Dissenting Report—'Oils ain't Oils'

Independent Senator Nick Xenophon and Australian Greens Senator Rachel Siewert

1.1 The Food Standards Amendment (Truth in Labelling – Palm Oil) Bill 2010 aims to provide consumers with the information they need to make an informed choice about the products they buy and the foods they consume.

1.2 It's estimated that Palm Oil is present in approximately 50 per cent of products on supermarket shelves, ranging from food products to cosmetics to household items. However it is impossible to say which products do contain Palm Oil and which do not because Palm Oil is not required to be labelled under current food labelling regulations.

1.3 That is, consumers are not able to look at the ingredients list on the back of a packet of biscuits, for example, and see whether or not it contains Palm Oil. Without that information they are unable to make an informed choice about whether or not they want to buy that product.

1.4 Under current food labelling regulations, Palm Oil is able to be labelled 'Vegetable Oil', but this does not enable consumers to know whether the 'Vegetable Oil' is Sunflower Oil or Olive Oil or Cottonseed Oil or Palm Oil or Soybean Oil.

1.5 The provisions of the Bill was supported by the COAG and Australia and New Zealand Food Regulation Ministerial Council Review of Food Labelling Law and Policy Review (the Blewett Review) which recommended (Recommendation 12):

    That where sugars, fats or vegetable oils are added as separate ingredients in a food, the terms 'added sugars' and 'added fats' and/or 'added vegetable oils' be used in the ingredient list as the generic term, followed by a bracketed list (eg. added sugars (fructose, glucose syrup, honey), added fats (palm oil, milk fat) or added vegetable oils (sunflower oil, palm oil)).

1.6 The public response to the issue of Palm Oil labelling has been overwhelming. Over 448 submissions were received to the Committee Inquiry into this Bill under the 42nd Parliament with a further 78 received to the current Committee Inquiry. Consistently, submitters argued for a right to know.

1.7 A petition was also tabled to the Inquiry, of 163,917 Australians who called on the Government to legislate for mandatory Palm Oil labelling through the 'Don't Palm Us Off' campaign.

1.8 This Bill is not about a boycott of Palm Oil. It is simply requiring manufacturers to label it if it is an ingredient in the product so that consumers are able to make an informed choice.
The Bill also provides for the labelling of certified sustainable Palm Oil, where manufacturers who use certified sustainable Palm Oil can differentiate it and again, allow consumers to be able to make an informed choice.

**If we are what we eat, we have a right to know what we're eating ...**

1.10 Section 18 of the Food Standards Australia New Zealand Act 1991 states that:

> The objectives (in descending priority order) of the Authority in developing or reviewing food regulatory measures and variations of food regulatory measures are:

a) The protection of public health and safety; and

b) The provision of adequate information relating to food to enable consumers to make informed choices; and

c) The prevention of misleading or deceptive conduct.¹

1.11 Under subsection (b) (and arguably subsection (c)), the labelling of Palm Oil is therefore appropriate.

1.12 The purpose of labelling products which include Palm Oil will provide consumers with adequate information to assist them in their purchasing decisions. To label Palm Oil as 'Vegetable Oil' as is currently the case does not provide consumers with adequate information to make an informed choice.

1.13 Each year, Australians consume an average of 10 kilograms of Palm Oil each and yet they do not know which products contain Palm Oil and which don't.

1.14 Submissions to the Inquiry from members to the public were consistent in their message.

> Our labelling laws need to require manufacturers to tell the truth, so that consumers can make an informed choice about the products they're buying. Palm Oil should be labelled as "Palm Oil" It's as simple as that.²

**James Kemp**

> As an informed citizen, I feel it respectable to say that I deserve to be given the choice of purchasing items that contain palm oil, and items that don't. In the last ten years alone, public product knowledge and product awareness has come terrifically far, to the point where some ingredient listings are of absurd lengths, and I thank you for that. But, just as [coeliacs] deserve to know if there is any wheat in a product, and just vegans deserve to know if there is any animal product in an item, the public deserve to know what products contain palm oil, and those that do not.³

**Caleb Sheppard.**

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¹ Food Standards Australia and New Zealand Act 1991, ss. 18(1)

² Submission 488, p. 1.

³ Submission 155, p. 1.
As a consumer I have found it very difficult to avoid buying products which contain palm oil because the information is not provided by the manufacturer. I oppose the use of palm oil in food manufacturing on health and ethical grounds and believe it should be easier for me to shop for my family making informed choices. Currently, I have to ring the manufacturer for each product to check if it contains palm oil. This is untenable. I consider the labelling of palm oil in processed foods as vegetable oil deliberately misleading and believe change is required to provide the consumer with an understanding of the source and health implications of their choices.4

Amy Prendergast

I would like to think that it is a basic right for consumers to be provided with accurate and truthful information to enable them to make an informed choice about the products they are eating and purchasing. The government should ensure standards are introduced and enforced to ensure this. It is clearly not in the interests of consumers to “hide” ingredients in products and this practice should be stopped as it only supports unhealthy/unsustainable ingredients being used while misleading consumers/retailers/the government.5

John Phillips

I believe that I and other consumers have the right to choose not to purchase products with palm oil in them. Whether or not our collective action will pressure companies into finding alternative ingredients (or sustainable methods of producing palm oil) is beside the point. Of course I hope for that, but the point, in this enquiry, is that we have the right to be equipped with the information to make that choice.6

Angela Meyer

I support the mandatory labelling of palm oil on products that I buy because I deserve the right to choose. I should be able to choose products that do not contain palm oil. At the moment I can not do this because Palm Oil is not listed separately on the packaging on products that I purchase for my family. I want the freedom of choice and I believe this is a legitimate request.7

Sharon Jewell

I strongly support the mandatory labelling of palm oil. I am writing from a personal perspective as the main purchaser of grocery products for our family. I was horrified to learn of the destruction caused by the production of this common ingredient found in so many supermarket items and sold to us without our knowledge. How can we be make responsible decisions about what we purchase when the truth is hidden from us? There is no

4 Submission 129, p. 1.
5 Submission 461, p. 1.
7 Submission 71, p. 1.
excuse to not inform the public of the ingredients in products they buy, the choice is then up to them.  

**Jill Seymour**

I believe it is an important right for all Australians to be able to make informed decisions on goods purchased based on the ingredients used in the production of these goods. To group a variety of different oils as vegetable oils is not acceptable and I call for the specific type of vegetable oil to be made clear on products especially when containing Palm Oil.

**Tricia O'Brien**

**Why Palm Oil isn't just your average 'Vegetable Oil'**

1.15 Over 85 per cent of the world's Palm Oil is produced in Malaysia and Indonesia and every hour, an area the size of 300 soccer fields – equal to 1,645,920 square metres – is deforested. As a result, an estimated 50 Orang-utans die each week as a result of loss of habitat.

1.16 The United Nations Environment Programme believes that Palm Oil is the major driver of deforestation in Borneo and Sumatra, and the biggest threat to the survival of the Orang-utan, and a significant contributor to greenhouse gas levels.

1.17 At this rate, the International Fund for Animal Welfare believes Orang-utans could be extinct in the wild within the next ten years.

1.18 Put simply, the production of Palm Oil does have an impact on Orang-utans and Australians who wish to shop and eat ethically should be provided with the information that allows them to do so.

1.19 Mr Tim Wilson from the Institute of Public Affairs agreed that in the interest of enabling a free market, consumers needed to be provided with adequate information.

**Senator XENOPHON**—Because you are a free-market think tank, I thought I would read a bit of Adam Smith this morning about the invisible hand. I think that essentially what Smith said 300 years ago was that, for markets to work, people need to be informed. Do you agree with that?

**Mr Wilson**—Yes.

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8 Submission 45, p. 1.
9 Submission 93, p. 1.
Senator XENOPHON—A good market is an informed market.

Mr Wilson—There is always a certain amount of information that is withheld, and there is always a certain amount of information asymmetry between buyers and sellers in the same way as there is between citizens and government.

Senator XENOPHON—Sure. But information asymmetry is not a good thing, is it, from your point of view?

Mr Wilson—Preferably not—absolutely.

Senator XENOPHON—Good. That means that, if consumers want to know the source—whether a product has palm oil in it and whether that palm oil is certified sustainable—what is wrong with letting consumers know that?

Mr Wilson—There is nothing wrong with it. In fact, I have supported the very principle that we should have voluntary certification and that, if people and consumers are motivated by that and they wish to find out, then they can.12

1.20 Some critics of the Bill argued that consumers are able to find out which products do and don't contain Palm Oil without labelling. This argument is false.

1.21 Quite simply, unless it is disclosed by the manufacturer, it is impossible for consumers to know which products do and don't contain Palm Oil.

1.22 Mr Cameron Kerr, Director and CEO of the Taronga Conservation Society Australia (Taronga Zoo) said:

Senator XENOPHON—At the moment consumers do not know what has palm oil in it and whether it is certified and sustainable. Is that right?

Mr Kerr—Unless it is labelled.

Senator XENOPHON—Consumers have some idea about some products. Is that through individual testing or not?

Ms Gray—If the manufacturer declares it, then that is what we have used.

Ms Hunt—Some have done, voluntarily.

Senator XENOPHON—If it is not declared how can you tell, short of testing it?

Ms Gray—They declare when it is not in.

Senator XENOPHON—But if a product does contain it, is there any way consumers can find out short of independent testing of that product?

Ms Gray—No.13

12 Committee Hansard, 19 April 2011, p. 4.
13 Committee Hansard, 19 April 2011, p. 21.
And, when asked whether manufacturers could provide this information online, the Australian Food and Grocery Council argued that was something for each company to decide.

Senator XENOPHON—But if you are concerned about a regulatory burden—and I do not accept that, but let us leave that to one side—what would be wrong with putting on a manufacturer’s website saying, ‘This product contains palm oil and it happens to be sustainable palm oil’? Given that your members have signed up to the RSPO and their statement talks about promoting the growth and use of sustainable oil palm products through credible global standards and engagement of stakeholders, surely as to sustainable oil palm products, people knowing whether a product has sustainable palm oil in it would be entirely consistent with the RSPO of which you are a member?

Mr Mahar—Absolutely. I think that the main issue that we have is that it is a mandatory requirement.

Ms Carnell—We would encourage our members to do that.

However, given the reluctance of manufacturers to date, this is unlikely. Mr Tony Gilding of the Palm Oil Action Group told the Committee:

Mr Gilding—I think it is very fair to say that voluntary labelling of palm oil is not going to work. It has not worked. There has been ample opportunity for the industry to label palm oil or vegetable oil made from palm oil, but they have not done it. I can only conclude that the companies see some stigma attached to palm oil and they realise that the consumer would probably be somewhat concerned about the palm oil; therefore, it is easier for them to label it vegetable oil.14

Indeed, manufacturers know that Australian consumers are increasingly concerned about the impact Palm Oil production has on the environment and therefore the reason they are opposed to the truthful labelling of products is because they know there will be a consumer backlash and because they know that it is not acceptable.

Ms Kate Carnell from the Australian Food and Grocery Council argued that:

Ms Carnell—To be really honest, what a lot of companies are worried about is their products being used, I suppose, as a focus for maybe demonstrations and those sorts of things about something different, like the plight of the orang-utans. Their concern is their products ending up being the focus for that, which would be incredibly unfair and unreasonable, but you can fully appreciate that those activist groups that are in that place will use what they can to lift the profile of their cause, understandably I suppose. But if a particular product ends up being targeted due to that, that is not really a fair outcome. Companies are worried about that. It has happened in

14 Committee Hansard, 18 April 2011, p. 24.
the past as we all know. How do we stop that happening? We cannot if we go down this path.15

1.27 Ironically, the Australian Food and Grocery Council are members of the Roundtable on Sustainable Palm Oil which "promotes the growth and use of sustainable oil palm products through credible global standards and engagement of stakeholders"16 and yet it does not agree with the mandatory labelling of Palm Oil.

Senator XENOPHON—Basically, is there not a fundamental inconsistency? If you are a member of the RSPO would you not say that their members, at the very least, should tell consumers whether or not it is sustainable palm oil?

Ms Carnell—We will certainly encourage our members to make that information available and we will also encourage our members to use sustainable palm oil, which is absolutely what the RSPO suggests we should do.

Senator XENOPHON—It sounds like a cop-out to me.17

1.28 Another criticism of the Bill is that food labelling should be limited to just health and safety concerns. Taking that approach, the National Health Foundation of Australia told the Committee:

Ms Anderson—From a nutrition perspective and the Heart Foundation’s perspective, palm oil is having a fairly detrimental impact on our cardiovascular health. We know that 130 deaths per day are attributed to cardiovascular disease. That is one person every 11 minutes, so it is certainly of great concern.

Senator BOYCE—What is so wrong with palm oil?

Ms Anderson—We know that a lot of people have high cholesterol levels, which is a risk factor for heart disease. In fact, at the moment it looks like it is around 50 per cent of Australians, so a lot of deaths would be related to a high intake of saturated fat … At 50 per cent saturated fat, palm oil is certainly a contributor to the saturated fat intake. The Heart Foundation supports the need for consumers to have truthful labelling and information that really helps them make an informed choice. In the current situation I think it is pretty difficult for consumers. Seeing ‘animal fat’ or ‘vegetable fat’ does not necessarily help us determine healthy fats versus unhealthy fats. Vegetable oil could be healthy or it could be an unhealthy sort, so having a little bit more detail would be quite useful.18

1.29 Furthermore,

15 Committee Hansard, 18 April 2011, p. 8.
17 Committee Hansard, 18 April 2011, p. 9.
18 Committee Hansard, 19 April 2011, p. 53.
Senator SIEWERT—Most people have been saying that this campaign about the labelling and certification of palm oil is not a health campaign, it is a social and environmental campaign, and we should not be using labelling for social and environmental campaigns. Your argument, if I am understanding it correctly, is that, yes, it is a health argument and we should be labelling because it is a health argument.

Ms Anderson—Yes. The Heart Foundation certainly does not have any expertise on the environmental impact around palm oil but it knows the nutritional profile of it, it knows where it is used in the food supply and it knows that consumers do not know where it used in the food supply because it is only labelled as vegetable oil. As an organisation that is trying to get people to lower their saturated fat intake, we think this labelling would be beneficial.

1.30 It was put to the Committee that consumers would be able to identify Palm Oil by the nutrition table which would show the amount of saturated fat in products however this does not clearly provide consumers with adequate information to make an informed choice.

1.31 Palm Oil can be produced sustainably and this is provided for in the Bill.

1.32 The international Roundtable on Sustainable Palm Oil (RSPO) has set out criteria to measure sustainable palm oil production, which include transparency, compliance with local, national and international ratified laws and regulations, use of best practices by growers and millers, environmental responsibility, appropriate work labour laws and development of new plantings.

1.33 It should be noted that whilst the aims of the RSPO are welcome, it does not appear to have appropriate focus on enforcement of its standards. There is widespread criticism amongst NGOs gives a veneer of activity and action on Palm Oil, but in fact little is achieved. That is why the passage of this Bill is urgently required.

1.34 This Bill encourages the use of certified sustainable palm oil, with manufacturers meeting the RSPO’s criteria able to label the ingredient as such to indicate its sustainable origins. In so doing, manufacturers are able to advise consumers that palm oil is an ingredient of the product, but that it has been produced with minimal impact to the environment and no impact on wildlife habitat.

1.35 Ultimately, the intent of the Bill is to provide consumers with accurate labelling information about Palm Oil to enable them to make an informed choice.

1.36 The reasons given by industry that the labelling of Palm Oil would be cumbersome is disproved by the fact that Australia's two major supermarkets, Coles and Woolworths, have successfully sold a number of Palm Oil-free products in their Housebrand and Private Label products.19

19 Coles, Submission 206, p. 1; Woolworths, Submission 275, p. 3.
1.37  Consumers have a right to know what they are buying and what they are eating. The strong community support received in response to this Bill and to this Inquiry proves that the public wants this information to be provided to them.

1.38  The consequence of manufacturers not being mandatorily required to label their products which contain Palm Oil is the continued loss of Orang-utan habitat and in turn, Orang-utans.

Recommendation 1

1.39  That the Bill be passed.

Senator Nick Xenophon
Independent, South Australia

Senator Rachel Siewert
Australian Greens, Western Australia