

## Proposed solutions and improvements

- 7.1 The final chapter of the report examines proposed solutions or improvements for country of origin food labelling. The chapter discusses the need for change and considers the important issue of separating the ingredients from the place of manufacture. The chapter also explores the sensitive issue of identifying specific countries that are the source of imported ingredients used in products manufactured in Australia.
- 7.2 Labels are discussed in detail, referring to the use of symbols and text characteristics in accurately presenting country of origin information. The chapter briefly considers a call for a ministerial taskforce to be established to examine country of origin labelling issues and discusses education programs and their role in raising awareness of labelling claims. Finally, a short section examines the use of bar codes to provide country of origin labelling detail.

### Is change needed?

- 7.3 Many submissions to the inquiry called for changes to the current labelling system, with many providing substantial comment and specific recommendations for change.
- 7.4 AUSVEG, in its submission, described reforms in this area as 'one of the most disappointingly drawn-out areas of policy development', noting consideration by successive governments, and a high profile since 2000:
- A significant amount of sustained effort over many years has produced a system that, while not perfect, is at least in place. This system would benefit greatly from minor changes which would likely incur little opposition given they would ultimately result in

clearer country of origin labelling laws – a widely-supported outcome.<sup>1</sup>

- 7.5 The Australian Manufacturing Workers Union (AMWU) sees reform as essential and a relatively straightforward step to ensure the safety of Australian food and to enhance competition in the food industry by empowering consumers.<sup>2</sup> Australian Made Campaign Limited (AMCL) believes that while it is not feasible to meet all consumer expectations, changes can and should be made to the current legislative framework to ensure that the requirements for the different country of origin claims are clarified and made more stringent in relation to food.<sup>3</sup>
- 7.6 The National Farmers' Federation outlined its labelling guiding principles:  
... labelling laws must be practical to implement, provide consumers with an understanding of where the products comes from, not impose unreasonable costs, and must not lead to adverse trade implications.<sup>4</sup>
- 7.7 Australian Pork Limited, working closely with the National Farmers' Federation, has developed an agreed position on food labelling and principles to underpin the basis of any revised system. An improved food labelling system should:
- be simple, consistent and easy to understand;
  - align with Australia's trade obligations and trade liberalisation credentials;
  - be minimum cost and practical to implement;
  - ensure made in claims are qualified;
  - include clearly defined tests;
  - include clear pack labelling; and
  - be mandatory.<sup>5</sup>
- 7.8 Mr Timothy Piper, Director (Victoria) of the Australian Industry Group (AIG), was more cautious about sweeping changes to the current system, suggesting that wholesale changes are not necessary:  
We think that any changes would need to pragmatically and cost-effectively provide consumers with better information. We acknowledge the complexity of country-of-origin labelling; however, any changes to the labelling measures need to strike the

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1 AUSVEG, *submission 39*, p. 2.

2 Australian Manufacturing Workers Union, *submission 22*, p. 1.

3 Australian Made Campaign Limited, *submission 18*, p. 1.

4 National Farmers' Federation, *submission 42*, p. 5.

5 Australian Pork Limited, *submission 6*, p. 3.

balance between consumer interest and support of the Australian food industry and minimise the compliance burden ...<sup>6</sup>

- 7.9 The Tasmanian Farmers and Graziers Association recommended caution in any potential changes to the current labelling system, particularly with regard to Australia's valuable export sector:

... we need to recognise that over seventy five percent of the agriculture product produced in Tasmania is exported from the state, of this a significant component is then shipped internationally. With this in mind, it is important to understand that some of these international markets are critical to both the agriculture sector and the broader Australian economy. In that context it is imperative that food labelling laws do not adversely impact on these crucial markets and any changes implemented are sensitive to this.<sup>7</sup>

- 7.10 Mr Piper of the Australian Industry Group reiterated that potential changes should not create trade barriers and should be for the longer term:

Quite frankly, companies are tired of continued regulatory changes being imposed on them by those who forget that Australia is already one of the most expensive countries in which to manufacture in the world, if not the most expensive. Constant changes simply add to these costs.<sup>8</sup>

- 7.11 The AMWU submission elaborated on the need for consideration of local jobs in any change to regulation:

Country of origin labelling is a complex area. Due to the diversity of food sources and the complexity of some food production processes, there will always be exceptions and borderline cases to country of origin rules. The purpose of regulation in this area should not necessarily be to create a category for every conceivable product, but to ensure that retailers or processors who choose to source products from cheap offshore suppliers rather than support local jobs should not be able to enjoy the advantage afforded by a 'Product of Australia', 'Made in Australia' or similar label.<sup>9</sup>

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6 Mr Timothy Piper, Director (Victoria), Australian Industry Group, *Committee Hansard*, Melbourne, 20 June 2014, p. 33.

7 Tasmanian Farmers and Graziers Association, *submission 51*, p. 5.

8 Mr Timothy Piper, Director (Victoria), Australian Industry Group, *Committee Hansard*, Melbourne, 20 June 2014, p. 33.

9 Australian Manufacturing Workers Union, *submission 22*, pp. 3-4.

## Separate the ingredients from the manufacturing

- 7.12 The Committee received evidence regarding the attempt to clarify any ‘made in’ claim, by separating the source of ingredients or produce and the place of processing or manufacture of products.
- 7.13 Mr Andrew Spencer, Chief Executive Officer of Australian Pork Limited, noted ‘tension’ between labelling for two different purposes: origin of ingredients and where the value-add happens. Mr Spencer observed confusion in the terminology and offered a possible solution:
- ‘Made in Australia’ really refers to where the value-add is happening; ‘product of Australia’ refers to where the source ingredients originate. One solution may be to split the claim. ‘Made in Australia from imported pork’, for example, would be fairly clear to a consumer about the origin of the meat itself.<sup>10</sup>
- 7.14 Mrs Shalini Valecha, Strategy Manager, SPC Ardmona, reiterated the need for the opportunity to promote local produce and support local processing and manufacturing. Mrs Valecha described the merits of separating ‘grown in’ and ‘manufactured in’:
- ... we have a whole lot of engagement with sourcing locally and we take great pride in that. But there is a lot of manufacturing that we do here, where the labour is employed in the region and that is important to us. Any identifier that gives advantages to the local businesses where both of these factors are taken into account is the right way to go. Consumers in our experience buy on both those accounts; some are buying because it is a food sourced from Australia; and some are buying because they back locally based companies.<sup>11</sup>

## Proposals from submissions

- 7.15 Many submissions to the inquiry provided opinions, ideas and specific proposals for improvements to country of origin labelling. The key proposals are outlined below.

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10 Mr Andrew Spencer, Chief Executive Officer, Australian Pork Limited, *Committee Hansard*, Canberra, 8 May 2014, p. 21.

11 Mrs Shalini Valecha, Strategy Manager, SPC Ardmona, *Committee Hansard*, Melbourne, 20 June 2014, p. 8.

## CHOICE

7.16 CHOICE's proposal for change in country of origin labelling for food would 'focus on premium claims that would improve the quality of labelling for the product types for which consumers most value origin information while providing a broad claim for products for which it is difficult to make a premium claim'.<sup>12</sup> CHOICE recommends that country of origin claims be restricted to three tiers, to provide a focus:

- A premium claim about where the ingredients are from and where processing was done, like 'Product of Australia' or 'Australian produce'.
- A premium claim about where manufacturing is done, like 'Manufactured in Australia' (based on the current 'Made in Australia' tests and using consumer research to inform the choice of word to replace 'Made' to ensure consumers do not believe the claim relates to Australian produce).
- A broad claim to cover foods which don't meet the requirements for the premium claims, like 'Packaged in Australia', intended to cover highly processed products with inputs and ingredients from a range of countries for which making a premium claim can be difficult.<sup>13</sup>

7.17 CHOICE's explained that its proposed approach would prohibit the use of the 'local and imported ingredients' type qualifications:

Instead, the approach would encourage – but not mandate – the provision of specific origin information about specific ingredients, e.g. 'Made in Australia with Australian milk'.<sup>14</sup>

## Simplot Australia

7.18 Simplot Australia explained that 'Made in Australia' claims should have three clear options:

- Made in Australia with no qualifications (the food or beverage product must have been produced in Australia with a minimum 90 per cent Australian derived ingredients);
- Made in Australia with mostly local ingredients, that is used when the manufacturing is performed in Australia, and at least 50 per cent of ingredients are Australian; and
- Made in Australia mostly from imported ingredients, when manufacturing is made here from less than 50 per cent Australian components.<sup>15</sup>

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12 CHOICE, *submission 47*, p. 8.

13 CHOICE, *submission 47*, p. 8.

14 CHOICE, *submission 47*, p. 8.

15 Simplot Australia Pty Ltd, *submission 17*, pp. 2-3.

7.19 Mr Callum Elder, Executive Director, Quality and Innovation Division, Simplot Australia, further explained the key points of the proposal, the first being that 'Made in Australia' is the premium claim:

We have proposed that perhaps 'Product of Australia' is not a necessary requirement for food labelling. I believe that consumers understand what 'Made in Australia' means, and we could qualify that by having, as we put in our submission, the three levels associated with that. The first one would be 'Made in Australia', and in order to be able to make that claim on your product, the ingredients, all of the components of that product – what is being consumed and not the packaging – would have to be derived from Australian produce, grown in Australia.<sup>16</sup>

7.20 The next two levels of Simplot Australia's proposal, below the 'Made in Australia' claim are:

- 'Made in Australia from mostly local and imported ingredients'; and
- 'Made in Australia from mostly imported and local ingredients'.<sup>17</sup>

7.21 Mr Elder discussed the thresholds for the proposal's three tiers or levels:

If 90 per cent of what is in the bag that you are going to eat or in the bottle that you are going to drink is derived from Australian produce, I think that is good enough to call it 'Made in Australia', and you do not need to qualify it. It is simple for consumers to understand. If you go beyond that and say, "Okay, if less than 90 per cent of the components of that product are Australian derived, then you can have those two qualifying criteria of 'local and imported'". I think it could be improved if we were to add the word 'mostly' in front of that, so there is no misconception by the consumer or anybody else. For instance, if it had 70 per cent Australian produce in there, you would then refer to 'Made in Australia from mostly local and imported ingredients'. If it had less than 50 per cent, you would have to swing to the opposite saying, 'Made in Australia from mostly imported and local ingredients'. I believe that qualification, the term 'mostly', for the common person, would be quite clear and simple and easily understood.<sup>18</sup>

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16 Mr Callum Elder, Executive Director, Quality and Innovation Division, Simplot Australia Pty Ltd, *Committee Hansard*, Melbourne, 20 June 2014, p. 21.

17 Mr Callum Elder, Executive Director, Quality and Innovation Division, Simplot Australia Pty Ltd, *Committee Hansard*, Melbourne, 20 June 2014, p. 21.

18 Mr Callum Elder, Executive Director, Quality and Innovation Division, Simplot Australia Pty Ltd, *Committee Hansard*, Melbourne, 20 June 2014, p. 21.

- 7.22 Mr Elder outlined a consumer view of what the ‘mostly imported’ label means, and explained that the proposal clarifies the issue from a company perspective and for consumers:

While the marketing attraction of purchasing a product is all fine and dandy, really it is what they are consuming and where it was grown that is of critical importance to them, I believe ...<sup>19</sup>

- 7.23 Ms Coral Maxwell, of the Locate Australian campaign, also advocates for the use of the ‘Mostly Australian Produce’ category and discussed a threshold for that category:

The harsh reality is that not all Australian companies who desire to include all Australian produce in their products are able to do so. Some ingredients are just not available here. Hence the need for this adjusted label for some products ... I suppose over 50 per cent would have to be the gauge as that is what most consumers would say is ‘mostly’. At the end of the day the tagging system is not here to judge a product or company it is just to enable us to be informed shoppers.<sup>20</sup>

- 7.24 Mr Trevor Weatherhead, Executive Director, Australian Honey Bee Industry Council, explained his organisation’s view on displaying percentages of local and imported ingredients on a product label:

At the current time there is no legislation that says you must say how much is Australian and how much is imported ... It is our contention that where that ruling is used it should say what the percentage is for how much is Australian and how much is imported. It just means that the consumer knows exactly what is in that product.<sup>21</sup>

## Safcol Australia

- 7.25 Safcol Australia suggested that despite ‘Product of Australia’ having a stronger country of origin product claim than ‘Made in Australia’, the general consumer view may differ:

Our view is that ‘Product of Australia’ claims are not fully understood by consumers and that they do not realise that this is the strongest possible claim, mostly believing that ‘Made in Australia’ is assumed to be the highest claim and that any product

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19 Mr Callum Elder, Executive Director, Quality and Innovation Division, Simplot Australia Pty Ltd, *Committee Hansard*, Melbourne, 20 June 2014, p. 22.

20 Ms Coral Maxwell (Locate Australian), *submission 5*, pp. 4-5.

21 Mr Trevor Weatherhead, Executive Director, Australian Honey Bee Industry Council, *Committee Hansard*, Brisbane, 3 July 2014, p. 4.

using this claim must be produced locally using local ingredients.<sup>22</sup>

- 7.26 Safcol Australia claimed that distinguishing between the two claims has not been promoted enough to consumers:

The reasoning behind this consumer thinking is that 'Product of Australia' has never had a strong campaign behind it whereas there have been 'Made in Australia' campaigns being undertaken including PR, advertising and specific use of a logo over many years which has created an entrenched view in the minds of consumers about what this means.<sup>23</sup>

- 7.27 Safcol Australia suggested that redefining the 'Made in Australia' claim means it could take the place of 'Product of Australia' as the premium claim, adding that the 'Made in Australia' claim could only be made if the key ingredients are sourced locally.<sup>24</sup>
- 7.28 Safcol Australia added that if a product's key ingredients are imported then the label could read 'Manufactured in Australia using imported and local ingredients' rather than 'Made in Australia'.<sup>25</sup>
- 7.29 Safcol Australia suggested that a product's ingredients list must state the percentage of key ingredients and where the ingredient comes from (if that is over 10 per cent of the total).<sup>26</sup>

## Australian Made Campaign Limited

- 7.30 Mr Ian Harrison, Chief Executive of AMCL, stated that changes can and should be made to the current legislative framework to ensure that the requirements for the different country of origin claims are both clarified and made more stringent in relation to food.<sup>27</sup> According to Mr Harrison, practical changes could be made to give Australian consumers and business greater confidence in country of origin labelling here, but 'there is no need to abandon the existing system in favour of wholesale change'.<sup>28</sup>

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22 Safcol Australia Pty Ltd, *submission 53*, p. 1.

23 Safcol Australia Pty Ltd, *submission 53*, p. 1.

24 Safcol Australia Pty Ltd, *submission 53*, pp. 1-2.

25 Safcol Australia Pty Ltd, *submission 53*, p. 2.

26 Safcol Australia Pty Ltd, *submission 53*, p. 2.

27 Mr Ian Harrison, Chief Executive, Australian Made Campaign Limited, *Committee Hansard*, Canberra, 8 May 2014, p. 25.

28 Mr Ian Harrison, Chief Executive, Australian Made Campaign Limited, *Committee Hansard*, Canberra, 8 May 2014, pp. 25-26.

- 7.31 AMCL suggested that the 'grown in' claim be retained, however for claims relating to ingredients, consideration be given to raising the minimum level of Australian grown content from 50 per cent to at least 75 per cent.<sup>29</sup> AMCL added that the 90 per cent by weight threshold is too high in a practical sense and a lower level (75-80 per cent) might be a more appropriate balance between consumer expectations and processing capability in Australia.<sup>30</sup>
- 7.32 The AMCL submission discussed 'product of' claims, suggesting that the term is not well understood by consumers or business:
- AMCL's experience with businesses wishing to use this claim is that there is often confusion about what constitutes a 'significant ingredient' and also whether packaging is considered to be a 'significant ingredient'.<sup>31</sup>
- 7.33 Concerning the 'product of' claim, AMCL suggested that it be retained, but recommended that detailed guidelines or regulations under the Australian Consumer Law be developed to clarify issues relating to significant ingredients and packaging.<sup>32</sup>
- 7.34 AMCL's submission stated that its major area of concern in regard to food product labelling is the interpretation of the term 'substantial transformation':
- ... homogenised milk, mixed diced vegetables, blended fruit juices, battered fish fillets, crumbed prawns and ham and bacon may all qualify under these guidelines as 'Australian Made' even though all the major ingredients may be imported, as long as at least 50 per cent of the cost of production is incurred in Australia.<sup>33</sup>
- 7.35 AMCL believes that:
- ... the average consumer, seeing the words 'Australian Made' on the products listed above, might reasonably believe that the product was made from ingredients of Australian origin, certainly the major or characterising ingredients.<sup>34</sup>
- 7.36 AMCL has moved to specifically exclude a number of processes such as crumbing, curing and juicing from the definition of substantial

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29 Australian Made Campaign Limited, *submission 18*, p. 4.

30 Australian Made Campaign Limited, *submission 18*, p. 4.

31 Australian Made Campaign Limited, *submission 18*, pp. 4-5.

32 Australian Made Campaign Limited, *submission 18*, p. 5.

33 Australian Made Campaign Limited, *submission 18*, p. 5.

34 Australian Made Campaign Limited, *submission 18*, pp. 5-6.

transformation for the purposes of the Australian Made Australian Grown Logo Code of Practice.<sup>35</sup>

7.37 AMCL recommends that the Australian Government:

- use the power set out in the Australian Consumer Law to make regulations which prescribe changes which are considered not to be fundamental changes; and
- publishes new and stricter guidelines on substantial transformation in relation to food products.<sup>36</sup>

7.38 Mr Harrison pointed out that the ACML proposals for tightening up this foundation element of the country of origin labelling system were fully endorsed by the Senate Committee inquiry into the Greens' bill on food labelling.<sup>37</sup>

7.39 AMCL stated that where an unqualified 'Made in Australia' claim cannot be supported, any qualified claim made should not include the words 'Made in Australia':

The current practice is illogical and confusing for both consumers and manufacturers. The words 'Made in Australia' or 'Australian Made' should be reserved exclusively for products which can meet the tests set out in the legislation.<sup>38</sup>

7.40 AMCL's recommendation stated that the Australian Consumer Law should include specific provisions on allowable wording of country of origin claims and that these should include a prohibition on the use of the words 'Made in ...' or equivalent where the product does not meet the criteria for an unqualified 'Made in ...' claim.<sup>39</sup>

## AUSVEG

7.41 The AUSVEG submission stated that there is strong support to simplify country of origin claims to provide enough information for consumers to make informed choices. AUSVEG's proposal includes:

- 'Product of' or 'Grown in' - would be used to describe food where the ingredients have been grown and processed in a particular country. This retains the existing standard.
- 'Manufactured in' - will replace 'Made in' for food that has been substantially transformed in a particular country. The

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35 Australian Made Campaign Limited, *submission 18*, p. 6.

36 Australian Made Campaign Limited, *submission 18*, p. 6.

37 Mr Ian Harrison, Chief Executive, Australian Made Campaign Limited, *Committee Hansard*, Canberra, 8 May 2014, p. 26.

38 Australian Made Campaign Limited, *submission 18*, p. 7.

39 Australian Made Campaign Limited, *submission 18*, p. 7.

term 'made in' will no longer be used as many people think that 'made in' refers to where the ingredients were grown.

- 'Packaged in' – will be used on food that has been highly processed but can't claim to have either ingredients of significant processing in a particular country. Companies can still choose to highlight the source of significant ingredients if they wish.<sup>40</sup>

## Australian Manufacturing Workers Union

7.42 The AMWU supports changes that would see a simplification of the existing food labelling regime to make it more readily understandable to consumers, specifically:

- converging the 'Product of' and 'Grown in' labels to simply 'Product of';
- the replacement of the 'Made in' label with 'Manufactured in' for products which, for example, were processed locally but whose ingredients were by necessity sourced elsewhere. Such a label should require a higher proportion than 50 per cent of the processing to have occurred in the specified country to meet the requirements for use; and
- the prohibition of generic or qualified country of origin claims such as 'Made of local and imported ingredients'.<sup>41</sup>

7.43 In describing the suggestion to move from 'made in' to 'manufactured in', Mr Tom Hale, Acting National Divisional Secretary Food and Confectionery Division, AMWU, suggested that:

'Made in' now has a lot of baggage. People look at 'made in' and everything they have in their mind that 'made in' means will be there irrespective of if you change the definition in the backup legislation. If you do move it to 'manufactured in', it is a new word, a new definition and a new way of getting people to understand what is actually there.<sup>42</sup>

## Apple and Pear Australia Limited

7.44 The Apple and Pear Australia Limited submission recommended a simplified country of origin system to enable consumers to easily identify whether a product is from overseas:

- In the case of a mixed processed product, product should be required to meet:

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40 AUSVEG, *submission 39*, p. 3.

41 Australian Manufacturing Workers Union, *submission 22*, p. 3.

42 Mr Tom Hale, Acting National Divisional Secretary Food and Confectionery Division, Australian Manufacturing Workers Union, *Committee Hansard*, Melbourne, 20 June 2014, p. 5.

- ⇒ A 90 per cent threshold of Australian ingredients – that is, the fruit must have been grown in Australia;
- ⇒ A water neutral position is adopted so that if water is the only Australian sourced ingredient it does not make the whole product eligible to be labelled as Australian in origin.
- ⇒ Prohibition of the use of the terms “Made in Australia” and “Product of Australia” which are imprecise and confusing;
- The introduction of the claim “Made of Australian Ingredients” for packaged food, based on the total weight of ingredients grown in Australia;
- For fresh fruit and vegetables, the application of Grown in Australia claims to apply to both loose and packaged/bagged/punnet produce. For imported fresh produce Grown in... claims must apply.
- In the case of both fresh and processed juice products country of origin labelling for must be in a size and font that is easily legible.<sup>43</sup>

## Australian Industry Group

7.45 The Australian Industry Group (AIG) submission provided a substantial list of recommendations:

- a country of origin labelling system needs to be maintained
- the safe harbour defences remain appropriate – albeit with some improvement and clarification
- ‘Product of’ should remain as a premium made in claim to describe food where the ingredients have been grown and processed in that country
- the terms significant, component and ingredient be defined in the context of ‘Product of’ claims
- the current meaning of substantial transformation for complex and significant processes be retained and clarified
- substantial transformation be considered the key determinant for ‘Made in’ claims
- the role of packaging in ‘Product of’ and ‘Made in’ be clarified
- qualified claims, if retained, are clarified
- ‘Packaged in’ claims be clarified to denote minimal transformation and/or ‘Packed in’
- ‘Packaged in’ claims should not be used to obscure the country of origin/place of processing
- a common sense approach be applied to extended and qualified claims that balances information with the practicalities faced by industry

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43 Apple and Pear Australia Limited, *submission 23*, pp. 3-4.

- retain country of origin food law in Standard 1.2.11.<sup>44</sup>
- 7.46 In its submission, AIG stated that Australian country of origin labelling is suitable for export without triggering different local and export labels that may jeopardise Australia's export market potential.<sup>45</sup> AIG also requested that any reforms to the country of origin labelling regime be considered in the context of a regulatory impact statement.<sup>46</sup>
- 7.47 Mr Timothy Piper, Director (Victoria), AIG, clarified the organisation's recommendations around the premium claims:
- 'Product of Australia' should be the premium one, which has the Australian ingredients in it. 'Made in Australia' should be the one that people relate to as 'Being manufactured here'. So if there were no Australian ingredients, the fact is we still have the factory here, the jobs here and the product being transformed here. It is making something of raw ingredients coming into the country ... The 'Made in Australia' is quite easily distinguishable, in a good education program, from the 'Product of Australia'.<sup>47</sup>
- 7.48 When asked for an opinion on the proposal put forward by Simplot Australia, AIG assumed that the proposal was in the context of other existing claims for 'Grown in', 'Product of' and 'Packed in' or variations of these remaining in the labelling system:
- It remains our view that the 'Product of' claim should be a premium claim. 'Made in' without qualification, also a premium claim, should focus on the origin of the substantial transformation of the goods - and this needs to be made clear to ensure alignment of consumer understanding.<sup>48</sup>
- 7.49 Considering Simplot Australia's proposed ingredient threshold test, AIG suggested that those thresholds are inherently arbitrary and have the potential for unintended negative consequences, potentially adding layers of complexity and compliance costs for manufacturers.<sup>49</sup>
- 7.50 AIG considers that the 50 per cent cost-of-production test currently required to meet the 'made in' safe harbour defence should be removed

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44 Australian Industry Group Confectionery Sector, *submission 48*, pp. 2-3.

45 Australian Industry Group Confectionery Sector, *submission 48*, p. 3.

46 Australian Industry Group Confectionery Sector, *submission 48*, p. 3.

47 Mr Timothy Piper, Director (Victoria), Australian Industry Group, Committee Hansard, Melbourne, 20 June 2014, p. 35.

48 Australian Industry Group Confectionery Sector, *submission 48.1*, p. 1.

49 Australian Industry Group Confectionery Sector, *submission 48*, p. 7.

from the 'made in' claims, noting that it would reduce costs and compliance burdens on business.<sup>50</sup>

7.51 Mr Piper discussed AIG's view on the 'manufactured in Australia' term:

The term 'manufactured in Australia' is considered lesser in our view than the 'made in Australia' term is. It is a lesser term, despite them meaning the same or very similar. 'Packed in' can be used for minimally processed goods as well as goods packed in Australia.<sup>51</sup>

7.52 Mr Piper emphasised AIG's view on the preference for the 'Made in Australia' term, noting that it would be helpful 'if everyone were on the same level playing field'. Mr Piper noted that was unlikely and that: 'you will still find that the imported products come with different types of labelling to that which we have'. Mr Piper also noted that 'providing there were consistency, certainty and longevity, you would get the industry accepting of it, if not in agreement'.<sup>52</sup>

## Sabrands Pty Ltd

7.53 Mr Presser, Executive Chairman of Sabrands Pty Ltd, stated that labels on Sabrands products are fully compliant with current labelling requirements. Mr Presser added that the product packages state 'Product of Australia', which is currently the premium claim for Australian content, and proposed that 'Australian Grown' should be the premium claim for country of origin labelling as there should be no confusion about its meaning; it means that 100 per cent.<sup>53</sup> Mr Presser explained:

It does not mean imported, and it does not mean Australian made, it does not necessarily mean 'Product of Australia', because that does not have to be 100 per cent ... we kind of created our own category so that people would know that the whole presentation on that can explain what it is.<sup>54</sup>

7.54 Mr Presser discussed the example of Rosella brand soups being made by Sabrands in Australia from Australian ingredients:

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50 Australian Industry Group Confectionery Sector, *submission 48*, p. 7.

51 Mr Timothy Piper, Director (Victoria), Australian Industry Group, Committee Hansard, Melbourne, 20 June 2014, p. 34.

52 Mr Timothy Piper, Director (Victoria), Australian Industry Group, Committee Hansard, Melbourne, 20 June 2014, p. 39.

53 Mr Dan Presser, Executive Chairman, Sabrands Pty Ltd, *Committee Hansard*, Melbourne, 20 June 2014, p. 41.

54 Mr Dan Presser, Executive Chairman, Sabrands Pty Ltd, *Committee Hansard*, Melbourne, 20 June 2014, p. 41.

What we did with the Rosella sauces and soups was to say it is Australian grown, it is Australian manufactured, it is Australian owned, the profit stays here and all the jobs are created here ... while there might be a profit motive to ship to Indonesia or China and then bring it back as finished product, I am the other way around: I think we really have to start Australian grown and Australian made and Australian owned.<sup>55</sup>

## Other ideas

### Key ingredient

7.55 The issue of identifying key ingredients on product labels was raised during the course of the inquiry. While the Committee notes the opposition of the AIG to compulsory labelling because of increased costs and regulation, the Committee acknowledges several different proposals from other industry organisations. Ideas include legislating its use, and introducing it as a voluntary code to promote Australian produce.<sup>56</sup>

7.56 The NSW Food Authority submission suggested the use of a key ingredient descriptor:

The needs of consumers and Australian primary industries in relation to 'Made in/Packed in' claims may be better met if the country of origin labelling framework required the key ingredient(s) to be more clearly characterised. Using ... [a] pork example, 'Made in Australia from imported pork' rather than 'Made in Australia from local and imported ingredients'.<sup>57</sup>

7.57 Cider Australia's submission stated that product labels should identify the specific country of origin of the key ingredients.<sup>58</sup> Mr Peter Darley (Chair, Horticulture Committee) of the NSW Farmers Association also believes that the characterising ingredients of a product should be specified by both percentage of content and the country of origin.<sup>59</sup>

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55 Mr Dan Presser, Executive Chairman, Sabrands Pty Ltd, *Committee Hansard*, Melbourne, 20 June 2014, p. 41.

56 Mr Timothy Piper, Director (Victoria), Australian Industry Group, *Committee Hansard*, Melbourne, 20 June 2014, p. 34.  
NSW Food Authority, *submission 45*, p. 2.  
Cider Australia, *submission 26*, p. 2.  
AUSVEG, *submission 39*, p. 4.  
Food Technology Association of Australia, *submission 36*, p. 2.

57 NSW Food Authority, *submission 45*, p. 2.

58 Cider Australia, *submission 26*, p. 2.

59 Mr Peter Darley (Chair, Horticulture Committee), NSW Farmers Association, *Committee Hansard*, Brisbane, 3 July 2014, p. 35.

- 7.58 The Food Technology Association of Australia suggested that labelling should consider identifying key ingredients, with capacity to overlook minor ingredients:

For example, one imported spice requires the mandatory inclusion of 'imported' into a [country of origin labelling] statement, whereas the rest of the ingredients are Australian. Perhaps there should [be] a percentage cut-off where those ingredients added at less than the minimum may be ignored in relation to their sources.<sup>60</sup>

- 7.59 Mr Callum Elder of Simplot Australia explained that businesses may choose to identify the key ingredient on the package, using it as a way of promoting Australian produce:

Manufacturers, companies and businesses would have the opportunity if they could meet that premium claim of 'Made in Australia' – the unqualified claim – of making additional statements on the front of packs. We have 'Australian grown' on our Birds Eye potato products because all of the potatoes come from Tasmania. So you would have that element and businesses would naturally want to do that, without then taking away what is required and making that more burdensome.<sup>61</sup>

- 7.60 AUSVEG believes encouraging the labelling of significant local ingredients would assist consumers making informed decisions:

Companies making the 'Manufactured in' and 'Packaged in' claims can label the origin of significant ingredients (for example 'Manufactured in Australia from Australian milk' on a chocolate bar) to give consumers more information.<sup>62</sup>

- 7.61 The ACCC's *Guide for business* documentation reminds producers and manufacturers that any additional key ingredients claim must meet Australian Consumer Law requirements:

There may be situations in which a business might want to elaborate on an origin claim, such as 'Made in Australia', to highlight the presence of a key ingredient or component that originates in the country claimed – perhaps to differentiate its product from others that might contain ingredients or components

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60 Food Technology Association of Australia, *submission 36*, p. 2.

61 Mr Callum Elder, Executive Director, Quality and Innovation Division, Simplot Australia, *Committee Hansard*, Melbourne, 20 June 2014, p. 22.

62 AUSVEG, *submission 39*, p. 4.

that originate elsewhere. In doing so, the business must take care to ensure its claim remains compliant with the ACL.<sup>63</sup>

## Stamps

7.62 Ms Lynne Wilkinson of AUSBUY outlined a suggestion from a member of the organisation that country of origin information could be placed on the use-by date stamp area on a product package:

... we have a panel where there is a use-by date, and that use-by date is stamped at the time of production. There is no reason that use-by date panel is not made larger, or it could be on the top of the lid, or something like that. It actually nominates the countries and the percentage of the product there. So, it could be stamped on. It would be able to be flexible in terms of seasonality.<sup>64</sup>

## Committee comment

7.63 The Committee recognises that country of origin labelling is a complex issue and heard a wide range of suggestions for change and improvement. Identifying or articulating the problems is relatively easy; the challenge is to propose solutions.

7.64 The Committee agrees with the view that there must be a separation between the manufacture and the ingredients aspects of a country of origin label. The Committee considers that the currently used variations of the 'Made in' labels blur the distinction between where the product was made and the origin of the ingredients, and is of the opinion that the source of ingredients claim and the place of manufacture claim should be separate in any country of origin labelling regime.

7.65 The Committee acknowledges that many consumers want to support Australian businesses by purchasing Australian made products – consumers express a strong preference to support local industries including food processing and manufacturing.

7.66 The Committee heard extensive evidence demonstrating that the use of imported ingredients, primarily under the 'local and imported' tag, confuses consumers, and that most consumers would prefer a product that is made in Australia yet describes where the ingredients come from.

7.67 The Committee is also in favour of retaining the 'Grown in' label, identifying produce that is 100 per cent grown in the country specified.

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63 Australian Competition and Consumers Commission (2014), *Country of origin claims and the Australian Consumer Law – A guide for business*. April 2014.

64 Ms Lynne Wilkinson, Chief Executive Officer, AUSBUY, *Committee Hansard*, Sydney, 9 May 2014, p. 22.

For example, this would apply to fresh produce grown in Australia, but could also apply to manufactured products where 100 per cent of the ingredients are grown in Australia.

- 7.68 The Committee favours retaining the 'Product of' claim as the premium claim. The Committee is of the opinion that the premium 'product of' claim cannot be removed from the country of origin labelling framework as it is recognised internationally. The safe harbour for 'Product of' should remain at 90 per cent of content from the country specified.
- 7.69 The Committee favours the introduction of a premium claim of 'Made in [country] from [country] ingredients', which would be equivalent to 'Product of', with 90 per cent of content from the country specified. In operation, this would allow a claim such as 'Made in Australia from Australian ingredients'. The Committee is of the opinion that 'Made in' means more to consumers and should be an equivalent premium claim.
- 7.70 The Committee recognises that descriptors such as 'Made in' or 'Product of' apply to non-food items. However it is clear to the Committee that consumers already differentiate the food sector from other sectors, which may not align with descriptors for other goods.
- 7.71 Below the premium claims, the Committee favours a qualified, two step category that will replace the 'local and imported' tag:
- 'Made in [country] from mostly local ingredients'; and
  - 'Made in [country] from mostly imported ingredients'.
- 7.72 The Committee notes that the threshold between the two categories would be 50 per cent of content. The Committee also notes that the word 'Australian' could be substituted for 'local'. This 'mostly local' or 'mostly imported' approach will allow consumers to quickly determine the origin of the majority of the ingredients in a given product.
- 7.73 The Committee is satisfied with the substantial transformation test and the 50 per cent cost rule remaining as the two part test for the 'Made in' claims discussed above.
- 7.74 The Committee strongly encourages producers and manufacturers to identify the origin of key ingredients, especially those key ingredients that are Australian, e.g. 'Tomato sauce with 78 per cent tomatoes grown in Australia'. The Committee also encourages the use of front of pack logos, stamps or text identifying key Australian ingredients, which, as a marketing tool, will benefit Australian businesses.

## Recommendation 1

The Committee recommends that the Australian Government implement the following country of origin labelling safe harbours:

- 'Grown in' - 100 per cent content from the country specified;
- 'Product of' - 90 per cent content from the country specified;
- 'Made in [country] from [country] ingredients' - 90 per cent content from the country specified;
- 'Made in [country] from mostly local ingredients' - more than 50 per cent Australian content;
- 'Made in [country] from mostly imported ingredients' - less than 50 per cent Australian content.

## Identifying countries that we import from

7.75 An important question was raised during the inquiry's public hearings concerning the identification of country of origin of imported ingredients in products that are 'made in Australia from local and imported ingredients'.

7.76 Cider Australia was among many inquiry submitters that believes that product labels should identify the specific country of origin of the key ingredients, for example apple juice made from concentrate.<sup>65</sup> According to Mr Daniel Presser of Sabrands Pty Ltd, consumers have a right to know, and such information should not be hidden:

... just saying 'Made in Australia from local and imported ingredients', or from imported ingredients, is not an honest system. If it is imported, I do not have a problem with that, but I would like to know, as a consumer - which I am - where it is imported from. I know that with some of the tomato sauces that say 'Australian made' the ingredients used to come from China.<sup>66</sup>

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65 Cider Australia, *submission 26*, p. 2.

66 Mr Dan Presser, Executive Chairman, Sabrands Pty Ltd, *Committee Hansard*, Melbourne, 20 June 2014, p. 42.

7.77 Mr Andrew Spencer of Australian Pork Limited discussed his organisation's preference for identifying the origin of ingredients in an Australian made product:

If I was a consumer I would probably say [that 'Made in Australia from American pork'] was more informative: it is made in Australia, which means that a lot of value-add happened here, and for some consumers that is important. Saying '... from Canadian pork' is also important if they want to support Australian farmers. I think that is the most informative option.<sup>67</sup>

7.78 The Committee acknowledges the views of other inquiry participants that identifying specific countries is not necessary.<sup>68</sup> Mr Elder of Simplot Australia noted the difficulties for food manufacturers and that in his view, Australian consumers are more interested in knowing whether they are eating Australian produce grown by Australian farmers.<sup>69</sup>

### Committee comment

7.79 The Committee appreciates the arguments put forward for labelling countries of origin for imported products and ingredients.

7.80 The Committee believes that naming the individual countries where ingredients were sourced could be onerous for food manufacturers.

7.81 The Committee is mindful of the need for Australia to meet its trade obligations. According to international agreements, Australia's domestic regulations must not create unnecessary obstacles to trade, or give its domestic producers an unfair advantage over imports, or give imports of a World Trade Organisation member an unfair advantage over other members.

7.82 We should not be seeking to prejudice foods from any particular country, or to favour goods produced in Australia. We cannot single out or disadvantage any one country.

7.83 The Committee considers that food producers and manufacturers can still label the country of origin of imported ingredients if there is a competitive advantage to do so.

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67 Mr Andrew Spencer, Chief Executive Officer, Australian Pork Limited, *Committee Hansard*, Canberra, 8 May 2014, p. 22.

68 Mr Callum Elder, Executive Director, Quality and Innovation Division, Simplot Australia Pty Ltd, *Committee Hansard*, Melbourne, 20 June 2014, pp. 22-23.  
Mr Rob Fish, Chair, Northern Territory Seafood Council, *Committee Hansard*, Brisbane, 3 July 2014, p. 11.

69 Mr Callum Elder, Executive Director, Quality and Innovation Division, Simplot Australia Pty Ltd, *Committee Hansard*, Melbourne, 20 June 2014, pp. 22-23.

## Labels

### Symbols and icons

7.84 The use of confusing or misleading symbols and icons was discussed in chapter four. The ACCC's *Guide for business* describes a General Principle regarding pictorial representations:

Pictorial representations may also be interpreted as country of origin claims, e.g. use of logos, pictures of iconic animals or iconic symbols.<sup>70</sup>

7.85 Further information in the *Guide for business* discusses pictorial representations:

Claims or promotions are frequently made by graphic representations – such as logos, symbols and pictures. Country of origin symbols could include kangaroos, koalas, boomerangs, the Southern Cross, maps or outlines of Australia, national flags or other countries' icons such as maple leaves.

These representations can be just as forceful and effective as written representations, if not more so. Special care should be taken when using pictorial representations to ensure that they do not give a misleading impression.

If a reasonable conclusion from such symbols is that the origin of the good is a particular country when that is in fact not the case, there is a risk of breaching the law.

Any text or symbols that attempt to qualify pictorial representations must be sufficiently prominent to ensure that consumers are aware of them and understand their significance.<sup>71</sup>

7.86 Safcol Australia reiterated that, to avoid misleading consumers, labels should not use symbols such as kangaroos, maps of Australia and other icons if the key ingredient is imported.<sup>72</sup>

7.87 SPC Ardmona stated that rules and regulations with respect to the use of words, symbols, maps, pictures, font sizes and text formats must be tightened and consumer education programs launched to ensure that the consumer can easily identify the origin of a food product they are purchasing.<sup>73</sup>

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70 Australian Competition and Consumers Commission (2014), *Country of origin claims and the Australian Consumer Law – A guide for business*. April 2014.

71 Australian Competition and Consumers Commission (2014), *Country of origin claims and the Australian Consumer Law – A guide for business*. April 2014.

72 Safcol Australia Pty Ltd, *submission 53*, p. 2.

73 SPC Ardmona, *submission 46*, p. 7.

## Graphics representing content

7.88 The Committee sought evidence from witnesses on the use of pie charts or bar graphs to display on packaging the percentage of local and imported contents. Mr Peter Darley of the NSW Farmers Association clearly stated:

We support the option of using a graphic representation of the percentage of Australian grown, produced and processed Australian ingredients on the label or container of an item.<sup>74</sup>

7.89 Mr Callum Elder of Simplot Australia agreed that any representation or device that could assist consumers visually would be of benefit.<sup>75</sup>

7.90 However, Ms Lyndall Milward-Bason, Manager, Trade Facilitation Section, Department of Industry, suggested that such graphical representation may not be possible:

In a lot of circumstances, that is about people who want to know how much of it is Australian. As a general rule for safe harbours for all food sold in this country, whether it is Australian or imported, it is probably not that practical. Would you require all the countries around the world to also use this pictorial representation that is not actually recognised? When you put the pictorial representation on it and it goes overseas, would anyone overseas understand what you mean? Words like 'Made in' and 'Produced in' are recognised internationally. That is why they are used in Australia: you can trade freely on those terms and people understand what they mean.<sup>76</sup>

7.91 Mr Peter Day, Director, Compliance, Investigation and Enforcement, NSW Food Authority, discussed the problems and practicalities of the use of symbols and graphics on product labels:

The labels get very busy, unfortunately. Everyone wants a piece of their pie on the labels for health issues and a whole range of factors. I would suggest that the growth in those visual aids and certification schemes and programs are symptomatic of the problem. They would not need to do that if the requirements were fairly clear. If people need these various logos to try to identify their product better, that once again suggests there is an issue with how the law requires companies to label the 'Made in Australia'

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74 Mr Peter Darley (Chair, Horticulture Committee), NSW Farmers Association, *Committee Hansard*, Brisbane, 3 July 2014, p. 35.

75 Mr Callum Elder, Executive Director, Quality and Innovation Division, Simplot Australia, *Committee Hansard*, Melbourne, 20 June 2014, p. 22.

76 Ms Lyndall Milward-Bason, Manager, Trade Facilitation Section, Department of Industry, *Committee Hansard*, Canberra, 8 May 2014, pp. 14-15.

products out there. From our own experience, if there is a commercial driver to it, that has a fairly good chance of success versus regulation ... The problem with labelling, of course, is that you are limited in terms of space and the message. Those who want to look at the label will find the message if they have to.<sup>77</sup>

## Label characteristics

- 7.92 There was much discussion in submissions and at public hearings concerning the placement and formatting of country of origin information on product labels.
- 7.93 The AMWU were among participants which called for increased prominence of country of origin labelling on food packaging:
- More prominent country of origin labels would be more consumer-friendly and align with similar requirements for increased prominence in the fresh food sector.<sup>78</sup>
- 7.94 Mr Peter Darley of the NSW Farmers Association stated that country of origin information is well hidden on the back of product packaging and should be moved to the front of the pack, thereby providing clear and precise information to the consumer.<sup>79</sup>
- 7.95 Safcol Australia, agreed, suggesting that the location of the statement needs to be highly visible, preferably on the front of pack, and of a size that is readable.<sup>80</sup>
- 7.96 Mr Day of the NSW Food Authority explained that the key problem with labelling is the availability of space.<sup>81</sup> The AUSVEG submission discussed attempts to change labels and the problems that may be encountered:
- Industry has made many requests for visual representations to be placed on the front of packaging, including pictorial representations, charts and other means of disseminating information. These attempts have been unsuccessful, with opponents citing the difficulties in compliance and forecasting

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77 Mr Peter Day, Director, Compliance, Investigation and Enforcement, NSW Food Authority, *Committee Hansard*, Sydney, 9 May 2014, p. 16.

78 Australian Manufacturing Workers Union, *submission 22*, p. 3.

79 Mr Peter Darley (Chair, Horticulture Committee), NSW Farmers Association, *Committee Hansard*, 3 July 2014, p. 38.

80 Safcol Australia Pty Ltd, *submission 53*, p. 2.

81 Mr Peter Day, Director, Compliance, Investigation and Enforcement, NSW Food Authority, *Committee Hansard*, Sydney, 9 May 2014, p. 16.

supply. It has been argued that difficulties with the latter could make it hard to manufacture sufficient packaging.<sup>82</sup>

- 7.97 AUSVEG claimed that there are no provisions within the current food standards code for visual representations of country of origin labelling, outside of what statements are required to be made.<sup>83</sup> The AUSVEG submission proposed that a simple text size change be implemented, that fits within the current framework and makes the country of origin declaration more easily identifiable:

... it is suggested that the declaration of origin be required to be 40 per cent larger than the text surrounding it, and that an emphasising mark such as **bold**, underlined or *italicised* text is used.

Normally the declaration is found near either the manufacturers details, its ingredients list or storage information, and is difficult to distinguish from surrounding text. Requiring the above visual identifier would not require any significant changes to the current food standards code but would greatly assist consumers making an informed decision.<sup>84</sup>

- 7.98 When asked about simplifying symbols on labels, Mr Tom Hale of the AMWU stated that the small size is part of the problem rather than what symbol is used. Mr Hale added that more symbols are likely to confuse, and need to be simple:

... whether it is a kangaroo or a map of Australia ... I do believe that it has to be simple enough and restricted enough that you do not need a law degree to work out what it is. And it needs to be big enough for people to see.<sup>85</sup>

## Committee comment

- 7.99 The Committee agrees that current country of origin labelling information on packaged foods is insufficient and does not meet the needs of consumers. Rules and regulations with respect to the use of words, symbols, maps, pictures, font sizes and text formats should be tightened to ensure that the consumer can easily identify the origin of a food product.
- 7.100 The Committee does not agree that country of origin labelling should necessarily be on the front of a pack. However, the Committee is of the
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82 AUSVEG, *submission 39*, p. 3.

83 AUSVEG, *submission 39*, p. 3.

84 AUSVEG, *submission 39*, p. 3.

85 Mr Tom Hale, Acting National Divisional Secretary Food and Confectionery Division, Australian Manufacturing Workers Union, *Committee Hansard*, Melbourne, 20 June 2014, p. 5.

opinion that country of origin labelling should certainly be clearly delineated and identifiable on the back of the pack.

- 7.101 Standard 1.2.9 (Legibility Requirements of the Code) establishes that the statement provided for unpackaged foods must be at least nine millimetres in height, or five millimetres in height if the food is in a refrigerated assisted service display cabinet. There are no conditions for the height of a country of origin statement on packaged foods.
- 7.102 The Committee is of the opinion that the Standard should be amended to include label text size requirements for packaged foods. The Committee is supportive of the suggestion to have the country of origin label in a larger size, perhaps with some sort of unique separator such as bold or underlined text. A specific size may not need to be mandated, however, a particular size ratio compared to other text on the label could be. A label that is at least 25 per cent larger than the text surrounding the statement would be sufficient.
- 7.103 The Committee is of the opinion that the use of iconic Australian symbols on product packaging should be more closely monitored. The Committee believes that the ACCC guidelines are sufficient and clear, however there is a need for more emphasis on enforcement. Evidence suggests that there are still too many products in the market carrying such images that lead consumers to believe that the contents are Australian, when in fact there may be a substantial percentage of imported ingredients.
- 7.104 To avoid misleading consumers, labels should not use symbols such as kangaroos, maps of Australia and other icons if the key ingredient is imported, or if the contents fall under the 'mostly imported' category recommended earlier in this chapter.
- 7.105 The Committee favours the use of a visual descriptor emphasising the 'mostly local' or 'mostly imported' approach recommended earlier in this chapter. A small coloured pie chart showing the percentage of local and imported ingredients could be introduced as part of the labelling framework, allowing consumers to quickly identify the source of the majority of ingredients at a glance.

### **Recommendation 2**

The Committee recommends that the Australian Government amend Standard 1.2.9 of the *Australia New Zealand Food Standards Code* that will allow for prescription of country of origin label text information on packaged foods to be increased in size compared with surrounding text on a product label.

### **Recommendation 3**

The Committee recommends that the Australian Government increase its scrutiny of products with mostly or all imported ingredients that use misleading Australian symbols, icons and imagery.

### **Recommendation 4**

The Committee recommends the introduction of a visual descriptor that reflects the safe harbour thresholds of Australian ingredients in the content of a product.

## **Calls for a ministerial taskforce**

7.106 AUSVEG's submission recommended that the Australian Government establish a Ministerial Taskforce, charged with resolving the discrepancies of the current country of origin labelling system.<sup>86</sup> The taskforce would develop an 'Agreed Standard' for country of origin labelling, and report to government with a solution supported by all parties six months after its establishment. In AUSVEG's view:

This would provide for a mandate from government, for industry to develop a solution. It would also provide impetus for industry to coordinate and respond to the task set by government.<sup>87</sup>

7.107 AUSVEG suggested that one of the terms of reference for the Ministerial Taskforce could be to work with relevant departmental authorities to

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<sup>86</sup> AUSVEG, *submission 39*, p. 6.

<sup>87</sup> AUSVEG, *submission 39*, p. 2.

ensure that any changes proposed do not compromise any of Australia's international trade obligations.<sup>88</sup>

- 7.108 Mr Mulcahy Chief Executive Officer, AUSVEG, expressed frustration at the unresolved issues and suggested that a ministerial group would benefit from guidance at ministerial level, and relevant departments could join with industry and relevant unions, to find 'some measure of consensus for the parliament'.<sup>89</sup>

### Committee comment

- 7.109 The Committee considers that the ministerial taskforce idea put forward has merit, however, the Committee is not in favour of the proposal at this time.

### Education and awareness

- 7.110 Many submissions to the inquiry discussed the role of education in informing consumers about the country of origin framework, whether that be the existing rules or any potential changes.
- 7.111 Mr Peter Day of the NSW Food Authority stated that the country of origin labelling regime would benefit from measures such as education and communication campaigns to actually improve food business and consumer understanding of the requirements.<sup>90</sup>
- 7.112 Simplot Australia explained that consumers need to be educated and made aware of what the labels mean and what to expect from the products they consume.<sup>91</sup>
- 7.113 Mr Timothy Piper of the Australian Industry Group suggested that the 'Made in Australia' claim is quite easily distinguishable, in a good education program, from the 'Product of Australia' claim.<sup>92</sup>
- 7.114 Mr Steve Mickan, Sales Director, SPC Ardmona, also called for educational programs to clarify for consumers the differences between the various claims and their meanings.<sup>93</sup>

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88 AUSVEG, *submission 39*, p. 5.

89 Mr Richard Mulcahy, Chief Executive Officer, AUSVEG, *Committee Hansard*, Sydney, 9 May 2014, p. 5.

90 Mr Peter Day, Director, Compliance, Investigation and Enforcement, NSW Food Authority, *Committee Hansard*, Sydney, 9 May 2014, p. 13.

91 Simplot Australia, *submission 17*, p. 3.

92 Mr Timothy Piper, Director (Victoria), Australian Industry Group, *Committee Hansard*, Melbourne, 20 June 2014, p. 35.

- 7.115 The AMCL submission stated that a major consumer education program is needed to clarify the meaning of the 'Made in' claim, and that program should be delivered through a partnership between the federal government and the Australian Made Campaign.<sup>94</sup>
- 7.116 Mr Thomas Bradley QC (Deputy Chair, Competition and Consumer Law Committee, Business Law Section) of the Law Council of Australia suggested that an education campaign could help explain the existing labelling framework to consumers:

The point ... is whether the safe harbour defences confuse consumers. That can be a matter about consumer education, as opposed to regulatory change. It seems clear that to claim that something is 'Made in Australia', whether it is made from local and imported ingredients or not, it has to be substantially transformed here or more than 50 per cent of its costs have to be incurred here. And if consumers understood – through whatever means – that that was what that term meant, there would not be this confusion.<sup>95</sup>

- 7.117 Ms Lyndall Milward-Bason of the Department of Industry agreed that education would be beneficial, explaining that labelling is not misleading or deceptive:

It is a matter of education. The fundamental issue is not about the framework; it is about the understanding of the claims by consumers. That is why the processes we are going through are not about changing regulation, new regulation or additional regulations; it is about education of the consumers through the new guidance material and if necessary an education campaign. The 'if necessary' is a little difficult to assume until you have evidence that particularly the last lot of guidance is not working. The [2015 Australian] consumer survey is aimed to provide us with the evidence as to whether there needs to be money spent on an education campaign.<sup>96</sup>

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93 Mr Steve Mickan, Sales Director, SPC Ardmona, *Committee Hansard*, Melbourne, 20 June 2014, p. 7.

94 Australian Made Campaign Limited, *submission 18*, p. 6.

95 Mr Thomas Bradley QC, Deputy Chair, Competition and Consumer Law Committee, Business Law Section, Law Council of Australia, *Committee Hansard*, Brisbane, 3 July 2014, p. 27.

96 Ms Lyndall Milward-Bason, Manager, Trade Facilitation Section, Department of Industry, *Committee Hansard*, Canberra, 8 May 2014, p. 9.

- 7.118 Ms Milward-Bason also stated that it is the view of the Council of Australian Governments that new guidance material for consumers needs to be produced and that an education campaign may be necessary.<sup>97</sup>
- 7.119 Mrs Denita Wawn, Chief Executive Officer, Brewers Association of Australia and New Zealand, claimed that there has not been a significant attempt to educate consumers:
- ... we always believe that is your first port of call and, if that is not successful, then you change the law. So we are saying that at this stage, with labelling, whether it is in relation to country of origin or any other requirements we have on labelling at present, then it is up to government but also the industry to educate consumers more effectively on the products that they are consuming and wish to purchase.<sup>98</sup>
- 7.120 Mrs Wawn added that until such time people are better aware of what labels mean, it will be very hard to get behavioural change or awareness change within the community.<sup>99</sup>
- 7.121 Some submitters suggested that any proposed changes to country of origin labelling laws will need to be accompanied by an education campaign so that consumers can understand the changes.<sup>100</sup>
- 7.122 AMCL suggested that a consumer education and information program should be funded and delivered by a partnership between government and industry.<sup>101</sup>
- 7.123 The Food Technology Association of Australia suggested that regardless of which country of origin labelling system is in place there should an education program aimed directly at consumers which should be funded and provided by an independent-of-industry body, which is under the auspices of Government, even though some funds may come from private organisations.<sup>102</sup>

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97 Ms Lyndall Milward-Bason, Manager, Trade Facilitation Section, Department of Industry, *Committee Hansard*, Canberra, 8 May 2014, p. 14.

98 Mrs Denita Wawn, Chief Executive Officer, Brewers Association of Australia and New Zealand, *Committee Hansard*, Canberra, 26 June 2014, p. 7.

99 Mrs Denita Wawn, Chief Executive Officer, Brewers Association of Australia and New Zealand, *Committee Hansard*, Canberra, 26 June 2014, p. 6.

100 Mr Russell Goss, Deputy Chief, Australian National Retailers Association, *Committee Hansard*, Sydney, 9 May 2014, p. 24.

Mr Timothy Piper, Director (Victoria), Australian Industry Group, *Committee Hansard*, Melbourne, 20 June 2014, p. 33.

Australian Made Campaign Limited, *submission 18*, p. 1.

101 Australian Made Campaign Limited, *submission 18*, p. 1.

102 Food Technology Association of Australia, *submission 36*, p. 2.

- 7.124 CHOICE claimed that the current labelling framework is so confusing that consumer education is unlikely to be effective. CHOICE believes that simplifying country of origin claims is likely to make a consumer education campaign more successful.<sup>103</sup>

### Committee comment

- 7.125 The Committee considers that a comprehensive education and awareness program is essential for consumers and industry, irrespective of any changes to current country of origin labelling laws. A vital component of such a program would be to educate consumers on the fundamental definitions of the key country of origin claims. The publishing of the ACCC's *Country of origin claims and the Australian Consumer Law – A guide for business* earlier in 2014 is a first step toward bringing the information to industry and consumers.
- 7.126 The Committee is of the opinion that the Australian Government should develop and implement an education program based on the existing country of origin labelling framework, and then adjusted should any changes to the framework be introduced. The education program should then be revised based on the findings of the Australian Consumer Survey which is scheduled for 2015.
- 7.127 In the Committee's view, the program should raise awareness for consumers and industry of country of origin labelling rules, regulations, requirements and impacts, and be developed by the Department of Industry and the ACCC in conjunction with industry peak bodies and consumer advocacy groups.

### Recommendation 5

**The Committee recommends that the Australian Government, in conjunction with industry and consumer advocacy groups, develop and implement an education program designed to raise awareness of country of origin labelling rules, regulations, requirements and impacts, for consumers and industry. The program should be developed and implemented following any changes that have been adopted in response to this report.**

<sup>103</sup> CHOICE, *submission 47*, p. 11.

## Bar codes

7.128 The Committee discussed the use of bar codes on products, potentially allowing consumers to scan a product in the store to obtain additional information. When asked about the potential for that technology to be developed, Mr Russell Goss, Deputy Chief, Australian National Retailers Association, stated that his organisation supports the use of such technology:

It makes more sense if you do have a mobile phone with that kind of capability to scan a bar code. You might have allergen information, country-of-origin information, or information about other ingredients you might be interested in. You can combine that with dietary management and what have you ... So rather than attempting to jam an infinite amount of information on a small tin of tuna, you could provide that through modern technology – which, again, is easily updated and is more likely to be accessible by modern consumers.<sup>104</sup>

7.129 Citrus Australia (SA Region) suggested that there are consumer education products already on the market that are accurate and cost effective, including smart phone apps and easy to navigate websites which benefits industry and consumers:

A good example of this [is] the Goscan smartphone app which scans a barcode label in the supermarket and the consumer is instantly directed to a website which contains all the relevant information for that specific product. This type of technology allows the consumer to not only read about the Australian content of the product at time of purchase but a detailed report about the company that produces it. Whilst this technology is not appropriate for the entire population, consumer education and empowerment via such tools is certainly an initiative that warrants further discussion.<sup>105</sup>

## Committee comment

7.130 The Committee notes the opportunities that bar codes and smart phone technology present in delivering further information to consumers about products. Bar codes (including matrix bar codes or ‘QR codes’) could provide country of origin information as well as further details on

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104 Mr Russell Goss, Deputy Chief, Australian National Retailers Association, *Committee Hansard*, Sydney, 9 May 2014, p. 26

105 Citrus Australia (SA Region), *submission 28*, p. 4.

seasonality of ingredients and other information that may not necessarily fit on a small label.

### **Recommendation 6**

**The Committee recommends that the Australian Government, in co-operation with industry, investigate the use of bar code technology in the presentation of product information for consumers, with a view to implementing a voluntary system for producers and manufacturers. Any system developed should be highlighted as part of a consumer education campaign.**

## **Issues from earlier chapters**

### **Labelling of seafood in restaurants**

7.131 The issue of country of origin labelling of seafood in the food service market was discussed in chapter four of the report.

#### **Committee comment**

- 7.132 The Committee acknowledges the Australian consumer's desire for high quality Australian seafood, with its inherent high standards in sustainability, safety and hygiene.
- 7.133 The Committee notes that Australian consumers consider Australian seafood to be higher quality than imported seafood, suggesting once again that country of origin is a proxy for quality. The Restaurant and Catering Industry Association of Australia comments on consumers considering quality more important over other criteria would seem to confirm that country of origin is a key concern.
- 7.134 The Committee recognises that the Northern Territory has a unique labelling scheme for seafood in the food service sector. However, the Committee is of the opinion that as seafood is the only substantial protein source marketed in Australia that is not predominantly sourced locally, a case may be made that it should be treated differently to other sources, for instance beef and lamb. The evidence from the Northern Territory would suggest once implemented, mandatory country of origin labelling for seafood at all points of sale has been welcomed by the Northern Territory community. However, the Committee considers it did not receive enough evidence in this area to make a firm recommendation for its wider

implementation, and accordingly recommends the issue receives further examination by the Council of Australian Governments.

## Recommendation 7

**The Committee recommends that the Northern Territory's country of origin labelling of seafood in the food service sector be referred to the Council of Australian Governments for consideration.**

### Food imports from New Zealand

7.135 The issue of food imported from New Zealand was discussed in chapter five of the report.

#### Committee comment

7.136 The Committee found that the level of confusion amongst industry and consumers regarding the obligations on New Zealand food imports into Australia a particular concern. This confusion appears to stem from public reviews conducted since 2009.

7.137 The Committee hopes that this report will assist to reassure concerned stakeholders that all food imports are physically labelled with their country of origin. This legal obligation remains despite the TTMRA.

7.138 The Committee noted that there is a difference of opinion between the Australian government<sup>106</sup> and the New Zealand government<sup>107</sup> on the application of the TTMRA and the *Commerce (Trade Descriptions) Act 1905*. The Committee therefore recommends that the Department of Industry undertake specific liaison with the New Zealand Government so to achieve some much needed clarity on the requirements of New Zealand food imports into Australia.

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106 Department of Industry, *submission 20.1*, p. 6;  
Ms Lyndall Milward-Bason, Manager of Trade Facilitation Section, Trade and International Branch, Portfolio Strategic Policy Division, Department of Industry, *Committee Hansard*, Canberra, 17 July 2014, p. 1.

107 New Zealand High Commission, *submission 49*, p. 3;  
Mr Matthew Aileone, First Secretary, New Zealand High Commission, *Committee Hansard*, Canberra, 29 May 2014, p. 5.

**Recommendation 8**

The Committee recommends that the Department of Industry undertake specific liaison with the New Zealand Government to reach an agreed interpretation and understanding of the provisions of the Trans-Tasman Mutual Recognition Arrangement and the *Commerce (Trade Descriptions) Act 1905*, as they relate to country of origin labelling for food.

Rowan Ramsey MP

Chair

13 October 2014