

Question on notice no. 2

Portfolio question number: SI-2

2018-19 Supplementary budget estimates

Economics Committee, Industry, Innovation and Science Portfolio

Senator the Hon. Kim Carr: asked the Department of Industry, Science and Resources on 25 October 2018—

Senator KIM CARR: We're not talking about tomatoes. We are talking about complimentary medicines. Senator Canavan: The point Mr Lawson is making is that these laws are generically applied, or the test at least is applied in other sectors. So, obviously, decisions made in regard to one sector need to be consistent with how the approach is across others as well. There is a balance here of considerations that must be made. Senator KIM CARR: The problem we have here is that there is a matter of urgency. There are 29,000 Australians employed in this industry. They are directly affected by these decisions. My anxiety is that you don't seem to be taking this as a matter of urgency. Senator Canavan: I don't agree with that. We are engaging the sector, as Mr Lawson as outlined. The changes would only need to be made by 1 July next year. We are happy to take it on notice and check with the minister for more detail about what the government is considering at the moment. I understand your interest in it. The government also takes this matter seriously. That is why we are engaging the sector. Senator KIM CARR: Can you take on notice whether or not it is possible to achieve this by regulation- Senator Canavan: I'm happy to take it on notice. I don't know myself. Senator KIM CARR: My anxiety is that if it does require legislative change there's no way that is going to be dealt with in the current parliamentary environment in that time period. Senator Canavan: I couldn't comment. I am not familiar with this legislation. I will take it on notice. Mr Lawson: One point to note is that there is a court case going on at the moment and if that court case goes to the position the company has put, and says the AMCL's actions aren't appropriate, that would change the circumstances. There are a range of possible- Senator KIM CARR: It could take months. Mr Lawson: There are a range of possible ways that need to be explored to address this issue. Ministers are very apprised of the issue and very concerned about it and want to make sure that a good, well-principled solution is found as quickly as possible. Senator KIM CARR: Sure. The problem is that this is a matter that can't wait for months for resolution. It has been going on now well over 12 months. You would have been advised about this certainly for as long as I have been, and I suspect well before I was. This has been going on for well over 12 months directly for me, and I suggest much longer for you. Minister, you'll take that on notice presumably. Senator Canavan: Sorry, what was the question? Senator KIM CARR: How long has the parliament known about this problem? It is my contention that you've known about this for well over 12 months and now you're waiting on the outcome of a court case, which in itself could take months. Mr Lawson: I didn't say we are waiting on the outcome of a court case. That case is going on. We are also in parallel looking at the issues and providing advice to the minister. Senator KIM CARR: I'd like to know if it's possible for this to be resolved by regulation as distinct

from legislation. Senator Canavan: Yes, we've taken that on notice. Senator KIM CARR: Thank you very much.

Answer —

See attachment.

Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Department Industry, Innovation and Science
2018 - 2019 Supplementary Budget Estimates
25 October 2018

AGENCY/DEPARTMENT: DEPARTMENT OF INDUSTRY, INNOVATION AND SCIENCE

TOPIC: Complementary medicines

REFERENCE: Question on Notice (Hansard, 25 October 2018, Page 43)

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Senator KIM CARR: Thank you very much.

ANSWER

Q1) is it possible for this to be resolved by regulation?

The *Competition and Consumer Act 2010* contains the Australian Consumer Law. Part 5-3 of this outlines the safe harbour defences in regard to country of origin representations. Part of this provision allows for an information standard to outline the requirements to be met in order to rely on a safe harbour defence. This could, if appropriate, allow for the issue to be resolved by regulation. Subsection 255(3)(b) also provides a mechanism whereby regulations could be used to outline certain processes for particular classes of goods to qualify for the safe harbour defences. This also could, if appropriate, allow for the issue to be resolved by regulation.

As the Country of Origin Labelling substantial transformation changes were made through the COAG Legislative and Governance Forum on Consumer Affairs, it would be a requirement to consult through this forum with Commonwealth, State and Territory Consumer Affairs Ministers on any changes.

Q2) How long has parliament known about this matter?

The Department was forwarded correspondence on 16 August 2017 from Australian Made Campaign Limited (AMCL).

Sanofi raised concerns about the potential loss of the use of the AMAG logo with the then Assistant Minister for Industry, Innovation and Science, The Hon Craig Laundy MP in November 2017. The issue was subsequently referred to the ACCC.

The ACCC's *Country of origin labelling for complementary healthcare products – a guide for business*, was issued on 29 March 2018.