

Submission to the Senate Inquiry into Truth in Labelling

**Prepared by
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**Representing Australian Owned and Made Producers,
Manufacturers and Service Providers
Across Major Industry Sectors**

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19 October 2009

A. Introduction

This submission was prepared in consultation with AUSBUY Corporate members who represent a broad range of industry sectors, of which the majority represent the food industry and manufactured goods.

AUSBUY represents only Australian owned companies. This does not include importers of foreign goods or foreign owned companies which operate here.

AUSBUY contends that labelling is one way to set standards to which all locally sourced and imported goods should comply.

Australian food production and manufacturing standards are among the highest in the world. Consumers should be able to identify the country of origin for any product so that can easily determine what they choose to buy.

Disciplined and well supervised labelling laws should limit statements which are "not true" or "infer" a consumer benefit. Examples are cited below where labels are not "true". Recommendations are also listed for each instance where deceptions occur.

AUSBUY's charter:

AUSBUY's charter is to provide a means of cooperative marketing for Australian owned businesses by empowering consumers with information about companies that is not readily identified on labels or promotional materials. This information enables them to discern what companies they wish to support.

AUSBUY's history:

Since 1991 AUSBUY (a not-for-profit organisation) has represented the interests of its members to consumers through the media and communities across Australia. In addition to hundreds of Corporate members, AUSBUY also has thousands of *Friends of AUSBUY* located in every State who provide regular feedback about labels which are misleading, and other issues such as change of ownership etc.

AUSBUY was formed by Harry Wallace in 1991 when he lost his 120 year old family business that produced printer's ink, as a result of dumping by a USA company. The consequences of these and similar practices since that time, has added to the relentless erosion of our skill base and local businesses in key manufacturing sectors, and a fair return on investment for our producers, growers and manufacturers.

AUSBUY Corporate membership represents billions of AUD\$ and thousands of skilled jobs to the Australian economy.

AUSBUY contends that ownership is important because every \$1 spent on a locally owned and made product has a multiplier effect in our economy supporting skilled jobs. Every \$1,000,000 invested by an Australian owned company produces 30 new jobs and a multiplier effect within our economy of 1 to 3 plus. This is called wealth creation. Ownership means that the decisions, profits and jobs stay here. Only AUSBUY can make that claim.

Discussion:

Our national anthem is "Advance Australia Fair ", yet our labelling laws have not been fair to many of our Australian owned businesses. It is not fair to deny people the opportunity to skilled and productive employment instead of dependence on the state.

Our wealth as a nation was built on generations of "wealth for toil", not by being net importers of goods, or having our major companies foreign owned.

Currently only one Australian owned company is represented in the top ten supermarket suppliers. That means that the profits of up to 90c in every dollar spent in a supermarket potentially goes off shore before tax.

Foreign companies do not invest in Australia. They buy our assets and cash flow. It is Australians who have taken the risk to start and build businesses. Our food industry is increasingly dominated by foreign owned companies who supply the basics for everyday household needs, and use deceptive labels to hide true ownership.

The argument is that they make and employ here, but the decisions are not made here and the profits before tax do not stay here. AUSBUY represents the local options.

The consequences of the loss of ownership means that while manufacturing in 1957 represented 30% of GDP; in recent years it has fallen from 4.9% of GDP to 2.9% largely because of our high dollar and cheap imports. Food exports in the past represented 80% of our GDP. Today they are around 20 to 30%.

How consumers decide:

Research, both here and overseas*, indicates that consumers increasingly want to support local businesses.

When a consumer buys a product it must meet their perceived needs, be accessible (on the shelf and easy to find), offer value for money (quality, size etc), and be competitively priced. If all these issues are equal then the deciding factor is provenance. This indicates the integrity of the product and the brand and where it was made. (*UK and EU Study 2008).

In the UK, supermarkets are responding to this kind of consumer research by increasing the presence of locally sourced goods on their shelves. Australian retailers are removing local products in favour of cheaper imports, many at the expense of our owned suppliers and these products are of lesser quality.

AUSBUY contends our labelling laws are exacerbating this problem.

Need for a disciplined approach:

AUSBUY appreciates we operate in a global economy, but it is not a level playing field, and our labelling laws make it particularly difficult for Australians to find and buy locally owned products.

Food is a strategic industry and important for our national security. Our growing environment is regarded as *Clean and Green* and of the highest quality by the rest of the world. It has been the basis for much of our national wealth and innovations, and represents a major part of our exports. Albeit, our food exports are high volume, but low value-add, yet we import manufactured foods in direct competition with our own food manufacturing base. In addition foreign companies use labels to infer a product is Australian. The consequences are loss of two key industries – farming and manufacturing.

The following points have been compiled with input from AUSBUY's Corporate members and Friends. Several AUSBUY Corporate members have made submissions to the Senate as individual companies (e.g. Sanitarium) or with industry groups (e.g. Murray Goulburn Cooperative). The opinions of those AUSBUY Corporate members that have not made direct submissions are represented here.

In summary:

This paper highlights some of the deceptive practices which foreign companies use to exploit Australians' loyalty through our labelling laws, and identifies opportunities for a more "truthful" and "equitable" approach. Recommendations are highlighted in details with each issue.

Topics addressed include:

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B. Issues of Concern

1. Country of Origin:

Current labelling gives two options Made from Local and Imported Goods or Made from Imported and Local Goods. We appreciate that food is a seasonal product and that many of our businesses have had to source off shore for some part of the year, but consumers are concerned about the growing conditions, integrity and quality of the product.

- a. Each product should state, not just that it is imported, but also the country of origin. This is especially important where a locally sourced product is available.

Recommendations:

The Country of Origin should be a minimum readable size of 7 point (slightly larger than newspaper text).

It should be consistently placed on the label e.g. front of label next to the brand and product name, beside the bar code or nutritional panel.

2. Made in Australia:

- a. This is a very confusing label as it means that the goods were transformed here and that this represents 50% of the cost of the goods. This does not guarantee that the original product was sourced from Australia. Examples where this is misleading include:
- b. These "made in" labelling laws apply also to New Zealand. However, New Zealand has an Agricultural Trade Agreement with China and under this label there is no reference to China.
- c. Australia's negotiations with China on agriculture have stopped.
- d. Currently the majority of our frozen foods are supplied from New Zealand and claim "Made in New Zealand", yet they do not have the growing capacity to meet our needs.
- e. "Made in" is a misleading label when it does not say where the product was actually grown.
- f. Increasingly we see *house brands* replace Australian owned products on the supermarket shelf. These say "Made in Australia" e.g. tins of fruit, but do not indicate whether the fruit is local or

imported. The company name is usually the local retailer with no reference to the source of the ingredients.

- g. Currently local growers and manufacturers who supply the product and contract manufacture are being increasingly excluded from house brand business with no changes made to the labels to show changes in source of supply.
- h. One of the consequences is that our rural communities where food is grown and processed are losing jobs and skills and becoming dependant on government support or must move. Manufacturing infrastructure is then underutilised or lies dormant.

Recommendations:

Made in Australia should be replaced with Product of and Made in Australia to differentiate it from foreign grown foods.

If foreign grown foods are transformed here there then they should state Made in Australia from (country of origin) Products.

3. Product of Australia:

- a. This is a nomination which means that the goods are sourced or grown here. While this labelling device is still in use, it appears to be used infrequently. It remains a clear statement of the source of the product.
- b. Some interests want to promote Australian grown, but this is a marketing device for some organisations which would simply replace a system that is already in place and is trusted. It is not equitable for Australian owned producers to use such a device when foreign owned companies are represented under that label.

Recommendations:

Product of Australia should be required whenever a food is grown here and can replace Made in Australia where foods are value added here.

Signage for fresh produce should be disciplined in stores and clearly state Product of Australia or country of origin.

Fines should be incurred when produce is wrongly labelled.

Consumers could be watch dogs and report false labels.

4. Too much information and what can be believed:

- a. Consumers do not have time to read the fine detail of labels.

Recommendations:

Elements of labels should be standardised and readable so consumers know where to find the information relevant to their needs: nutrition, product of, where made etc.

- b. Issues such as 100% Australian are almost impossible in the current trading climate.

Recommendations:

As cited about Product of and Made in Australia should apply.

- c. Language on labels:

Recommendations:

If products are sold here, either locally sourced or imported they should have English only on the labels and comply with our rules.

If imported then a label in English should be applied to the pack which complies with our standardised format.

- d. Issues such as drought and the seasonality of food can mean that products are sourced from different regions in Australia or countries throughout the year.

Recommendations:

*One Australian company has managed this process by using the parent name e.g. **Sun Rice** and uses a different brand Basmati to differentiate Product of Australia or Product of Thailand.*

When local supplies are not available that brand is not sold, but the parent brand retains retail shelf space.

In this way they do not confuse the consumer about the source of the product and support the product quality with a trusted Australian brand.

5. Foreign takeovers and ownership and timely label changes:

In recent years a number foreign companies have taken over many of Australia's major food companies.

AUSBUY's concern is that there is no requirement for the foreign companies to change labels in a timely manner.

- a. Recent examples highlight labels that still say "Australian Owned and Made" and show the contact details for the original Australian company on the pack. Kirin (Japan) took over Dairy Farmers in early 2008, yet the labels still say Australian owned and made.
- b. Trading under National Foods, this company has recently closed manufacturing plants here, and held dairy farmers to ransom with milk prices less than a third of their production costs. Yet still say Australian owned and made on their labels.
- c. Heinz took over of Golden Circle in November 2008, yet labels still say "Australian Owned and Made" with Golden Circle Co-operative contact details.
- d. However, there is no guarantee that the pineapples are still supplied from Australia. They may now be from Thailand or somewhere else in Asia, but again the labels do not reflect this. AUSBUY was advised by a Corporate member early in 2009 that at the time of the Golden Circle takeover that the pineapple farmers had not been guaranteed future orders beyond two weeks. As it takes two years to grow a pineapple the farmers would have had to find new markets.
- e. Foreign ownership of brand does not mean they continue to support the chain. Yet they still say Australian owned and made.
- f. The value to the foreign company is not necessarily the supply chain, but rather the brand and the cash flow through sale of food basics especially those brands to which Australians are loyal.
- g. In recent months Heinz has announced that they will use Golden Circle as an international brand. Despite this global positioning of the brand, Heinz has still not changed the Golden Circle labels on products sold here.

- h. Another example where a local company was taken over by a foreign owned company is King Island Beef and Cheese. The King Island brand is used to promote King Island Beef as a premium product, even though the quantity of goods sold under that brand exceeds production from the island, and killing and processing has been taken off King Island. This is deceptive marketing practice.

AUSBUY's response to these practices:

- i. Several times in 2009 AUSBUY has taken up the matter of Dairy Farmers and Golden Circle with the ACCC which is responsible for competition and consumer related issues. AUSBUY has had no satisfactory feedback. One junior person did call AUSBUY several months after the first letter was sent to ask how frequently labels are reprinted. They had not asked Kirin or Heinz.
- j. It is common sense that companies selling fast moving consumer goods reprint their labels every few months for the practical reason that they do not have capital tied up in labels. To date (October 2009) there has been no action taken to redress this deception.
- k. New labels could have been designed showing the real ownership within a few months of the takeover. But why do that when Australians still think they are being loyal to our brands and our local producers.

Recommendations:

If foreign companies are allowed to take over our companies part of the approval by the FIRB should be that they change all their labels within three months of the purchase, that they tell the truth of current ownership and supply, and incur big fines if this is not done.

They should also be required to pay equitable prices for goods supplied by local producers for a period up to five years, so they do not have the excuse that our farmers cannot supply demand and they source supplies off shore.

6. Labels which use marketing statements to falsely infer that products are Australian:

Australians want to support brands they have been familiar with yet many of these are no longer owned here or even made here.

- a. Examples of deceptive labels that are designed to appeal to Australians' loyalty to brands and to distract from the real source and ownership of the product include:
 - i. Bushells Australia's Favourite Tea - owned by Unilever imported from Malaysia
 - ii. Uncle Toby's since 1893 – foreign owned by Nestle
 - iii. Kirks Soft Drinks since 1856 - foreign owned by - Coca Cola
 - iv. Lowan's - Australian Owned and Made – owned by a British consortium

Use of the Australian flag on labels:

- b. In addition, the Australian flag is used on packaging to infer that the brand is still Australian. SPC tinned products, owned by Coca Cola Amatil is one company using the Australian flag. True ownership is not identified on the label.
- c. In the USA you cannot use the stars and stripes unless you get permission for a license from the US Federal government.
- d. The Australian flag should not be used on labels. This represents part of our history, people have fought under it. People who desecrate a flag are charged with malicious damage, yet we allow it to be used on our labels.
- e. We have no regulations here about who can use our flag. This device is used to deceive Australian consumers.

Recommendations:

Labels should be approved by a central body to ensure that they do not infer ownership or where they are sourced.

If the map of Australia should be disciplined and true and companies which misuse the flag should improperly should be fined.

7. Compliance with World Trade Organisation:

AUSBUY appreciates our obligations under the WTO, but in reality all countries limit imports and encourage exports, and many use labels to safeguard their home industries or to gain market share. Here are some examples of how others support their own businesses.

- a. In the UK retailers have responded to the down turn and consumers focus on the provenance of their products by supporting local producers. In Australia local producers compete for shelf space with dominant foreign owned businesses that either operate here or import.
- b. Major UK retailer, Tescos, has recently announced it will include food miles on its house brand labels. This will effectively benefit local food producers and those in the European Union.
- c. For an Australian company to gain market share in the UK in any volume, they have to set up a manufacturing base or contract manufacture in the UK to supply that market with its Australian brand. Such export markets may create wealth for a local company off shore, but does not create jobs here and reinvestment in our economy. In the meantime we import more processed foods in direct competition with our own.
- d. In the USA, new foods cannot be imported until the labels comply with the Food and Drug Authority rules. While buying decisions are decentralised to each state, labels are approved by the central government, and goods cannot be imported till approved by the FDA. Potential exporters can be delayed for years in this process, and in the meantime potential buyers have lost interest.
- e. In addition labels are scrutinised at point of entry and on retail shelves to ensure compliance.

Recommendations:

All imported foods must get approval for their labels from the Federal Government to sell into Australia and to ensure that the goods meet our standards of production and quality.

8. Free Trade Agreements:

- a. Free Trade Agreements have been signed which allow products to enter Australia even in our growing season.
- b. A recent example is Chile which will export stoned fruit in our shared summer.
 - i. Chile's fruits have diseases Australia does not have.
 - ii. They pay considerably lower wages to their workers, and do not have the same OH&S regulations.
- c. These imports are a significant threat to our local growers and their livelihoods.
- d. The last guard will be consumers right to purchase. The labels on the product should honestly state the country of origin on each item of food.
- e. While we have the labelling rule in place for fresh produce, Product of xxxxxxxx, it is not necessarily supervised, even by the largest retailers, and is non existent in many of the smaller fresh food retailers. The result is consumers are denied the right to choose.

Recommendations:

Fresh produce should be merchandised clearly with the country of origin, and this discipline should be closely supervised with wide and random check and fines across all levels of retail.

9. Quarantine laws and meeting Australian standards including safety issues and dumping:

Dumping:

- a. From discussions with AUSBUY's food and manufacturing members, there is little supervision of products, their standards and their labels entering Australia.
 - i. Given that many products on the supermarkets shelves and other smaller food markets are priced significantly below the cost of production of local products, AUSBUY believes that dumping is occurring. Italian tomatoes are an example.
- b. In addition, given the current downturn globally, manufactured goods are entering Australia as a result of oversupply off shore.
- c. Many do not meet our standards of safety and are in direct competition with our own manufacturers who must comply with our high local standards.
 - i. Furniture and recreational motor vehicles are two examples of imports which do not meet our standards and threaten our local manufacturing and skill base, the majority of which are Australian owned businesses.

AUSBUY is of course sensitive to the issue of dumping given our early history. However, our dumping laws place the onus to prove dumping and unfair practices on the Australian company whose products and profitability are at risk.

Recommendations:

If a company is accused of dumping they should supply evidence that they are not dumping. The victimised local company should not have to incur the cost to prove this. Many local businesses do not have the time or the resources to prove a dumping case. In the meantime, dumped products not complying with our rules set a low bench mark for price and quality.

Imports should be scrutinised to ensure they meet the standards required of our local producers and manufacturers.

The Quarantine services are the gatekeepers and should be better resourced across Australia to ensure these practices are limited.

10. Our sustainable competitive advantages – our clean green growing environment, the integrity of a product and organic products:

Disease free:

- a. With regard to fresh imports, it is too late if diseases enter Australia and potentially destroy our eco system.
 - i. Foreign bees are an example which is impacting our honey industry and export capacity.
 - ii. Chilean stone fruit and Philippines bananas have diseases that Australia does not have, and compete directly with our own farmers in our growing seasons.

Genetically modified

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- b. Currently there is no requirement for companies to put whether their products contain Genetically Engineered food.
- c. This is an issue for Australia because we have a uniquely Clean Green and disease-free growing environment.
- d. Our food exports have been built on this special quality.
- e. It is not in overseas competitors' interests for us to keep this sustainable competitive advantage.
- f. In the case of GM, many parts of Europe ban GM food production, and if imported processed foods contain GM ingredients they must state that on the labels.
- g. The problem is even greater here, although not yet required on labels. The seeds for GM canola for example are sold by one multinational company Monsanto and the Australian farmer will have to buy new seed each year. If non GM product mixes with GM product, our local non GM producer must compensate Monsanto for contamination. (source Greenpeace).

Organic foods:

- h. Organic foods are another emerging food sector which is growing in popularity because of food allergies etc.
- i. AUSBUY understands that there are processes in place to standardise these labels in Australia.
- j. Currently, there are many forms of organic labels with Australian Certification on them.

- k. These labels do not mean the product is sourced from Australia only that it meets the Certification standards.
 - i. A well known house brand of tomato paste is an example of how this certification implies something which is false. A large label on the front of the jar says "Certified Australian Organic", but at the back in very small text of less than 6 point is state "Product of Italy". This is deceptive.

Labelling disciplines:

Labels should be one way of protecting our industries. Consumers often do not have time to read the fine print and details on a label when they shop.

Recommendations:

Labels should have standardised means of identifying issues of concern to consumers or of benefits.

Symbols are not useful because the consumer first needs to be educated what they mean. Statement should be concise and in plain English.

Relevant information should be placed consistently on labels so consumers learn where to look for information.

Submission prepared by:

Lynne Wilkinson CEO AUSBUY.

Lynne has held national marketing roles with Coles and MYER in the food sector, and has since consulted to various industry sectors including, food, agriculture, property and aged care. She also founded and ran a food business using only local suppliers for nearly a decade supplying local supermarkets etc and endeavouring to build an export business. In these roles she has direct experience of developing labels which comply with our rules and export markets. She initiated Food Media Club Victoria which she chaired for six years, advised the Kennett Government in setting strategies for Food Victoria and was invited by the Keating Government to set up the first Victoria Food Network for exports. She has only ever worked for Australian owned companies.

Michael Gallagher CHAIRMAN AUSBUY.

Michael has held senior positions in Australia for the last 25 years including a directorship of a listed company. He also worked as Managing Director of AGB McNAIR ANDERSON AUSTRALIA AND NEW ZEALAND and as such he was responsible television ratings as well as major research projects for state and federal governments of both parties. Prior to immigrating to Australia he held many senior international roles among these were Director of a Hong Kong based shipping company, Managing Director of the Fruehauf Corp in Iran, Managing Director of a major Saudi Trading Company and a Management Consultant with Peat Marwick. Prior to that he worked with Dunlop International and was part of the teams responsible for establishing manufacturing operations in Malaysia and Trinidad. Among the countries he has worked in were UK, Saudi, Iran, Hong Kong, South Africa, Malaysia and Trinidad. He has also been involved in other international projects and has an unrivalled background in the complexities of international trade.