

Select Committee on Australia's Food Processing Sector

Submission by the
Australian Olive Association

May 2012

Committee Secretary
Select Committee on Australia's Food Processing Sector
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Via email: foodprocessing@aph.gov.au

1. (b) (iii) Food Labelling

Many Australian Olive Growers are fighting for their survival, producing world class Extra Virgin Olive Oil (EVOO), only to see the retail price slashed because they are competing with a vast number of olive oils that are mislabeled and fraudulent.

These oils (mostly imported) are not what they claim to be or are lower grade products being sold with misleading labeling such as 'Pure' 'Light' or 'Extra Light'

These olive oil grades are illegal in most olive oil producing countries including those in Europe, yet Australia allows this to continue to happen at the expense of an entire Industry.

The Government Funded "Taking Stock & Setting Direction report "2005" stated:

..."In addition, issues associated with label integrity and 'truth in labelling' represents a real challenge for the industry. If the industry is to introduce a campaign to educate consumers in regards to product labelling, the challenge will be to also put in place a system for ensuring appropriate labelling of Australian products and monitoring and enforcing regulations relating to labelling of imported products. Success in meeting this challenge would be more likely if a formal Australian product description were introduced"

Business in Italy

Special service by AGI on behalf of the Italian Prime Minister's office

FAKE OLIVE OIL SEIZED IN LE MARCHE SUPERMARKETS

(AGI) - Ancona, Italy, June 1 - Thousands of bottles and cans containing extra virgin olive oil were discovered and seized in some supermarkets in Le Marche by the Carabinieri scientific unit and the central anti-fraud office. The products, with a label saying they were from southern Italy, were supposedly extra virgin olive oil, but they were in fact a mix with seed oil. "Controls are indispensable to avoid fraud against the consumer and to guarantee companies from disloyal competition, but the next step must be the application of a law on mandatory labelling of the origin of the farm product in the foods, so that people can know not only what type of olive oil they are buying but also whether it was made with Italian or foreign olives," said the president of Coldiretti Marche, Giannalberto Luzi. Concerning guarantees, it should be said that Le Marche consumers will have a certified oil from Le Marche. The paperwork for the certification is in Brussels and in September it will have an OK from the EU. In 2004, 310,000 quintals of olives were gathered in Le Marche, producing 41,000 hectolitres of oil. (AGI)

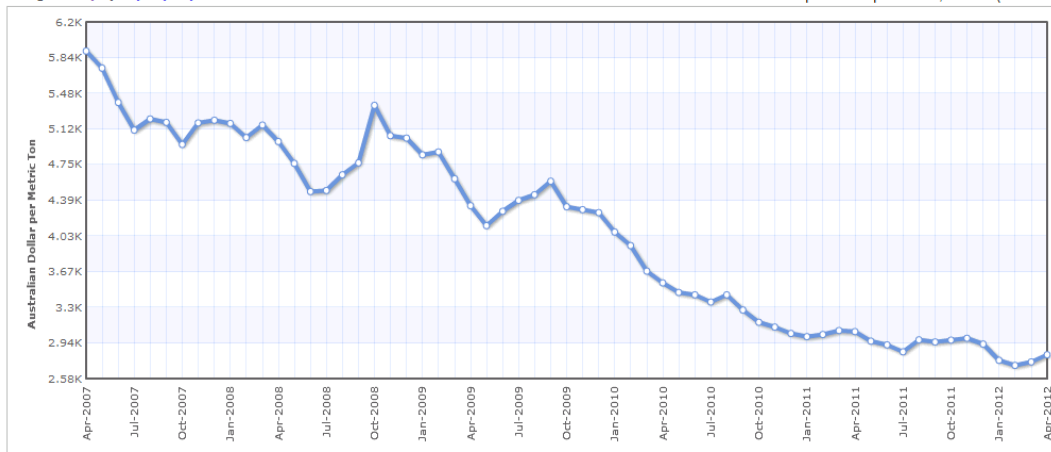
[COPYRIGHTS 2002-2005 AGI S.p.A.](#)

Further clarification:

- Of all the mainstream edible oils such as Canola, Vegetable, Rice Bran etc, Extra Virgin Olive Oil is the only oil that has **not** been chemically or physically refined and changed
- EVOO is the natural juice of the olive. When you squeeze an orange you get 'orange juice' when you squeeze an olive you get 'Olive juice'. EVOO has many unique, well publicised health benefits and is highly sort after by consumers not only for its taste, but also its health giving properties.
- The Australian olive industry has grown substantially over the last 15 years.
 - In 1995/96 Australia imported 16 ,000 tonnes of olive oil and consumed around 18M litres
 - In 2010/2011 Australia imported 36,000 tonnes of olive oil and consumed around 45m litres per year with consumption rising rapidly over the last 20 years to make us the highest consumers per capita outside the Mediterranean area.
 - Australian growers have captured about 30% of this market due to the outstanding quality of their Extra Virgin Olive Oil.
 - More than \$1 billion invested in groves and milling plants creating over well over 10,000 thousands of jobs in rural Australia.
- Australian olive growers are fighting for their survival, producing world class Extra Virgin Olive Oil, only to see the farm gate price slashed by more than 50% over the last 5 years.
 - April 2007 AU\$5.84K per metric tonne
 - April 2012 AU\$2.82K per metric tonne

Range 6m 1y 5y 10y 15y 20y

Apr 2007 - Apr 2012: -3,085.467 (-52.22 %)



Description: Olive Oil, extra virgin less than 1% free fatty acid, ex-tanker price U.K., Australian Dollar per Metric Ton

Unit: Australian Dollar per Metric Ton

- The drop in farm gate price is mainly due to the fact that Australian growers are being forced to compete with subsidized imported olive oils that are cheating by:
 - Selling chemically refined olive oil with misleading labeling such as 'Pure', '100% Pure', 'Light' or 'Extra Light' (*these names are illegal in most producing countries including those in Europe*).
 - These deceptive and misleading products make up 45% of the Australian retail market and sell for a similar price to Extra Virgin...ripping off millions of Australian consumers who think they are buying extra Virgin but are buying a second rate refined oil! For the record 'Extra Light' is not low in FAT.
 - Refined olive is also being sold as Extra Virgin mostly in imported products
- Rural Industries Research Development Corporation (RIRDC) funded three major laboratory studies of retail oils in 2008, 2009 and 2010 (265 samples were taken, 127 from Australian producers and 138 from imported oils). When compared to the Australian Standard that was published by Standards Australian in July 2011, these were the findings:
 - The 2008 study found that 84% of imported Extra Virgin olive oil labeled as Extra Virgin was not in fact Extra Virgin
 - In 2009 66% of imported olive oils failed,
 - In 2010 a whopping 91% imported olive oils failed. This means that only 9% of imported extra virgin was true to label.
 - Worryingly, 18% of the oils (all imported) were classified as Lampante (LAMP OIL) and according to the Australian Standard and all other internationally recognised olive oil standards, lampante oils are NOT SUITABLE FOR HUMAN CONSUMPTION without further refining.

- There are two main reasons for the wide spread practice of falsely labeling Olive Oils
 1. **Financial gain** – It can be very profitably to purchase lower grade cheaper products (refined olive oil) and sell it as something else (Extra Virgin) which commands a higher price
 2. **An abundance of low grade refined olive oil and a shortage of Extra Virgin.** Europe produces 80% of the world’s olive oil but more than half of their production is not fit for human consumption as produced and must therefore be refined...they then transport it to countries such as Australia, that do not have tight labeling laws, as ‘Extra light’ or ‘Pure’ or call it ‘extra virgin’.

- On The ‘7.30 Report’ in 2008 Minister for Department of Agriculture, Fisheries & Forestry, Tony Burke said: *“My prime concern isn't in what sort of penalty can you whack at someone; my prime concern is making sure every consumer gets what they are paying for ... We're working with industry towards that end.”* He went on to say: *“The point that we have to get to is when somebody believes they are buying extra virgin olive oil that they are.”* He went on to say: *“...at the moment it may well be the case that the only guarantee of the quality of the product is if you are buying the Australian product. The tests which have been referred to by industry certainly put some very serious doubts over what people have been purchasing.”*

- Mr Graeme Samuel from the ACCC said this on the 7.30 report in 2008: *“It is appropriate for us to investigate these issues. But it may well be that circumstances, lack of standards or the like, might make it difficult.”*

1. (c) the impact of Australia’s competition regime and the food retail sector, on the food processing sector, including the effectiveness of the Competition and Consumer Act 2010;

Coles and Woolworths control 82% of a farmer’s/producer’s access to a consumer. The combined market share of this duopoly is the highest in the world. This situation is making it nearly impossible for any producer to make a profit from dealing with supermarkets in Australia.

The supermarket giants’ behavior has seriously devalued our product from a consumer perspective – consumers were happy to pay what was being charged before olive oil was used as a ‘loss leader’ and did not ask supermarkets to sell olive oil below cost.

The ‘price war’ is only possible on the back of low grade olive oil being sold as extra virgin or under misleading labels such as light, extra light and pure - and also the financial crisis in southern Europe leading to producers quitting oil to generate cash.

This situation is irresponsible and destructive for an entire Industry. With great power comes great responsibility and Coles & Woolworths need to be held accountable for what they are doing to food producers in Australia. It is our view:

- The ACCC need to do more to stop ‘creeping acquisitions by the major supermarket chains and the unfair treatment of farmers in contract negotiations.
- The ACCC needs to be transparent about its enforcement activities. It should provide more information about its investigations and, in particular, its approach to predatory pricing investigations.
- More needs to be done to strengthen the ability of olive growers to collectively bargain with supermarkets and overseas companies. The current ‘Cartel’ rules prohibit this type of behavior but some legal mechanism needs to be introduced to give farmers a chance broker a sustainable and profitable deal.
- The growing difficulties faced by the Australian Olive industry is a result of Coles & Woolworths blatant disregard for their consumers, by allowing oils that not only fail Australian Standards but also contravene Australian Consumer Law and the Trade Practices Act. The fact that the ACCC are not acting on current labeling breaches under TPA means that a full and independent review of Australia’s competition laws is required.
- Australian competition law should be reviewed to develop effective laws against anti-competitive price discrimination and the absence of a general divestiture power where the ACCC could apply to the courts to break up monopolies and dominant companies if their behavior is detrimental to competition and consumers.
- Effective competition laws are essential to ensure that suppliers are able to access supermarket shelf space on a "fair and equitable basis”.

1. (d) the effectiveness of anti-dumping rules;

It is the AOA’s view that product from Europe has continued to be dumped in Australia below our cost of production. The AOA has hired a consultant to assess our chances of applying for an Anti-dumping duty on imported oils from mainly Spain.

What perplexes Australian growers is our Governments resistance to protecting Australian food producers. If Australian olive growers are charged a 100% duty to send their olive oil to the EU which includes the UK, then an automatic countervailing duty should be applied to olive oil from the EU to Australia. Our Government should do more to protect Australian producers; this doesn’t mean extra special handouts, but at the very least to ensure that the market we trade in is fair and equitable.

1. (e) the costs of production inputs including raw materials, labour, energy and water;

Labour continues to be a high cost of farming in Australia, as does fertilizer, water and energy costs (power/diesel). It is difficult for farmers to compete with the wages offered by the mining industry; this has resulted in growers having difficulty attracting suitable people to work in agriculture. With small towns dying and businesses closing up, there is no incentive for young people to stay in the country or for families to move out to rural area.

The Government's new 'Fair Work Australia' rules and Awards do not take into account the needs of remote and rural business. This 'new' awards need to involve more consultation with rural Australia on their practicability.

1. (f) the effect of international anti-free trade measures;

It is the AOA's view that free-trade of olive oil into the EU from Australia is non-existent. As mentioned above Australian olive oil producers have been paying a 1.00 Euro per kg import duty (which compares to a current world price bulk price of 1.70 Euro/kg) for product entering into the EU since 1997.

Australia has long been recognised as the dumping ground for old unsaleable oil from the EU due to our lax laws, however to add insult to injury, Australian olive oil exporters are also charged to take product to the EU and EU olive producers are paid a subsidy. The main form of olive subsidisation in the European Union (EU) has been production aid.

In 2004 The Olive Press reported "the EU subsidises its olive oil production to the tune of 1.32 Eurodollars per kilogram (around \$1.95 / kg in Australian dollars) up to a maximum quantity of around 1800 million kilograms – in excess of three billion dollars per annum".

1. (g) Access to efficient and quality infrastructure, investment capital and skilled labour and skills training; and

Due to the situation described above, Australian EVOO is now not considered valuable by some banks and the trees that produce the olives are considered even less valuable. This has meant that many groves have been abandoned or repossessed by banks. Loan to Value Ratio's have plummeted and any grower owing banks money is in a dire situation. Recent bank land valuations have seen properties devalued to land and water only with no value being placed on orchards or supporting infrastructure.

One flow on result has been a lack of willingness for existing farmers and potential investors to put money into the industry.

To ensure it is cost competitive, the industry must therefore turn its attention to making advances in lowering the cost of production. In particular, further advancement in mechanised harvesting technologies is fundamental to ensuring the industry can be competitive.

1. (h) any other related matter.

What have Australian Growers being doing to protect consumers and their industry?

- Since 2002 the Australian Olive Association (AOA) has been working on truth in labeling and the authenticity of olive oil sold in Australia. The AOA has also been active globally on this topic in collaboration with our colleagues in other countries including in the USA, New Zealand, South Africa, Argentina and Spain.

- During this time the AOA has worked closely with government in Australia including DAFF, RIRDC, DFAT, Customs, FSANZ, State Departments of Agriculture and of course the Australian Competition and Consumer Commission (ACCC).
- In 2004 the AOA reported problems with olive oil quality and authenticity to DAFF and FSANZ and discussed this with ACCC. It became clear on government advice that the olive industry in Australia needed to develop its own Code of Practice for olive oil to establish some reasonable expectations and parameters for olive oil in this country. That Code was published in 2005 and to date over 250 Brands of Australian olive oil are signatories to that Code representing well over 90% of Australia's olive oil production. The development of the Code was in part funded by DAFF.
- In 2008 further research, sponsored in part through RIRDC and conducted by NSW DPI, identified more widespread problems with olive oil quality and authenticity in the Australia market. These were aired on the 7.30 Report on October 8 2008 (*a copy of the transcript is attached*). These results were reported to ACCC that conducted its own investigation. The ACCC expressed its views and presented the outcomes including some action at the ISF Conference in Sydney 2009 (attached).
- Since then the AOA and RIRDC have sponsored widespread surveillance of olive oil quality in the Australian marketplace. The results to date were presented at the ISF International Conference on Fats and Oils in Sydney 2009 and further work has been done since then. All these data have been given to ACCC (Melbourne office). A full copy of the RIRDC report is attached.
- Encouraged and part funded by DAFF the AOA engaged Standards Australia in 2010 to develop an Australian Standard for Olive Oil and Olive Pomace Oil. After a comprehensive review of data, evidence, world's best practices in other countries and over 800 public comments Committee FT-034 recommended this Standard and in July 2011 AS-5264-2011 was published by SAI Global under license from Standards Australia. This committee has as its members Standards Australia, AOA, DAFF, NSW DPI, RIRDC, the Australian Olive Oil Association (importers), Modern Olives, Customs, Consumers Federation of Australia with the ACCC, FSANZ and Choice as observers. The comments of the ACCC were sought and included in the Standard during its development. A copy of AS-5264-2011 is attached
- Since the publication of AS 5264-2011 in September 2011, February 2012 and April 2012 the AOA has sponsored market surveillance and reported these data to ACCC. I attach the relevant correspondence from the AOA to ACCC seeking urgent action. These same data have been reported to Customs and DAFF. These data and relevant communications are attached.
- The AOA has been informed by ACCC since late last year that an investigation is underway; our repeated inquiries always elicit this response. However, we see no action and no significant change in the marketplace except some statements of intention to change supermarket private labels –
- Extra virgin olive oil is rich in natural antioxidants and vitamins such as alpha-tocopherol, o-diphenols and other phenolic compounds. In-depth research has demonstrated the action of these antioxidants in slowing down ageing and cell degeneration.

- The natural extra virgin olive oils have been shown to have much better positive heart health outcomes than refined olive oils in studies such as the Euroolive Study 2009 that recommended a daily intake of 25 ml of virgin (un-refined) olive oil for all adult humans for its preventative effects on heart disease.
- Almost all natural antioxidants and vitamins are lost during the refining process that creates lower grade olive oils labelled as 'light', 'extra light' and 'pure'.
- Many refined olive oils contain certain amounts of trans fatty acids and stigmastadienes which are not present in EVOO. Trans fat is the common name for a type of unsaturated fat with trans-isomer fatty acid(s) formed during the processing of fats and oils. Unlike other dietary fats, trans fats are not essential, and they do not promote good health. The consumption of trans fats increases one's risk of coronary heart disease by raising levels of "bad" LDL cholesterol and lowering levels of "good" HDL cholesterol. Health authorities worldwide recommend that consumption of trans fat be reduced to trace amounts. Stigmastadienes are by-products of the refining process and are formed by dehydration and degradation of the beneficial phytosterols present in extra virgin olive oil. They are considered food contaminants and pose some health risks.
- Many olive oils found in retail and food service surveys in Australia have degraded to the point where they only qualify as 'lampante' or not suitable for human consumption under any international standard including the Australian standard. Refer to RIRC study
- Most of those lampante oils were of very poor quality and clearly rancid. Rancid food oil forms harmful free radicals in the body, which are known to cause cellular damage and have been associated with diabetes, Alzheimer's disease and other conditions. Rancid oils can also cause digestive distress, diarrhoea and deplete the body of vitamins B and E. Free radicals can cause damage to DNA, accelerate aging, promote tissue degeneration and foster cancer development.

Given these positive health outcomes for true extra virgin olive oils and the negative outcomes for lower grades and rancid products

1. consumers need clear labeling to enable them to chose between grades (not 'light', 'pure' and 'extra light' for low grade refined olive oils and
2. low grade products masquerading as healthy natural olive oil should be removed from the shelves.

Actual concerns the Australian Olive Association has with current food labeling and enforcement in Australia

1. As clearly demonstrated by this submission it takes way too long (approximately 10 years) and the process is too complex and expensive to develop a code of practice and an Australian Standard.
 - a. The process of developing a Standard through Standards Australia is frustratingly slow and painful to the point of near impossible. Standards Australia have a monopoly on producing standards in this country. Even convincing them we had a case for an olive

oil standard took about 18 months to produce it with the Australian Olive Association covering all costs and conducting the bulk of the work. They are a slow uncompetitive bureaucratic organization with little concept of commercial reality and timeframes.

- b. The supermarkets and importers have way too much say in the development of an Australian standard and by denying consensus can block the approval of any new regulation. By protecting their own interests, they tend not to act in the best interest of consumers or Australian producers.
 - c. The USA has the opportunity for the local industry to develop a legislated Federal Marketing Order. The Market order takes approximately 12 months to develop and can be published if 75% of the local industry support the proposed standards to be imposed. This then immediately becomes law enforceable by USDA on all products produced in the USA. Subsequently this law can be expanded to include imported goods. Such a system is being developed for olive oil now following success with other products such as almonds.
2. Once an Australian Standard is developed by Standards Australia it is automatically “voluntary”. After 10 years of work, research and development and reaching near impossible consensus with all interested parties including the very importers and retailers who are ripping off consumers and producers and who do not want a Standard so they can make more money... Australian Standard (AS-5264-2011) is **voluntary** and therefore unenforceable by the ACCC (their words) which results in all consumers still being conned by misleading and fraudulent olive oils described as “pure”, “light” and “extra light” along with refined oil making up a large percentage of Extra Virgin sales.
 3. Due to the Standard being classified as “voluntary” the ACCC have their hands tied as they have to prove in court that the Standard is what consumers believe to be definition and standards of olive oil when in fact a precedent has been set for the last 20 years. This is a waste of tax payer’s money and ACCC resources. Coles and Woolworths are also hiding behind the fact that the Standard is “voluntary”.
 4. It is our strong view that all Australian Standards should be automatically legally enforceable and beyond discretion.
 5. The penalties and fines imposed on retailers, importers and producers when found guilty of fraud or misconduct are not severe enough to discourage these practices, therefore it is reasonable to expect that this type of fraud will continue until the ‘time matches the crime’