



Australian Government
**Department of Industry,
Innovation and Science**



Country of origin labelling

Consultation Regulation Impact Statement

Consumer Affairs Australia New Zealand

4 December 2015

<https://consult.industry.gov.au/cool-taskforce/cool>

Contents

Executive summary	3
Have your say	4
1. Australian food industry, consumers and the labelling framework.....	6
2. Statement of the problem	12
3. Policy objective.....	16
4. Considerations in revising the current country of origin labelling framework ...	17
4.1 What information will satisfy consumers and keep costs down for business?	17
4.2 How can businesses be more confident in using the safe harbour defences?	25
4.3 How should labelling of imported food be treated?	27
4.4 What is the role for digital information?	29
4.5 What activities may be required to increase awareness?	31
5. The proposed response	34
5.1 New country of origin labels for priority food	34
5.2 Amending the conditions food and non-food businesses can use to defend their claims	36
5.3 Revise country of origin labels on imported priority food	36
5.4 Industry providing additional information through digital platforms (voluntary)	37
5.5 Education campaign to communicate revisions to country of origin labelling	37
6. Implementation.....	39
7. Consultation	42
8. Conclusion	44
Attachment A - Consolidated questions	45
Attachment B - Australia's current country of origin labelling framework.....	52
Attachment C - Comparison of provisions in Australia and other countries.....	57
Attachment D - Costs and assumptions	59
Attachment E - Country of origin labelling framework – Proposed revisions	63

Executive summary

Many consumers want to know where the products they buy are made, produced or grown. Businesses often include information on product labels that state the origin of the product to provide this information to consumers.

It is against the law in Australia for businesses to provide false or misleading information to consumers, including on the place of origin. There are also rules to help businesses work out when their claims are clearly not misleading. Additionally, there are specific laws that cover the claims businesses make about the country of origin of food and non-food products.

This combination of laws and government processes is referred to as the country of origin labelling framework. This framework aims to ensure information provided to consumers helps them to make purchases that align with their preferences. The framework also tries to balance this with the cost to business to provide this information. Despite this approach, many Australian consumers report that they often find current origin claims on food are hard to find, confusing or don't provide enough information.

While the current information on food labels is not meeting the expectations of consumers, for the most part the labels are not illegal. Investigations show that there is a high level of compliance by businesses with the laws around country of origin claims. Some businesses report that some aspects of the framework are difficult to use and they sometimes don't know what they can say about their product. They may provide minimal information on labels to ensure they comply with laws.

This is not a new issue. Governments have tried to resolve it in the past by providing more guidance material for industry and consumers, but consumers continue to raise concerns. Research also shows that Australian consumers particularly want to know the proportion of ingredients grown in Australia. The current framework does not require businesses to provide this information.

This Consultation Regulation Impact Statement (RIS) discusses a number of issues to be considered when addressing this problem, including the advantages, disadvantages and estimated costs (to consumers, industry and government) of potential improvements that could be made. The following issues are discussed.

- What information will satisfy consumers and keep costs down for business?
- How can businesses be more confident in using the claims?
- How should the labelling of imported food be treated?
- What is the role for digital information?
- What activities may be required to increase awareness?

The aim is to deliver more reliable information to consumers and provide greater certainty for business, while ensuring there are not undue costs to business and maintaining Australia's trade obligations. While consumers may value country of origin for reasons such as quality, jobs, safety or sustainability, whether such perceptions are valid is not in scope for this consultation.

A proposed Commonwealth Government response to revise the country of origin labelling framework is presented. The proposed changes to labels include:

- using the Australian made logo on food made, produced or grown in Australia
- displaying proportion of local ingredients on Australian food with a bar chart and text for most food
- simplifying the rules for using certain origin statements for food and non-food products
- placing country of origin statements on imported food in a box and clarifying claims.

These improvements would be supported by an education campaign on the changes targeting business and consumers and encouraging businesses to offer additional digital information solutions.

Feedback is sought on this analysis, particularly the costs to implement the proposed improvements, to help Australian governments decide what needs to be done.

Have your say

This consultation process considers how improvements to Australia's country of origin labelling framework could provide improved information for Australian consumers and clarity for businesses on regulatory requirements without imposing undue costs. Extensive national consultation has been undertaken and feedback received from consumers and businesses to date has been valuable to inform the policy options being considered to meet this objective.

This Consultation Regulation Impact Statement (RIS) examines issues that need to be considered to address this problem and presents a proposed response. The Australian Government Department of Industry, Innovation and Science is undertaking the consultation process on behalf of Commonwealth, state and territory governments. Feedback is sought from businesses and consumers on the issues identified in this Consultation RIS. Trading partner views are also welcome. This is an important opportunity to provide your views.

Comprehensive feedback is crucial to ensure that Australian governments with responsibility for the country of origin labelling framework have accurate information to inform their final decision on country of origin labelling.

Resolving issues with the current framework for food products is a key focus of this Consultation RIS. However, some of the proposed solutions also impact non-food products. Therefore, all industries are encouraged to have their say.

The Consultation RIS is available for feedback from 4 December 2015. Feedback on the Consultation RIS must be received by the department by 5pm AEST 29 January 2016.

Areas for consultation

The content of the Consultation RIS (Item 1) includes:

- background to the Australian food industry, consumers and the current labelling framework
- an outline of the problem highlighting the issues many consumers and businesses have with the current country of origin labelling framework
- discussion of considerations in revising the current framework
- a proposed response by the Commonwealth Government to address the problem
- a series of questions to guide your feedback about the considerations and proposed response.

To gather additional feedback on the Commonwealth Government's proposed response, the following items are also provided (on the [Department of Industry, Innovation and Science Consultation hub](#)) as part of this consultation package:

- Item 2 - Draft country of origin food labelling Information standard
- Item 3 - Draft Information standard - Explanatory and discussion paper
- Item 4 - Proposed changes to the Australian Made, Australian Grown certification trade mark
- Item 5 - Draft safe harbour defence amendments
- Item 6 - Draft safe harbour defence amendments - Explanatory and discussion paper.

Submissions to the Consultation RIS

There are a number of questions posed throughout the Consultation RIS and the items relating to the proposed response. These questions are all compiled at Attachment A. These questions should be used as a guide when developing a written response. There is no obligation to answer any or all of the questions, however providing responses in the manner requested will assist your views being considered.

Overall, you may also like to provide your thoughts on the Commonwealth Government's proposed response, including whether you consider there are more effective ways of addressing the problem at the same or less cost.

All information contained in submissions will be made available to the public on the Department of Industry, Innovation and Science website unless you indicate that you would like all or part of your submission to remain in confidence. Respondents who would like part of their submission to be in confidence should mark this information as such. The department reserves the right not to publish submissions.

Commonwealth, state and territory governments value your feedback and will facilitate this through a number of channels, as outlined below. The Consultation RIS is available on the [Department of Industry, Innovation and Science website via the Consultation hub](#).

Providing submissions

Website: Upload your submissions at: <https://consult.industry.gov.au/cool-taskforce/cool>

Email: Written submissions can be emailed to: originlabelling@industry.gov.au

Post: Country of origin labelling taskforce
Portfolio Strategic Policy Division, Department of Industry, Innovation and Science
GPO Box 9839, Canberra ACT 2601

Enquiries: Country of origin labelling taskforce
ph. 02 6276 1085 or originlabelling@industry.gov.au

Feedback on the Consultation RIS must be received by the department by 5pm AEST 29 January 2016.

Submissions to the Consultation RIS will be published on the department's website unless you indicate that you would like all or part of your submission to remain in confidence.

Please review the Privacy Disclosure Statement on the Consultation hub before submitting your response.

1. Australian food industry, consumers and the labelling framework

1.1 Food industry

As people have moved away from growing and preparing their own food, Australians have become more dependent on manufactured, prepared and purchased foods.¹

For consumers, there are many options on where to buy food and what to buy. There were over 25 000 food retailers in Australia (excluding liquor retailing) at June 2014. This included almost 10 000 supermarket and grocery stores, around 4700 fresh meat, fish and poultry retailers, and 5000 fruit and vegetable retailers.² It is estimated that in Australia around 63 500 food stock keeping units³ are sold, produced or imported in Australia.⁴

This food can come from Australia or overseas, because businesses have multiple ways to source, manufacture and distribute food. Australia's food industry covers a range of sectors including agricultural production, manufacturing, importing, wholesale and retailing. Businesses in each of these sectors can have responsibilities in relation to country of origin labelling. There are over 13 000 food and beverage manufacturing businesses in Australia. Bakery product manufacturers make up the largest proportion of these businesses (45 per cent), followed by beverage manufacturers (19 per cent). Each of the other sub-sectors account for one to ten per cent of food manufacturers:

- meat manufacturers (nine per cent)
- fruit and vegetable processing (four per cent)
- dairy product manufacturing (four per cent)
- sugar and confectionary manufacturing (three per cent)
- grain mill and cereal (two per cent)
- seafood processing (two per cent)
- oil and fat manufacturing (one per cent).⁵

Most of these manufacturing businesses employ less than 20 employees (53 per cent) or are non-employing (36 per cent).⁶ Agricultural production is the other key player in the food industry, with over 133 000 businesses.⁷ Over half of these (52 per cent) are sheep and beef cattle farming.

Manufacturing businesses may source ingredients solely from Australia or may import ingredients to use in their production processes. Businesses that import ingredients might use only imported ingredients or a mix of domestic and imported ingredients. This may be subject to the seasonality of local ingredients or the price and availability of imported ingredients. Other Australian businesses import whole products for retail sale, e.g. canned tomatoes, fresh fruit, dairy products.

The presence of Australian retailers and manufacturers using imported ingredients and of Australian food importers has influenced the consumer demand for country of origin information.

¹ Australian Government 2011, *Labelling logic - Review of food labelling law and policy*, p.18

² Australian Bureau of Statistics 2015, *Counts of Australian businesses, including entries and exits, June 2010 to June 2014*, cat. no. 8165.0

³ A stock keeping unit (SKU) is a term businesses use in managing inventory. It refers to a separate item in a product line. For example, one company may manufacture a wide range of fruit juices. Each fruit juice flavour would be regarded as one SKU in the range of fruit juice products. SKU is the key unit used for calculating estimates of labelling costs for business in the Consultation RIS.

⁴ Internal research, Department of Industry, Innovation and Science

⁵ The remaining 10 per cent are classified as 'other food product manufacturing' and include potato, corn and other crop manufacturing; prepared animal and bird feed manufacturing; and other food product manufacturing.

⁶ Australian Bureau of Statistics 2015, *Counts of Australian businesses, including entries and exits, June 2010 to June 2014*, cat. no. 8165.0

⁷ Australian Bureau of Statistics 2014, *Australian farming in brief*, cat. no. 7106.0

Australians spent \$141.4 billion on food through retailers in 2012–13, a growth of four per cent compared to the previous year.⁸ Most of this (62 per cent) was spent in supermarkets and grocery stores. Between 2000 and 2014 real spending in supermarkets grew at 2.8 per cent annually, compared with only 1.1 per cent for specialty food retailers.⁹

The share of imported food products is also growing. The value of food products imported into Australia in 2012–13 was \$11.6 billion.¹⁰ The real growth value of food and beverage imports to Australia grew an average of 5.4 per cent annually between 2000 and 2014.¹¹

As the make-up of each of these elements of Australia's food industry develop or shift, and the origins of food and their ingredients become less certain, it may influence consumers' desire to know where the food they buy comes from. Therefore it is important that Australia has a clear and consistent method for labelling the country of origin of food.

1.2 Consumers continue to want to know country of origin of food

Research across the world has demonstrated that consumers consider a range of factors when making food purchasing decisions, including price, perceived quality and country of origin. The dominant consideration factor varies, depending on the type of consumer. Consumer priorities may vary from country to country depending on how the food market operates in each country, e.g. the amount of domestically or imported product.

Research on food labelling in Australia has reiterated the importance Australian consumers place on knowing the country of origin of food products. CHOICE found that 'when it comes down to the value consumers place on different aspects of food labelling, country of origin labelling is very important and second only to the actual ingredients contained in the food'.¹²

Research commissioned by the Department of Industry, Innovation and Science with Colmar Brunton in 2015 provided further evidence about the extent to which Australian consumers want information about the country of origin of food (see Box 1). The research highlighted that while price was usually the dominant decision factor across a range of food types, the next key considerations were quality (for fresh products) and the country where key ingredients used in the product were grown.¹³

There are a range of reasons why consumers value country of origin information. It can influence consumers' perception of value, quality, safety, cleanliness, healthiness and ethical/ sustainability aspects of food and food production.¹⁴ The Colmar Brunton research segmented consumers into five groups based on how high a priority country of origin information is and how much it motivates their purchasing behaviour.¹⁵ The first two segments are motivated by 'convenience', i.e. want to make fast and easy purchases, or 'budget', i.e. price of food. Country of origin information is not as high a concern for these two groups. The next three groups care about country of origin information for different reasons:

- 'quality' - they will purchase Australian or overseas products if they think it is high quality
- 'jobs' - they believe in supporting Australian farmers and manufacturers
- 'concerned' - they are concerned about the health and safety of overseas products so will buy Australian products for peace of mind.

⁸ Department of Agriculture, *Australian Food Statistics 2012–13*, p.16

⁹ Australian Bureau of Statistics 2015, *International Merchandise Imports, September 2015*, cat. no. 5439.0

¹⁰ Department of Agriculture, *Australian Food Statistics 2012–13*

¹¹ Australian Bureau of Statistics 2014, *Retail trade, Australia, August 2015*, cat. no. 8501.0

¹² CHOICE submission to the 2014 House of Representatives inquiry into country of origin labelling for food, p.34

¹³ Colmar Brunton 2015, *Country of Origin Food Labelling Research*, p.i

¹⁴ Umberger, WJ 2010, *Country of Origin Labelling - A review of the relevant literature on consumer preferences, understanding, use and willingness-to-pay for country of origin labelling of food and meat*, Final report

¹⁵ Colmar Brunton 2015 *Country of Origin Food Labelling Research*, p.5-7

Box 1. Colmar Brunton consumer research, 2015

The Department of Industry, Innovation and Science commissioned research with consumers and businesses to inform possible changes to country of origin labelling. The objective of the research was to understand consumers and their attitudes to country of origin labelling for food products. It also aimed to capture underlying values of consumers in relation to their food buying choices. The research also tested concepts for future country of origin labelling.

The research was undertaken by Colmar Brunton in 2015. It used qualitative and quantitative methods, including:

- 18 consumer focus groups of up to ten people each in regional and metropolitan areas
- 20 interviews with manufacturing and packaging businesses across Australia
- an online survey of 1220 consumers (a nationally representative sample)
- a self-selected online survey in June 2015, which received over 17,000 responses.

In some areas, the research established consumer preference based on responses to questions (their 'stated preference'). This may not reflect how their preference would translate into real behaviour (or 'revealed preference'). There is no practical or proven methodology to demonstrate revealed preference.

The level of detail available from past research on consumer preference for country of origin labelling for food has been limited. The Colmar Brunton research has provided more detailed consumer insights.

The full report is available at www.industry.gov.au/cool.

Box 2 outlines the key characteristics of each consumer segment. It is important to note that country of origin labelling is not designed to provide information on these factors. However consumers' values, knowledge and perceptions will influence how they use country of origin labelling to inform their purchasing decisions. Whether consumers' perceptions of country of origin labelling are accurate or valid is not in scope of the problem this Consultation RIS is addressing.

The research conducted by Colmar Brunton found that being able to identify the country of origin of food was important or very important for 74 per cent of respondents.¹⁶ The research also demonstrated that country of origin is a more important factor for some food products than others:¹⁷

- very important for fresh fruit, vegetables and nuts; meat, poultry and seafood; eggs and dairy; and deli and cured meats
- important for fruit and vegetable juices; canned/package/frozen ready to eat meals; canned/dried/frozen fruit, vegetables and nuts; and baked goods
- somewhat important for meal bases; dressing and sauces; breakfast cereals and muesli bars; cooking ingredients; rice, noodles and pasta; and jams and spreads
- relatively unimportant for biscuits and snack food, bottled water, seasoning, confectionary, alcohol, sports drinks and soft drinks.

The origin of ingredients was ranked as the third most influential factor (behind price and quality/appearance) when buying fresh food, and second (behind price) when buying processed food.¹⁸ The research clearly shows that the origin of ingredients is most important when considering minimally processed food, followed equally by fresh food and moderately processed food.

¹⁶ Colmar Brunton 2015, *Country of Origin Food Labelling Research*, p.45

¹⁷ Ibid, p.46

¹⁸ Ibid, p.34

Box 2. Country of origin labelling consumer segments

The Colmar Brunton research segmented Australian consumers into the following five groups based on how high a priority country of origin information is and how much it motivates their purchasing behaviour.

Convenience

The 'convenience' segment are not very concerned about country of origin labelling when making purchases because they may lack time or have other priorities. Taking time to read labelling information is not a consideration for this group and they are more likely to seek out familiar brands.

This group tended to be younger consumers from medium to high socio-economic backgrounds.

Budget

Price is the priority for the 'budget' segment. This group will make purchasing decisions based on what is the least expensive product, regardless of origin. They may look for where there are specials ahead of their shop.

This group tends to be from a lower socio-economic background based on their income. It includes a wide range of ages, students, lower income families, large families and older/retired shoppers.

Quality

The 'quality' group cares about country of origin because they equate it with the quality of products. They may buy Australian or imported products, depending on which they consider superior. They generally have the time and income to seek the highest quality products.

This group tends to be older and from a higher socio-economic background. They may have travelled and have an interest in overseas products. Country of origin information is one element they use to determine which product they consider higher quality.

Jobs

The 'jobs' segment care about country of origin labelling because they believe in supporting Australian farmers and manufacturers. They care about Australian workers and the Australian economy as a whole.

This group is not bound by age or socio-economic status and often have the income to support their purchasing decisions. This group will often have worked in manufacturing or agriculture themselves or have family involved. They will read country of origin labelling to learn which products are Australian made and are particularly interested in the proportion of ingredients grown in Australia and the contribution to Australian manufacturing.

Concerned

This group cares about country of origin labelling mainly because they fear the health and safety of overseas products. They will buy products for peace of mind based on perceptions of safer standards. A second dimension of this group relates to concerns about economic, humanitarian and environmental impacts, e.g. supporting workers in developing countries.

This group is typically from a higher socio-economic background based on their education or occupation and vary in age. They will read country of origin labelling to learn which products are made in Australia, where food was produced, use of ethical work standards and how far the food had to travel. This group is most likely to do further research.

1.3 Australia's current country of origin labelling framework for food

To satisfy consumer demand, Australian businesses producing or importing food products provide country of origin information about their products. There are laws and regulations in Australia that stipulate what information businesses need to provide. This is referred to as the country of origin labelling framework. The framework reflects the importance consumers place on knowing where their food comes from and the diversity of Australia's food industry.

The objective of the country of origin labelling framework in relation to food is to ensure businesses provide consumers with information so they can make informed purchasing decisions in line with their personal preferences. The framework aims to balance consumer demand for this information with the cost to business of providing it. For the framework to work effectively businesses need to understand what is required of them and how to comply.

In Australia, based on food standards laws, food businesses must state on their products either:

- what country the food was made, produced or grown in
- what country the food was manufactured or packaged in, and whether the food is made up of imported ingredients or a combination of local and imported ingredients.

The label must be on the product for packaged food, while for unpackaged food, businesses need to include the label with the display. There are some variations to this, for example, fruit and vegetables in transparent packaging. Most businesses that import food into Australia also need to meet these labelling requirements.

It is against consumer law in Australia for businesses to provide false or misleading information to consumers, including on country of origin. The consumer law does not mandate what information businesses should put on labels when making a claim. Businesses can be assured that their claims are not misleading if they meet certain requirements, known as safe harbour defences. The defences include requirements for 'Grown in', 'Product of' claims, as well as for other claims, like 'Made in'. If businesses can show that the requirements of the claim they want to use are met, they can defend themselves against accusations of making a false or misleading country of origin claim and be protected from prosecution. Business can also make claims without meeting the requirements of the safe harbour defences, so long as they can prove by other means that those claims are not false or misleading.

Some of the most common claims used by business indicate where the product was made, e.g. 'Made in' or 'Manufactured in'. A defence for such claims need to satisfy two key tests:

- substantial transformation - businesses need to show that goods have gone through a fundamental change in their form, appearance or nature and have become new or different goods
- 50 per cent production cost test - businesses need to show that 50 per cent or more of the production costs were incurred in the claimed country, including material, labour and overhead costs.

Some businesses may include additional information, a logo or picture with their country of origin claim. This is allowed, as long as the information does not mislead consumers.

Both food and non-food businesses are also able to pay for a licence to use the Australian made logo (a kangaroo in a triangle). This is a separate communication tool. Food products that use the logo must still provide a country of origin description.

Box 3. Country of origin labelling for non-food products

The laws that country of origin claims must not be false or misleading also apply to non-food products. The conditions businesses can use to defend their origin claims are the same for non-food products. It is not mandatory for non-food products to present country of origin on food, unless there are laws that prescribe this.

See Attachment B more detail on the country of origin labelling framework.

Australia is not the only country where consumers value country of origin labelling. The demand for this information is addressed by many governments across globe. Attachment C compares Australia's approach to country of origin labelling with those of Canada, the European Union, the United Kingdom, South Africa, the United States, Japan and New Zealand.

2. Statement of the problem

For many consumers and businesses, the country of origin labelling framework is not working as well as it could.

2.1 Consumers don't get the information they want and find labels confusing

As discussed in Chapter 1, there is a range of ways that Australian food businesses can produce and source their products and, therefore, many options available for consumers when buying food. Research consistently shows that country of origin is one of the key factors consumers consider when buying food. Australian consumers care about the country of origin of products for a range of reasons and labels help them make purchasing decisions in line with their values. Country of origin is not indicative of these values, but it is often used as a proxy. This can include what they perceive it means about quality, jobs for local industry, the safety of products, humanitarian or environmental impact. As previously noted, whether consumers' perceptions are accurate or valid is not in scope of the problem.

To support consumers, Australian businesses provide country of origin labelling on their products according to a framework set by Australian governments. The aim of the framework is to address the gap between the information consumers want on country of origin and the information businesses are prepared to provide. However, there is consistent feedback that Australian consumers want more comprehensive and accurate information for food products. Consumers report that current country of origin labels on food are confusing and they don't understand the different statements used.¹⁹

Consumers also report that origin information can be hard to find, with font size and positioning differing between products and that an additional visual aid would be helpful. Current labels do not provide consumers with the origin information they most want in a clear way.

The current country of origin labelling framework recognises that there are a large number of food products in Australia with a range of production and sourcing processes. The framework provides flexibility so businesses can use country of origin claims that best suit individual products. This includes using claims are the least cost to make without being false or misleading and are not costly to prove. However, the range of different origin claims is contributing to consumer confusion.

- In a 2012 Choice survey only 10 per cent of respondents said that information about food origin was clear and easy to understand. The survey found that only 12 per cent of respondents could accurately interpret the correct meaning of 'Made in Australia'.²⁰
- The Colmar Brunton research revealed that one-third of respondents found country of origin information either difficult or very difficult to understand. It indicated that 58 per cent of consumers thought that a 'Made in Australia' claim meant that the product was entirely processed in Australia, while 30 per cent of consumers thought it meant that 100 per cent of the product's ingredients come from Australia. Both interpretations are incorrect.²¹

Consumers report that the commonly used statement that a product contains 'local and imported ingredients' is particularly frustrating.²² This addition is often made to claims like 'Packed in' or 'Manufactured in'. In part, this frustration is because it draws attention to the presence of imported content but does not provide additional information on what proportion of the ingredients are imported. While such statements meet the legal requirements of the current framework, many consumers see them as deliberately vague.²³

¹⁹ House of Representatives Standing Committee on Agriculture and Industry, *A clearer message for consumers: report on the inquiry into country of origin labelling for food*, p. 38

²⁰ Choice submission to the House of Representatives Inquiry

²¹ Colmar Brunton 2015, *Country of Origin Food Labelling Research*, p.42

²² Choice submission to the House of Representatives Inquiry

²³ Colmar Brunton 2015, *Country of Origin Food Labelling Research*, p.3

In simple terms, current country of origin labels usually make a very general statement about either the source of the ingredients or the location of the manufacturing processes. While consumers report that both aspects are important pieces of information to them, the source of the ingredients is often nominated as the most important aspect. For example:

- a 2012 Choice survey found that 84 per cent of respondents said it was crucial or very important to know whether the food was grown in Australia, compared with 80 per cent for whether the food was manufactured in Australia.²⁴
- the Colmar Brunton survey found that information about the country where the key ingredients used in the product were grown was more important than the country where the product was processed or packaged for each type of food considered.

Consumers don't necessarily want to know a lot of detail about where a product comes from. The Colmar Brunton research showed that the percentage of ingredients grown in Australia was one of the most important pieces of country origin information valued by consumers. It was ranked as the most important factor by 28 per cent of consumers, and 60 per cent ranked it in their top three factors. Knowing whether the food was processed in Australia was the second most important piece of origin information (ranked in the top three by 49 per cent of those surveyed). Knowing the specific country where key ingredients were from was the third most important piece of origin information (ranked in the top three by 48 per cent of those surveyed).²⁵

The current country of origin labelling framework doesn't require businesses to provide all of this information. Using the current labels on products, consumers can identify the country of origin where labels state 'product of' or 'grown in'. Based on the safe harbour defences, these claims mean that all of the significant ingredients came from that country and virtually all production/manufacturing processes happened in that country (see Chapter 1). If a product has a 'made in', 'manufactured in' or similar claim (which are more common), then it becomes difficult for a consumer to know the country where the ingredients came from. The requirements of the safe harbour defence for these claims are that the product is substantially transformed in that country and that more than half of the cost of the product was incurred in that country. It does not refer to the country where the ingredients came from or how much of the content, if any, is sourced from Australia. This information is not required to meet the safe harbour defence. For example, if the label on a jar of pasta sauce states 'Made in Australia', this can mean that the sauce was manufactured in Australia, but that one or more of the ingredients came from another country, e.g. tomatoes, herbs or spices.

2.2 The current framework can be confusing and costly for business

As outlined in Chapter 1.3, there are a number of expectations of business in relation to country of origin labelling. The country of origin labelling framework is set out via multiple Australian laws and multiple agencies at Commonwealth, state and territory level enforce the regulations. Businesses have reported difficulties in applying the current country of origin labelling framework, including that some requirements are unnecessary and government regulation is complex. This also impacts the effectiveness of the current country of origin labelling framework in addressing consumer needs.

Different pieces of legislation relate to country of origin labelling and are enforced by agencies at the Commonwealth and state and territory levels. Because of the complexity in management, there is no single source of information on country of origin labelling available to business. While business compliance with country of origin labelling regulations is generally high,²⁶ this may be a result of businesses making conservative claims because they don't understand that they might be eligible for a stronger claim or because a stronger claim may be harder or more costly to prove.

²⁴ House of Representatives Standing Committee on Agriculture and Industry, *A clearer message for consumers: report on the inquiry into country of origin labelling for food*, p. 34

²⁵ Colmar Brunton, 2015, *Country of Origin Food Labelling Research*, p.48

²⁶ 2014 House of Representatives inquiry into country of origin labelling for food, p.24-26

The 2011 review of food labelling and law policy noted that the multiple agencies involved can cause inconsistencies in interpretation and enforcement of the framework. The review recommended that country of origin labelling be positioned within a single regulatory framework.²⁷

For some food businesses, the current country of origin labelling is relatively straightforward, flexible and does not impose significant costs. For example, for products that were clearly grown and manufactured in Australia, e.g. fresh milk or eggs, it is straightforward to claim that the food is a 'Product of Australia' and be confident that the requirements of the relevant safe harbour defences would be satisfied. For other businesses, for example, those that make a range of products or products with many ingredients, while the current framework may be complex, familiarity with the framework has made its complexity manageable.

For businesses that want to make a relatively strong country of origin claim, such as 'Product of', and rely on meeting the requirements of the safe harbour defences to protect them, the framework can be more burdensome. Businesses may make alternative claims to ensure they are not considered misleading. For example, the brine in bacon is used in small quantities but is unavailable in Australia; therefore Australian bacon processors source it from overseas. Businesses may like to state that the bacon is a 'Product of Australia'; however the requirements of the safe harbour defence include that 'each significant ingredient' of the product originates in Australia. The business must decide whether it could demonstrate that the brine is not a significant ingredient and is able to use the claim if challenged. Many processors consider they could not prove this and use a more conservative claim.²⁸

As well as being confusing to consumers, meeting the safe harbour defence requirements for claims related to 'Made in' are also challenging for businesses. To state 'Made in Australia' and satisfy the defence requirements, a business must be able to demonstrate that its product was substantially transformed in Australia. It can be difficult for businesses to determine whether their manufacturing process has substantially transformed the product. Then, even if they decide it has, they also need to be satisfied that 50 per cent or more of the final cost of the product was incurred in Australia. The business must consider if the product would continue to meet the requirement with potential input price changes, seasonal availability of ingredients and changes to manufacturing processes.

The potential cost and uncertainty involved in making some country of origin claims, including the threat of repercussions if a claim cannot be adequately proven to be true, means that some businesses may make a more conservative country of origin claim. While these claims may be less informative, they are still compliant and contribute to the high levels of compliance recorded for origin labelling. These vague but compliant statements add to the consumer problems discussed above.

2.3 Summary of the problem

The current country of origin framework for food allows businesses to make a range of claims about their products so long as they are truthful and are not misleading. However:

- consumers find some of the current country of origin labels confusing
- the framework does not require businesses to provide information on the proportion of Australian ingredients in a product, which consumers identify as a key piece of information
- for business, the costs of interpreting and complying with the current framework can be burdensome, and its requirements confusing.

²⁷ Australian Government 2011, *Labelling Logic Review of Food Labelling and Policy*, p.135-136

²⁸ House of Representatives Standing Committee on Agriculture and Industry, *A clearer message for consumers: report on the inquiry into country of origin labelling for food*, p.52

Box 4: The problem for non-food businesses

This Consultation RIS has shown that the food sector has a range of concerns with the safe harbour defences. The safe harbour defences also apply to non-food sectors. Research shows that issues around the complexity of the substantial transformation and 50 per cent production cost test are also a cause of confusion for non-food sectors. Concerns include:

- the meaning of substantial transformation is not clear to business or consumers
- the 50 per cent production cost test is a poor reflection of the origin of inputs and how much processing had taken place in the country claimed
- the 50 per cent production cost test is overly burdensome – for example, the methodology does not always fit production systems, and in cases where local production costs vary, the product may no longer satisfy the safe harbour provision, even though the substantial transformation test continues to be met.

As food and non-food products have similar concerns with the current safe harbour defences, any changes would need to consider the impact on all goods sold in Australia.

3. Policy objective

This Consultation Regulation Impact Statement (RIS) raises a number of concerns in relation to the current country of origin labelling framework for food. These include that the current framework does not provide some consumers with the origin information they most want in a clear way and the complexity of the current framework potentially places an unnecessary compliance burden on business.

The policy objective is to strengthen Australia's country of origin labelling framework by addressing the inadequacies of the current framework. This includes:

- delivering consumers reliable, more informative and less ambiguous origin information, particularly for food
- providing businesses with greater certainty and clarity about the claims they can make
- ensuring there are not undue costs to business
- remain consistent with Australia's international trade obligations.

Country of origin labelling is not intended to be used as a proxy for any quality indicator and this Consultation RIS does not address public health and safety issues or perceptions. Extending the reach of mandatory country of origin labelling to the food services sector is also outside the scope of the improvements currently under consideration.

While the main focus of this Consultation RIS is on country of origin labelling for food, key issues with country of origin labelling for non-food products are also addressed.

To ensure any proposed changes will be effective and practical, the Commonwealth Government consulted extensively with consumers, industry and other stakeholders to inform analysis in the Consultation RIS.

4. Considerations in revising the current country of origin labelling framework

Revisions to the current country of origin labelling framework have the potential to improve the information available to consumers and provide clarity for business. There are a range of issues that need to be considered before any intervention is made.

1. What information will satisfy consumers and keep costs down for business?
2. How can businesses be more confident in using the safe harbour defences?
3. How should the labelling of imported food be treated?
4. What is the role for digital information?
5. What activities may be required to increase awareness?

The discussion below examines each of these considerations to see how they might address the policy objective. This includes how they may interact. Government welcomes your input or position on these considerations.

4.1 What information will satisfy consumers and keep costs down for business?

Consumers have consistently reported that they find current country of origin labels on food products are often hard to find and difficult to understand. While there are expectations of business around what information must be provided, there are no requirements on how that information should look. Businesses can use different words and some use their own images. Some businesses may be licensed to use the Australian made logo (the kangaroo in a triangle) to identify their products as Australian.

Consumers also report that origin labels for food are unclear, with 'made in' related labels highlighted as particularly confusing. In addition to the country of origin statements that businesses must currently include on food labels, businesses can voluntarily indicate the countries of origin of the individual ingredients in their products. This opportunity is taken by some manufacturers, but legally, if a product includes imported ingredients, businesses don't need to say how much is imported, or where the ingredients come from. For example, 'Made in Australia from local and imported ingredients' is a common origin claim for food.

A number of studies have indicated that consumers would like more information on the origin of ingredients in their food. The Colmar Brunton research indicated that the most important information to include in a country of origin label is the proportion of ingredients that were grown in Australia; followed by where the food was processed and the specific country in which the key ingredients were grown.²⁹ Making labels clearer or providing additional information will require changes to the current country of origin labelling framework. This needs to be balanced with the cost to business to supply the information in a defined format.

4.1.1 Food covered by the framework

The requirements under the current country of origin labelling framework are the same for most food offered for retail sale in Australia. An initial consideration when considering amendments to the current framework is whether changes should apply to all food currently covered by mandatory origin labelling rules or to a subset of food where the information is more highly valued by consumers.

²⁹ Colmar Brunton 2015, *Country of Origin Food Labelling Research*, p.49

For consumers

The Colmar Brunton research indicated that there are some types of food about which consumers most value origin information.³⁰ These are:

- fruit and vegetables
- meat and meat products
- fish and fish products
- eggs and egg products
- dairy products
- fruit and vegetable juices and drinks
- flour products
- bread (both leavened and unleavened)
- flours or meals
- sugar
- edible oils
- edible oil spread
- vinegar
- grains, rice, pasta and noodles
- prepared meals that may be consumed as is or that need only heating
- meal bases, dressings and sauces
- jams, honey, peanut butter, marmalades and other spreads.

Consumers expressed a lower preference for additional country of origin information for:

- seasoning (e.g. salt, spices and herbs)
- confectionery (e.g. chocolate, lollies)
- biscuits and snack food (e.g. chips, crackers)
- bottled water
- soft drinks and sports drinks
- alcoholic beverages.

The groups are categorised as 'priority food' and 'non-priority food' respectively for the purposes of considering country of origin labelling.

Note that this prioritisation of food is based on personal values of consumers, and is not necessarily indicative of quality, health and safety risks, or relative size of the import market.

These findings are broadly consistent with that of research by Choice³¹, which indicated that country of origin information is very important for fresh produce, but that the level of importance drops as food becomes more processed.

For industry

The more types of food that are covered by increased requirements for country of origin information, the higher the likely cost to industry. Initial estimates are that up to 40 per cent of stock keeping units (SKUs)³² would be included in the list of 'non-priority' food. Changes to the current country of origin labelling framework that would increase information requirements for all food would be costly for business and will not greatly increase the information benefits for consumers.

³⁰ Ibid, p.48

³¹ Choice Submission to the House of Representatives Standing Committee on Agriculture and Industry Inquiry into country of origin food labelling, p.8

³² A stock keeping unit (SKU) is a term businesses use in managing inventory. It refers to a separate item in a product line. For example, one company may manufacture a wide range of fruit juices. Each fruit juice flavour would be regarded as one SKU in the range of fruit juice products. SKU is the key unit used for calculating estimates of labelling costs for business in the Consultation RIS.

Questions

1.
 - a. Is the list of non-priority food clear?
 - b. Are there any gaps?
 - c. Do you have any other concerns about priority and non-priority food?

4.1.2 Easy to read labels

To address consumer concerns around the legibility of current labels, more specific requirements could be established to ensure that labels look consistent across products. This could include businesses using similar words to identify the origin of products.

Another key factor is the use of visual indicators. The current framework does not mandate the use of visual indicators, but allows their use so long as they are not misleading or deceptive. Industry uses a number of different visual indicators, from the licensed use of the Australian made kangaroo logo, to non-licensed use of images such as the Australian flag, the map of Australia, and various Australian animals.

For consumers

Using logos and text consistently across products would provide clear information for consumers that it is easy to find on products. Consumers would know they can expect to see the same type of information on all products.

Changes such as increasing font size need to be considered in relation to other information on the product, such as nutrition or safety information. While the use of visual indicators, such as logos, and additional information about country of origin might benefit some consumers, any proposal which increases the label size for country of origin information could detract from other legally required food safety information. For example, allergen statements which do not have a minimum font size requirement. The feasibility of changes to labels for small packages would also need to be considered, including specific implications for other label information.

Importantly, while the use of visual indicators may be easier for consumers to find, it would not address their concerns that claims made on labels are confusing.

For industry

There would be clear expectations for business on how they should provide information. Any changes to labels would affect business processes such as packaging. This is likely to incur additional costs, which would need to be factored in. The cost will depend on the extent of the changes, for example, text only compared to introducing visual elements.

Questions

2.
 - a. Is there a risk that changes to improve prominence of country of origin labels would make it harder to identify other labelling information, such as allergen warnings?
 - b. Are there any specific problems that might arise in relation to small packages?

4.1.3 Proportion of Australian ingredients

One approach to address consumer concerns with the current country of origin labelling framework around the 'Made in' related claims is for country of origin labels to indicate the proportion of the ingredients that are sourced from Australia, based on ingoing weight.³³ This would support the statements already provided on where the product was made, grown, produced or packed.

³³ Ingoing weight covers the recipe, not the weight after it has been cooked or processed.

How the proportion is expressed, i.e. the detail it provides, impacts the information conveyed by the label and the costs on business to include that information on their labels. For example, the statement could refer to an exact percentage or be based on an average amount over time. The level of flexibility in the framework is particularly important, i.e. how well the statement can accommodate changes to business activities (see Box 5). It should also be considered whether any visual indicators should be used to represent the proportion of Australian ingredients to help consumers quickly identify the information. This would be in addition to the text statement.

Box 5. Flexibility in a revised country of origin labelling framework

The degree of flexibility in a new labelling framework will affect the information that is provided to consumers, as well as the potential costs on business. A framework with greater flexibility would allow the use of a statement on a label that covers a wider range of circumstances (source and combination of ingredients). A framework with limited flexibility would provide a more precise statement of the source of ingredients in a particular product.

Seasonality and availability

The source of ingredients in a food product can vary over time due to factors such as price, seasonality and other availability issues. For example, the seasonality of Australian grown fruit may mean it needs to be sourced from overseas at certain times of year. Unpredictable events such as droughts can change source country crop yields and shift the percentage of overseas ingredients in processed food products. Any revised framework would need an appropriate level of flexibility to allow for such varying situations and events.

Possible approaches

To manage these variations, a revised framework could allow businesses to state the average composition of a food product with 'at least' statements, e.g. at least ten per cent or at least 25 per cent. This approach would handle fairly broad variations so would require fewer labelling changes (and associated disruptions to processing) as the information would remain more accurate over time. However, consumers would have less information about the ingredients of the product.

A framework that required businesses to make a more precise statement would provide more information for consumers. It would be less responsive to variations, so would be more costly for business. Any change in the recipe or source of ingredients in a product is more likely to require a label change to ensure the statement remains accurate. If the framework allowed a specific percentage based on the average composition of ingredients over a certain time period, the level of flexibility would increase. Domestic producers could continue to seasonally source ingredients from overseas trading partners without having to make seasonal changes to their labels. It is expected that issues of cost competitiveness, production capability and seasonality would continue to overwhelmingly drive the sourcing of ingredients.

For consumers

The Colmar Brunton research indicated that the proportion of Australian-sourced ingredients was the most important piece of country of origin information to include on a label. It also indicated that a visual representation that incorporated both an Australian made logo and a bar chart indicating the proportion of the ingredients that were grown in Australia was the most preferred option for a new

country of origin labelling concept.³⁴ Respondents indicated that a label that included a visual representation was a clearer approach to country of origin labelling than a text-only label.³⁵

Providing information on the proportion of Australian ingredients on food product labels would address consumer concerns that labels can be confusing or ambiguous and would provide access to the information they find most valuable, i.e. the proportion of Australian ingredients. Consumers' trust in the labelling framework and trust in business is likely to increase as a result of having access to more accurate information. The time consumers take to determine country of origin of a product is likely to decrease as the claims would have a relatively uniform structure.

In general terms the more flexible the labelling framework is, that is the higher its flexibility, the less precise the information provided to consumers about a given product, e.g. using average rather than exact figures to account for seasonal availability of ingredients. However, a framework that is less flexible, i.e. one less responsive to variation in ingredient availability, may result in higher costs for industry to implement. Such approaches may result in cost increases being passed on to consumers.

The Colmar Brunton research asked consumers about whether they would like new country of origin labels if it impacted their weekly food budget. The majority of respondents (83 per cent) said they would like new country of origin labels if it came at no extra cost to them as consumers. However, when asked if they would like new country of origin labels if it meant a percentage increase in their weekly food bill, the results showed that consumers were willing to accept an increase:

- 71 per cent were willing to pay a 0.5 per cent increase (\$1 in a \$200 food bill)
- 69 per cent were willing to pay a 1 per cent increase (\$2 in a \$200 food bill)
- 63 per cent were willing to pay a 2 per cent increase (\$4 in a \$200 food bill)
- 54 per cent were willing to pay a 5 per cent increase (\$10 in a \$200 food bill).

The remaining respondents in each of these scenarios reported 'Don't know' or 'No - keep the old country of origin labels'.

Note that the research demonstrates consumer preference based their response in a research question (their 'stated preference'). This may not reflect how their preference would translate into real behaviour (or 'revealed preference'), so it should be treated as a guide only. As highlighted in the Colmar Brunton research, there are also consumer segments that do not highly value country of origin information. Their purchases may be more motivated by issues such as convenience or budget (see Chapter 1.2). Any cost increases would also impact these consumers.

For industry

Changes to the country of origin labelling framework to increase the information available to consumers will impose additional regulatory costs on industry. The costs to industry of providing information on the proportion of Australian-sourced ingredients are two-fold. First, the implementation costs of complying with a new framework, then the ongoing costs to maintain labels. The estimates below take into account the number and type of SKUs in the Australian market and are based on a framework with moderate flexibility. It would:

- be focussed on priority food
- include a statement about where the food was grown, produced or made
- include the Australian made logo where relevant
- include a visual indicator of the proportion of Australian ingredients
- include a statement indicating the proportion of Australian ingredients.

Implementation costs include changes to business processes as well as physically changing the labels.

³⁴ Colmar Brunton 2015, Country of Origin Food Labelling Research, p.9

³⁵ Ibid, p.55

- Business costs are estimated to be in the order of \$14 000 per business. This includes time spent understanding the new requirements and how they apply to each product (\$6300), as well as associated staff training (\$4100), IT costs (\$1600) and additional inventory planning (\$2000).
- Direct labelling costs include the process of actually designing and changing new product labels that incorporate the required information. The more information that is included on the label (including whether or not visual indicators are included), the greater the likely cost to business. For packaged food it is estimated that the average cost would be in the order of \$6245 per SKU for an initial label change with visual indicators, and for fresh food the per SKU costs could be in the order of \$500 to \$1300, depending on the size of the change required.

In addition, businesses will face ongoing costs in the form of labelling changes to products to reflect changes in the source of ingredients in their products. How often these changes are made will depend on the nature of the product (firms that regularly vary the sources of their products' ingredients will face relatively higher costs), and flexibility built into the labelling framework.

- For a framework with greater flexibility (i.e. the ability to make an 'at least' statement about the proportion of Australian ingredients), label changes may occur on a 2.5 year cycle and cost an average \$2813 per SKU.
- For a framework with less flexibility (i.e. a requirement that labels provide information on the specific proportion of Australian-sourced products), labelling changes would need to be made more often, perhaps annually or several times per year. The ongoing costs to business would therefore be expected to be higher.

Many businesses already track the proportion of incoming ingredients based on weight as part of their normal record keeping processes. These businesses should not incur significant new costs to monitor this information.

Other factors that would impact on the cost a business faces include the size of the business and the number of products produced by the business (smaller businesses would be likely to face higher costs per product, but possibly for fewer products), and the implementation arrangements for a new framework (the shorter the implementation period, the higher the likely costs for business). Implementation arrangements are considered in Chapter 6 of this document.

Overall, the annual cost to industry of providing information on the proportion of Australian-sourced ingredients, based on the proposal and estimates above, would be approximately \$37.4 million. This is based on a framework with greater flexibility.

For a system with lower flexibility (i.e. where business had to indicate the specific proportion of Australian-sourced ingredients based on an annual average), the annual costs would be in the order of \$51.6 million.

The provision of a text-only statement of the proportion of Australian-sourced ingredients would involve lower up-front labelling costs for industry than one that included visual indicators, but the cost of ongoing changes to labels would be similar.

See Attachment D for more detail on the estimates and assumptions for these costs. The estimates were derived from preliminary research commissioned by the Department of Industry, Innovation and Science and 2015 and information provided by business and stakeholders. These assumptions and costs will be further examined as part of this consultation process.

Questions

3. Can you provide an indication of the current number of hours spent and costs to your business from maintaining records to substantiate current origin claims being used today?
4. To allow for variations, businesses could calculate the average proportion of Australian ingredients and provide this average on the label.
 - a. How often should business need to calculate the average proportion of Australian ingredients to have the least impact on business costs, e.g. every 12 months, 24 months or 36 months?
 - b. Please explain the cost impacts of these options for your business.
 - c. Can you suggest another option?
 - d. What would be the estimated costs of your alternative option?
5. The Consultation RIS outlines estimated costs to change labels, including:
 - business processes - understanding new requirements, staff training, IT, inventory planning (\$14 000 per business)
 - initial label changes for packaged for (\$6245 per SKU)
 - initial label changes for fresh food (\$500–\$1300 per SKU)
 - regular label updates (\$2813 per SKU).
 - a. Do you agree with each of these estimated costs?
 - b. If no, please provide your estimates.
 - c. Are there any other areas of business costs that have not been covered here? Please explain.
6.
 - a. How do you think the proposed labelling changes would affect your record keeping time and costs?
 - b. Can you provide an estimate of these hours/costs?
7. Business size has not been accounted for in the estimates (noting that most food product businesses are micro or small). What impact will business size have on costs outlined here?

4.1.4 Specific country in which key ingredients were grown

An alternative approach to the provision of information about the origin of a food product's ingredients is to list the individual countries from where the key ingredients are sourced. This would mean adding this information to each label and determining what a 'key ingredient' is.

The Colmar Brunton research indicated that a reasonable proportion of consumers ranked where key ingredients were grown highly, however more consumers ranked proportion of Australian ingredients more highly. The research also showed that 48 per cent of those surveyed ranked the specific country of ingredients in their top three elements, compared to 60 per cent ranking proportion of Australian ingredients in their top three (see Chapter 1.2).³⁶

For consumers

Consumers would have more detailed information about the countries of origin of the ingredients in their food under this approach. While the Colmar Brunton research showed that some consumers value this information, it is not as highly valued as the proportion of ingredients that are grown in Australia.

For industry

Depending on the formulation of a product, the requirement to specify the source country of each key ingredient may require significant additional information to be included in the label. The more information included and the larger the space taken up by the label, the greater the likely cost per product for businesses to change their labels. There is also the risk that other information on labels

³⁶ Colmar Brunton 2015, *Country of Origin Food Labelling Research*, p.49

that consumers also value becomes inadvertently made less clear, such as nutritional value or use by dates.

The requirement to specify the source country of each key ingredient does not provide a lot of flexibility for business – each time the source country of key ingredients change (whether as a result of price changes, availability or recipe changes), the label would need to change. This low flexibility adds cost to the labelling framework and could have flow-on effects to the way a business operates. These potential flow-on effects are illustrated by the example in Box 6.

Box 6. Example of issues in listing countries of origin

Frozen concentrated orange juice (FCOJ) is an imported commodity widely used in the production of fruit juices in Australia. Depending on the time of year the FCOJ is sourced, and the production levels of FCOJ in various countries around the world, the source countries of the oranges in FCOJ vary, and may not be known with certainty by the Australian producer. In order to be certain that they were complying, a risk-averse business might change the source of its imported orange juice away from the use of FCOJ, which could increase the costs of making the final juice product.

Regular changes can also interrupt the label cycle, requiring businesses to stop production so they can switch labels. Affected businesses may also be required to segregate ingredients between batches, in order to be assured that the statements on the particular label on the product's packaging matched the ingredients in that batch. This would further add to manufacturing costs.

In 2006, Food Standards Australia New Zealand examined the costs and benefits of changes to the labelling framework for packaged food containing two (or less) fruits or vegetables. The change would have required that all the countries of origin be specified for each major component of the product. The analysis demonstrated that the significant increase in cost this extension would cause business, overwhelmed any consumer benefit.³⁷

It is, therefore, highly likely that a requirement to specify the source country of each key ingredient would be more costly to industry than a requirement to specify the proportion of Australian-sourced ingredients. The benefit to consumers of country-specific information compared with the proportion of Australian-sourced ingredients is questionable. Also, as for information on proportion of Australian ingredients, cost increases for industry may be passed on to consumers. This would affect all consumers, including those motivated by budget and convenience.

Questions

8. Can you provide an estimate of the cost to your business to provide a label that details the origin of all ingredients?
9. How long do you believe the label will remain current? That is, how often would you estimate the need to update the label due to a change in the origin of ingredients?
10. Can you estimate the space that a label that details the origin of all ingredients would require on your product?
11. Do you believe providing such detailed origin information is a viable option the government should consider?
12. As a consumer, do you want this information to be provided?

³⁷ Food Standards Australia New Zealand 2006, *Feasibility study into extending country of origin labelling to selected packaged fruit or vegetable whole food produce*

4.2 How can businesses be more confident in using the safe harbour defences?

Under the current framework, any country of origin claims made about a product must not be false, misleading or deceptive. Depending on the claim made about a product (i.e. whether it is 'Made in', a 'Product of', 'Grown in' or similar statements), there are a range of conditions that a product must meet for a business to be sure that the claim is not false, misleading or deceptive. These are called the safe harbour defences. (See Chapter 1.3 for more information.)

For businesses to gain unquestionable support for their use of the most commonly used claims related to 'Made in', the product must be substantially transformed in the country indicated and at least 50 per cent of the cost of production must occur in that country. As discussed earlier, the safe harbour defences can cause problems for certain businesses. These problems include:

- the calculation method for satisfying the 50 per cent production cost test is not business friendly, and takes time and money to be applied to each product
- the meaning of substantial transformation is vague, and can lead to incorrect or overly conservative country of origin claims being made.

Further, stakeholders have stated that, if 'substantial transformation' were clarified, the 50 per cent local production cost test would be unnecessary.

As part of broader changes to the country of origin food labelling framework, one option is to clarify the substantial transformation test to make it clearer and better aligned with similar concepts used nationally and internationally. For example, the government could provide a list of processes that do or do not constitute substantial transformation. This would allow the removal of the requirement for the 50 per cent production cost test from the safe harbour defence for 'Made in' related claims. See Box 7 for discussion on the potential impact for non-food products.

For consumers

Clarification and simplification of the safe harbour defences may encourage businesses to make less conservative country of origin claims. This would lead to clearer, more useful claims for consumers. In requiring businesses to consider the costs of production when making a country of origin claim, the current framework takes into account the origin of ingredients (albeit indirectly). If changes to the country of origin labelling framework are made so that businesses need to state the proportion of Australian ingredients on labels, the 50 per cent production cost test becomes less necessary as the two elements are trying to communicate similar information to some extent.

For industry

To satisfy the 50 per cent production cost test, businesses must spend time learning about the requirements of the test, apply the test to each of their affected products, and regularly review each product to ensure that compliance with the requirements is maintained. It is estimated that removing the test would save food businesses in the order of \$7.3 million per year. Even if there were new requirements to state the proportion of Australian ingredients, these are records that businesses already tend to keep and this saving would not be reduced.

The saving estimate is based on assumptions of the current costs for all businesses (food and non-food) to learn and undertake the 50 per cent production cost test. Feedback is sought on these estimates. The assumptions include:

- each year 40 428 new businesses spend approximately 9 hours learning about the specific requirements of the 50 per cent production cost test
- each year 32 098 businesses spend 36 hours to complete the 50 per cent production cost test when it is complex to ensure compliance with the requirements is maintained.
- each year 337 552 businesses take an average of 30 minutes to complete the 50 per cent production cost test when it is easy to ensure compliance with the requirements is maintained

- average wage cost at \$65.45 per hour.

See Box 7 for discussion on the potential costs to business for non-food products.

For government

The Commonwealth Government would need to work with stakeholders to develop clear guidance around the definition of 'substantially transformed'.

Box 7. What would be the impact of any changes on non-food products?

Business impact

The Australian Government Department of Industry, Innovation and Science has sought industry feedback from the non-food sectors on a number of proposed changes to the safe harbour defences aimed at simplifying and clarifying the defences. Submissions from a range of industry sectors (including from generic industry representatives and representatives of specific sectors, such as medicines, textiles, clothing and footwear and non-food groceries) supported most of the proposed changes.

Proposals to clarify the substantial transformation test and to remove the 50 per cent production cost test are anticipated to make it much easier for non-food business to interpret, apply and establish compliance with the safe harbour defences.

Under current arrangements, businesses that produce non-food products have difficulty determining what claims to put on the labels, so they often go unlabelled. Simplified safe harbour defences may increase the volume of non-food products being labelled, resulting in increased information being available to consumers.

In the absence of more specific information, currently the 50 per cent production cost test provides some indication of the presence of Australian ingredients/components in a product. Removing the 50 per cent production cost test would mean that the safe harbour tests take into account only the country where the product was manufactured ('substantially transformed'), and would make no reference to the source of ingredients/components in a product. This could be perceived as reducing the information available to consumers about the origin of a product's ingredients/components. For food products, the addition of a requirement to state the proportion of Australian ingredients would replace this information. However consumers appear to place lower value on knowing the origin of components for non-food products. Also, under the current defences, businesses that meet the substantial transformation test also usually meet the 50 per cent product test.

Cost impact

Estimates suggest that removing the 50 per cent production cost test would save non-food businesses \$103.2 million per year. This is based on the same assumptions for learning and undertaking the 50 per cent production cost test as food businesses.

Questions

13. How many staff do you devote to interpreting, applying and establishing compliance with the current ACL safe harbour defences?
14. a. What aspects of the current ACL safe harbour defences do you find the most difficult to interpret, apply and comply with?
b. Why?
15. The Consultation RIS outlines estimates time for businesses to undertake the 50 per cent production cost test, including:
 - time new businesses spend learning and understanding the test (approximately nine hours per year)
 - time new businesses spend applying the test for the first time (approximately 36 hours per year)
 - time most businesses spend reviewing the test to ensure they remain compliant (approximately 30 minutes per year).a. Do you agree with each of these estimated times?
b. If no, please provide your estimates.
16. Business size has not been accounted for in the estimates (noting that most food product businesses are micro or small). What impact will business size have on savings outlined here?

4.3 How should labelling of imported food be treated?

A further consideration of the country of origin labelling framework for food is the treatment of imported food products. In this context, imported food products refers to food that is not grown, produced, made or packaged in Australia. Currently, imported products are treated essentially the same as Australian products: they must make a country of origin statement and this statement must not be false, misleading, or deceptive.

Consumer concerns that current country of origin labels are confusing and hard to find also apply to imported food. Approaches for the treatment of imported food products in a revised country of origin framework for food could include:

- keeping the arrangements the same
- highlighting the country of origin statement, e.g. by requiring that the statement be set out in a box on the label or increasing the text size
- consistency with arrangements for Australian-sourced food (if changes outlined in Chapter 4.1.3 were made).

Any changes could be restricted to priority food to ensure industry costs are minimised while still providing consumers the information they value the most.

For consumers

Keeping country of origin labelling requirements for imported food as they are would not provide any further information to consumers. While highlighting the country of origin information statement would not provide any further information, it would make it easier for consumers to find the information. This would give some consistency if new labels were applied to food produced domestically.

If changes were made to locally sourced food, as outlined in Chapter 4.1.3, the rules for imported food could be aligned with revisions to clarify the use of claims, particularly when 'made in' and 'packed in' claims can be used. For example, imported food could not say it was 'made in' a country if it was just packed or underwent only minor processes there, like slicing, reconstitution, canning, etc. Also, where food from one country is packed in another, it would have to be labelled with the country it came from, not just where it was packed. Straight 'packed in' claims would be limited to where the food in the

package came from two or more different countries. In these cases, the labels would also need to indicate that the food was of multiple origins.

Taking this further, the arrangements for imported food could be fully aligned with all of changes that could be made to the requirements for locally sourced food. This would include revising labels to provide more information for consumers on ingredients in imported food, e.g. the proportion of Australian ingredients. However, this is likely to incur costs for importers (see below), and may increase the cost of imported products to consumers, or reduce their availability. In addition, consumer confidence in the country of origin labelling framework would be reduced if importing businesses have difficulty in complying with such requirements.

Requiring imported food to provide additional information on labels, such as the proportion of Australian ingredients and a bar chart, would impose costs on importers. In addition, it would be difficult for regulators to check whether the information provided was true. Any additional costs to importers would need to be balanced against the benefits to consumers. It is not clear from the Colmar Brunton research if the value placed on knowing the proportion of Australian ingredients is specific to locally-sourced food or if it also applies to imported food. It could be that consumers would generally not expect that imported food would have Australian ingredients.

For industry

Keeping the country of origin labelling requirements for imported food as they are would not entail any additional costs for business – this would be business as usual.

A requirement to include the country of origin statement in a box has the potential to increase costs for importers. This would be the case whether the labelling changes were made by the overseas processor or by the local importer. As the labels of imported products are designed for many different markets it may be difficult to change printed labels. Importers may be required to apply stickers to comply with the requirement for a box around the country of origin statement.

A requirement to state whether the product comes from multiple origins should not further impact these costs as it is information importers or manufacturers would already have on hand as part of their record keeping processes. It would be incorporated into any changes in labelling when introducing a box around the information.

The cost to business to implement the label changes for imported priority food is estimated at \$3.8 million per year. This includes:

- initial label changes costing around \$2800 to \$6200 depending on the size of the change required for manufactured food
- initial label changes costing around \$500 to \$1300 for imported fresh food (the same as Australian fresh food)
- administrative costs of around \$1560 per SKU.

It is unclear if there would be ongoing costs for imported food. These estimates are based on similar assumptions for label and business costs for domestically produced food (see Chapter 4.1.3).

Fully aligning the country of origin labelling arrangements for imported food with those proposed for locally-sourced food is likely to be a high cost option for business. Such requirements would be very different to those that exist in other overseas markets, so exporters may not be willing change their labels to include this information. In order to comply with the requirements, importers may find themselves in the difficult position of needing to re-label (or apply stickers to) imported products to supply information that they may not have. Such an option would likely increase the cost of importing food (for industry, which may be passed on to consumers), reduce the availability of some food, and run a high risk of significant non-compliance by importers.

For government

The first two approaches – keeping the arrangements for imported food as they are and incorporating the country of origin information in a box on the label – are unlikely to change significantly the enforcement costs currently faced by government agencies. This is because the information included on the labels under these approaches is the same as is currently required.

Fully aligning the country of origin labelling arrangements for imported food with those proposed for locally-sourced food is likely to be costly to enforce. Importers would not necessarily have the documents to support statements on the origin of ingredients in imported food. Without access to reliable information, there would be a heightened risk of non-compliance.

Questions

17. Do you believe the proposed labelling requirements will be met by the international manufacturer/supplier or will the imported products need to be stickered on arrival to Australia?
18. If products are stickered in Australia:
 - a. Will importers use a machine to apply the sticker or require people to apply the sticker?
 - b. If by hand, can importers estimate the number of hours that would be required to complete the process?
19. The Consultation RIS outlines estimates for label changes for imported food, including:
 - initial label changes for manufactured food (\$2800–\$6200 per SKU)
 - initial label changes for fresh food (\$500–\$1300 per SKU)
 - administrative costs (\$1560 per SKU).
 - a. Do you agree with each of these estimated costs?
 - b. If no, please provide your estimates.
 - c. Are there any other areas of business costs that have not been covered here? Please explain.
 - d. Would you expect any ongoing costs for label changes or business processes for imported food?
20. Is the information on the number of countries ingredients have been sourced from readily available? If not, would there be any additional costs in seeking this information?

4.4 What is the role for digital information?

A number of businesses are starting to respond to consumer demand for more detailed product information, including the origin of ingredients in food, through digital platforms. These sorts of solutions are in the early stages of development and are not currently widely used by Australian food businesses or consumers, but this expected to change over time.

Digital information could include platforms such as smart phones, scanning technology and bar codes (including matrix bar codes, like 'QR codes'). They would provide information to help those consumers who want to know detail not available on labels (either now or in the future), such as the origin of individual ingredients or the ingoing weight of all ingredients. As noted in the Australian Food and Grocery Council (AFGC) submission to the 2014 House of Representatives Inquiry into country of origin labelling for food:

...consumers can be provided with information in a number of ways, particularly with readily available technology such as websites, smart phone apps and so on. For the engaged consumer, smartphones in particular offer far greater empowerment. The engaged consumer who currently reads the detailed information on food packaging for example will be able to access much more detailed, tailored information on a wider range of attributes than can ever be squeezed onto a printed label. On their smart phone they can access this richer, more detailed information and ordered

*according to their particular preference, be it allergens, sustainable sourcing, provenance, nutrition or ingredients.*³⁸

An example of an existing digital solution is outlined in Box 8.

Box 8. Global Standards One (GS1)

GS1 is a not-for-profit organisation which introduced barcodes for business use. The GS1 network provides product information for up to 800 000 products globally of which up to 200 000 are food and beverage. GS1 Australia has over 17 000 members. By May 2016, GS1 will enhance its global data standard to allow businesses to provide detailed country of origin information (for products as well as individual ingredients) including:

- country of origin statement
- place of provenance and country
- countries in which certain food processing, from farming to final packaging, took place.

These enhancements will allow consumers, including Australian consumers, to access country of origin information through improved technology platforms. Consumers will be able to scan a product's barcode through a phone application or website for participating products. Information will be available for Australian manufactured products as well as imported products.

A mandatory approach to using digital solutions like the ones described above is difficult to support at this stage. The technology is still in early stages of development, and it is too early to identify which digital approach would best provide country of origin information to consumers as they make their purchasing decisions. In addition, consumer ability to use technology at the point of purchase is critical if information provided via these technology solutions is to inform purchasing decisions.

A voluntary approach, where the Commonwealth Government would work in cooperation with industry to investigate the use of technology solutions with a view to implementing a voluntary system for producers and manufacturers, may provide useful additional information to consumers in an efficient way. Such an approach was recommended in the 2014 House of Representatives Inquiry into country of origin labelling for food.

For consumers

Interested consumers would be able to access country of origin information at the point of purchase or when they get home, depending on their preference. Such information could potentially be far more detailed than what could be printed on a label, and could be updated regularly by producers for little cost.

Technology solutions will only provide the information and confidence consumers need if a large proportion of industry chooses to use these solutions for a large proportion of food. The Colmar Brunton research indicated that consumer interest in using technology platforms for country of origin information is weak due to limitations in time and interest. Consumers prefer labels on the food products they buy to quickly inform their decision-making.³⁹ However, it is expected that demand for innovative digital solutions will increase over time as Australia moved closer to operating in a digital economy. Consumers will become more comfortable with digital platforms and businesses will be better equipped to use these solutions to provide information on their products.

³⁸ AFGC submission to the 2014 House of Representatives Inquiry into country of origin labelling for food, p.9

³⁹ Colmar Brunton 2015, *Country of Origin Food Labelling Research*, p.18

For industry

Industry would face costs in implementing digital solutions to provide country of origin information to consumers if it was mandatory – both in the development of such approaches and the ongoing costs of labelling and updating the information for consumers. However, under a voluntary approach businesses would only participate in the scheme if the scheme made commercial sense – that is if the costs of doing so were outweighed by the benefits. Businesses are already starting to provide information using digital means and this is likely to increase over coming years.

For government

The Commonwealth, supported by state and territory governments, would work with industry associations and other stakeholders to encourage take-up and use of existing industry-led digital solutions.

Because only businesses that will benefit would invest in this approach voluntarily (i.e. where it makes commercial sense) it is difficult to predict the level of uptake of digital solutions. As such the level of investment would be required by governments to encourage industry to invest in digital solutions is unknown.

Questions

21. a. If you are an Australian food manufacturer or producer, do you currently use digital solutions to provide additional information to your consumers?
b. If so, what do you do?
22. a. What are the costs associated with digital solutions in relation to the price of the food good?
b. Is this cost likely to be passed onto consumers?
c. Are the specific costs or solutions impacted by seasonality?

4.5 What activities may be required to increase awareness?

One of the major problems identified with the current country of origin framework is that it can be confusing for both consumers and businesses. Currently, information is available to help consumers and business understand the framework from multiple sources. The Australian Competition and Consumer Commission (ACCC) produces a country of origin labelling pamphlet aimed at consumers.⁴⁰ It provides an overview of what different origin claims mean and contact details for consumer protection agencies in each state and territory. The ACCC also developed a guidance document to assist business in understanding the safe harbour defences.⁴¹ In addition, businesses can get advice by contacting state and territory regulators directly, and non-government organisations, such as Choice, provide information for consumers.

One way of reducing business and consumer confusion would be for the Commonwealth Government to implement an education and awareness campaign on the country of origin labelling framework and the meaning of claims. The purpose of the campaign and the activities used could take different forms, depending on whether any changes were made to the framework.

A campaign based on the current country of origin labelling framework could run over a six week period and include multiple communication mediums, such as a website, social media, radio and newspapers. The website component would include a dedicated government platform as well as advertising on consumer and industry focused websites. In addition to general messaging, the Commonwealth Government would work with major retailers and industry associations to deliver more targeted messaging to consumers and industry. For example, working with major retailers to supply brochures or postcards with country of origin labelling information at the point-of-sale and direct mail-outs targeting relevant producers and manufacturers.

⁴⁰ *Where does your food come from?*, <http://acc.gov.au/publications/where-does-your-food-come-from>

⁴¹ *Country of origin claims & the Australian Consumer Law*, <http://www.accc.gov.au/publications/country-of-origin-claims-the-australian-consumer-law>

A revised country of origin labelling framework that includes new labels with additional information would require a campaign designed to communicate the revised framework to consumers and industry. This would include television, radio, digital and out of home advertising and communications activities to inform Australian consumers and businesses of the new country of origin labelling framework. It would also include an online tool to help businesses determine the correct country of origin label for their food products.

For consumers

A key focus of a campaign based on the current country of origin labelling framework would be educating consumers on the use of phrases 'made in' and 'product of' on food product labels, and would target the problem of consumer confusion. The campaign in itself may clarify the meaning of current claims, but would not address one of the main problems that consumers have with the current framework—it won't provide more information about the proportion of Australian ingredients in food. In addition, if businesses continue to be uncertain about the best country of origin label to use to reflect their product, using conservative and vague statements instead, consumers may still be confused.

The aim of a campaign based on a revised country of framework would be to raise awareness among Australian consumers about enhancements to the country of origin labelling framework for food products. Consumers will be more aware that there is new information available to them that better meets their interests and helps them understand what the additional detail means.

For industry

For businesses, an education campaign based on the current framework may reduce confusion and increase their confidence in applying the current country of origin labelling framework. As a result, they may be less likely to make conservative claims to avoid repercussions of non-compliance and instead make specific statements that still comply with the framework. A government-funded campaign is also unlikely to impose significant additional regulatory burden on business.

Again, however, an education and awareness campaign by itself would not address some of the problems that industry has with the current framework. As discussed, there are underlying issues with the current framework around the level of information it provides to consumers and industry concerns in applying the framework to their business. For example, even with clearer understanding of the framework, many businesses will still find the application of the 'substantially transformed' test to their products difficult, and the 50 per cent production cost test may still be burdensome to meet.

An education campaign based on a revised framework would ensure industry and trading partners are informed that the framework has been revised. They will get an understanding of what it means for them so they can consider how they might need to change their business processes. Communication with Australia's trading partners will help them understand how labelling will operate in the Australian market.

For government

The cost to government would depend on the size of the education/awareness campaign and the nature of any changes that are made to the framework.

An education campaign based on the current framework as described above, would involve a one-off cost of around \$3 million for the Commonwealth Government to communicate the current country of origin labelling framework and the meaning of current claims such as 'made in' and 'product of'. An ongoing cost of \$100 000 per year for the Commonwealth Government would be required to support the Commonwealth website and ensure consistent messaging across all regulators that are part of the current country of origin labelling framework.

A campaign designed to communicate a revised country of origin labelling framework to consumers and industry could involve a multi-million dollar cost to the Commonwealth Government.

Question

23. Do you think a targeted education campaign on the current country of origin labelling framework would be a cost- effective solution to address consumer concerns?

5. The proposed response

There are two key issues driving the problems with the country of origin labelling. First, the current labels on food do not provide consumers with the information they most value and they find the existing labels confusing. Second, the labelling framework is complex for businesses to manage, resulting in them providing conservative country of origin claims to ensure compliance.

This is a complex problem and requires a comprehensive solution that needs to meet the policy objectives set out in Chapter 3:

- deliver consumers reliable, more informative and less ambiguous origin information, particularly for food
- provide businesses with greater certainty and clarity about the claims they can make
- ensure there are not undue costs to business
- remain consistent with Australia's international trade obligations.

Chapter 4 looked at a range of considerations for a response to meet these objectives. The Commonwealth Government considers that an approach that integrates the elements outlined below would best address each of the considerations.

- a. New country of origin labels on priority food made/produced/packed/grown in Australia that indicate the proportion of local ingredients, using both text and visual information; and clarifying when 'packed in' statements can be used on food.
- b. Amending the conditions food and non-food businesses can use to defend their claims.
- c. Country of origin labels on imported priority food to be in a clearly defined box and clarifying claims.
- d. Industry providing country of origin information for food through digital platforms (voluntary).
- e. An education campaign to communicate the revisions to country of origin labelling and assist business to comply.

5.1 New country of origin labels for priority food

The core element of the proposed response is new labels for priority food that identify the proportion of contents sourced or made in Australia. For Australian food, the labels would include:

- a statement highlighting where the product was made, produced or grown
- the logo of a kangaroo in a triangle to identify the origin of a product as Australian
- a bar chart showing the proportion of ingredients (by ingoing weight) that were produced or grown in Australia
- text on the proportion of Australian ingredients that aligns with the bar chart.

The proposed response would require all food carrying 'made in' labels to meet the revised meaning of 'substantial transformation' (see Chapter 5.2). This will make it clearer that 'made in' labels could not be used on foods that were just packed or underwent other minor processes (like slicing, reconstitution or canning) in the country claimed.

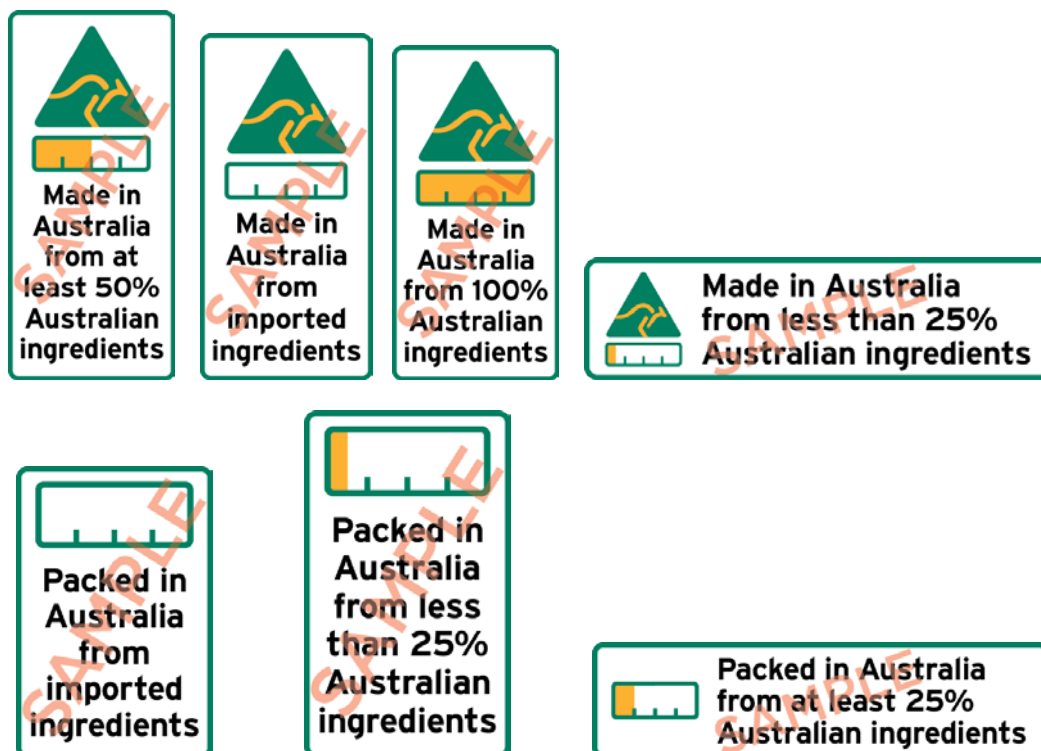
It is proposed that straight 'packed in' claims be limited to where the food in the package came from two or more countries. Food from one country that was packed in another would carry labels that named the country in which the food was from, not just where it was packed. If the food was packed in Australia, the label would also have to include the proportion of Australian ingredients and the corresponding bar chart, but not the kangaroo logo. If the food was packed overseas, the labels would need to indicate that the food was of multiple origins.

The proportion of Australian ingredients would be shown when food is made, produced, grown or packed in Australia. The labels would show the proportion of Australian ingredients rounded down to the nearest 25 per cent (quartiles) or the nearest ten per cent (deciles). It would be presented as an 'at least' statement. This approach will allow for variations in ingredients and processing and avoid

excessive costs to business. The way that these labels combined the elements above also tested well in consumer research (see Box 9).

See Figure 1 for examples of how the labels might look.

Figure 1. Examples of proposed country of origin labels



Non-priority food would continue with current labelling arrangements, but they would be subject to the new rules that clarify when 'made in' and 'packed in' origin statements can be used (see above). They could use the proposed new arrangements on a voluntary basis.

These changes will address consumers concerns with current label. It will provide them with information on the proportion of Australian ingredients, the country of origin information they most value.

The changes will be limited to priority food; which will help manage the cost implications for business.

The proposed response was also developed in the context of Australia's international trade obligations. The changes take into account binding international agreements.

The requirements would be specified in an 'information standard' that would be embedded in consumer law. It would outline how to manage different business circumstances, such as seasonality, and practical issues, such as the treatment of food with small packaging.

Additional detail on this aspect of the proposed response, including specific discussion points, is available on the [Department of Industry, Innovation and Science Consultation hub](#) as part of an overall consultation package. The following items are provided:

- Item 2 - Draft country of origin food labelling Information standard
- Item 3 - Explanatory and discussion paper on the draft information standard
- Item 4 - Proposed changes to the Australian Made Australian Grown certification trade mark.

Discussion points covered in Item 3 and Item 4 are also included in Attachment A.

Box 9. Research on labelling preferences

As part of the Colmar Brunton research, a range of labelling options was tested with consumers via focus groups and the survey. The concepts tested included variations of logos, charts and text. The label in the proposed response was preferred by the greatest number of participants as the most effective way of conveying the origin information they most want to know. Consumers found the kangaroo was instantly recognisable as Australian and the bar chart clearly indicated the proportion of ingredients that were Australian grown. The proposed label also tested well with businesses.

5.2 Amending the conditions food and non-food businesses can use to defend their claims

The proposed changes to the defences will apply to both food and non-food businesses. The changes will:

- amend the conditions for the common 'made in' related defences to:
 - remove the 50 per cent production cost test as it becomes unnecessary with the introduction of the percentage of Australian ingredients on labels
 - make the meaning of 'substantial transformation' clearer and better aligned with similar national and international concepts
- remove the defence for 'grown in' ingredients which is rarely used and unnecessary with the introduction of the information standard
- remove the defence for a logo that requires goods to meet a production cost test of at least 51 per cent as it is unnecessary with the introduction of the percentage of Australian ingredients on labels.

These proposed changes to the defences will clarify the framework, making it simpler for all businesses, both food and non-food, to use. Removing conditions such as the 50 per cent production cost test will significantly reduce the regulatory cost on business across all sectors to manage these tests. It reflects that new labels for food products that identify the proportion of Australian ingredients make the 50 per cent production cost test less relevant and that this test is less useful for non-food products. Its removal will help offset the costs incurred through the introduction of the information standard.

Additional detail on this aspect of the proposed response, including specific discussion points, is available on the Department of Industry, Innovation and Science Consultation hub as part of an overall consultation package. The following items are provided:

- Item 5 - Draft safe harbour defence amendments
- Item 6 - Explanatory and discussion paper on the draft safe harbour defence amendments.

Discussion points covered in Item 6 are also highlighted in Attachment A.

5.3 Revise country of origin labels on imported priority food

Changes would also be made to labels for imported food that fall in the priority group. Country of origin claims on priority food will need to be in a clearly defined box on the label so they can be more easily identified by consumers. Imported food would also be subject to the new rules that clarify when 'made in' and 'packed in' origin statements can be used (see Chapter 5.1).

It is anticipated there will be minimal impact on importers of food products, as most of the changes will not be required on imported foods. As is the case under current origin labelling rules, imported foods will still be required to make a true country of origin statement to reflect where the product was produced, made or grown (or packaged). For imported priority foods, the origin statement will need to

be in a clearly defined box on the label. The origins of all listed ingredients do not need to be identified.

Some overseas manufacturers that produce products for retail sale in Australia with Australian ingredients may want to use the proposed new arrangements voluntarily. Currently in the proposed response it is suggested that bar charts could not be used by importers. There are other ways this information could be presented and use of the bar chart on imported food might confuse consumers or be difficult to verify. This approach for labels on imported food in the draft information standard is not intended to prevent additional information—including information on Australian ingredients—being provided elsewhere on the package, provided such information is not false or misleading to consumers.

Figures 2 and 3 shows an example of what a country of origin label may look like on imported food before and after a change in labelling requirements.

Figure 2. Example of a proposed label change for imported food with ingredients multiple or single origins

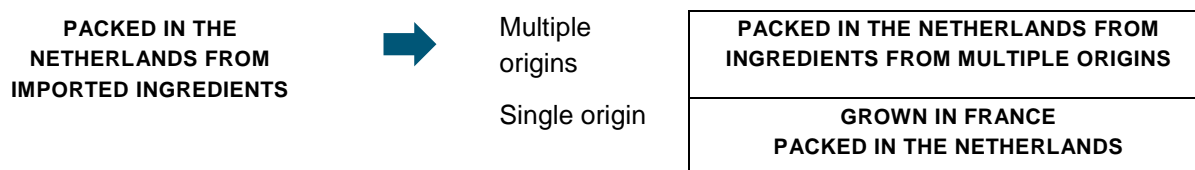
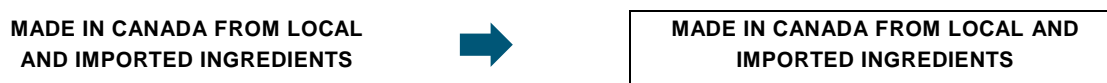


Figure 3. Example of a label for imported food with multiple origins that would not change



5.4 Industry providing additional information through digital platforms (voluntary)

This component of the revised approach to country of origin labelling for food would encourage businesses to provide additional country of origin information for consumers via emerging technology, e.g. QR codes.

The use of digital platforms will allow business to provide additional information and clarity for consumers while retaining choice and flexibility for business in how they deliver such information, particularly as new solutions emerge.

5.5 Education campaign to communicate revisions to country of origin labelling

An education campaign is important to raise awareness with consumers and industry. It would help ensure consumers are aware there is enhanced country of origin information on food to help them make purchasing decisions. It will also target food manufacturers in Australia, importers and trading partners to ensure they are aware of the changes in their labelling responsibilities.

The campaign and proposed communication tools are important to support consumer and business understanding of the framework. Communication with trading partners will ensure they are aware of the changes and help manage any concerns around international trade obligations.

Questions

Proposed labels

24. a. Are there other ways to express the proportion of Australian ingredients that are simple, clear and not confusing for consumers, yet not overly burdensome for business?
b. What would the costs/savings of these options be?
25. a. If you are an Australian food manufacturer or producer, which of the two suggested variations for expressing the proportion of Australian ingredients on the bar chart do you find the most appropriate for your business:
 - quartile - at least 25 per cent
 - decile - at least 10 per centb. Why?
c. How does this flexibility affect your business costs?
26. We understand that the percentage of Australian sourced ingredients in a product may be highly seasonal, or subject to large annual variations in supply.
 - a. Will the proposed labelling requirements negatively impact on your business or industry?
 - b. If so, why?
27. Are there any unintended consequences for Australian food producers or manufacturers exporting products with Australian country of origin information?
28. Would there be benefits for consumers or food businesses if the bar chart could be used voluntarily on imported foods containing Australian ingredients?

Safe harbour

29. Will the proposed changes to the safe harbour defences increase or decrease costs for your business?
30. a. If you are a food business, would the proposed changes make it easier for you to determine the correct country of origin claim to use?
b. Would guidance material help?
31. a. If you are a non-food business, are you supportive of the proposed simplification of the safe harbour defences?
b. Would you be more likely to use country of origin labels following the proposed changes?

Digital solutions

32. Should the government be helping to prepare consumers and business for more innovative technological solutions to country of origin labelling in the future?
33. How do you think businesses will implement digital solutions?
34. What barriers are there to the use of digital solutions for country of origin labelling?

Education campaign

35. Do you believe that it would be important to support any change to the country of origin labelling framework with an education campaign? Please explain.

6. Implementation

Implementation of any changes to food labelling would require careful planning to keep transition costs low and ensure that compliance remains high. The time industry requires to relabel food would need to be balanced with consumers' desire to start benefiting from change as soon as possible.

On this basis, several approaches could be considered to implement changes.

6.1 Transition

6.1.1 Flat transition

Under a flat transition approach, businesses would update labels according to the information standard to align with their existing production processes and labelling cycles. It would be expected that all food would have transitioned to the revised framework within 24 months.

This transition approach is likely to minimise regulatory costs for business. Businesses would have time to determine labelling requirements for each product, train staff (administrative, warehouse and managers) and develop new procedures and IT systems. The time allowed would need to be balanced with the potential disadvantage of not meeting consumer demand sooner.

6.1.2 Phased transition

Changes to the country of origin labelling could be introduced in a gradual and staggered manner, over six to 24 months, depending on the shelf-life of food. Based on discussion with business on the shelf-life of products and labelling cycles, a possible phased transition could require updated labels within:

- six months for food with a shelf-life of six months or less
- 12 months for food with a shelf-life of between six and 12 months
- 24 months for food with a shelf-life of more than 12 months.

Labels on food packaged before commencement of the information standard would not have to be changed to comply with the new requirements.

6.2 How to ensure compliance

The enforcement regime for the current framework involves a risk-based, light touch approach, relying primarily on education, monitoring and surveillance.

Compliance by businesses with the current framework is generally high. The country of origin labelling framework would need an appropriate level of enforcement to maintain consumer confidence while avoiding unnecessary compliance costs to business.

During the transition period, it would be appropriate to have an approach that enables businesses to adapt to the changes and not fear being penalised for inadvertently breaching the framework. It is anticipated that enforcement roles may need to change across regulators under the proposed framework. This has the potential to remove a layer of complexity in the framework that businesses need to deal with. However, details are yet to be determined and will need to be worked through across jurisdictions.

It is intended that the Australian Competition and Consumer Commission (ACCC) would initially undertake awareness-raising activities with businesses and provide guidance material to assist businesses to comply with the new requirements. It would then maintain its educative work and be prepared to undertake enforcement where appropriate to ensure compliance with the new framework.

See Attachment E for a diagram outlining the proposed revisions in relation to the laws and regulations they sit under.

6.2.1 Audit powers

Under the current country of origin labelling framework, businesses are subject to audits by state and territory food regulators. This allows the food regulators to verify country of origin claims by asking businesses to provide relevant records. The record-keeping burden is not unreasonable as many of the records are already required by Australia's regulations around traceability and are also kept for commercial reasons.

The ACCC's current powers to obtain information do not allow it to request and view such records. This will make it difficult for the ACCC to verify country of origin claims under the proposed changes.

Without an audit power, the ACCC will need to use on-site testing to verify claims and can only access business records where it has reasonable belief of a breach of the framework. This approach is more costly on business than auditing and does not allow the ACCC to access necessary documents quickly, reducing its ability to ensure compliance.

To efficiently assess compliance while avoiding unnecessary compliance burden on business, responsible regulators might need to be given some audit powers. One possible way to achieve this is to include a record keeping requirement and to provide regulators with the power to access those records. This approach would operate in a similar way to the audit power for prescribed industry codes.

Review provisions

Any new arrangements should be reviewed up to two years after the end of the transition period. This will allow for evaluation and consideration of necessary amendments.

Questions

Transition

36. How would a flat transition period affect implementation costs for your business?
37. How would a phased transition arrangement affect implementation costs for your business?
38. Are there alternative transitional arrangements that will encourage speedy take up of the new labels without imposing undue costs on business?
39. a. Do you order your packaging or labels in advance?
b. If so, how would the transition periods impact on your labelling approach?
40. a. Are there complicating or unusual factors about your business that would make either transition approach difficult to comply with?
b. If so, please provide details.
41. If you are a small business, are there alternative transitional arrangements that would better suit you?
42. If you are an importer, do you have any specific preferences or concerns about transition approaches?
43. a. As a business, would you choose to adopt the new labelling ahead of the timelines highlighted in the transition periods?
b. If so, please describe the regime you would employ including how you would minimise costs and ensure compliance.

Compliance

44. Do you consider an audit power is necessary for a regulator to assess compliance with the information standard? What are the associated benefits and costs?

45. What would be the expected compliance costs for a business associated with the use of an audit power?
46. What alternative arrangements could be applied to support compliance with the information standard?

7. Consultation

7.1 Objective

The Consultation Regulation Impact Statement (RIS) is a formal consultation component for making any changes to country of origin labelling. This is an important opportunity for consumers and industry (in the food sectors, and in other sectors) to provide their views on the next steps forward.

Stakeholder insight, data and information is crucial to ensure that the final RIS (the Decision RIS) is comprehensive and accurate.

This includes:

- how well the proposed improvements address consumer confusion and regulatory complexity
- the estimations of costs, such as relabelling, that would be incurred by business should the proposed improvements be implemented
- the difference in cost impact on small business vs large business
- timing of the transition and cost impact of transitioning to new country of origin labels
- saving estimates from the changes proposed to the safe harbour defences
- other business implications or issues not identified in the discussion that may result from implementation of the proposed improvements

Without stakeholder information and data, the current cost and benefit estimates outlined in this Consultation RIS will be used to inform government through the Decision RIS. If any of the assumptions behind these costs and benefits are incorrect, stakeholders need to provide feedback to ensure accurate estimates are used.

7.2 Key stakeholders

Key industry stakeholders include:

- consumers and their representatives
- farmers and their representatives
- food businesses (including food processors, manufacturers, importers, packagers) and their representatives
- non-food business and their representatives
- retailers and wholesalers and their representatives
- Australia's trading partners.

Responsibility for the current country of origin labelling framework cuts across a number of agencies at the Commonwealth, state and territory level. See Attachment B for more information.

7.3 Previous consultation

The proposal outlined in this Consultation RIS was informed by extensive stakeholder consultation, including consumer and industry market research.

Colmar Brunton was commissioned by the Department of Industry, Innovation and Science to undertake market research in May to June 2015. The objective of the research was to understand consumer values and attitudes towards country of origin labelling for food. The research tested various options to improve the food labelling requirements to better meet the needs and desires of consumers. The research involved:

- 18 consumer focus groups
- 20 interviews with businesses
- an online consumer survey of 1220 consumers
- an online survey in June 2015 (over 17 000 responses).

The House of Representatives Standing Committee on Agriculture and Industry inquiry 'A Clearer Message for Consumers' was undertaken in 2014. The Committee received 54 submissions and eight supplementary submissions. The Committee held seven public hearings during the inquiry.

The department also organised a series of roundtables with business and industry associations in April to May 2015. The purpose of the roundtables was to understand the fundamental and critical issues with the current country of origin labelling framework for key stakeholders. Discussions at these roundtables informed the development of the proposed improvements for consumers and business discussed in this RIS.

7.4 Issues for consultation

Your feedback is sought on all aspects of this Consultation RIS and items relating to the Commonwealth Government's proposed response. The following items are available on the [Department of Industry and Science Consultation hub](#) as part of this consultation package:

- Item 1 – Consultation RIS (this document)
- Item 2 - Draft country of origin food labelling Information standard
- Item 3 - Draft information standard - Explanatory and discussion paper
- Item 4 - Proposed changes to the Australian Made, Australian Grown certification trade mark
- Item 5 - Draft safe harbour defence amendments
- Item 6 - Draft safe harbour defence amendments - Explanatory and discussion paper.

Specific questions have been included throughout the Consultation RIS and other items listed above to guide your input. These questions are also consolidated at Attachment A. These should be used as a guide when submitting a written response. There is no obligation to answer any or all of the questions.

7.5 Next steps

Stakeholder feedback on the Consultation RIS will be reviewed and will inform the detail of a Decision RIS. The Decision RIS will advise Australian, state and territory governments with responsibility for administering the country of origin labelling framework when they make their final decision on how to respond to the problem.

Pending the decision of governments, there will continue to be opportunities for stakeholders to engage with the process of revising the framework. This includes implementation, communication and evaluation.

8. Conclusion

The current country of origin labelling framework for food is confusing, can be burdensome for business, and does not necessarily provide consumers with the information they most want—the proportion of Australian ingredients in their food. In considering potential changes to the framework, a number of factors need to be considered:

- what information will satisfy consumers and keep costs down for business
- how can businesses be more confident in using the safe harbour defences
- how should the labelling of imported food be treated
- what is the role for digital information
- what activities may be required to increase awareness.

The proposed Commonwealth Government response is to revise the current country of origin labelling framework. The changes to the framework involve:

- for food that is made, produced or grown in Australia, a requirement that an Australian made kangaroo logo is displayed
- the requirement for Australian food businesses to display the proportion of the ingredients sourced in Australia in the form of a bar chart, supported by a text statement
- removing the 50 per cent production cost test, together with clarifying the substantial transformation test for food and non-food products
- for imported food, a requirement that the country of origin statement is included in a box on the label and that food packed overseas indicates if the ingredients came from multiple origins. The framework is sufficiently flexible to permit imported foods to voluntarily carry information on the percentage of Australian ingredients.

This approach would meet the objectives of delivering more reliable information to consumers and providing greater certainty for business, while ensuring there are not undue costs to business and maintaining Australia's trade obligations.

The changes would be supported by businesses providing additional information for consumers via emerging digital platforms on a voluntary basis and government running an education campaign for consumers and business.

The proposed response would involve a cost to the food industry, largely in the form of labelling changes (up-front and ongoing). The preliminary estimate of this cost for the changes to domestically produced food is \$37.4 million across the industry per year. The changes to labelling for imported products are estimated to cost industry \$3.8 million per year.

On the other hand, consumers will receive more information about the origin of the food that they purchase, and businesses will have a less confusing labelling framework to comply with. In addition, changes to the safe harbour defences would be likely to involve significant cost savings for business: \$7.3 million for food businesses each year, and \$103.2 million for non-food businesses.

Feedback is sought from businesses and consumers on the proposed response.

- What do you think of the proposed response?
- What would be the costs and benefits of the proposed response?
- Are there more effective ways of addressing the problem at the same or less cost?

There are a number of more specific questions throughout the Consultation RIS which can be used as a guide when developing your response. Your input will help us determine the best way to provide consumers with the information they want, while minimising the additional costs on business.

Attachment A - Consolidated questions

Consultation RIS questions

What information will satisfy consumers and keep costs down for business?

Food covered by the framework

1. a. Is the list of non-priority food clear?
b. Are there any gaps?
c. Do you have any other concerns about priority and non-priority food?

Easy to read labels

2. a. Is there a risk that changes to improve prominence of country of origin labels would make it harder to identify other labelling information, such as allergen warnings?
b. Are there any specific problems that might arise in relation to small packages?

Proportion of Australian ingredients

3. Can you provide an indication of the current number of hours spent and costs to your business from maintaining records to substantiate current origin claims being used today?
4. To allow for variations, businesses could calculate the average proportion of Australian ingredients and provide this average on the label.
 - a. How often should business need to calculate the average proportion of Australian ingredients to have the least impact on business costs, e.g. every 12 months, 24 months or 36 months?
 - b. Please explain the cost impacts of these options for your business.
 - c. Can you suggest another option?
 - d. What would be the estimated costs of your alternative option?
5. The Consultation RIS outlines estimated costs to change labels, including:
 - business processes - understanding new requirements, staff training, IT, inventory planning (\$14 000 per business)
 - initial label changes for packaged for (\$6245 per SKU)
 - initial label changes for fresh food (\$500–\$1300 per SKU)
 - regular label updates (\$2813 per SKU).
 - a. Do you agree with each of these estimated costs?
 - b. If no, please provide your estimates.
 - c. Are there any other areas of business costs that have not been covered here? Please explain.
6. a. How do you think the proposed labelling changes would affect your record keeping time and costs?
b. Can you provide an estimate of these hours/costs?
7. Business size has not been accounted for in the estimates (noting that most food product businesses are micro or small). What impact will business size have on costs outlined here?

Specific country in which key ingredients were grown

8. Can you provide an estimate of the cost to your business to provide a label that details the origin of all ingredients?
9. How long do you believe the label will remain current? That is, how often would you estimate the need to update the label due to a change in the origin of ingredients?
10. Can you estimate the space that a label that details the origin of all ingredients would require on your product?
11. Do you believe providing such detailed origin information is a viable option the government should consider?
12. As a consumer, do you want this information to be provided?

How can businesses be more confident in using the safe harbour defences?

13. How many staff do you devote to interpreting, applying and establishing compliance with the current ACL safe harbour defences?
14. a. What aspects of the current ACL safe harbour defences do you find the most difficult to interpret, apply and comply with?
b. Why?
15. The Consultation RIS outlines estimates time for businesses to undertake the 50 per cent production cost test, including:
 - time new businesses spend learning and understanding the test (approximately nine hours per year)
 - time new businesses spend applying the test for the first time (approximately 36 hours per year)
 - time most businesses spend reviewing the test to ensure they remain compliant (approximately 30 minutes per year).a. Do you agree with each of these estimated times?
b. If no, please provide your estimates.
16. Business size has not been accounted for in the estimates (noting that most food product businesses are micro or small). What impact will business size have on savings outlined here?

How should labelling of imported food be treated?

17. Do you believe the proposed labelling requirements will be met by the international manufacturer/supplier or will the imported products need to be stickered on arrival to Australia?
18. If products are stickered in Australia:
 - a. Will importers use a machine to apply the sticker or require people to apply the sticker?
 - b. If by hand, can importers estimate the number of hours that would be required to complete the process?
19. The Consultation RIs outlines estimates for label changes for imported food, including:
 - initial label changes for manufactured food (\$2800-\$6200 per SKU)
 - initial label changes for fresh food (\$500-\$1300 per SKU)
 - administrative costs (\$1560 per SKU).a. Do you agree with each of these estimated costs?
b. If no, please provide your estimates.
c. Are there any other areas of business costs that have not been covered here? Please explain.
d. Would you expect any ongoing costs for label changes or business processes for imported food?
20. Is the information on the number of countries ingredients have been sourced from readily available? If not, would there be any additional costs in seeking this information?

What is the role for digital information?

21. a. If you are an Australian food manufacturer or producer, do you currently use digital solutions to provide additional information to your consumers?
b. If so, what do you do?
22. a. What are the costs associated with digital solutions in relation to the price of the food good?
b. Is this cost likely to be passed onto consumers?
c. Are the specific costs or solutions impacted by seasonality?

Education and awareness raising

23. Do you think a targeted education campaign on the current country of origin labelling framework would be a cost- effective solution to address consumer concerns?

The proposed response

Proposed labels

24. a. Are there other ways to express the proportion of Australian ingredients that are simple, clear and not confusing for consumers, yet not overly burdensome for business?
b. What would the costs/savings of these options be?
25. a. If you are an Australian food manufacturer or producer, which of the two suggested variations for expressing the proportion of Australian ingredients on the bar chart do you find the most appropriate for your business:
 - quartile - at least 25 per cent
 - decile - at least 10 per cent?b. Why?
c. How does this flexibility affect your business costs?
26. We understand that the percentage of Australian sourced ingredients in a product may be highly seasonal, or subject to large annual variations in supply.
 - a. Will the proposed labelling requirements negatively impact on your business or industry?
 - b. If so, why?
27. Are there any unintended consequences for Australian food producers or manufacturers exporting products with Australian country of origin information?
28. Would there be benefits for consumers or food businesses if the bar chart could be used voluntarily on imported foods containing Australian ingredients?

Also see Explanatory and discussion paper for the Draft Information standard.

Safe harbour

29. Will the proposed changes to the safe harbour defences increase or decrease costs for your business?
30. a. If you are a food business, would the proposed changes make it easier for you to determine the correct country of origin claim to use?
b. Would guidance material help?
31. a. If you are a non-food business, are you supportive of the proposed simplification of the safe harbour defences?
b. Would you be more likely to use country of origin labels following the proposed changes?

Also see Explanatory and discussion paper for the Draft Safe harbour defence amendments.

Digital solutions

32. Should the government be helping to prepare consumers and business for more innovative technological solutions to country of origin labelling in the future?
33. How do you think businesses will implement these new measures?
34. What barriers are there to the use of digital solutions for country of origin labelling?

Education campaign

35. Do you believe that it would be important to support any change to the country of origin labelling framework with an education campaign? Please explain.

Implementation

Transition

36. How would a flat transition period affect implementation costs for your business?
37. How would a phased transition arrangement affect implementation costs for your business?
38. Are there alternative transitional arrangements that will encourage speedy take up of the new labels without imposing undue costs on business?

39. a. Do you order your packaging or labels in advance?
 - b. If so, how would the transition periods impact on your labelling approach?
40. a. Are there complicating or unusual factors about your business that would make either transition approach difficult to comply with?
 - b. If so, please provide details.
41. If you are a small business, are there alternative transitional arrangements that would better suit you?
42. If you are an importer, do you have any specific preferences or concerns about transition approaches?
43. a. As a business, would you choose to adopt the new labelling ahead of the timelines highlighted in the transition periods?
 - b. If so, please describe the regime you would employ including how you would minimise costs and ensure compliance.

Also see Explanatory and discussion paper for the Draft Information standard.

Compliance

44. Do you consider an audit power is necessary for a regulator to assess compliance with the information standard? What are the associated benefits and costs?
45. What would be the expected compliance costs for a business associated with the use of an audit power?
46. What alternative arrangements could be applied to support compliance with the information standard?

Item 3 - Draft information standard - Explanatory and discussion paper

Please review questions with the 'Draft country of origin food labelling information standard' and associated 'Explanatory and discussion paper'. Both items are available on the [Department of Industry, Innovation and Science Consultation hub](#). Note that the Explanatory and discussion paper provides discussion points for selected items.

Part 1 – Preliminary information

Section 8

- a. Do you agree with the lists of changes and processes for food that should or should not be considered as substantial transformation set out in Attachment A to Consultation Package Item 6? Why?
- b. What other changes or processes do you think are or are not sufficiently transformative to warrant a change in the origin of a product that incorporates imported ingredients? Why?
- c. Should the lists of changes and processes that are or are not substantial transformation be included in regulations, or should they be in guidance material? Why?

Section 9

- a. We welcome feedback on whether there is sufficient clarity about the scope of non-priority foods. For example, is the difference between biscuits and snack foods and fruit and nut products, muesli bars and cakes and other bakery products sufficiently clear?

Section 12

- a. As a business, is it easier to determine the percentage of Australian ingredients using ingoing weight rather than final weight? Why?
- b. Is there much difference between the ingoing weight of all ingredients in your food and the final weight? If so, what accounts for this difference?

- c. We have provisions dealing with how water should be treated when calculating the percentage of Australian ingredients (see Section 13 below). Do we need to make it clear that packaging is not an ingredient in food to make sure its weight is not used in the calculation?

Part 2 – Country of origin labelling requirements

Division 3

- a. While research showed that the origin information consumers most wanted to see in relation to food was the proportion of Australian ingredients, some consumers did want to see the origin of key ingredients. Would any businesses welcome the possible alternative approach that required the labelling of all of the different countries of origin of the food in the package instead of requiring a statement about the proportion of Australian ingredients? (but still with a bar chart reflecting the proportion of Australian ingredients).

Section 18

- a. Do we need to clarify the meaning of significant ingredients?
- b. Would consumers find the use of the filled bar chart misleading if all significant ingredients are Australian, rather than all ingredients?
- c. Do we need to make sure significant ingredients make up more than 90 or 95 per cent of the food by weight?

Section 19

- a. We would like your feedback on whether the percentage of Australian ingredients should be based on multiples of 10% or 25%. Please let us know the reasons for your preference. (See also question 25 in the Consultation RIS.)
- b. As an alternative to the 'at least' statements, should there be an option to nominate the actual percentage of Australian ingredients with a tolerance of up to five per cent – and using the bar chart filled to the 10% or 25% multiple below the claimed percentage?
e.g. 'Made in Australia from 55% Australian ingredients' with the bar chart filled to 50% – where the actual percentage could be between 50% and 60%?
- c. Or, as another alternative to the proposed provision, could businesses voluntarily name the single origin of ingredients that make up a significant proportion of the food (i.e. 70%, 75%, 80%, 90%, etc.)?
e.g. 'Made in Australia from Canadian pork' if the pork is only from Canada and meets the minimum percentage in a product like ham?
or
'Made in Australia from Australian milk' if the milk is only from Australia and meets the minimum percentage in a product like yoghurt?
- Noting that the bar chart partially filled to the appropriate level would still be required.

Section 20

- a. We would like to know if you would prefer an average seasonal label with a link to more batch-specific information on-line, rather than a label based on the actual ingredients in the food (see section 19) – and if so, why.
- b. Also, we would like your feedback on a formula for calculating the average that would not be misleading to consumers. Over what period do you think the average should be calculated? – and for how long should it be valid?
e.g. averages could be calculated annually (i.e. every 12 months) or perhaps over a 24 or 36 month period – and the average could then be used for a similar period after that. (See also question 4 in the Consultation RIS.)
- c. Should averages be calculated over calendar or financial years (or perhaps other periods of 12, 24 or 36 consecutive months)?

- d. Also, what other ways could consumers access the additional information on-line besides a bar code? For example, through a website address.
- e. Should the option of nominating the actual percentage of ingredients with a tolerance of up to five per cent be permitted for seasonal statements too?
- f. Are there any other situations, besides seasonality, where the proportion of Australian ingredients normally varies throughout the year, and consumers would accept the necessity for a similar approach to origin labelling?

Subsection 21

- a. We would like your feedback on whether a seasonal average label as well as a straight 'at least' label is needed for packs containing food from different countries, similar to those featured in section 20.

Part 4 - Legibility requirements, prohibitions and providing additional information

Section 26

- a. For packaged food, could the logo and bar chart appear separately from the text – e.g. the logo and bar chart on the front and the text on the back?
- b. Comments on use of the logo and bar charts in off-label situations are also invited. For example, could the logo be used with a bar chart, but without the text, in off-label situations for multiple foods that were all grown, produced or made in Australia, and that have the same proportions of Australian ingredients?
- c. Are there any situations in which the logo could be used on food without the bar chart, without misleading consumers?
e.g. In stores displayed over deli produce or meat, including products that are wholly Australian and those made in Australia from a mix of local and imported ingredients such as sausages and ham that might have different levels of local content?
e.g. In catalogues for food made, produced or grown in Australia, with local content from anywhere between 0% and 100%?
- d. The current draft does not allow the bar chart to be used to indicate the proportion of Australian ingredients in imported food. It is thought that there are other ways this information could be presented, and the use of the bar chart in this way might confuse consumers or be difficult to verify. However, we are interested in hearing your views, including whether you believe there are overriding benefits to allowing the bar chart to be used voluntarily on imported foods containing Australian ingredients. (See also question 28 in the Consultation RIS.)

Part 5 - Transitional provisions

Section 29

- a. We understand that consumers would like to see clearer origin labels on food as soon as possible. However, we also understand that having adequate transition arrangements can help to keep implementation costs down for food producers, manufacturers, importers and retailers – minimising the impact on food prices. We therefore invite views on the impact of the proposed options.
- b. We would also appreciate any practical suggestions on alternative transition arrangements that would ensure speedy adoption of the new labels, impose less cost on business and have the broad support of industry.

Dictionary

- a. Comments are invited on the definitions in the dictionary.

Item 4 - Proposed changes to the Australian Made, Australian Grown Certification Trade Mark Code of Practice

Please review questions with the item outlining the proposed changes on the [Department of Industry, Innovation and Science Consultation hub](#).

1. Are the proposed changes to the Code of Practice for the AMAG Certification Trade Mark likely to result in any significant public detriments?
2. Would they be likely to have any significant effect on competition or impact on consumers?

Item 6 - Draft safe harbour defence amendments - Explanatory and discussion paper

Please review questions with the 'Draft country of origin safe harbour defence amendments' and associated 'Explanatory and discussion paper'. Both items are available on the [Department of Industry, Innovation and Science Consultation hub](#).

1. Do you agree with the list of changes and processes that should or should not be considered as substantial transformation? Why?
2. What other changes or processes do you think are or are not sufficiently transformative to warrant a change in the origin of a product that incorporates imported ingredients or components? Why?
3. Should the lists of changes and processes that are or are not substantial transformation be included in regulations, or should they be in guidance material? Why?

Attachment B - Australia's current country of origin labelling framework

Australia's current country of origin labelling framework is comprised of three elements:

- most food must have a country of origin statement - Australia New Zealand Food Standards Code
- statements must not be false or misleading - Australian Consumer Law
- imported food must be labelled with country of origin - Commerce (Imports) Regulations.

Separate legislation gives Commonwealth, state and territory government consumer affair agencies and regulators responsibility to enforce these laws and regulations.

The Australian made logo (a kangaroo in a triangle) is a separate voluntary tool businesses can use to identify their products as Australian.

Country of origin statements on food

The Australian New Zealand Food Standards Code establishes which food must have a country of origin statement on their labels. The requirements for country of origin labels are set out in Standard 1.2.11 and apply to both food produced domestically and imported food.

In the standard, food is separated into packaged and unpackaged categories; see conditions below. Each has different country of origin requirements and exemptions. However, all statements must be legible and prominent to allow a contrast to the background and must be in English.

The standard excludes food offered for immediate consumption, for example in restaurants, canteens, caterers, hospitals. This is because the cost implications to apply mandatory country of origin labelling in the food service sector are considered too high. For example, the impact on menu changes, product sourcing and supplier relationships. Also, in the services sector there is often an employee who could be asked for additional information on the origin of the food being sold.

Packaged food requirements

The standard specifies that packaged food must be labelled with one of the following:

- a statement identifying where the country where the food was made, produced or grown
- a statement identifying the country where the food was manufactured or packaged and whether the food is made up of all imported, or local and imported ingredients.

The standard for packaged food excludes:

- food made and packaged on the premises from which they are sold
- food delivered packaged, and ready for consumption, at the express order of the purchaser
- food sold at a fundraising event
- food packaged and displayed in an assisted service display cabinet.

The standard includes special rules for fresh fruit and vegetables in transparent packages. These rules effectively allow them to be labelled as if they were unpackaged food.

Unpackaged food requirements

The standard specifies that unpackaged food must be labelled with a statement on, or in connection with, the display of the food. The statement must provide one of the following:

- identify the country or countries of origin of the food
- indicate that the food is a mix of local and imported food
- indicate that the food is a mix of imported food.

The rules for unpackaged food apply to food displayed for retail sale, namely fruit, vegetables, nuts, spices, herbs, fungi, seeds, fish and most types of seafood, pork, beef, veal, lamb, hogget, mutton and chicken (or a mix of these food).

It includes food that has been cut, filleted, sliced, minced or diced; pickled, cured, dried, smoked, frozen or preserved by other means; marinated; or cooked.

Statements must not be false or misleading

Australian Consumer Law sets out the expectation that claims on products (food and non-food) provide consumers with clear, accurate and truthful information. It is against the law in Australia for businesses to provide false or misleading information to consumers, including country of origin. While consumer law does not require businesses to make a country of origin claim other laws can; such as food standards laws. Australian Consumer Law is set out in Schedule 2 of the *Competition and Consumer Act 2010*.

Consumer law provides conditions that businesses can follow to defend what they say about where their product comes from. These are called safe harbour defences. Safe harbour defences apply to products with the following claims:

- 'Product of' or 'Produce of'
- 'Grown in'
- 'Ingredient grown in'
- any other representation (including 'Made in', 'Made in (country) from local and imported ingredients', or representations incorporating symbols, pictures or icons).

Key points for each of the safe harbour defences are outlined in Table 1.

There are no requirements for businesses to provide additional information on products beyond the 'Grown in', 'Made in' or 'Product of' type claims. For example, some businesses may elaborate on claims to highlight where key ingredients are from. Others use the phrase 'Made in Australia from local or imported ingredients' on product labels to highlight the presence of local or imported content or to allow for seasonal variations in where ingredients are sourced. Such labels are allowed as long as the additional information is not misleading and does not confuse consumers.

Imported food must state country of origin

The Commerce (Imports) Regulations 1940 made (under the *Commerce (Trade Descriptions) Act 1905*) require certain imported goods, including all imported food, to be labelled with the country in which they were made or produced. This legislation does not specify the format of the label, but the requirements highlight that that descriptions must be:

- in English
- in prominent and legible characters
- on the main label or brand attached to the food, in a prominent position and permanent as practicable
- a true description of the goods.

Australia also has a range of binding international agreements relating to country of origin labelling that apply to both imports and exports. These agreements establish that regulation in Australia cannot create barriers to trade or favour goods produced in Australian.

For example, there is an agreement between the Commonwealth Government, state and territory governments and the New Zealand Government (*Trans-Tasman Mutual Recognition Act 1997*). The agreement specifies that goods that can be legally sold in each country can be legally sold in the other regardless of differences in standards or regulations. This means that the food standards and consumer law do not apply to food imported from New Zealand if it can already be legally be sold there. However, the *Commerce (Trade Descriptions) Act 1905* is exempt from the agreement between Australian and New Zealand, so food and beverages imported from New Zealand must still be labelled with the country in which they are made or produced.

Table 1. Overview of Australian Consumer Law safe harbour defences

Defence	Requirements (must meet all requirements for each defence)
<p>‘Product of’ ‘Produce of’</p>	<ul style="list-style-type: none"> • The country was the country of origin of each significant ingredient or component of the good.⁴² • All, or virtually all processes involved in the production or manufacture happened in that country.
<p>‘Grown in’</p>	<ul style="list-style-type: none"> • The country referred to as the country in which the goods were grown could also be represented as the country of origin of the goods, or the country of which the goods are the produce of, in accordance with the safe harbour defence requirements for such claims.⁴³ • Each significant ingredient of the good was grown in that country. • All, or virtually all, processes involved in the production or manufacture happened in that country.
<p>‘Ingredient grown in’</p>	<ul style="list-style-type: none"> • The country referred to as the country in which the ingredients or components of goods were grown could also be represented as the country of origin of the goods, or the country of which the goods are the produce of, in accordance with the safe harbour defence requirements for such claims. • Each ingredient or component that is claimed to be grown in that country was grown only in that country. • Each ingredient or component that is claimed to be grown in that country was processed only in that country. • Fifty per cent or more of the total weight of the goods is comprised of ingredients or components that were grown and processed only in that country.
<p>Other</p>	<ul style="list-style-type: none"> • The food must be substantially transformed in the country of origin being claimed (the substantial transformation test). • Fifty percent or more of the total costs to produce or manufacture the food product must have occurred in that country, including material, labour and cost overheads (cost of production/manufacture test).

⁴² ‘Significant ingredient or component’ is not necessarily related to the percentage of that ingredient.

⁴³ Ingredients are ‘grown in’ a country if they meet one of the following criteria: are materially increased in size or materially altered in substance in that country by natural development; germinated or otherwise arose in, or issued in, that country; are harvested, extracted or otherwise derived from an organism that has been materially increased in size, or materially altered in substance, in that country by natural development.

Enforcing the Country of origin labelling framework

Responsibility for setting country of origin labelling policies is shared across Commonwealth, state and territory governments. Table 2 provides an overview of these responsibilities.

Table 2. Responsibilities for the current framework

Element	Scope	Responsibility
Australia New Zealand Food Standards Code	Mandates country of origin labelling for most food (including beverages) offered for retail sale in Australia.	<ul style="list-style-type: none"> Health and Agriculture portfolios set policy, in consultation with state and territory governments. Food Standards Australia New Zealand develops standards. State and territory food regulators enforce in Australia.
	Excludes food offered for immediate consumption in selected venues.	<ul style="list-style-type: none"> Department of Agriculture and Water Resources enforces at the border.
Australian Consumer Law (Schedule 2 to the Competition and Consumer Act 2010)	Prohibits false or misleading place of origin representations, and misleading or deceptive conduct	<ul style="list-style-type: none"> The Legislative and Governance Forum on Consumer Affairs sets policy on the ACL as part of a consultative process governed by an Intergovernmental Agreement. The ACCC and state and territory consumer affairs agencies jointly administer and enforce the ACL.
	Provides safe harbour defences for country of origin representations that meet certain criteria.	<ul style="list-style-type: none"> The Industry, Innovation and Science portfolio sets the policy for safe harbour defences, in consultation with state and territory governments, the ACCC and state and territory consumer affairs agencies enforce.
Commerce (Imports) Regulations 1940, made for the purposes of the Commerce (Trade Descriptions) Act 1905	Requires certain goods, including all imported food (including beverages), to be labelled with the country in which they are made or produced	<ul style="list-style-type: none"> Department of Immigration and Border Protection.

Changing the framework

Changing Australia's country of origin labelling framework requires agreement across different levels of government and amending a number of regulations. This includes:

- agreement across portfolios with responsibility for food labelling at each level of government
- the Legislative and Governance Forum on Consumer Affairs, under the Council of Australian Governments, agreeing to change the ACL (with changes then incorporated into relevant legislation)
- the Australia and New Zealand Ministerial Forum on Food Regulation agreeing to changes to the Food Standards Code (with changes then incorporated into Commonwealth, state and territory food regulations).

Depending on the scope of food labelling changes, it may also be necessary to amend trade legislation.

Australian made logo

The Australian Made Australian Grown (AMAG) logo is a privately administered certification trade mark (comprising a kangaroo in a triangle logo). This trade mark can be used with descriptive statements (e.g. Australian made, Product of Australia, Australian seafood) on a wide range of goods, including food.

The logo is a separate communication tool, with its own criteria and administration process. The eligibility criteria for the logo (a code of practice) are based on the defences in consumer law.

Food products that use the logo must still provide a country of origin description. Around 480 food businesses and 1500 non-food businesses are currently licenced to use the logo.

The AMAG trade mark is owned and administered by a not-for-profit organisation, Australian Made Campaign Ltd, under a deed with the Commonwealth, represented by the Department of Industry, Innovation and Science.

Attachment C - Comparison of country of origin labelling provisions in Australia and other countries

Country	Mandatory country of origin labelling for food	False, misleading or deceptive claim prohibited	General requirement for country of origin labelling	Basis for determining country of origin
Australia	Yes (most products).	Yes	No (food and select imports only)	Origin' not defined. If certain criteria are met, certain claims are accepted as not false, misleading, or deceptive, e.g. 'made in (country)' accepted if substantial transformation and cost of production tests are met.
Canada	Yes (most products).	Yes	Yes(?) but numerous exemptions	'the country in which the goods were substantially manufactured" – additional regulations apply (Guidelines provide rules substantially equivalent to ACL provisions).
European Union	Mandatory for non-EU beef, fish, honey, fresh fruit & vegetables, olive oil. From December 2014, mandatory country of rearing and slaughter for fresh meat from pigs, sheep, goats and poultry, otherwise only if absence misleading.	Under national law	No (only certain food or if absence misleading)	No EU legislation for determining origin: national legislation of importing country applies.
United Kingdom	See EU rules.	Yes	No (only certain food or if absence misleading)	Not defined in the law, but guidance states that origin for food from one country which is processed in another is based on 'the place of last substantial change'.

Country	Mandatory country of origin labelling for food	False, misleading or deceptive claim prohibited	General requirement for country of origin labelling	Basis for determining country of origin
South Africa	'Product of...' required on all imported food.	Yes	No	'Made in, produced in, manufactured in or just the name of the country from which the goods originate' (textile goods).
United States	Required on all imported food, and fresh fruits, vegetables, fish, some nuts, most meat (exceptions apply). Country of birth, rearing and slaughter required on meat from cattle and pigs.	Yes	No (only certain meat and most imports)	Country of manufacture production, or growth of the article.
New Zealand	No	Yes	No	No specific origin criteria, but guidelines suggest origin determined by last change to essential character.

Attachment D - Costs and assumptions

Country of origin label changes

Stakeholder input is requested to improve the accuracy of the cost estimates used in this paper, including additional data, more accurate assumptions and better methodologies. To assist in this process, detailed costs and key assumptions for key considerations in Chapter 4 of this document are outlined below.

The following cost estimates have been derived by preliminary research commissioned in 2015 by the Department of Industry, Innovation and Science. The cost estimates are also based on information provided by business and stakeholders who understood the proposed changes to be:

- labelling requirements applicable to a select group of food categories (priority foods)
- a label that would include:
 - the Australian made logo where relevant
 - a visual indicator of the proportion of Australian ingredients
 - a statement indicating the proportion of Australian ingredients.

Number of businesses and SKUs

The number of food businesses and food stock keeping units (SKUs) are a major influence in the total cost of changes to country of origin labelling.

It has been estimated that approximately 63 500 food SKUs exist in Australia. These are made up of:

1. 22 260 manufactured food SKUs currently labelled 'Made in Australia' or 'Product of Australia', that have some share of Australian ingredients
2. 14 840 manufactured SKUs that are fully imported.
3. 13 200 packaged fresh food SKUs
4. 13 200 unpackaged fresh food SKUs

According to ABS data on business counts 7482 businesses own or produce all food product SKUs. IBIS World and ABS data shows that most of these food product businesses are either non-employing or only employ up to four employees (over 85 per cent in total).⁴⁴

Labelling costs

The cost to industry of providing information on the proportion of Australian-sourced ingredients would include initial and ongoing labelling costs.

Initial labelling costs

Labelling costs for packaged products are highly variable and dependent on a range of factors. These factors include the:

- specifications of the additional information to be included on the label (i.e. text only changes or text plus visual changes)
- packing surface (for example paperboard, glass, plastic etc.)
- design requirements (existing label "real estate" and flexibility to add additional information) and
- inclusion of new colour palettes.

Given the number of variables, this preliminary analysis has made some broad assumptions on the cost of label changes across all packaged food types. It is estimated that the average initial cost to change a product label to incorporate new country of origin information would be \$6245 per SKU. This cost estimate includes changes to text and label layout and the inclusion of up to three colours to the

⁴⁴ This estimate excludes bakery product manufacturing.

label. However this consultation process is seeking specific information from businesses of all size to understand what the initial label costs would be for your product.

It is estimated that the average cost for fresh food products would be lower than the cost for packaged/manufactured products. Fresh food products are categorised into two types; pre-packaged (for example beef steaks in foam tray covered in plastic wrap) or unpackaged (for example individual apples within fresh fruit section of supermarket or grocer).

Unpackaged fresh food initial labelling costs have been estimated to be approximately \$500 per SKU. The initial label cost for pre-packaged fresh food has been estimated at \$1300 per SKU.

Ongoing labelling costs

This preliminary analysis assumes that there will be ongoing labelling costs for manufactured foods to update the country of origin information (such as the proportion of Australian ingredients represented on the label). The cost of ongoing label changes is estimated at \$2813, which reflects the cost for a minor label change (i.e. text changes only, no change to layout of label, change to one colour).

Ongoing labelling costs for fresh food products is assumed to be minimal and if required, aligned with other label changes such as price changes. As such, in estimating the cost to industry from changes to the country of origin framework, no provision for ongoing labelling costs for fresh food products has been considered. However please provide feedback if this assumption is incorrect.

Administrative costs

Businesses will incur costs associated with changes to the country of origin framework including:

- time and legal costs to understand and apply the new legislative requirements
- changes to labelling processes and procedures
- training of staff
- information technology (IT) upgrades or improvements
- investment in capital machinery upgrades (for example, in store printers and data houses).

Preliminary estimates of the costs per business have been detailed. The costs are based on an average mid-sized business and cover a range of activities required to implement and maintain mandated labelling requirements. Feedback is sought on whether these costings are appropriate to be used as an average to represent costs for all food companies and if there are other activities that have not been accounted for:

- time spent understanding the requirements of the new country of origin labelling framework, determining labelling for each product and legal advice - approximately \$6300
- staff training (administrative, warehouse and managers), including developing training materials and time spent training - approximately \$4100
- developing new procedures and IT systems - approximately \$1600
- .additional inventory planning – approximately \$2000.

Labelling cycles

The labelling cycle of a product (how often the product label is changed or updated) is influenced by multiple factors including product shelf life, changes to legislative requirements or general updating of the branding of the product. This preliminary analysis estimates that the label cycle for a manufactured food product is on average 2.7 years.

With the proposed changes requiring country of origin labels to detail the proportion of Australian ingredients, the label cycle of food products is an important consideration for the determination of costs. If the variability of the proportion of Australian ingredients is relatively low, business may be able to update the country of origin label in line with the standard label cycle, every 2.7 years and therefore minimise the cost impact. However, if the proportion of Australian ingredients is highly

variable, the label may need to be updated more frequently than the label cycle and therefore a higher cost will be borne by the food manufacturer.

We are seeking your feedback on the assumption that the standard label cycle is 2.7 years. We are also interested to understand if you believe your country of origin label will need to be updated more frequently than the label cycle and what you estimate the cost of these ongoing changes to be.

Imported food costs

This paper makes assumptions on the number of imported food SKUs, the number of Australian and overseas businesses that import manufactured foods to Australia for retail purposes, and the specific labelling and administrative costs attached to changing the labels for imports.

Internal research suggests that there are around 14,840 imported manufactured SKUs in Australia, or around 40 per cent of all manufactured foods retailed in Australia.

It is difficult to estimate the number of imported fresh food products that are sold in Australia for a range of reasons. This preliminary analysis assumes that there are approximately 2,000 fresh food SKUs. Of this 1000 SKUs would be regarded as unpackaged fresh food, and 1000 SKUs as packaged fresh food.

Revised requirements for importers

The proposed changes to the country of origin framework require priority imported food products to have the country of origin claim contained within a box on the label to clarify claims in line with the proposed Information standard. The cost to business to implement the label changes would vary depending on requirements.

It is assumed that text based changes to country of origin labelling for imports would cost around \$2800 for imported manufactured food. For imported fresh food, the labelling costs from text based changes are assumed to be the same as for non-imported fresh food. That is, around \$500 for unpacked fresh food to \$1300 for packed fresh food. All fresh imported foods are assumed to be priority foods.

More information is needed to fully understanding the costs on food importers to meet the labelling requirements. We understand that country of origin labelling requirements for imported products may be done by the manufacturer before shipment to Australia or by Australian importers who use a sticker to provide the country of origin information. We are seeking feedback on the proportion of imported goods that will be labelled in each of these ways.

A further assumption that needs testing is that the direct labelling costs may be higher in instances where the Australian importer is adding a sticker to update the origin information. We are seeking more information from importers on costs attached to relabelling food using stickers, and if the proposed Commonwealth Government response outlined in this paper will change costs substantially. Specifically, feedback is sought on the proportion of imported food products that apply stickers (both currently and under the proposed changes), the ongoing costs to apply stickers to food products, and how these costs may change if the application of stickers is done by machine or by hand.

Importers may also incur administrative costs in adopting the revised country of origin framework, e.g. time spent understanding the requirements, new procedures or IT systems. We would appreciate feedback on these costs.

Additional administrative costs are assumed to be around \$1560 per SKU for a mid-sized importer during the implementation period, based on the same calculation used to estimate burden for food products containing Australian ingredients. This cost also includes a small additional cost attached for importers to review the changed policy.

It is assumed that there would be no additional label cost attached to imports after the implementation period as imported foods on the whole, are not likely to change information on labels based on

changes in sourcing of ingredients. However, this assumption may change if stakeholder feedback, such as if the ongoing costs to apply stickers for food products under the proposed changes, are higher than current labelling costs for importers.

Overall when employing these assumptions, the additional cost to the food import sector is estimated to be around \$3.8 million per year.

Safe harbour defences – saving estimates

It is assumed that there are approximately 384 200 businesses that are currently subject to the 50 per cent production cost test requirements (based on the number of businesses in scope of the provision in each sector). This includes food and non-food businesses.

The 50 per cent production cost test is estimated to cost Australian food and non-food businesses \$7.3 million and \$103.2 million respectively per year. Estimates suggest that removing the 50 per cent production cost test would remove this cost on businesses, leading to a regulatory save of \$110.5 million per year.

The estimates are based on assumptions of the current costs to business to learn about and undertake the 50 per cent production cost test. The assumptions include:

- each year 40 428 new businesses spend approximately 9 hours learning about the specific requirements of the 50 per cent production cost test
- each year 32 098 businesses spend 36 hours to complete the 50 per cent production cost test when it is complex to ensure compliance with the requirements is maintained.
- each year 337 552 businesses take an average of 30 minutes to complete the 50 per cent production cost test when it is easy to ensure compliance with the requirements is maintained.
- average wage cost at \$65.45 per hour.

Feedback is sought on these estimates.

Attachment E – Country of origin labelling framework – Proposed revisions



Attachment E - Country of Origin labelling framework for food - Proposed revisions