



# AFGC SUBMISSION

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SENATE INQUIRY INTO COMPETITION  
AND CONSUMER AMENDMENT (COUNTRY  
OF ORIGIN) BILL 2016

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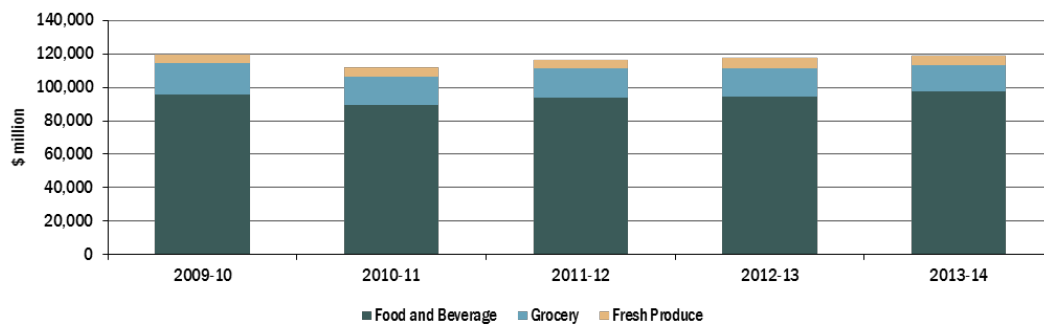
*Sustaining Australia*

## PREFACE

The Australian Food and Grocery Council (AFGC) is the leading national organisation representing Australia's food, drink and grocery manufacturing industry.

The membership of AFGC comprises more than 178 companies, subsidiaries and associates which constitutes in the order of 80 per cent of the gross dollar value of the processed food, beverage and grocery products sectors.

Composition of the defined industry's turnover (\$2013-14)



With an annual turnover in the 2013-14 financial year of \$119 billion, Australia's food and grocery manufacturing industry makes a substantial contribution to the Australian economy and is vital to the nation's future prosperity.

Manufacturing of food, beverages and groceries in the fast moving consumer goods sector is Australia's largest manufacturing industry. Representing 30 per cent of total manufacturing turnover, the sector accounts for over one quarter of the total manufacturing industry in Australia.

The diverse and sustainable industry is made up of over 26, 551 businesses and accounts for over \$61.7 billion of the nation's international trade in 2014-15. These businesses range from some of the largest globally significant multinational companies to small and medium enterprises. Industry spends \$541.8 million in 2011-12 on research and development.

The food and grocery manufacturing sector employs more than 322,900 Australians, representing about 3 per cent of all employed people in Australia, paying around \$16.1 billion a year in salaries and wages.

Many food manufacturing plants are located outside the metropolitan regions. The industry makes a large contribution to rural and regional Australia economies, with almost half of the total persons employed being in rural and regional Australia. It is essential for the economic and social development of Australia, and particularly rural and regional Australia, that the magnitude, significance and contribution of this industry is recognised and factored into the Government's economic, industrial and trade policies.

Australians and our political leaders overwhelmingly want a local, value-adding food and grocery manufacturing sector.

# POLICY POSITION

The AFGC supports the urgent passage of the Bill so that it can provide certainty for industry through the transition period to the new Country of Origin labelling requirements. The AFGC particularly welcomes the protections afforded by the introduction of 'safe harbours' under consumer law for origin claims made that comply with the Information Standard and the removal of the 50% costs rule from the definition of substantial transformation. These two measures provide clarity and certainty for industry and ensure that the legal definition of 'Made In' is more closely aligned with consumer understanding of the claim.

## **Safe Harbours for Claims made in compliance with the Information Standard**

As the Committee will be aware, the transition period for industry to implement Country of Origin reforms began on July 1 2016. The transition period allows companies two years (plus stock in trade) to adopt the requirements across their ranges for products on the priority food list. The AFGC supports this time frame, which is acknowledged by the industry and policy-makers as best practice when changing or introducing mandatory labelling requirements for food and beverages.

An identical version of this Bill was introduced prior to the dissolution of Parliament earlier this year. It is only by circumstance that the Senate did not have the opportunity to consider the Bill before to the commencement of the transition period.

The current situation, which will continue until this Bill is legislated, is that a product labelled to comply with the Information Standard may breach current consumer law because the safe harbour provisions are not yet in place. This is particularly relevant in relation to labelling options available to products with ingredients that are subject to seasonal variability but may also apply more generally to companies concerned about exposing themselves to legal risk.

The passage of the legislation will provide the sector with the confidence to implement the labelling changes across product ranges in a timely fashion and within the two year transition period which has already begun.

## **Abolition of the 50 Per Cent Production Cost Test**

The AFGC welcomes the removal of the 50 per cent production cost test as a requirement for products claiming 'Made in Australia' status. This test unnecessarily forced companies to consider their costs of production on top of the primary consideration for the claim, that is, that a product is *substantially transformed* in Australia. This test could be considered an inhibitor of efficiency in the manufacturing sector and does not advance consumer understanding of the 'made in' claim.

As outlined in the Explanatory Memoranda, the '50 per cent production cost' test is an unnecessary burden on business and means little to consumers. The test is difficult to administer given the complexities of sourcing components through the global supply chain and variability

due to currency fluctuations. Additionally, the test also becomes redundant for food products with the introduction of labels showing the percentage of Australian ingredients.

The new labelling requirements will show more clearly the two characteristics that consumers value and that are important to the success of the Australian economy: 'Made in Australia' will identify Australian food and beverage manufacturing jobs and the percentage of Australian ingredients will identify Australia's high quality agricultural produce.

### Definition of Substantial Transformation

The AFGC notes the slight amendments to the definition of substantial transformation, and in particular the requirement that "*the goods are fundamentally different in identity, nature or essential character from **all of their ingredients or components that were imported into that country.***"(Schedule 1.2.2)

The amendments at Schedule 1.2.3 allow for regulations to provide guidance on which processes constitute substantial transformation and examples of such processes. The CoOL Taskforce within the Department of Industry, Innovation and Science is currently undertaking consultation on these guidelines. The AFGC welcomes this consultation and the open approach of the Government throughout the policy process.

The core objective for Country of Origin labelling is to provide consumers with clarity about the origin of the food and beverages they consume. Origin relates not only to where ingredients are grown but also where food is manufactured. The reputation of Australia's food production for both domestic and overseas consumers is based on both the quality of our agricultural produce and the high safety and quality assurance standards that apply in our processing factories.

When determining the processes which qualify for substantial transformation, the Government should ensure that equal consideration is given to the consumers' desire to support value-added products that are underpinned by Australia's world-class food safety systems. In particular, the Government should provide labelling guidance for goods that do not qualify as substantially transformed but which may breach Australian consumer law if labelled as "Packed in Australia" when they have in fact undergone further processes.

### Recommendations

The AFGC supports the urgent passage of the Bill to provide certainty for industry and ensure the efficient transition to the new labelling requirements. The AFGC acknowledges the efforts across the Parliament to understand the complexities involved in labelling reform from both an industry and consumer perspective. The commitment of the Government at a ministerial and departmental level to develop a policy solution that addresses these complexities is to be commended.

The analysis of business costs contained within the Regulation Impact Statement should serve as a future guide to the costs and difficulties associated with mandatory labelling changes. A positive outcome from this process is a greater understanding by policy-makers of the impact on industry of changes to mandatory labelling and the need for long-term stability in this area across ministerial portfolios.