

Consumer and industry perspectives

- 4.1 This chapter of the report explores issues and concerns raised during the inquiry that impact on consumers and industry.

Consumer issues

- 4.2 This section of the chapter examines country of origin labelling issues from a consumer perspective, including the priority placed by consumers on country of origin and how consumers use labelling as a proxy or substitute for product safety. Consumer confusion has been a significant issue throughout the inquiry and is discussed in this chapter, with reference to the use of the 'local and imported ingredients' label and the use and misuse of symbols on product packaging.

Country of origin as a priority for consumers

- 4.3 Evidence to the inquiry indicated that there are significant issues for consumers concerning country of origin food labelling. The Australian Made Campaign Limited (AMCL) stated that Australian consumers are becoming increasingly concerned about the origins of the food they eat, and that those concerns are driven by economic, health and safety, ethical and environmental factors.¹
- 4.4 CHOICE believes consumers have the right to make informed decisions about where the food they buy comes from. CHOICE believes the lack of clarity in country of origin labelling prevents the making of informed decisions, which is detrimental to consumers.² CHOICE provided

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

2 CHOICE, *submission 47*, p. 6.

significant information on consumer needs, with many submissions referring to CHOICE research on the matter.

- 4.5 CHOICE's submission stated that its surveys consistently show that country of origin food labelling is a priority concern for Australian consumers:

... improved country of origin labelling was the number one issue for respondents in CHOICE's 2013 Pre-Election Survey. And when it comes to the value consumers place on different aspects of food labelling, [country of origin labelling] is very important and second only to the actual ingredients contained in the food.³

- 4.6 AMCL described some of the reasons consumers are concerned about the origins of the food they eat:

... many consumers recognise the quality, freshness and high standards of Australian grown produce and the social and economic benefits of supporting the Australian economy and the country's farmers and fishermen by buying locally produced products whenever possible.⁴

- 4.7 A 2012 CHOICE member survey on country of origin food labelling found that, for the vast majority of respondents, it is very important to be able to identify Australian food, and that knowing where food is manufactured is almost as vital as knowing where it is grown:

- 84 per cent of respondents said it was either crucial or very important to know if food was grown in Australia; and
- 80 per cent said it was crucial or very important to know if food was manufactured in Australia.⁵

- 4.8 Mr Steve Mickan, Sales Director at SPC Ardmona, also claimed that Australians are concerned about where food comes from, citing recent surveys and research which indicate a growing interest in concern about country of origin:

Most people and consumers want to know where their food was grown and manufactured. There is a global consumer trend towards understanding provenance and Australia is following this trend. Consumers are becoming increasingly concerned about food safety, quality standards, ethical sourcing and sustainability issues in relation to the food they consume.⁶

3 CHOICE, *submission 47*, p. 5.

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

5 CHOICE, *submission 47*, p. 5.

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

4.9 However, some evidence to the inquiry indicated that country of origin information may be less important for consumers, particularly with regard to highly processed products. Mr Timothy Piper, Director (Victoria) of the Australian Industry Group (AIG) explained, based on research and anecdotal evidence, country of origin labelling is fourth or fifth in terms of purchasing patterns,⁷ and cited factors that influence customer choices:

We believe consumers feel country of origin of the ingredients is most important for fresh food and the place of manufacture is the most important factor for 'Made in Australia' – much more so than the ingredients themselves. Country of origin on manufactured products is not the key consumer purchase driver compared to price, quality, habit and brand loyalty.⁸

4.10 CHOICE stated that there is strong interest in knowing whether food is made or grown in Australia, although that doesn't always translate into purchasing behaviour. CHOICE's 2012 survey reflected this, with the majority of respondents saying they try to buy Australian food, however decisions depend on other factors such as type of food and price.⁹ However, CHOICE believes that the current state of labelling is so poor that consumers are often unable to factor origin into their purchasing behaviour.¹⁰

4.11 Mrs Shalini Valecha, Strategy Manager, SPC Ardmona discussed the variation in the intentions of consumers, and discussed the 'dynamism' in a consumer's approach:

Consumers are quite savvy and there is no one factor in the purchasing hierarchy that stays static. The hierarchy is dynamic. It will change with ethical sourcing, with food safety and with various factors. Every time you go to a shop you are not necessarily following the hierarchy that 'I will judge by price, then by this, and then by this'.¹¹

4.12 Mrs Valecha explained that labelling laws need to be able to give that information on a range of factors, to assist the consumer in making decisions:

7 Mr Timothy Piper, Director (Victoria), Australian Industry Group, *Committee Hansard*, Melbourne, 20 June 2014, p. 36.

8 Mr Timothy Piper, Director (Victoria), Australian Industry Group, *Committee Hansard*, Melbourne, 20 June 2014, pp. 33-34.

9 CHOICE, *submission 47*, p. 5.

10 CHOICE, *submission 47*, p. 5.

11 Mrs Shalini Valecha, Strategy Manager, SPC Ardmona, *Committee Hansard*, Melbourne, 20 June 2014, p. 9.

One of those factors is country of origin, and sometimes that country of origin decision is about food ingredients and sometimes about saving jobs – that feeling of, ‘I just want to back my region and I want to go for that product’.¹²

Country of origin as a proxy for safety and other issues

4.13 Many submissions to the inquiry stated that consumers use country of origin information as a proxy for product quality, safety, for environmental reasons and in considering work force labour issues. There is a distinct preference for Australian produce as it is considered of a higher standard across these areas.

4.14 The Australian Manufacturing Workers Union (AMWU) explained the value of the high quality of Australian food, produce standards and rigorous food testing regime:

... [this] is one of our greatest competitive advantages, both domestically and internationally ... Due to the high reputation of Australian food quality, both domestic and international consumers use country of origin labelling as a surrogate for food safety and health information.¹³

4.15 Fruit grower Mr Bart Brighenti also summarised the situation, referring to lower standards of imported products:

Every country has different levels of food standards imposed on their manufacturers as well as levels of enforcement applied. Imports into Australia currently do not need to meet the same level of regulation as local producers when it comes to food safety, chemical use, labour pay, OH&S and environmental protection.¹⁴

4.16 Mr Mickan of SPC Ardmona also discussed higher safety standards in Australia compared to other countries, emphasising Australia’s clean, green, safe reputation:

... Australia has some of the most stringent food growing and manufacturing standards in the world. Many other countries that export food to Australia are not required to adhere to the same strict standards. The strong food safety reputation for products

12 Mrs Shalini Valecha, Strategy Manager, SPC Ardmona, *Committee Hansard*, Melbourne, 20 June 2014, p. 9.

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

14 Mr Bart Brighenti, *submission 37*, p. 1.

grown and manufactured in Australia has become a key indicator for safe food for shoppers and consumers.¹⁵

- 4.17 Ms Amanda Rishworth MP discussed her constituents' desire for country of origin information so that they may make informed decisions. Ms Rishworth referred to higher level of consumer confidence in Australian farming practices, as well as the desire to support local farmers.¹⁶
- 4.18 Mr Stephen Gately of Buy Australian Made discussed health, environment and workforce issues, including the cost to farmers to retain a 'green and clean' image, where other countries may not have the same standards and regulations:
- ... There is significant concern about the use of banned chemicals and lack of legislation and enforcement relating to produce grown and processed in some countries. Poor working conditions and employee entitlements in some offshore farms and processing plants are also a factor for some people when they are making a purchasing decision.¹⁷
- 4.19 Mr Richard Mulcahy, Chief Executive Officer of AUSVEG suggested that consumers may not know the conditions under which some imported products are made:
- A lot of consumers are apprehensive, given some of the stories that have come out of Asia about products they are ingesting not being from Australia. We are not saying ban the foreign produce but we are saying make it very clear so that if I want to go to a supermarket and buy food that I feel comfortable that it is produced under good Australian conditions. We ought to be able to identify that. It is very, very difficult in many products.¹⁸
- 4.20 Mr Bart Brighenti discussed the level of detail required of growers for fruit production and distribution in Australia:
- As a farmer, packer and marketer I am required by my local and international buyers to have each carton labelled to be able to identify the individual weight, variety, class, size and pack date. I am also required to be able to identify from each box the individual grower the fruit comes from, the paddock it was grown and keep a copy of the farmer's chemical records. If I have to do all

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

16 Ms Amanda Rishworth MP, *submission 32*, p. 1.

17 Mr Stephen Gately, *submission 24*, p. 2.

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

this, then the processors further along the chain have all the information needed to do the same.¹⁹

Consumer confusion

- 4.21 A substantial amount of evidence to the inquiry claimed that consumers are confused about the existing country of origin labelling system. The Committee notes claims made by the Australian Food and Grocery Council that confusion is not a significant issue. The Council referred to a review they conducted, where five major food and grocery manufacturer customers' call centre logs over a one year period showed that:
- ... out of nearly a quarter of a million consumer initiated contacts, 0.39 per cent were about origin - less than half of one percent. Claims that consumers are generally confused and demanding change on country of origin labelling must be tested against these facts.²⁰
- 4.22 The Committee received overwhelming evidence from inquiry participants, however, which demonstrated that consumers experience considerable confusion interpreting country of origin labelling information in order to make informed decisions.
- 4.23 The Australian Competition and Consumer Commission (ACCC) *Country of origin claims and the Australian Consumer Law - A guide for business* stated that the most common complaints about country of origin claims are that the claims are unclear.²¹ CHOICE's research has shown that consumers have considerable difficulty interpreting common country of origin claims:
- ... our 2012 survey ... respondents had very varied interpretations of these claims. The most concerning finding was that a third of respondents incorrectly believed that a 'Made in Australia' claim meant the ingredients are Australian (when in fact the claim is about the location of manufacturing).²²
- 4.24 CHOICE suggested that country of origin claims are often vague and confusing, further citing its 2012 survey which found that:
- around half of respondents said there was enough information about the origin of the food they buy;

19 Mr Bart Brighenti, *submission 37*, p. 2.

20 Australian Food and Grocery Council, *submission 35*, p. 7.

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

22 CHOICE, *submission 47*, p. 6.

- while just 10 per cent said information about food origin was clear and easy to understand.²³

4.25 Mr Callum Elder, Executive Director, Quality and Innovation Division, Simplot Australia Pty Ltd, also referred to market research surveys, showing a considerable level of confusion in food labelling, and 'Made in Australia' labels with either 'imported or local' or 'local and imported' ingredients:

The last survey that I saw that said that only approximately 25 per cent of consumers had a good understanding of 'Product of Australia' and what that means in the context of food. We want to provide accurate and easy information for consumers.²⁴

4.26 Mr Piper of AIG outlined the key country of origin claims currently being used:

Under the current system, the main claims used in the confectionery manufacture in Australia are, but not limited to, 'Made in Australia' or 'Australian made' or 'Made in Australia from local and imported ingredients' or vice versa. There is also, but to a lesser extent 'Product of Australia'; or it might even be 'Made in the US' for a particular company; it might be 'Packed in Australia' with units made in Australia or New Zealand from locally or imported ingredients; it might have 'Made in Holland, packed in Australia'; 'Packed in Australia from imported and local ingredients'. There is a myriad of options that are being used.²⁵

4.27 Mr Daniel Presser, Executive Chairman, Sabrands Pty Ltd, suggested that consumer confusion is a major issue, and that consumers have the right to know where the food they eat actually comes from.²⁶

4.28 Safcol Australia and Apple and Pear Australia Limited (APAL), among many other inquiry participants, referred to current labelling rules as misleading. Safcol Australia described them as being 'open to misuse by organisations in the way they interpret them'²⁷, and APAL described how 'Made in Australia' can actually mean that all the ingredients are imported and simply mixed or packaged in Australia.²⁸

23 CHOICE, *submission 47*, p. 5.

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

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

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

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

28 Apple and Pear Australia Limited, *submission 23*, p. 1.

- 4.29 Mr Paul Trotman, Acting Division Head, Business Competitiveness and Trade, Department of Industry, commented on confusion between key claims:

For consumers, a lot of the time they may not see any difference between 'product of' and 'made in'. They are just happy to know that the product is Australian when they are making a particular purchase'.²⁹

- 4.30 Mr Stewart Davey (Manager, Regulatory Affairs, Dairy Australia) of the Australian Dairy Industry Council also discussed the confusion between the two key country of origin claims, 'Product of Australia' and 'Made in Australia', noting that very few consumers might understand the difference, and see them as interchangeable:

... Within the dairy context, however, I do not think that then drives any change in consumer behaviour - because they would view either one of them as giving them sufficient information about whether the product was of Australian origin or not.³⁰

Consumer research and surveys

- 4.31 CHOICE conducted research into the type of food products for which consumers most value origin information. CHOICE's 2012 survey asked consumers about the importance of origin information for a range of product types, and shows that origin becomes less important as food types become more heavily processed:

- More than two-thirds of respondents said country of origin is crucial for fresh meat, seafood and fresh fruit vegetables;
- Half or more of respondents said country of origin is crucial for dairy products and processed meat products;
- For juice, over 40 per cent of respondents said country of origin is crucial;
- Over a quarter said country of origin is crucial for bread, cereal and pasta, and canned and frozen food; and
- 17 per cent said country of origin was crucial for snack foods, and the percentage was even lower for soft drinks at 15 per cent and just 13 per cent for confectionery and chocolate.³¹

- 4.32 The AMCL submission also discussed its research into consumer preferences, finding that 87 per cent of respondents indicated a strong
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29 Mr Paul Trotman, Acting Division Head, Business Competitiveness and Trade Department of Industry, *Committee Hansard*, Canberra, 8 May 2014, p. 5.

30 Mr Stewart Davey (Manager, Regulatory Affairs, Dairy Australia), Australian Dairy Industry Council, *Committee Hansard*, Melbourne, 20 June 2014, p. 29.

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

preference for Australian made or grown food products. The research noted that preference for Australian made products had increased by 8 per cent while it had declined in other categories.³²

- 4.33 The Department of Industry stated that the next Australian Consumer Survey, jointly commissioned by the Commonwealth, states and territories, will assess consumer and industry views as to the effectiveness of Australia's country of origin labelling framework.³³ Mr Ben Dolman, Principal Adviser, Small Business, Competition and Consumer Policy, Treasury explained that the last survey was undertaken in 2010 and involved talking to more than 5 000 consumers, and that in 2012, consumers affairs ministers agreed that the 2015 survey would look into consumer awareness of and responsiveness to country of origin labelling.³⁴

Recognition of the 'Australia brand'

- 4.34 Consumers may be using other label information as a proxy for country of origin. Labels such as 'proudly Australian' or 'Australian owned' may lead to consumers believing that the origin of the foods contained in that product is Australian.
- 4.35 Mrs Valecha of SPC Ardmona elaborated on her opinion that the 'Australian owned' label does not have significant meaning to consumers:

You could set up a shop here, import stuff and call it 'Australian owned'. As a consumer, it really does not mean anything for a purchasing decision. The identifiers have to go with food that you are consuming, so food grown, and where it is manufactured. What is relevant to the consumer is a mix and combination of that information. How we slice it and dice it and what spectrum we want to have within this is, of course, vital when our industry is at stake here. At this stage, the way it sits you could have a label of 'Australian owned' at the front, but have 'Product of Thailand' at the back and you still do not know what is going on.³⁵

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

33 Department of Industry, *submission 20*, p. 2.

34 Mr Ben Dolman, Principal Adviser, Small Business, Competition and Consumer Policy, Treasury, *Committee Hansard*, Canberra, 8 May 2014, p. 8.

35 Mrs Shalini Valecha, Strategy Manager, SPC Ardmona, *Committee Hansard*, Melbourne, 20 June 2014, p. 9.

- 4.36 Mr Tom Hale, Acting National Divisional Secretary, Food & Confectionery Division, AMWU, suggested that consumers cannot reliably assume that particular well known Australian brands use only Australian ingredients:

As a consumer, I can find it very difficult. It is difficult in that you tend to use brand recognition as being an indicator of the country of origin but, with the number of multinational corporations involved, that is not reliable. Also, with supermarkets and their private labels, it may well be beetroot that is grown in Australia this week, and next week it might be beetroot that is grown somewhere else. If you are only relying on the label or the brand then that is a fairly unreliable way of trying to distinguish.³⁶

- 4.37 Mr Bill Bowron provided an example of a label that could cause confusion; he explains:

The Goulburn Valley is one of Australia's prominent agricultural areas in Victoria. The sight of the attached label on a bottle of juice in a shop or supermarket fridge would make one immediately think one was purchasing an Australian product, and in doing so, supporting Australian farmers and protecting local jobs ...

Now I imagine these labelling arrangements are within Australia's trade mark laws, but one could readily think they might be deceptive – a deliberate attempt to link a food product made from imported ingredients with a well-known Australian food producing area, in order to have the unsuspecting public, moving quickly through food outlets, purchase the product as though it were from Australian farms.³⁷

- 4.38 The Committee is aware that identifying brands and their contents with accuracy is even more challenging for consumers making online purchases as the product labels cannot be scrutinised. Mr Mickan from SPC Ardmona explained that approximately one third of their production volume would be for food service and online channels, and the purchaser of those products typically buys from a catalogue or an online portal 'where the country of origin is even more separated from the package'.³⁸

36 Mr Tom Hale, Acting National Divisional Secretary, Food & Confectionery Division, AMWU, *Committee Hansard*, Melbourne, 20 June 2014, p. 3.

37 Mr Bill Bowron, *submission 1*, p. 1.

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

The 'local and imported ingredients' tag

4.39 There was considerable comment from submitters regarding the somewhat vague, cover-all label of 'made in Australia from local and imported ingredients'. CHOICE suggested that the qualified 'Made in Australia from local and imported ingredients' type of claim is a serious problem:

While we don't have quantitative research on this point, anecdotally we find this is to be the greatest frustration for consumers when it comes to [country of origin labelling]. These claims are vague and provide no information about which ingredients are Australian or where the imported ingredients are from. In CHOICE's view, this type of claim does not provide more valuable information than the unqualified 'Made in Australia' claim.³⁹

4.40 The AMWU stated that 'Made in Australia from local and imported ingredients' provides no substantial information about where the ingredients come from, leaving the labels completely unsatisfactory from a consumer point of view.⁴⁰

4.41 Mrs Valecha of SPC Ardmona explained how the 'local and imported' tag is not helpful, suggesting that it does not give any additional information to a consumer to make a decision.⁴¹ Ms Amanda Rishworth MP commented that labels such as 'made in Australia from local and imported ingredients' cause significant confusion because:

... there is no way to determine the proportion or part of the product that is made from Australian ingredients or the proportion or part that is made from imported ingredients. Further, there is no way to determine from which country the imported ingredients originate.⁴²

4.42 Mr Trevor Weatherhead, Executive Director of the Australian Honey Bee Industry Council, also commented on the ambiguous 'local and imported' label, referring to the percentage of each:

At the current time there is no legislation that says you must say how much is Australian and how much is imported. The Australian could be five per cent and the imported could be 95 per

39 CHOICE, *submission 47*, p. 6.

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

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

42 Ms Amanda Rishworth MP, *submission 32*, p. 1.

cent or it could be the other way around – it could be 95 per cent Australian and only five per cent imported.⁴³

- 4.43 Mr Presser of Sabrands Pty Ltd discussed the consumers' right to know where ingredients are from:

I think the terms 'imported' and 'Made from imported ingredients' do not give the consumer their right to know. I would like to know, for the product I was ingesting, if the raw materials came from some factory in China or some factory in the US or some factory somewhere else.⁴⁴

- 4.44 Other submitters also discussed the ambiguity of the 'local and imported' label. Mr Philip Harrison stated:

Many packaged goods have labels such as 'Made in Australia from local and imported ingredients'. Nowhere does it say which part comes from Australia and which from overseas. Frozen crumbed fish have this notation on them. Are the fish Australian and the breadcrumbs imported? Or vice versa? Who knows.⁴⁵

- 4.45 Mr Bruce Collins referred to a packet of dried fruit, labelled 'Packed in Australia from local and imported ingredients', but also listing Australian grown sultanas, raisins & currants; 'so we know country of origin of the basic ingredients, which, we believe, is what consumers want to know'.⁴⁶ Mr Collins also referred to a jar of peanut butter with ambiguous product description:

This [jar of peanut butter] says 'Made in Australia from imported and local ingredients.' It also says 85 per cent peanuts on ingredients list. Does this mean that all the peanuts were grown in Australia, or that there is a mix of Australian and imported peanuts? If so, how do we know what proportion and which country?⁴⁷

- 4.46 CHOICE's submission expressed concern that many companies may be using the 'local and imported ingredients' type of claim to water down the requirements of the strict 'Made in Australia' claim:

... because until recently, the ACCC's industry guidance stated that companies unable to meet the requirements of the 'Made in

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

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

45 Mr Philip Harrison, *submission 3*, p. 1.

46 Mr Bruce Collins, *submission 9*, p. 2.

47 Mr Bruce Collins, *submission 9*, p. 2.

Australia' claim could make a qualified claim like 'Made in Australia from local and imported ingredients'. We note that in a recently released updated version of *Country of origin claims and the Australian Consumer Law*, the ACCC has left out this statement. However, we are concerned that it will take time for this interpretation to be absorbed by companies and labelling updated accordingly, and in the meantime consumers may be misled by companies relying on the old interpretation.⁴⁸

4.47 AMCL also stated that the major area of consumer concern continues to be the 'Made in ...' claim and related qualified claims, such as 'Made in Australia from local and imported ingredients':

The 'Made in ...' claim, as currently defined in the ACL and consequently the Food Standards Code, relates to manufacturing processes and costs of production, rather than to content. A food product which contains a high percentage of imported ingredients can still legally be described as 'Made in Australia', provided it meets the twin criteria of 'substantial transformation' in Australia and 50 per cent of costs incurred locally.⁴⁹

4.48 AMCL added that consumers are understandably concerned about the origin of the major ingredients in processed foods, with research indicating consumers are seeking (and not finding) this information as part of their purchasing decision.⁵⁰

4.49 AMCL further discussed the qualified 'made in ...' claim suggesting that it provokes more consumer outrage than any other claim:

This may be because it draws attention to the presence of imported content in a way that the other claim does not and at the same time provides no indication of either the scale or source of that imported content.⁵¹

4.50 AMCL discussed the ACCC's country of origin guidelines of 2006 and 2011 which were considered unhelpful:

... where a company was unable to make an unqualified claim for their product, such as 'Made in Australia', they may make a qualified claim and such qualified claims do not have to meet the substantial transformation or 50 per cent content tests.⁵²

4.51 AMCL added that the ACCC updated its guidelines this year:

48 CHOICE, *submission 47*, p. 6.

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

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

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

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

New guidelines released by the ACCC on 15 April [2014] no longer include such statements, stating instead only that such claims should not be false or misleading. Unfortunately the damage has been done in terms of consumer confidence.⁵³

4.52 AMCL stated its views on the use of the 'Made in Australia' term:

... 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.⁵⁴

4.53 The ACCC's *Guide for business* states that a 'Made in Australia from local and imported ingredients' claim must not be misleading, and that the provision of extra information beyond 'Made in Australia' should clarify the origin of the components and not confuse consumers.⁵⁵

The use and misuse of symbols

4.54 The rules for use of symbols were discussed in chapter two. The Committee notes extensive evidence from inquiry participants which indicates that the use of iconic Australian images or symbols is misleading and confusing for consumers.

4.55 Mr Mickan of SPC Ardmona described the false impression given to consumers that a product is Australian, when in fact it is not, and the consumer's perception of the use of Australian icons and images:

If you see a picture of a koala on something, I think the average person could be forgiven for believing it might have something to do with Australia.⁵⁶

4.56 Mr Elder of Simplot Australia also discussed potentially misleading imagery on packaging, describing the use of a picture of a koala as misleading if the product is not Australian.⁵⁷

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

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

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

56 Mr Steve Mickan, Sales Director, SPC Ardmona, *Committee Hansard*, Melbourne, 20 June 2014, p. 11.

57 Mr Callum Elder, Executive Director, Quality and Innovation Division, Simplot Australia Pty Ltd, *Committee Hansard*, Melbourne, 20 June 2014, p. 26.

- 4.57 Mr Mulcahy of AUSVEG commented on consumers' misconceptions of labels and packaging:

I remember my late mother ringing me one night, saying, 'I always buy Australian if it has got a picture of a farmer on the front' – I think it almost had the Akubra hat. I got her to get it out of the deep freezer – she had failing vision, and I said, 'Look at the back and lift up the flap'. She said, 'Oh, it's from Belgium' ... People are in some cases being misled. I do not think it is an accident.⁵⁸

- 4.58 AUSBUY claimed that the Australian flag is used liberally to infer a product is Australian even if it is fully imported and foreign owned.⁵⁹ Dr Maria Lesseur Sichel, Corporate Quality Manager, Simplot Australia, also questioned the use of the Australian flag on product packaging:

I think it is actually very common to see the flag right now in things that are then made in Australia from local and imported. By law, it is fine. They are not in breach in any way, but they are using the flag more and more, I think, and it is usually the case that it is mainly from Australia, but is that enough to put an Australian flag on it?⁶⁰

Committee comment

- 4.59 The Committee recognises that there is a great deal of confusion with the country of origin labelling system for both consumers and industry. There appear to be some substantial problems, particularly with consumers and the perceived meanings of fundamental terms such as 'made in Australia'.
- 4.60 The Committee agrees that country of origin labelling must be absolutely clear for both industry and consumers.
- 4.61 The Committee looks forward to the next Australian Consumer Survey and trusts that the outcomes will feed into further improvements of the country of origin labelling system.

Industry issues

- 4.62 This section of the chapter examines country of origin labelling issues from an industry perspective, and presents several sector case studies. The

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

59 AUSBUY, *submission 13*, p. 16.

60 Dr Maria Lesseur Sichel, Corporate Quality Manager, Simplot Australia Pty Ltd, *Committee Hansard*, Melbourne, 20 June 2014, p. 26.

seafood case study discusses unique arrangements in the Northern Territory.

- 4.63 The section examines the issue of water neutrality in food production and manufacturing, and seasonality and its impact on manufacturing including issues relevant to labelling and packaging.

Flexibility and confusion?

- 4.64 The Department of Industry explained that the current country of origin labelling framework is sufficiently flexible to enable any country of origin representation to be made, so long as it not false, misleading or deceptive, and observed that suppliers can highlight the origin of any of the ingredients of their food:

... if they believe this is necessary to distinguish them from food made locally from ingredients imported from elsewhere, and they can do so without being false, misleading or deceptive, as demonstrated by compliance with one of the 'safe harbours' (e.g. ingredients 'grown in {country}') or by some other means.⁶¹

- 4.65 As an example, a supplier may claim bacon is 'Made in Australia from Australian pork', or an apple pie is 'Made in Australia from Australian apples' if such statements are true and would not mislead or deceive the ordinary consumer.⁶²

- 4.66 The Department of Industry discussed the perceived double meaning of the 'Australian Made' label:

Some within the industry believe it is difficult to differentiate between a product made in Australia from a significant ingredient sourced in Australia and a similar product made in Australia from the same ingredient sourced overseas. This is because the expression 'Australian Made' can legitimately cover both products if the imported ingredient has been substantially transformed in Australia and the value of Australian content is at least 50 per cent of the total production cost.⁶³

- 4.67 The existing country of origin labelling system was described as robust and workable by Dr Peter Stahle (Executive Director, Australian Dairy Products Federation) of the Australian Dairy Industry Council, although

61 Department of Industry, *submission 20.1*, p. 5.

62 Department of Industry, *submission 20.1*, p. 5.

63 Department of Industry, *submission 20.1*, p. 4.

not perfect. Dr Stahle also described it as cost effective for both industry and consumers.⁶⁴

- 4.68 Dr Stahle further discussed the need for the system to be flexible, and stated that flexibility is an integral part of ensuring that the system works from industry and consumer perspectives:

If [arrangements] become absolute and definitive, that presents all sorts of problems in terms of demonstrating compliance, particularly with regard to the ACCC and their expectations of what can and cannot be prosecuted.⁶⁵

- 4.69 However, Dr Stahle did admit that as long as there is that flexibility in the system, there will always be the opportunity for consumers to be uncertain.⁶⁶

Catering and point of sale labelling

- 4.70 As noted earlier, Standard 1.2.11 of the Code does not apply to food offered for immediate consumption where the food is sold by restaurants, canteens, schools, caterers, self-catering institutions, prisons, hospitals or other similar institutions e.g. nursing homes.⁶⁷

- 4.71 Mr Mickan of SPC Ardmona explained that the food service market is also heavily contested and imported products play a significant role.⁶⁸ The National Seafood Industry Alliance suggested that the omission of country of origin labelling in the restaurant and food service sector can be deceptive for consumers.⁶⁹ SPC Ardmona outlined the importance of the \$45 billion food service market and the need for it to be able to inform consumers:

Clear country of origin labelling is just as important in this [food service] market as it is in retail. Private business and government institutions that cater to the public must have a clear understanding of the country of origin of products that they serve.⁷⁰

64 Dr Peter Stahle (Executive Director, Australian Dairy Products Federation), Australian Dairy Industry Council, *Committee Hansard*, Melbourne, 20 June 2014, p. 29.

65 Dr Peter Stahle (Executive Director, Australian Dairy Products Federation), Australian Dairy Industry Council, *Committee Hansard*, Melbourne, 20 June 2014, p. 28.

66 Dr Peter Stahle (Executive Director, Australian Dairy Products Federation), Australian Dairy Industry Council, *Committee Hansard*, Melbourne, 20 June 2014, p. 29.

67 Food Standards Australia New Zealand, *submission 12*, p. 2.

68 Mr Steve Mickan, Sales Director, SPC Ardmona, *Committee Hansard*, Melbourne, 20 June 2014, p. 10.

69 National Seafood Industry Alliance, *submission 31*, p. 6.

70 SPC Ardmona, *submission 46*, p. 3.

4.72 Fruit grower Mr Bart Brighenti stated that restaurants and cafés should also be made to display country of origin, as an increasing percentage of consumers are eating out and still have the right to know where the food comes from.⁷¹ Mr George Hill, a chef, submitted that commercial chefs need to know the original source of fresh or processed products:

Complete truth in menus is becoming an issue that chefs are grappling with as they attempt to ensure informed clients. 'Paddock to the plate' is now increasingly an issue on menus and with clients. There are many instances where produced, prepared, made in Australia does not indicate the [original] source and in some cases implying from Australia.⁷²

4.73 Mr Mickan of SPC Ardmona discussed the sourcing of products used in the food service industry:

In a lot of cases it is an ingredient and the person, maybe an institution, a hospital or an aged care facility has absolutely no knowledge of where the tomato or the peach comes from. There may be a procurement person or a chef or someone else making a decision about procurement, and today we are finding more and more that those decisions are based purely on price.⁷³

4.74 Mrs Valecha of SPC Ardmona returned to the food safety issue as a risk to be mitigated, clarifying that this issue will become increasingly important especially in aged care and hospitals, and 'therefore it is important we do not have a label "Made in Australia" where ingredients could be fully imported.'⁷⁴

4.75 Mr Mickan discussed commitment from New South Wales Procurement and Victorian Health to apply country of origin information to their portals and catalogues, providing clear information to people using those sites. Mr Mickan described this as an important step, as in his view 'there are a lot of people who go onto these websites and they do not actually know'.⁷⁵

71 Mr Bart Brighenti, *submission 37*, p. 2.

72 Mr George Hill, *submission 8*, p. 1.

73 Mr Steve Mickan, Sales Director, SPC Ardmona, *Committee Hansard*, Melbourne, 20 June 2014, p. 10.

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

75 Mr Steve Mickan, Sales Director, SPC Ardmona, *Committee Hansard*, Melbourne, 20 June 2014, p. 11.

Case study: pork

- 4.76 Australian Pork Limited claimed that the current food labelling system is failing to meet its policy objective as it confuses, rather than informs consumers.⁷⁶ Mr Andrew Spencer, Chief Executive Officer of Australian Pork Limited, stated that despite consumers wanting to support the industry, today's country of origin labelling laws make consumer informed choice almost impossible.
- 4.77 Mr Spencer explained that most consumers remain unaware of the fact that 70 per cent of 'Australian made' ham and bacon is being made from imported pork.⁷⁷
- 4.78 Australian Pork Limited further explained that Australian pork producers are similarly being let down by the current country of origin labelling regime:
- Existing rules for packaged food allow products processed or packaged in Australia (e.g. bacon made from imported pork or orange juice made of imported juice concentrate), to be labelled Made in Australia without indicating the main ingredient is not of Australian provenance. The problem is compounded by requirements for Product of Australia being so restrictive that some Australian grown food can't use the label due to small quantities of imported ingredients which are difficult to source in Australia.⁷⁸
- 4.79 When asked about labelling of bacon at a deli or butcher, Mr Spencer explained that the product does need to have a country of origin.
- Typically, if you go and have a look, all you will see is 'Made in Australia from local and imported ingredients'. One of our fears is that it is just so easy to label everything with that and you are not infringing any laws ... it means virtually nothing.⁷⁹
- 4.80 Mr Spencer explained that a consumer reading 'made in Australia' thinks the pigs come from Australia, and the pork industry is looking for a system which removes that confusion consistently and fairly.⁸⁰

76 Australian Pork Limited, *submission 6*, p. 2.

77 Mr Andrew Spencer, Chief Executive Officer, Australian Pork Limited, *Committee Hansard*, Canberra, 8 May 2014, p. 18.

78 Australian Pork Limited, *submission 6*, p. 2.

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

80 Mr Andrew Spencer, Chief Executive Officer, Australian Pork Limited, *Committee Hansard*, Canberra, 8 May 2014, p. 20.

- 4.81 Mr Spencer described how the industry would like to label Australian made bacon with the premium claim of 'Product of Australia', but may be unable to do so as minor ingredients are imported:

The way the law is written makes it a little ambiguous as to whether that is possible, because of the ingredients – small amounts of brine – which are unavailable in Australia. Some processors have chosen to see that as a significant ingredient. Therefore the 'Product of Australia' is not an option for their labelling, so they call it 'Made in Australia'. It sits beside imported product called 'Made in Australia'. So the consumer has absolutely no ability to differentiate between the two.⁸¹

- 4.82 Mr Spencer discussed other consumer interests such as animal ethics:

There is also increasing pressure coming from growing consumer interest in intangible aspects of food and food production, such as how it is farmed, including the animal welfare issues and environmental aspects.⁸²

- 4.83 RSPCA submitted that product information on the conditions under which an animal was farmed is either lacking or ambiguous, and added that the issue of inconsistent labelling extends across all animal-derived food products – both domestic and imported – and needs to be addressed:

Current country of origin labelling is not sufficient for the consumer to be able to compare production methods between domestic and imported product.⁸³

Case study: juice

- 4.84 APAL explained that many consumers are unaware that much of the juice they buy in supermarkets is made of imported concentrate, often with water providing the only Australian content.⁸⁴ The NSW Food Authority explained that essential information is currently not clearly conveyed by the existing country of origin framework:

... manufactured products such as canned fruit or fruit juice may claim to be 'Made in Australia' which refers to the manufacture/production of the product rather than the actual content of the food, even though the significant ingredient may be

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

82 Mr Andrew Spencer, Chief Executive Officer, Australian Pork Limited, *Committee Hansard*, Canberra, 8 May 2014, p. 18.

83 RSPCA, *submission 16*, p. 1.

84 Apple and Pear Australia Limited, *submission 23*, p. 2.

imported fruit juice concentrate or fruits. In these situations the key consumer and Australian agricultural industry interest is that the key ingredient is imported juice or fruit.⁸⁵

- 4.85 Ms Annie Farrow, Industry Services Manager, APAL, discussed the labelling of apple juice products:

The apple juice concentrate is reconstituted by mixing it with water. Then you get products ... that say, if you can find it, 'made from ... imported and Australian ingredients' ... Does that mean that it is made from imported juice and local juice mixed together? Or does it mean that it is made from imported concentrate and Australian water? ... We do not know that. I think that consumers would probably be quite concerned if they thought that when you use the term 'made from imported and local ingredients' you were actually using water as your local ingredient. I do not think that consumers would see that as being reasonable.⁸⁶

- 4.86 When asked about the percentage of total sales of apple and pear juice that is from Australian produce, Ms Farrow stated that it would be a very small proportion:

If we are importing around 224 000 tonnes of apple equivalent in juice concentrate and we are producing 290 000 – and a very small proportion of our fresh production would be going into juice – then around 90 per cent of Australian apple juice is made from concentrate.⁸⁷

- 4.87 Ms Farrow added that most of the long-life shelf lines in supermarkets are imported:

The supermarkets have got better in recent years and started to stock Australian product, but you will generally find that only the refrigerated section will contain Australian fresh juice – and a lot of those are using juice concentrate as well as Australian produce.⁸⁸

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

86 Ms Annie Farrow, Industry Services Manager, Apple and Pear Australia Limited, *Committee Hansard*, Melbourne, 20 June 2014, p. 16.

87 Ms Annie Farrow, Industry Services Manager, Apple and Pear Australia Limited, *Committee Hansard*, Melbourne, 20 June 2014, p. 16.

88 Ms Annie Farrow, Industry Services Manager, Apple and Pear Australia Limited, *Committee Hansard*, Melbourne, 20 June 2014, p. 16.

- 4.88 Ms Farrow explained that approximately 90 per cent of imported concentrate comes from China:

... China grows about half the world's apples and a lot of it goes into juice. Could we compete when, during harvest time, we pay a wage rate, with super, that is equivalent to about \$25 an hour, New Zealand pays around \$19 an hour, the US pays about \$12 an hour, Chile pays about \$6 an hour and China pays about \$3 an hour. No, we cannot compete like that.⁸⁹

- 4.89 When asked how the imported concentrate impacts on locally grown produce, Ms Farrow stated that the industry would not be able to replace apple juice concentrate, but imports do impact on the industry:

We would not have the capacity to replace the imported product, but that strong competition, particularly from apple juice concentrate, simply means that our second-grade fruit gets displaced. That fruit usually goes into processing of some sort – either into juice or into canning ... If we are not able to put our product there, it goes onto the wholesale market. If it goes onto the wholesale market, then that depresses the whole price of apples, including the grade 1 or premium fruit ... So it does have consequences for us but also for industry more generally because we just cannot compete against imported concentrate ...⁹⁰

- 4.90 Cider Australia also discussed the origin of juice concentrates and how improved labelling could benefit consumers:

Improved country of origin labelling would benefit Australian producers and consumers of cider by placing pressure on the major Australian producers to use Australian juice, encouraging the cider producers that already use Australian juice to continue to do so, and giving consumers greater confidence that the claims on labels are accurate.⁹¹

Case study: chocolate

- 4.91 Chocolate is a manufactured product discussed in many submissions. The key ingredient for chocolate, cocoa, is imported but manufacturing takes place here; cocoa isn't available in Australia in sufficient commercial quantities.

89 Ms Annie Farrow, Industry Services Manager, Apple and Pear Australia Limited, *Committee Hansard*, Melbourne, 20 June 2014, pp. 19-20.

90 Ms Annie Farrow, Industry Services Manager, Apple and Pear Australia Limited, *Committee Hansard*, Melbourne, 20 June 2014, p. 16.

91 Cider Australia, *submission 26*, pp. 1-2.

- 4.92 AIG noted that the processing of chocolate is significantly complex, undergoing substantial transformation to warrant the claim 'Made in Australia' or 'Made in Australia from local and imported ingredients'.⁹²
- 4.93 Mr Gary Dawson, Chief Executive Officer, Australian Food and Grocery Council, also discussed the ingredients for chocolate being imported and transformed in Australia:
- The cocoa pretty much all comes from overseas. So Haigh's Chocolates in South Australia, Nestle, Cadbury, Ferrero and Mars all have big operations in Australia, servicing both the domestic and the export markets. That is a great case of substantial transformation. The chocolates coming out of the Haigh's factory or the Cadbury factory in Hobart clearly are made in Australia. No-one would doubt that. That is the common sense test. Focusing entirely on the origin of the ingredients, if that prevented them saying 'made in Australia', would be an unintended consequence.⁹³
- 4.94 Mr Dawson further discussed chocolate production and the substantial transformation test:
- With product being sourced in many different markets, depending on the circumstances, from month to month the minimum of 50 per cent figure may fluctuate. The threshold is arbitrary and ingredients costs distort the calculation – that is, expensive imported ingredients like cocoa distort that especially where there is no option but to import. Managing business practicalities and the uncertainty of the cost of production means that companies act conservatively and quite often qualify their claims.⁹⁴
- 4.95 The AIG submission provided an example of a chocolate product that it suggests could be considered a 'Product of Australia':
- A jelly confectionery can claim 'Product of Australia' when all of its ingredients are Australian and it is processed in Australia. An ambiguity is illustrated when that jelly is coated in Australian made chocolate, for example chocolate coated snakes. The final product has approximately three to six percent imported cocoa products. It may be argued both ways that the chocolate is/isn't providing the significant ingredient/component, however the

92 Australian Industry Group, *submission 48*, p. 7.

93 Mr Gary Dawson, Chief Executive Officer, Australian Food and Grocery Council, *Committee Hansard*, Canberra, 8 May 2014, p. 38.

94 Mr Gary Dawson, Chief Executive Officer, Australian Food and Grocery Council, *Committee Hansard*, Canberra, 8 May 2014, p. 34.

cocoa content certainly imparts significant character in the manufacture of the chocolate that coats the jelly snake.

The confectionery industry believes that a product such as chocolate coated snakes should be able to be called 'Product of Australia' as it is essentially Australian. More definitive guidance for business would assist the food industry to ensure consistent application.⁹⁵

- 4.96 Mr Piper of AIG reiterated that consumers are more accepting of country of origin claims for high-end manufacturing and processed foods such as confectionery, understanding that the key ingredients are imported:

... current country-of-origin labelling is generally acceptable, with a few improvements that we have suggested. An important reason that the industry is generally comfortable with the regulations is that it receives little consumer feedback on its country-of-origin labelling. One large company advised us that 0.5 per cent of comments are on the topic, while small companies report receiving a few communications from consumers encouraging them not to import. However, that probably shows that labelling is well understood by the consumers. They know that the product is locally made. The best-case scenario would be to ensure there are reduced costs on Australian manufacturing products while ensuring consumers are better versed and educated in what the labelling actually says and does.⁹⁶

Case study: dairy

- 4.97 The Australian Dairy Industry Council (ADIC) discussed the use of imported ingredients that are essential to value-adding for Australian dairy products:

... conversion of milk into the variety of dairy products developed in Australia requires a wide range of ingredients. Many of these are included at low amounts to facilitate functional transformations in the milk during processing, and are not produced in Australia either because the raw materials are not available, or they cannot be economically and sustainably manufactured here. These include:

- hydrocolloids and stabilisers (e.g. pectin, carrageenan, guar gum, locust bean gum, some modified starches);

95 Australian Industry Group, *submission 48*, p. 6.

96 Mr Timothy Piper, Director (Victoria), Australian Industry Group, *Committee Hansard*, Melbourne, 20 June 2014, pp. 35-36.

- flavours and colours;
- vitamins and minerals;
- animal and microbial rennets;
- cultures for fermented products such as yogurts and cheeses;
- enzymes; and
- yeasts and moulds.⁹⁷

4.98 The ADIC also explained that other raw ingredient materials are imported either because of seasonality, lack of suitable climatic conditions for agriculture in Australia or inability to provide continuity of supply, including:

- fruits and fruit juices that are processed into stabilised fruit preparations that are used as ingredients in yogurts, flavoured milks and dairy desserts;
- cocoa that is processed to chocolate; and
- coffee beans that are processed to coffee powders.⁹⁸

4.99 Mr Stewart Davey of the ADIC further discussed the use of labelling of Australian dairy products, particularly focusing on what would require a 'local and imported' tag:

From our perspective, certainly 'Product of Australia' and 'Made in Australia' are used very extensively across what we would determine is a pure dairy product. 'Made from local and imported ingredients' might start to be used where a dairy powder might be a significant constituent in a product that is blended and has a whole lot of other things in it. From our perspective, we would not necessarily view that as a pure dairy product. When we talk about dairy, we would be considering liquid milk, butter, cheese, yoghurts and dairy dessert type of products. When you start to get into the ice cream and infant formula end of the scheme of things, you would expect that some of those probably do use the combined 'Made from local and imported ingredients'.⁹⁹

4.100 The ADIC discussed the need for any labelling changes to not impact on the dairy industry, particularly with regard to the use of minor ingredients:

The current country of origin labelling laws allow for Australian milk to be processed into dairy products using minor ingredients as identified above, in Australian manufacturing plants using Australian labour, and then be labelled as either Made in Australia

97 Australian Dairy Industry Council, *submission 43*, p. 3.

98 Australian Dairy Industry Council, *submission 43*, p. 3.

99 Mr Stewart Davey (Manager, Regulatory Affairs, Dairy Australia), Australian Dairy Industry Council, *Committee Hansard*, Melbourne, 20 June 2014, p. 28.

or Product of Australia. If consideration is given to amending the current country of origin labelling requirements as they relate to food, it is essential that these changes do not unduly restrict the use of these minor ingredients.¹⁰⁰

- 4.101 Dr Stahle of the ADIC reiterated that any labelling regime changes could impact the dairy industry, particularly concerning the 'Product of Australia' claim and the use of minor imported ingredients, noting that if a product had to be categorically 100 per cent then essentially the only Australian dairy product you would have on the market here is liquid milk.¹⁰¹ Mr Davey of the ADIC summarised the organisation's view that the current country of origin labelling system is working:

For us, we can pretty confidently say that the system satisfies the consumer base for dairy. I think we are open to recognising that it is probably not a perfect system ... and that alludes to the fact that there are issues for others, but it is certainly not an issue for dairy.¹⁰²

Case study: seafood

- 4.102 There was much interest in the inquiry from the seafood sector, particularly regarding the mandating of country of origin labelling of seafood in the food service market to address consumer perceptions and to enable them to make informed purchases.
- 4.103 Seafood industry representatives in submissions and public hearings described challenges in changing consumer perceptions and behaviour while ensuring compliance costs to industry were not excessive.
- 4.104 As noted earlier in this report, Standard 1.2.11 of the Code does not apply to food offered for immediate consumption where the food is sold by restaurants, canteens, schools, caterers, self-catering institutions, prisons, hospitals or other similar institutions e.g. nursing homes.¹⁰³
- 4.105 The National Seafood Industry Alliance (NSIA) stated that Australian seafood consumers demand seafood from sustainable fisheries and farms, and that there is a strong community perception that seafood sold in

100 Australian Dairy Industry Council, *submission 43*, pp. 3-4.

101 Dr Peter Stahle (Executive Director, Australian Dairy Products Federation), Australian Dairy Industry Council, *Committee Hansard*, Melbourne, 20 June 2014, p. 28.

102 Mr Stewart Davey (Manager, Regulatory Affairs, Dairy Australia), Australian Dairy Industry Council, *Committee Hansard*, Melbourne, 20 June 2014, p. 31.

103 Food Standards Australia New Zealand, *submission 12*, p. 2.

Australian venues for immediate consumption is sourced locally, despite the majority being imported.¹⁰⁴ Mr Scott Wiseman of the NSIA explained:

Research conducted by Roy Morgan, FRDC and Seafood CRC demonstrates that consumers commonly assume that the seafood provided in dining venues, takeaway venues and the like, is locally sourced when this may not actually be the case. Some 70 per cent of seafood in Australia is imported. There is a requirement to notify consumers of the fish species but not whether the product is imported or Australian harvested.¹⁰⁵

4.106 Mr Marty Phillips, President of the Australian Barramundi Farmers Association, believes consumers should be able to make an informed choice about the seafood they purchase:

At the retail outlet, fishmongers, consumers have a choice – they can choose. But in the food service industry, except for the Northern Territory, no such laws exist. That is a real hole in the system that we think needs to be fixed so that the consumers – the mums and dads feeding their families and their kids – can make an informed choice and choose the imported product or the Australian product. There is room for both of us here.¹⁰⁶

4.107 The NSIA believes the consumer demand for information on country of origin is far higher in seafood than any other food, and therefore is not suggesting country of origin labelling for all food groups.¹⁰⁷ Ms Helen Jenkins, Executive Officer of the Australian Prawn Farmers Association supported this view:

The consumer demand for country of origin labelling ... is far higher in seafood than in other any other food group. It gives the consumer the ability to identify seafood from unregulated fisheries. The high standards in sustainability, safety and hygiene in Australia place additional cost on the Australian industry and without being able to effectively identify our product in the marketplace these measures simply restrict our ability to compete.¹⁰⁸

104 National Seafood Industry Alliance, *submission 31*, p. 8.

105 Mr Scott Wiseman (Executive Officer, Queensland Seafood Industry Council), National Seafood Industry Alliance, *Committee Hansard*, Brisbane, 3 July 2014, p. 6.

106 Mr Marty Phillips, President, Australian Barramundi Farmers' Association, *Committee Hansard*, Brisbane, 3 July 2014, p. 7.

107 National Seafood Industry Alliance, *submission 31*, p. 8.

108 Ms Helen Jenkins, Executive Officer, Australian Prawn Farmers Association, *Committee Hansard*, Brisbane, 3 July 2014, p. 7.

- 4.108 The NSIA stated that there is an urgent need for intervention to remove the current gap in the legislation and to include an amendment that specifically refers to country of origin labelling requirements by venues providing seafood for immediate consumption or through venues such as restaurants, cafés, hotels, clubs and takeaways.¹⁰⁹

Seafood in the Northern Territory

- 4.109 Mr Rob Fish, Chair of the Northern Territory Seafood Council (NTSC), claimed that about 40 per cent of fish consumed in Australia is consumed in a restaurant setting.¹¹⁰

- 4.110 The Northern Territory Government introduced regulations in November 2008 to make it a requirement for all venues to identify imported seafood at the point of sale to the consumer.¹¹¹ The NTSC discussed the initial consumer reaction to this move:

With this improved level of labelling at the dining outlets, the reaction from the consumer was first one of shock to find out that the majority of iconic NT species barramundi sold around the Territory was not local and in fact imported product.¹¹²

- 4.111 The NTSC submission explained that the improved labelling requirement gained considerable public support and saw many restaurants move to use local product based on the demands of the consumer.¹¹³

- 4.112 The NTSC completed a research project in 2010, with the results consistently demonstrating a high level of consumer and food service sector support for seafood labelling laws that identify imported seafood.¹¹⁴

- 4.113 The NTSC stated that the cost to the food service sector in implementing the labelling laws was highest initially following the legislation's introduction, as large expenditure items such as menu boards were updated:

Venues advised they spent on average \$630 implementing requirements for the labelling laws. Several venues spent less than \$100 in total since the laws were introduced in November 2008, while one venue reported spending several thousand dollars

109 National Seafood Industry Alliance, *submission 31*, p. 8.

110 Mr Rob Fish, Chair, Northern Territory Seafood Council, *Committee Hansard*, Brisbane, 3 July 2014, p. 7.

111 Northern Territory Seafood Council, *submission 27*, p. 2.

112 Northern Territory Seafood Council, *submission 27*, p. 2.

113 Northern Territory Seafood Council, *submission 27*, p. 2.

114 Northern Territory Seafood Council, *submission 27*, p. 3.

implementing the labelling laws as a result of menu board changes.¹¹⁵

- 4.114 Mr Fish of the NTSC discussed the implementation of the seafood labelling system and the benefits to the industry, including strengthening relationships with consumers:

It took about 12 months for some real changes. Straightaway, there were some massive advantages for the industry; I'm not going to lie. Straightaway, everyone was talking about an industry that they did not know existed ... it has now put the industry back on the map; we have got a 'Support NT Caught' campaign going. So we have reconnected with the consumer as an industry, as opposed to simply a product. The benefits have escalated since the first year. We have Woolies and Coles on board now; they are using some of the labels – and that is something they said they would never do.¹¹⁶

- 4.115 When asked how the restaurant and catering industry in the Northern Territory dealt with the changes, Mr Fish stated that there was resistance at the start, although some of those who resisted the strongest are now the industry's biggest partners:

I often have a difficulty with the concept (a) that this is put forward as being too expensive or (b) that, and this concerns me more, 'we can't afford to make money out of fish at a restaurant if we tell people it's imported'. If we keep silent, we can have a bigger margin. To me that would be the trigger to do it. In the end I think there is more support for seafood now in the Territory. The casino which was one of the bigger knockers at the start, now advertises local products ... I do not know anyone who is now complaining about it.¹¹⁷

- 4.116 Mr Fish explained that, for a scheme like the Northern Territory's to be implemented elsewhere, the exemption from Standard 1.2.11 of the Code where restaurants do not have to label would need to be removed.¹¹⁸

115 Northern Territory Seafood Council, *submission 27*, p. 9.

116 Mr Rob Fish, Chair, Northern Territory Seafood Council, *Committee Hansard*, Brisbane, 3 July 2014, p. 12.

117 Mr Rob Fish, Chair, Northern Territory Seafood Council, *Committee Hansard*, Brisbane, 3 July 2014, p. 13.

118 Mr Rob Fish, Chair, Northern Territory Seafood Council, *Committee Hansard*, Brisbane, 3 July 2014, p. 14.

Reaction from restaurants

4.117 The Committee invited the Restaurant and Catering Industry Association of Australia (RCIAA) to appear at a public hearing to discuss country of origin labelling in the food service sector and address the issues raised by the seafood industry organisations that made submissions to the inquiry.

4.118 Mr John Hart, Chief Executive Officer of the RCIAA, was very straight forward in outlining the Association's position:

Our association opposes any suggestion that the labelling requirement should be extended or the exemption removed for unpackaged food, particularly that served in restaurants – unsurprisingly.¹¹⁹

4.119 Mr Hart stated that the practicalities of including labelling provisions on restaurant menus would be incredibly onerous and very expensive to administer, with an estimated cost of \$300 million per annum to introduce the change.¹²⁰ Mr Hart told the Committee that the average cost of menu changes is \$8 000 to \$10 000, which was ascertained through survey work on surcharging changes.¹²¹ Mr Hart discussed what he considered to be the more important issue of how Australian product can be best promoted on restaurant menus:

We believe that that can be best achieved by a positive promotional effort around Australian product, as already happens in a number of different product sectors. There is really no reason why it should not happen in relation to seafood.¹²²

4.120 Mr Hart outlined consumer research conducted by the RCIAA which suggested that the consumer's prime concern is product quality:

The information from the research that we undertook suggests that that is their primary consideration, not origin of the product or in fact even the health or nutritional impact of the product; it is the quality of the product.¹²³

4.121 Mr Hart explained that the uncertainty of supply of produce made it difficult for restaurants:

119 Mr John Hart, Chief Executive Officer, Restaurant and Catering Industry Association of Australia, *Committee Hansard*, Brisbane, 3 July 2014, p. 16.

120 Mr John Hart, Chief Executive Officer, Restaurant and Catering Industry Association of Australia, *Committee Hansard*, Brisbane, 3 July 2014, p. 16.

121 Mr John Hart, Chief Executive Officer, Restaurant and Catering Industry Association of Australia, *Committee Hansard*, Brisbane, 3 July 2014, p. 20.

122 Mr John Hart, Chief Executive Officer, Restaurant and Catering Industry Association of Australia, *Committee Hansard*, Brisbane, 3 July 2014, p. 17.

123 Mr John Hart, Chief Executive Officer, Restaurant and Catering Industry Association of Australia, *Committee Hansard*, Brisbane, 3 July 2014, p. 17.

... the difficulty there is not so much the cost of implementing at the time; it is the fact that the supply chain is neither consistent nor reliable. If on a particular day you could not get a particular product that was the Australian product, you would have to change the menu in order to comply.¹²⁴

- 4.122 Mr Hart discussed the inaccurate labelling of seafood by some businesses to ensure they are in compliance with the labelling requirements:

A number of the businesses have certainly made declarations of imported product when, in fact, they might not be serving imported product ... And that sort of may-contain-traces-of-nuts type approach to this – my view is that that is not a good outcome. Essentially, what you are doing is putting a disclaimer, to protect yourself, and you end up not promoting Australian product. And I am not sure that the consumer wins out of that.¹²⁵

- 4.123 Committee comments and a recommendation on this issue are outlined in chapter seven of the report.

Water neutrality

- 4.124 The inclusion of water as a product ingredient was discussed at length during several public hearings for the inquiry. There appears to be some confusion regarding the uses of water for reconstitution of juice concentrates and as an ingredient in the substantial transformation of a product. Submissions to the inquiry suggested that water should not be considered as an ingredient in a substantially transformed product.

- 4.125 APAL was keen to ensure that:

... 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.¹²⁶

- 4.126 The use of water as an ingredient was fully explained by the Department of Industry in submissions to the inquiry and at two public hearing appearances. In its submission, the Department outlined the relevant section from the ACL, Part 5-3, section 255 (9):

... in relation to an ingredient or component that has been dried or concentrated by the evaporation of water, and to which water has

124 Mr John Hart, Chief Executive Officer, Restaurant and Catering Industry Association of Australia, *Committee Hansard*, Brisbane, 3 July 2014, p. 21.

125 Mr John Hart, Chief Executive Officer, Restaurant and Catering Industry Association of Australia, *Committee Hansard*, Brisbane, 3 July 2014, p. 18.

126 Apple and Pear Australia Limited, *submission 23*, p. 3.

been added to return the water content of the ingredient or component to no more than its natural level:

- (a) the weight of the water so added is included in the weight of the ingredient or component; and
- (b) the water so added is treated as having the same origin as the ingredient or component, regardless of its actual origin.¹²⁷

4.127 The ACCC's *Guide for business* explains further that the use of water for the reconstitution of imported fruit juice concentrate into fruit juice is not considered substantial transformation.¹²⁸ The *Guide for business* however does note that the ACL provides for regulations to prescribe particular processes that would or would not constitute fundamental changes for the purpose of the substantial transformation test. However, no regulations have been prescribed as at the date of publishing this guide.¹²⁹

4.128 The Department of Industry discussed the use of water in that it may be included as part of its 'Australian' content for the purposes of a 'made in' or 'product of' claim. The Department referred to the ACCC advice that the use of water to reconstitute juice concentrate would be insufficient to make an 'Australian made' claim. As for 'grown in' claims:

... the ACL provides that water used to reconstitute the food product will be treated as having the same origin as the ingredient, regardless of whether Australian water is used.¹³⁰

4.129 The Department of Industry provided a practical example concerning the use of water and the substantial transformation test:

If a carton of tomato juice was made from imported Italian tomato concentrate, which was then reconstituted in Australia, it would not meet any of the 'safe harbours' in the ACL.

In particular, as ACCC guidance suggests that the conversion of tomato concentrate to tomato juice would not constitute substantial transformation, the juice would not meet the 'safe harbour' for general country of origin representations such as 'Made in'.

Therefore, a claim that the juice was 'Made in Australia' or even 'Made in Australia from local and imported ingredients' is likely to be considered misleading.

127 Department of Industry, *submission 20*, p. 4.

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

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

130 Department of Industry, *submission 20.1*, p. 9.

The supplier would need to consider alternative origin representations, taking care to ensure that it could demonstrate that any claim it decided to make was not false, misleading or deceptive.¹³¹

- 4.130 The Department of Industry's example also explained how water could be included in a product's ingredients and which claims could be made:

If the same tomato concentrate were to be used to make a can of minestrone soup in a factory in Adelaide, the cost of the Australian water used to reconstitute those tomatoes, together with the cost of other Australian ingredients, labour and overheads, could be counted towards the overall value of the Australian content of the soup.

As the tomato concentrate would have undergone substantial transformation in the making of the minestrone soup, should the value of Australian content account for at least 50 per cent of the total production cost of that soup, it would meet the 'safe harbour' requirements for general country of origin representations.

This would allow the soup to be labelled 'Made in Australia', 'Made in Australia from imported tomato concentrate', 'Made in Australia from Italian tomato concentrate', or a wide range of other descriptions, without the claim being considered false, misleading or deceptive.

However, as the soup would contain a significant imported ingredient (the tomato concentrate), a 'Product of Australia' or 'Grown in Australia' label is likely to be considered false, misleading or deceptive, even if a number of the other ingredients were grown here.¹³²

- 4.131 When considering water as an input in the substantial transformation test, Mr Peter Darley (Chair, Horticulture Committee) of the NSW Farmers Association, submitted that water must be treated neutrally.¹³³ Mr Samuel Reid, President of Cider Australia, also suggested that water should not be considered in the cost or the weight of ingredients of a product.¹³⁴ These suggestions are in agreement with part of Recommendation 42 of the

131 Department of Industry, *submission 20.1*, p. 9.

132 Department of Industry, *submission 20.1*, p. 10.

133 Mr Peter Darley (Chair, Horticulture Committee), NSW Farmers Association, *Committee Hansard*, Brisbane, 3 July 2014, p. 37.

134 Mr Samuel Reid, President, Cider Australia, *Committee Hansard*, Canberra, 26 June 2014, p. 2.

Labelling Logic report which sought to exclude water from a product's ingoing weight of ingredients and components.¹³⁵

- 4.132 Industry organisations including Apple and Pear Australia¹³⁶ and Cider Australia¹³⁷ expressed strong concern that imported juice concentrate that is reconstituted with Australian water was compromising the integrity of Australia's labelling system for these sectors. Further, Cider Australia submitted that this may jeopardise the long-term viability of its members:

To sustain growth and provide for a maturing market, consumers must be able to identify what they are buying, and producers must be able to differentiate their product. Existing labelling laws, including country of origin labelling requirements, do not achieve these objectives and will increasingly hamper competition, diversification and investment in the cider sector as the industry grows and matures.¹³⁸

- 4.133 Similar concerns were also expressed by Citrus Australia – SA Region.¹³⁹

- 4.134 A different view was taken by Mrs Denita Wawn, Chief Executive Officer of the Brewers Association of Australia & New Zealand. Mrs Wawn opposed the exclusion of water from a product's ingredients, as water is a key ingredient in the production of beer:

Nearly 90 per cent of beer is actually water, and it has a significant impact [on] the quality and character of the finished product. For that reason we are strongly opposed to the total exclusion of water from the requirement to calculate the origin of ingredients. As such, we believe that the current labelling as it stands may not be meeting consumer needs but we primarily believe that it is because of a lack of understanding of those terms as opposed to the terms themselves.¹⁴⁰

- 4.135 Mrs Wawn added that if water were treated neutrally, some of its members would be required to label their products with something other than 'Product of Australia'.¹⁴¹

135 *Labelling Logic: Review of Food Labelling Law and Policy* (2011), available at www.foodlabellingreview.gov.au/internet/foodlabelling/publishing.nsf/content/labelling-logic.

136 Apple and Pear Australia, *submission 23*, p. 1.

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

138 Cider Australia, *submission 26*, p. 1.

139 Citrus Australia – SA Region, *submission 28*, p. 3.

140 Mrs Denita Wawn, Chief Executive Officer, Brewers Association of Australia & New Zealand, *Committee Hansard*, Canberra, 26 June 2014, p. 5.

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

Committee comment

- 4.136 The Committee acknowledges the views, opinions and concerns raised by submitters to the inquiry on this issue. However, based on the evidence provided, the Committee is satisfied that the current arrangements for the treatment of water as a reconstitution element and as a product ingredient are suitable.

Seasonality and packaging

- 4.137 Submissions to the inquiry discussed the ability of producers and manufacturers to change labels occasionally, or perhaps often, to accurately reflect the content of a product based on the seasonal availability of produce. How practical and costly this is for manufacturers was discussed at length.
- 4.138 The Committee sought the views of many organisations on the seasonal variation of Australian produce, the use of imported produce to cover shortfalls and the labelling problems these issues present.
- 4.139 The Australian National Retailers' Association (ANRA) submission explained that its major supermarket members demonstrate a strong preference for providing Australian sourced produce whenever it is available at sufficient quantities and quality, at a fair and reasonable price, but that supplies may be supplemented by imported produce 'typically being sold when seasonal shortages limit Australian supply'.¹⁴²
- 4.140 ANRA discussed the use of the 'Made in Australia from local and imported ingredients' label as a cover for seasonal variation in produce and the use of imports:
- This is a qualified claim that can be used where it is not possible for a standalone 'Made in' claim to be made, either due to uncertainty around the question of substantial transformation and whether 50 per cent costs of production is met or to adjust to seasonal changes in availability of individual ingredients.¹⁴³
- 4.141 Mr Christopher Preston, Director, Legal and Regulatory at the Australian Food and Grocery Council discussed the variation in supply of Australian produce and how companies meet the safe harbour thresholds:
- Imagine the situation where the switch from the domestic supply to the international supply for that key ingredient takes you below the 50 per cent cost threshold that is currently in there for the safe harbour. All of a sudden, you can meet the safe harbour for 10

142 Australian National Retailers' Association, *submission 21*, p. 1.

143 Australian National Retailers' Association, *submission 21*, p. 1.

months of the year, but for two months you cannot. The ACCC guidance basically says you must meet it all the time forever, so that is a situation where the Australian industry, as much as it might want to go down a route of having an Australian product, simply does not have the supply basis here.¹⁴⁴

4.142 Mr Preston further discussed the difficulties of making the 'made in' claim while dealing with seasonal variation:

That is why we have the 'made in Australia from local and imported ingredient'-type situations happening; it is an industry response to an arbitrary 50-per-cent-cost rule that means sometimes you meet it and sometimes you do not ... That is an example where the current law probably could use some reform so that companies do not lose the opportunity to make a simple statement of 'made in Australia' just because, for a predictable two months of the year, they might have to source from overseas.¹⁴⁵

4.143 The ACCC's *Guide for business* discusses at length the issue of seasonal variation in produce and how it appears on labelling claims. A number of issues are raised:

... the front labelling on a food product may make the prominent claim that it is 'Produce of Australia'. On the back label, along with the statement of ingredients and manufacturer's details is the qualification 'due to seasonal variations in availability, some of the contents may be imported'.

This additional information raises a number of problems:

- In the first place, it throws the primary claim into doubt. If, at certain times, the contents may be imported, how can it be 'Produce of Australia' or even 'Made in Australia' at those times?
- Secondly, attempts to modify or qualify the phrase 'produce of' (or similar constructions) may be problematic for businesses wishing to rely on the safe harbour defence, given the strict requirements for establishing the defence.
- Thirdly, the primary claim is made less clear by the use of a term that may not be understood by consumers. 'Seasonal variations in availability' may mean something specific to

144 Mr Christopher Preston, Director, Legal and Regulatory, Australian Food and Grocery Council, *Committee Hansard*, Canberra, 8 May 2014, p. 38.

145 Mr Christopher Preston, Director, Legal and Regulatory, Australian Food and Grocery Council, *Committee Hansard*, Canberra, 8 May 2014, p. 38.

manufacturers, but this does not mean that consumers have the same understanding.¹⁴⁶

- 4.144 Based on the above scenario, the *Guide for business* then questions whether the contents are imported each year during the Australian off-season, or whether in some years there is a shortage of supply and it is topped up by imports. The *Guide for business* notes that the former suggests 'a regular pattern of imports, the latter that imports are used in an ad hoc manner to bolster local shortages'.¹⁴⁷ The practical question and answer scenario aids producers and manufacturers in their labelling decisions concerning seasonal variability and the use of imported produce:

What if some of my product (components or ingredients) is imported, but only sometimes? Sometimes I just can't source my raw materials in Australia.

If you know, or should reasonably have known, ahead of time that a significant component or ingredient will be imported, you shouldn't use a claim of 'Product of Australia'.

You cannot simply ignore the fact that the components/ ingredients are imported, regardless of why they were imported.

If the local shortage is related to seasonal availability, the best policy may be to say so, but in a way that makes it clear why. Clarify whether the drop in local availability is due to an irregular crop shortage or a regular replacement by imports in the local off-season, and ensure that it is not used in conjunction with a claim that implies otherwise.

You could utilise different packaging with accurate labelling for when Australian produce is used, and when it is not. You could also use a claim such as 'Australian apples used 11 months of the year, New Zealand apples used in July' when also including on the packaging the date the product was made to allow consumers to discern whether imported or Australian produce is used.¹⁴⁸

Costs of changes to packaging

- 4.145 The Committee sought advice from submitters on the costs of changing packaging to reflect seasonality or changes in source of produce.

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

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

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

4.146 Mr Callum Elder from Simplot Australia explained that it is not just the cost but the complexity and the work behind the scenes by corporate people in terms of ensuring claims are right, sourcing from different countries. Mr Elder added that the company would need multiple forms of packaging which is very expensive.¹⁴⁹ In contrast however, the AMWU discussed how some companies manage that process:

Most processors in Australia source their supplies from the same local suppliers. It is generally only in times of shortages due to temporary crises, for example, in the local environment that most processors will change suppliers. Additionally, larger suppliers are known to occasionally change their labels due to seasonal or other promotions and have built this into their cost structures. Any modifications to the labelling regime in respect of country origin would therefore not present a significant compliance burden to the vast majority of local processors.¹⁵⁰

4.147 When asked just how much of an impediment changing labels to reflect seasonal variation is to the manufacturer, Mr Tom Hale of the AMWU stated that some producers regularly change packaging:

... for instance, the growers down at Simplot in Tasmania with the frozen vegies will sometimes have to substitute imported as part of it because you have three vegies and only two of them are available at the moment. They currently carry packaging that says some of it is local and imported. Some of the packaging is 'produce of Australia'. They use whatever packaging is appropriate depending on the availability. So they are currently doing it.¹⁵¹

4.148 Safcol Australia suggested that companies would not carry more than a year's supply of labels, so there should be few costs for redundant labels. Safcol Australia also noted that many companies buy their labels offshore to reduce costs and that the cost of changing product labels was a regular part of the business:

... the cost to change a label for a can of soup would be between \$1 000 and \$1 500 per label which would not be prohibitive. It is also a fair assumption that a majority of product labels are changed at least every two years anyway as companies continue to revise their labels as part of an ongoing business process, so

149 Mr Callum Elder, Executive Director, Quality and Innovation Division, Simplot Australia Pty Ltd, *Committee Hansard*, Melbourne, 20 June 2014, p. 23.

150 AMWU, *submission 22*, p. 4.

151 Mr Tom Hale, Acting National Divisional Secretary Food and Confectionery Division, Australian Manufacturing Workers Union, *Committee Hansard*, Melbourne, 20 June 2014, p. 6.

assuming that the Government allowed a grace period of 2 years to have changes in the market, a majority of any change costs would fall within normal business expenses.¹⁵²

- 4.149 Mr Elder, however, stated that changing packaging would be a significant cost issue for its business:

In order for us to change our packaging – and currently we are looking at potential country-of-origin labelling changes, health claims labelling changes, which are coming in as of 1 January 2016 – each one of those changes costs us anywhere from \$2 million to \$6 million across the company for literally no benefit to the company.¹⁵³

- 4.150 Mr Elder did explain that the issue could be overcome:

Where you would have to do it, you would do it, and that is just part of being in business as far as I am concerned ... If we did have to bring in certain components from overseas, particularly in some of the mixes, we would have to have the packaging that would reflect that.¹⁵⁴

- 4.151 Mr Elder also suggested that there would be the possibility to quickly alter some forms of packaging during production with advances in printing technology. Mr Elder also accepted that country of origin information stamped on the 'use by date' panel was possible but not simple.¹⁵⁵

- 4.152 Mr Elder discussed some of the specific costs of changing labels, namely the printing plates and packaging:

Generally, you have several plates to make up a food label. There is usually a front label, a rear label and there may even be a cap. Changing each one of those elements has a different cost, depending on what type of primary packaging material it is, be it plastic, cans, labels for the cans and so forth ... So right across our entire product range, something that will require us to change every plate would cost us approximately \$6 million.¹⁵⁶

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

153 Mr Callum Elder, Executive Director, Quality and Innovation Division, Simplot Australia Pty Ltd, *Committee Hansard*, Melbourne, 20 June 2014, p. 23.

154 Mr Callum Elder, Executive Director, Quality and Innovation Division, Simplot Australia Pty Ltd, *Committee Hansard*, Melbourne, 20 June 2014, p. 23.

155 Mr Callum Elder, Executive Director, Quality and Innovation Division, Simplot Australia Pty Ltd, *Committee Hansard*, Melbourne, 20 June 2014, p. 23.

156 Mr Callum Elder, Executive Director, Quality and Innovation Division, Simplot Australia Pty Ltd, *Committee Hansard*, Melbourne, 20 June 2014, pp. 23-24.

- 4.153 Mr Richard Mulcahy of AUSVEG does not believe that changing labels is a significant issue:

... the issue I hear most frequently raised ... is that it costs so much money to change the pack ... you can go to any supermarket and see 20 per cent larger this week for your cereal or whatever, so I think it is a nonsense to say they cannot change.¹⁵⁷

- 4.154 Mr Mulcahy added that it is most important to accurately detail exactly what is in the package:

I know the view has been advanced to me that some manufacturers want to be able to chop and change Australian and foreign product and not have that evident on the pack. I do not think that that is acceptable in terms of what is reasonable consumer behaviour. I do not think there are compelling arguments for us not being more forthcoming. Consumers want it.¹⁵⁸

- 4.155 The National Farmers' Federation stated that it is keen to ensure that labelling laws are not impractical to implement and that any changes should recognise the potential need to vary labelling in response to seasonal Australian domestic food supplies:

It must be taken into account that at some times in the year it may be necessary for manufacturers to import produce. As manufacturers are unlikely to modify labels on a seasonal basis, requirements should not be so inflexible so as to provide a disincentive for manufacturers to utilise any form of Australian labelling and in doing so, devalue some of the benefits of striving for an Australian grown point of difference.¹⁵⁹

- 4.156 Mr Timothy Piper of AIG was also keen to minimise the impact of any labelling changes on the group's members:

We are going through so many labelling derivations in Australia at the moment, some of which are just pointless, some of which are just costly and some of which are not going to help consumers. So, please, whenever you are making decisions, take that into account. The companies are tired of it.¹⁶⁰

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

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

159 National Farmers' Federation, *submission 42*, pp. 6-7.

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

4.157 Mr Elder of Simplot Australia also recommended that there be a significant window for industry to adopt any changes that are required:

... [that would reduce] the cost and the complexity for us and enables us to use existing packaging. But one thing we must have as an industry is a stock-in-trade provision. Many of the products that we produce have five-year 'best before' codes ... For the label change that is coming in in 2016, there is no current stock-in-trade provision. That will be absolutely disastrous for us.¹⁶¹

4.158 The Department of Industry submission discussed the current flexibility of labelling rules and that changes to those rules may be detrimental to producers:

Similarly, due to seasonality, the source of particular ingredients for processed or blended food could vary throughout the year, and in fact could vary within a batch. Again, the flexibility built into the current [country of origin labelling] framework permits an adapted claim to be made in such cases – allowing producers to make clear and accurate claims without the need to change packaging. Highly prescriptive rules, especially those that would require the identification of the origin of ingredients, could prove to be difficult, costly and risky for producers should they be obliged to alter labels on a regular basis to adjust for seasonal availability.¹⁶²

4.159 Safcol Australia discussed the implementation of any labelling regime changes, referring to a changeover period:

... if the Government allowed a grace period of two years from the start of new legislation to final manufacture then the changeover costs would be minimal and any company using this argument as an excuse is probably just trying to control the situation to suit its own needs and marketing strategy.¹⁶³

Committee comment

4.160 The Committee appreciates the views provided by industry during the course of the inquiry. The Committee is always mindful of minimising change and associated costs for industry, essentially promoting a 'do no harm' ethos when considering making recommendations.

161 Mr Callum Elder, Executive Director, Quality and Innovation Division, Simplot Australia Pty Ltd, *Committee Hansard*, Melbourne, 20 June 2014, pp. 23-24.

162 Department of Industry, *submission 20*, p. 9.

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

- 4.161 However, evidence to the inquiry suggests that changing labels and packaging is a regular occurrence in the food production industry and should not be a tremendous burden should changes be made to the country of origin labelling laws.