

**Senate Standing Committee on Economics**  
**ANSWERS TO QUESTIONS ON NOTICE**  
Innovation, Industry, Science and Research Portfolio  
Budget Estimates Hearing 2011-12  
30 May 2011

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**AGENCY/DEPARTMENT:** INNOVATION, INDUSTRY, SCIENCE AND RESEARCH

**TOPIC:** Weighing produce and National Measurement Institute

**REFERENCE:** Written Question – Senator Heffernan

**QUESTION No:** BI-95

**Senator Heffernan - Short Weight Seafood Imports** – Industry members have reported an increasing rate of overseas companies selling short weight produce, i.e. the actual weight of the product is less than the weight printed on the bill of lading. The industry believes there is insufficient regulation and policing of these practices to stop this behaviour.

- 1) Where does 'food weight compliance' rate on the priority list for action by the National Measurement Institute (NMI)?
- 2) Where does seafood sit on the priority list against other food types for compliance investigation and enforcement?
- 3) Does the NMI focus on supermarkets or does it undertake investigations of retail seafood outlets?
- 4) How many investigations of compliance with net weight regulations have been undertaken for frozen seafood? Give details.
- 5) Considerable quantities of seafood are sold directly to restaurants and other food service establishments or through wholesale establishments. Does the NMI have the authority to check compliance at the food service level? If so what is the frequency of testing and what is the process followed? Do officers arrive unannounced; do they directly select samples to be tested?
- 6) Cooperation with other agencies could be important for a successful prosecution as any water added prior to or after freezing must be declared as water added along with the percentage seafood in the ingredient list or the net weight must be exclusive of glaze. Has this been considered by the NMI; is it a potential problem?
- 7) Much of the problem concerns imported seafood monitored on arrival by AQIS. AQIS, however, see short weight as a commercial issue, not quarantine or food safety. Again could NMI work cost effectively in collaboration with AQIS to investigate weight compliance at the point of entry? USFDA, the AQIS equivalent in the USA, does test for net weights upon entry.
- 8) Does the NMI realise that there are fraudulent activities arising from this problem in that consumers in different market sectors are being duped and that it creates an uneven economic playing field?

## ANSWER:

- 1) The National Measurement Institute (NMI) monitors compliance with all aspects of trade measurement, including 'food weight compliance'.
- 2) Any trade transaction can be investigated for compliance, including transactions involving any food type. NMI undertakes inspections as part of our general compliance strategy as well as undertaking inspections as part of the process of investigating specific complaints. Complaints relating to meat and seafood account for approximately 10 per cent of trade measurement complaints received by the NMI; only 14 per cent of all complaints are substantiated. Both specific complaints received and the number of substantiated instances of non-compliance within an industry segment helps NMI target its compliance activities.
- 3) NMI can undertake investigations of any trade transactions including business to business transactions, such as at wholesale fish markets and selling to restaurants, and business to consumer transactions, such as at supermarkets and other retail outlets.
- 4) Trade measurement inspectors initiate visits to traders, and for example inspectors recently undertook inspections at the Sydney Fish Market, to ensure compliance with the *National Measurement Act 1960* and its Regulations. NMI also investigates reported complaints, including those reported in relation to seafood. Complaints relating to meat and seafood have accounted for approximately 10 per cent of trade measurement complaints received by NMI. As noted above, complaints are not necessarily substantiated by investigation, and trade measurement compliance is generally high.
- 5) NMI's trade measurement inspectors are authorised to test for trade measurement compliance wherever a trade transaction occurs. Trade measurement inspections can occur as part of our general compliance strategy and also in response to specific complaints. With respect to food packages, test methods include examination and measurement, and may involve breaking packages open. Visits by inspectors may occur 'at all reasonable times' without providing prior notice of entry. Where breaches of the *National Measurement Act 1960* or its Regulations are identified, inspectors have a range of enforcement measures available to them including issuing infringement notices and recommending that the Commonwealth Director of Public Prosecutions pursue court action.
- 6), 7) and 8)

NMI is in regular contact with other regulatory agencies and is also working closely with industry to ensure that producers 'doing the right thing' are recognised in the market. NMI has significant expertise in food analysis as well as in the determination of net weight. In addition to administering trade measurement domestically, NMI is an active participant in the bodies which establish the internationally agreed methodologies for determining net weight. NMI has invited the seafood industry to report to it instances of specific concern so that they can be investigated, and is continuing to undertake routine verification and compliance activities including random inspections.