
The Parliament of the Commonwealth of Australia

A clearer message for consumers

Report on the inquiry into country of origin labelling for food

House of Representatives
Standing Committee on Agriculture and Industry

October 2014
Canberra

© Commonwealth of Australia 2014

ISBN 978-1-74366-219-9 (Printed version)

ISBN 978-1-74366-220-5 (HTML version)

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website: <http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.



Contents

Foreword	ix
Membership of the Committee	xi
Terms of reference	xiii
List of abbreviations	xv
List of recommendations	xvii
1 Introduction	1
Background to the inquiry.....	1
Structure of the report.....	2
2 The current regulatory framework	3
<i>Australia New Zealand Food Standards Code</i>	3
Overview	3
Categories of food.....	4
Packaged foods	4
Unpackaged foods.....	5
Other relevant labelling requirements under the Code.....	5
Australian Consumer Law	5
'Safe harbour' defences	6
'Product of ...' or 'Produce of ...'	7
'Grown in ...'	9
How is 'grown in' defined?	9
'Ingredient grown in' safe harbour defence	9
General claims such as 'Made in...'	10

Substantial transformation test.....	11
Cost of production/manufacture test	12
'Made in ... from local and imported ingredients'	14
A contentious issue: 'water neutrality' and the ACL	16
Pictorial representations	16
The Australian Made, Australian Grown logo.....	17
Criteria regulating the use of the logo	19
For the logo to be used in conjunction with 'Product of Australia'	19
For the logo to be used in conjunction with 'Australian Grown'	19
For the logo to be used in conjunction with 'Australian Seafood'	20
For the logo to be used in conjunction with 'Australian Made'	20
Reconstituted products and the AMAG logo	21
3 Compliance and enforcement	23
Compliance.....	23
Enforcement.....	25
Activities at the state level.....	25
Activities of the ACCC at the federal level.....	27
Examples of enforcement action taken by the ACCC	29
Resource issues with enforcement activity.....	30
4 Consumer and industry perspectives.....	33
Consumer issues	33
Country of origin as a priority for consumers.....	33
Country of origin as a proxy for safety and other issues	36
Consumer confusion	38
Consumer research and surveys	40
Recognition of the 'Australia brand'	41
The 'local and imported ingredients' tag.....	43
The use and misuse of symbols.....	46
Committee comment.....	47
Industry issues.....	47
Flexibility and confusion?	48

Catering and point of sale labelling	49
Case study: pork	51
Case study: juice.....	52
Case study: chocolate.....	54
Case study: dairy	56
Case study: seafood	58
Seafood in the Northern Territory.....	60
Reaction from restaurants.....	62
Water neutrality.....	63
Committee comment.....	67
Seasonality and packaging	67
Costs of changes to packaging.....	69
Committee comment.....	73
5 International dimensions: trade obligations and food imports	75
Trade obligations relevant to country of origin food labelling.....	75
General Agreement on Tariffs and Trade.....	76
Technical Barriers to Trade Agreement	77
Agreement on Rules of Origin	77
Codex Alimentarius Commission	78
Effect of obligations on the current regulatory framework	79
Current WTO dispute regarding American origin labelling laws.....	80
Food imports from New Zealand	81
What is the Trans-Tasman Mutual Recognition Arrangement?.....	82
The exception to the TTMRA: the <i>Commerce (Trade Descriptions) Act 1905</i>	83
Country of origin labelling laws in New Zealand.....	84
Application of New Zealand domestic law in Australia	86
Staging of food imports in third countries.....	87
Committee comment.....	89
Australia's international trade obligations.....	89
Food imports from New Zealand	89
Staging of food imports in third countries	89

6	Previous reform proposals	91
	<i>Labelling Logic</i> - the Blewett Review	93
	Government response.....	93
	Food Standards Amendment (Truth in Labelling Laws) Bill 2009	95
	Senate Economics Committee inquiry	95
	Senate Select Committee on Australia’s Food Processing Sector	96
	Government response.....	97
	Competition and Consumer Amendment (Australian Food Labelling) Bill 2012 (No. 2) ...	98
	Senate Rural and Regional Affairs Committee inquiry	98
	Senate Committee recommendation and conclusion	100
	Progress of the first Milne Bill and the Senate Committee’s recommendations	101
	Proposed re-introduction of legislation by Senator Milne	102
	Key areas of public concern from earlier inquiries	102
	Recommended areas of reform from earlier inquiries	103
	Apparent difficulties with previous reform proposals	104
	‘Do no harm’	104
	Constitutional limitations	104
	Regulation must be ‘country neutral’	105
7	Proposed solutions and improvements	107
	Is change needed?.....	107
	Separate the ingredients from the manufacturing	110
	Proposals from submissions	110
	CHOICE	111
	Simplot Australia	111
	Safcol Australia	113
	Australian Made Campaign Limited	114
	AUSVEG	116
	Australian Manufacturing Workers Union.....	117
	Apple and Pear Australia Limited	117
	Australian Industry Group	118
	Sabrand Pty Ltd.....	120
	Other ideas	121
	Key ingredient.....	121

Stamps.....	123
Committee comment.....	123
Identifying countries that we import from.....	125
Committee comment.....	126
Labels.....	127
Symbols and icons.....	127
Graphics representing content.....	128
Label characteristics.....	129
Committee comment.....	130
Calls for a ministerial taskforce.....	132
Committee comment.....	133
Education and awareness.....	133
Committee comment.....	136
Bar codes.....	137
Committee comment.....	137
Issues from earlier chapters.....	138
Labelling of seafood in restaurants.....	138
Committee comment.....	138
Food imports from New Zealand.....	139
Committee comment.....	139
A Appendix A: Submissions.....	141
B Appendix B: List of Witnesses.....	145



Foreword

There have been a number of inquiries into Australia's food labelling system in the last ten years, even though most, including the extensive 'Labelling Logic' Blewett Review, have focussed on a wide range of issues surrounding food labelling and safety.

When considering an inquiry topic the Committee was of the opinion that while other reports had made recommendations in the area of country of origin food labelling, considerable public confusion and frustration remained and that the topic was one which was repeatedly raised by consumers on media such as talk-back-radio.

Accordingly the Committee requested support from the Ministers of Industry and Agriculture to mount a specific inquiry into the issue with an aim of recommending possible modifications which would provide clarification to the general public while at the same time taking great care not to inflict anti-competitive burdens on our food manufacturers and growers.

The Committee agreed on 27 March to undertake an inquiry into Australia's country of origin food labelling. During the course of the inquiry the Committee received 54 submissions, seven supplementary submissions, held seven public hearings in Melbourne, Sydney, Brisbane and Canberra, and spent a day in Adelaide visiting and meeting food manufacturers to gauge their views in the workplace environment.

It became clear very early in the inquiry that the 'safe harbour' descriptors were in some cases not providing any information to the general public as to the origin of food products. While in most cases industry are complying with the law, often using the 'safe harbour' descriptors, the general public did not understand what they mean.

It was made quite clear to the Committee that the country of origin of food is not overly important to many and that relevant information is considered less important on heavily processed foods. However, to a significant and important sector of the market, country of origin information is important and clear information should be provided to the consumer.

The Committee was of the opinion that any country of origin food labelling regime should not present an impediment to importers and/or provide non-tariff trade protection to our industries, but it should provide clear information to consumers who wish to make an independent choice to support either Australian farmers or food manufacturers.

The Committee strongly supports the current labelling system's non-prescriptive manner in the way a food manufacturer or marketer should represent a particular food's country of origin status.


Some examples include front or back of pack labelling, focus on particular regions or specific countries for the origin of selected ingredients and logos or individualised wording. These are all acceptable as long as they provide the minimum information and are not false, misleading or deceptive. Consequently, the Committee has limited its suggestions for change to the country of origin labelling system to adjustments to the 'safe harbour' claims.

It is the Committee's opinion that none of the recommended changes would have any significant negative impact on Australian producers or manufacturers but that the core recommendations concerning the 'safe harbour' claims will provide common sense information that consumers can understand.

At the heart of the recommendations is that each item should have a separate reference to the ingredients and the manufacture of goods. It keeps the best of what is good with the Australian country of origin statements, provides some specialised language that puts some separation between food and other products in the Australian market and most importantly addresses the confusion surrounding the 'Made in Australia' and 'Made in Australia from local and imported ingredients' descriptors.

The Committee would like to express its appreciation to all who have contributed their valuable time and shared their experience with us throughout the course of the inquiry.

Rowan Ramsey MP
Chair



Membership of the Committee

Chair Mr Rowan Ramsey MP

Deputy Chair Ms Clare O'Neil MP

Members	Hon Joel Fitzgibbon MP	Ms Melissa Price MP
	Ms Michelle Landry MP	Mr Dan Tehan MP
	Ms Cathy McGowan AO MP	Mr Rick Wilson MP
	Mr Tony Pasin MP	Mr Tony Zappia MP

Committee Secretariat

Secretary	Ms Julia Morris
Inquiry Secretary	Mr Anthony Overs
Senior Research Officer	Ms Lauren Wilson
Research Officer	Ms Leonie Bury
Administrative Officer	Ms Prudence Zuber



Terms of reference

The Committee is to inquire into Australia's Country of Origin Food Labelling Laws with particular attention to:

- whether the current Country of Origin Labelling (CoOL for food) system provides enough information for Australian consumers to make informed purchasing decisions;
- whether Australia's CoOL laws are being complied with and, what, if any, are the practical limitations to compliance;
- whether improvements could be made, including to simplify the current system and/or reduce the compliance burden;
- whether Australia's CoOL laws are being circumvented by staging imports through third countries; and
- the impact on Australia's international trade obligations of any proposed changes to Australia's CoOL laws.



List of abbreviations

ACCC	Australian Competition and Consumer Commission
<i>ACCC's Guide for business</i>	Australian Competition and Consumer Commission's <i>Country of origin claims and the Australian Consumer Law: a guide for business</i> (April 2014)
ACL	Australian Consumer Law
AMAG Code of Practice	<i>Australian Made, Australian Grown Logo Code of Practice</i>
AMAG logo	Australian Made, Australian Grown logo
AMCL	Australian Made Campaign Limited
Codex	Codex Alimentarius Commission
CTD Act	<i>Commerce (Trade Descriptions) Act 1905</i>
FSANZ	Food Standards Australia New Zealand
GATT	<i>General Agreement on Tariffs and Trade</i>
TBT Agreement	<i>Technical Barriers to Trade Agreement</i>
the Code	<i>Australia New Zealand Food Standards Code</i>
the Standard	Standard 1.2.11 (Country of origin labelling) of the <i>Australia New Zealand Food Standards Code</i>

TTMRA Trans-Tasman Mutual Recognition Arrangement

WTO World Trade Organisation



List of recommendations

Proposed solutions and improvements

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.

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.

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.

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.

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.

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.