



Australian Organic Limited
Greenwashing Inquiry Submission

Executive Summary

In Australia, the term 'organic' is not consistently defined. The Australian Competition and Consumer Commission (ACCC) provides two separate definitions for 'organic' and 'certified organic', and this is misaligned with all other Organisation for Economic Co-operation and Development (OECD) nations. The Australian organic industry currently operates on a voluntary process wherein certified organic operators choose to become certified to demonstrate truth in labelling and verification of claims.

While there are over 3000 operators who choose to verify their production system, many don't, leaving 33% of Australian consumers confused and often misled¹. These operators represent agricultural practices that promote biodiversity, minimise soil erosion and protect watersheds, create wildlife zones and habitats, encourage soil regeneration with natural alternatives to synthetic fertilisers and pesticides. Organic produce is grown in an environmentally sustainable and responsible way².

Greenwashing is a major concern that these certified organic operators are forced to confront on a daily basis due to the lack of domestic regulation of the industry. Operators can claim to be organic without any certification, whereas certified operators go through rigorous certification from one of Australia's six certification bodies. This process is voluntary for domestic sales and it provides operators with a certification number that any consumer can look up. This third-party verification process substantiates the environmental and sustainable reputation that accompanies the organic label.

Despite the efforts of Australian Organic Limited (AOL) to educate consumers, there is still a lot of confusion about what it means to be certified organic and the difference between being certified organic and merely claiming organic status. There are also a lot of discerning consumers who are being misled as businesses unscrupulously use the term organic as part of an attempt to appear environmentally and sustainably conscious.

As part of this submission, AOL went through the terms of reference for this inquiry to provide perspective on the issues currently facing the Australian certified organic industry, highlighting the industry's susceptibility to greenwashing claims from those looking to exploit the environmental and sustainability credentials of the term organic.

RECOMMENDATIONS:

1. That the government develop and implement a comprehensive awareness program to educate consumers about the differences between certified organic products and products that claim to be certified but are not.

¹ Australian Organic Limited 2023, Australian Organic Limited Market Report 2023, *ACIL ALLEN*.

² Australian Organic Limited 2022, Organic Food Production, accessed 11 April 2023 <
<https://austorganic.com/organic-food-production/>>

2. That the government enforce stricter regulations and greater consequences around misleading or deceptive advertising practices—i.e., greenwashing.

a) The environmental and sustainability claims made by companies in industries including food and drink packaging.

There are currently around 2180 businesses³ in Australia claiming to be organic that are not currently certified. There are currently no legal ramifications for these businesses nor capability for consumers to verify the organic authenticity of these products.

This dilutes the value of certification for operators who become certified and is an affront to the time, effort and financial investments of the certified operator. This form of greenwashing also risks creating negative publicity around the organic industry.

The ACCC recently conducted an internet sweep which highlighted that over half of the businesses reviewed made “concerning claims about their environmental or sustainability practices⁴.” Given this staggering number, the Australian organic industry is even more susceptible to greenwashing, with even greater ramifications compared to other industries. Since there is currently no enforced domestic standard for operators claiming to be organic to adhere to throughout their supply chains, there are also no legal ramifications for false organic claims and greenwashing.

This puts a strain on the integrity of the Australian organic industry. There are currently products on the shelves that claim to be organic but may only have as little as 2 percent certified organic ingredients on their labelling⁵. Certified organic operators are forced to compete with these businesses, making it harder for the broader public to discern what is and what isn't.

AOL has consistently worked towards improving understanding of the organic industry and dedicates September each year to the promotion of certified organic operators and products while educating consumers on what denotes certified organic and what verification details to look for. This promotion is supported by Australia's major retailers.

AOL is calling for the establishment of a comprehensive awareness program to help consumers discern certified organic from non-certified organic. This would ideally involve consumer resources that would provide an understanding of how to discern certified organic from potentially fraudulent products, in addition to interactive features that would allow consumers the chance to understand what certified organic means.

b) The impact of misleading environmental and sustainability claims on consumers

³ Department of Agriculture, Forestry and Fisheries 2022, 'Organic Industry Data Collection Report 2022', KG2.

⁴ Australian Competition and Consumer Commission, 2023, 'ACCC 'greenwashing' internet sweep unearths widespread concerning claims, Media Release.

⁵ Australian Organic Limited 2022, Organic Food Production, Information Webpage, accessed 26 April 2023 <<https://austorganic.com/organic-food-production/>>

The Australian Pesticides and Veterinary Medicines Authority (APVMA) is the main authority for agricultural and veterinary chemicals with over 900 approved chemicals for use in Australia⁶. However, certified organic products have established maximum residue limits (MRLs) of 10 percent or less and nearly all products approved by APVMA are not allowed in organic production⁷. Certified organic soil and produce are also regularly tested to give consumers healthy and nutritious sustainably grown products⁸. The fact that certified operators do not use the toxic, persistent chemicals that are used in conventional farming makes the term organic more appealing to consumers.

The Australian Organic Market Report 2023 reveals that 60 percent of shoppers want products to be chemical free and 48 percent want them to be environmentally friendly⁹. Further, 78 percent say a sustainable lifestyle is important, and 83 percent are concerned about environmental issues¹⁰. It is a fair assumption that consumers expect organic-labelled products to fit with this ideal of being sustainable and environmentally friendly, yet this is not always the case.

Australian organic operators deal with greenwashing daily. The lack of domestic regulation and legal definition of organic in Australia creates a marketplace filled with organic-labelled products that are not certified. This has negative effects on consumer confidence in the organic industry--surveys conducted by Nielsen IQ reveal that 33 percent of Australian shoppers indicate that trust is a barrier to purchasing organic products, and that 30 percent have experienced dubious organic packaging claims¹¹.

The Australian Competition and Consumer Commission (ACCC) requires any operator making organic claims to be able to support such claims¹². However, there is little to no action taken on businesses who are selling misleading products. ACCC's own website advises "*We don't resolve individual disputes about misleading organic claims*", making it near impossible for dishonest businesses to be reprimanded. This also does not grant the same level of protection for organic products compared to countries which have set legal definitions of what organic is within their domestic markets.

Over the past four years, AOL has advocated for the development of a mandatory domestic standard for the Australian organic industry. On 30 March 2023 the current government under Minister for Agriculture, Senator Murray Watt decided to abandon progress towards such a standard due to concerns that costs would outweigh the benefits. This will unfortunately allow the status quo of falsified claims and greenwashing to continue. Consumers will not be certain that a product is actually organic unless they look for a certified organic logo and certification number.

⁶ Ibid 5

⁷ Ibid 5

⁸ Ibid 5

⁹ Ibid 1

¹⁰ Ibid 1

¹¹ Australian Organic Limited, 2022, 2022 Organic Consumer Highlights

¹² Australian Competition and Consumer Commission 2023, Organic claims, accessed 5 April 2023

<https://www.accc.gov.au/consumers/advertising-and-promotions/organic-claims>

As a result, the Australian organic industry and its consumers are faced with the same issues around certified organic products without any prospective options in the pipeline to fix them. The risk of greenwashing within the domestic organic industry means that the risk of consumers being misled will remain, and this acts as a hindrance to the industry.

c) Domestic and international examples of regulating companies' environmental and sustainability claims

Within the global context, part of the environmental and sustainability message for organic products is that they are certified organic. Products have gone through a process of certification wherein each process along the supply chain can prove to be organic. Compared to international organic markets, Australia lags in terms of legally defining the term organic across its domestic market.

Australia is now the only OECD country which still doesn't have a domestic standard for organic products. Our major trading partners are bolstering up their organic industries while Australia falls behind with a system that remains open to exploitation and greenwashing of environmental and sustainability credentials.

Appendix A provides a comparison of key trading partners, all of whom have a domestic organic standard, and their definitions of organic.

Each country and region in Appendix A has a legal definition of organic that must be adhered to by all operators claiming to be organic within their domestic and international markets. In Australia there is no such definition and requirements for domestic sales; this is only mandatory for exported organic goods.

While our organic trading partners continue to regulate and protect their organic markets against the risks of greenwashing, Australia maintains an approach that risks the trust our partners have in the Australian organic industry. While our trading partners look to strengthen their organic industries through stricter sustainability and environment-based requirements, Australia is being sidelined. As an export nation with 72 percent of agriculture production exported,¹³ falling behind our partners in terms of regulation risks hindering the export market for the organic industry which is valued at \$385 million AUD¹⁴. This is forecast to reach \$910million AUD by 2028¹⁵, and this projected growth could suffer due to greater regulations from our export partners.

As an example, the European Union has developed a strategy as part of its European Green Deal that would see at least 25 percent of its agricultural land under organic farming and a significant

¹³ Department of Agriculture, Fisheries and Forestry (ABARES) 2023, 'Snapshot of Australian Agriculture 2023' Information Webpage, accessed 26 April 2023 < <https://www.agriculture.gov.au/abares/products/insights/snapshot-of-australian-agriculture#around-72-of-agricultural-production-is-exported>>

¹⁴ Ibid 1.

¹⁵ Ibid 1.

increase in organic aquaculture by 2030¹⁶. Meanwhile, the United States Department of Agriculture has announced a \$300million USD investment in a New Organic Transition Initiative designed to provide comprehensive support for farmers to transition to organic production¹⁷. On 30 March 2023, our closest trading partner New Zealand passed legislation to protect the future of its organic production systems.

These initiatives ride on the back of clear definitions of what organic is and the confidence that their organic operators have gone through the right process and can back up their organic claims. Australia needs to develop a clear legal definition of organic.

d) Advertising standards in relation to environmental and sustainability claims

Advertising of organic products is a significant industry concern. Operators who are not certified can currently make false claims about being organic. AOL is aware of products advertised as organic that have as little as one organic ingredient in the overall product. This type of false advertising undermines the current system and leads to consumer doubts as to the authenticity of organic-labelled products.

AOL runs an annual organic awareness month to highlight what organic means in the Australian context. This aims to reduce misinformation around what is and isn't certified so that consumers can better discern the differences and to build awareness of the greenwashing that takes place.

In light of this, AOL is proposing for the development of more stringent regulations on the advertising of organic-labelled products.

e) Legislative options to protect consumers from greenwashing in Australia.

As mentioned, AOL has been working with the government to introduce a domestic standard for organic products to protect consumers from false claims. But with domestic regulation off the table for now, there are limited legislative options to protect consumers from greenwashing. AOL believes there needs to be greater investment in helping consumers recognise the differences between certified and non-certified organic.

The addition of organic awareness programs was considered in PricewaterhouseCoopers' cost benefit analysis on the cost of domestic regulation¹⁸. This would be a small step to help facilitate an understanding for what is and isn't certified organic and help mitigate the greenwashing.

¹⁶ European Commission 2020, Farm to Fork Strategy: For a fair, healthy and environmentally-friendly food system, *European Union*, accessed 11 April 2023 < https://food.ec.europa.eu/system/files/2020-05/f2f_action-plan_2020_strategy-info_en.pdf>

¹⁷ Organic Trade Association 2022, Organic Trade Association Applauds Investment of up to \$300 Million in New Organic Transition Initiative, Media Release.

¹⁸ Department of Agriculture, Water and the Environment 2022, 'Cost Benefit Analysis of a New Regulatory Approach for Domestic Organics,' PricewaterhouseCoopers.

Section 29 of the Australian Consumer Law prohibits false or misleading representations about goods or services. AOL is urging for stricter processes before a business can launch organic-labelled products, stricter enforcement, and greater ramifications for businesses found to be in breach of this. AOL hopes that greater consequences may deter greenwashing practices.

Conclusion

There is a gap in the organic industry between certified organic operators who have voluntarily chosen to do the right thing and those who claim to be organic without any certification. This has created an environment wherein the term organic is used to promote environmental and sustainable practices with zero to limited proof of these claims.

This creates confusion for consumers and the broader industry and dilutes the certification process as the term organic becomes a marketing ploy used by uncertified operators to greenwash their products based on organic's reputation as sustainable and environmentally friendly.

AOL has worked with the government to progress a fit for purpose domestic regulatory framework which would close this gap and keep Australia in step with key trading partners across the world. Unfortunately, the current government does not wish to undertake the implementation of mandatory domestic regulation. Australia continues to be misaligned with much of the world, particularly those within the OECD, and now runs the risk of losing out on immense opportunities for Australian certified operators while other countries continue to expand their organic programs.

Given these current limitations, AOL would like to see the government implement comprehensive awareness programs to highlight the differences between certified operators and those who claim organic but are not certified. This would help consumers understand what certified organic is, what it means, and what it means within the Australian context. Additionally, AOL urges for stricter enforcement of legislation prohibiting false and misleading representations about goods, and to implement greater consequences for those found to knowingly engage in greenwashing.

While they do not resolve the main issue around the lack of domestic regulation, they are small steps toward deterring greenwashing practices and increasing consumer awareness.

About Australian Organic Limited

As the peak industry body, Australian Organic Limited strives to protect and promote the interests of the industry and continues to engage and consult with Government and key stakeholders to understand and address our industry's needs and challenges. With over thirty years' experience in the organic industry, AOL is driven by a clear strategic approach to the future of organics and has positioned itself as a leader in Australian Agriculture. Australian Organic Limited welcomes the opportunity to contribute to this submission process regarding Greenwashing in Australia.

APPENDIX A

Australia’s key trading partners and their legal definitions of organic

Country	Definition of Organic
United States of America	Organic is a labelling term that indicates that the food or other agricultural product has been produced through approved methods. These methods integrate cultural, biological, and mechanical practices that foster cycling of resources, promote ecological balance, and conserve biodiversity. Synthetic fertilizers, sewage sludge, irradiation, and genetic engineering may not be used.
European Union	The EU regulation on organic production and labelling of organic products ensures that the same high quality standards are respected all over the EU. The rules refer to agriculture and aquaculture farming practices, food processing and labelling, certification procedures for farmers as well as to the import of non-EU organic products.
South Korea	The term “certified products” means organic agricultural products (including organic forest products; the same shall apply hereinafter), organic livestock products, organic apiarian products, organic processed food, organic processed products not intended for human consumption, non-pesticide agricultural products, and non-antibiotics livestock products, which have been certified in accordance with Article 20 or 34 of the Act and produced, manufactured, and handled in compliance with each subparagraph in Annex 1 and Organic processed foods recognised equivalency and imported under Article 25 of the Act.
Japan	<p>The JAS Standards for organic plants and organic processed foods of plant origin were established in 2000 on the basis with the Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods which were adopted by the Codex Alimentarius Commission.</p> <p>The organic JAS logo can only be applied by registered business entities that have been certified by the Accredited certification body to verify that organic foods are produced in compliance with JAS.</p> <p>In addition, it is prohibited to sell agricultural products and processed foods as "Organic foods" with names such as "有機", "Organic", etc. without the Organic JAS logo.</p>
Taiwan	Organic agricultural product: Any agricultural product that is produced, processed, packaged and distributed in accordance with the certification standard established by the Central Competent Authority and certified under this Act, or any imported agricultural product approved in accordance with Article 17 paragraph 1 of this Act.
Canada	<p>Organic production is a system of farming that replenishes and maintains soil fertility without the use of toxic and persistent synthetic pesticides and fertilizers. It encourages practices that increase biodiversity and reduce negative environmental impacts, while also supporting animal health and welfare.</p> <p>Beyond the farm, the organic standards apply to the preparing, handling, packaging and transportation of organic products. This includes rules regarding: ingredients; processing aids; cleaning, disinfecting and sanitizing; substances for pest control;</p>

	<p>segregation from non-organic products during handling, transportation and storage; and, much more.</p>
Switzerland	<p>(Article 1) This Ordinance applies to the labelling of the following products as organic products:</p> <ul style="list-style-type: none"> • unprocessed agricultural crop and livestock products and production animals; • processed agricultural crop and livestock products intended for human consumption, prepared essentially from ingredients of plant and/or animal origin; • animal feed materials, compound feeding stuffs and feeding stuffs not covered under letter a and which are used for the feeding of production animals and pets. <p>Products under Article 1 may be labelled as organic products if they are produced or imported, prepared and marketed in accordance with this Ordinance.</p>
United Kingdom	<p>You can only label foods as ‘organic’, or use terms relating to organic production methods, if: at least 95% of the product’s agricultural ingredients are organic.</p> <ul style="list-style-type: none"> • all other ingredients, additives and processing aids are listed as permitted within the organic regulations. <p>You must be certified by one of the organic control bodies if you produce or prepare organic food and you want to sell or label it as organic.</p>
China	<p>Organic agriculture is a way of agricultural production that adopts a series of sustainable agricultural technologies to achieve a well-sustained and stable agricultural production system, where, in accordance with certain standards of organic agricultural production; prohibits the use of genetically modified organisms (GMOs) and their products, synthetic chemical substances of fertilizers, pesticides, regulators and feedstuff additives in agriculture production; respects to natural rules and ecological theories and coordinates the balance between plant and animal production</p>
New Zealand	<p>‘Organic’ is a labelling term used on products produced in accordance with organic production standards, which may be certified by a certification body or authority.</p> <p>Organic agriculture is based on minimising the use of external inputs. For example, avoiding or excluding the use of synthetic fertilisers and pesticides, antibiotics, growth promotants, genetic modification, and irradiation. Organic handlers, processors, and retailers follow voluntary standards to maintain the integrity of organically produced products.</p> <p>It's important to note that organic certification standards are not food safety standards. Organic products must meet the same food safety standards that apply to all food for sale in New Zealand.</p>