



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



## **Country of origin labelling**

Decision Regulation Impact Statement  
Consumer Affairs Australia New Zealand  
3 March 2016

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## Contents

About the Decision Regulation Impact Statement .....	3
Executive summary .....	4
1. Background .....	6
2. Statement of the problem .....	11
2.1 The current labels are confusing and hard to find for consumers .....	11
2.2 What consumers want to know .....	14
2.3 Impact on consumers from not having the information .....	16
2.4 The business response to the current framework .....	19
2.5 Summary of the problem .....	21
3. Objective .....	24
4. Consultation .....	25
5. Options .....	31
5.1 Option 1 - Status quo .....	31
5.2 Option 2 - Revised approach to country of origin labelling - Visuals and text .....	33
5.3 Option 3 - Revised approach to country of origin labelling - Text .....	50
5.4 Other possible approaches .....	52
6. Impact analysis .....	56
6.1 Impacts of new labelling requirements: Option 2 .....	56
6.1.1 Costs .....	57
6.1.2 Benefits .....	62
6.1.3 Summary of business and government costs .....	65
6.1.4 Impacts on consumers .....	66
6.1.5 Other costs and benefits .....	69
6.1.6 Summary of impacts .....	70
6.1.7 Sensitivity analysis .....	71
6.1.8 Distribution of impacts .....	72
6.1.9 The regulatory burden of the proposed changes on businesses .....	74
7. Recommendation .....	76
8. Implementation and review .....	77
Attachment A - Submissions received in response to the Consultation RIS .....	80
Attachment B - Country of origin labelling framework revisions .....	81

## About the Decision Regulation Impact Statement

The purpose of this Decision Regulation Impact Statement (RIS) is to recommend a preferred policy option to amend the current country of origin labelling framework.

This Decision RIS follows stakeholder comment on the Consultation RIS.

This Decision RIS identifies the nature of the problem to be solved, outlines the alternative policy options considered. It assesses the costs and benefits of each option and presents rationale for a preferred option.

This Decision RIS has been provided to the Consumer Affairs Australian New Zealand for consideration.<sup>1</sup>

This Decision RIS follows the guidelines of the Council of Australian Governments in the Best Practice Regulation Guide (2007).

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<sup>1</sup> Consumer Affairs Australia New Zealand consists of all Commonwealth, state, territory and New Zealand ministers responsible for fair trading and consumer protection laws.

## Executive summary

Many consumers want to know certain information about the food they purchase, including where it is made, produced or grown. The country of origin labelling framework aims to ensure that businesses provide consumers with information they want in order to make purchasing decisions in line with their preferences. The framework tries to balance this with the cost to business to provide this information.

Despite this approach, various studies and inquiries highlight that many Australian consumers find current origin claims on food are hard to find, confusing or do not provide enough information. Research also shows that Australian consumers particularly want to know the proportion of ingredients grown in Australia, more than any other origin information. This is not a new issue; consumers have been dissatisfied with the current framework for many years.

The current country of origin labelling framework does not require businesses to provide the proportion of Australian ingredients. It is a business decision whether to do so, rather than being based on incentives provided by the framework. Only a small proportion of businesses provide information to this level of detail. Many others focus on ensuring they comply with the regulations of the current framework. This leaves consumers continuing to be unsatisfied with the information they get.

To address this problem, this Decision Regulation Impact Statement (RIS) examines options to reform country of origin labelling in Australia to provide increased information to consumers without overly increasing the cost. 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 Decision RIS.

The Consultation RIS for country of origin labelling was released on 4 December 2015 and the consultation period was open until 29 January 2016. The Consultation RIS presented a range of considerations in addressing this information problem and proposed an approach that integrated a range of elements.

The consultation findings demonstrate that stakeholders broadly acknowledge that consumers find current country of origin labelling confusing and may benefit from improvements. The feedback informed the design of the following options presented in the Decision RIS (Chapter 5):

- **Option 1 - The status quo.** Under this option current policy settings and regulatory arrangements would be maintained. The market would determine whether to provide additional information to consumers and what information. This may include businesses participating in industry-led programmes or individual businesses providing information on or off labels of their own accord.
- **Option 2 - Revised approach to country of origin labels (visuals and text).** This option incorporates several elements as informed by the consultation process. This includes using the logo of a kangaroo in a triangle on food made, produced or grown in Australia; displaying the proportion of local ingredients on Australian food; simplifying the rules for using certain origin statements and placing country of origin statements on imported food in a box and clarifying claims. Option 2 would involve a 24 month transition period and establishing a new Information Standard under the Australian Consumer Law, moving mandatory country of origin labelling requirements for food from the Food Standards Code.
- **Option 3 - Revised approach to country of origin labels (text only).** This option provides a text statement only on where food was made, produced or grown (based on simplified rules for using certain origin statements) and the proportion of Australian ingredients for priority domestic food. No visuals are used to highlight the information. Option 3 would also involve a 24 month transition period and establishing a new Information Standard under the Australian Consumer Law, moving mandatory country of origin labelling requirements for food from the Food Standards Code.

The cost-benefit analysis was completed using publicly available data and feedback from industry consultations. Option 1 does not burden business any more than they currently are. However, this option does not address the problem and stakeholders remain dissatisfied, especially consumers.

Option 2 was analysed relative to the base case of the status quo being maintained. The annual regulatory impact for Option 2 is \$48.2 million, with the additional burden being borne by Australian food retailers, manufacturers and importers. The net benefit including the costs and benefits to all businesses (food and non-food) and government is \$66 million in net present value terms over a 20 year period. Government will incur costs of approximately \$20 million over the 20 year period for information and education campaigns and compliance monitoring activities. The positive net present value results from changes to the safe harbour defences which will provide regulatory savings to food and non-food manufacturers and producers. The net present value analysis does not include the quantification of the benefit to consumers as it is impossible to know the value of the information to each and every consumer. However the consumer benefit from the time saving that generates from the visual elements of the label is estimated to outweigh the cost to industry from providing the information.

Option 3 was also analysed relative to the base case of the status quo being maintained. The annual regulatory impact for Option 3 is \$40 million. The net benefit identified for Option 3, including costs and benefits to business and governments is \$137 million in net present value terms over a 20 year period. There are no consumer benefits from time saving associated with this option as no visual elements are used to assist the consumer to find the statement more easily.

The Decision RIS has assessed Option 2, 'Revised approach to country of origin labels (visuals and text)' as the preferred option, representing the greatest net benefit to the community. Option 2 takes into account a range of considerations and they are carefully balanced to deliver the origin information many consumers want with what is feasible for businesses to provide.

The consultations were invaluable in informing the final design and many business suggestions were incorporated to ensure the proposed solution is the one that works most effectively and satisfies as many stakeholders as possible. Consumer and business education are an integral part of ensuring the success of Option 2 and Australian governments have a key role in supporting this.

There will be a cost to the food industry, including manufacturers and retailers, to implement the recommended option, however the approach has been designed in part to minimise costs to business.

Amendments to clarify the safe harbour defences will also affect the non-food industry. Businesses wanting to use safe harbours to defend their claims will benefit from clear and reduced requirements, saving them time (and money) and increase their confidence in using country of origin claims. This will address ongoing issues reported by non-food sectors and align requirements with other related policies domestically and internationally.

It is acknowledged that the approach in Option 2 may not satisfy the information preferences of all consumers, for example, those that want to know the specific origin of key ingredients, or those that want additional information for all food, not just priority food. In the future, as the Australian economy becomes more digitised and as consumers become even more technologically sophisticated, the country of origin framework may need to reform again and may be able to provide even more information on country of origin to consumers. But for now, the preferred approach outlined in this document is focussed, contemporary and designed for success.

# 1. Background

## 1.1 Country of origin information is valued by consumers

Country of origin labelling for food is common in many industrialised nations and forms one of the base information provision requirements for food that is traded domestically and globally. This is because consumers want to know certain information about the food they purchase. While not all consumers are concerned about country of origin labelling, a significant proportion are. A country of origin labelling framework ensures businesses provide consumers with information they want in order to make purchasing decisions in line with their preferences.

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 who the consumer is and what preferences they have. Consumer preferences may also vary from country to country depending on the how the food market operates in each country, for example, the amount of domestic versus imported product available.<sup>2</sup>

Research commissioned by the Commonwealth Department of Industry, Innovation and Science with Colmar Brunton looked at the value Australian consumers place on country of origin information when purchasing food. It found that being able to identify the country of origin of food is either important or very important to 74 per cent of consumers surveyed.<sup>3</sup>

The research found that consumers are not all the same when making decisions about food purchases. Consumers are driven by different objectives, for example, convenience, price, quality, local manufacturing, origin of ingredients or health and safety. Some or any combination of the above drivers, including country of origin information, can influence consumer decisions. The research also highlighted that the value consumers place on origin information can vary between food types, depending on the level of processing. Country of origin information is valued more for fresh and less processed food. This finding is supported by an international literature review of country of origin food labelling which cited different studies in which country of origin was shown to be one of the most important cues demanded by consumers on meat products. Conversely, other studies cited in the review found the origin of products like coffee to be less influential on consumer attitudes.<sup>4</sup>

However, the relative importance of country of origin information and how much consumers value the information for different products varies between studies:

- a literature review undertaken for Food Standards Australia New Zealand found that extrinsic information (attributes not linked to the physical appearance of the product), particularly country of origin, 'becomes more important to consumers when purchasing products that are relatively less processed or fresh'<sup>5</sup>
- the consumer group CHOICE, in its submission to the House of Representatives Standing Committee on Agriculture and Industry inquiry into country of origin labelling for food, stated that the value consumers placed on country of origin of food is consistently demonstrated in their surveys and 'is very important and second only to the actual ingredients contained in the food'<sup>6</sup>
- a 2015 report by the European Commission found that while origin labelling ranks after factors like price, taste, use by/best before dates, convenience and/or appearance, consumer interest in

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<sup>2</sup> Umberger 2010, *A review of relevant literature on consumer preferences, understanding, use and willingness-to-pay for CoOL of food and meat*, Final report Food Standards Australia New Zealand

<sup>3</sup> Colmar Brunton 2015, *Country of Origin Food Labelling Research*, p.46

<sup>4</sup> Newman, Turri, Howlett, Stokes 2014, *Journal of Macromarketing, Twenty Years of Country-of-Origin Food Labelling Research, A Review of the Literature and Implications for Food Marketing Systems*, p.508

<sup>5</sup> Umberger 2010, *A review of relevant literature on consumer preferences, understanding, use and willingness-to-pay for CoOL of food and meat*, Final report Food Standards Australia New Zealand, p.1

<sup>6</sup> 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

origin labelling is complex with variations in the importance of origin for different food types and the factors affecting purchasing decisions<sup>7</sup>

- an international literature review of country of origin food labelling found that a number of different consumer decision-making models point to country of origin information as an important influence on consumer behaviour<sup>8</sup>
- research in 2015 looked at consumer attitudes to country of origin labelling and revealed for that certain types of information are more valuable to them than others; this research helped inform the proposed reforms to country of origin labelling and is detailed in Box 1.

### Box 1. Colmar Brunton consumer research, 2015

The Commonwealth Department of Industry, Innovation and Science commissioned Colmar Brunton to conduct market 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 level of detail available from past research on consumer preference for country of origin labelling for food had been limited and the Colmar Brunton research provided more detailed consumer insights. This includes new information on consumer willingness to pay and the importance of the proportion of local ingredients to Australian consumers.

The Colmar Brunton market research 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).

The market research highlighted how important being able to identify the country of origin of food is to consumers—74 per cent of consumers surveyed ranked it as important or very important to them. Some 28 per cent of consumers ranked percentage of Australian ingredients as the country of origin labelling element most important to them in relation to other elements, while 60 per cent ranked it in their top three factors. In comparison, 49 per cent of those surveyed ranked knowing whether the food was processed in Australia in their top three factors and 48 per cent ranked knowing the specific country where key ingredients were from in their top three factors.

Colmar Brunton also undertook a self-selected online community survey in June 2015, which received over 18 000 responses. The results reiterated those in the representative market research.

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](http://www.industry.gov.au/cool).

## 1.2 Current country of origin labelling framework

The objective of the country of origin labelling framework is to ensure businesses provide consumers with information they want in order to make purchasing decisions in line with their preferences. The framework aims to balance consumer demand for this information with the cost to business of providing it.

<sup>7</sup> Report from the Commission to the European Parliament and the Council regarding the mandatory indication of the country of origin or place of provenance for unprocessed foods, single ingredient products and ingredients that represent more than 50% of a food, p.6

<sup>8</sup> Newman, Turri, Howlett, Stokes 2014, Journal of Macromarketing, *Twenty Years of Country-of-Origin Food Labelling Research, A Review of the Literature and Implications for Food Marketing Systems*, p.513

In Australia, country of origin labelling is mandated via a set of laws and regulations (the country of origin labelling framework).

There are three key elements of the country of origin labelling framework that work together to regulate the claims that businesses make regarding the country of origin of food products. These elements include:

- 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 (ACL)
- imported food must be labelled with country of origin - Commerce (Imports) Regulations 1940.

Separate legislation gives Commonwealth, state and territory government agencies and regulators responsibility to enforce these laws and regulations. The Australian Made Australian Grown logo (a kangaroo in a triangle) is a separate trademark businesses can use on a voluntary basis to identify their products as Australian. See Box 2 for an overview of Australia's current country of origin labelling framework.

For the framework to work effectively:

- consumers need to understand the information and perceive it as credible
- businesses need to understand and deliver what is required of them and be accountable for the information provided and claims made.

### Box 2. Overview of the country of origin labelling framework

The Australian and New Zealand Food Standards Code establishes which food must have a country of origin statement on their labels. The Food Standards Code distinguishes between packaged and unpackaged products, with different requirements for these two categories. Packaged foods must be labelled with a statement on the packaging that identifies the country where the food was made, produced or grown. Unpackaged food, such as fruit, vegetables, beef, and chicken, must be displayed with labelling that indicates the country or countries of origin of the food. There are some exemptions, including food that is made and packed on the premises in which it is sold and food that is prepared on demand (for example, restaurants).

The ACL sets out the expectation that claims on products (food and non-food) provide consumers with clear, accurate and truthful information. To reduce the regulatory burden for businesses, the ACL does not make prescriptive rules regarding claims that can be made to satisfy country of origin requirements. Rather, the starting point for the ACL is that labels cannot be false or misleading and this applies to all goods and products, not just food products.

Businesses can be assured that their claims are not false or misleading if they meet certain criteria, known as the 'safe harbour defences.' Businesses can still decide to make claims if they don't meet the safe harbour defences so long as they can defend their claims in other ways if investigated. 'Made in', 'Made in Australia from local and imported ingredients' and similar statements are the most commonly used origin claims. These claims are covered by the general country of origin safe harbour defence. Businesses that rely on the general safe harbour defence currently need to meet the following criteria in the event of a challenge to their claim.

- Substantial transformation test - Goods are considered 'substantially transformed' in a country if they undergo a 'fundamental change in that country in form, appearance or nature such that the goods existing after the change are new and different goods from those existing before the change.'
- Cost of production/manufacture test - 50 per cent or more of the production costs must have been incurred in the claimed country of origin. Costs incurred are calculated by adding expenditure on materials, labour and overheads. Materials expenditure include purchase price, overseas freight and insurance, port and clearance charges, inward transport to store and retail packing for sale.

The *Commerce Trade Descriptions Act 1905* and the *Commerce (Imports) Regulations 1940* require that certain imported goods, including imported food, be labelled with a country of origin and a true trade description at the time of importation.



State and territory government food regulators are responsible for enforcing the country of origin labelling obligations of the Food Standards Code. Broadly, this is to ensure a country of origin representation is made. The ACL regulators are responsible for taking action if the representations made are misleading or deceptive. The Department of Agriculture and Water Resources undertakes testing and inspection of imported food on advice from Food Standards Australia New Zealand.

Outside of these regulatory mechanisms is the 'Australian Made Australian Grown' logo which is used by Australian businesses, including non-food businesses, to help customers identify products that are 'Australian Made', 'Australian Grown' or a 'Product of Australia.' The certification is privately administered and licensed by the Australian Made Campaign Limited (AMCL). The trade mark is supported by a code of practice that requires goods licensed to use the logo to meet, as a minimum, the ACL safe harbour defences.

#### **Trans-Tasman arrangements**

New Zealand does not have a mandatory country of origin labelling requirement for food products, having exercised its right to opt-out of the relevant standard under the Food Standards Code.

Under the terms of the Trans-Tasman Mutual Recognition Arrangement (TTMRA), with a few exceptions, goods that may be legally sold in New Zealand may be sold in Australia, regardless of differences in standards or other sale-related regulatory requirements between the two countries.

The *Commerce (Trade Descriptions) Act 1905* is, however, explicitly excluded from the operation of the TTMRA. All food imported from New Zealand must comply with it and the Commerce (Imports) Regulations 1940, and must be labelled with the country in which it is made or produced, and that label must not be false or misleading.

#### **Country of origin labelling for non-food products**

The requirements 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. In particular, 'Made in' and similar claims are required to be supported by the same 'substantial transformation' and cost of production tests as for food products.

Consumers increasingly want to know the characteristics of the food products they purchase (such as what is in the product and the origin of the ingredients). This has partly been driven by the globalisation of the food sector (see Box 3).

Food and food products have increasingly become credence goods. Consumers cannot know if they have bought what they thought they were buying, even after reading the label or consuming the product. Only the manufacturer or distributor knows this information and in most cases, this information is not supplied on the product for sale. This information asymmetry can result in an inefficient system where Australian consumers do not have enough of the information they want to make informed purchasing decisions.

This situation was examined in a United States based study of food labelling legislation. The study commented that imperfect information can lead to imperfect consumer purchasing decisions, or adverse selection, resulting in inferior product offerings, competitive barriers to entry, inadequate consumer-oriented communication, and decreases in consumer satisfaction.<sup>9</sup>

The importance of this information and the failure of the market to provide it in a clear, comprehensive and standardised way without regulation, forms the rationale for country of origin labelling regulations in Australia and internationally.<sup>10</sup>

<sup>9</sup> Kolodinski 2012, *Persistence of Health Labelling Information Asymmetry in the United States, Historical Perspectives and Twenty-First Century Realities*, p.2

<sup>10</sup> Other countries that have regulations around country of origin labelling include Canada, European Union, United Kingdom, South Africa, United States and New Zealand.

### Box 3. Australia's food industry

Australia's food industry is diverse and covers a range of sectors.

There were over 17 317 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 2500 fruit and vegetable retailers.<sup>11</sup> It is estimated that in Australia around 78 800 food stock keeping units<sup>12</sup> are sold, produced or imported into Australia.<sup>13</sup>

There are over 13 000 food and beverage manufacturing businesses in Australia. Bakery product manufacturers make up the largest proportion (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 confectionery manufacturing (three per cent)
- grain mill and cereal (two per cent)
- seafood processing (two per cent)
- oil and fat manufacturing (one per cent).

Most of these manufacturing businesses employ less than 20 employees (53 per cent) or are non-employing (36 per cent). Agricultural food production is the other key player in the food industry, with over 133 000 businesses.

Many food manufacturing companies, particularly those manufacturing products from multiple primary ingredient sources, operate sophisticated supply chains. The use of local or imported ingredients may be subject to the seasonality of local ingredients or the price and availability of imported ingredients, as well as required quantities, prevailing prices and consumer preferences. Supply chains vary markedly across product categories and can also be quite strategic, as businesses may seek opportunities to collaborate to respond to consumer preferences.

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. Australians spent \$141.4 billion on food through retailers in 2012–13. 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.

The share of imported food products is also growing, largely due to increases in global trade and supply chain integration. The value of food products imported into Australia in 2012–13 was \$11.6 billion. The real value of food and beverage imports to Australia grew an average of 5.4 per cent annually in 2000–2014.

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 change, 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.

<sup>11</sup> Australian Bureau of Statistics 2015, *Counts of Australian businesses, including entries and exits, June 2010 to June 2014*, cat. no. 8165.0

<sup>12</sup> 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 combination of fruit juice flavour and package size 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 this Decision RIS.

<sup>13</sup> Internal research, Department of Industry, Innovation and Science

## 2. Statement of the problem

### 2.1 The current labels are confusing and hard to find for consumers

A common theme across research and inquiries investigating perceptions of the current country of origin labelling framework is that consumers are dissatisfied with the framework and find the country of origin labels difficult to understand and hard to find. This was reiterated in the research conducted by Colmar Brunton.<sup>14</sup>

Consumers found terms like ‘Made in’ and ‘Product of’—terms commonly used on current labels under the safe harbour defences—particularly confusing. Almost sixty per cent of consumers mistakenly believed that a ‘Made in Australia’ claim indicated that the product was entirely processed in Australia, while only 44 per cent understood that a ‘Product of Australia’ claim carried that message. Because of this, even those products making clear or unambiguous claims of origin were not providing consumers with the origin information they wanted.

Consumer dissatisfaction in the system has been evident for many years, and from a variety of sources. Most recently, the huge response to the Colmar Brunton self-selected online community survey mirrored that of a CHOICE campaign earlier in 2015, which generated over 26 000 responses. While Colmar Brunton’s nationally representative online consumer survey found that almost three quarters of consumers believed that changes to country of origin labelling were necessary.

The importance of easy to find labels was indicated in the Colmar Brunton research by the clear preference of participants for the labels which included visual elements – particularly the label option that combined text statements with visual representations via the kangaroo logo and bar chart.

Participants in the Colmar Brunton study were asked to estimate the proportion of time they spent during a regular but hypothetical 60 minute grocery shop, reading the back of the label to find where products have been made or processed, or where ingredients come from. Their time amounted to eight per cent of shopping time or five minutes in a typical hour long shop.<sup>15</sup> This is time that could potentially be saved if labelling information was more easily identifiable.

A 2011 review of food labelling,<sup>16</sup> noted general confusion and misinterpretation of current country of origin claims:

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*A Newspoll Survey (April 2010) highlights not only the general confusion in relation to these definitions but demonstrates misinterpretation of the terms. The survey reported that 63% of respondents incorrectly identified the originating source of a product where the term ‘Made in Australia’ was used.<sup>17</sup>*

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The review panel further found:

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*The term ‘Made from local and imported ingredients’, while a pragmatic solution for manufacturers who have to source raw materials locally or from a variety of countries according to seasonality, is unsatisfactory for many consumers.<sup>18</sup>*

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The review panel went on to find that the current problems with country of origin labels for food centred around the desire for businesses to highlight the ‘Australian-ness’ of foods, and the lack of any indication of the proportion of Australian ingredients currently required, with reference to the

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<sup>14</sup> Colmar Brunton, 2015, *Country of Origin Food Labelling Research*, p.2–4

<sup>15</sup> *Ibid*, p.33-34

<sup>16</sup> *Labelling Logic* – Review of Food Labelling Law and Policy, 2011 p. 109–110, [http://www.foodlabellingreview.gov.au/internet/foodlabelling/publishing.nsf/content/48C0548D80E715BCCA257825001E5DC0/\\$File/Labelling%20Logic%202011.pdf](http://www.foodlabellingreview.gov.au/internet/foodlabelling/publishing.nsf/content/48C0548D80E715BCCA257825001E5DC0/$File/Labelling%20Logic%202011.pdf)

<sup>17</sup> Rivalea Australia, Submission to *Labelling Logic* no. 457 (confidential).

<sup>18</sup> *Labelling Logic* – Review of Food Labelling Law and Policy 2011, p.109

inability of the current Australian Consumer Law safe harbour defence provisions to provide that information:

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*At the heart of the confusion is the 'Made in Australia' claim and the efforts of manufacturers to 'highlight the Australian-ness of their foods'<sup>19</sup> – and that a consumer can conclude with reasonable confidence that a 'Made in (an overseas country)' claim implies that the bulk of the ingredients and components are sourced from that country or at least overseas. However, no such conclusion could be drawn from a 'Made in Australia' claim, for that claim can be made if 50% of the costs of production have occurred in Australia and the food has been 'substantially transformed' in Australia. This definition therefore allows a 'Made in Australia' claim despite most of the ingredients and components having been imported. Furthermore, where there is uncertainty as to whether the 50% or substantial transformation requirements have been met, a qualified claim, typically 'Made [or Packed] in Australia from local and imported ingredients' is allowed, which provides little if any information on the source of the ingredients. The Panel cannot but agree with the National Farmers Federation that 'Australia's current CoOL provisions ... are convoluted and potentially misleading for consumers'<sup>20 21</sup>*

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The findings of the 2011 review are reflecting in those of other reviews and inquiries in to country of origin labelling. Issues with the current safe harbour defences were also raised in the 2012 Senate Select Committee Inquiry into Australia's Food Processing Sector, which stated:

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*The operation of these safe haven provisions attracted significant criticism from witnesses throughout the inquiry. These comments will be addressed later in this chapter, however, it is worth noting that much of the criticism centred around the two tests for whether something can be said to have been 'made in' a country, being:*

- a. the requirement that the goods be 'substantially transformed' in that country; and*
  - b. the requirement that 50 per cent or more of the total cost of producing or manufacturing the goods (including expenditure on materials, labour and overheads) is attributable to production or manufacturing processes that occurred in that country.<sup>22</sup>*
- 

The need for enhanced findability was also emphasised in the 2012 Senate Select Committee Inquiry into Australia's Food Processing Sector which made the recommendation:

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*The committee recommends that the government reform country of origin labelling requirements for food so that these requirements are clearer, more transparent and focus on the consumer's understanding.<sup>23</sup>*

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Supporting submissions to the inquiry reiterated the problem of findability for country of origin labelling:

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*'Australian consumers ... have great difficulty in finding and deciphering where products are actually produced.'<sup>24</sup>*

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In 2014, the House of Representatives Standing Committee on Agriculture and Industry inquiry into country of origin food labelling, 'A clearer message for consumers', included several submissions from stakeholders regarding consumers' perceptions of the country of origin labelling framework.

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*The Committee heard extensive evidence demonstrating that the use of imported ingredients, primarily under the 'local and imported' tag, confuses consumers<sup>25</sup>.*

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<sup>19</sup> CHOICE (Australian Consumers' Association), Submission to *Labelling Logic* no. 482, p.23

<sup>20</sup> National Farmers Federation, Submission to *Labelling Logic* no. 440, p.4

<sup>21</sup> *Labelling Logic* – Review of Food Labelling Law and Policy 2011, p.109–110

<sup>22</sup> Senate Select Committee Report – Inquiry into Australia's Food Processing Sector, August 2012, p.67–68

<sup>23</sup> Senate Select Committee Report – Inquiry into Australia's Food Processing Sector, August 2012, p.xvi

<sup>24</sup> Ms Jennifer Dowell, National Secretary, Australian Manufacturing Workers' Union, Senate Select Committee Report – Inquiry into Australia's Food Processing Sector, Committee Hansard, 10 February 2012, p.2

<sup>25</sup> 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.123

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*‘...the Committee received overwhelming evidence from inquiry participants, however, which demonstrated that consumers experience considerable confusion interpreting country of origin labelling information in order to make informed decisions.’<sup>26</sup>*

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This included calls for increased country of origin labelling prominence.

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*‘There was much discussion in submissions and at public hearings concerning placement and formatting of country of origin information on product labels.*

*Mr Peter Darley of the NSW Farmers Association stated that country of origin information is well hidden on the back of product packaging and should be moved to the front of the pack, thereby providing clear and precise information to the consumer.*

*Safcol Australia, agreed, suggesting that the location of the statement needs to be highly visible, preferably on the front of pack, and of a size that is readable.’<sup>27</sup>*

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The Australian Manufacturing Workers’ Union submission to the 2014 Industry also noted the problem, noting:

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*‘Without a very close examination of the label the consumer cannot find the relevant information. Similarly, to find the country of origin claim on a chocolate bar or ice cream wrapper a consumer may have to search under the folds of the packaging.’<sup>28</sup>*

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The submission to the Consultation RIS from the University of South Australia Ehrenberg-Bass Institute for Marketing Science also touched on the problem of findability:

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*‘...research using an eye-tracking technology regarding consumer use of nutrition information in supermarkets showed that consumers hardly ever turn the pack over to consult the nutrition information table (Bogomolova, Sorensen & Maubach, 2015)... Location of COO labelling should be in a prominent position... Consistent presentation and positioning will remove the barrier to use the new COO labelling (by reducing the time and angst it takes to find it).’<sup>29</sup>*

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The consumer advocacy group CHOICE provided a submission to the inquiry which included the findings of its survey conducted in 2012. This survey found that one-third of respondents incorrectly believed that a ‘Made in Australia’ claim meant the ingredients are Australian. Similarly, CHOICE reported that just 10 per cent of respondents found that the information about food origin was clear and easy to understand. These reports were echoed by Simplot, a large Australian food manufacturer, which noted that only 25 per cent of consumers had a good understanding of the meaning of the claim ‘Product of Australia’.<sup>30</sup> The Standing Committee’s inquiry into country of origin labelling concluded that:

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*‘The level of dissatisfaction with the existing labelling framework indicates that a system which is designed to inform and guide industry and consumers may need to be overhauled.’<sup>31</sup>*

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<sup>26</sup> 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

<sup>27</sup> 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.129

<sup>28</sup> Australian Manufacturing Workers’ Union submission to the 2014 House of Representatives Standing Committee on Agriculture and Industry, *Inquiry into Country of Origin Food Labelling*, p.2

<sup>29</sup> University of South Australia, Ehrenberg-Bass Institute for Marketing Science 2016, *Submission to CoOL Consultation RIS*, p.2

<sup>30</sup> *Ibid*, p.38–39

<sup>31</sup> *Ibid*, p.1

The Australian Competition and Consumer Commission's (ACCC) guide for businesses in making claims regarding country of origin notes that 'the most common complaints about country of origin claims are that the claims are unclear.'<sup>32</sup>

Consumer frustration with the current system indicates that the current labelling does not provide the information that consumers seek. The common misinterpretation of claims such as 'Made in' may be misinforming consumers who look for this information and interpret it as indicating a high proportion of Australian ingredients.

## 2.2 What consumers want to know

Research, including that by Colmar Brunton, has reflected the importance of country of origin information to consumers. It highlighted that the importance of an ingredient's origin to consumers varies depending on the food product's level of processing.

The Colmar Brunton research showed that consumers value different aspects of country of origin information, such as where the food product was manufactured and where ingredients came from. When asked about ranking the country of origin information that they perceived as most important to least important, the largest proportion, 28 per cent, felt the most important information to include would be the percentage of the ingredients that were grown in Australia, while 60 per cent ranked it in their top three factors. In comparison, 49 per cent of those surveyed ranked knowing whether the food was processed in Australia in their top three factors and 48 per cent ranked knowing the specific country where key ingredients were from in their top three factors.<sup>33</sup> These findings are supported in other research:

- in a 2012 CHOICE survey, 84 per cent of respondents indicated it was either crucial or very important to them to know if food was grown in Australia; additionally, 80 per cent said it was crucial or very important to know if food was manufactured in Australia<sup>34</sup>
- Catalyst Research found from a 2014 survey of consumers that 'six in ten grocery buyers feel country of manufacture is 'very important' and a quarter 'extremely important'; this is in line with the origin of ingredients – they are equally important'.<sup>35</sup>

### 2.2.1 Willingness to pay

The willingness of consumers to pay for certain information is an important consideration in amending the country of origin framework. The Colmar Brunton research asked consumers about whether they would like new country of origin labels if it affected their weekly food budget. The results provide an indication of the value consumers place on having the country of origin information that is most important to them.

The majority of respondents (83 per cent) said they would like new country of origin labels if they came at no extra cost to them as consumers. 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 the majority of 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).

Differences in consumer perceptions of country of origin labelling may also play a role in their willingness to pay. An international literature review of country of origin food labelling found that in

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<sup>32</sup> Australian Competition and Consumer Commission 2014, *Country of origin claims and the Australian Consumer Law*, p.17

<sup>33</sup> Colmar Brunton 2015, *Country of Origin Food Labelling Research*, p.49

<sup>34</sup> House of Representatives Standing Committee on Agriculture and Industry 2014, *A clearer message for consumers: Report on the inquiry into country of origin labelling for food*, p.34

<sup>35</sup> Catalyst Research 2014, *Country of origin labelling research report*, p.5

many cases, consumers demonstrated a higher willingness to pay for country of origin information due to perceived improvements in food safety associated with the labels.<sup>36</sup>

We do not know how much consumers value the information on a dollar basis. It is not possible to provide revealed preference data for additional information for country of origin information, but there is clearly an indication through the research that consumers would value it. Box 4 outlines the different standards of evidence for determining consumer benefit.

## 2.2.2 Consumers are all different

The decisions that are made by consumers who use country of origin information will vary based on individual preferences. Country of origin labelling regulation does not attempt to influence consumer preferences, but aims to ensure businesses provide consumers with the information they need at the purchasing point so they can make decisions reflecting their preferences.

An international literature review of country of origin food labelling underlined the varied ways in which consumers use country of origin information, noting that origin labelling may serve as a proxy for other information deemed valuable by consumers such as food safety, traceability and health information. This can be influenced by different values, cultural norms and income levels.<sup>37</sup>

The Colmar Brunton analysis further highlighted that consumers have different perspectives. That research segmented Australian consumers into five groups, outlined below, based on how high a priority country of origin information is and how much it motivates their purchasing behaviour.<sup>38</sup> The research quantified the proportion of the groups; however these may change over time depending on personal circumstances or experiences.

- Convenience - The 'convenience' segment is not very concerned about country of origin labelling when making purchases because these consumers 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.
- 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. This group 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. 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. 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 out of concern over the health and safety of overseas products. They will buy products for peace of mind based on perceptions of safer standards. On the other hand, a second dimension of this group relates to concerns about economic, humanitarian and environmental impacts, for example supporting workers in developing countries. 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.

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<sup>36</sup> Newman, Turri, Howlett, Stokes 2014, Journal of Macromarketing, *Twenty Years of Country-of-Origin Food Labelling Research, A Review of the Literature and Implications for Food Marketing Systems*, p.508

<sup>37</sup> Newman, Turri, Howlett, Stokes 2014, Journal of Macromarketing, *Twenty Years of Country-of-Origin Food Labelling Research, A Review of the Literature and Implications for Food Marketing Systems*, p.513–514

<sup>38</sup> Colmar Brunton 2015, *Country of Origin Food Labelling Research*, p.5–7

## Box 4. Different standards of evidence on consumer demand for information

When measuring the consumer benefits from increased product information there are various analytical approaches and evidence bases that can be used. This box outlines these approaches and the relative strengths and weaknesses of each.

**Revealed preferences:** These approaches value policy options by looking at the actual changes in behaviour they generate, using this to put a dollar value on the benefits created. For example, if it is observed that following a labelling change the average consumer spends more on a product with a particular characteristic displayed by the label (holding all else equal), then this means having this information creates value for the consumer. While this reveals no information about why the information drives consumer choice, the fact that it does change behaviour reveals a preference for the information.

**Stated preference:** In the absence of actual revealed preference data, consumers can simply be asked how much they would be willing to pay for the information. This effectively provides the same information as revealed preference approaches, but because it is not based on actual behaviour it may be subject to biases.

### Other evidence

In addition to these willingness-to-pay measures there is a range of other evidence that can be used to indicate consumer preferences for information. This could consist of a broad set of indicators that demonstrate that consumers value, or would use, additional information. It could include: complaints to regulators about the lack or clarity of information, opinions or evidence from businesses that consumers will change behaviour when more or less information is provided; or observed behaviour of businesses where information is provided on products that have more of a particular characteristic and less information for products with less of the characteristic.

### Evidence on preferences for country of origin labelling

While some revealed preference studies have been undertaken overseas including simulated shopping experiences, these studies are limited by methodological and design constraints. The studies also focus on consumer value for specific products and are based within specific regions, underlining the need for caution against wider marketplace implications.<sup>39</sup> In the absence of revealed preference studies on the value Australian consumers place on country of origin labelling, there is a range of stated preference studies and other evidence around consumer preferences. While these may be imperfect representations of preferences, this RIS uses a broad range of such indicators to collectively assess the value consumers place on this information (see Chapter 6 – ‘Impact analysis’).

## 2.3 Impact on consumers from not having the information

Consumer costs relating to insufficient or unclear information on country of origin labelling may manifest in a variety of ways, such as:

- uncertainty around the origin of the product they have purchased and the lost utility this information would have provided (that is, the value of the information alone)
- consumers not purchasing their most preferred product, relative to if this information was available
- increased time spent attempting to find and understand information on product origin.

As noted in the Colmar Brunton research, the size and type of these costs will differ across consumers depending on how they value country of origin information. While the evidence base does not allow for an estimate of the overall size of the potential confusion, the research cited in this Decision RIS indicates that consumer dissatisfaction with the level of information provided under the current country of origin labelling for food framework is abundant (refer Box 5 for a summary of country of origin labelling research). It is also clear that this is not a new problem, with consumer confusion demonstrated in studies and inquiries spread over multiple years.

<sup>39</sup> Umberger 2010, *A review of relevant literature on consumer preferences, understanding, use and willingness-to-pay for CoOL of food and meat*, Final report Food Standards Australia New Zealand, p.18–22



## Box 5. High profile inquiries, surveys and reports with country of origin labelling coverage

### **2011 - Labelling Logic<sup>40</sup>**

The 2011 Review of Food Labelling Law and Policy report, Labelling Logic, also known as the Blewett Review, recommended changes to the country of origin labelling framework to address a lack of understanding of origin labels and the underlying regulatory framework. The report found general confusion among consumers regarding commonly-used origin labelling terms. In particular, the report identified the 'Made in Australia' claim as a source of 'extraordinary public confusion'. In response to these recommendations, the then Council of Australian Governments Legislative and Governance Forum on Food Regulation asked agencies to review guidance material with a view to clarifying country of origin labelling. To implement this decision, the Australian Competition and Consumer Commission, in consultation with other agencies and consumer and industry representatives developed new guidance material. Guidance for consumers was released in October 2012 and guidance for industry was released in April 2014. The review received 6613 submissions.

### **2012 - Senate Select Committee Inquiry into Australia's Food Processing Sector<sup>41</sup>**

The Senate Select Committee conducted a broad inquiry into the food processing sector, making seven recommendations to address a lack of clarity around country of origin labelling for food – including exploring the use of 'defining ingredient' as the basis for determining origin, and the potential use of smart phone and bar code technology. The inquiry echoed findings of the Labelling Logic report, noting the confusion with the labelling regime as unacceptable. The inquiry received 70 submissions (plus public hearings and site visits).

### **2012 - Food Processing Industry Strategy Group Non-Government Members Report<sup>42</sup>**

To address confusion around country of origin labelling, the Group recommended regulatory clarification of 'substantial transformation', taking into consideration consumer perceptions of 'Made in' and international trade obligations. It also suggested an education campaign for businesses and consumers once regulatory changes were made.

### **2012 - CHOICE Survey<sup>43</sup>**

A country of origin labelling survey undertaken by CHOICE found that around 80 per cent of respondents said that it was either crucial or very important to know if food was grown or manufactured in Australia. These survey results also revealed a wide gap between consumer understanding of origin claims and their technical definitions, further demonstrating the confusion highlighted in other reports.

### **2013 - Senate Rural and Regional Affairs Legislation Committee Report – Competition and Consumer Amendment (Australian Food Labelling) Bill 2012 (No. 2)<sup>44</sup>**

The Australian Greens tabled a Bill seeking changes to country of origin labelling rules through amendments to the *Competition and Consumer Act 2010* and the *Imported Food Control Act 1992*. The Explanatory Memorandum raises the problem of consumer confusion. The Committee recommended that the Bill not be passed. While it found support for improving country of origin labelling rules, there was no substantial stakeholder support for the substance of the amendments. The Committee instead recommended that governments consider developing a more effective country of origin labelling framework that better balanced the interests of consumers, primary producers and manufacturers (including a more effective definition of 'substantially transformed', which included a 'negative list' of processes that did not meet that definition). The

<sup>40</sup> *Labelling Logic* – Review of Food Labelling Law and Policy 2011, [http://www.foodlabellingreview.gov.au/internet/foodlabelling/publishing.nsf/content/48C0548D80E715BCCA257825001E5DC0/\\$File/Labelling%20Logic\\_2011.pdf](http://www.foodlabellingreview.gov.au/internet/foodlabelling/publishing.nsf/content/48C0548D80E715BCCA257825001E5DC0/$File/Labelling%20Logic_2011.pdf)

<sup>41</sup> Senate Select Committee Report – Inquiry into Australia's Food Processing Sector, August 2012, [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Former\\_Committees/foodprocessing/foodprocessing/report/index](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Former_Committees/foodprocessing/foodprocessing/report/index)

<sup>42</sup> Food Processing Industry Strategy Group – Final Report of the Non-Government Members, September 2012, <http://www.industry.gov.au/industry/IndustrySectors/FoodProcessingIndustry/Documents/FPIISGFinalReport2012.PDF>

<sup>43</sup> CHOICE's 2012, Country of Origin Labelling Survey, completed in October 2012 by 743 CHOICE supporters

<sup>44</sup> Senate Rural and Regional Affairs and Transport Legislation Committee inquiry into the Competition and Consumer Amendment (Australian Food Labelling) Bill 2012 (No. 2), March 2013, [http://www.aph.gov.au/~media/wopapub/senate/committee/rrat\\_cte/completed\\_inquiries/2010-13/food\\_labelling/report/report.ashx](http://www.aph.gov.au/~media/wopapub/senate/committee/rrat_cte/completed_inquiries/2010-13/food_labelling/report/report.ashx)

Committee also recommended that an effective education campaign be undertaken following the implementation of any changes. The inquiry received 32 submissions.

#### **2013 - Roy Morgan Survey<sup>45</sup>**

A 2013 Roy Morgan survey on country of origin information found that more than half of the respondents surveyed (55 per cent) said that buying Australian-made had become more important to them in the last 12 months.

#### **2014 - A clearer message for consumers<sup>46</sup>**

Despite the new guidance material, the 27 October 2014 report of the House of Representatives Standing Committee on Agriculture and Industry (the Committee) on its inquiry into country of origin labelling for food concluded that businesses and consumers still found country of origin labelling confusing or unhelpful – particularly 'Made in Australia from local and imported ingredients' claims. The Committee recommended changes to Australia's country of origin labelling framework, including:

- introduce new country of origin labelling representations that include whether food was made mostly from imported or mostly from local ingredients (Recommendation 1)
- increase the relative size of country of origin labelling text (Recommendation 2)
- introduce a visual descriptor reflecting the new country of origin labelling representations (Recommendation 4)
- Government work with industry and consumer advocacy groups to develop and implement an education campaign (Recommendation 5)
- Government work with industry to explore technological mechanisms through which country of origin information could be provided voluntarily (Recommendation 6).

The inquiry received 54 submissions plus hearings.

#### **2014 - Senate Seafood Labelling Review<sup>47</sup>**

The Senate inquired into a range of seafood labelling issues. The only recommendation of the majority of members effectively sought extension of mandatory country of origin labelling to seafood sold in the food services sector. Extending the reach of mandatory country of origin labelling to the food services sector is outside the scope of the reforms currently under consideration. The Government will respond separately to this inquiry.

#### **2014 - Catalyst Consultancy & Research Survey<sup>48</sup>**

A survey undertaken by Catalyst Consultancy & Research in 2014 found that six in ten grocery buyers felt that knowing the country of manufacture is 'very important' and a quarter 'extremely important'.

#### **2015 – Colmar Brunton Consumer Research Report<sup>49</sup>**

Refer Box 1.

<sup>45</sup> Roy Morgan 2013, Consumer Survey Consumer Survey Attitudes Towards Buying Australian

<sup>46</sup> House of Representatives Standing Committee on Agriculture and Industry Report - Inquiry into country of origin labelling, *A clearer message for consumers*, October 2014, <http://www.aph.gov.au/~media/02%20Parliamentary%20Business/24%20Committees/243%20Reps%20Committees/AgInd/FoodLabelling/Full-Report.pdf>

<sup>47</sup> Senate Rural and Regional Affairs and Transport References Committee Report - Inquiry into the current requirements for labelling of seafood and seafood products, December 2014, [http://www.aph.gov.au/~media/Committees/rrat\\_ctte/seafood/report.pdf](http://www.aph.gov.au/~media/Committees/rrat_ctte/seafood/report.pdf)

<sup>48</sup> Catalyst Consultancy & Research 2014, Country of Manufacture Labelling study Research Report, April 2014

<sup>49</sup> Colmar Brunton 2015, *Country of Origin Food Labelling Research* <http://www.industry.gov.au/industry/IndustrySectors/FoodManufacturingIndustry/Documents/Country-of-Origin-Labelling-Colmar-Brunton-Market-Research-2015.pdf>

## 2.4 The business response to the current framework

Overall, business compliance with the current country of origin framework is generally high.<sup>50</sup> For some food businesses, the current country of origin labelling is relatively straightforward, flexible and does not impose significant costs. For other businesses determining the appropriate claim to make can be complex.

Meeting the safe harbour defence criteria for claims related to 'Made in' are particularly challenging for some businesses. To state 'Made in Australia' and satisfy the defence criteria, a business must be able to demonstrate that its product was substantially transformed in Australia. It also needs to be able to demonstrate 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.

Where compliance with the 50 per cent production cost is uncertain, businesses often resort to claims like 'Made in Australia from local and imported ingredients' (which, as noted in Section 2.2, consumers find most confusing and unhelpful). In its submission to the December 2015–January 2016 consultations, the Australian Food and Grocery Council (AFGC) stated (p.9):

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*As expected and in line with Government surveys, many companies for most products do make a qualified "Made in" claim as the mandatory statement. This reflects the policy failure of the current Government intervention in origin labelling, especially the 50% costs rule in the 'general representations' safe harbour and the applicable ACCC advice to use qualifications such as "Made in Australia from local and imported ingredients" is there is any risk that the 50% cost rule would not be achieved.*

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This view was set out in more detail in the AFGC submission to the 2014 House of Representatives inquiry (see Box 6).

### Box 6. AFGC views, 2014 House of Representatives inquiry

Excerpts from the AFGC submission to the 2014 House of Representatives inquiry:<sup>51</sup>

*'The current origin labelling requirements do pose some compliance challenges for industry. These arise from the safe harbour criteria... Label artwork is prepared well in advance of production and packaging. In the intervening period between design and use, there is the potential for contingencies ranging from natural disasters through to global supply chain ingredient availability and cost fluctuations. While manufacturers have a good understanding of these contingencies and can factor them into their profit models, it can be problematic when calculating the 50% local costs rule. A manufacturer might be able, for example, to source an ingredient either locally or from overseas within a constrained cost range, and so can make commercial decisions about product cost and price accordingly. If the local ingredient becomes expensive and the source is switched to the overseas ingredient, there may not be a significant impact on manufacturing cost but it will impact on the 50% content calculation...*

*There is therefore a significant informational cost burden imposed on business that make 'Made in' type claims in managing and accounting for local costs. The practicality of determining such compliance in relation to imported foods is doubtful, and likely of no great relevance to consumers (do they care whether the 50% local costs rule is met in relation to a product labelled as 'Made in Singapore?'). The rule may therefore impose unequal burdens on domestic manufacturers compared to food importers.'*

*Faced with the ACCC's Guideline, manufacturers who are not absolutely certain of meeting the 50% rule will qualify their claim to the effect 'Made in Australia from local and imported ingredients'. ...*

*It is a key insight that qualified 'Made in' claims are a market response to compliance uncertainty when faced with complex regulation, rather than serving any other purpose, especially when having to make the judgement call well in advance (many months and in some cases years ahead) of actual manufacture.'*

<sup>50</sup> 2014 House of Representatives inquiry into country of origin labelling for food, p.24–26

<sup>51</sup> The Australian Food and Grocery Council, Submission to A clearer message for consumers no. 35, p.14–15

The submission goes on to state:<sup>52</sup>

*'The AFGC considers that substantial transformation is the appropriate and recognised test for "Made in" claims, and that it be retained as the single criterion for these claims. Substantial transformation speaks to manufacturing, which, as cited earlier in this paper, is as important to consumers as the origin of ingredients.*

*The problem with the 50% costs rule, aside from its arbitrariness, is that the incurred costs may have little to do with consumer understanding of the product. It is possible, for example, that 50% of the cost of a product lie in its packaging, and bear little relationship to the product or the transforming manufacturing processes of the product.*

*One effect of removing the 50% rule is that packaging will not play any role in determining the origin statement applied to a product. To the extent that the 'Made in' origin statement is about place of manufacture (and hence jobs and economic well-being), it would under this proposal be possible to source packaging from overseas compared to the current situation where packaging may be an essential part of making up the 50% Australian costs. This is understood to be a trade off, and on balance is likely the correct choice as the statement relates to the origin of the goods in the package, rather than the origin of the package. It remains the case that a manufacturer can highlight the Australian origin of any packaging as an additional origin claim should it wish to do so (eg "Proudly bottled in Australian glass").'*

In its submission to the 2014 House of Representatives inquiry, the Australian Industry Group also suggested that demonstrating compliance with the current 'Made in/Manufactured in' safe harbour defences was onerous:

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*We note that the recent ACCC publication included a decision tree. ... Inclusions of guidance on alternate qualified "Made in" claims and "Packed in" claims in the decision tree would offer further industry certainty.*

*Should the government be interested in removing business compliance burdens the ability for a company to place "Made in Australia" on all of its' substantially transformed product would be a cost reducing measure. This would require removal of the 50% cost of production test that is currently required to meet the "Made in" safe harbour defence.<sup>53</sup>*

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Some businesses do provide additional information to consumers on the country of origin of products and this can take many forms, for example branding, images, words or website content. While some of this information includes statements about the origin of a product's ingredients, the evidence base does not allow for an estimate of how many products include such claims or what bearing this has on the overall level of consumer confusion. Again, presence and longevity of confusion is detailed in multiple sources (refer Box 5).

There are a range of reasons why industry may not provide more detailed country of origin labelling on their products under the current framework, such as:

- some businesses take a compliance based approach and are satisfied if they are meeting the minimum requirements of the current framework
- businesses may be conservative with their claims because they are not certain whether they meet the requirements to make a more definitive claim
- the low level of detail required in the current framework provides little incentive for businesses to provide additional information
  - for example, a producer that makes a product with 80 per cent Australian ingredients is unlikely to gain any benefit from providing this additional information when competitors with a lower proportion of local ingredients can also claim their product is 'Made in Australia'
  - conversely, businesses with a lower proportion of Australian ingredients have little incentive to communicate this, particularly if they can make a 'Made in' claim which consumers may not be able to accurately interpret.

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<sup>52</sup> The Australian Food and Grocery Council, Submission to *A clearer message for consumers* no. 35, p.18

<sup>53</sup> The Australian Industry Group, Submission to *A clearer message for consumers* no. 48, p.18

- businesses need to prioritise their expenditure on their product labels in relation to other activities.

Ultimately, at present, it is a business decision. Providing more detailed information regarding country of origin may be costly for some producers. Tracking inputs to their products and the ongoing costs of monitoring these inputs, as well as the cost of relabelling might be an additional burden that businesses are unwilling to bear. Businesses will only be prepared to meet these costs if they believe they would be able to derive a benefit that exceeds the cost of providing this additional information.

As a result, the current framework does not achieve the information dissemination it intends to as it is not providing consumers the information they most value.

## 2.5 Summary of the problem

It is clear that many consumers value country of origin information for food. 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 Decision RIS.

The objective of the current country of origin labelling framework is to ensure businesses provide consumers with information they want in order to make purchasing decisions in line with their preferences. The framework aims to balance consumer demand for this information with the cost of providing it.

Businesses are generally compliant with the current framework; however, feedback and studies continue to highlight that many consumers find the current labels confusing and hard to find. In particular, claims such as 'Made in' or 'Product of' do not clearly indicate the source of ingredients. The labels are not providing them the information that they seek, particularly the percentage of ingredients grown in Australia. This is followed by knowing whether the food was processed in Australia and then the specific country where key ingredients were from.

Not having access to this information can affect consumer understanding around the origin of the product they are purchasing and their time spent attempting to find and understand information on product origin.

There are various reasons why businesses aren't providing this information, including that they are often focussed on ensuring they are complying with the complex regulations in the current framework. However, a key issue is that the current country of origin framework provides little incentive to do so.

As a result, consumers that value country of origin for food continue to receive less information than they want on the origin of products. This limits the effectiveness of the current country of origin framework as it reduces consumers' ability to make purchasing decisions in line with their preferences.

### Box 7. The problem for non-food products

This Decision RIS has shown that consumers and the food sector have a range of concerns with the safe harbour defences – including consumer confusion and cost and complexity for business.

While non-food products do not need to be labelled with their country of origin when sold in Australia, where origin representations are made, they must not be false or misleading, and they are subject to the same safe harbour defences as food products. Yet, there is no evidence that consumers are concerned about origin labels on non-food products.

The 2011 review of food labelling put this down to the fact that food is ingested:

*'As food is ingested and taken into ourselves, unlike most other consumer goods that are just used, naturally consumers are primarily focused on the components and ingredients of foods and not with their substantial transformation, packaging or value adding.'*

In the 2014 House of Representatives Inquiry, the Committee recognised that descriptors such as 'Made in' or 'Product of' apply to non-food items. However it was also clear to this Committee that consumers already differentiate the food sector from other sectors.

This distinction is supported by research concentrating on measurement labelling, conducted by ORIMA Research for the Department of Industry, Innovation and Science, which found that consumers are more concerned about country of origin labelling for food than for non-food products. The research showed that country of origin was rated as the most important piece of information on food labels, but only the fourth most important piece of information on non-food labels. The research was undertaken during October and November 2015 and involved 25 qualitative consumer interviews conducted in the midst of retail purchase decisions and an online quantitative survey of 1593 respondents. The survey sample was representative of the demographic profile of the general population.<sup>54</sup>

While consumers may not have concerns with origin labels or the safe harbour defences for non-food products, submissions to a number of inquiries involving country of origin labelling suggest that the complexity of the safe harbour defences are as much an issue for non-food as they are for food businesses. For example, in its submission to the 2014 House of Representatives inquiry, the Australian Food and Grocery Council advocated applying a “substantial transformation” test only as the basis for manufacturing claims for non-food as well as food products.<sup>55</sup>

In an effort to gauge the impact of proposals to amend the safe harbour defences on the non-food sector, on 1 June 2015, the then Department of Industry and Science wrote to 23 peak industry bodies representing non-food businesses, seeking responses to an issues paper containing a number of proposals. The issues paper was also placed on the department’s country of origin labelling website on 2 June 2015, with an invitation to respond by 30 June 2015.

The Department received 13 responses to the issues paper, nine in response to letters and four in response to the website (two of which solely represented businesses in the food sector). Respondents included generic industry representatives and representatives of specific sectors, such as medicines, textiles, clothing and footwear and non-food groceries. No responses were received from consumer representatives. As the issues sought feedback on costs and savings associated with the possible changes, the Department undertook to keep submissions confidential. Given that undertaking, the submissions remain confidential, even though none provided information on costs and savings.

While some possible changes were not broadly supported (for example, clarification of ‘significant’ ingredients or components), all respondents representing the non-food sector supported removal of the 50 per cent production cost test and the clarification of substantial transformation, as indicated below:

*‘... the removal of the current 50% local production test and clarifying the meaning of ‘substantial transformation’ make good business sense. As noted in the briefing paper, there are a number of challenges for business around the elements required within a product, including fluctuating input prices and exchange rates.’*

*‘...the strictness of the existing text, combined with the looming million dollar fines and other enforcement tools available to the ACCC, have made manufacturers shy about making ‘Australian-ness’ claims that perhaps they were entitled to make. The proposals may seem to be a lessening of CoOL regulation, but in fact they would rather provide manufacturers with a greater ability to make legitimate origin claims without fear of criminal prosecution.’*

*‘If the 50% or more of total costs test is removed, industry will require a clear definition of substantial transformation. Efforts by government to better define substantial transformation should also be subject to industry consultation.’*

*‘Substantial transformation is easy to apply, well understood by the Australian ... industry, not burdensome to establish compliance and cannot be manipulated. In contrast, the 50 % local cost of production test is more difficult and costly to demonstrate compliance, unfair in that it disadvantages efficient, capital intensive manufacturing, outdated because global sourcing of material inputs is key to the ongoing viability of Australia’s ... manufacturing industry, and ignored as irrelevant by the industry.’*

*‘Should the 50% or more of total cost test be removed, industry will require a clear definition of substantial transformation. A greater focus on the processes involved to determine substantial transformation would be of benefit to Australian producers.’*

<sup>54</sup> ORIMA Research, *Understanding Consumer Preferences towards Measurement Markings on Fast Moving Consumer Goods Products Packages*, November 2015, [www.industry.gov.au/packagingreview](http://www.industry.gov.au/packagingreview), p.1, 10

<sup>55</sup> The Australian Food and Grocery Council, Submission to *A clearer message for consumers* no. 35, p5

The problem with the current safe harbour defences were also addressed in a number of submissions to the December 2015–January 2016 consultations. For example, Australian Made Campaign Ltd stated (p.4):

*'AMCL's experience is that businesses find both the substantial transformation (ST) and the 50% cost test difficult.*

*With the ST test this is largely due to the vagueness of the definition and the lack of current and detailed guidance. A list of processes which do not constitute ST (whether in regulations or guidance) would be helpful.*

*With the 50% test, businesses often have difficulties identifying which inputs are Australian and which are imported, either because they buy from an Australian supplier or because the source may vary from one order to another. If they use a contract manufacturer, they often will not have access to detailed production costings, and their manufacturer may be reluctant to provide this information. Accounting for currency fluctuations and calculating overheads and allocating a proportion to individual products are also sources of difficulty'.*

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

During the June and December/January consultation phases of the proposed reforms, submissions were not received from consumer organisations on the proposed changes to country of origin labelling provisions for non-food products, despite being provided the opportunity to do so. This tends to support the findings of earlier inquiries to the effect that consumers are not as concerned about the origin of non-food products as they are about the origin of food products, and the fact that all of the public inquiries that touch on country of origin labelling relate to food (refer Box 5). Also, limited information was received on the costs and savings associated with the proposed changes to the safe harbour defences from either food or non-food businesses.

### **3. Objective**

The objective of reforming country of origin labelling in Australia is to provide increased information to consumers without overly increasing the cost. This will be achieved by:

- providing consumers with reliable, more informative, easier to find and less ambiguous origin information, particularly for food
- providing businesses with greater certainty and clarity about the claims they can make.

Reforms will be complementary to existing regulatory frameworks, including the Australian Consumer Law which prevents misleading or deceptive conduct. Reforms will also remain consistent with Australia's international trade obligations.



## 4. Consultation

Enhancing the country of origin for labelling framework requires a range of legislative and administrative changes.

The Consultation Regulation Impact Statement (RIS) for country of origin labelling was released on 4 December 2015 as part of a broader consultation package. This consultation package included:

- Draft country of origin food labelling Information Standard
- Draft Information Standard - Explanatory and discussion paper
- Proposed changes to the Australian Made, Australian Grown certification trade mark
- Draft safe harbour defence amendments
- Draft safe harbour defence amendments - Explanatory and discussion paper.

The Consultation RIS and related documents were made available via the Australian Government Department of Industry, Innovation and Science Consultation hub at [www.consult.industry.gov.au/cool](http://www.consult.industry.gov.au/cool). Consultation closed on 29 January 2016. During the consultation period:

- 240 written submissions were received, including 130 comments in response to the Consultation package<sup>56</sup>
- comments were received from six trading partners in response to formal notification
- information sessions were held across ten locations with around 380 participants in total
- 58 one-on-one meetings were held with businesses, industry associations and consumer groups.

Attachment A provides a list of the submissions received that will be publicly available.

Extensive feedback was received throughout the consultation period. Stakeholders provided comments on the overall intent of the proposed reforms as well as on specific policy issues.

It was broadly acknowledged that consumers find current country of origin labelling confusing, and that improvements need to be made. In general, participants in the consultation agreed with the objective to revise the current framework to meet consumer demand for more information on origin while keeping the cost to business as low as possible.

### 4.1 Summary of feedback by stakeholder type

#### 4.1.1 Consumers

Consumers generally opted to provide brief feedback through the comment facility on the Consultation hub website. Responses were short and aligned with previous research that existing labels were not sufficient and they wanted more informative country of origin labelling. Consumer associations reiterated this sentiment and supported the Commonwealth's proposed response as a significant improvement on the current framework.

#### 4.1.2 Business

Feedback was received from food manufacturers, food importers, retailers, labellers and non-food manufacturers and their representatives. Feedback was variable across and within these sectors. The Consultation RIS discussed some key considerations to see how they might address the policy objective. They provide a useful guide for summarising feedback from business.

Businesses and industry associations all noted that the reforms would have a significant cost impact, with over half agreeing the estimates on label change costs put forward in the Consultation RIS represented an acceptable average. They also noted that the total cost to implement the reforms

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<sup>56</sup> Generally, submissions refer to where a stakeholder uploaded a response via a document, while comments were short statements made using the text box provided on the Consultation hub.

would vary, based predominately on the number of stock-keeping units (SKUs) produced by a business, rather than the size of that business.

### **4.1.3 Trading partners**

International trading rules seek to prevent unnecessary obstacles to trade, and require technical regulations to be no more trade-restrictive than necessary. In accordance with Australia's international trade law obligations, the proposed reforms to country of origin food labelling were notified to the World Trade Organization on 7 December 2015. Trading partners were given 60 days to submit any comments or queries on the notification. Comments on the reforms have been received from six trading partners. In their responses to the proposal, trading partners have queried whether the reforms could have a detrimental impact on imported food, including by providing an advantage to domestic food products over imports. Furthermore, they suggested that the bar chart used to indicate the proportion of Australian ingredients should also be permitted on imported foods containing Australian ingredients.

Trading partners also expressed concerns about potential administrative complexity, increased requirements for traceability of ingredients and relabelling costs that might be imposed on their manufacturers by the proposed response. They sought clarification about the distinction between priority and non-priority foods and the implications of the changed definition of substantial transformation. They also requested further detail on the text box requirement for imported priority food products.

## **4.2 Summary of feedback by key issues**

The Consultation RIS sought stakeholder feedback on a range of issues as well as the Commonwealth Government's proposed response to help inform the policy approach. The areas outlined below highlight considerations in the Consultation RIS that were topical during consultation period and where stakeholders often presented differing views:

- whether to restrict reforms to priority food
- adding a statement on the proportion of Australian ingredients
- whether to use a combination of visual and text elements or text only
- appropriate record-keeping arrangements
- approach for imported food
- amendments to safe harbour provisions for non-food products.

An overview of feedback on these issues is outlined below. More information on how this feedback influenced policy positions is discussed in later sections.

### **4.2.1 Whether to restrict reforms to priority food**

Differing feedback was received on the proposal to exclude a defined list of non-priority foods from the new label requirements. Some stakeholders considered that this could lead to consumer confusion over why certain products had the new label and others did not, that businesses may not always be certain of which specific products could be considered priority or non-priority and that some businesses may have to implement a dual labelling system if they produced both priority and non-priority food products.

Other stakeholders found it reasonable to focus on those foods that consumers cared about most and recognised that it would minimise cost burden.

A number of submissions focussed on the specifics of the Commonwealth's proposed response, particularly the draft Information Standard, providing detailed feedback on necessary clarifications and areas for improvement. The suggestions, questions and concerns put forward in these submissions were considered in the final design of the proposed response.

#### **4.2.2 Adding a statement on the proportion of Australian ingredients**

The requirement for products to state the proportion of Australian ingredients was widely supported, with feedback received on how to best address issues of seasonality, sourcing variation, compound ingredients and tolerances.

Business regularly reported that determining the appropriate proportion statement to use would account for most of the costs to make the change, particularly the initial costs. For some businesses the calculation would be simple and stable, but others may need to assign resources to seek the more detailed information from their suppliers or upgrade their record keeping systems. This was particularly an issue for processed products that source a pre-processed ingredient, for example a tomato sauce.

Businesses and industry associations overwhelmingly preferred this option to stating the origin of all significant ingredients or every ingredient. Businesses consistently noted that for many products, listing the origin of all ingredients would require significantly more space on the label, with one business suggesting it would increase label sizes by 50 per cent. Others noted that ingredients were frequently sourced from different countries, meaning that at times three or more countries of origin would need to be listed. It was also raised that as many companies source content based on ingredient specifications only and do not require specific origin, variability in supply could result in a business needing to carry multiple versions of every product label, exponentially increasing the cost of labelling and product.

#### **4.2.3 Whether to use a combination of visual and text elements or text only**

Stakeholder views on the approach for using visual and text elements in the revised labels varied. A key concern raised by some business, particularly those with smaller labels on their products, was that it would be difficult to find the space for visual and text option among other label elements. Some suggested that a label that only used text for the revised country of origin claim would be easier for them to incorporate. Others thought that if the requirements provided flexibility in how they used the text and visual elements, this would allow them to fit it within their existing label.

Consultation feedback from manufacturers and retailers informed the cost estimates for label changes. It reflected that there is a cost difference for label changes depending on whether it involves visual and text, or text only. It is estimated that the average costs for initial label changes to packaged food is \$5219 for a visual and text label change and \$2515 for a text only change. While initial label changes for fresh food are estimated as \$417 for one unpackaged product label. The cost impact of including a visual element tended to depend on the amount of redesign required to incorporate the revised country of origin label into an existing label, the packaging material used or whether printer upgrades would be required.

Generally, feedback from business is that incorporating visual information as well as text on labels is not a key driver of cost. Business processes to collate the information for the label would still be required (as discussed above). The Consultation RIS outlined estimated costs to change labels including initial label changes for packaged food (\$6245 per SKU), initial changes for fresh food (\$500–\$1300 per SKU) and regular label updates (\$2813 per SKU). The feedback on the relabelling costs presented in the Consultation RIS varied. Most businesses agreed with these cost estimates, but some reported they were too high or too low.

#### **4.2.4 Appropriate record-keeping arrangements**

Generally, businesses were comfortable with requirements to keep records for packaged food for 12 months. The record keeping systems of most businesses would support maintaining records for 12 months. However, concerns were consistently raised about the need to keep records for unpackaged food for the same amount of time. Records are currently not maintained for such a long period for unpackaged food and businesses also reported that it would require significant upgrades to administration and IT systems to maintain the relevant records for unpackaged food for 12 months.

#### **4.2.5 Approach for imported food**

Feedback confirmed that implementing revised requirements for imported food would be managed differently by companies. For some, the revisions would be made by the overseas manufacturer or the Australian importer if they owned the brand before being imported to Australia. Importers noted that in some instances, a request to adjust labelling for the Australian market may be refused if the overseas manufacturer did not see the value in creating a specific label solely for the Australian market.

Concerns were raised by some Australian stakeholders around fairness – both from the perspective of putting expectations on international manufacturers and having different requirements for domestic and international manufacturers. It was also suggested by a number of stakeholders that imported products with Australian ingredients should be able to make a statement on the proportion of Australian ingredients on a voluntary basis.

#### **4.2.6 Amendments to safe harbour provisions for non-food products**

Only a small number of submissions were received from non-food stakeholders during the consultation period. These were mostly supportive of the proposal to remove the 50 per cent production cost test for 'Made in' related claims, noting that the test was difficult to administer given the complexities of sourcing through a global supply chain and currency fluctuations. These submissions supported the view that a sufficiently strengthened and clarified definition of substantial transformation would render the 50 per cent product costs test irrelevant.

To ensure appropriate consultation with non-food stakeholders, Commonwealth Government representatives met one-on-one with a number of non-food businesses and industry associations. These stakeholders were also supportive of the proposed changes to safe harbour provisions for non-food products. Some raised concerns around the proposed revisions to the definition of substantial transformation but these concerns were resolved at the time of meeting. They also noted that the definition of substantial transformation would need to be clear if the 50 per cent production cost test were removed.

The limited feedback received on the cost savings from removing the 50 per cent production cost test was considered in the impact analysis (see Chapter 6).

#### **4.2.7 Appropriate transition period**

Two options were proposed for a transition period: a phased approach based on the shelf-life of products and a 24 month transition period. There was almost unanimous support for a 24 month transition period from business, industry associations and consumer associations.

A small number of businesses suggested that extending the 24 month period to 36 months would provide greater flexibility for implementation and potentially reduce costs further. However, the majority felt the 24 month transition period presented the best opportunity to minimise cost to business while still ensuring consumers would start to see new labels on the shelf as soon as possible.

### **4.3 Engagement strategies**

Feedback was gained from stakeholders via information sessions, one-on-one meetings and written submissions. Information received has been used to improve the understanding of the policy problem, fine-tune the scope of policy options and develop a targeted and effective implementation plan.

#### **4.3.1 Information sessions**

Commonwealth Government representatives facilitated information sessions in ten state and territory capitals and regional centres.<sup>57</sup> The sessions were open to all businesses, industry associations,

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<sup>57</sup> Information sessions were held in Darwin, Perth and Adelaide in December; and Sydney, Brisbane, Toowoomba, Hobart, Launceston, Melbourne and Shepparton in January.

government and consumers. They outlined the proposed reforms to country of origin labelling, answered questions and gained feedback on the proposal.

The information sessions were well attended, with around 380 participants across the ten locations. Participants were encouraged to provide formal submissions in addition to their attendance at the session.

### **4.3.2 One-on-one meetings**

Commonwealth Government representatives also held 58 one-on-one meetings with a range of businesses, industry associations and consumer groups. This included food manufacturers, food importers, retailers, labellers and non-food manufacturers. The meetings focussed on discussing the potential cost of reforms and implementation issues.

Relevant businesses were identified through a range of activities, including:

- interested parties who subscribed to receive updates on country of origin labelling
- previous participants in country of origin consultation
- stakeholders who registered to attend an information session
- liaison with Commonwealth, state and territory governments
- online research.

### **4.3.3 Written submissions**

There were 240 submissions received by the Commonwealth Department of Industry, Innovation and Science (via the Consultation hub or email). Feedback was received from 87 individual businesses, 30 industry groups or professional associations, 106 consumers and 17 other submissions.<sup>58</sup>

Subject to confidentiality, written submissions will be published on the Department of Industry, Innovation and Science website.

## **4.4 Promoting consultation**

The release of the consultation package was promoted via a number of avenues including:

- two media releases from relevant Commonwealth Ministers
- an email to interested parties who are subscribed to receive updates and participants of previous consultation (April–May 2015)
- contacting around 27 peak industry bodies and industry associations
- notifying relevant Australian, state and territory government agencies
- linking from relevant Commonwealth department websites
- linking from business.gov.au website and promotion via their social media channels
- formally notifying international trading partners through the World Trade Organization
- targeting consultation through Australia's diplomatic posts.

## **4.5 Previous consultations**

The Decision RIS was also informed by extensive stakeholder consultation, including consumer and industry market research that took place prior to the Consultation RIS.

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.

Between April and May 2015, the Commonwealth Government held a series of roundtables with business and industry associations. The purpose of the roundtables was to understand the fundamental and critical issues with the current country of origin labelling framework for key

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<sup>58</sup> Refers to how stakeholders categorised themselves.

stakeholders. Discussions at these roundtables informed the development of the proposed improvements for consumers and business discussed in this RIS.

Colmar Brunton was commissioned by the Commonwealth Department of Industry, Innovation and Science to undertake market research in the first half of 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. More detail is in Box 1.

In October 2015, Commonwealth Government representatives held a series of meetings with state and territory governments to discuss the proposed country of origin labelling reforms. The meetings were an important opportunity to bring representatives from across government agencies with responsibility for country of origin labelling together to discuss the key issues and the potential scope of reform.

## 5. Options

The Consultation RIS discussed a range of considerations when addressing the policy objective:

- what information will satisfy consumers and keep costs down for business
- how businesses can be more confident in using the claims
- how the labelling of imported food should be treated
- the role for digital information
- how to increase consumer awareness about the meaning of country of origin labels.

Summaries of how feedback informed the final options presented are provided below. The impact analysis for each of these options is discussed in Chapter 6.

This section presents the following options:

- **Option 1 - Status quo.** Current policy settings and regulatory arrangements would be maintained.
- **Option 2 - Revised approach to country of origin labels (visuals and text).** Text and easy to find visual information (kangaroo logo and bar chart) highlighting where the food was made, produced, grown and the proportion of Australian ingredients for priority domestic food. Claims on priority imported food will be in a box.
- **Option 3 - Revised approach to country of origin labels (text only).** No visual, text statement only on where food was made, produced, grown and the proportion of Australian ingredients for priority domestic food.

Possible approaches of listing the specific country in which key ingredients are grown and a digital based solution are discussed, but are not considered feasible based on their cost to industry and readiness of consumers and industry to adopt (respectively).

Option 1 will not address the objective of providing increased information to consumers. Option 2 will provide consumers with the information they most want using the label elements they most prefer, making it easier to find and understand, and also manages cost by considering business needs. While Option 3 reduces the cost to industry, it does not provide information to consumers in a way that benefits them most.

A range of quotes from submissions are referenced throughout the Options section. Due to confidentiality, only the sector is attributed to the quote.

### 5.1 Option 1 - Status quo

Under the status quo, the current approach to country of origin labelling would be maintained. It represents the current policy settings and would not change regulatory arrangements.

This means that most food for retail sale in Australia will continue to require a statement identifying where it was made, produced, grown or packed. Businesses will continue to be able to make broad claims such as 'Made in Australia from local and imported ingredients' for all products. Safe harbour defences will remain as they are, so the existing definition of substantial transformation would continue to be used and the 50 per cent production cost test maintained.

Consumers will not be provided with any additional information on the origin of a product unless a business decides to do so.

Existing information to help consumers and business understand the framework will remain available. For example, the Australian Competition and Consumer Commission (ACCC) produces a country of origin labelling pamphlet aimed at consumers.<sup>59</sup> It provides an overview of what different origin claims mean and contact details for consumer protection agencies in each state and territory. The ACCC has

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<sup>59</sup> *Where does your food come from?* <http://acc.gov.au/publications/where-does-your-food-come-from>

also developed a guidance document to assist business in understanding the safe harbour defences.<sup>60</sup>

The market will determine whether to provide additional information to consumers and the nature of that information. This might include businesses participating in industry-led programmes or individual businesses providing more information on or off labels of their own accord. These decisions would be based on industry-led research and insight, and information shared by government, such as from the recent consultations.

### Feedback

Across the submissions, information sessions and one-on-one meetings, almost all stakeholders agreed that there are issues with the current country of origin labelling framework. It was recognised that there are improvements that could be made to increase transparency on the origin of ingredients. Comments include:

- 'The current system is confusing. Research shows that current labelling requirements do not provide Australians with adequate or meaningful information about where their food comes from.' (Consumer group)
- 'It is of paramount importance that the shopper is assisted in their choice of products through clear labelling into country of origin.' (Industry association)
- '...Australian consumers want more information about where the products they consume are made, produced or grown...' (Food manufacturer)

Many businesses suggested that this partly stems from consumers not understanding what claims like 'Made in Australia' mean, namely that they are about the production process rather than the ingredients. Some thought that an education campaign based on the current framework would help address this. However others highlighted that the broader issues with the framework would not be addressed through an education campaign. See Box 8 for excerpts of stakeholder views on an education campaign based on the current framework.

#### Box 8. Views on the value of an education campaign based on the current framework

There were varying views on the value of an education campaign based on the current framework. Extracts from submissions are provided below.

##### Views supporting an education campaign on the current framework

- 'More cost effective than having Industry change all labels.' (Food manufacturer)
- 'Education may be a far more cost effective option than imposing costs on industry by implementing a CoOL framework, therefore we are supportive of this suggestion.' (Industry association)
- '...strongly supports an education campaign on the current labelling to ensure that consumers understand the information currently provided.' (Industry association)

##### Views not supporting an education campaign on the current framework

- '... does not believe that a targeted education campaign based on Australia's existing CoOL framework would be a feasible solution to address consumer concerns about the origin of their food....To ensure consumers have the information they need to make informed decisions about their food purchases, Australia must reform its CoOL system, rather than continue with the current, deficient labelling system.' (Industry association)
- 'No, the concerns with the lack of detail required by the current framework would not be addressed by an education campaign.' (Food manufacturer)

<sup>60</sup> *Country of origin claims & the Australian Consumer Law*, <http://www.accc.gov.au/publications/country-of-origin-claims-the-australian-consumer-law>



- ‘... does not believe that a targeted education campaign on the current country of origin labelling framework would be a cost- effective solution to address consumer concerns.’ (Industry association)

### Outcome

Maintaining the status quo will not address the concerns raised by consumers. While education may help clarify some common misconceptions of what labels like ‘Made in’ mean, there is recognition that there are overarching issues that need to be addressed – notably that the current labels do not provide the origin information that consumers most value.

## 5.2 Option 2 - Revised approach to country of origin labelling - Visuals and text

A revised approach to country of origin labelling addresses the policy objective and responds to stakeholder feedback during extensive consultation over 2014–15 and 2015–16.

Under Option 2, the requirement for all food to include a country of origin statement about where the product was made, produced, grown or packed will continue. In addition:

- for food made, produced, grown or packed in Australia, new elements for country of origin labels will be introduced for food where consumers have identified they most value country of origin information (priority food)
- the criteria for making claims will be clarified for all food and non-food products
- for imported food, revised elements will be introduced for country of origin labels for priority food.

Importantly, the Food Standards Code would be amended to remove country of origin labelling. A new Information Standard will be made under Australian Consumer Law. See Box 9 for details.

The scope of the current country of origin labelling standard in the Food Standards Code will be maintained in Option 2. That is, it will not apply to food that is offered for immediate consumption where the food is sold by restaurants, canteens, schools, caterers or self-catering institutions, prisons, hospitals or other similar institutions. During consultation, some stakeholders raised that country of origin labelling should be extended to some of these areas, particularly restaurants; however this is not in scope of the policy reforms.

### Box 9. Removal of country of origin labelling requirements from the Food Standards Code

Currently, the Australia New Zealand Food Standards Code establishes which food must have a country of origin statement on their labels. The Code consists of four chapters covering general food standards, food product standards, food safety standards and primary production standards.

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. 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.

The Commonwealth Government’s proposed response presented in the Consultation RIS would involve moving mandatory country of origin labelling requirements for food from the Food Standards Code to the Australian Consumer Law. This would be in line with the objective of country of origin labelling being to provide information to consumers rather than to regulate food safety and nutrition. It would result in a single consumer-focused regulatory regime.

Currently, the requirements for country of origin labelling for food sit within the Food Standards Code, which is the responsibility of Food Standards Australia New Zealand (FSANZ). Based on the Commonwealth's proposed response presented in the Consultation RIS, FSANZ released a call for submissions on the proposal to remove country of origin labelling requirements from the Food Standards Code on 22 January 2016. The consultation period closes 4 March 2016.

Stakeholders were specifically asked about the various elements that contribute or could contribute to a better performing country of origin labelling system. A summary of views is at Box 10.

## Box 10. Examples of stakeholder views on Option 2

### Views supporting Option 2

- '...very supportive of the move to provide increased information to our customers and we are committed to implementing the framework.' (Retailer)
- '... welcomes the Government's move to improve the country of origin labelling laws to better assist consumers to make informed decisions about the source of the fresh and processed foods they purchase.' (Industry association)
- '...we believe they represent a significant step forward in giving Australians greater clarity about where their food comes from.' (Retailer)
- '...we are supportive of the provision of labelling information to better inform consumer choices and we take our responsibility to provide transparency on the origin of our products for Australian consumers very seriously.' (Food manufacturer)
- '... acknowledges calls for clarity around the place of manufacture and origin of the ingredients in food and beverage products.' (Food manufacturer)

### Views against Option 2

- 'We believe this labelling proposal has been made with the best intent to improve consumer information, but in reality, it will not improve quality of available information for consumers and will cost the industry further.' (Food manufacturer)
- '...we believe that the proposal has not clearly addressed the issue of country of origin labelling...the proposal as laid out in this paper is not clear, it is confusing to the industry and this being said would no doubt add more confusion to the everyday consumer.' (Food manufacturer)
- '...does not support the changes proposed in the current format as outlined in the consultation papers and encourages the government to consider the regulatory burden and the negative impact this will have on the food industry, in circumstances where there are questionable prospects of consumers being better off.' (Food manufacturer)
- '...strongly believes that the mandatory Country of Origin Labelling proposal will cause significant cost and long term damage to our local and Australian food manufacturers.' (Industry association)
- '...encourages the review of Country of Origin (CoO) Labelling in an attempt to simplify the process for industry while continuing to provide clear and useful information to consumers. However, ... does not support the changes proposed in the current format as outlined in the current Consultation RIS due to undue pressure and cost impacts placed on businesses with no evidence to show that the proposed changes will be clearer or beneficial to consumers.' (Food manufacturer)

## 5.2.1 Additional requirements for country of origin labels for most food - Text and visual

The new labels comprise visual and text elements that provide consumers with more information on the origin of the product, namely the proportion of Australian ingredients. Depending on the type of food product, the elements of revised country of origin labels will be:

- information on where the product was made, produced, grown or packed:

- a statement highlighting where the product was made, produced, grown or packed
- the logo of a kangaroo in a triangle (if made, produced or grown in Australia)<sup>61</sup>
- information on the source of ingredients (if made, produced, grown or packed in Australia):
  - a statement on the proportion of Australian ingredients
  - a bar chart displaying proportion of Australian ingredients that aligns with the statement.

The statement highlighting where the product was made, produced, grown or packed, will align with clarifications made to requirements for such claims (see Section 5.2.2 - Amendments to the conditions food and non-food businesses can use to defend their claims).

Food that is made, produced or grown in Australia will be required to include the kangaroo logo on the country of origin label. There will be no cost to use the logo when it is being used in line with the labelling requirements.

The sections below explore the basis for including each of these elements, including feedback received from stakeholders. It also looks at how scope, transition and record keeping arrangements were decided.

### **5.2.1a Scope of products requiring new labels**

The Colmar Brunton research indicated that there are some types of food about which consumers most value origin information.<sup>62</sup> These are:

(a)

- 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:

(b)

- 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.

<sup>61</sup> Kangaroo logo refers to the Australian Made Australian Grown trademark currently administered by Australian Made Campaign Limited.

<sup>62</sup> Colmar Brunton 2015, *Country of Origin Food Labelling Research*, p.48

This prioritisation is based on personal values of consumers, and is not indicative of quality, health and safety risks, or relative size of the import market. Group (a) is categorised as 'priority food' and group (b) is categorised as 'non-priority food'. By categorising food in this way, the number of products that would require additional country of origin information can be limited to those where it will add the most value for consumers. This will reduce overall costs to business by not making label changes on products where the information is not as highly valued.

These findings are broadly consistent with that of research by CHOICE,<sup>63</sup> 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.

### **Feedback**

Stakeholders are mainly concerned with understanding which categories their products fall under (priority or non-priority), rather than whether a broader food category should be considered priority or non-priority. This was particularly the case for confectionery, biscuits and snack food categories, for example, potato chips and chocolate spreads.

While there is some disagreement about where specific products fall, it was generally agreed that the food groups covered nearly all foods. The main gap identified was tea and coffee, which did not clearly fall into food identified in either the priority or non-priority groups. Further evidence presented by stakeholders indicated that tea and coffee were generally perceived in a similar way to items like drinking chocolate and cocoa, which are considered as non-priority.

A range of food businesses responded that revised labels should cover all food, rather than restricting the reforms to priority foods. This was mainly driven by concerns about the impact of the new labels on product competitiveness, including that the different labels would create an unfair market advantage for non-priority food. These businesses thought that requiring labels on all food would create a level playing field.

Other businesses commented that it may be confusing for consumers and industry to understand why products may have different levels of detail on country of origin.

Conversely, a number of businesses are supportive of prioritising products that would have additional information. They are concerned that increasing the scope to include all foods, would impose unnecessary information requirements for products where it is not a priority for consumers. Consumer group feedback supported that food could be separated into priority and non-priority groups based on how consumers value country of origin information and that the groupings above were accurate. Consumer groups suggested that for consistency, non-priority food could also become subject to the new labelling requirements in the future.

See Box 11 for examples of stakeholder views.

### **Box 11. Examples of stakeholder views on priority and non-priority food**

#### **Views seeking clarity on priority and non-priority food**

- 'It is confusing to the food industry as to why some foods have been classed as non-priority and others haven't.' (Food manufacturer)
- 'The reason for the distinction between Priority Foods and Non-priority Foods needs to be defined and a rationale developed for this.' (Food manufacturer)

#### **Views supporting amendments to priority food only**

<sup>63</sup> Choice Submission to the House of Representatives Standing Committee on Agriculture and Industry Inquiry into country of origin food labelling, p.8

- 'The systems may result in an uneven playing field and create a market advantage for some products that are categorised as non-priority foods and therefore can continue to obscure the origins of their products' ingredients.' (Industry association)
- 'We are currently clear and supportive of the current definition of priority and non-priority foods.' (Food manufacturer)

#### **Views not supporting amendments to priority food only**

- '... does not support the creation of a subset of "non-priority" foods that will be able to use a less rigorous form of CoOL. We believe creating such a category risks adding complexity and customer confusion when the new labelling rolls out.' (Retailer)
- 'Labelling of every single product is essential in people making informed decisions! Please ensure that full disclosure and complete labelling of every single product is mandatory.' (Consumer)

### **Outcome**

While there is some demand from industry for additional requirements to apply to all food, a key part of the policy objective for revised country of origin labelling is to provide increased information to consumers without overly increasing the cost. Given research has shown that consumers don't value country of origin information for some foods as highly, it is difficult to justify additional labelling requirements for all food at this stage given the cost impact on business.

Therefore, the requirement for additional information will be restricted to priority food. The Information Standard underlying the labelling requirements will specify a list of non-priority foods that will be exempt from additional labelling requirements (see below). Any food not on the list will be considered in scope. Consistent with the feedback on the apparent lack of categorisation of tea and coffee, these products will be included in the non-priority list. The non-priority food list is:

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

This categorisation may be revisited in the future as part of the review at the end of the transition period (see Section 8.3).

The Information Standard would only include the list of non-priority food.

To address the uncertainty some businesses noted about where their products fell, the definitions of food groups will be clarified in the Information Standard. This will help businesses determine if the new requirements apply to their product and ensure consistency in how specific food products are treated.

It is important to note that under the Information Standard, non-priority food will continue to be required to make a statement regarding country of origin. Any food within the non-priority group can use the revised label in line with the Information Standard on a voluntary basis so long as that use is consistent with the requirements of the Information Standard.

#### **5.2.1b Information on the proportion of Australian ingredients**

The Colmar Brunton research highlighted how important being able to identify the country of origin of food is to consumers—74 per cent of consumers surveyed ranked it as important or very important to them.<sup>64</sup> Some 28 per cent of consumers ranked percentage of Australian ingredients as the country of

<sup>64</sup> Colmar Brunton 2015, *Country of Origin Food Labelling Research*, p.46

origin labelling element most important to them in relation to other elements, while 60 per cent ranked it in their top three factors. In comparison, 49 per cent of those surveyed ranked knowing whether the food was processed in Australia in their top three factors and 48 per cent ranked knowing the specific country where key ingredients were from in their top three factors.<sup>65</sup>

Providing information on the proportion of Australian ingredients on the labels of priority food would help address consumer concerns that labels can be confusing or ambiguous and provide access to the information they find most valuable. This additional information would support the statements already provided on where the product was made, grown, produced or packed.

The Consultation RIS recognised a number of the challenges in the way information is presented that can impact on consumer satisfaction and the cost to business. These include how the proportion is expressed and the level of flexibility, for example, how well the statement can accommodate seasonal or other reasons for variability in ingredient sourcing.

### **Feedback**

Business stakeholders that produce food from Australian and another origin, or food wholly from non-Australian origin, have confirmed that providing the proportion of Australian ingredients on a product label is possible. Depending on the number of ingredients in a product, or the length of the supply chain, the information is generally available to them, and if not, their suppliers should have the information. In most cases, a calculation will need to be made to identify the proportion to display on the label.

Feedback confirmed that there will be challenges for some businesses depending on the food they produce and their own internal systems.

- Accuracy - Businesses generally favour a decile (10 per cent) statement to a quartile (25 per cent) statement. However, they want flexibility to be able to provide more specific information if they wanted.
- Source variability - For a range of businesses, variations in sourcing, particularly when it moved between Australia and overseas, could affect their proportion statement. Source variability can be influenced by a range of factors, including seasonal availability, supply and price.
- Ingredients to include in calculation - A range of businesses are concerned about including ingredients that make up a small proportion of their product, for example, herbs, spices, or that they considered incidental, for example, processing aids and flavourings. This is particularly a concern for ingredients that are not available in Australia so they have to source from overseas.
- Unpackaged food - Some businesses noted that there are specific challenges in providing additional information for unpackaged food, particularly mixed bins with loose products.
- Access to information - A range of business stakeholders reported that there are some challenges in obtaining information on the proportion of Australian ingredients from their suppliers. Downstream suppliers will also need to be aware of the changes and be able to provide it. Businesses will also need to ensure they have appropriate systems to collect and store the information to ensure they can provide relevant supporting evidence to justify their claims, if required by regulators.

### **Outcome**

The new labels will require foods that fall into the priority group to identify the proportion of Australian ingredients. The minimum requirement will be that labels show the proportion of Australian ingredients as an 'at least' statement rounded down to the nearest ten per cent (decile). This approach will allow for variations in ingredients or processes and avoid excessive costs to business.

Businesses may choose to provide more specific information to suit their business circumstances. This can be done in two different ways.

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<sup>65</sup> Colmar Brunton 2015, *Country of Origin Food Labelling Research*, p.49

- A business may use an average content statement based on the average over a one, two or three year period; the claim can be used for two years. The label must point to another source consumers can go to for more specific information, such as a website or phone number.
- A business may use a specific percentage content statement. The proportion should still be presented as an at least statement, for example 'from at least 53 per cent Australian ingredients'.

Providing alternative or more specific information to the minimum requirement is voluntary. Guidance and an online business assistance tool will be provided to help businesses who may want to use these statements.

While there are minor ingredients that may affect the final proportion calculated, to ensure transparency in information to consumers, all ingoing ingredients must be included in the calculation. The only exception will be processing aids, as they are part of the manufacturing process, rather than part of the final food. Including them in the calculation would be misleading to consumers. This exemption will be outlined in the Information Standard.

The new requirements will apply to both packaged and unpackaged food. The Information Standard will provide some flexibility in circumstances where there is a mixed bin of unpackaged whole foods, which can occur where there is seasonal overlap. It is a compliance and enforcement challenge if these bins were to state the proportion of Australian ingredients as the content will change throughout the day. Therefore mixed bins will be able to make statements that indicate the content has multiple origins. To support regulators gaining access to the necessary information, the Information Standard will include a provision that suppliers must provide information on the proportion of ingredients on request.

### **5.2.1c Easy to read labels**

A key issue for consumers is that finding country of origin statements on a label can be difficult and therefore time consuming. Using logos and text consistently across relevant food products would provide clear information for consumers that is easy to find on products. This needs to be considered when looking at how to present the additional information on food labels.

As part of the Colmar Brunton research, different labelling options were tested with consumers via focus groups and a survey.<sup>66</sup> The concepts tested included different combinations of logos and charts depicting the proportion of Australian ingredients, as well as a text only concept. The label that combined text statements with visual representations via the kangaroo logo and bar chart was preferred by the greatest number of participants (45 per cent) as the most effective way of conveying the origin information they most want to know. Consumers found the kangaroo logo instantly recognisable as Australian and that the bar chart clearly indicated the proportion of ingredients that were Australian grown. The proposed label was supported by many food businesses who participated in consultation. A text statement in a box with no visual elements was preferred by only three per cent of participants.

### **Feedback**

The Consultation RIS estimated that an initial label change for packaged products that included visual and text elements would cost \$6243 per SKU, while a text-only label change would cost \$2813. Consultation sought to test these estimates, particularly the one-on-one meetings with businesses. Feedback from businesses varied, but overall the estimates were considered a fair reflection of business costs. For the analysis in the Decision RIS ('Chapter 6 - Impact analysis'), these estimates are revised to average costs of \$5219 for a visual and text label change, and \$2515 for a text only.

The cost impact of including a visual element tended to depend on the amount of redesign required to incorporate the revised country of origin label into an existing label and the packaging material used. For some businesses, their current label printing arrangements could not accommodate the inclusion

<sup>66</sup> Colmar Brunton 2015, *Country of Origin Food Labelling Research*, p.8–16

of any visual elements. In some instances, upgrades to their printing arrangements would be required. An estimate of the cost of relabelling products was provided from businesses of all sizes. For the initial upfront label changes, cost estimates varied from as low as \$400 to up to \$10,000 per label change. Given the range of estimates the analysis assumes an average cost per SKU of \$5219, which is the average of the cost estimates received from businesses during consultation.

The Consultation RIS also tested estimates for ongoing label costs \$2813 per packaged SKU. Again, stakeholders were broadly comfortable with this estimate. Based on the number of SKUs that would require relabelling (as reported via consultation), the analysis uses an estimate of \$2515 per SKU. The estimates provided by business of the ongoing text only label change ranged from \$100 to \$7000 and \$2515 was reached by taking the average of all responses received.

For fresh food, consultation tested estimates initial changes to labels for fresh food as \$500–1300 per SKU. Based on the feedback received from retailers, the analysis uses the estimate of \$417 for the initial change to one unpackaged product label.

A number of businesses are concerned about how they would find space on product labels to incorporate the new information. Some were concerned about how it would fit in relation to other important product information as the new country of origin information would take up more space than under the current requirements. Concerns were raised that in some situations, it may require a whole redesign of a product label. Overall businesses sought flexibility in how country of origin information could be incorporated into overall label design so they can make design decisions suited to their products.

A range of businesses suggested that an approach that only required text could help address issues around label space. Others thought that providing flexibility in the Information Standard would allow them to manage any space issues. Flexibility could include size, placement of label elements, legibility and colour.

Multiple businesses noted that flexibility to split the label elements could also help them manage costs, for example, being able to split the logo and bar chart from the text. Others reported that this would have little impact on costs, as changes still would need to be made, but still welcomed such flexibility.

Some stakeholders suggested the use of the kangaroo logo should be restricted if the proportion of Australian ingredients fell below a certain threshold. However, the kangaroo logo is a representation of where the food was made, produced or grown. It does not indicate whether there are Australian ingredients in the product. The bar chart, supporting the statement on the proportion of Australian ingredients does this. The information and education campaign (see Section 5.2.1f) will help consumers interpret the claims.

### **Outcome**

It is recognised that there is a cost difference for label changes depending on whether it involves visual and text, or text only. However, the approach in Option 2 considers that from a consumer perspective, the inclusion of visuals maximises the benefits of the new labels as it is a quick indicator of origin information, making the information easier to find and read. As discussed in 'Chapter 2 - Statement of the problem', the importance of easy to find labels was indicated in the Colmar Brunton research by the clear preference of participants for the labels which included visual elements – particularly the label option that combined text statements with visual representations via the kangaroo logo and bar chart. A text only based approach will lose these benefits; reducing the ability to meet the policy objective.

Further, business feedback highlighted that generally, incorporating visual information as well as text on labels is not a key driver of cost for changing to the new labels. Business processes to collate the information for the label would still be required and the same labelling process would be used. This is examined further in 'Chapter 6 - Impact analysis'.



Therefore, under Option 2 new labels will include both visual and text elements to portray information about country of origin. They will show:

- a statement highlighting where the product was made, produced, grown or packed
- the logo of a kangaroo in a triangle (if made, produced or grown in Australia)
- a statement on the proportion of Australian ingredients
- a bar chart displaying proportion of Australian ingredients
- that aligns with the statement.

The bar chart will be shaded to the decile that aligns with the statement. In circumstances where a business chooses to go beyond the minimum requirement and make an average content claim or state the specific percentage, the bar chart must be shaded to the next lowest decile mark, not the specific percentage.

From a consumer perspective, the inclusion of visuals maximises the benefits of the new labels as it is a quick indicator of origin information, making the information easier to find and read. As discussed in 'Chapter 2 - Statement of the problem', the importance of easy to find labels was indicated in the Colmar Brunton research by the clear preference of participants for the labels which included visual elements – particularly the label option that combined text statements with visual representations via the kangaroo logo and bar chart. A text only based approach will lose these benefits; reducing the ability to meet the policy objective.

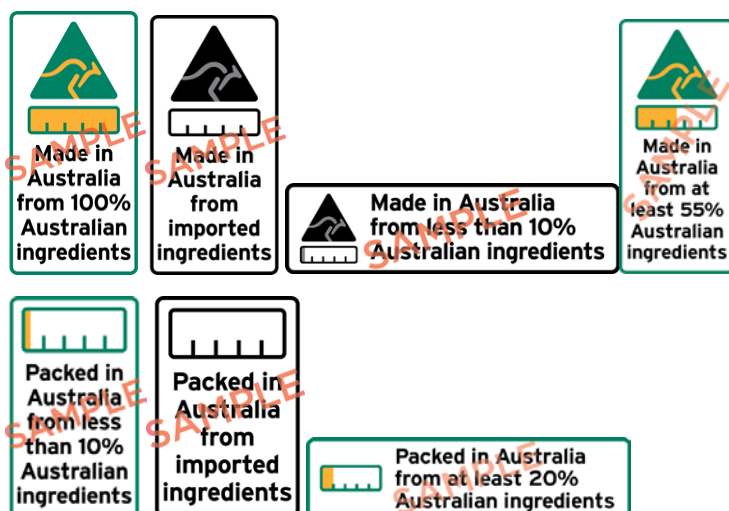
The label must be in a clearly defined box. The Information Standard will provide flexibility for businesses in how they incorporate the country of origin information on their product, so long as the label is not misleading or deceptive. A style guide will also be developed to help businesses develop their labels. These flexibilities include:

- labels can be black and white, monochrome, colours consistent with branding or green and gold
- for packaged food the Information Standard only prescribes that labels need to be legible and prominent to distinguish from the background
- format can be horizontal or vertical
- label can be placed anywhere on the package (it does not need to be on the front of the product)
- an exemption for the logo and bar chart for packages less than 100cm<sup>2</sup>.

Many businesses wanted flexibility in the way a label could appear on the package, and sought to split the elements to maximise design options. While this would provide flexibility for label design, the concern is that there is a heightened risk of consumer confusion, which outweighs the possible benefits in flexibility for businesses.

Figure 1 provides some examples of the new labels.

Figure 1. Examples of revised country of origin labels



A style guide will be provided to assist business in developing compliant labels for their products.

Subsequent research was conducted by Colmar Brunton to guide development of a national information campaign on country of origin labelling, including a survey of 1599 consumers. Among consumers aware of the proposed changes to country of origin, 72 per cent agreed or strongly agreed that they would enable consumers to make more informed decisions about where the product they buy are made, produced or grown. In addition, 70 per cent agreed or strongly agreed that the proposed changes would make country of origin labelling easier to understand; and 64 per cent agreed or strongly agreed that the changes would be good for consumers.

These results demonstrate that the proposed reforms to country of origin food labelling will be positively received by consumers and will meet their desire for improved country of origin labelling.

An alternate approach, suggested by some stakeholders, that the visual elements of the label be made voluntary was considered. However, businesses reported that even if the logo and bar chart were voluntary, their costs would not significantly reduce as these are largely incurred by the business processes to identify, calculate and keep records of the origin statement. Consumers tested in the Colmar Brunton research thought the text only versions of labels showing the proportion of Australian ingredients most unsatisfactory. They were not considered as clear or effective, mainly because the origin information would be 'far too easily lost in amongst the many labelling elements already in existence on food labels.'<sup>67</sup> See Option 3 for more discussion on this approach.

### 5.2.1d Transition

The transition period allows time for businesses affected by the change in requirements to adjust their products and claims appropriately. The country of origin claim on a product must still not be false or misleading.

Options of a 24 month transition period or a phased transition period were discussed with stakeholders during consultation. Under a 24 month transition approach, businesses would be able to update labels within their existing production processes and labelling cycles. It would be required that all food would have transitioned to the revised framework within 24 months. Under a phased transition period, changes to the country of origin labelling would be introduced in a gradual and staggered manner, over six to 24 months, depending on the shelf-life of food.

<sup>67</sup> Colmar Brunton 2015, *Country of Origin Food Labelling Research*, p.14

## Feedback

There was almost unanimous support from business, industry associations and consumer associations for a 24 month transition period, including the ability to continue selling stock-in-trade. This option was widely agreed to present the best opportunity to minimise cost to business while still ensuring consumers will start to see new labels on the shelf early in the transition period. It also allows for businesses to continue selling products in stock following the end of the transition period. It was also highlighted that in some instances, businesses will need time to collate the required information from suppliers to calculate proportions.

An approach based on shelf-life of products was widely criticised by business. It was reported that there is not a relationship between shelf-life and labelling cycles. Such an approach would lead to businesses pushing through country of origin label changes as a separate activity, which is a more costly approach. The submission from the Australian Food and Grocery Council emphasised the impact the length of the transition period can make. It estimated that the costs to implement changes under a 24 month transition period that allowed stock-in-trade to be used would be \$536 million, while the cost to implement changes for packaged food under a phased transition period would increase by 30 per cent to \$793 million. The costs include labelling changes and information costs, with the latter accounting for most of the difference.<sup>68</sup>

Some businesses highlighted that for some of their products, a longer transition period, for example three years, would be more appropriate to deal with a range of issues, including to better fit their product and labelling cycle or to allow time for suppliers to deliver information through the supply chain.

## Outcome

The Information Standard will provide for a 24 month transition period for businesses to update labels. Only a few businesses reporting requiring longer than 24 months for transition. Consumers and consumer groups are keen to see new labels on the shelf as soon as possible. Therefore, a 24 month transition period is considered sufficient time for the revised framework to be fully implemented.

The Information Standard will also allow products with previously compliant labels to continue to be sold if the labels were attached before the end of the transition period.

During the transition period, businesses will be provided the opportunity to adapt to the changes and use the graphics, colours and phraseology of the new system before they are required to do so. Such promotional claims would remain subject to the ongoing obligation not to mislead or deceive under the Australian Consumer Law.

The proposal to remove the country of origin labelling requirements from the Food Standards Code will not commence until the 24 month transition period has ended.

The changes to the safe harbour defences will commence as specified in the legislation when passed by the Commonwealth Parliament.

### 5.2.1e Record keeping

Record keeping is a normal provision of regulation to ensure businesses are able to demonstrate to regulators how they arrived at their claims asked. The consultations revealed that business approaches to record keeping varied. Businesses already keep some country of origin records for this purpose, as well as for food traceability and commercial reasons. With the change for priority food to provide additional information on the proportion of Australian ingredients, businesses will need to be able to support its accuracy and show how they calculated their proportion.

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<sup>68</sup> Australian Food and Grocery Council 2016, *AFGC Submission Country of origin labelling for food: Consultation Regulation Impact Statement*

The draft Information Standard included record-keeping provisions for businesses to substantiate their claims. It specified that records must be kept for 12 months after the sale for unpackaged food and one year after the shelf-life, up to a maximum of three years for packaged food.

### **Feedback**

The consultations revealed that business approaches to record keeping vary, but generally, businesses were comfortable that the records for packaged food will need to be kept for 12 months. Businesses often already keep records for this amount of time, for example to meet requirements of other labelling legislation, such as food traceability under the Food Standards Code. The record keeping systems for most businesses would also support maintaining records for 12 months.

In terms of the information required to substantiate claims, the Australian Food and Grocery Council estimate that almost one in five companies already collect the origin data that would be required for the proposed amendments. This means that a range of businesses will need to update the information they collect from their suppliers.

However, concerns were consistently reported about the need to keep records for unpackaged food for the same amount of time. Records are currently not maintained for such a long period. Issues raised included that it was inconsistent with record keeping requirements for other label elements and that as unpackaged food tended to have a short shelf-life the information would generally not be used after sale. Businesses also reported that it would require significant upgrades to administration and IT systems to maintain the relevant records.

### **Outcome**

Consistent with the current requirements under food regulation, for all food, businesses should be able to justify the country of origin claims on products. This may include providing information supporting claims where it exists to regulators, if asked.

More specific record keeping will be needed for food that is required to or that voluntarily includes a statement on the proportion of Australian ingredients. The Information Standard will have an explicit provision requiring records supporting the proportion claim to be kept for 12 months after the sale. It is recognised that, in some instances, businesses might not currently generate or keep records required to support claims about the proportion of Australian ingredients, so will need to update their processes.

The information provided on request to regulators could include any records businesses might need to keep to support claims about the proportion of Australian ingredients, or any other relevant information available. It is expected that 'other relevant information' would be similar to that already required to be provided to food regulators to support origin claims under existing food regulation – for example, information accessible through systems that identify traceability information, contact details of who they received food products from or who products were supplied to, dates of transactions, batch or lot identification, volume or quantity of products and relevant production records.

This approach reflects the minimum regulation necessary to ensure efficient and effective investigation and verification of claims by relevant regulators.

### **5.2.1f Information and education campaign**

To support a revised country of origin labelling framework, an information and education campaign will be implemented to raise awareness among Australian consumers that there is new information available to them that better meets their needs. Importantly, it will also help them understand what the additional information provided on labels means.

### **Feedback**

Stakeholders across all business types supported the value of a comprehensive information and education campaign.

Businesses noted that the campaign will need to cover the meaning of existing claims of origin, as well as any new information provided. Businesses felt that consumers that are not familiar that a 'Made in' statement is based on the manufacturing process and not content, may become more confused when they realise that products labelled 'Made in' can have less than 100 per cent Australian ingredients. A campaign will help pre-empt and set an appropriate context.

It was also noted that the campaign should provide information over the 24 month transition period. This could mean:

- having information for consumers as soon as changes are implemented by early adopters
- explaining why consumers may continue to see some products on shelves with old labels for some time
- providing further information toward the end of the transition period.

### **Outcome**

An information and 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 (including suppliers), importers and trading partners to ensure they are aware of the changes in their labelling responsibilities.

The campaign 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. Tools planned as part of the campaign include:

- style guide
- information sheets
- frequently asked questions
- an online tool to help business determine the appropriate label for a product.

Implementation of the campaign elements for consumers will primarily focus on the beginning of the transition period, while elements supporting business will be available throughout. The need for further information for consumers and business will be monitored by the ACCC.

## **5.2.2 Amendments to the conditions businesses can use to defend their claims**

### **5.2.2a Clarify made-in claims for food and non-food products**

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.

Consultation specifically aimed to seek views on clarifying the substantial transformation test to make it clearer and better aligned with similar concepts used nationally and internationally. 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.

Such changes may encourage businesses to make less conservative country of origin claims. This would lead to clearer, more useful claims for consumers. These changes would apply to all food and non-food products.

Non-food sectors are also able to use 'Made in' related claims as they fall under the safe harbour defences in Australian Consumer Law. As outlined in Box 7 in 'Chapter 2 - Statement of the problem', the complexity of these defences are also a cause of confusion for non-food sectors. Non-food businesses have shown support for such changes in previous consultation. The current consultation aimed to investigate this further, including examining the costs associated with calculating the 50 per cent production cost test.

The 50 per cent production cost test was incorporated into the safe harbour defences in an effort to align it with origin provisions in other legislation, including that underpinning Australia's Tariff Concession System, Anti-Dumping System and free trade agreement with New Zealand. Over time, the production cost test has been or is in the process of being removed from these provisions, primarily due to complexity and cost. Most recently, the Department of Immigration and Border Protection has proposed removing the production cost test from the Tariff Concession System.<sup>69</sup>

### Feedback

Overall, stakeholders agreed that it would be useful to clarify substantial transformation for 'Made in' related claims. However, some raised concerns about the revised definition of substantial transformation. For example, one stakeholder welcomed the change, but thought that the proposed definition should be more restrictive and provide more examples. Others thought that clarification was required, but that the revision was too restrictive and may mean that some products could no longer make a 'made in' claim.

Stakeholders generally agreed the 50 per cent production cost test would be unnecessary if substantial transformation was clarified. However, some noted the definition of substantial transformation will need to be clear, with specific examples, to give business confidence that 'Made in' claims will continue to be used legitimately. This issue was raised by both food and non-food stakeholders.

The variable feedback received on the current costs to undertake the 50 per cent production cost test reflected that the difficulty of this test varied from business to business. Feedback indicated that around half of the businesses in the manufacturing sector would face a simple test as they are confident that more than 50 per cent of their production costs are consistently incurred in Australia. These findings were considered in the impact analysis (see Chapter 6).

While only a relatively small number of non-food stakeholders provided feedback (either via submissions or one-on-one meetings with Commonwealth representatives), the above feedback also reflects their comments. For example, in relation to what aspects of the current safe harbour defences they find more difficult to interpret, apply and comply with, one non-food manufacturer highlighted:

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*'The 50% production test is the most difficult to apply, as price changes for ingredients, packaging or change to manufacturer are regular and therefore make it necessary for our business to re-evaluate on a constant basis, for example we have up to 20 changes of ingredients/suppliers each year.'*

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Feedback from consumers did not address the proposed amendments in relation to non-food products.

### Outcome

Under this option, amendments will be made to the safe harbour defences to make them easier for businesses to use and to align them with the change in requirements for priority food. As the safe harbour defences are part of Australian Consumer Law, the amendments will apply to all food and non-food businesses, not just priority food. The changes will:

- amend the conditions for the common 'Made in' related defences to:

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<sup>69</sup> <http://www.border.gov.au/Busi/Tari/Tari-3/Consultation-Legislative-proposal>

- make the meaning of ‘substantial transformation’ clearer and better aligned with similar national and international concepts
- remove the 50 per cent production cost test as it becomes unnecessary with the introduction of the percentage of Australian ingredients on labels
- remove the defence for ‘grown in’ ingredients which is rarely used and unnecessary with the introduction of the Information Standard.

These proposed changes to the defences will clarify the framework, making it simpler for all businesses, both food and non-food, to use. The revisions will include lists of processes that constitute substantial transformation and processes that do not.

Overall, it is expected that food and non-food businesses that currently make these claims will be able to continue to make the claim. The amendments will make the claims more straightforward for businesses to apply as they only need to manage one condition. The amendments also allow other businesses that would like to make a ‘Made in’ claim, but currently cannot because they would not consistently meet the 50 per cent production cost test, to do so more confidently.

For food products, the claims will be clearer to consumers because they will be focussed on the processing of the content of the product, rather than incorporating packaging costs. In its place, consumers will gain the information they value on the proportion of Australian ingredients.

For non-food products, the removal of the 50 per cent production cost test will not be replaced with other information. However, given that business stakeholders support its removal and it is expected that businesses already using the claim will be able to continue to do so, it is unlikely that this amendments will be a concern to consumers. The minimal feedback received in response to the current consultation may be reflective of the value consumers place on country of origin for non-food products compared to food products (see Box 7 in Chapter 2).

Further, as the 50 per cent production cost test is removed from other related legislation, it is appropriate for the country of origin safe harbour defences to align.

### **5.2.2b Clarify ‘Packed in’ claims for food products with imported content**

Research has highlighted that claims like ‘Packed in’ are also confusing to consumers. ‘Packed in’ claims may be used in a range of circumstances and apply to food packed in Australia as well as food packed overseas. Products may include imported ingredients or a mix of local and imported ingredients. The imported content may come from one country or multiple countries. Often the claim ‘Packed in Australia’ may be made by a company because they would not satisfy stronger claims such as ‘Made in’, ‘Product of’ or ‘Grown in’ Australia.

In part, consumer frustration arises because ‘Packed in’ claims draw attention to the presence of imported content but do not provide additional information on what proportion of the ingredients are imported. Consultation explored changes to how ‘Packed in’ claims were used, to ensure it would be clear if the ingredients were not from the country in which it was packed.

#### **Feedback**

Generally, stakeholders are supportive of the changes to ‘Packed in claims’, however would appreciate flexibility in how they indicate multiple origins to minimise the changes required, for example, that ‘from imported ingredients’ indicates multiple origins. They also sought flexibility in using alternative words for ‘Packed in’, for example, ‘Packaged in’.

#### **Outcome**

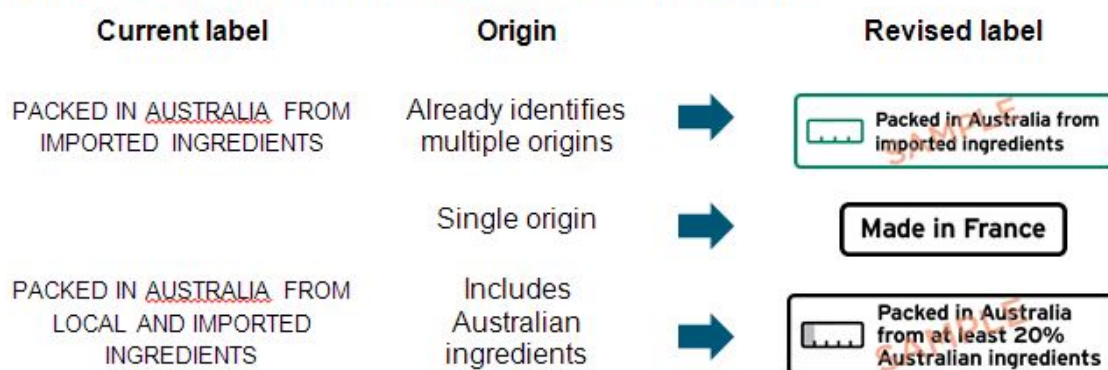
In line with clarifying the information available to consumers, amendments will also be made to the use of ‘Packed in’ claims (as some businesses may no longer be able to make ‘Made in’ related claims). The changes will limit ‘Packed in’ claims to where the food in the package came from two or more countries. This means that food from one country that was packed in another will carry labels

that named the country in which the food was from, not just where it was packed. This is a benefit to consumers as it provides additional information that they currently do not have about the origin of ingredients.

If the food was packed in Australia, the label will also have to include the proportion of Australian ingredients and the corresponding bar chart. It will not be able to use the kangaroo logo as the logo can only be used by food made, produced or grown in Australia. See Figure 2 for examples. If the food was packed overseas, the labels will need to indicate that the food was of multiple origins (see 'Section 5.2.3 'Revised country of origin labels for imported food' below).

The changes to 'Packed in' claims will allow flexibility for how multiple origins are indicated, as long as it is not false or misleading.

**Figure 2. Examples of labels for products 'Packed in' Australia**



### 5.2.3 Revised country of origin labels for imported food

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 or misleading.

Consumer concerns that current country of origin labels are confusing and hard to find also apply to imported food.

The consultation explored how imported food could be best managed, including keeping the arrangements the same, highlighting the country of origin statement or having consistent arrangements for Australian-sourced food. A simple, cost-effective way of enabling consumers to find the origin statement on imported food quickly is to highlight the claim in a clearly defined box so that it does not get lost among the other text on the label (a primary concern of consumers when considering the text only label for Australian food).<sup>70</sup> This will apply to food that falls into the priority group only. Issues discussed included who would have responsibility for the label changes and how it would be done.

#### Feedback

During consultation, Australian importers noted their products fell into two categories – brands owned by the importer, who could control the label, and brands owned by international manufacturers. Where the importer themselves owned the brand, label changes could be managed internally. Where the brand was owned by an international business, the importer could request a label modification for the Australian market. International manufacturers tend to base their approach to label changes on the number of other label changes in train, the number of other countries the product is exported to and the share of the Australian market. Therefore, importers noted that in some instances, a request to adjust labelling for the Australian market may be refused. The product may either be removed from the Australian market, or the importer may decide to sticker the product on arrival in Australia.

<sup>70</sup> Colmar Brunton 2015, *Country of Origin Food Labelling Research*, p.14



Feedback from importing business revealed that most products will be relabelled at the point of manufacture and that products usually arrive in Australia already compliant with labelling regulations. Therefore it is difficult to estimate the number of imported products that may require stickers and hence have costs incurred by Australian businesses. There are two main situations where an importer may need to sticker the product on arrival in Australia. First, an importer may already need to sticker a product to ensure the country of origin label is compliant—or to comply with other Australian food labelling requirements such as a nutrition information panel or allergen labelling—so will need to replace the sticker used. Second, a product with a currently compliant statement on the printed label may need to be covered with a sticker to meet the revised requirements because the label was not changed by the overseas manufacturer.

Given their considerable diversity, it is not possible to estimate the number of importers in Australia. Businesses engaged in the import of food may solely be importers or they may straddle multiple sectors: for example, retailers that also import products, or manufacturers that also import products.

However, based on feedback from retailers, it is possible to look at the number of imported food SKUs in Australia. It is estimated that four per cent of the total SKUs in Australia are imported (see Chapter 6). Importer stickering costs are estimated to be 20 per cent of the cost of the text only labelling changes for domestic products (\$2515), that is \$503 per imported SKU.

Concerns were raised by some Australian stakeholders around fairness – both from the perspective of putting expectations on international manufacturers and having different requirements for domestic and international manufacturers. Some stakeholders thought that imported food with Australian content should also need to identify the proportion of Australian ingredients. Others felt this should be an option, and would help create a consistency in approach for consumers.

### **Outcome**

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 packed). All imported food will be subject to the new rules that clarify when 'Made in' and 'Packed in' statements can be used (see above), as is the case under the current country of origin labelling framework. This will ensure consistency across food sold in Australia and address consumer concerns around such claims being confusing for all food, not just food manufactured domestically.

For domestic food with imported content, the change that limits 'Packed in' claims to when the food in the package has come from two or more countries benefits consumers as it provides additional information that they currently do not have about the origin of ingredients.

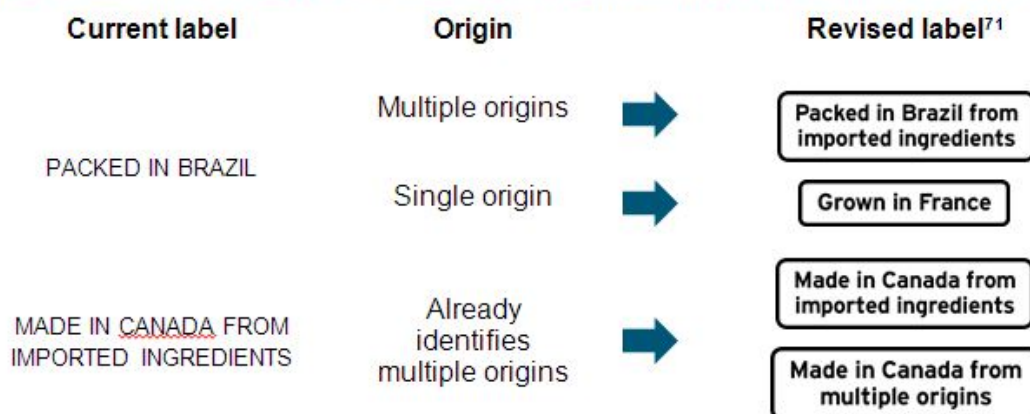
For imported food that falls in the priority group, country of origin claims will also need to be in a clearly defined box. This will make the claims easier for consumers to find, addressing a key issue identified in the problem. This will benefit consumers by saving them time finding the information on products when shopping. Consultation reflected that this cost will generally not be borne by Australian importers as new labels will be applied by overseas manufacturers. In cases where Australian businesses do need to sticker a product to ensure it is compliant, it is estimated to cost \$503 per imported SKU.

In the absence of data on the number of food importers, and hence importer business costs, it is difficult to estimate the share of increased findability of labels on imported food as part of overall consumer benefit estimates (see Chapter 6). The requirement of a clearly defined box provides some level of consistency with domestic products; however a statement about the proportion of ingredients from a particular country will not be required. Consultation on whether imported products should also include a statement identifying the proportion of Australian ingredients found that it would be difficult to mandate such requirements for trading partners. In many cases, imported products would not have Australian content. However, it is considered reasonable that interested overseas manufacturers and importers should be able to provide a proportion statement based on the requirements for Australian products. Therefore, imported products will be permitted to use the bar chart and to state the

proportion of Australian ingredients in line with the Information Standard on a voluntary basis. Some overseas manufacturers that produce food with Australian ingredients may decide to make use of this flexibility.

Figure 3 shows examples of how country of origin labels may look like on imported food before and after a change in requirements. For some products, the existing statement may continue to be appropriate; only the box will need to be added.

**Figure 3. Examples of labels for imported food with ingredients multiple or single origins**



### 5.3 Option 3 - Revised approach to country of origin labelling - Text

Information can be provided in a variety of forms. An approach for revised country of origin labelling could be adding the information as text only to the label on a food product, that is, without any visual indicator.

As discussed in Section 5.2.1c, the Colmar Brunton research tested a range of concepts for a revised country of origin label to address consumer interest in knowing the proportion of Australian ingredients. The concept that incorporated the visual elements of the kangaroo logo, bar chart and text statements was preferred by the majority of participants in consumer focus groups (45 per cent). It was considered to most clearly communicate that a product was made, grown or manufactured in Australia by 50 per cent of survey respondents in the market research. (See Box 1 for background information on the Colmar Brunton research.)

In comparison, three per cent of participants in consumer groups preferred the text only label, while four per cent of survey participants thought it most clearly communicates this information.<sup>71</sup> Focus group feedback reported that the text only approach would 'far too easily lost amongst the many labelling elements already in existence on food labels.'<sup>72</sup>

The text only labels also received poor support from businesses in the Colmar Brunton research for similar reasons. However, some business participants did prefer it because they were reluctant to introduce more visual elements to their labels, wanted to continue to text to be consistent with other labelling requirements or felt there was no room on existing labels.<sup>73</sup>

#### Feedback

As discussed in Section 5.2.1c, feedback from manufacturers and retailers informed the cost estimates for label changes. It reflected that there is a cost difference for label changes depending on whether it involves visual and text, or text only.

<sup>71</sup> Colmar Brunton 2015, *Country of Origin Food Labelling Research*, p.9, 54

<sup>72</sup> Ibid, p.14

<sup>73</sup> Ibid, p.28

The same section also highlighted business concerns about how they would find space on product labels to incorporate origin labels that included both text and visual elements were reiterated during the consultation period. A range of business stakeholders raised a text only label as a possible option. They highlighted that it would help manage concerns about finding the space to fit all both text and visual elements of a revised country of origin label and reduce the costs of re-labelling.

Feedback from businesses confirmed the cost of incorporating a change to highlight the proportion of Australian ingredients in a product largely stem from determining the correct statement to make. This includes business processes to identify, calculate and keep records of the statement. These costs will still be required regardless of whether visual indicators are used. The costs for making a physical change to the label are based on designing the label and plate changes for printers. The use of a text only will still require redesign of labels to include the additional information, but the space restrictions will not be as important a factor in redesign. This implies a cost for the labelling change, but a lesser cost than if a visual element was also included. These costs are examined further in 'Chapter 6 - Impact analysis'.

Consumers and consumer groups did not specifically raise the option of having text only in the Consultation RIS stage. However, the Colmar Brunton market research conducted in 2015 clearly found that a visual indicator was the most preferred solution to the problem. The visual indicator is what enables the consumer to quickly see the information being communicated, saving time that would otherwise be spent trying to find it on the package or display.

### **Outcome**

To respond to the difference in business costs for label changes depending on whether it involves visual and text or text only, Option 3 uses a text only approach to revising labels. This means that the visual elements of a kangaroo logo, bar chart or box will not be required as part of the label. This would limit the changes to text only, therefore limiting the costs.

A text only approach would still require businesses to relabel their products and add new information to the label. The business cost (record keeping etc.) would stay the same, although the relabelling costs may reduce. Information that consumers have said they want will be on the label.

However, the benefit to consumers of the visual element would be gone. As found in the Colmar Brunton research, a text only label was the least preferred by consumers. It would not address the issue of labels being easy to find. See Section 2.1 in 'Chapter 2 - Statement of the problem'. It would be up to individual businesses how easy it would be for consumers to find the information on their products. Therefore there is a risk that text statements would continue to be lost in relation to other label content, losing the consumer benefits of time saved while shopping. The cost benefit analysis relative to Option 2 is discussed in 'Chapter 6 – Impact analysis'.

If implemented, Option 3 would convey information on food and food products that many consumers have said they want to know. All food will continue to provide information on where the product was made, produced, grown or packed. These statements will align with amendments to the claims that food and non-food businesses can use as set out in Section 5.2.2, namely, clarifying 'Made in' claims and 'Packed in' claims.

The additional information will only be required for food where consumers most value origin information, that is, priority food (noting that the Information Standard will define a list of non-priority food). The scope of food required to make a proportion statement outlined in Section 5.2.1a will be used. The label will provide the following information:

- a statement highlighting where the product was made, produced, grown or packed
- a statement on the proportion of Australian ingredients.

The way the information is calculated will be the same as set out in Section 5.2.1b. The minimum requirement will be that labels state the proportion of Australian ingredients as an 'at least' statement

rounded down to the nearest ten per cent (decile). Businesses may choose to go beyond the minimum requirement and provide more specific information if it suits their business circumstances.

Transition periods and record keeping provisions will be the same as in Option 2 (Sections 5.2.1d and 5.2.1e respectively). An information and education campaign will also be undertaken (as outlined in Section 5.2.1g) to explain the changes to the country of origin labelling framework, including what claims like 'Made in' and 'Product of' mean.

Country of origin statements for imported food will need to align with the revisions to the safe harbour defences (see Section 5.2.3). There would be no requirement for this information to be provided in a clearly defined box as is proposed in Option 2. This ensures that imported food is treated consistently with domestic food.

## 5.4 Other possible approaches

Other possible approaches were explored during consultation. While there is support from some consumers or business groups, on the whole they are not considered feasible options; therefore further impact analysis has not been undertaken.

### 5.4.1 Specific country in which key ingredients were grown

Some consumer groups have advocated for food labels to list the origin of all ingredients.

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.<sup>74</sup>

Such an approach would provide more detailed information to consumers, but may require significant additional information to be included on the label. The more information included, the less flexible it is to adapt to change and the larger the space taken up by the label, the greater the likely cost per product for businesses to change their labels.

Given consumer interest in this information, the approach was discussed further with stakeholders.

#### Feedback

Almost all business stakeholders, particularly food manufacturers and retailers, cautioned against an approach that required labels to detail the origin of all ingredients or significant ingredients. There was overwhelming support, particularly from businesses, for restricting the changes to country of origin labelling to proportion of Australian ingredients.

Businesses cited a range of challenges and barriers that make it not viable to provide detailed information, practically or financially. This is particularly the case for products with multiple ingredients and seasonal variability. Issues identified included:

- availability of detailed information from suppliers
- resource intensive to compile information
- space on labels to list all origins when multiple ingredients
- high frequency of label changes will be required to maintain accuracy.

The level of uncertainty and challenges meant that businesses were unable to provide cost estimates for such a change in requirements. Box 12 highlights some views provided in submissions on why providing the origin of all ingredients is opposed.

In addition to the need to distinguish between the proportion of Australian and imported content, businesses would also need to distinguish the different origins of the imported content. Trading partners might have concerns with this approach, as it would require their businesses supplying food

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<sup>74</sup> Colmar Brunton 2015, *Country of Origin Food Labelling Research*, p.49

to Australian processors to also keep track of the origins of the ingredients in that food. One trading partner noted that this might also be an issue for revised labels for food imported into Australia. However, this would only be required if suppliers wanted to claim the proportion of Australian ingredients.

Submissions reiterated that consumers are interested in knowing the origin of key ingredients in a product, but also understood the complexities of doing so. It was suggested that under the approach where additional information is provided on the proportion of Australian ingredients, standard guidance be provided to business on the provision of additional information to consumers.

## Box 12. Examples of stakeholder views on listing specific countries

### Views not supporting listing specific countries

Below are excerpts from stakeholders on the challenges of listing the origin of all ingredients:

- 'A typical ingredient list contains an average of 60 words and an area of 9cm<sup>2</sup>. Adding the country of origin of each raw material would increase word count and label space requirements by 50% (a conservative estimate assuming some ingredient descriptors are more than one word).' (Food manufacturer)
- 'We are strongly opposed to listing the details of the origin of all ingredients and key ingredients (no definition provided) as a result we do not believe that this is a viable option that the government should consider.' (Food manufacturer)
- 'It would be impossible.' (Food manufacturer)
- 'Some...products have over 15 separate ingredients, and some of those ingredients could come from up to seven countries. It is not feasible for a company to hold stock of the required label permutations to accurately cover probable options required.' (Food manufacturer)

### Views supporting listing specific countries

- 'It is not enough to have labels showing food is made in Australia or the % made in Australia. Consumers also want to know where food components are grown/made if not in Australia.' (Consumer)
- '...recommends that the final Information Standard include mandatory labels which state the specific countries of origin of all key characterising ingredients of a food product, so that consumers can be fully informed about their food purchases, regardless of where the product was manufactured.' (Industry association)
- 'Labels should list the country percentage from countries on any ingredient making up 15% or more of the total product.' (Consumer)

## Outcome

While consumer groups have called for information on the origin of all ingredients, at this point in time, it remains impractical and expensive to provide. Consultation confirmed that the business costs to implement such an approach make it unfeasible, and therefore not meet the policy objective of providing increased information to consumers without overly increasing cost.

It is recognised that a reasonable proportion of consumers value this information, but it is not as highly valued as the proportion of ingredients that are grown in Australia, which can be provided more cost effectively.

Some businesses may want to provide more detailed information, therefore the Information Standard will note that businesses are able to provide additional information voluntarily, for example, on the label, displays, advertising or online. Such information must not be false or misleading, as per Australian Consumer Law.

For these reasons, this approach is not considered further in this analysis. Over time, if there is market pressure and as consumer purchasing preferences change (from instore to online for example), businesses are expected to increasingly provide this digitally.

#### **5.4.2 Digital based solution**

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 is expected to change over time.

Digital solutions 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.

The Consultation RIS highlighted that such information could potentially be far more detailed than what could be printed on a label. 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. It also recognised that there would be challenges for business to implement. If it were a mandatory approach, industry would face costs to develop systems and maintain information. Under a voluntary approach businesses would only participate in the scheme if the scheme made commercial sense.

Digital solutions for information provision are already available in the market across a range of consumer goods, including food, but these solutions are not widespread. In addition, consumer research showed that most consumers do not want to use digital solutions when shopping for food, at least not yet. Consumers prefer labels on the food products they buy to quickly inform their decision-making.<sup>75</sup> 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.

Digital approaches were also discussed with stakeholders during consultation.

#### **Feedback**

There is overall acknowledgement from stakeholders that digital forums are a future direction for product information, for example, smart phones, scanning technology, bar codes and QR codes. However, stakeholders confirmed that industry and consumers are not ready for a solution that solely relies on digital information. There are a range of reasons for this. Some of the key issues are outlined below:

- businesses consistently report that their IT systems are not equipped to disseminate this level of information and it will require them to make significant investment to either develop new systems and/or to upgrade their current systems
- there were different ideas on how such information should be provided, for example, whether it will be the responsibility of individual businesses, industry sectors or government to develop a digital tool and associated database
- cost is difficult to estimate (few businesses were able to nominate a figure due to the unknowns in how it will be implemented)
- variations in how businesses provide online information about their products in general, not just country of origin.

See Box 13 for some examples of comments made by stakeholders on digital information.

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<sup>75</sup> Colmar Brunton 2015, *Country of Origin Food Labelling Research*, p.18

## Box 13. Examples of stakeholder views on digital information

### Views not supporting a digital approach now

Below are excerpts from stakeholders on the challenges of moving to a digital solution now:

- 'Whilst moving to a digital solution is a positive way to share information with consumers, there will be a cost to business in the set up and ongoing maintenance. We do not believe there will be sufficient take up of a digital solution despite the positive aspects; once again this comes down to the set up costs and the ongoing costs to ensure that the information remains relevant and up to date.' (Food manufacturer)
- 'should have flexibility to implement digital solutions, but this should not be mandated as the only option. ... does not currently have the capability to easily electronically transfer product information (such as country of origin) to external database/app providers.' (Retailer)
- 'As a long term vision ... plans to support the use of digital solutions to provide additional information to consumers. However, this is a lengthy process which will require additional resources and costs to the business.' (Food manufacturer)

### View supporting of a digital approach now

- 'We believe that a digital solution is by far the best long term solution and is most able to supply a future proof solution to ongoing and future demands on label area.' (Food manufacturer)
- 'A preferred digital technology option such as website referral or QR code prioritizes label space and allows more effective and cost effective communication of product information the consumer.' (Industry association)
- 'Instead of harnessing these 21st century solutions, the proposed labelling regulations adopt a 19th century approach. If adopted it will be a missed opportunity to grasp the potential for technological solutions to provide origin information in a means that is relevant to modern shoppers.' (Industry association)

## Outcome

While some businesses reported that they could add country of origin information to existing websites, it was clear that a holistic digital solution will be expensive to implement and will have a long implementation period. For this reason, both voluntary and mandated options to introduce digital information provision for the proposed new country of origin labelling requirements are not considered feasible alternative options to requiring on-label information.

However, it is recognised that a digital economy is part of Australia's future and work toward this is underway. The Commonwealth Government will work with industry to progress the digitisation of food product information including more detailed country of origin information in parallel to the proposed reforms. This will ensure industry and consumers are well positioned, in terms of systems, processes and technologies, to transition to a digital future once they are ready.

## 6. Impact analysis

This section outlines the impacts of the two proposed options on Australia overall, above the baseline scenario, which is no change to the current country of origin labelling framework. This section identifies the distributional effects across the various stakeholder groups. Option 2 (revised approach to country of origin labels) is analysed relative to the base case of the status quo being maintained. Option 3 is analysed with reference to Option 2, as it adopts some but not all elements.

### 6.1 Impacts of new labelling requirements: Option 2

This section considers the costs and benefits to businesses, government and consumers. The costs and benefits for each of these groups are considered separately, before summing the findings to determine the net impact.

The impact of these costs is calculated as the additional burden that will impact food businesses and government. The ultimate burden of these costs is likely to be shared between consumers and business, as business will seek to recoup some of the additional costs from consumers. The approach adopted within this section is to quantify the total costs first and then secondly consider how these costs will be distributed throughout the economy.

*Business* - The total cost to business consists of estimated costs:

- per business administrative costs (based on different sized retailers and manufacturers), including compliance, training, IT and record keeping systems, and external advice
- per SKU, including relabelling costs for packaged and unpackaged products.

There is no data available that shows the proportion of SKUs in Australia as a correlation with business size. For example, there is no data that shows the number of SKUs manufactured by small businesses or sold by small retailers. The SKU cost in the modelling is therefore estimated as an average across all business sizes. Administrative costs have been estimated taking into consideration the varying impacts on small, medium and large business sizes.

Relabelling of a product can vary between minor updates, such as the change in a percentage, to major branding redesigns. There are varying cost implications depending on the degree to which the label is changed. In many cases, the addition of a new mark does not require a redesign, as the new element is simply added to an available space on the package. This was confirmed during consultation.

*Government* - The government costs are based on the information campaign and compliance and enforcement costs.

The benefits are then estimated for food and non-food business:

- food business benefits include removal of AMCL licence fees and removal of the 50 per cent cost production test
- non-food business benefits are based on the removal of the 50 per cent cost production test.

*Consumers* - They benefit through the increased information provided on product labels. In the absence of empirical evidence relating to consumer benefits, the analysis estimates the consumer benefit required to offset the net costs to businesses in the food sector.

On the benefits side, the differences between options are likely to differ significantly given the different format for disseminating country of origin information, with Option 2 providing significantly more benefit to consumers. The administrative costs will be realised equally under Options 2 and 3, with the only difference relating to the cost of relabelling packaged and unpackaged products. Reflecting this, the only sub-section that separately discusses the impacts of the two options is Section 6.1.1e which outlines the costs imposed on businesses from relabelling under the two options. The section on consumer benefits draws out the key differences between the options and the increased consumer benefits under Option 2 outweighing the higher business costs.



## 6.1.1 Costs

### 6.1.1a Approach to quantification

The core impacts quantified relate to business costs. These can be conceptually divided into two groups of businesses:

- retail businesses which would be responsible for unpackaged products and house branded products
- manufacturing and importing businesses responsible for packaged products.

The data used to inform the estimates of costs were based on a range of publicly available data and industry consultations. The core data sources and assumptions are outlined below.

- Number of retail and food manufacturing businesses - Based on IBIS World, ABS and Australian Food and Grocery Council data.
- Number of stockkeeping units (SKUs) sold by food retailers - These are the basic units of production that will be subject to relabelling – based on estimates through consultation.
- Retailer administrative costs, relating to retail and management staff time, IT and record keeping costs, and assurance and advice – based primarily on consultations with five large supermarket chains.
- Manufacturing administrative costs, relating to manufacturer staff and compliance cost time, staff training, IT and record keeping costs and assurance – based on business consultations with around 40 food manufacturers.
- Importing businesses are assumed not to have any administrative costs, rather, the costs associated with labelling (stickering) SKUs are modelled.

Those administrative costs that are business-specific, such as staff or IT related costs, are estimated on a per-business basis and these costs are estimations based on business size. Relabelling costs are estimated on a per-SKU basis, with the consultations used to identify the costs associated with relabelling on this basis.

For business, those costs (benefits) that relate to time losses (savings) are converted to dollar terms using an average hourly time value of \$65.45. This value includes all labour and on-costs and is the standard value used in Commonwealth Government regulatory burden analyses.

The consultation and subsequent modelling split costs into initial costs directly associated with label changes, for example, redesign and printing, and ongoing costs to businesses, for example, record keeping. The largest costs reported related to the initial costs, which are considered to be split equally over the initial 24 month transition period. Ongoing costs are incurred after this period and include the additional staff time required to comply with the regulations and the ongoing costs associated with record keeping. These ongoing costs are modelled as smaller, because the burden becomes part of 'business as usual' processes. Business as usual in this context means that a business response to compliance burden becomes a normal, everyday part of the business operations.

#### *Cost benefit analysis parameters*

The ongoing costs are expected to continue unchanged in real terms over the analysis period up to 2035 (assuming commencement of the changes occurs in 2016). All costs and benefits are discounted using a discount rate of seven per cent.

### 6.1.1b Differences from original estimates

The cost estimates in this Decision RIS have been informed by consultations and, therefore there are some differences from what was outlined in the Consultation RIS. These are due in part to refinements in the design of the option, such as the extended transition period, which reduces the average cost of relabelling by allowing more SKUs to be relabelled within their normal labelling cycle. Businesses relabel at different frequencies. Some businesses relabel a SKU every three months, other businesses relabel a SKU every 10 years. Businesses in Australia can produce one SKU or

hundreds and a few produce more than a thousand SKUs. Retail businesses can sell a few SKUs or tens of thousands of SKUs. Businesses relabel SKUs for many reasons, for example, for special promotions, to adopt latest design trends, to update mandatory information, or to reinvigorate the brand or any combination of these, to minimise costs.

In line with the Consultation RIS, SKU costs have been estimated separately from business costs as no new data was identified or provided in the consultations to enable an estimate of the average numbers of SKUs per business size. SKU costs have been calculated based on an average taken across large, medium and small business assumptions.

The Consultation RIS assumed an average labelling cycle of once every 2.7 years for all SKUs, based on a sample of businesses, including small businesses. This figure was tested during consultation and has been revised to an average relabelling cycle of approximately four years, based on data provided by large and medium businesses. Consultations with small businesses revealed that relabelling costs were smaller, in general, for both simple labelling changes (one business suggested \$50 to \$100 per SKU) and major redesigns. For small businesses, labels are redesigned for the reasons listed above, but there was no specific relabelling cycle revealed during consultations that could characterise all small businesses.

The estimated number of total SKUs (78 800), which drives the relabelling cost estimate, has been revised upward by around 25 per cent from the Consultation RIS number of 63 500. This reflects the improved data received through the Consultation RIS process and will lead to higher total relabelling cost estimates as a result.

Other costs have changed as a result of improved data being made available through the Consultation RIS process. In particular, the costs to businesses associated with staff time, IT upgrades and record keeping have all been estimated based on reported data through the Consultation RIS process.

The cost estimates have been made more granular by separately estimating administrative costs for small, medium and large businesses and by using ABS data and other estimates of the number of businesses by size within the retail and manufacturing sectors. Overall, the Consultation RIS process has significantly refined the cost estimates and provided greater confidence in the estimates produced in this Decision RIS.

### 6.1.1c Retail administrative costs

Retail administrative costs are based on reported costs of five large supermarket chains: Woolworths, Coles, Aldi, Costco and Metcash. Costs were split into four categories for each chain, including management staff compliance and training, retail staff training, IT systems, and assurance. The reported costs by each of these breakdowns were averaged across the five chains to arrive at an estimated cost, which was then summed across all businesses. The averaged reported costs are outlined in Table 1.

**Table 1. Cost per business for large retailers**

Cost type	Duration	Cost per large business
Management staff costs	Initial (one off)	\$184,004
Management staff costs	Ongoing (per year)	\$24,515
Retail staff costs	Initial	\$768,680
IT and record keeping systems upgrade	Initial	\$600,491

Source: Country of Origin Labelling Taskforce consultation with Woolworths, Coles, Aldi, Metcash and Costco

No ongoing retail staff costs have been accounted for in the modelling as training of new staff over time becomes a business as usual operating cost.

Administrative costs for medium size retailers (representing seven per cent of all retailers) are below those of the large supermarkets, as they employ fewer staff and stock fewer SKUs. This will result in lower cost implications for medium size retailers compared to the large retailers.

It is important to note that the administrative costings per business relate to the incremental costs associated with implementing the new label requirements on top of the labelling requirements that businesses are already familiar with implementing. Businesses understand well the existing requirements.

Consultation highlighted that small retailers (representing 92 per cent of all retailers) generally carry significantly fewer SKUs and do not have the service options that are provided by the larger supermarkets. While small businesses are more likely to experience time and resources constraints when it comes to complying with new regulations, the smaller range of their offerings, and hence the significantly smaller range of SKUs lessen the costs imposed. For this reason, additional labelling changes are expected to take less time for smaller retailers than for larger retailers and this assumption was used in the cost estimates. It is estimated that the staff training associated with the new rules would take around 7.5 hours for managers and 0.5 hours for other staff members on average for a small business. The number of managers per business varies according to business size, with fewer managers required to implement the incremental changes than what would be required in a larger business. The consideration of number of staff per business size resulted in administrative cost estimates that differed significantly across the business size groups, but were broadly in line with relative employment sizes in the groups, as would be expected.

These average costs for each of the three categories of business were then multiplied by the number of businesses in each size category to arrive at a total administrative cost to retail businesses. The estimated total initial administrative costs for all retail businesses is around \$44 million per year for the initial 24 month transition period, and around \$785 000 per year thereafter in ongoing retail business costs.

#### **6.1.1d Manufacturing administrative costs**

A similar approach was taken to estimate the administrative costs for manufacturing businesses, with businesses asked during consultation to estimate the costs associated with the four categories; management staff compliance and training, retail staff training IT systems, and assurance. Businesses provided useful data, allowing a more detailed estimate of average costs across different business sizes. These average total costs for small, medium and large manufacturing businesses are provided in Table 2.

**Table 2. Reported average cost per business for food manufacturers by business size**

	Large	Medium	Small
<b>Initial costs</b>	\$154,877	\$22,818	\$2,868
<b>Ongoing costs</b>	<b>\$14,956</b>	<b>\$3,939</b>	<b>\$737</b>

These costs indicate broadly similar relativities between the initial and ongoing costs as for retail businesses, but lower overall estimates (as seen by comparing the large business costs).

Summing across all food manufacturing businesses by size group provides an estimated initial administrative cost of \$32 million per year for the 24 month transition period. The ongoing annual total administrative cost across all manufacturing businesses is similar, at \$5.8 million.

## 6.1.1e Costs per SKU

### *Estimated number of SKUs*

Retailers were asked to report on the number of SKUs stocked in their stores. These were broken down by the following categories:

- packaged versus unpackaged products
- products that were exclusive to their supermarket versus non-exclusive products
- imported versus products manufactured in Australia (including those with a mix of local and imported ingredients).

The SKU data provided by retailers had to be adjusted to account for the overlap of stocking non-exclusive products across different retailers. That is, while exclusive products are unique to the retailer that reports them, non-exclusive products will not be and simply adding them will lead to an over-estimate of total SKUs. Two approaches were tested to estimate total SKUs.

- The first is to take the difference between total SKUs and exclusive SKUs stocked by the largest retailer, with these non-exclusive SKUs estimated to be representative of the total stock on shared products on the market. This gives an estimate of 38 920 shared SKUs.
- The other approach is to sum all reported non-exclusive SKUs and then divide by an estimate of the average number of retailers each product is stocked in. A central estimate of this latter parameter is three retailers, with the total of 107 000 reported non-exclusive SKUs leading to an estimate of just over 35 000 shared SKUs.

The former estimate is used in the estimation of total costs to provide a slightly conservative (higher) estimate of total costs. Adding this to the nearly 40 000 reported exclusive SKUs leads to a total estimate of 78 800 SKUs in Australia. This is slightly higher than the 63 500 SKUs estimated in the Consultation RIS, due to the improved consultation data, and will lead to a correspondingly higher relabelling cost estimate.

By far the largest of the categories reported were non-exclusive packaged Australian products, accounting for 41 per cent of the 78 800 total SKUs sold in Australia. Imported products (packaged and unpackaged) accounted for four per cent of all products. Around 39 859 (50 per cent) of all products are exclusive to the retailer that stocks them, with the remainder sold in multiple supermarket chains. The calculations adjust for this to avoid double-counting labelling costs.

### *SKU cost impacts*

Retailers (for unpackaged products) and manufacturers (for packaged products) were asked the cost of relabelling per SKU under each of Option 2 and 3. The estimates provided by businesses were used to calculate the average costs for each product type requiring label changes.

The consultation revealed that the estimated initial average cost to retailers for one unpackaged product label change is \$417 for Option 2. This estimate includes initial printer upgrades that may be required to print the visual elements on the display labels. The estimate for unpackaged product labels is \$208 for Option 3. This estimate is lower as it is assumed most retailers would not need to upgrade printers from the simple text change. No ongoing costs for unpackaged products has been accounted for as label changes for unpackaged products are frequent due to other changes such as price or product and, therefore, the country of origin information change will be aligned with these other label changes as part of business as usual.

For a text and logo label change (Option 2) manufacturing businesses reported an average estimated cost per SKU of \$5219 for the initial change to packaged products. As expected the reported costs for relabelling were significantly lower for a text only change (Option 3 or the ongoing cost for updating the label following the initial change), with businesses reporting an average estimated cost of \$2515.

The 24 month transition period under Option 2 and Option 3 will mean that some businesses will be able to incorporate the labelling changes into their ordinary labelling cycle and therefore face lower costs compared with businesses that aren't able to incorporate the changes into their usual cycle. It's estimated that the costs for these business that were expected to relabel anyway is approximately half the cost of relabelling for businesses generally. Only those businesses which would not otherwise have relabelled products during this 24 month transition period will face the higher labelling costs. Businesses were asked to report the average proportion of SKUs that are relabelled each year, with the average reported across all businesses being 26 per cent (that is, approximately a four year labelling cycle). This implies that 52 per cent of SKUs will be able to incorporate these changes within their relabelling cycle over the 24 month transition causing a lowering of the costs to comply with the new regulations. This will reduce the average relabelling cost per SKU relative to that in the Consultation RIS where a one year transition was outlined.

Further, other regulations unrelated to country of origin labelling may necessitate relabelling over the proposed 24 month transition period and could be rolled into a single relabelling process with not all costs attributable to country of origin relabelling. No adjustment to costs is made for this, although to the extent that this occurs, the costs below will overstate those attributable to this option.

Products with a stable proportion of Australian ingredients will only require one label change relative to the baseline in order to be compliant with this option. Based on information received through consultation, these products comprise around 96 per cent of all SKUs. The remaining four per cent of SKUs are those products with a proportion of Australian ingredients that varies over time (for example, availability of inputs may vary due to seasonality or sourcing limitations) and therefore may require relabelling on an ongoing basis. The Consultation RIS process asked manufacturers to report on the proportion of their products that would in fact be required to undergo ongoing relabelling, with the average response being 13 per cent.<sup>76</sup> Respondents also indicated that the average product would be required to undergo relabelling 1.6 times per year, for an average cost of \$2620 per SKU. In total, this leads to an estimate of the ongoing annual cost of relabelling of around \$1.4 million per year for all SKUs required to undergo relabelling due to constantly varying proportion of Australian ingredients.

#### *Costs per imported food SKU*

The costs associated with the requirement for the country of origin statement to be in a box on imported products was sought as part of the Consultation RIS process. Meetings with importing businesses revealed that most products will be labelled appropriately at the point of manufacture, that is, overseas. Some of these importing businesses indicated that they anticipated these relabelling costs to be passed on to them while others indicated they would incur no additional costs from the changes, these would be borne overseas and not passed on.

Feedback suggested that there would be a small number of products that would need to be stickered here on Australian shores to meet the requirements. A large retailer of imported products indicated that it is quite rare for products to arrive in Australia without already being compliant with labelling regulations. Consultation revealed the average cost to relabel a single unit is in the range \$0.10–\$0.50 cents per product unit. There is currently no available data that would indicate the volumes of imported products so that estimates could be made of the potential cost impact to those Australian importers where the overseas manufacturer has been unable to relabel the product to meet the requirements.

Given the difficulty in ascertaining the actual cost impact on imported products from stickered those products that have not been labelled in accordance with the new requirements, an estimation is required. To account for the variability of responses received from importing businesses costs associated with imported products are estimated to be 20 per cent of the cost of the text only labelling

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<sup>76</sup> This was driven by two responses which reported 100 per cent and 80 per cent of products requiring ongoing relabelling: the average in the absence of these two businesses was 5 per cent.

estimate of domestic products as the changes to the requirements are less extensive, some importers have stated they will face no cost increase from the changes, the number of stickerings is likely to be low volume relative to non-imported SKU volumes and the application of a sticker is considered a much lower cost than redesigning the packaging. The cost is estimated at \$503 per imported SKU. Under Option 3, the costs to imported costs would not be realised as there is no requirement to place a box around the statement.

#### *Summing the SKU costs*

Summing these costs over all SKUs gives an estimated initial cost to business of around \$112 million per year for each of the initial two years. Of these costs, \$110 million are estimated to be from domestic packaged products. Ongoing relabelling costs are low in comparison, at around \$1.4 million per year. These costs are due to domestically made products comprising a mix of domestic and imported ingredients for which the proportion of ingredients may change, and therefore may require relabelling, on an ongoing basis.

#### **6.1.1f Government costs**

There will be two main impacts related to the Government from implementing this option:

- costs associated with the information and education campaign
- costs associated with retraining and enforcement of the revised ACL.

The information and education campaign will be the largest cost. The Commonwealth Government has agreed to commit approximately \$15 million to this activity over 2015–16.

For the additional enforcement costs the Australian Competition and Consumer Commission has estimated costs of around \$5 million over five years, including both monitoring and additional compliance activities once the 24 month transition period has concluded.

#### **6.1.1.g Consumers**

Costs to consumers are considered at Section 6.1.7. Any costs that consumers might bear is a distributional issue, rather than a new cost. For the purposes of this section, and to avoid overstating business costs (as some would be recovered where costs are passed on the consumers) it is simpler to estimate the total cost and discuss the distributional impacts separately.

### **6.1.2 Benefits**

#### **6.1.2a AMCL licence fees**

Reduced AMCL licence fees are estimated to save businesses \$730 000 annually over the analysis period. This provides savings of just over \$8 million in net present value terms. These benefits only accrue under Option 2 as there will be no reduction to license fees under Option 3 when there is only a text label change.

#### **6.1.2b Savings from simplification of safe-harbour tests**

As discussed in the options section of this RIS, there are other reforms that would also be introduced because aspects of the legislative framework become redundant. The 50 per cent production cost test for demonstrating a defence of a 'Made in' claim will be removed to ensure the Option 2 or Option 3 works seamlessly and will lead to significant compliance cost savings to both food and non-food products.

The ABS *Counts of Australian Businesses, 2014* publication reports 84 000 manufacturing businesses in Australia in that year, and 184 000 businesses in the agriculture, forestry and fishery sector. These are taken to be the business groups to which these changes apply, although there may be businesses in other sectors which produce products no longer requiring this production test to be satisfied. No estimate of these latter businesses has been included in the impact analysis and so the cost savings estimates are likely to be conservative.

The compliance costs associated with the production test will differ across industries. For the estimated cost saving businesses are broken into two groups: those that face simple production cost tests, and those for which the test is more complex. This distinction is based on feedback that while some businesses will require only relatively straight-forward adjustments to their tests, others will be required to undertake significantly more effort and record keeping to trace costs associated with their production processes. This is particularly the case where contractors are used or where the test is more marginal in meeting the 50 per cent threshold.

Given the importance of this estimate in the overall results, consultation time was focussed on the proportion of businesses that would fall into each group, and the time cost for each. The more businesses that face a complex test, the higher the savings from removing this requirement will be.

The consultation indicated that around half of the businesses in the manufacturing sector would face a simple test, and most businesses in the agriculture, forestry and fishery sector would likewise face a simple test. A conservative approach is taken in estimating that *all* businesses in the agriculture, forestry and fishery sector face a simple test, while half of those in the manufacturing all require a simple test. It is estimated that a simple test requires around half an hour for a business to comply with, while a complex test takes around 15 hours of compliance time. This consists of around 10 hours of testing and a further 5 hours of record keeping per year. There is no existing data set which provides the time taken to comply with the 50 per cent production cost test. Estimates of the time taken to comply with safe harbour tests have been based off consultations. Some submissions indicated the time taken to apply these tests was well in excess of 15 hours while other businesses stated it was too difficult to provide an exact figure. One business estimated 140 hours per year in time taken to comply with the tests. While the Consultation RIS used an estimate of 36 hours for a complex test, this current estimate of 15 hours has been used so as to err on the conservative side of the benefits associated with simplifying the test.

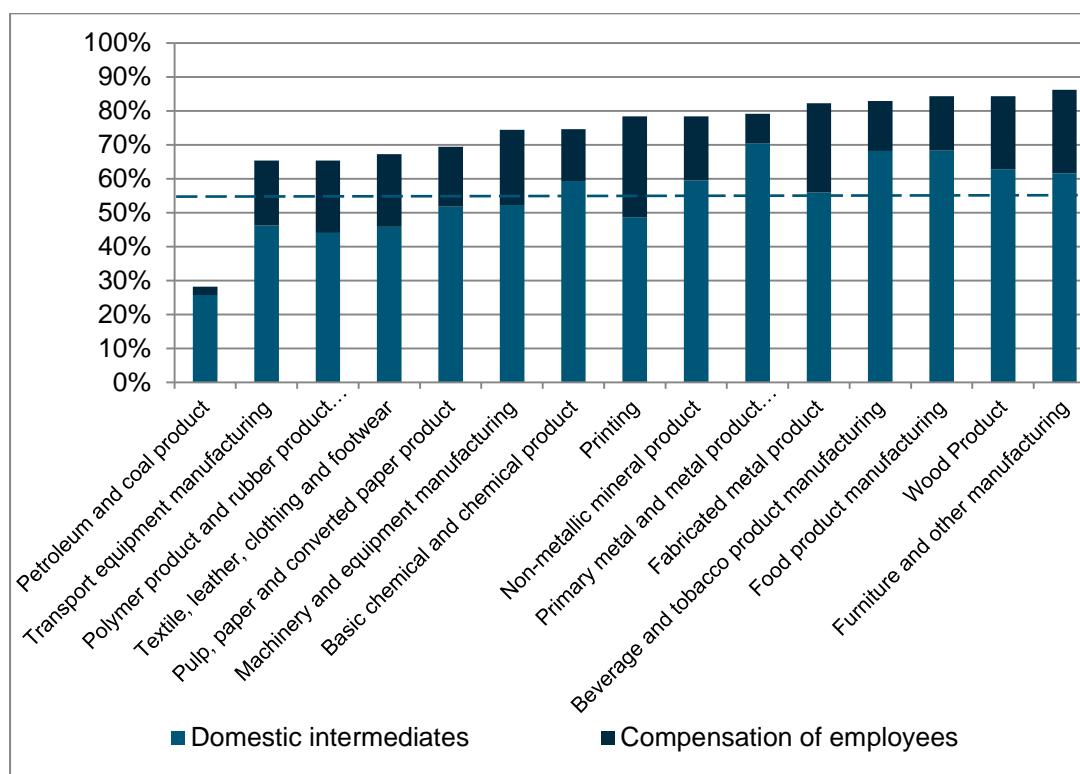
With an average wage of \$65.45 per hour (including all on-costs) the total savings from removal of the production cost tests is estimated to be \$49 million per year over the analysis period. In present value terms this is equivalent to \$550 million over the 20 year period. Of these savings, the vast majority will flow to non-food businesses. Around \$505 million will be received by non-food businesses over the 20 year period, with the remaining \$45 million received by the food sector.

### **6.1.2c Other impacts of simplification of safe harbour tests**

In addition to regulatory cost savings, one of the impacts of simplifying the safe harbour tests is that businesses trading in products substantially transformed in Australia or any other country, will be able to more confidently represent their products as made in that country, as they will no longer have to meet the additional 50 per cent production cost test.

While extent of this benefit cannot be quantified, the range of Australian sectors that might benefit would be moderate. As can be seen from the Graph 1 nearly all of Australia's manufacturing sectors have an average value add of over 60 per cent. However, there will be variation within each sector, as some businesses rely more heavily on domestic inputs and wages than others.

**Graph 1. Share of total expenses incurred in Australia, by manufacturing subdivision, 2009-10**



Department of Industry calculations based on ABS cat. no. 8155.0 and 5209.0.55.001

Businesses in sectors where domestic inputs contribute less to their value-add (for example, the transport equipment manufacturing, polymer and rubber product manufacturing, textiles, leather, clothing and footwear, pulp, paper and converted paper product, printing and machinery and equipment manufacturing sectors) would be more likely to fall below or close to the 50 per cent threshold as their productivity increases. For these businesses, the removal of the production cost test will mean they will be able to make 'Australian made' claims without the risk of falling below the threshold at different times during their production cycle due to fluctuations in input prices and exchange rates (rendering them unable to rely on the safe harbour defence).

In addition, businesses currently close to the 50 per cent threshold might find themselves eligible for a licence to use the Australian Made Australian Grown logo, which currently cannot be used for goods where the production cost falls below 50 per cent. This was noted in the Australian Made Campaign Ltd submission to the December/January consultations:

*Our understanding is that removal of the 50% test will result in more companies in the pharmaceuticals/complementary medicines and industrial/agricultural chemicals industries being able to make Made in Australia claims. These are industries where the principal active ingredients are generally not manufactured in Australia.*

The sectors least likely to be affected by the removal of the 50 per cent production cost test (and therefore the sectors where this test is likely to be redundant) are primary metal and metal product manufacturing, beverage and tobacco manufacturing and food product manufacturing, where the average value of domestic inputs is around the 70 per cent mark.

Some of any benefit accrued through the removal of the 50 per cent production cost test could be countered by the clarification of 'substantial transformation'. While such clarification will mean some businesses will be able to make claims about where their products are made more easily, others might need to reconsider their current claims. The extent to which clarification of 'substantial



transformation' would mean businesses would have greater or lesser ability to make 'Made in' claims could not be quantified.

Australian Made Campaign Ltd also noted in its submission to the December/January consultations that, in combination, the proposed changes to the safe harbour defences could result in a switch away from sourcing domestic inputs (p.9):

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*'we note that it (the removal of the 50% cost test in conjunction with a 'stiffening up' of the substantial transformation test) may result in adverse consequences for some Australian suppliers of inputs. This will occur where a manufacturer opts to source cheaper inputs offshore, knowing that it will not affect their capacity to make a Made in Australia claim.'*

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Again, the extent to which this would occur could not be quantified. This could be tested as part of an evaluation or review of the reform.

### **6.1.3 Summary of business and government costs**

The net impact identified by summing the estimates above is \$66 million in net present value terms for Option 2 (logo, bar chart and text label) and \$137 million in net present value for Option 3 (text only label). That is, overall the impact on businesses and government is expected to be positive, with the savings from the removal of the safe harbour production test outweighing the additional costs associated with complying with the new regulation. The benefits to all Australian businesses (food and non-food) from removing the production cost test will be realised at a total of \$550 million net present value under either option. The estimated \$66 million and \$137 million net benefits are the difference between the safe harbour reform benefits and the sum of costs in each option.

Table 3 summarises the impact (benefit and cost) for retailers, non-food businesses, food businesses (including manufacturers and importers) and government for both Option 2 and Option 3. The impact on non- food manufacturers is included, specifically in the row dealing with savings from the removal of the 50 per cent production cost test.

**Table 3. Summary of benefits and costs for impacted business and government - non-food manufacturers, retailers, food manufacturers, food importers and government (Net Present Value (over 20 years))**

Type of unit covered	Description	Option 2 Impact	Option 3 Impact
<b>Australian agricultural and manufacturing businesses</b> (includes non-food and food manufacturers)	Saving - removal of 50% production cost test	\$549,983,043	\$549,983,043
<b>Relevant food retailers</b>			
<b>Relevant food manufacturers</b> (those that would have applied or renewed, must be able to qualify for Australian-made to use logo)	Saving from not requiring to pay a licence fee to AMCL for the use of the kangaroo logo	\$8,280,652	\$0
<b>All packaged stock keeping units (SKU)</b>	Labelling costs (impacts large retailers, food manufacturers, food importers)	-\$228,205,735	-\$150,980,726
<b>All unpackaged SKUs</b>	Labelling costs (impacts all retailers)	-\$3,129,782	-\$1,564,891
<b>All food retailers</b>			
<b>All food manufacturers</b> (includes suppliers)	Administrative costs	-\$240,878,655	-\$240,878,655
<b>Government</b>	Administrative costs	-\$19,838,250	-\$19,838,250
<b>Net present value</b>		<b>\$66,211,273</b>	<b>\$136,720,521</b>

These net benefit totals are restricted to business and government impacts and exclude the benefits to consumers from the time savings resulting from identifying the information more quickly than currently and willingness to pay considerations. Including the consumer benefits (as discussed below), Option 2 presents as the option that would provide the greatest net benefit.

See Section 6.1.8a to understand the breakdown of the retailers and food manufacturers administrative costs by business size.

### 6.1.4 Impacts on consumers

While 'Chapter 2 – Statement of the problem' identified a range of evidence that consumers as a whole do place value on country of origin information, there is judged to be insufficient information to allow an accurate dollar value to be placed on this benefit. Nonetheless, with both options creating net benefits to businesses overall, they will have a net present value even with no consumer benefits.

However, consumer benefits are likely to be significant in dollar terms even for conservative assumptions about the benefits they receive from the regulations. To demonstrate this, this section analyses the consumer benefits required to offset the net costs to businesses in the food sector alone (retailers and food manufacturers), leaving aside the benefits reported above for non-food businesses. As described in the problem chapter, these benefits may manifest in a variety of ways:

- consumers will be able to use the information to make purchases that better match their preferences, reducing the number of purchases which would not otherwise have been made had more information been available – this benefit flows for Option 2 and Option 3 equally
- consumers may benefit from the knowledge of the proportion of Australian ingredients in their food even if it does not change purchasing decisions (the value from the information and reduced uncertainty in itself) – this benefit flows for Option 2 and Option 3 equally
- the more accessible information on labels may reduce time taken searching for this information – this benefit flows for Option 2 only; the visual indicators enable the time saving benefit that Option 3 does not offer.

The heterogeneity of preferences across consumers and products will mean that the size and type of these benefits will not be constant across individuals. However, this section demonstrates that the average benefit per consumer need only be very small for either option to create a positive net present value even in the absence of the savings to the non-food sector.

Option 3 provides no time saving benefit for consumers, but this is not detailed yet in Table 4 details business and government impact, but not consumer impact, as that is covered in Section 6.1.4a. Table 4 provides similar information to Table 3, but includes only that portion of the production cost savings that will flow to businesses in the food sector (that is, those that also face the increased regulatory burden). This is the \$44.6 million saving over the 20 year period in the first row.

**Table 4. Calculation of break-even consumer benefits under each option in net present value terms**

Type of unit covered	Impact	Option 2	Option 3
<b>Food manufacturing businesses only</b>	Saving from removal of 50 per cent production cost test	\$44,639,833	\$44,639,833
<b>Relevant food retailers</b>			
<b>Relevant food manufacturers</b> (those that would have applied or renewed, must be able to qualify for Australian-made to use logo)	Saving from not requiring to pay a licence fee to AMCL for the use of the kangaroo logo	\$8,280,652	\$0
<b>All packaged stock keeping units (SKU)</b>	Labelling costs (impacts large retailers, food manufacturers, food importers)	-\$228,205,735	-\$150,980,726
<b>All unpackaged SKUs</b>	Labelling costs (impacts all retailers)	-\$3,129,782	-\$1,564,891
<b>All food retailers</b>			
<b>All food manufacturers</b> (includes suppliers)	Administrative costs	-\$240,878,655	-\$240,878,655
<b>Government</b>	Administrative costs	-\$19,838,250	-\$19,838,250
<b>Net present value</b>	<b>NPV benefits needed for break-even</b>	-\$439,326,868	-\$338,622,689
	<b>Annual benefit needed for break-even</b>	<b>\$41,469,348</b>	<b>\$34,813,774</b>
	<b>Additional annual benefits required for Option 2 to be preferred over Option 3</b>	<b>\$6,655,574</b>	

Table 4 shows that the annual benefit required for Options 2 and 3 to break even are around \$41 million and \$35 million respectively, with Option 2 requiring \$6.6 million more annual benefit to be preferred over Option 3. Expressed on a per-consumer basis this equates to a required benefit of \$4.71 per consumer per year for Option 2 to break-even and \$3.96 for Option 3. Comparing the two options, consumers would on average need to value Option 2 by just \$0.75 cents more per year than Option 3.

While some consumers will place no value on the additional information, others may value the changes well in excess of the approximately \$4 per year required. This section looks at an approach for how the \$4 per year could be achieved:

- the time consumers would need to save during their shopping trip.

The approach show the consumer benefit is likely to exceed the costs to business.

### **6.1.4a Consumer time saved**

The ease of interpretation created by the visual display of information outlined in Option 2 will create time savings for consumers who seek country of origin information. In order to estimate time saving, an estimation of the number of shoppers in Australia is required. The number of shoppers used is 8.8 million, which is based on data from the most recent Household Expenditure Survey.<sup>77</sup>

If the required dollar saving is expressed as a required time saving per consumer, this is equivalent to 11 seconds per shopping trip (one trip per week) based on the standard estimate of the value of leisure time of consumers at \$29 per hour.<sup>78</sup> This time saving is considered conservative, and for many consumers, the time saved will be much greater.

The Colmar Brunton survey asked respondents what proportion of a 60 minute shopping trip they spent on seven different tasks. Of these tasks, finding products took the most time, estimated to be 37 per cent on average, with comparing prices of products second at 17 per cent. Searching for country of origin information was estimated to consumer around 8 per cent of total shopping time or approximately 4 minutes and 48 seconds.

Given the research shows that the total time already spent by shoppers searching for country of origin information is more than four minutes per shopping trip, it can be asserted that savings that could amount from the visual elements of the label outlined in Option 2 could be significant and provide time savings well beyond 11 seconds per shopper.

This benefit is not realisable under Option 3, because consumers do not receive the time-saving benefit from a visual marker. While consumers will gain a clearer understanding of the proportion of Australian ingredients in the product, the ability to find the statement on the packet will be unchanged as there will be no box around the statement and no visual marker to draw the eyes attention. As discussed previously, consumers have indicated clearly that a visual marker is the best option for communicating proportion of Australian ingredients, backed up by a text claim. Option 3 does not have a visual element, and so no time saving benefit can be derived for consumers.

### **6.1.4b Comparing Options 2 and 3**

Option 2 delivers the greatest net benefit when consideration of the consumer benefit from time saving is factored in. Option 3 is marginally lower cost to businesses, however as it is the text only option, no benefits will accrue to consumers from the time saving associated with the Option 3 label that will be easier to find on the product.

As outlined in Section 6.1.4, Option 2 will present as the preferred to Option 3 if the average consumer benefits at least \$0.75 per year more from that Option. There is good reason to believe that the benefits will be significantly in excess of this amount. The Colmar Brunton consumer survey asked individuals to state their preference for various logo and text options. The text only option was stated to display the information most clearly by only 4 per cent of those surveyed, with 51 per cent saying it was the least clear of the six options provided. This demonstrates a clear preference for some form of graphic relative to the information being provided as text alone.

### **6.1.5 Other costs and benefits**

Much of the consumer benefit gained by the clarification and simplification of the safe harbour defences has been taken into account in the assessment of benefits associated with the new requirements for food.

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<sup>77</sup> Household Expenditure Survey, Australia 2009-10, released September 2011, The survey estimates a total of 8 398 500 households in Australia, 95 per cent of which are single family or lone person households. The remaining five per cent are multiple family or group households. Assuming one shopper per each single family/lone person household and an average of two for each multiple family/group household, it is estimated there were a total of 8 818 425 regular shoppers in 2009-10 in Australia (40.8% of the estimated population of the time).  
<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/6530.0Main+Features12009-10?OpenDocument>

<sup>78</sup> Guidance Note on the Regulatory Burden Measurement Framework, February 2016

As previously noted in Box 7, consumers appear not to value origin information on non-food products as highly as they do for food products, and do not seem to have any particular concerns about origin labels or safe harbour defences when it comes to such products. Provided ‘substantial transformation’ is clarified in line with consumer expectations, there is not expected to be any impact on consumers of the proposed changes to the safe harbour defences with respect to non-food products.

In addition, it is noted that there are other regulated components of food labels (including weight/volume of contents, nutrition information and allergen information). Some stakeholders argue that this will increase the prominence of country of origin information at the expense of this other information, but there is no evidence that it will do so. Therefore, this possible effect has not been quantified in the analysis.

In addition to the benefits that have been modelled as part of the impact analysis, other benefits may be realised through this option. These benefits, while not negligible, are likely to be significantly smaller than the impacts identified above and have not been analysed in detail. These include:

- the revision and consolidation of country of origin claim regulation – leading to savings to businesses seeking to understand and comply with the regulations
- reduced government enforcement costs from clarification of the ‘substantial transformation; test for ‘Made in Australia’ claims.

### 6.1.6 Summary of impacts

Table 5 summarises the key quantified impacts by stakeholder groups (excluding consumers) in present value terms. The benefits are separated by those accruing to food and non-food businesses separately to make clear that the majority of estimated benefits will flow to the latter group.

**Table 5. Total benefits and costs for retailers, manufacturers and government**

Impact category	Option 2	Option 3
<b>Total benefits</b>	<b>\$558 million</b>	<b>\$550 million</b>
Benefits to food manufacturing businesses	\$53 million	\$45 million
Benefits to non-food manufacturing businesses	\$505 million	\$505 million
<b>Total costs</b>		
Costs to food retail and manufacturing businesses	-\$472 million	-\$393 million
Costs to government	-\$20 million	-\$20 million
<b>Net present value</b>	<b>\$66 million</b>	<b>\$137 million</b>

While it is difficult to be definitive on whether the consumer benefits will outweigh the costs to food manufacturing and retail businesses, the evidence provided earlier in this document indicates that consumers do indeed value this information, and that it is not unreasonable that this value will exceed the approximately \$4 per consumer on average required for either Option 2 or 3 to be preferred over the status quo. Further, not only do consumers value the information, but the proposed options target the information that consumers say they seek: namely information on the proportion of ingredients that are locally grown. By requiring this information from priority products only, the option attempts to achieve these benefits at lowest cost to industry.

Comparing the two options, for Option 2 to be preferred over Option 3 it need only present relatively small incremental benefits in terms of clarity to be preferred. Consumer research commissioned to inform this choice revealed that consumers do in fact rank a logo option as providing significantly more clarity than a text only option. Given that the goal of these options are to provide greater clarity

on country of origin information, the option that can most effectively achieve this will be preferred on net benefit grounds. Only Option 2 provides this clarity.

Hence, on the balance of evidence, it is concluded that Option 2 has a positive net benefit relative to the status quo and is preferred over Option 3.

### 6.1.7 Sensitivity analysis

This section highlights the sensitivity of the business and government cost estimates to key parameters used in the modelling. It is based on those parameters which are deemed to be most uncertain, with sensitivity scenarios judged based on the possible bounds within which these parameters may fall. Sensitivity is performed with respect to three variables:

- the discount rate, with sensitivity testing undertaken at rates of 4 per cent and 10 per cent as prescribed by the OBPR
- the relabelling costs for importers relative to domestic goods, with a cost 100 per cent higher than that assumed in the central scenario used as sensitivity
- the time taken for a complex production cost test, with sensitivity of both double and half the central estimate used, reflecting the uncertainty and importance of this variable.

Table 6 shows the net present value of business and government impacts under each of these sensitivity scenarios. As expected, results are most sensitive to the assumptions around the time taken for a complex test. Given the production costs savings were by far the largest impact (either cost or benefit) on businesses, changes in assumptions here can have large impacts in the overall result.

**Table 6. Sensitivity of business and government costs to key assumptions**

Sensitivity scenario	Option 2 – NPV	Option 3 – NPV
Discount rate – 4 per cent	\$30 million	\$99 million
Discount rate – 10 per cent	\$93 million	\$164 million
Importer costs 100 per cent higher	\$64 million	\$137 million
Complex production cost test 30 hours	\$532 million	\$603 million
Complex production cost test 7.5 hours	-\$167 million	-\$97 million
Central case estimate for comparison	<b>\$66 million</b>	<b>\$137 million</b>

The central case estimate for importer relabelling costs is that they are 20 per cent of those of domestic relabelling costs. However, this is based on a relatively large degree of uncertainty given the lack of evidence provided from importing businesses. This sensitivity assumes that the cost is in fact 40 per cent of that of a domestic business. However, given the very small portion of total SKUs that importing businesses make up, this assumption has only a small impact on the final result in each option.

Finally, the sensitivity to the discount rate has a moderate impact on each scenario. A lower discount rate makes impacts further out in the 20 year analysis period carry a greater weight. Since the costs to businesses are largely up-front, and the primary ongoing impacts are the benefits from removing the production test, a lower discount rate leads to higher net benefits overall. Similarly, the higher discount rate at 10 per cent reduces the net benefits in each option as more weight is placed on the initial years.

The sensitivity analysis demonstrates that there will be a net costs to business only under the assumption of low time savings for the production cost test. In all scenarios presented the cost associated with Option 2 is higher than for Option 3, demonstrating that this conclusion is largely independent of the main assumption used in the modelling, and is driven simply by reduced relabelling costs for businesses under that option.

However, it should be stressed that none of these NPV include the benefits for consumers resulting from these options. These benefits are the rationale for the proposed regulations and the complete analysis of each option should consider the relative benefits created by the text and logo Option 2, compared to the text only Option 3.

What the sensitivity analysis does show is that the relative cost advantage of Option 3 over Option 2 is relatively constant as assumptions change, and around \$60–\$70 million. Hence, Option 2 will be preferred to Option 3 if it is able to generate additional benefits of at least this amount. As argued above, Option 2 can be expected to yield additional benefits significantly above this amount.

### **6.1.8 Distribution of impacts**

While the additional costs of compliance will be borne primarily by businesses, it is likely that some of these costs will be passed onto consumers. The exact share of the costs would be passed on to consumers depends on several factors, including the overall level of competition in the food manufacturing industry, and the overall level of competition throughout the supply chain. Given consumers receive a large share of the benefits from the change in regulation; it follows that some of the costs would be shared by them through higher prices.

Other than consumers, the other major beneficiaries of this change are non-food businesses who benefit from a more simplified safe harbour test. While the benefits of simplifying the test will apply across all businesses, non-food businesses won't have the additional costs of complying with more detailed country of origin food labelling regulations

The distribution of costs across states will be primarily driven by the location of food manufacturing and retail businesses. The most recent ABS data that details businesses by state doesn't disaggregate to the food manufacturing level, and as such, the broader manufacturing sector has been used in Table 7 to give an indication of the distribution of businesses. The largest share of manufacturing businesses is based in New South Wales, followed by Victoria and Queensland. South Australia and West Australia also have significant manufacturing sectors. The distribution of retail businesses follows a similar pattern, with the largest number located in New South Wales, followed by Queensland and then Victoria.

While it's likely that the additional costs of compliance is likely to affect these states with the largest number of manufacturing and retail businesses, these states are also those with the largest populations, and hence the largest amount of consumers that will benefit from the change. Additionally, as noted earlier in this section, it's likely that businesses will pass on some of the additional costs of compliance to consumers, and hence the costs will be distributed more evenly across the population.



**Table 7. Manufacturing and retail businesses by state**

State	Manufacturing businesses	Retail trade businesses
NSW	25,958	45,094
Vic	23,108	36,002
Qld	16,520	25,855
SA	6,276	9,031
WA	8,977	13,096
Tas	1,658	2,882
NT	466	941
ACT	575	1,499
<b>Total</b>	<b>83,538</b>	<b>134,400</b>

### **6.1.8a Distribution of administrative costs by business size**

The distribution of administrative costs by business size over the 20 year period is show in Table 8. The largest share of administrative costs is borne by manufacturing businesses, with costs summing to \$148 million, 62 per cent of the total \$239 million. In terms of distribution of administrative costs by size, large businesses will see the most significant increase, with an additional \$94 million in administrative costs or 39 per cent of total business costs. This is followed by small business who account for 33 per cent of total costs.

**Table 8. Share of total administrative (non-SKU) costs by business size over 20 years**

Business size	Manufacturing businesses	Retail trade businesses	Total
<b>Large businesses</b>	\$40,003,667	\$53,518,091	\$93,521,758
<b>Medium businesses</b>	\$46,135,638	\$19,791,695	\$65,927,333
<b>Small businesses</b>	\$62,003,727	\$17,736,523	\$79,740,250
<b>Total</b>	<b>\$148,143,033</b>	<b>\$91,046,308</b>	<b>\$239,189,341</b>

This is further disaggregated in Table 9 that shows the business cost over the 20 year period but averaged to provide an average annual administrative cost by business size. What this table does not recognise is the majority of costs to both retailers and manufacturers is borne within the two year transition period and then ongoing cost reduces significantly over time.

**Table 9. Average administrative costs per business averaged over the 20 year period and presented as an annual \$ value**

Business size	Number of Manufacturing businesses	Average administrative cost per manufacturing business per year	Number of retailers	Average administrative costs per retailer per year
<b>Large</b>	138	\$14,494	32	\$83,622
<b>Medium</b>	890	\$2,592	1276	\$776
<b>Small</b>	6736	\$460	16009	\$55

### **6.1.8b Assessment of competition impacts**

Changes to the labelling framework will affect different sectors of the food industry in different ways, due to the differential cost impacts and other factors, and this could change their relative competitive

positions. However, such impacts have not been assessed, as there are insufficient data to enable such an analysis.

As an example, the costs impacts of the proposal on food importers are likely to be different to those on domestic food manufacturers. The estimate of the cost of Option 2 on importers is \$503 per SKU, while the average cost on domestic businesses is estimated to be \$2620 per SKU. In the case of imported foods, this estimate does not take into account costs incurred by overseas businesses, only costs to domestic importers for administrative costs and any necessary relabelling or stickering costs incurred in Australia.

The relative competitive position is not only affected by cost imposts, however. For example, it is possible that the reforms will lead to changes in consumer buying patterns between imports and domestic production (or between different types of domestically produced foods). Such changes are beyond the capacity of the current analysis. An analysis could be made during the post-implementation review of the proposed changes.

### **6.1.9 The regulatory burden of the proposed changes on businesses**

This section summarises the regulatory burden on businesses by focussing on only those costs that will be borne by businesses. It is based on the preferred approach to estimating regulatory burden set out by the Commonwealth Government under its Regulation Burden Measurement Framework. Accordingly, impacts are estimated over a 10 year period and then converted into an annualised figure. Impacts are not discounted over the period. As such, the values presented, while based on the same calculations as set out in this section, will not match exactly.

For clarity, the burden is separated into two core stakeholder groups: food (including retailers and food manufacturers) and non-food manufacturers. Retailers and food manufacturers bear the main burden of these new labelling requirements. Non-food manufacturers experience a reduced burden as they benefit through the removal of the production cost test. In total, all impacted businesses (food and non-food) are estimated to experience a very small net saving each year.

The annual cost to food manufacturing businesses is \$48.2 million, offset by \$48.5 million benefits from removing the production cost test. The vast majority of these benefits are due to removing the production cost test and are received by non-food businesses.

The savings received by businesses in the food sector are relatively small. Food manufacturers are estimated to receive around \$3.9 million in reduced production test costs with the remaining \$44.6 million in reduced burden flows to non-food manufacturing businesses.

This provides an overall net cost to food businesses of \$44.3 million per year and a net saving of \$0.3 million across all impacted businesses (food and non-food).

The changes to regulatory burden under Option 3 are also provided in Table 10. The positive reductions in regulatory burden associated with simplifying the safe harbour defence charges is also experienced for Option 3, in total reducing the regulatory burden by \$48.5m. However under Option 3 the impact on food businesses will be less, an annual cost of \$40 million as compared to \$48.2 million.

Option 3 would have an annual net saving of \$8.5 million across all impacted businesses (food and non-food). This is a higher regulatory saving than Option 2 however there are no time saving consumer benefits and therefore Option 2 is the option with the greatest overall benefit to the economy.

**Table 10. Summary of change to regulatory burden**

Regulatory change	Non-food businesses impact per annum	Food businesses impact per annum	Total annual impact all businesses (food and non-food) per annum
<b>Option 2</b> – changes to country of origin labelling		- \$48.2m	- \$48.2m
Safe harbour defence changes	\$44.6m	\$3.9m	\$48.5m
<b>Total annual impact for Option 2</b>	<b>\$44.6m</b>	<b>- \$44.3m</b>	<b>\$0.3m</b>
<b>Option 3</b> – text only change to country of origin labelling		-\$40m	-\$40m
Safe harbour defence changes	\$44.6m	\$3.9m	\$48.5m
<b>Total annual impact for Option 3</b>	<b>\$44.6m</b>	<b>-\$36.1</b>	<b>\$8.5m</b>

#### **6.1.9a Difference in estimates compared to Consultation RIS**

The total annual cost to the Australian food industry has increased from the reported amount in the Consultation RIS of \$37.4 million to \$48.2 million. This is due to higher estimates of the number of food SKUs and more accurate estimates of business costs that stemmed from more accurate data provided by businesses during consultation.

The estimated regulatory savings associated with the removal of the safe harbour defence cost production test has decreased from the original estimate of \$110.5 million per annum to \$48.5 million per annum. Revisions were made to the estimate of time associated from businesses applying the cost production test based on feedback received during the consultation period. The revised estimate is believed to be more reflective of the regulatory burden savings to be gained from the changes to the safe harbour defences.

## 7. Recommendation

The Decision RIS has assessed Option 2 as the preferred option, representing the option with the greatest net benefit to the community when considering the benefits to consumers from the visual elements of the label.

Retaining the status quo (Option 1) will not satisfy consumers already dissatisfied with country of origin labelling. While Option 3 would provide consumers with the information on the proportion of the ingredients that are Australian, the absence of visual elements means that Option 3 will not realise consumer benefits around time savings from finding the information more quickly.

There is a wide range of evidence collected as part of this RIS process, and previous reviews, that demonstrate consumers both value country of origin information and are confused with the current labelling framework. It is difficult to accurately assess the benefits that consumers will obtain from the increased information as the value of the information varies from one consumer to another. Nor is it possible to quantify the benefit derived by consumers from the reduced confusion that will flow from more and better origin information. However what can be assessed is the time saving to consumers from the label that includes visual elements which will enable consumers to find the information more quickly. As outlined in Section 6.1.4a, if each consumer saves just 11 seconds each weekly shopping trip, the benefits to consumers from the time savings will outweigh the cost to industry of providing the information.

Food businesses will bear costs as a result of the proposed options, as with any additional food labelling regulatory change. In contrast with the consumer benefits, these costs are relatively certain. However, the proposed option has been designed in part to minimise the costs to businesses, particularly where the consumer benefits are likely to be lowest, for example:

- it will require re-labelling for priority products only, with these being products for which research indicates consumers are most interested in knowing the origin of ingredients
- allows flexibility in using the label, including colour, size, format and placement
- a transition period of 24 months has been recommended based on feedback from businesses
- information tools will support business in determining appropriate labels for their products
- clarifications made to safe harbour defences will make them simpler for all businesses to use, giving more confidence to consumers
- it allows flexibility in how claims such as 'Product of', 'Made in' and 'Packed in' are stated
- the new requirements will allow a removal of the production cost test and result in significant offsets against the costs associated with relabelling changes.

Amendments to the safe harbour defences will also benefit the non-food sector. The clarification of substantial transformation and removal of the 50 per cent production cost test will mean that businesses that want to make such claims will be able to do so more simply and confidently. The compliance burden on businesses from record keeping will be removed.

Option 2 presents a huge step forward in addressing the issues consumers have raised for some time on country of origin labelling for food, while managing costs. This option is likely to create a net benefit for the Australian community.

Changing the requirements to deliver the information that consumers indicate they value most, helps ensure that the recommended option is the best way of achieving these outcomes. Indeed, the changes will allow country of origin labelling to fulfil its intended role in providing information to Australian consumers about the origin of the food they consume. As the Australian economy becomes more digitised, and technology plays more of a role for consumers, it is likely that solutions will emerge that expand on this approach, opening opportunities to provide even more information to consumers in innovative ways at least cost.

## 8. Implementation and review

### 8.1 Legislative changes required

A number of legislative changes will be required under the preferred option. This includes:

- establishing a new Information Standard under section 134 of the Australian Consumer Law (ACL) providing for mandatory country of origin labelling requirements for food sold in Australia
- removal of country of origin labelling provisions in the Food Standards Code
- changes to the ACL to simplify and clarify the country of origin safe harbour defences
- changes to the Commerce (Imports) Regulations 1940, made under the *Commerce (Trade Descriptions) Act 1905*, to align the labelling requirements for imported food with the new Information Standard and the revised country of origin safe harbour defences.

The legislative changes will require agreement across different levels of government. This includes:

- agreement across portfolios with responsibility for food labelling at Commonwealth, state and territory levels
- the Legislative and Governance Forum on Consumer Affairs agreeing to change the ACL
- the Australia and New Zealand Ministerial Forum on Food Regulation agreeing to changes to the Food Standards Code

The Department of Immigration and Border Protection is responsible for changes to the import regulations and will progress the necessary changes to the Commerce (Imports) Regulations 1940.

The Food Standards Code is intended to regulate food safety and the provision of information on the nutritional quality of food to assist consumer to make healthy food choices. The move to an Australian Consumer Law Information Standard, and out of the Food Standards Code, is appropriate as country of origin is principally a credence claim that does not address food safety risk or provide information to assist consumers make healthy food choices, making it more suited to the consumer law framework.

Two recent reports, the 2012 Senate Select Committee on Australia's Food Processing Sector report and Labelling logic: Review of food labelling law and policy (2011), recommended this approach.<sup>79</sup> Moving mandatory country of origin labelling requirements for food from the Food Standards Code to the ACL would also result in a single consumer-focussed regulatory regime—more in keeping with the aim of country of origin labelling.

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

#### 8.1.1 Compliance and enforcement

Throughout the 24 month transition period, products labelled with existing country of origin claims will be required to meet the requirements of the Food Standards Code. State and territory food regulators will have compliance and enforcement oversight. While not responsible for enforcing country of origin labelling obligations under the Food Standards Code, the ACL regulators could take action where claims were likely to be false or misleading as per existing requirements under ACL.

After the end of the transition period compliance and enforcement activities for country of origin representations will be the sole responsibility of the ACL regulators, including the Australian Competition and Consumer Affairs Commission (ACCC). Import regulations and a border compliance and enforcement regime shall remain in place. The jurisdictional impacts of the changes in enforcement are not detailed in this Decision RIS as they will be determined by state and territory governments on an individual basis.

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<sup>79</sup> Senate Select Committee on Australia's Food Processing Sector 2012, *Inquiry into Australia's food processing sector*, p.90; Australian Government 2011, *Labelling Logic Review of Food Labelling and Policy*, p.135–136

Stock that has already been produced, including warehoused stock and stock on retail shelves on the last day of the transition period can remain on, or be introduced for, sale until the stock is sold or removed.

Compliance by businesses with the current framework is generally high. Recent activity by state and territory ACL regulators includes a 2012 national survey, which examined 245 products to gauge whether the country of origin representations were misleading. Of those 245 products, 23 were identified as non-compliant with the ACL and were subsequently removed from sale. In addition, 25 traders were issued with substantiation notices of which three were then issued with infringement notices.<sup>80</sup>

At the border, over 98 per cent of tested consignments met Australia's imported food requirements in 2013.<sup>81</sup> Similarly, a 2015 Australian National Audit Office report<sup>82</sup> found that, of nearly 45 000 imported food products inspected in the six months to June 2015, only 77 (0.2 per cent) did not comply with the country of origin labelling requirements.

It is unclear how many cases have been taken by food regulators to enforce the country of origin obligations of the Food Standards Code. However, the food regulators adopt a risk based approach in prioritising their enforcement activities with country of origin labelling prioritised below issues that represent a risk to health. The revised country of origin labelling framework will have an appropriate level of enforcement to maintain consumer confidence while avoiding unnecessary compliance costs to business.

During the transition period, businesses will be provided the opportunity to adapt to the changes and use the graphics, colours and phraseology of the new system before they are required to do so. Several stakeholders, including the Australian Food and Grocery Council, noted that products with the new labels would likely come onto market throughout the implementation period.<sup>83</sup> Such promotional claims would remain subject to the ongoing obligation not to mislead or deceive under the ACL. It is anticipated that enforcement roles will change across regulators under the proposed framework. In terms of imports, the Department of Agriculture and Water Resources will still play a role at the border. The ACCC will address non-compliance using an appropriate and proportional risk-based approach to enforcement action.

There will be no transition period for businesses to adapt to amended safe-harbours for misleading conduct, for food and non-food goods. These changes will impact upon all businesses from commencement of the laws.

It is intended that the ACCC will initially undertake awareness-raising activities with businesses and provide guidance material to assist businesses to comply with the new requirements. It will then maintain its educative work and be prepared to undertake enforcement where appropriate to ensure compliance with the new framework. The country of origin labelling national information campaign period will leverage these efforts.

The ACCC may also undertake point of sale surveillance to determine whether representations are being made in the prescribed form and to assist the ACCC to better target its compliance and enforcement activities.

The ACCC's current powers to obtain information do not allow it to request and view business records to check compliance with the Information Standard. This will make it difficult for the ACCC to verify country of origin claims under the proposed changes. The ACCC will be seeking the ability to access records kept by businesses to enable the organisation to efficiently assess compliance.

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<sup>80</sup> Advice from the Australian Competition and Consumer Commission, February 2016.

<sup>81</sup> Imported food inspection data, [www.agriculture.gov.au/import/food/inspection-compliance/inspection-data](http://www.agriculture.gov.au/import/food/inspection-compliance/inspection-data)

<sup>82</sup> Australian National Audit Office, Administration of the Imported Food Inspection Scheme, 2015

<sup>83</sup> Australian Food and Grocery Council 2016, *AFGC Submission Country of origin labelling for food: Consultation Regulation Impact Statement*, p.7

The Information Standard requires that businesses maintain a documentary record of the ingoing weight of ingredients of their products that they rely upon to make country of origin representations. The provision requires nothing more than the business to provide a copy of these documents to the ACL regulator on request.

## **8.2 Information and education campaign**

The preferred option will require an information and education campaign to communicate the revised country of origin labelling framework to consumers, industry and Australia's trading partners. A prominent feature of the campaign will be an eight week mass media advertising campaign across multiple channels, including on television, radio, print, digital, social media and in shopping centres. Mainstream advertising for consumers will begin after the new Information Standard has been tabled in Parliament and the disallowance period has passed and when new labels begin to appear in retail outlets.

Timing the mass media advertising campaign is important to prepare the community and signal to business that the changes are on the way. Consumers also need education upfront to know what they should expect to see and assist them in understanding the new information when it first appears. Monitoring business compliance over the course of the transition period will further enable governments to understand whether any further activity is required.

The campaign will also include an online tool to help businesses determine the correct country of origin label for their food products. In addition to the online tool, a suite of guidance and information products will be made available for businesses to help them get up to speed with the new requirements and to raise awareness about the new online tool.

For consumers, the campaign will raise awareness about enhancements to the country of origin labelling framework for food and heighten understanding of what the additional detail means. This is so they can access the information they need to exercise their food buying preferences.

For industry, it will be important that businesses understand how the new framework applies to their circumstances and to implement measures to meet their obligations before the new rules take effect. The campaign will assist by providing an understanding of what the changes mean for them and how they might need to change their business processes. The new online tool and guidance material in particular, will help clarify requirements and determine appropriate claims.

Communication with Australia's trading partners will help them understand how labelling will operate in the Australian market.

It is anticipated that some level of education and awareness raising will be conducted over the course of the transition period to accommodate the staggered introduction of new labels. This includes prior to, during and at the end of the transition period.

Business demand for detailed guidance on the application of the framework is expected to be high, particularly at the beginning and end of the transition period. The ACCC will provide guidance through a range of mediums including the ACCC website, business.gov.au, the ACCC's business information networks, the ACCC Infocentre, webinars, industry presentations and through industry association and chamber newsletters.

## **8.3 Review**

The new arrangements will be reviewed two years after the end of the transition period. This will allow for evaluation and consideration of necessary amendments. The review will cover the scope of the reforms and their effectiveness in meeting their objectives, and consider their impacts, including any unintended consequences arising from their implementation.

## Attachment A - Submissions received in response to the Consultation RIS

The Department of industry, Innovation and Science received 110 formal submissions in response to the consultation package released on 4 December 2015; 36 of these submissions were confidential. The 74 non-confidential submissions are listed below and will be made available on the Department's website. In addition, 130 informal comments were received through the comment facility on the department's Consultation Hub.

1	Agribusiness Association of Australia	38	George Weston Foods
2	Apple and Pear Australia Ltd	39	Griffith and District Citrus Growers Association Inc
3	Aussie Farmers Direct	40	Growcom
4	Australian Barramundi Farmers Association	41	Guzzardi Fine Foods
5	Australian Beverages Council	42	Health Lab
6	Australian Chicken Meat Federation	43	Heavens Bakehouse
7	Australian Dairy Industry Council	44	Horticulture New Zealand
8	Australian Flower Council	45	Ital Biscuits
9	Australian Food and Grocery Council	46	Madura Tea Estates
10	Australian Industry Group	47	Master Fish Merchants' Association of Australia
11	Australian Made Campaign Limited	48	Mt Buffalo Olives
12	Australian Meat Industry Council	49	National Farmers' Federation
13	Australian Olive Association	50	Naturally Good Products Pty Ltd
14	Australian Pork Ltd	51	New Zealand Food and Grocery Council
15	Australian Self-Medication Industry	52	Northern Rivers Food (NRF)
16	AUSVEG	53	Northern Territory Seafood Council
17	Barossa Fine Foods	54	NSW Farmers
18	Bertocchi Smallgoods Pty Ltd	55	Nudie Foods
19	BodSquad	56	Omniblend Nourish
20	Bon Appetit Australia Pty Ltd	57	Omniblend Pty Ltd
21	Brookfarm	58	Oziental Foods
22	Cartwright, Trish	59	Plenty Food Group
23	Charlton, V	60	Pureharvest
24	CHOICE	61	PZ Cussons
25	Cider Australia	62	Queensland Consumers Association
26	Comvita New Zealand Ltd	63	Rizo Desserts Pty Ltd
27	Costco Wholesale	64	Ryan, Margaret
28	Dairy Companies Association of New Zealand	65	Sabrands Group
29	Danone Nurtricia	66	Savannah's Foods
30	Diseb Food Group Pty Ltd	67	Scalzo Food Industries
31	Ehrenberg-Bass Institute	68	Shannon, Rosie
32	Emu Bottom Biscuits	69	Slow Food Hobart
33	Exquisite Pty Ltd	70	Stambo's
34	Floridia Cheese	71	Unilever Australia New Zealand
35	Food and Beverage Importers Association Inc	72	Voevodin, Melanie
36	Food South Australia	73	Winemakers Federation of Australia
37	Food Technology Association of Australia	74	World Wildlife Fund



## Attachment B - Country of origin labelling framework revisions

Current Framework

### Australian Consumer Law Safe harbour defences

#### A. Not misleading or deceptive where defences are met:

- 'Produced in' or 'Product of'
- 'Grown in'
- Other representation, e.g. 'Made in'
- 'Grown in' ingredients
- Logo

Enforce: ACCC; state/territory consumer affairs

### Australia New Zealand Food Standards Code Standard 1.2.11 - Country of Origin Labelling

#### B. For all food, mandatory to state:

- If packed
  - where made, produced or grown OR
  - where manufactured/packed and whether from imported ingredients/mix of local and imported ingredients
- If unpacked
  - country of origin, or mix of local and imported

Enforce: State/territory food regulators; Agriculture (imported food at border)

### Commerce (Imports) Regulations 1940

Imported food and drink must state the country in which it was made or produced

Enforce: Immigration and Border Protection

### Australian Made logo

Licences food and non-food products to use the logo

Enforce: AMCL

Revised Framework

#### A. Not misleading or deceptive where defences are met:

- 'Produced in' or 'Product of'
- 'Grown in'
- Other representation, e.g. 'Made in'
  - clarify substantial transformation
  - remove 50% local production cost test



#### B. For priority food, mandatory to state:

- If made, produced or grown in Australia
  - Australian Made logo, bar chart and text indicating proportion of Australian ingredients
- If packed in Australia
  - from single country - country of origin OR bar chart and text indicating no Australian ingredients
  - from multiple countries - bar chart and text indicating proportion of Australian ingredients
- If not made, produced, grown or packed in Australia (imported food)
  - from single country - country of origin
  - from multiple countries - indicate multiple origins
- All claims in a box



#### C. For non-priority food

- Similar to current Food Standards Code (where grown, produced or made or where packed and an indication of multiple origins)
- voluntary use of logo and bar chart

Enforce: ACCC; State/territory agencies; Agriculture (imported food at border)

State country made, produced or packed - align with Information Standard for imported food - for priority food - all claims in a box

Enforce: Immigration and Border Protection

Licences non-food and export products only

Enforce: AMCL

### Country of Origin labelling framework for food revisions

## Attachment B - Country of origin labelling framework revisions (Alternate text)

### Title:

Country of origin labelling framework for food revisions

### Description:

This is a diagram comparing the elements of the current country of origin labelling framework to the revised framework. It outlines how the Australian Consumer Law safe harbour defences, Australian and New Zealand Food Standards Code, Commerce (Imports) Regulations and the Australian Made logo will change.

The diagram has two sections that run across the width of the page, separated by a line. The section above the line outlines the current framework. The section below the line outlines the revised framework.

The section above the line has four boxes next to each other.

The first box is about 'Australian Consumer Law Safe harbour defences'. It contains text that reads:

- A. Not misleading or deceptive where defences are met:
- 'Produced in' or 'Product of'
  - 'Grown in'
  - Other representation, e.g. 'Made in'
  - 'Grown in' ingredients
  - Logo

Enforce: ACCC; state/territory consumer affairs.

The second box is about the 'Australia New Zealand Food Standards Code Standard 1.2.11 – Country of Origin Labelling'. It contains text that reads:

For all food, mandatory to state:

- B. If packed
- where made, produced or grown OR
  - where manufactured/packed  
and whether from imported ingredients/mix of local and imported ingredients

If unpacked

- country of origin, or mix of local and imported

Enforce: State/territory food regulators; Agriculture (imported food at border)

The third box is about the Commerce (Imports) Regulations 1940. It contains text that reads:

Imported food and drink must state the country in which it was made or produced

Enforce: Immigration and Border Protection

The fourth box is about the Australian Made logo. It contains text that reads:

Licences food and non-food products to use the logo

Enforce: AMCL

There are three boxes next to each other below the line. The boxes below the dotted line outline the revised framework.

The width of first box below the line aligns with the first two boxes above the line ('Australian Consumer Law Safe harbour defences' and 'Australia New Zealand Food Standards Code Standard 1.2.11 – Country of Origin Labelling'). It contains text that reads:

- A. Not misleading or deceptive where defences are met:
- 'Produced in' or 'Product of'
  - 'Grown in'
  - Other representation, e.g. 'Made in'
    - clarify substantial transformation
    - remove 50% local production cost test
- B. For priority food, mandatory to state:
- If made, produced or grown in Australia
    - Australian Made logo, bar chart and text indicating proportion of Australian ingredients
  - If packed in Australia
    - from single country - country of origin OR bar chart and text indicating no Australian ingredients
    - from multiple countries - bar chart and text indicating proportion of Australian ingredients
  - If not made, produced, grown or packed in Australia (imported food)
    - from single country - country of origin
    - from multiple countries - indicate multiple origins
  - All claims in a box
- C. For non-priority food
- Similar to current Food Standards Code (where grown, produced or made or where packed and an indication of multiple origins)
  - voluntary use of logo and bar chart

(There are two images of country of origin labels in the first box below the line. One label is a portrait rectangle shape. It contains a triangle with a stylised kangaroo and a bar chart filled to 50% underneath it. The explanatory text underneath the bar chart reads Made in Australia from at least 55% Australian ingredients. There is a sample watermark on the label. The second label is landscape rectangle shape. It contains a bar chart filled to 20%. The explanatory text next to the bar chart reads Packed in Australia from at least 20% Australian ingredients. There is a sample watermark on the label.)

Enforce: ACCC; State/territory agencies; Agriculture (imported food at border)

The width of the second box below the line aligns with the third box above the line (Commerce (Imports) Regulations 1940). It contains text that reads:

State country made, produced or packed

- align with Information Standard for imported food
- for priority food - all claims in a box

Enforce: Immigration and Border Protection

The width of the third box below the line aligns with the fourth box above the line (Australian Made logo). They are surrounded by a larger box to group them together. It contains text that reads:

Licences non-food and export products only

Enforce: AMCL