



29 October 2009

The Secretary  
Senate Economics Legislation Committee  
Parliament House  
CANBERRA ACT 2600

Dear sir,

**Food Standards Amendment (Truth in Labelling Laws) Bill 2009**

- 1) The Food & Beverage Importers Association (FBIA) appreciates the opportunity to comment on the Food Standards Amendment (Truth in Labelling Laws) Bill 2009. By the way of background, the FBIA is an industry association that represents importers of food and beverages, both retail ready and ingredients for further processing, into Australia.
- 2) For the reasons set out below, the FBIA opposes this Bill.
- 3) The context that we see as being critical to an assessment of this Bill is the recognition that Australia has a national system of food regulation that is based on an intergovernmental agreement between each state and territory and the Commonwealth. This agreement, the Food Regulation Agreement, promotes a national system of food regulation. Such an agreement was necessary if the Commonwealth was to have a role in the regulation of domestic food supply because it has no specific constitutional power in this area.

The agreement established the Australia and New Zealand Food Regulation Ministerial Council (Ministerial Council) and bestowed on it the responsibility for developing food policy. In addition, under the agreement, Food Standards Australia New Zealand has the task of developing food standards in keeping with objectives stipulated in its legislation and following any policy that may have been set by the Council, for inclusion in the Australia New Zealand Food Standards Code. That Code has been incorporated into state and territory law through the various state food Acts, which make it an offence not to comply with the Code.

**Food & Beverage Importers Association**

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The states and territories then have the responsibility for implementing and enforcing the food standards.

The Food Standards Amendment (Truth in Labelling Laws) Bill sidesteps this system for developing food standards and seeks to direct FSANZ to develop labelling standards that include the specified requirements stipulated in the Bill. In so doing, the Bill runs contrary to the major regulatory reforms that have led to the current cooperative national system that has been of benefit to industry and consumers. Critically, it avoids seeking the agreement of the states and territories that have the responsibility for enforcing the Food Standards Code under the various state food acts.

The standard development process proposed by the Bill is tantamount to a rejection of the agreed system for developing national food standards. For that reason, we oppose the Bill.

- 4) In our view, there are a number of other objections to this Bill:
- a. The Australia and New Zealand Food Regulation Ministerial Council has established a comprehensive review of food labelling law and policy. In our view, it is clearly premature to change one aspect of labelling regulations before the review into the overall system is finalised. Any change to origin labelling regulations should wait on the outcome of that review.
  - b. There is already an agreed policy for country of origin labelling that has been determined by the Ministerial Council and this policy has been applied in the development of Standard 1.2.11 – Country of Origin Labelling. This Bill simply ignores that policy and there is no explanation of any alleged failings in that policy.
  - c. The origin labelling rules have been reviewed and revised in recent years. Before seeking yet another change, in our view, there would be advantages to conducting a study into the enforcement of current requirements.
  - d. A *Country of Origin* standard developed in accordance with the Bill would be inconsistent with the Trade Practices Act that provides defences for the use of the terms ‘product of’ and ‘made in’ as those defences would remain applicable to claims of Australian origin.



- e. The Bill also seems to make it impossible to label a product as Australian when then there is an imported ingredient in the food. But the imported ingredient might be a minor component of the food. In that case, if an origin statement is mandatory and a reference to Australia is not permitted, what origin can be declared?

Should you seek clarification on our comments, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink that reads 'Tony Beaver'. The signature is written in a cursive style and is positioned above a long, thin horizontal line that extends across the width of the signature.

A J Beaver  
Director