

Senate Rural and Regional Affairs and Transport Legislation Committee

Questions on Notice – Monday, 18 February 2013 2012 Hobart, TAS

Inquiry into the Competition and Consumer Amendment (Australian Food Labelling) Bill 2012 (No. 2)

Question Number	Page No's.	Witness	Question asked by	Answered
1	4 – 5	AFGC	Senator Milne	08/03/13
1	6 - 7	Coles	Senator Colbeck	Unanswered as at 21/03/13
2	8	Coles	Senator Colbeck	Unanswered as at 21/03/13
1	18	AFSA	Senator Milne	27/02/13
1	25	Treasury	Senator Colbeck	12/03/13
2	27	Treasury	Senator Milne	12/03/13
3	27	Treasury	Senator Milne	12/03/13
1	26	DIISRTE	Senator Colbeck	06/03/13
1	29	Horticulture Taskforce	Senator Milne	06/03/13
1	45	Cadbury	Senator Milne	Unanswered as at 21/03/13

**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE**

**Inquiry into the Competition and Consumer Amendment (Australian Food
Labelling) Bill 2012 (No. 2)**

Public Hearing Monday, 18 February 2013

Questions Taken on Notice – Australian Food and Grocery Council

1. HANSARD, PG 4 - 5

Senator MILNE: I just wanted a quick clarification. You said at the beginning that 'Product of Australia' is not well understood. My understanding is that 'Product of Australia' is understood. It is 'Made in Australia' that is not well understood and that is where the confusion is, because people think it relates to the location where something is made rather than the level of transformation that has occurred before you get the label et cetera. What evidence do you have that 'Product of Australia' is not well understood?

Mr Dawson: I think that is just drawn from the survey work we have seen. I would need to go back and check the data on that.

Senator MILNE: Certainly 'Made in Australia' is the one that generates the greatest confusion.

Mr Dawson: I am not sure that 'Product of Australia' is particularly well understood or that the distinction between them is well understood.

Mr Dawson: I think that is drawn from the survey work we have seen. I would need to go back and check the data on that.

Senator MILNE: Because certainly 'Made in Australia' is the one that generates the greatest confusion.

Mr Dawson: I am not sure that 'Product of Australia' is particularly well understood or the distinction between them is well understood.



one voice - adding value

1 March 2013

Mr Stephen Palethorpe
Committee Secretary
Senate Standing Committees on Rural and Regional Affairs and Transport
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

By email:
rrat.sen@aph.gov.au

Dear Mr Palethorpe

Re: SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION
COMMITTEE
Inquiry into the Competition and Consumer Amendment (Australian Food Labelling) Bill 2012
(No. 2)

Please find enclosed a copy of our response to a question on notice that were tabled by
Committee Members at the Public Inquiry into the Competition and Consumer Amendment
(Australian Food Labelling) Bill 2012 (No. 2), held in Hobart on 18 February 2013.

The AFGC has to the best of its ability answered the questions put forward by relying on the
Hansard provided. We are more than happy to provide further evidence or response in the
event that outstanding questions remain.

Sincerely

Gary Dawson
Chief Executive Officer

Attach (1)



ATTACHMENT 1

SENATE INQUIRY INTO CONTAINER DEPOSIT SCHEMES QUESTIONS ON NOTICE TO AUSTRALIAN FOOD AND GROCERY COUNCIL RESPONSES – 13 NOVEMBER 2012

Consumer Understanding of “Product of Australia” and “Made in Australia”

Question: Senator MILNE: I just wanted a quick clarification. You said at the beginning that 'Product of Australia' is not well understood. My understanding is that 'Product of Australia' is understood. It is 'Made in Australia' that is not well understood and that is where the confusion is, because people think it relates to the location where something is made rather than the level of transformation that has occurred before you get the label et cetera. What evidence do you have that 'Product of Australia' is not well understood?

Mr Dawson: I think that is just drawn from the survey work we have seen. I would need to go back and check the data on that.

Senator MILNE: Certainly 'Made in Australia' is the one that generates the greatest confusion.

Mr Dawson: I am not sure that 'Product of Australia' is particularly well understood or that the distinction between them is well understood.

Mr Dawson: I think that is drawn from the survey work we have seen. I would need to go back and check the data on that.

Senator MILNE: Because certainly 'Made in Australia' is the one that generates the greatest confusion.

Mr Dawson: I am not sure that 'Product of Australia' is particularly well understood or the distinction between them is well understood.

Response:

The AFGC is not making a distinction between whether consumers have a better understanding of “Product of Australia” as compared to “Made in Australia” rather than there is misunderstanding around both. This view is supported by Australian Competition and Consumer Commission (ACCC) Chair Mr Rod Sims in a speech delivered to the AFGC Industry Leaders Forum in October 2012.

“Made in Australia, Product of Australia, Grown in Australia; we believe this is an area where consumers need more information so that they can make informed decisions about the products they buy.”

It should be noted that under the current drafting, the Competition and Consumer Amendment (Australian Food Labelling) Bill 2012 (No. 2) would Prohibit ‘Made



one voice - adding value

in' or 'Product of' claims for foods manufactured or produced in Australia. Hence, differences in consumer understanding of either label will be irrelevant should this Bill in its current form be passed into law.

By seeking to prohibit the use of the terms 'Product of' and 'Made in' in relation to food – this Bill will penalise food manufacturers from trading on the premium of brand Australia – a highly sought after brand particularly in Asian markets.

**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE**

**Inquiry into the Competition and Consumer Amendment (Australian Food
Labelling) Bill 2012 (No. 2)**

Public Hearing Monday, 18 February 2013

Questions Taken on Notice – Coles

1. HANSARD, PG 6 -7

Senator COLBECK: We have just spoken to the Food and Grocery Council about the survey work that is quite extensive in the market. There has been a lot about it over a period of time that talks about how, if you ask people what they would like to have on their labelling, 90 per cent will say they would like more information, but, when it comes to purchase, the numbers are pretty much inverse, and 90 per cent buy on price. They talk about some categorisation in that section depending on the level of transformation of the product. The fresher the product, the more likely people would be to buy based on the provenance of the product; the greater the level of transformation, the less likely they are—getting down to paper products, which I perhaps would not have put in the category. But more highly transformed products are less likely to be bought on provenance, source, versus price. Do you have any more detailed information on that? That is something that I had not had discussed with me before, and I thought it was quite interesting. Could you confirm that even?

Mr Hadler: We do have some consumer research on this issue and we will look at whether we can dig that out and send it to the committee for its review. But, in brief, there is a high level of consumer concern about natural products, particularly in fresh produce. There has been a lot of media coverage about contamination of fresh produce that is imported into Australia. I understand there are growing concerns about understanding the provenance and country of origin of fresh produce in particular. They seem to have been conditioned around the fact that they understand the majority of highly transformed and packaged food that comes from overseas is subject to Australian food safety requirements and they seem to be less concerned about the provenance of highly processed food. Most of those brands are owned by multinational companies and I think they are aware of that. Just to summarise, the main consumer concern seems to

be around provenance of fresh produce and not highly transformed manufactured food.

Senator COLBECK: If you could provide some of the information around that on notice that would be fantastic. Just in relation to your imported product—and we have had a few of these discussions previously on imported versus local—what sort of testing regimes do you run those through as they come in versus the QA systems and testing processes that might be required for locally produced products? This is the discussion around Australian farmers growing product under more stringent conditions and requirements than imported products might be. What sort of supply chain efficacy do you have in comparison between the two different product streams?

2. HANSARD PG 8

Senator COLBECK: Okay. Back in 2005-06, you moved to a fairly deliberate policy of sourcing a number of your home-branded products locally and probably stole a march on the rest of the industry. Can you give us a sense of the consumer reaction to those products? Your Australian peas, for example, would be one that I would recognise, to start with. But can you give us a sense of the reaction to that and where they have fitted into the broader market?

Mr Mara: Yes, we went into the market with Simplot, as you probably know, making Coles branded products down in Tasmania. The consumer response has been very positive. I will not give you a percentage over the phone, but we do provide those kinds of numbers in terms of the relative popularity of the leading brands. But they have been very successful for our frozen vegetable range—

Senator COLBECK: I would appreciate it if you could provide us with that information.

**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE**

**Inquiry into the Competition and Consumer Amendment (Australian Food
Labelling) Bill 2012 (No. 2)**

Public Hearing Monday, 18 February 2013

Questions Taken on Notice – Australian Food and Sovereignty Alliance

1. HANSARD, PG 18

Senator MILNE: Do the Europeans also do environmental standards and sustainability standards, or do they just do GM?

Mrs Moloney: They do. They look at a range of nutritional issues and new technologies like nanotechnology, not just genetically modified foods. I can get back to you on exactly—

Senator MILNE: I would just be interested to know what the 2014 regs in Europe are going to be in terms of the labelling—

Mrs Moloney: It is well worth looking into.

Senator MILNE: and also how they address the issue that it is so tiny that you cannot see it without getting your glasses out and whatever. How are the EU going to address having more information but in a readable way? I would be interested to know how they overcome that conundrum.

Mrs Moloney: I think the point also is that, if there are ingredients that compromise their laws, they will not be accepted into the country, so that reduces the amount that they have to include in their labelling systems. I think that it is well worth looking into, and I would be happy to provide more information.

Senator MILNE: Thank you.

Food Labelling: *EU regulations as of December 2014*

Senator MILNE: “Do the Europeans also do environmental standards and sustainability standards, or do they just do GM?”

In addition to labelling GM foods, the new EU laws will name nanofoods on food labels. Animal welfare and sustainability of certain ingredients (i.e. palm oil) are issues of concern but do not specifically need to be named in the new food labelling regulations.

NANOFOODS

- “The novel food information to consumers regulation (EU Regulation 1169/2011) was eventually approved by the EC (July 2011) and will come into force in December 2014, combining 2 previous directives on “labelling, presentation and advertising of foodstuffs” (2000/13/EC) and “nutrition labelling for foodstuffs” (90/496/EEC). This regulation includes the requirement for labelling of ingredients in the form of nanomaterials (material plus word “nano” in brackets) [EU11].”¹
- “All ingredients present in the form of engineered nanomaterials must be clearly indicated in the list of ingredients. The names of such ingredients must be followed by the word 'nano' in brackets.

Engineered nanomaterials are not required to be included in the list of ingredients when they are in the form of one of the following constituents:

- food additives and food enzymes:
 - whose presence in a given food is solely due to the fact that they were contained in one or more ingredients of that food, in accordance with the carry-over principle referred to in points (a) and (b) of Article 18(1) of Regulation (EC) No 1333/2008 and they serve no technological function in the finished product; or,
 - which are used as processing aids;
- carriers and substances which are not food additives but are used in the same way and with the same purpose as carriers, and which are used in the quantities strictly necessary;
- substances which are not food additives but are used in the same way and with the same purpose as processing aids and are still present in the finished product, even if in an altered form.”²

ANIMAL WELFARE

- “Union consumers show an increasing interest in the implementation of the Union animal welfare rules at the time of slaughter, including whether the animal was stunned before slaughter. In this

¹http://www.observatorynano.eu/project/filesystem/files/ObservatoryNano_Nanotechnologies_RegulationAndStandards_2012.pdf, page 6

²http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/docs/qanda_application_reg1169-2011_en.pdf page 8

respect, a study on the opportunity to provide consumers with the relevant information on the stunning of animals should be considered in the context of a future Union strategy for the protection and welfare of animals.³

- Member States should carry out official controls in order to enforce compliance with this Regulation in accordance with Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules [24].”⁴

SUSTAINABILITY

- “The new rules also require manufacturers to indicate the origin of vegetable oils use in food. Currently, many ingredient lists for products merely state "vegetable oil", without specifying whether it comes from rapeseed, corn, sunflower or palm. Concerned with palm oil plantations that endanger rainforests and wildlife, EU lawmakers insisted that the source of vegetable oil should be indicated on the packaging.”⁵

Senator MILNE: “and also how they address the issue that it is so tiny that you cannot see it without getting your glasses out and whatever. How are the EU going to address having more information but in a readable way? I would be interested to know how they overcome that conundrum.”

The new EU CoOL food laws outline that all labelling must be in a consistent format to ensure it is readable to customers.

- “Food labels should be clear and understandable in order to assist consumers who want to make better-informed food and dietary choices. Studies show that easy legibility is an important element in maximising the possibility for labelled information to influence its audience and that illegible product information is one of the main causes of consumer dissatisfaction with food labels. Therefore, a comprehensive approach should be developed in order to take into account all aspects related to legibility, including font, colour and contrast.”⁶

³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32011R1169:EN:NOT>, point 50

⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32011R1169:EN:NOT>, point 52

⁵ <http://www.euractiv.com/cap/parliament-rubber-stamp-new-food-news-506067>

⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32011R1169:EN:NOT>, point 26

**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE**

**Inquiry into the Competition and Consumer Amendment (Australian Food
Labelling) Bill 2012 (No. 2)**

Public Hearing Monday, 18 February 2013

Questions Taken on Notice – The Treasury

1. HANSARD, PG 25

Senator COLBECK: So what is the information base for how we are making decisions at the moment if we have not asked these questions previously and if you are looking at things—as you were talking about with Senator Milne—around how you might work on the definition or the management of 'substantial transformation'?

Ms Milward-Bason: The working group has been informed by the work of the Blewett review and the submissions to that review; the recent Senate Select Committee on Australia's Food Processing Sector inquiry, which I believe you chaired—

Senator COLBECK: Correct.

Ms Milward-Bason: and the submissions to that inquiry; submissions to a number of other labelling bills from earlier parliaments; and general correspondence that has been received by the different agencies. So we do understand that it is an issue and we are not shying away from that. We understand it is an issue and that is why we are working together to come up with improved guidance material. Once we have done that, that is when we will look at how effective the improved guidance material is. Once that is established, if there are still gaps in the current framework, that is when we will look at how and where we should improve the current framework.

Mr Francis: I would just like to add something, about the ACCC data on the level of consumer complaints, and that is that it appears to be relatively low. There have been a total of 254 complaints in the last 12 months in relation to country-of-origin labelling for all goods, which represents less than one per cent of total contacts with the ACCC.

Senator COLBECK: Can you give us a sense of where those complaints were specifically directed?

Mr Francis: I would have to take that on notice.

2. HANSARD PG 27

Senator MILNE: How many breaches of the current labelling laws have been identified, or, more particularly, how many successful prosecutions have there been?

Mr Francis: That is something I can take on notice, but my understanding is that the ACCC, or consumer agencies more generally, have issued a number of substantiation notices. I do not have the exact number, but I think it is in the low double digits, probably around 20 to 30 substantiation notices.

3. HANSARD PG 27

Senator MILNE: But, over time, is it fair to say that there have been virtually no prosecutions?

Mr Francis: The way the ACCC will work in relation to this is, when they receive a complaint, they will then investigate it and determine whether action is needed. The low level of complaints that we have seen to the ACCC on this issue is probably the reason why you do not see many prosecutions. We can take it on notice if you wish us to provide examples, but I think that they have taken some action in relation to false and misleading claims. I believe one was taken in relation to King Island beef last year, where a company was using the term 'King Island beef' as part of its claim, when the beef did not actually originate from King Island.

Senator MILNE: I would appreciate your taking it on notice to get us the stats on the complaints and the compliance issue you just referred to. Any examples would be appreciated as well. Thank you very much.

**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE**

**Inquiry into the *Competition and Consumer Amendment (Australian Food Labelling) Bill*
2012 (No. 2)**

Public Hearing Monday, 18 February 2013

Questions Taken on Notice – The Treasury

1. HANSARD PG 25

Senator COLBECK: So what is the information base for how we are making decisions at the moment if we have not asked these questions previously and if you are looking at things—as you were talking about with Senator Milne—around how you might work on the definition or the management of 'substantial transformation'?

Ms Milward-Bason: The working group has been informed by the work of the Blewett review and the submissions to that review; the recent Senate Select Committee on Australia's Food Processing Sector inquiry, which I believe you chaired—

Senator COLBECK: Correct.

Ms Milward-Bason: and the submissions to that inquiry; submissions to a number of other labelling bills from earlier parliaments; and general correspondence that has been received by the different agencies. So we do understand that it is an issue and we are not shying away from that. We understand it is an issue and that is why we are working together to come up with improved guidance material. Once we have done that, that is when we will look at how effective the improved guidance material is. Once that is established, if there are still gaps in the current framework, that is when we will look at how and where we should improve the current framework.

Mr Francis: I would just like to add something, about the ACCC data on the level of consumer complaints, and that is that it appears to be relatively low. There have been a total of 254 complaints in the last 12 months in relation to country-of-origin labelling for all goods, which represents less than one per cent of total contacts with the ACCC.

Senator COLBECK: Can you give us a sense of where those complaints were specifically directed?

Mr Francis: I would have to take that on notice.

Answer: Table 1 provides a break-down of contacts received in the last 12 months by the ACCC in relation to country-of-origin labelling for all goods by category.

Table 1: Break down of country-of-origin labelling contacts received by the ACCC

Country of Origin Categories	
Food Goods	77
Clothing and Fashion Accessories	33
Electronic Goods and Appliances	15
Building and Construction supplies	11
Furniture	11
Motor Vehicles & Accessories	8
Vitamin, Supplements and Pharmaceutical products	8
Solar panels	8
Gardening Supplies	6
Cosmetics	4
Cleaning product	3
Crockery And Pottery	3
Agricultural supplies	3
Books	3
Sporting Equipment	2
Tools	2
Other	8
Unknown	49
Total	254

2. HANSARD PG 26

Senator MILNE: How many breaches of the current labelling laws have been identified, or, more particularly, how many successful prosecutions have there been?

Answer: The ACCC has had a number of successful litigated outcomes in relation to misleading claims about place or country-of-origin.

- *ACCC v UNJ Millenium Pty Ltd & Mr Guen Uek Park* – In October 2012, the Federal Court ordered Gold Coast retailer UNJ Millenium Pty Ltd to pay \$55 000 in penalties after it admitted it made false or misleading claims that sheepskin and wool bedding products were made in Australia, contained 100 per cent sheep wool or contained 100 per cent alpaca wool.

- *ACCC v Kingisland Meatworks and Cellars Pty Ltd* – In February 2013, the Federal Court imposed a penalty of \$50 000 on a Victorian butcher, Kingisland Meatworks & Cellars Pty Ltd for misleading place of origin representations. This followed the court's finding in August 2012 that Kingisland Meatworks had falsely represented that the meat offered for sale through its Brighton shop was from King Island, when in fact very little or none of the meat was from King Island.
- *ACCC v Hooker Meats Pty Ltd* – In February 2013, the Federal Court made declarations and imposed a \$50 000 penalty on Hooker Meats Pty Ltd trading as Peninsula Bulk Meats for misleading and deceptive conduct in representing that the meat it offered for sale was sourced from King Island. Hooker Meats also provided the court with a three year undertaking not to represent that its product originated from cattle that were raised on King Island in circumstances where the product does not, in fact, originate from cattle raised on King Island.
- *ACCC v Marksun Australia Pty Ltd* – In February 2011, the Federal Court imposed a \$430 000 penalty on online trader Marksun Australia for engaging in false and misleading conduct. Marksun Australia represented on various websites that its ugg boots were made in Australia when the ugg boots were in fact made in China.
- *ACCC v Harvey Fresh (1994) Pty Ltd* – In 2009, the Federal Court declared that Harvey Fresh Limited misled consumers by falsely representing that two of its cheese products were produced in Western Australia, when in fact the cheese products were produced in Victoria.
- *ACCC v Ixon Japan KK and Ikuson Trading Company Pty Ltd* – In 2005, the Federal Court made consent orders against a Japanese company, Ixon Japan KK and its Australian affiliate, Ikuson Trading Company Pty Ltd, for misleading country of origin labelling of a honey drink they promoted. The companies promoted the 'Ixon Club Propolis Drink' to Japanese Ixon Club members as a 'Product of Australia', when the product was manufactured and bottled in China, from mostly Chinese honey. The drink only contained about 2 per cent Australian honey.
- *ACCC v Berri Ltd* – In 2004, the Federal Court made consent orders against Berri Ltd for alleged misleading conduct in relation to the labelling of a number of its fruit juice and fruit drink products. The orders were made without a finding of liability, and included an order restraining Berri Ltd from making representations that its fruit juice products containing reconstituted fruit juice were made 'from Australian and imported reconstituted fruit juice depending on seasonal availability'.
- *ACCC v The South Australian Olive Corporation and Inglewood Olive Processors Limited* – In 2003, the Federal Court found that The South Australian Olive Corporation Pty Ltd and Inglewood Olive Processors Limited engaged in misleading and deceptive conduct about representations made about Viva Extra Virgin Olive Oils in television and magazine advertising and on product labels. The advertisements and product labelling contained claims that Viva Extra Virgin Olive Oils were products of Australia, made in Australia, and were comprised entirely of olive oil from Australia, when in fact the oils were a blend that included up to 50 per cent imported oil.
- *ACCC v National Chemical Pty Ltd trading as National Natural Products* – In 2003, the Federal Court found that National Chemical Pty Ltd had engaged in misleading

and deceptive conduct in relation to country of origin labelling of eucalyptus oil it supplied.

Examples of non-litigation enforcement outcomes undertaken by the ACCC in relation to misleading claims about country or place of origin include:

- In 2012, Club Trading & Distribution, the distributor of 'Double D' eucalyptus oil, paid a \$6 600 infringement notice for falsely labelling imported oil as made in Australia.
- In 2011, the ACCC accepted court enforceable undertakings from Aldi Foods Pty Ltd and Spring Gully Foods Pty Ltd, in relation to misleading claims about the place of origin of Aldi's 'Just Organic' honey as being 'produced' or 'made with honey produced' on Kangaroo Island when in fact it contained less than 11 per cent Kangaroo Island honey.
- In 2010, the ACCC accepted enforceable undertakings from H.J. Heinz Australia Company Limited in relation to Golden Circle products labelled as "proudly Australian owned". Heinz was owned by an American company, and acquired Golden Circle in 2008.
- In 2010, the ACCC accepted court enforceable undertakings from Austar Port Lincoln Pty Ltd trading as Austar Seafood Warehouse in relation to misleading claims made about the place of origin of some of its seafood. Austar had labelled its product as "local" and "100% Port Lincoln" when some were in fact sourced from elsewhere within Australia or imported.
- In 2007, the ACCC accepted court enforceable undertakings from Bevco Pty Ltd in relation to misleading labelling of Bevco pineapple juice. The juice was labelled "100% Australian made and owned", when the product contained reconstituted imported pineapple juice.
- In 2004, the ACCC accepted court enforceable undertakings from Cadbury Schweppes Pty Ltd about the labelling of The Natural Confectionery Company range of confectionery products. Cadbury Schweppes, which is part of the worldwide Cadbury Schweppes group of companies, acquired Sunrise Confectioners (Aust) Pty Ltd in April 2003. Sunrise distributed TNCC products in packaging that stated 'The company has been in the same family for four generations and is 100% Australian owned.' Due to Cadbury Schwappe's acquisition of Sunrise, this claim was not true.
- In 2001, the ACCC accepted court enforceable undertakings from Entee Foods and Beverage Distributors and Wholesalers Pty Ltd. Entee Foods sold orange juice containing 15 per cent Brazilian orange juice concentrate under labels claiming the juice was a "product of Australia", "Australian Squeezed" and "Darwin Squeezed". The labelling on the "Darwin Squeezed" juice also failed to list sugar as an ingredient in the juice.

This information relates to enforcement action undertaken by the ACCC and does not reflect all enforcement activities being undertaken by Australian Consumer Law regulators in relation to country-of-origin issues.

In relation to work being undertaken nationally by Australian consumer agencies as part of the current compliance and enforcement work on country-of-origin labelling, 25 substantiation notices have been issued to a number of producers and distributors. The outcomes of this activity are expected to be known in mid-2013.

3. HANSARD PG 27

Senator MILNE: But, over time, is it fair to say that there have been virtually no prosecutions?

Mr Francis: The way the ACCC will work in relation to this is, when they receive a complaint, they will then investigate it and determine whether action is needed. The low level of complaints that we have seen to the ACCC on this issue is probably the reason why you do not see many prosecutions. We can take it on notice if you wish us to provide examples, but I think that they have taken some action in relation to false and misleading claims. I believe one was taken in relation to King Island beef last year, where a company was using the term 'King Island beef' as part of its claim, when the beef did not actually originate from King Island.

Senator MILNE: I would appreciate your taking it on notice to get us the stats on the complaints and the compliance issue you just referred to. Any examples would be appreciated as well. Thank you very much.

Answer: Please refer to the response for the second Question on Notice.

**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE**

**Inquiry into the Competition and Consumer Amendment (Australian Food
Labelling) Bill 2012 (No. 2)**

Public Hearing Monday, 18 February 2013

**Questions Taken on Notice – Department of Industry, Innovation, Science,
Research and Tertiary Education**

1. HANSARD, PG 26

Senator COLBECK: Do you have any research on the effect or impact of regional branding?

Ms Milward-Bason: We might have to take that on notice. It may have been something that was raised in the recent food-processing industry strategy group.

**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE**

**Inquiry into the Competition and Consumer Amendment (Australian Food
Labelling) Bill 2012 (No. 2)**

Public Hearing Monday, 18 February 2013

**Questions Taken on Notice – Department of Industry, Innovation, Science,
Research and Tertiary Education**

1. HANSARD, PG 26

Senator COLBECK: Do you have any research on the effect or impact of regional branding?

Ms Milward-Bason: We might have to take that on notice. It may have been something that was raised in the recent food-processing industry strategy group.

Answer

No, the Department of Industry, Innovation, Science, Research and Tertiary Education (DIISRTE) does not have any research on the effect or impact of regional branding.

DIISRTE is aware that some food producing regions have sought to develop regional brand identities — such as the *Eyre Peninsula Australia's Seafood Frontier*, the *Taste Tasmania* and the *Taste Paradise Tropical North Queensland* campaigns — however we do not have any research on the effect or impact of these regional branding activities.

Austrade or the Department of Agriculture, Fisheries and Forestry could possibly possess such information.

There is broad consensus within the Australian food industry, across both primary producers and food processors, that Australia's national reputation for food security and quality translates to an international brand identity that fosters positive consumer responses, particularly in Asia. The work of the Food Processing Industry Strategy Group (FPISG) was largely based on this national brand.

**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE**

**Inquiry into the Competition and Consumer Amendment (Australian Food
Labelling) Bill 2012 (No. 2)**

Public Hearing Monday, 18 February 2013

Questions Taken on Notice – Horticulture Taskforce

1. HANSARD, PG 29

Senator MILNE: Thank you for your submission and for your support for better country-of-origin labelling. First, could you outline a little more why you believe there is not a level playing field for Australian growers competing against imported food?

Mr Seymour: That is best summed up on a specific issue, and we can come back to the committee in detail to give you specific examples. The long and short of it is that there are many ways that imported food—fresh fruit and vegetables—can come to Australia and not be clearly identified as being foreign grown. We want to make sure that consumers have the opportunity to fairly understand where the thing is grown.

Horticulture Taskforce

Chair Judith Damiani | CEO, Citrus Australia

Deputy Chair Richard Mulcahy | CEO, AUSVEG

Treasurer Greg Seymour | General Manager, Australian Mushroom Growers Association

HORTICULTURE TASK FORCE – RESPONSE TO QUESTION TAKEN ON NOTICE

SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE

Inquiry into the Competition and Consumer Amendment (Australian Food Labelling) Bill 2012 (No. 2)

Public Hearing Monday, 18 February 2013

Question Taken on Notice – Horticulture Taskforce

The Horticulture Taskforce is a coalition of peak industry bodies (PIB) across Australia's horticultural industries, which is one of the fastest growing areas of Agriculture in Australia. Established in 2010, the Taskforce comprises 17 PIB that represent the vast majority of production by individual growers and producers throughout the country. The Taskforce was established to address issues of concern relevant to all sectors of horticulture.

The Horticulture Taskforce comprises the following members:

Citrus Australia

AUSVEG

Australian Mushroom Growers Association

Australian Banana Growers Council

Apple and Pear Australia Limited

Australian Mango Industry Association

Onions Australia

Summerfruit Australia

Nursery and Garden Industry Australia

Raspberries and Blackberries Australia (formally the Australian Rubus Growers Association)

Cherry Growers Association

Biological Farmers Association

Passionfruit Australia

Strawberries Australia

Avocadoes Australia

Growcom

Australian Nut Industry Council

This document serves to provide a response to a question taken on notice as part of the Inquiry into the *Competition and Consumer Amendment (Australian Food Labelling) Bill 2012* (No. 2). This question was taken on Monday 18 February.

Below is a transcript of the question and surrounding context, taken from the Hansard record of the Inquiry.

1. HANSARD, PG 29

Senator MILNE: Thank you for your submission and for your support for better country-of-origin labelling. First, could you outline a little more why you believe there is not a level playing field for Australian growers competing against imported food?

Mr Seymour: That is best summed up on a specific issue, and we can come back to the committee in detail to give you specific examples. The long and short of it is that there are many ways that imported food—fresh fruit and vegetables—can come to Australia and not be clearly identified as being foreign grown. We want to make sure that consumers have the opportunity to fairly understand where the thing is grown.

Response to Question Taken on Notice

The Horticulture Task Force provides the following specific examples for a range of horticultural products where we believe Australian growers are disadvantaged by the current country-of-origin labelling regulations. These examples demonstrate how packages or products can contain significant levels of imported fruit and vegetables but consumers are not adequately informed of these facts.

1. Mushrooms

Pre-wrapped packages or “pre-packs” of mixed varieties of fresh mushrooms are often seen at the point of sale. Many of the individual mushroom types are imported but a few may be grown in Australia. The pack may contain 80% by volume and/or number of the mushrooms that are imported. The label can refer to local and imported mushrooms. The volume of imported product and the countries each mushroom type is derived from is not made clear to consumers.

2. Bananas

Imported banana pulp and imported whole frozen bananas go straight to manufacturers of food for use in products such as baby food, cereal and cakes. While the packaging of these products indicates country-of-origin, the consumers of the resulting food are not aware whether this is from foreign or Australian bananas, or a mixture of the two.

Imported banana chips often go straight to retailers and are labelled as products of

various countries, usually in small text, which may be non-compliant with current laws.

3. Apples, Pears and Fruit Juice

There are a number of instances in the case of apple juices, for example, where ambiguous labelling claims are made on packaging. This includes *Homebrand Apple Juice*, which is labelled “Packed in Australia from local and imported ingredients”. This is confusing to consumers as it fails to indicate the portion of the juice that is Australian grown. This label also neglects to identify the origin of the imported product.

There are also a number of apple products which use names associated with Australia, despite the fine print on the labelling then indicating that the product has been imported. Some examples of these include *Devondale Sparkling Apple Juice*, which is made in Australia from imported ingredients, *Sunraysia Organic Apple 100% Juice*, which is made in the United Arab Emirates and *Angus Park - Est. Barossa Valley 1911 – Sliced Sun Dried Pears* are packed in Australia using imported ingredients.

4. General

One of the ways retailers can avoid clear country of origin labelling is to mix local and imported product in a single tray. For example, it is quite legal for a retailer to display a tray of produce, e.g. lemons, as a mixture of local and imported product. There is no indication as to which pieces of fruit come from Australian producers and which are imported. Further, there is no requirement to give an indication of the proportion of imported fruit. Therefore it is possible to put one piece of local fruit in a crate of imported fruit and label it as a mix of local and imported product.

Avocado pulp and oil are imported, with the majority of unclear or confusing labelling occurring in dips manufactured in Australia from pulp which may be imported.

Processed passionfruit pulp is imported into Australia and then sold on to food service outlets. In some cases, it is blended with Australian pulp, but in most cases is just supplied direct to food services. As a consequence, traceability or identification is difficult to determine.

5. Vegetables

There are a number of ways that vegetable products can be labeled in a way that fails to clearly identify the country of origin of some, or all, of the product. Below are a number of specific examples of labelling which do not clearly identify the country-of-origin of some or all of the contents, or the labelling is potentially confusing or ambiguous. A range of examples have been cited to provide an overview of some of these current labelling practices.

5A. "Packed in Australia from imported and local ingredients"

The label on this packet of *Coles Thai-style Stir-fry Vegetables* carries the claim "Packed in Australia from imported and local ingredients." This claim does not identify what percentages are local or imported. The claim also neglects to identify the country-of-origin of the imported contents.



5B. “Made in Australia from imported and local ingredients”

The label on this packet of Birdseye Country Harvest Spring Greens Mix carries the claim “Made in Australia from imported and local ingredients.” This claim does not identify what percentages are local or imported. The claim also neglects to identify the country-of-origin of the imported contents.



5C. No identification of origin, origin indicated by branding

The label on this can of *Batchelors Mushy Chip Shop Peas* fails to actually identify the origin of the contents. Some branding on the label carries the statement “The UK’s No. 1 Mushy Pea” but this does not state where the contents have originated.



5D. “Made in Australia from local and imported ingredients”

The claim on this tomato sauce is that it has been “Made in Australia from local and imported ingredients,” however apart from the tomatoes, the origin of the imported ingredients is not identified.



5E. Made in New Zealand, Australian Flag Packaging

This *Golden Circle Corn Kernels* “Australia Day Celebration 3pk” carries the labelling claim “Made in New Zealand,” however prominently features the Australian flag on the front of the packaging. This creates a confusing labelling situation for consumers.



5F. "Packed in New Zealand from imported ingredients"

These beans carry the labelling claim "Packed in New Zealand from imported ingredients." There is no identification of where the contents have been grown, only where they have been packed.



**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE**

**Inquiry into the Competition and Consumer Amendment (Australian Food
Labelling) Bill 2012 (No. 2)**

Public Hearing Monday, 18 February 2013 2012

Questions Taken on Notice – Cadbury

1. HANSARD PG 45

Senator MILNE: Perhaps we could take on notice to ask Cadbury whether they have done any promotional runs in recent times and how long it took them to change the labels for such a promotion. It would just be of interest to see how they did it.