



Australian Pork Limited's Submission to the Senate's
Inquiry into the Food Standards Amendment (Truth
In Labelling Laws) Bill 2009

AUSTRALIAN PORK LIMITED



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I. EXECUTIVE SUMMARY

Australian Pork Limited (APL) is the national representative body for Australian pig producers. It is a producer-owned not-for-profit company combining marketing, export development, research, innovation and strategic policy development to assist in securing a profitable and sustainable future for the Australian pork industry.

As a long standing advocate for clearer Country of Origin food labelling laws, APL welcomes the invitation from the Senate Economics Legislation Committee to make a Submission to the Senate's Inquiry into the Food Standards Amendment (Truth in Labelling Laws) Bill 2009.

APL will take this opportunity to explain the challenges that current Country of Origin Labelling (COOL) laws pose for the pork industry, before raising some important concerns that the pork industry has with the proposed Amendment Bill.

The Australian pork industry faces full exposure to global markets, maintaining a small export market to Asia and competing with imports from North America and Europe. Quarantine restrictions currently prohibit fresh pork imports for direct consumption, but we estimate that up to 70 per cent of ham and bacon sold in Australia contains imported pigmeat. Our greatest country of origin labelling issue is therefore concerned with the labelling of processed pork (ham, bacon and smallgoods).

Currently most packaged ham and bacon is labelled "Made in Australia" even though most of these products contain some imported pork. This makes it hard for marketers to differentiate Australian product from cheaper subsidised imports and difficult for consumers to choose Australian product.

We applaud the intent of The Bill to protect Australian producers and consumers, and the introduction of The Bill in its capacity to generate discussion and thought in this area. However, we have significant doubt about the benefit of the proposed amendments for Australian pork producers and consumers. While the proposed amendments may be of great benefit to the citrus industry, they may further disadvantage some other Australian agricultural and processing industries.

APL comments that it seems inequitable to include the special requirements of just one of Australia's industries (the citrus industry) when there are other industries (including the pork industry) facing similar challenges. APL believes that further consideration needs to be had as to how these amendments may affect industries other than the citrus industry.

Secondly we believe that the requirement (in paragraph 1(a)) that products must be 100 % Australian in order to use the word "Australian" is too restrictive. This would not improve the situation for the pork industry making it impossible for many processed pork products to declare their Australian origin because of the necessity to use very small amounts of imported ingredients¹ that are not available in Australia.

We agree that it should be mandatory for products to declare the presence of imported ingredients clearly on the front of the packaging (paragraph 1(b)) however we believe a similar requirement should be developed for unpackaged foods. We then recommend that

¹ A significant ingredient in the brine used to cure ham and bacon cannot be sourced in Australia.

the percentage of imported product should be included on the label for all products not just on juice products. Also if the presence of imported ingredients must be clearly declared on Australian processed pork products, it becomes all the more important that we can still qualify on the label that the pork content is Australian.

We also comment on the general lack of clarity in The Bill, specifically in relation to the use of the word “Australian” in paragraph 1(a), where it is not clear how the proposed amendment would apply to the labels “Made in Australia” or “Product of Australia”. Although we have assumed that “Australia” was intended to be included, we believe this should be made clear in The Bill to avoid future discrepancies.

For good measure, we comment that if the amendment was to only apply to labels using the word “Australian” then this would allow the “Made in Australia” label to still be used to disguise imported products making this amendment of little significance.

Although we support the need for more transparent COOL laws we believe that more thought and discussion is required before a regime of amendments can be delivered that benefit a wider range of agricultural and processing industries.

2. Background information

2.1 Australian Pork Limited

APL is a unique rural industry service body delivering integrated services to enhance both the viability of Australia’s pig producers and opportunities for the sustainable growth of the Australian pork industry. APL pursues opportunities for the Australian pork industry on both a domestic and international level and works in close association with key industry and government stakeholders.

Australian Government legislation, a contract between the Government and APL and APL’s constitution, provide the legal framework for APL’s operations. Funding for APL is primarily derived from statutory pig slaughter levies collected under the *Primary Industries (Excise) Levies Act 1999* with additional matching research and development funds provided by the Australian Government.

As a long standing advocate for clearer COOL laws, APL welcomes this opportunity to make comment on the *The Food Standards Amendment (Truth In Labelling Laws) Bill 2009* from the perspective of the Australian pork industry.

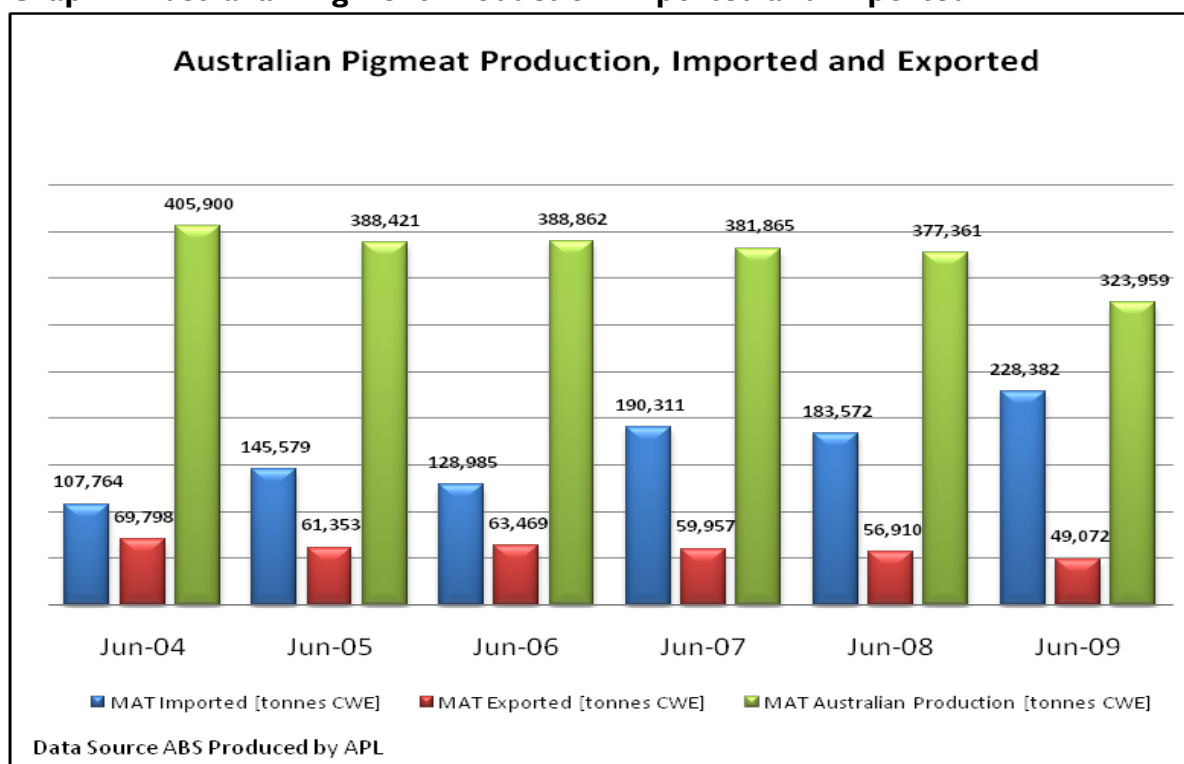
2.2 The Australian Pork Industry – Competition with imports

The pork industry is one of the few Australian food industries operating in a truly global marketplace, maintaining a small export industry to Asia and competing with increasing volumes of subsidised imports from North America and Europe. Increasing competition from imports is regarded by APL as one of the major challenges facing our industry.

For the 2007-08 period ABS data indicates that the gross value of pig slaughters in Australia decreased by 4 per cent to \$902 million, as slaughter numbers and average prices dropped.² The MAT (Moving Annual Total) pig slaughter number to the end of June 09 was 4,521,761, down from about 5,200,000 at June 2008³.

Graphs 1 and 2 illustrate the difficult situation that the Australian pork industry has contended with for a number of years. Graph 1 shows a general decline in pig production and exports, and a significant upward trend in import volumes. Graph 2 (page 6) shows that the domestic market for pork is being increasingly taken up by imports.

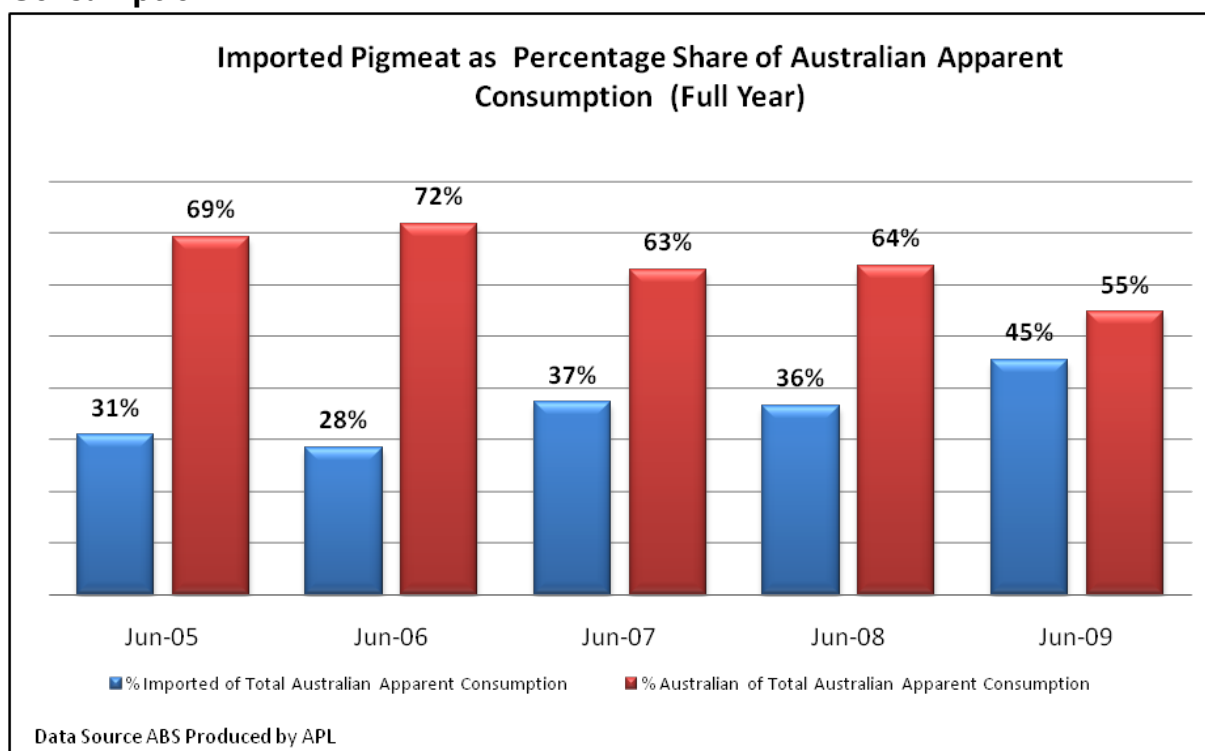
Graph 1 Australian Pigmeat Production Imported and Exported



² Australian Bureau of Statistics, '7503.0 - Value of Agricultural Commodities Produced, Australia, 2007-08—Summary of findings', September 2009, viewed on 7 October 2009, <
<http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/7503.0Main%20Features22007-08?opendocument&tabname=Summary&prodno=7503.0&issue=2007-08&num=&view=>>

³ APL from ABS data

Graph 2 Imported Pigmeat as Percentage Share of Australian Apparent Consumption



The processed pork market is now dominated by imports and APL estimates that up to 70 per cent of all processed pork products sold in Australia contain some imported pigmeat. Most pigmeat imports arrive onshore as frozen, unprepared meat ready for processing in Australia. Imports from subsidised pork producing countries including Denmark, Canada and the United States continue to erode Australia's share of the domestic processed pork market.⁴

Despite this and while domestic consumption of pork continues to grow, APL believes that the longer term outlook for the Australian pork industry is one of a strong future. This future hinges on the willingness and ability of Australian consumers to support the industry by purchasing Australian pork.

3. Current Country of Origin labelling requirements for pork

The issue of Country of Origin labelling (COOL) has been a difficult and long standing issue for the Australian pork industry. With increasing volumes of subsidised imports hitting retail shelves each year, the Australian pork industry is depending on the support of Australian consumers to maintain our share of the domestic market. The success of APL's domestic marketing campaigns also hinges on the ability of the consumer to differentiate Australian pork from imported pork products at retail.

It is well established that most Australian consumers want to buy Australian and considering that Australian farmers are among the best in the world at producing safe, clean, green food, they have good reason to. Research released in 2006 (attributed to R. Morgan) clearly

⁴ Australian Pork Limited, *Australian Pork Limited Annual Report 2008/2009, 2009*, p. 2.

indicates that two-thirds of consumers will consciously choose Australian whenever possible.⁵ Unfortunately complex, confusing COOL laws continue to make it hard for consumers to differentiate Australian pork.

Under the current *Australia and New Zealand Food Standards Code* (The Code), new COOL standards for pork (in subclause 2(2) of Standard 1.2.11) became effective from December 2006. The revised standard 1.2.11 includes a broadening of the scope of mandatory COOL to include unpackaged fresh and preserved pork products when displayed for retail sale.⁶

Subclause 2(1) of The Code indicates that packaged pork fresh and preserved must be labelled with a statement identifying where the product was made or produced; or where the food was manufactured or packaged for retail sale; or a statement to the effect that the food is constituted from imported ingredients or a mixture of local and imported ingredients. Unpackaged pork, fresh and preserved (Subclause 2(2)) requires a label on or in connection with the display of the food identifying the country or countries of origin of the food; or containing a statement indicating that the foods are a mix of local and/or imported foods as the case may be. A 9 mm font must be used for COO signage except in refrigerated assisted service display cabinets where 5 mm may be used.⁶

Although the introduction of tougher COOL for unpackaged pork was a significant advancement for the industry, APL believes that the current COOL regime still does not go far enough for Australian packaged products.

The requirements for packaged processed pork products (found in the dairy cabinet of the supermarket) remain unchanged under the new standard. The use of definitions approved under the Trade Practices Act, for example the “Made in Australia” and the “Product of Australia” claim, may be used to label packaged products as applicable. Qualified claims such as “Made in Australia from Local and Imported Ingredients” or “Made in Australia from Danish Pork” can also be used.

Of most concern to the pork industry is the ambiguous “Made in Australia” claim. This claim is valid for goods that have been substantially transformed in Australia or where 50 per cent or more of the cost of production was incurred in Australia.^{5,6} Most consumers would be surprised to learn that much of the ham and bacon labelled “Made in Australia” in Australian supermarkets is actually made from imported pigmeat, or a mixture of local and imported pigmeat.

Less confusing is the “Product of Australia” claim which is reserved for products where all of the significant ingredients originate from Australia, and all or virtually all of the manufacturing or processing is also carried out in Australia.^{6,5}

APL’s greatest COOL concern is that ham and bacon made from Australian pork must stand alongside ham and bacon made from imported pigmeat labeled with the confusing “Made in Australia” claim in the supermarket. This is clearly unfair for Australian producers and deceptive for Australian consumers.

⁵ Australian Made Campaign Limited, 2008, viewed on 7 October 2009, <<http://www.australianmade.com.au/australiangrown>>

⁶ Food Standards Australia and New Zealand, 2009 ‘Australia New Zealand Food Standards Code- Incorporating amendments up to and including Amendment 112’, *Commonwealth of Australia*, Anstat Pty Ltd, Melbourne.

The labelling of fresh pork is generally more transparent. Quarantine restrictions currently prohibit imported pork from being sold as fresh pork in Australia. Imported pork must have the bone removed and must be cooked on arrival to eliminate the risk of disease spread to the Australian pig herd. Consumers can therefore assume all fresh pork sold at retail has been born and raised on an Australian farm. Under the COOL system fresh pork requires a label to identify the country of origin such as the “Australian Grown” claim.

The “Australian Grown” descriptor was launched with Federal Government support by *The Australian Made, Australian Grown Campaign* on June 1 2007. This was a notable development with the new descriptor requiring that each significant ingredient must be grown in Australia and all, or virtually all, processes involved in production of the good must occur in Australia.⁷ The qualified claim “Australian Grown Pork” can also be used on processed pork products.

In an effort to make Australian pork more visible in the supermarket, APL recently launched the new pink “Australian Pork” logo campaign. Consumers can now look for either, the “Product of Australia” label claim, the “Australian Grown” logo or the pink “Australian Pork” logo on Australian pork at retail. This program is already gaining momentum and APL is currently working with retailers and processors to ensure consumers have a better ability to recognise Australian pork products on the shelf.

4. APL’s comments on the Food Standards Amendment (Truth in Labelling Laws) Bill 2009

APL agrees that there is a need for a simpler, more visible and transparent system of COOL laws to protect Australian primary producers, processors and consumers from misleading claims. We applaud the introduction of the Food Standards Amendment (Truth in Labelling Laws) Bill 2009 in the capacity that it will promote thought and discussion in this area.

APL understands that The Bill was intended as a first step towards the development of a fairer labelling system and while it is a step in the right direction we recommend that further clarification and discussion on some matters is required. APL would like to take this opportunity to raise the following points from the perspective of the Australian pork industry.

Firstly, APL notes that The Bill is strongly focused on the citrus industry. We would like to advise that the citrus industry is not the only agricultural industry facing competition with imports in Australia. As a small agricultural industry competing against imported products labelled with misleading claims, the Australian pork industry is well equipped to sympathize with the citrus industry.

While we realise that the point of The Bill is to simplify the current labelling system, we submit that it is inequitable to include the special needs of just one industry, when there are other industries facing similar challenges that have special requirements which are not included. APL advises that more consideration must be given to how the proposed

⁷Australian Made Campaign Limited, 2008, viewed on 7 October 2009, <<http://www.australianmade.com.au/australiangrown>>

amendments will apply to industries other than the citrus industry, through discussion with relevant industry bodies.

Secondly we observe that there is a general lack of clarity in The Bill. Causing most of the confusion is the use of the word “Australian” in paragraph 1(a) of the Bill. We advise that it is not the word “Australian” that is most misleading to pork consumers, rather it is the word “Australia”. As the wording of The Bill stands, it is not clear how this amendment would apply to “Made in Australia” or “Product of Australia” claims. APL recommends that paragraph 1(a) of The Bill must be clarified by including the word “Australia” alongside “Australian” to eliminate potential for misinterpretation.

In the case that this amendment was to apply only to the word “Australian” it would be of little significance to the pork industry because the “Made in Australia” claim could still be used over goods containing imported ingredients.

We note that The Acts Interpretation Act 1901 states that:

“(18A) In any Act, unless the contrary intention appears, where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings”.

Thus we have assumed that paragraph 1(a) of The Bill was intended to encompass the variation “Australia” as well as “Australian”. This being accurate, we raise our second concern with paragraph 1(a) regarding the requirement that a food product must be **100 %** Australian if the word Australian (Australia) is to be used on or in relation to the product. A problem for consideration is that most Australian grown foods processed in Australia contain traces of imported ingredients that are difficult or impossible to source domestically.

Australia’s forte is producing raw foods and many of the additives used in processed foods (such as ham and bacon), including preservatives, spices, colours and flavours, must be sourced from overseas. While APL supports amendments that make it difficult for manufacturers to disguise imported commodities in Australian products, we must stress that amendments to COOL laws should not make it more difficult for Australian foods to differentiate themselves in the domestic marketplace.

Specific to the pork industry is the problem that most Australian grown hams and bacon use imported brine as a curing agent arguably in quantity enough to be considered a significant ingredient. Under the current labelling system we can still use the “Australian Pork” pink logo or claims such as “Made from 100% Australian Meat” to distinguish ham and bacon made from Australian pork from imported products. If the amendment proposed in The Bill is made, not being able to use the word “Australian” (or “Australia”) to label these products would make it very difficult for consumers and producers to distinguish Australian ham or bacon from imported ham or bacon.

This is a significant issue for the Australian pork industry. While our market for fresh pork is protected from imports by strict quarantine restrictions our processed pork market is where stronger COOL laws are in greatest need. APL would certainly support the removal of the “Made in Australia” label from food products on Australian retail shelves but must recommend that certain provisions need to be made to allow the word Australian (Australia) to be used in relation to products where the major raw ingredient is grown in

Australia. Not allowing this would be withholding information about the COO of the food from consumers.

In relation to paragraph 1(b) we support the initiative to require mandatory, disclosure of the presence of imported ingredients in visible letters on the front of packaged products. However, in the case of Australian ham and bacon containing imported brine, in combination with paragraph 1(a) this would leave the consumer with only the information that the product contains imported brine and with no clear indication that the meat was born and raised in Australia. Although the words “local” or “domestic” pork could still be used, these words are open to interpretation by consumers and may cause further confusion.

We recommend that it should also be mandatory to include the percentage of imported ingredients on all products, not just on juice products. This would benefit products that have only small amounts of imported ingredients. Further, APL would like to point out that paragraph 1(b) is only relevant to packaged products. To be of full benefit to the pork industry this paragraph must be modified to require the compulsory display of the same information in larger letters on or near unpackaged foods.

5. CONCLUSION

APL believes consumers have the right to know what they are consuming and should be able to base purchasing decisions on accurate information without being misled by ambiguous claims about its COO. APL supports mandatory COOL for both packaged and unpackaged pork products to identify where the essential/significant ingredient of the final product was produced solely from Australian raw material and to identify clearly the percentage of imported ingredients. However we do not support that the word “Australian” should only be used where the product is made from 100 % Australian ingredients. The main labelling issue for the pork industry remains the ambiguity of the “Made in Australia” claim, which does not allow Australian producers, processors and marketers to adequately distinguish their product from subsidised imports. This Bill does not deliver significant advantages to the pork industry on this front and would make it just as difficult for consumers to locate Australian ham and bacon in the supermarket. Although we agree that the COOL system needs to be made more transparent, we recommend that more discussion needs to be had in order to develop a clearer COOL system that benefits a wider range of agricultural industries.