. 3.

51 Beechworth Honey Group, *Submission 52*, pp 13–14; NSW Apiarists Association, *Submission 58*, p. 20; When Bee Foundation, *Submission 65*, pp 21–22.

52 Legislative Governance Forum on Food Regulation, *Final Comunique*, 13 December 2013, p. 1.

53 Department of Health, Front-of-pack labelling updates, *Health Star Rating Advisory Committee Meeting – outcomes of meeting held on 3 March 2014*, <http://www.health.gov.au/internet/main/publishing.nsf/Content/foodsecretariat-front-of-pack-labelling-1>, (accessed 28 May 2014).

automatically be labelled as 'bad' or 'red'.⁵⁴ The NSW Apiarists Association also submitted that:

The proposed traffic light nutrition labelling system could unfairly label honey as 'bad', despite scientific evidence of its potential as a prebiotic, and the fact that at the standard consumption of one to two tablespoons a day the sugars in honey are not detrimental as part of a balanced diet.⁵⁵

Committee view

4.35 The committee encourages the honey industry to consult the Health Star Rating Advisory Committee regarding the categorisation of honey in the Health Star Rating System to ensure that honey is treated appropriately under this system.

4.36 Australia needs a comprehensive, cross-portfolio approach to beekeeping and pollination. These industries are absolutely fundamental to our economy because of their role in food production.

**Senator Glenn Sterle
Chair**

54 Beechworth Honey Group, *Submission 52*, pp 13–14.

55 NSW Apiarists Association, *Submission 58*, p. 20.