

Additional comments by Senator Nick Xenophon

Country of origin labelling—a long and winding road

1.1 These reforms contained in the Competition and Consumer Amendment (Country of Origin) Bill 2016 aim to provide consumers with clear, more meaningful and easier to find country-of-origin information so they can make informed purchasing decisions. I have long advocated for reforms to improve an ineffective and often misleading labelling framework, so it will be easier for consumers to make purchasing decisions that support Australian farmers, Australian manufacturers and Australian jobs.

1.2 In 2009, I, alongside my colleagues at the time former Senator Bob Brown and the then Senator Barnaby Joyce, introduced into the Senate the Food Standards Amendment (Truth in Labelling Laws) Bill 2009. The Food Standards Amendment (Truth in Labelling Laws) Bill 2009 was designed to require Food Standards Australia New Zealand in its authority to develop and approve certain food labelling standards regarding the use of the word 'Australian' on packaging and also to require greater detail of the country of origin of ingredients used in food products.

1.3 During committee hearings on the Food Standards Amendment (Truth in Labelling Laws) Bill 2009, it was clear the 50 per cent cost production test for companies to claim that a product was 'made' in a country was inherently problematic. The impact on citrus growers was significant due to the volume of cheap imported fruit juice being sold as 'Made in Australia' because of the flawed 'substantial transformation' test.

1.4 Further, in 2012 I participated in the Senate Select Committee on Australia's Food Processing Sector. As part of that inquiry, I recommended an urgent overhaul of Australia's country of origin food labelling laws to provide truthful and useful information to customers.

1.5 I outlined then, as I did in 2009, that there were serious concerns about our current labelling regime and the extent to which it allows foreign imports to be classified as 'Made in Australia'. I welcome the changes in the Competition and Consumer Amendment (Country of Origin) Bill 2016 and would like to acknowledge the work undertaken by all stakeholders during the consultation process. While it is a step in the right direction, I believe there are more steps the Government can take to strengthen Australia's food labelling framework.

Room for improvement

1.6 In its submission to the Competition and Consumer Amendment (Country of Origin) Bill 2016, Australian Made Campaign Limited (AMCL) stated that overall it "...supports the removal of the 50% cost test..." however it noted "...some concerns

that it may result in adverse consequences for some Australian suppliers of inputs". It noted:

This will occur where a manufacturer opts to source cheaper inputs offshore, knowing that it will not affect their capacity to make a Made in Australia claim. An example of this is a manufacturer of soft gel capsules who currently purchases gelatin from an Australian manufacturer because it assists them to meet the 50% threshold. The local packaging industry may also be impacted adversely by this change.¹

1.7 I note that this issue was recognised in the Committee report, as well as the need for greater guidance on what does and what does not constitute substantial transformation. The Committee also noted the concerns by AMCL that that there was currently no mechanism by which manufacturers could obtain a definitive answer regarding Country of Origin claims and this could result in companies being hesitant to make a claim for fear that competitors would challenge its validity.

1.8 While not making a submission on the Competition and Consumer Amendment (Country of Origin) Bill 2016, consumer group CHOICE has stated that "[U]nfortunately, the new system looks less useful for consumers wanting information about any of the 195 countries that are not Australia. For example, claims such as 'Made in Australia from imported ingredients' will still have you wondering where your food comes from."

1.9 The Competition and Consumer Amendment (Country of Origin) Bill 2016 does not require manufacturers to list the origin of specific ingredients on their label. I am concerned that this will leave many consumers left in the dark when it comes to finding out the origin of the ingredients that are not made or grown in Australia. This could be addressed by manufacturers disclosing the country of origin of specific ingredients on product labels. Alternatively, (given seasonal and other variations) the Government could require manufactures to disclose the country of origin of specific ingredients to the Department of Industry for publication on its website. This could work effectively by requiring disclosure on a six monthly basis (with reporting required within one month of each six month period) of the average percentage of the country of origin of the particular ingredient. For instance, this would be particularly informative for orange juice products which may contain a mix of Australian oranges and imported concentrate depending on the season.

1.10 The Government should take steps within the next 12 months so that manufacturers are required to disclose the origin of specific ingredients in their products. In the absence of such a requirement, I urge food manufacturers to be more transparent about the ingredients that are in their products so that consumers can make a more informed decision.

1 *Submission 2*, p. 4.

1.11 In relation to the issues surrounding the definition of substantial transformation, AMCL has previously argued for a simple administrative mechanism to address this issue, similar to what exists in the US, which will give manufacturers the ability to apply for a ruling on Country of Origin Labelling claims. I welcome the comments by the Committee that there could be benefit in the Government exploring such a mechanism and urge the Government to do so with alacrity, and with any event within the next 12 months.

Recommendation 1

1.12 Within 12 months, the Government take steps which will require manufacturers to regularly disclose the percentage and country of origin of specific ingredients to the Department of Industry for publication on its website.

Recommendation 2

1.13 As a matter of urgency, the Government undertake an analysis and report on the benefit of an administrative mechanism which will give manufacturers the ability to apply for a ruling on Country of Origin Labelling claims, and to introduce legislation to this effect within 12 months.

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