

## Chapter 3

### Labelling cooked or pre-prepared seafood

3.1 This chapter considers labelling requirements in relation to cooked or pre-prepared seafood with particular focus on the arrangements for labelling in the Northern Territory. It also explores the arguments for and against removing the country of origin labelling exemption on cooked or pre-prepared seafood under the Australia New Zealand Food Standards Code.

#### **Labelling cooked or pre-prepared seafood**

3.2 Since June 2006, it has been a legal requirement that all fresh seafood sold by retailers to the Australian public must be clearly labelled with country of origin.<sup>1</sup> However, these regulations excluded or exempted cooked or pre-prepared seafood sold in the food services industry (restaurants, cafes, pubs, bars, clubs, fast food and takeaway outlets including fish and chip shops) where the majority of seafood is sold to the Australian public.<sup>2</sup> Therefore seafood sold by food services for immediate consumption is exempted from being labelled as 'imported' or with country of origin in all states and territories except the Northern Territory (NT).<sup>3</sup> In the NT, a licence condition requires imported seafood prepared for immediate consumption to be labelled as 'imported'. The NT scheme is discussed later in this chapter.

3.3 The majority of submitters to the inquiry argued that the labelling exemption on cooked or pre-prepared seafood created a void in the information provided to the consumer.<sup>4</sup> The effect of the exemption is that consumers are denied the opportunity to make informed choices at the point of sale, while the industry is unable to distinguish its product from (often cheaper) imports. Generalised headings on menus such as 'fish of the day' do not provide any clear indication of where the fish is from and 'would lead a customer to believe that it was locally caught when it may in fact be an imported species'.<sup>5</sup>

3.4 A number of witnesses explained the ramifications of the labelling exemption on the competitiveness of the local fishing industry and efforts to ensure that seafood

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1 National Seafood Industry Alliance, *Submission 10*, p. 7.

2 Northern Territory Seafood Council, *Submission 12*, p. 2. Seafood consumption has continued to rise in Australia along with out-of-home consumption. According to NSIA, between 1985–86 and 2005–06, per capita real household final consumption expenditure on catering rose by 30 per cent or 1.3 per cent per year on average (from \$1,297 to \$1,679). National Seafood Industry Alliance, *Submission 10*, p. 2.

3 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 3.

4 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 10; Australian Barramundi Farmers Association, *Submission 2*, p. 1; National Seafood Industry Alliance, *Submission 10*, p. 5; Master Fish Merchants Association of Australia, *Submission 8*, p. 5; Sydney Fish Market, *Submission 9*, p. 3; Southern Shark Industry Alliance Inc. and Traffic International, *Submission 13*, p. 4; Australian Prawn Farmers Association, *Submission 3*, p. 1.

5 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 10.

is derived from sustainable and legal fisheries. A case in point is that of 'flake' which refers to shark flesh sold in Australian fish and chip shops. According to the Southern Shark Industry Alliance (SSIA) and Traffic International, the term 'flake' is used to cover any shark sold in southern Australia, including imports from unsustainable shark fisheries and shark species on the International Union for Conservation of Nature red list.<sup>6</sup> Therefore, some fish and chip shops are selling shark products potentially derived from threatened shark species or from unsustainable and/or illegal shark fisheries. The sale of these species is in direct competition with that of Australian gummy shark sourced from fisheries which apply strict management practices and meet Commonwealth legislative and regulatory requirements including the *Environment Protection and Biodiversity Conservation Act 1999* strategic assessment.<sup>7</sup>

3.5 The committee heard that the barramundi sector's inability to use labelling to differentiate this iconic Australian species from imports has the potential to damage the reputation of the local industry and its future viability. It may also erode consumer trust in the food services sector overall, and in particular, the tourism industry.<sup>8</sup> Within this context, barramundi farmer, Mr Robert Richards warned of the consequences of a 'tsunami of barramundi' expected to hit the Australian market in the next twelve months from countries including Saudi Arabia, Vietnam and Indonesia.<sup>9</sup>

3.6 Concerns regarding the potential influx of imported barramundi and its potential impact on the local industry were made more serious when considered alongside 'free riding'. Free riding applies when seafood is advertised in a way that suggests it is Australian product. While such advertisements will indicate that their product is imported (albeit often very subtly), the overall impression deliberately created is that product is Australian. One example in point is that of 'Australis Barramundi' which produces barramundi in Vietnam that is sold by Coles and Woolworths. The point was made that such importers are riding in the back of Australia's image (as sustainable, healthy and fresh) while benefiting from the price differential between imported and local product.<sup>10</sup>

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- 6 The IUCN red list is the world's most comprehensive information source on the global conservation status of wild species and their links to livelihoods. IUCN, About IUCN, [http://www.iucn.org/about/work/programmes/species/our\\_work/the\\_iucn\\_red\\_list/](http://www.iucn.org/about/work/programmes/species/our_work/the_iucn_red_list/) (accessed 18 November 2014).
  - 7 Southern Shark Industry Alliance and Traffic International, *Submission 13*, p. 1.
  - 8 Mr Chris Calogeras, Australian Barramundi Farmers Association, *Committee Hansard*, 29 September 2014, p. 12.
  - 9 Mr Robert Richards, Humpty Doo Barramundi, Committee Hansard, 13 November 2014, pp 16–20.
  - 10 Mr Robert Fish, Northern Territory Seafood Council, *Committee Hansard*, 29 September 2014, p. 42.

## Northern Territory's licence condition

3.7 In November 2008, the NT became the first jurisdiction to introduce seafood labelling requirements on restaurants and other dining venues (cafes, bistros, hotels, motels, fish and chip shops as well as delicatessens in supermarkets). A licence condition under the *NT Fisheries Act 1979* requires the NT services sector to label all seafood for public consumption (cooked and raw seafood) harvested outside of Australia and to advertise its sale on menus, menu boards, brochures, pamphlets and related material as imported.<sup>11</sup>

3.8 The intention of the labelling requirement was to enable consumers to make informed seafood choices. According to the Northern Territory Department of Primary Industry and Fisheries (DPIF), the provision was introduced in response to representations from the NT seafood industry and consumer complaints regarding fish served in Darwin, particularly in tourism areas where consumers expect local produce. Underpinning the representations made to the NT government was concern that imported fish was being passed off as local.<sup>12</sup> Ongoing complaints regarding mislabelling, as well as allegations that consumers were misled by the term 'locally caught' in places where it would be rare to find locally caught seafood, also triggered the reform.<sup>13</sup>

3.9 Where mixed seafood dishes are advertised for sale, if any of the seafood products were not harvested in Australia, they must be identified as 'contains imported seafood products'. The statement regarding the imported product must be no less than 65 per cent of the height of the characters used in the title of the fish, aquatic life or mixed seafood product that is advertised for sale.<sup>14</sup>

3.10 Mr Ian Curnow, Deputy Chief Executive of the NT DPIF clarified that the NT approach was to make labelling requirements simple to understand for both retailers and consumers, as well as cost-effective to implement. The provision is based on the premise that by default, unlabelled seafood is Australian product. Mr Curnow explained that this approach reflected the expectations of consumers that they were purchasing locally caught fish.<sup>15</sup>

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11 Mr Ian Curnow, Northern Territory Department of Primary Industry and Fisheries, *Committee Hansard*, 29 September 2014, p. 37; Australian Fisheries Research and Development Corporation, *Submission 17*, p. 10.

12 Mr Des Crowe, Australian Hotels Association, *Committee Hansard*, 13 November 2014, p. 7.

13 Mr Ian Curnow, Northern Territory Department of Primary Industry and Fisheries, *Committee Hansard*, 29 September 2014, p. 37.

14 Mr Ian Curnow, Northern Territory Department of Primary Industry and Fisheries, *Committee Hansard*, 29 September 2014, p. 37.

15 Mr Ian Curnow, Northern Territory Department of Primary Industry and Fisheries, *Committee Hansard*, 29 September 2014, p. 37.

### ***Consumer response to NT labelling requirement***

3.11 According to the Common Language Group (CLG), the initial reaction of consumers in the NT to the introduction of the licence agreement was one of shock when it was made known that most of the barramundi sold in the territory was not local, but rather imported product.<sup>16</sup> The point was made that, while the species is found in the tropics, the name 'barramundi' is a distinctly Australian name which importers have adopted.<sup>17</sup>

3.12 Evidence to the committee suggested that since the introduction of the labelling requirements in relation to the food services sector in the NT, consumers have become aware of the distinction between Australian and imported seafood products. This has permitted restaurants to charge a little more for local seafood.<sup>18</sup> Far from favouring the cheaper, imported seafood, surveys have revealed that consumers in the NT have a preference for local seafood and are prepared to pay a premium for it. After freshness, supporting local industry and origin labelling were the key factors in consumer decisions.<sup>19</sup>

### ***Food services sector response to NT labelling requirement***

3.13 There are approximately 350 fish retail licensees in the NT of which up to 90 per cent are located in Darwin.<sup>20</sup> According to the DPIF, 90 per cent of fish retailers were compliant with the labelling requirement within three months of its introduction. Surveys of retail establishments found that costs of compliance were between \$100 and \$500 per annum, with ongoing menu changes the most substantive cost.<sup>21</sup> In terms of the costs of the initial transition to meet the labelling requirements, the Australian Hotels Association informed the committee that a survey of approximately 20 NT restaurants revealed that one-off transition costs ranged from \$500 to \$5000.<sup>22</sup>

3.14 A survey conducted by FRDC found that there was not only a high level of consumer support for the NT seafood labelling initiative but that it was also generally supported by the food services sector.<sup>23</sup> Evidence provided by NT fish and chip shop, restaurant and bar proprietors suggested that while there was initial antagonism

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16 Australian Fisheries Research and Development Corporation, *Submission 17*, Attachment 2 – Submission from Common Language Group to FRDC, p. 19.

17 Mr Simon Matthews, Owner of Pee Wees on the Point, *Committee Hansard*, 13 November 2014, p. 5.

18 Australian Barramundi Farmers Association, *Submission 2*, p. 2.

19 Mr Ian Curnow, Northern Territory Department of Primary Industry and Fisheries, *Committee Hansard*, 29 September 2014, p. 37.

20 Ms Leonie Cooper, Northern Territory Department of Primary Industry and Fisheries, *Committee Hansard*, 29 September 2014, p. 40.

21 Mr Ian Curnow, Northern Territory Department of Primary Industry and Fisheries, *Committee Hansard*, 29 September 2014, p. 37.

22 Mr Des Crowe, Australian Hotels Association, *Committee Hansard*, 13 November 2014, p. 7.

23 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 10.

amongst some restaurant and take away owners at the prospect of additional compliance responsibilities, such concerns fell away when they realised that labelling provided an opportunity to actively market seafood on their menus.<sup>24</sup> One such proprietor, Mr Jason Hanna explained his reaction to the NT licence condition:

I can tell you that our initial reaction, like most, would have just been that it was one more damn regulation we had to follow. As a person who wrote menus, and I was writing multiple menus for multiple venues, I was not able to see past the fact that I was being told to do something that I would have preferred not to have done. How do I make it look attractive on my menu with these horrible little words in brackets next to my description?

We got over it fairly quickly when the customers started to ask these questions. They wanted to know where their product came from, they wanted to know if it was local or if it was imported and they would show worse – with where they spent their money – as to what it was what they wanted. There are some people who will always be price oriented and there are cheaper local products.<sup>25</sup>

3.15 Similarly, another proprietor, Mr Simon Matthews, noted that a consumer being able to understand why they were paying a little more for Australian seafood was actually a bonus for his business. Mr Matthews, whose restaurant has utilised the labelling requirement as an opportunity to promote NT seafood, explained the impact of the licence condition:

We have a lot of international tourists and national tourists come to our venue and they are specifically looking for seafood from the Territory. It is eating tourism. People are flying to the Territory because of the best pristine conditions we have up here. It is the same with Tasmania, South Australia and Western Australia. They have their niche markets for certain seafoods and we have it here. I think it has been a great tool to help promote what we use up here and what we have and sometimes for justifying why we have to charge a little bit more for what we have.<sup>26</sup>

3.16 APFA, ABFA and others argued that it was now time for the labelling measure to be uniformly applied across all states and territories.<sup>27</sup> However, FRDC cautioned that while the NT provided a good case study in a defined single market with a limited number of outlets, a regulatory impact assessment and benefit cost

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24 Mr Jason Hanna, Owner of Deck Bar, The Arch Rival and Nirvana, *Committee Hansard*, 13 November 2014, p. 1; Mr Des Crowe, Australian Hotels Association NT Branch, *Committee Hansard*, 13 November 2014, p. 1; Mrs Suzanne Morgan, Tourism NT, *Committee Hansard*, 13 November 2014, p. 29.

25 Mr Jason Hanna, Owner of Deck Bar, The Arch Rival and Nirvana, *Committee Hansard*, 13 November 2014, p. 2.

26 Mr Simon Matthews, Owner of Pee Wees on the Point, *Committee Hansard*, 13 November 2014, p. 3.

27 Australian Prawn Farmers Association, *Submission 3*, p. 1; Australian Barramundi Farmers Association, *Submission 2*, p. 3.

analysis should be undertaken to fully understand the implications of extending the regulation across Australia.<sup>28</sup>

### ***Limitations of the NT licence condition***

3.17 While the benefits of the NT licence condition were widely acknowledged, some suggested that it was limited in two key areas. First, that labelling is required only for imports and not Australian product.<sup>29</sup> Greenpeace Australia (Greenpeace) and other submitters argued that this was an omission which created confusion as the consumer is not sure why information on the menu is 'missing' in some instances.<sup>30</sup> Put another way, the NTSC made the point that it can be confusing for imported product to be labelled on menus as 'T' (or 'i') while local product is not labelled.<sup>31</sup>

3.18 In response to these concerns, the NT DPIF explained that once labels such as 'Australian' or 'Australian made' are introduced, the *Trade Practices Act 1974* is triggered. In the NT experience, as emphasis was placed on keeping the regulation as simple as possible to ensure sectoral compliance, going the extra step by triggering the Trade Practices Act would potentially have undermined this objective.<sup>32</sup>

3.19 The second concern with regard to the NT licence condition was that it does not identify the country of origin of the seafood for sale.<sup>33</sup> Some submitters argued that this provision did not provide adequate information for consumers to make informed choices based on quality and sustainability. Mr Nathaniel Pelle, Oceans Campaigner from Greenpeace explained that it was not as simple as arguing that a product from Australia was sustainable and that everything outside of Australia was fished unsustainably. He pointed out that a farmed product from Norway might have been produced under completely different conditions to seafood from Malaysia or China. For this reason, Mr Pelle suggested that simply labelling a product 'imported' or 'Australian' was inadequate information for a consumer to make an informed decision about the quality of the product.<sup>34</sup>

3.20 Similarly, NT restaurant proprietor Mr Joseph Rotumah noted that any new labelling requirement should reveal the product's origins because in countries such as

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28 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 10.

29 Mr Mathew Evans, *Submission 16*, p. [7]; Greenpeace Australia, *Submission 6*, p. 10; Australian Marine Conservation Society, *Submission 15*, p. 5; WWF-Australia, *Submission 21*, p. 6.

30 Mr Mathew Evans, *Submission 16*, p. [7].

31 Mr Robert Fish, Northern Territory Seafood Council, *Committee Hansard*, 29 September 2014, p. 45.

32 Ms Leonie Cooper, Northern Territory Department of Primary Industry and Fisheries, *Committee Hansard*, 29 September 2014, p. 39.

33 Mr Mathew Evans, *Submission 16*, p. [7]; Greenpeace Australia, *Submission 6*, p. 10; Australian Marine Conservation Society, *Submission 15*, p. 5; WWF-Australia, *Submission 21*, p. 6.

34 Mr Nathaniel Pelle, Greenpeace Australia Pacific, *Committee Hansard*, 29 September 2014, p. 24.

Japan, high quality and sustainable seafood is produced. For these reasons, Mr Rotumah advocated for country-of-origin labelling (CoOL) rather than a binary provision which distinguished a product as 'Australian' or 'imported'.<sup>35</sup> Similarly, the NTSC along with Greenpeace, WWF-Australia and the AMCS argued that consumers should be able to read a menu which indicates the origins of seafood products.<sup>36</sup>

3.21 Rather than introduce a provision similar to that of the NT licence agreement across the country, such submitters argued in favour of CoOL to enable identification of the producer country.

### **Country of origin labelling**

3.22 A considerable number of witnesses to the inquiry argued in favour of removing the current CoOL exemption under Standard 1.2.11 of the Code to include services sector outlets and thereby require labelling of seafood sold for immediate consumption.<sup>37</sup> The case was put that removal of the exemption would provide for consistent labelling from the point at which the fish is caught all the way to the plate. For example, Mr Mathew Evans, former chef and food critic, made the point that consistent and reliable labelling should apply to all seafood, local and imported, wild and farmed, fresh and frozen, uncooked and sold through food service.<sup>38</sup>

3.23 The case in favour of amending CoOL requirements under the Code to include seafood sold for immediate consumption in the food services sector was made on the following grounds:

- omission of the food services sector under the Code denies consumers adequate information to make informed purchasing decisions. The lack of labelling provides scope for misleading statements or claims as to country of origin as well as substitution of overseas product for more costly and sought-after Australian product (such as tiger prawns) which denies the consumer value for money;<sup>39</sup>

35 Mr Joseph Rotumah, Owner of Pulp Kitchen and Hungry Joes, *Committee Hansard*, 13 November 2014, p. 9.

36 Mr Robert Fish, Northern Territory Seafood Council, *Committee Hansard*, 29 September 2014, p. 45; Greenpeace Australia, *Submission 6*, p. 10; Australian Marine Conservation Society, *Submission 15*, p. 5; WWF-Australia, *Submission 21*, p. 6; Mr Mathew Evans, *Submission 16*, p. [7].

37 Australian Barramundi Farmers Association, *Submission 2*, p. 1; Australian Prawn Farmers Association, *Submission 3*, p. 1; National Seafood Industry Alliance, *Submission 10*, p. 2; Australian Fisheries Research and Development Corporation, *Submission 17*, Attachment 2 – Submission from Common Language Group to FRDC, p. 18; Greenpeace Australia Pacific, *Submission 6*, p. [11]; Mr Matthew Evans, private capacity, *Committee Hansard*, 29 September 2014, p. 29; Mr William Mure, Mures Fish Centre, *Committee Hansard*, 29 September 2014, p. 29.

38 Mr Mathew Evans, *Submission 16*, p. [7].

39 Ms Helen Jenkins, Australian Prawn Farmers Association, *Committee Hansard*, 29 September 2014, p. 11; Mr Michael Kitchener, Master Fish Merchants' Association of Australia, *Committee Hansard*, 29 September 2014, p. 3.

- extending CoOL to encompass all retailed seafood is a matter of public health importance given concerns regarding biosecurity and the potential health hazards involved in fish sourced from outside of Australia, particularly the possible use of chemicals such as antibiotics and pesticides;<sup>40</sup>
- CoOL would provide a level playing field for both local and overseas producers and bring surety to the local industry;<sup>41</sup>
- Australian producers are unable to distinguish their product from imported product and yet the high standards local producers apply with regard to sustainability, safety and hygiene places an additional cost on the Australian industry.<sup>42</sup>

3.24 The following section considers these arguments in greater detail.

### ***Informing consumers and public health factors***

3.25 The majority of submitters to the inquiry highlighted the importance of providing consumers with diversity of choice and factual information with regard to seafood options.<sup>43</sup> The Australian Barramundi Farmers Association (ABFA) emphasised that as country of origin is second only to freshness in guiding consumer choices, it was unacceptable that a cheaper product could dominate the higher value end of the market due to lack of consumer knowledge.<sup>44</sup>

3.26 Proprietors of restaurants, bars and fish and chip shops in the NT who gave evidence to the committee upheld the view that consumers have a right to know what they are eating and why they may be paying more for local seafood.<sup>45</sup> The point was made that labelling seafood not only informs consumers but also builds trust as consumers know what they are getting for the price they pay.<sup>46</sup> The Australian Prawn Farmers Association (APFA) and ABFA raised concern that if consumers are unable to identify the origins of their seafood and establish whether it complies with strict hygiene regulations, they will cease to purchase seafood.<sup>47</sup> To this extent, therefore,

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40 Australian Prawn Farmers Association, *Submission 3*, p. 2.

41 Mr Michael Kitchener, Master Fish Merchants' Association of Australia, *Committee Hansard*, 29 September 2014, p. 3; Mr William Mure, Mures Fish Centre, *Committee Hansard*, 29 September 2014, p. 29.

42 National Seafood Industry Alliance, *Submission 10*, p. 6.

43 Mrs Suzanne Morgan, Tourism NT, *Committee Hansard*, 13 November 2014, p. 23.

44 Australian Barramundi Farmers Association, *Submission 2*, p. 2.

45 Mr Simon Matthews, Owner of Pee Wees on the Point, *Committee Hansard*, 13 November 2014, p. 6.

46 Mr Jason Hanna, Owner of Deck Bar, The Arch Rival and Nirvana, *Committee Hansard*, 13 November 2014, p. 6.

47 Australian Prawn Farmers Association, *Submission 3*, p. 2; Australian Barramundi Farmers Association, *Submission 2*, p. 2.

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labelling enables and encourages product integrity.<sup>48</sup> Mr Chris Calogeras, Executive Officer of ABFA continued:

We find that the failure to differentiate can lead to questions about the integrity of local production and the food service industry in general. It has the capacity to damage the local industry reputation and negatively impact on consumer trust in the food service sector overall and, importantly, our tourism industry.<sup>49</sup>

3.27 National Seafood Industry Alliance (NSIA) argued that as CoOL was recognised as a consumer value issue, a specific section in *Competition and Consumer Act 2010* should be introduced to deal solely with CoOL claims with regard to food.<sup>50</sup>

3.28 However, the Queensland Government argued that CoOL for seafood was not considered to be a public health and safety issue. It argued that as an alternative, an industry-initiated self-regulated model, such as a voluntary code of practice, could be developed to address consumer values and preferences regarding the provenance of seafood including CoOL for seafood in restaurants and clubs.<sup>51</sup>

3.29 The Queensland Government further noted that Australian consumer law includes prohibitions on making false or misleading representations and misleading or deceptive conduct concerning the place of origin of foods. While it does not contain any mandatory requirements for suppliers to declare the origin of their products, such law does provide 'safe harbour' provisions requiring suppliers to satisfy certain requirements where they have chosen to make a CoOL claim, in order to avoid breaching the prohibitions in consumer law.<sup>52</sup> The NSW Food Authority made the point that retail establishments (or exempted businesses) would still be able to supply country of origin information to consumers upon request by simply checking the packaging of the product or any accompanying documentation, or by requesting it from the supplier. This is because such outlets would have been supplied with CoOL information when purchasing the seafood and can therefore provide that information upon customer request.<sup>53</sup> It further pointed out that truth in labelling provisions apply to any description added to seafood to protect consumers from any false or misleading claims.<sup>54</sup>

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48 Mrs Suzanne Morgan, Tourism NT, *Committee Hansard*, 13 November 2014, p. 26.

49 Mr Chris Calogeras, Australian Barramundi Farmers Association, *Committee Hansard*, 29 September 2014, p. 12.

50 National Seafood Industry Alliance, *Submission 10*, p. 7.

51 Queensland Government Department of Agriculture, Fisheries and Forestry, *Submission 4*, p. [1].

52 Queensland Government Department of Agriculture, Fisheries and Forestry, *Submission 4*, p. [1].

53 NSW Food Authority, *Submission 19*, pp 3 & 6.

54 NSW Food Authority, *Submission 19*, pp 6–7.

### ***Level playing field and impact on the local industry***

3.30 A number of witnesses made the point that the introduction of CoOL requirements on the food services sector would provide a level playing field for both local and imported product. Mr Michael Kitchener, Executive Officer from MFMA argued:

If the shop down the road is selling imported product that is much cheaper but the same species, with country-of-origin labelling everyone knows where they stand.<sup>55</sup>

3.31 Mr William Passey, a joint owner of Australia Bay Seafood, the largest snapper producer in Australia, made the point that as local seafood is more expensive to produce when compared to most imported products, without the ability to distinguish their product alongside imports, it is difficult for locals to compete. At the same time, however, cheaper imports can also be heavily marked up, particularly when Australian consumers generally assume that they are purchasing Australian product.<sup>56</sup> Mr Chris Calgeras, Executive Officer of the ABFA explained the situation for the local barramundi sector:

The current situation denies consumers choice, impacts on Australian jobs and contributes to the ongoing attrition of Australian business involved in food production. We feel that requiring product to be differentiated in the market will achieve the best of both worlds. It will allow Australian industry to get a premium price for their local product from imported consumers and it will also allow access to lower priced imports, if that is what people choose.<sup>57</sup>

3.32 Barramundi producer, Mr Robert Richards emphasised the inextricable relationship between informing consumers and the future of the local fishing industry:

We have two scenarios: one is obfuscation and denying the public the opportunity to be able to make informed choices, which will be disastrous for the industry; and the other is giving consumers what they are entitled to know, which is the information at the point of sale.<sup>58</sup>

3.33 According to the Sydney Fish Market, an equal playing field would not be difficult to realise as CoOL is mandated up to the back door of a restaurant and to take that information from the back door to the menu should not be onerous.<sup>59</sup>

3.34 Mr Matthew Evans suggested that the extension of CoOL to the services industry would not only provide an opportunity to market Australian product and

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55 Mr Michael Kitchener, Master Fish Merchants' Association of Australia, *Committee Hansard*, 29 September 2014, p. 3.

56 Mr William Passey, Australia Bay Seafood, *Committee Hansard*, 13 November 2014, p. 20.

57 Mr Chris Calgeras, Australian Barramundi Farmers Association, *Committee Hansard*, 29 September 2014, p. 13.

58 Mr Robert Richards, Humpty Doo Barramundi, *Committee Hansard*, 13 November 2014, p. 16.

59 Mr Bryan Skepper, Sydney Fish Market, *Committee Hansard*, 29 September 2014, p. 5.

thereby provide some rationale for charging a premium, but also increase demand for Australian product, thereby providing opportunities to increase production and expansion of local businesses.<sup>60</sup> As a case in point, prior to the introduction of the labelling requirement under the Code for fresh fish, local producers were unable to compete with cheaper imported prawns sold in supermarkets at \$15.99 per kilogram. However, now local prawns sold at \$27 per kilogram and advertised as 'Australian' can compete with the labelled imported products because of CoOL labelling.<sup>61</sup>

3.35 According to the NTSC, since the introduction of CoOL in supermarkets, the trawl fishery industry turnover increased from \$4 million to over \$30 million while production rose from 500 tonnes to 3000 tonnes.<sup>62</sup> Similarly, Mr Passey informed the committee that since the introduction of CoOL for fresh fish, sales for snapper increased by 400 per cent.<sup>63</sup> As a result of the mandatory labelling requirement coupled with demand for Australian produce, Australian-produced Atlantic salmon and Red snapper species are now the largest selling fish in the two major supermarkets.<sup>64</sup> In contrast, Mr Passey suggested that without CoOL for fresh fish, Australia would be importing 100 per cent of its fish rather than the current 70 per cent.<sup>65</sup>

3.36 Evidence to the committee suggested that where local barramundi was advertised as 'Australian' and sold in supermarkets alongside labelled imported product, consumers are prepared to pay the \$20 premium for Australian product.<sup>66</sup> Mr Robert Fish, Chairman of the NTSC summarised the impact of fresh fish CoOL on the local industry:

By getting the labelling in, we can compete and we can invest back into our businesses where we couldn't before...To get to that position there has to be a premium on Australian fish. There has to be a reason for it, and there are a whole lot of reasons for it—that it is sustainable, healthy and safety is okay, how people work on the boats. There is a range of reasons why people choose Australian fish first.<sup>67</sup>

3.37 The committee received evidence that labelling under the licence condition in relation to the NT services sector has had a similar impact. According to Mr Andrew

60 Mr Matthew Evans, personal capacity, *Committee Hansard*, 29 September 2014, p. 35.

61 Mr Robert Fish, Northern Territory Seafood Council, *Committee Hansard*, 29 September 2014, p. 41.

62 Mr Robert Fish, Northern Territory Seafood Council, *Committee Hansard*, 29 September 2014, p. 43.

63 Mr William Passey, Australia Bay Seafood, *Committee Hansard*, 13 November 2014, p. 17.

64 Northern Territory Seafood Council, *Submission 12*, p. 2.

65 Mr William Passey, Australia Bay Seafood, *Committee Hansard*, 13 November 2014, p. 17.

66 Mr Chris Calogeras, Australian Barramundi Farmers Association, *Committee Hansard*, 29 September 2014, p. 13.

67 Mr Robert Fish, Northern Territory Seafood Council, *Committee Hansard*, 29 September 2014, p. 41.

Hirsch, former proprietor of the Barra Bar, customers at the bar are offered a choice between local fish for \$12 and cheaper imported fish for \$9. He explained that an estimated 80 per cent of the fish sold at the establishment was local.<sup>68</sup>

3.38 The committee received evidence from a number of witnesses who expressed the view that removing the CoOL exemption on the services sector would boost consumption of local seafood and thereby enable local producers to expand.<sup>69</sup> Opportunities in the barramundi sector were particularly highlighted. Currently, the local barramundi (or *Lates calcarifer*) sector produces up to approximately 6000 tonnes whole weight, deriving up to \$60 million annually at the farm gate. According to research, approximately 20,000 tonnes of barramundi in whole weight fish is consumed in Australia each year with Australian product amounting to about 40 per cent (comprising about 30 per cent farmed and seven per cent wild caught barramundi) with the balance imported.<sup>70</sup>

3.39 Mr Calogeras from ABFA argued that if labelling were introduced, it would provide the opportunity for new barramundi farms to be established in Australia, creating hundreds of jobs to meet demand for Australian product.<sup>71</sup> Mr Robert Fish, Chairman of the Northern Territory Seafood Council (NTSC) explained that prior to the introduction of the licence agreement in the NT, nearly all barramundi was imported and local operations had difficulties trying sell their 500 tonnes into markets already swamped with imported fish sold at half the price. At that time, Australian producers were forced to rely on the high-end restaurant market.<sup>72</sup>

3.40 The committee was also informed that in the farmed prawn sector, a level playing field brought about by CoOL would provide the basis for greater investment in prawn farms and jobs growth. According to Ms Helen Jenkins, Executive Officer of the APFA, estimates suggest that if planned farms are established, the sector could expect to grow by seventeen times, with employment increasing from the current 300 positions to an estimated 5000.<sup>73</sup>

3.41 Evidence also suggested that by having a positive impact on local production, demand of other species fished in Australia might also grow. The NTSC made the

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68 Mr Andrew Hirsch, The Barra Bar, *Committee Hansard*, 13 November 2014, p. 31.

69 Mr Chris Calogeras, Australian Barramundi Farmers Association, *Committee Hansard*, 29 September 2014, p. 12; Mr Robert Richards, Humpty Doo Barramundi, *Committee Hansard*, 13 November 2014, p. 21; Mr William Passey, Australia Bay Seafoods, *Committee Hansard*, 21 November 2014, p. 21.

70 Mr Chris Calogeras, Australian Barramundi Farmers Association, *Committee Hansard*, 29 September 2014, p. 12.

71 Mr Chris Calogeras, Australian Barramundi Farmers Association, *Committee Hansard*, 29 September 2014, p. 14.

72 Mr Robert Fish, Northern Territory Seafood Council, *Committee Hansard*, 29 September 2014, p. 43.

73 Ms Helen Jenkins, Australian Prawn Farmers Association, *Committee Hansard*, 29 September 2014, p. 15.

point that along the east coast of Australia, fishers do not fish for some species anymore because those species cannot compete with other cheap (and imported) species.<sup>74</sup>

### ***Well managed fisheries***

3.42 NSIA and others argued that as many countries do not meet the FAO standards for fisheries and aquaculture management, their costs of production are considerably less than that of Australia's well managed and regulated industry which is unable to compete with these low cost management regimes.<sup>75</sup>

3.43 The argument was put that Australian consumers have a right to ensure that their seafood comes from fisheries or aquaculture ventures that comply with standards similar to those in Australia. According to NSIA, this cannot be achieved without the extension of CoOL to seafood sold for immediate consumption.<sup>76</sup>

3.44 Nonetheless, the SIAA and NSW Food Authority submitted that there was no evidence that imported seafood is less safe, of inferior quality or less nutritious than locally produced seafood.<sup>77</sup>

### ***Compliance and enforcement***

3.45 The point was repeatedly made that while fishing industry is required by regulation to document the details of a catch, such information is lost at the restaurant backdoor under the current exemption. Therefore, far from requiring the establishment of an entirely new system, removing the CoOL exemption would simply require already captured information to be passed on at the restaurant door.

3.46 Mr Passey noted that the CoOL exemption was tantamount to putting catch information into the rubbish bin and then not telling consumers what they are eating.<sup>78</sup> He further explained that:

We are large producers and we bear a lot of costs. A lot of that cost is so that we can put together the information that is required by regulation. With the fishes, we have the date that it was caught, the skipper that caught it, whether there are any environmental interactions with it, the type of net we used, the depth of the water and the latitude and longitude it was caught in. All of this information is put together and paid for. We pay the fisheries department to collate all of that together. This is all done because it is what the regulation is and we want to put our industry in a good state and get

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74 Mr Robert Fish, Northern Territory Seafood Council, *Committee Hansard*, 29 September 2014, p. 43.

75 National Seafood Industry Alliance, *Submission 10*, p. 6; Mr Mr Simon Matthews, Owner of Pee Wees on the Point, *Committee Hansard*, 13 November 2014, p. 6.

76 National Seafood Industry Alliance, *Submission 10*, p. 10

77 Seafood Importers Association of Australasia Inc., *Submission 1*, p. [4]; NSW Food Authority, *Submission 19*, p. 8.

78 Mr William Passey, Australia Bay Seafoods, *Committee Hansard*, 13 November 2014, p. 15.

what I see as a social licence to operate in a business. I think you have got to do the right thing by the public to be able to keep going...

We do all of that and then we put fishes in trucks and send them thousands of kilometres around Australia. We supply basically every Coles and Woolies shop in Australia. It is a big network with a lot of trucking and a lot of fish...It is hundreds of thousands of dollars in our industry to put that information together and to put those fish to the back door of the restaurant. After all of those thousands of damn kilometres to get those fish to the markets, the last 10 metres before it goes to the consumer – the last link in the chain – is where that person is given an exemption. For what reason, I do not know. That person is saying it is because the chalk costs him too much!<sup>79</sup>

3.47 Similarly, Mr Bryan Skepper, General Manager of the Sydney Fish Market made the point that:

A restaurant, when it is buying the product in, will know the country of origin, because it is mandated that country of origin is up to the back door of the restaurant. To take that information from the back door of the restaurant to the menu should not be that difficult.<sup>80</sup>

3.48 APFA argued that the simple addition of a few words to restaurant and outlet menus and chalk boards was not a prohibitive cost.<sup>81</sup> Mr Mure, whose Tasmanian fish and chip shop provides country of origin labelling, informed the committee that the outlay for labelling were one-off costs relating to setting up a menu:

The downstairs fish and chips is all printed material, so we actually have magnetic labels that come off and on depending on what product we are selling. So if it is blue grenadier product of Australia, then it goes up. If it is blue grenadier product of New Zealand then that label grows up. So we change them around. It is just the one-off cost of setting up your menu properly. We have not flowed that through to the upper deck yet. That is next on our list of things to do—that we will make sure that our menus are printed with the country-of-origin product.<sup>82</sup>

3.49 ABFA also noted that while the compliance costs in relation to the seafood labelling laws were not significant, if there were concerns, a staged approach could be taken to align with normal business practices to replace and update menus and information boards.<sup>83</sup> Similarly, Mr Robert Richards, a barramundi farmer from Humpty Doo Barramundi supported a phasing-in process to allow time for adjustment of menus and restructure of business practices.<sup>84</sup>

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79 Mr William Passey, private capacity, *Committee Hansard*, 13 November 2014, p. 15.

80 Mr Bryan Skepper, Sydney Fish Market, *Committee Hansard*, 29 October 2014, p.

81 Australian Prawn Farmers Association, *Submission 3*, p. 2.

82 Mr William Mure, Mures Fish Centre, *Committee Hansard*, 29 September 2014, p. 33.

83 Australian Barramundi Farmers Association, *Submission 2*, p. 2.

84 Mr Robert Richards, Humpty Doo Barramundi, *Committee Hansard*, 13 November 2014, p. 16.

3.50 In terms of compliance and enforcement across all states, NSIA maintained that once consumers were aware of the labelling requirement, compliance would be highly self-regulating with support from local food inspectors.<sup>85</sup> Similarly, APFA argued that the extension of CoOL could simply involve the addition of an inspection of restaurant and cooked seafood outlet menus to the checklist of health and safety regulators already inspecting retail establishments.<sup>86</sup> APFA further argued that Physi-Trace testing technology could be applied to establish the providence of Australian and overseas prawns and any farmed fish species.<sup>87</sup>

3.51 The Queensland Government argued against mandatory CoOL labelling for seafood sold in restaurants on the grounds that it would 'significantly increase red tape and costs for many businesses, and is not supported'.<sup>88</sup> Similarly, the Department of Agriculture (department) noted that extending mandatory origin labelling to seafood sold in the food service sector in Australia would add regulatory burden and cost. It further maintained that such a requirement would cause regulatory inconsistency because no other food served in the service sector is required to have country of origin labelling.<sup>89</sup> It drew on the Blewett Review which argued against extending CoOL to restaurants on the grounds that such a measure would 'constitute an exemption to the general exemption of restaurants from mandatory labelling requirements'.<sup>90</sup> The department further noted that any changes to labelling laws for seafood would need to be considered alongside a rigorous cost and benefits analysis.<sup>91</sup>

3.52 The Queensland Government also made note that there are a relatively fewer seafood producers, and a comparatively small number of eating establishments in the NT when compared to many other jurisdictions. For these reasons, the Queensland Government concluded that:

The system in place in the NT is not considered appropriate in jurisdictions such as Queensland, with different geography and supply chain characteristics, and by comparison a very large number of eating establishments selling seafood.<sup>92</sup>

3.53 Similarly, SIAA argued that the survey conducted in the NT to examine the impact of the licence condition could not be used to advance the argument for CoOL nationwide and that its findings could not be extrapolated to other states and

85 National Seafood Industry Alliance, *Submission 10*, p. 9.

86 Australian Prawn Farmers Association, *Submission 3*, p. 5.

87 Australian Prawn Farmers Association, *Submission 3*, p. 5.

88 Queensland Government Department of Agriculture, Fisheries and Forestry, *Submission 4*, p. [1].

89 Department of Agriculture, *Submission 11*, p. 5.

90 Dr Neal Blewett AC et al, *Labelling Logic: Review of Food Labelling Law and Policy*, 2011, p. 108.

91 Department of Agriculture, *Submission 11*, p. 5.

92 Queensland Government Department of Agriculture, Fisheries and Forestry, *Submission 4*, p. [2].

territories.<sup>93</sup> It argued that the main hypothesis that consumers would purchase more Australian seafood if the origins of seafood product was on the menu is flawed because of the insufficient supply in Australia to fill any additional demand created, let alone the price:

Three quarters of Australia's seafood is imported, by necessity, to full the chronic gap in supply; and two thirds of Australians cannot afford to eat fresh Australian seafood regularly, and one third of Australians cannot afford to eat frozen Australian seafood regularly.<sup>94</sup>

3.54 SIAA suggested that the idea that the cost of extending CoOL across Australia is limited to changing a blackboard menu should be considered in the context of city venues where ten thousand meals or more may be served at one event. Such costs would include:

- regular changes to advertising, electronic signage and printing menus (especially when seafood from several origins is used in one day or one sitting);
- retained supply chain audit rails to verify CoOL after the event;
- identifying the scope (e.g. whether school tuckshops would be required to identify on menus the origin of mixed ingredients in tuna sandwiches, seafood salads or spring rolls); and
- uneven enforcement of the regulation in the future.<sup>95</sup>

3.55 SIAA concluded that the most likely consequence of such a change is increased prices to consumers and cutting of seafood lines by many food service outlets to avoid liability.<sup>96</sup>

3.56 The NSW Food Authority made the point that the NT produces iconic seafood species including single-species of barramundi and mud crabs while other states, in particular NSW, produce a diverse range of many different species of seafood, many of which do not entail demands for protection. It argued that for this reason, mandating CoOL at restaurants may add burden to industry without any benefit at retail level.<sup>97</sup> Furthermore, the point was also made that expanding CoOL to include the services industry would require amendment to the food standards and thereby, the agreement of the states and territories and the provision of cost-benefit analysis.<sup>98</sup>

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93 Seafood Importers Association of Australasia Inc., *Submission 1*, p. [2].

94 Seafood Importers Association of Australasia Inc., *Submission 1*, p. [3].

95 Seafood Importers Association of Australasia Inc., *Submission 1*, p. [3].

96 Seafood Importers Association of Australasia Inc., *Submission 1*, p. [3].

97 NSW Food Authority, *Submission 19*, p. 6.

98 Mr Steve McCutcheon, FSANZ, *Committee Hansard*, 29 September 2014, p. 70.

## Committee view

3.57 The majority of submissions emphasised the relationship between Australia, local seafood, tourism and dining. The point was repeatedly made by many submitters that eating fresh, local seafood was a key selling point for the tourism industry.<sup>99</sup>

3.58 Evidence to the committee highlighted that food sold at the food service level does not require labelling as 'imported' or with country of origin while packaged food must be labelled with country of origin and unpackaged food must be labelled imported or with country of origin at the retail level.<sup>100</sup> The point was made that removing the exemption on the food service sector would provide consistency from the initial catch to the plate.

3.59 It was put to the committee that the increased need for country of origin in seafood is predicated on a strong consumer preference for local seafood, and the need to ensure the Australian industry is not priced out of the market by products not clearly labelled as imported.<sup>101</sup> The lower cost of imported seafood ensures that there is no incentive for venues to voluntarily identify imported product.

3.60 The committee does not uphold the view put to it that the NT is distinctly different to the rest of Australia and that its licence condition cannot therefore be considered a demonstration to the rest of the country of the benefits of labelling. On the contrary, the evidence before the committee repeatedly demonstrated that seafood labelling would be beneficial to consumers, the local fishing industry and the national economy.

3.61 The committee holds the view that mandating country of origin labelling in relation to fish products sold in restaurants and other cooked seafood outlets comprises an effective, simple and cost-effective means of achieving a level playing field for Australian and overseas seafood producers. To this end, the committee recommends the immediate removal of the exemption under Standard 1.2.11 of the Code.

3.62 The committee also accepts that the best approach in relation to the introduction of such a mandatory scheme is to provide for a transitional period or phase-in period of no more than twelve months before full compliance with the mandated extension of seafood CoOL would be enforced. While evidence to the committee suggested that the compliance costs would not be onerous, a transitional period would provide an opportunity for an education and awareness raising campaign amongst both the industry and consumer population while assisting the services industry to make the necessary adjustments to their businesses.

## Recommendation 1

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99 Australian Barramundi Farmers Association, *Submission 2*, p. 2.

100 National Seafood Industry Alliance, *Submission 10*, p. 8.

101 National Seafood Industry Alliance, *Submission 10*, p. 9.

**3.63 The committee recommends that the exemption regarding country of origin labelling under Standard 1.2.11 of the Australia New Zealand Food Standards Code for cooked or pre-prepared seafood sold by the food services sector be removed, subject to a transition period of no more than 12 months.**

3.64 The committee appreciates that CoOL labelling requires a complementary education and awareness-raising campaign. As noted in evidence to the committee, it is the consumers who will do most of the monitoring work through questioning at the point of sale. As customers become accustomed to the labelling requirement, it provides an opportunity for the services industry to advertise and actively market product accordingly. It is within this context of greater consumer awareness that questions pertaining to the specific origins of seafood products will emerge.