Australian Food and Grocery Council

SUBMISSION

11 FEBRUARY 2011

TO:
SENATE, COMMUNITY AFFAIRS COMMITTEE

IN RESPONSE TO:
FOOD STANDARDS AMENDMENT (TRUTH IN LABELLING—GENETICALLY MODIFIED MATERIAL) BILL 2010 INQUIRY

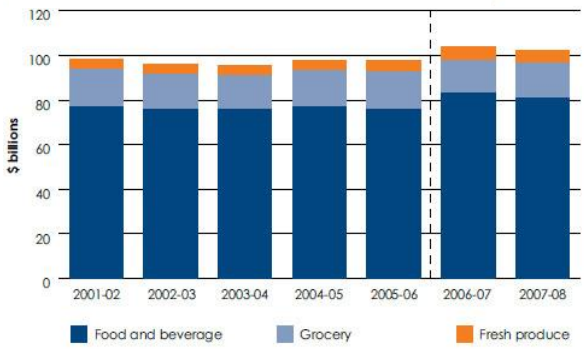
The Australian Food and Grocery Council (AFGC) is the leading national organisation representing Australia's food, drink and grocery manufacturing industry.

Membership of AFGC comprises more than 150 companies, subsidiaries and associates which constitutes in the order of 80 per cent of the gross dollar value of the processed food, beverage and grocery products sectors. (A full list of members is included as Appendix A.)

AFGC's aim is for the Australian food, beverage and grocery manufacturing industry to be world-class, sustainable, socially-responsible and competing profitably domestically and overseas.

With an annual turnover of $102 billion (see chart), Australia's food and grocery manufacturing industry makes a substantial contribution to the Australian economy and is vital to the nation's future prosperity.

Figure 1. Industries turnover (2007-8)



Source: ABS, catalogue number 8221.0 and 8159.0

Manufacturing of food, beverages and groceries in the fast moving consumer goods sector[1] is Australia's largest and most important manufacturing industry, four times larger than the automotive parts sector – the food and grocery manufacturing industry is a vital contributor to the wealth and health of our nation. Representing 28 per cent of total manufacturing turnover, the sector is comparable in size to the Australian mining sector.

The industry's products are in more than 24 million meals, consumed by 22 million Australians every day, every week and every year. The food and grocery manufacturing sector employs more than 288,000 people representing about 3 per cent of all employed people in Australia paying around $13 billion a year in salaries and wages.

The growing and sustainable industry is made up of 38,000 businesses and accounts for $44 billion of the nation's international trade. The industry's total sales and service income in 2007-08 was $102 billion and value-added increased to nearly $27 billion[2]**.** The industry spends about $3.8 billion a year on capital investment and over $500 million a year on research and development.

Many food manufacturing plants are located outside the metropolitan regions. The industry makes a large contribution to rural and regional Australia economies, with almost half of the total persons employed being in rural and regional Australia[3].

It is essential for the economic and social development of Australia, and particularly rural and regional Australia, that the magnitude, significance and contribution of this industry is recognised and factored into the Government's economic, industrial and trade policies.

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[1] Fast moving consumer goods includes all products bought almost daily by Australians through retail outlets including food, beverages, toiletries, cosmetics, household cleaning items etc..

[2] AFGC and KMPG. *State of the Industry 2010*. Essential information: facts and figures. Australian Food and Grocery Council. Oct 2010.

[3] About Australia: www.dfat.gov.au

1. EXECUTIVE SUMMARY

The Australian Food and Grocery Council (AFGC) welcomes the opportunity to make this submission to the Senate Community Affairs Committee *Inquiry into the Food Standards Amendment (Truth in Labelling—Genetically Modified Material) Bill 2010*.

AFGC considers the current regulatory arrangements for foods derived from gene technology ("GM Foods"; Australian New Zealand Food Standards Code *Standard 1.5.2 Foods Produced using Gene Technology)* are appropriate to **ensure protection of public health and safety** and adequate information to consumers for informed choice**.**

The labelling of GM food is not a safety issue. It is solely related to the nature, extent and practicalities of providing information for informed consumer choice.

Current labelling regulations require food to be labelled when it contains genetically modified (GM) material or when the food is materially modified through the use of gene technology. The regulations also recognise, however, the need for flexibility through exemptions and thresholds, in a way which does not undermine the effectiveness of providing for informed consumer choice.

These provisions are necessary as the food supply chain whilst highly sophisticated cannot guarantee absolute segregation of ingredients all the time resulting in occasional trace (i.e. less than 1%) accidental presence of GM material. The provisions also recognise that if a company determines not to use GM ingredients and has production processes which for the vast majority of the time deliver non-GM foods, the occasional accidental presence should not render the company non-compliant with food labelling regulations.

The Bill proposes removal of these exemptions but at the same time recognises the reality of accidental presence of GM material in non-GM foods at low levels by providing due diligence provisions based around demonstration of management systems seeking to ensure segregation. Such management systems would be extremely costly for industry to introduce.

Due to cost and [by definition] the uncertainty of occurrence of accidental presence of GM material the industry will be forced to use a '*may contain…GM'* label on most food products, which provides no further information to consumers.

In short the Bill proposes an unprecedented, costly, and impractical approach to guard against, or label for, an occasional presence of components, at very low levels, with no public health implications, and of only passing interest to most consumers. On this basis it would be completely out of step with mandatory labelling for other matters related to food. Moreover, in imposing unnecessary costs it would be counter to the Council of Australian Government's reform program under the *National Partnership to Deliver a Seamless National Economy*[4] which has the overarching of objective of reducing the regulatory burden on business.

More importantly, the Bill proposes amendment of the Food Standards Australia New Zealand Act suspending:

- any requirement for the labelling standard to be aligned to the Objectives of the Act;

[4] http://www.coagreformcouncil.gov.au/agenda/index.cfm

- the usual processes in food standard development – including evidence gathering, processes of consultation, and regulatory impact statements;
- any opportunity to review the standard; and
- any opportunity to replace the standard, except with a similar one.

In doing so it also runs contrary to the COAG Agreements[5] on policy and regulatory developments and makes a complete nonsense of the concept of FSANZ operating as an independent statutory authority. It also threatens to leave Australian non-compliant with its obligations under international World Trade Organization agreements.

It is inappropriate for any technology to be single out for additional regulatory oversight or impost unless there is a sound, scientific basis for it. Rigorous safety assessments are a given. Appropriate labelling for informed choice is also supported by AFGC. The nature of labelling should be informed by risk assessment and the concept of proportionate regulatory response. It is not in the interest of industry or the wider community, if the potential benefits from new technologies are delayed, or lost altogether, by onerous impractical labelling regulation.

The agri-food sector faces enormous challenges in the coming decades to produce enough food, affordably, for the world's growing population, against the back drop of a changing climate. GM will not be the panacea to these problems, but it can be a useful tool in assisting agriculture and the food manufacturing industry to be more efficient in producing better crops and products. Regulatory systems should provide high levels of protection to the population and the environment. They should also, however, facilitate the introduction of new technologies into industry rather than impose unnecessary constraints.

[5] Council of Australian Governments: Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard-Setting Bodies. Commonwealth of Australia. 2004.

2. RECOMMENDATIONS

That the Senate Community Affairs Committee:

1) reject outright the *Food Standards Amendment (Truth in Labelling—Genetically Modified Material) Bill 2010* on the basis that it:
   - inappropriately skirts the legislated approaches to food standards setting by suspending parts of the Food Standards Australia New Zealand Act;
   - discards the obligation of the Commonwealth to the States and Territories to abide to agreed guides on policy and regulation setting;
   - emasculates Food Standards Australia New Zealand as an independent statutory authority; and
   - risks Australia's commitment to international trade agreements by proposing discriminatory provisions against countries based on their production of GM foods.
2) That the Senate Community Affairs Committee note the complex nature of the genetically modified food issue and support the current *Standard 1.5.2 Food Produced using Gene Technology* as an appropriate, practical means of providing consumers meaningful information about the presence of food components changed as a result of genetic modification.

3. INTRODUCTION

AFGC welcomes the opportunity to make this submission to the Senate Community Affairs Committee *Inquiry into the Food Standards Amendment (Truth in Labelling—Genetically Modified Material) Bill 2010*.

3.1. AFGC POSITION ON GM FOOD LABELLING

AFGC is neither an advocate for, or against, the use of gene technology in foods. Gene technology must demonstrate its merits alongside other technologies which might be used to achieve comparable outcomes. That is, the technology should be able to demonstrate its benefits such as more efficient production or processing of foods, or improved attributes of foods which will benefit the consumer.

AFGC considers the current regulatory arrangements for foods derived from gene technology ("GM Foods"; Australian New Zealand Food Standards Code *Standard 1.5.2 Foods Produced using Gene Technology)* are appropriate to ensure protection of public health and safety and adequate information to consumers for informed choice**.**

The labelling of GM food is not a safety issue. It is solely related to the nature, extent and practicalities of providing information for informed consumer choice.

AFGC supports the current labelling requirements in Standard 1.5.2 and opposes any changes which would extend GM labelling.

3.2. FOOD REGULATORY REFORM AGENDA

AFGC has argued for a number of years that the food regulatory system has not been operating as well as it should with issues that include governance in foods standards development; lack of uniform enforcement of food regulations; and a policy vacuum across some areas of food standards, including food labelling. These shortcomings have imposed unnecessary costs on industry which, at least in part, have been passed onto consumers. Government also has been concerned about the inefficiency of the food regulatory system. For example, the Victorian Competition and Efficiency Commission conservatively estimated savings of $34.5 million p.a. in Victoria alone flowing on from proposed changes at reducing regulatory burden[6] whilst the Productivity Commission in reviewing food regulation concluded that:

> *'food regulation can be made less burdensome by increasing national consistency of regulation and improving timeliness and transparency of decision making….''*[7].

More recently the Commission found that:

> '*differences in the nature of regulation, administrative and enforcement practices and fees and charges are likely to point to unnecessary burdens on business*'[8]

6 Simplifying the Menu: Food Regulation in Victoria. Final Report September 2007. Victorian Competition and Efficiency Commission.

7 Annual Review of Regulatory 'Burden on Business: Manufacturing and Distributive Trades. Productivity Commission. August 2008.

8 Performance Benchmarking of Australian and New Zealand Business Regulation: Food Safety. Productivity Commission Draft Research Report. Productivity Commission. October 2009.

It was against this backdrop that the AFGC welcomed strongly food regulation being included as a key activity within the Council of Australian Government's reform program under the *National Partnership to Deliver a Seamless National Economy*[9] which has the overarching objective of reducing the regulatory burden on business.

AFGC acknowledges some progress has been made with the reforms in the governance arrangements of the ANZ Food Regulation Ministerial Council which effectively removed the "power of veto" of any single jurisdiction for standard setting moving to a two thirds majority approach.

AFGC also welcomed the COAG announcement in 2009 that there would be *Review of Food Labelling Policy and Law*. AFGC considered it a 'once in a generation' chance to address an area of food regulation which is particularly controversial.

In its submissions to the Review, which got underway during 2010, AFGC argued that the Review was an opportunity to establish the basis of a sound food labelling policy. This would in turn would lead to a sound regulatory framework to resolve contentious issues such as country of origin labelling, front of pack nutrition labelling and the labelling of GM foods. AFGC also emphasised the importance of aligning outcomes of the Review with the overall direction of regulatory reform agenda.

3.3. BLEWETT FOOD LABELLING LAW AND POLICY REVIEW

Labelling Logic: Review of Food Labelling Law and Policy (2011)[10] *(*Blewett Review*)* was released in January 2011. Whilst recommending a "risk assessment approach" to determining the extent of food labelling and appropriate regulatory measures (which AFGC supports) most of the other recommendations are not aligned to the risk assessment approach and will impose greater burdens on business. Many will also impose greater burden on government. This is also the case with respect to the recommendation regarding GM food labelling.

The Blewett Review makes 61 recommendations, of which Recommendations 28-32 deal with the labelling of food produced with use of new technologies, and specifically genetically modified food. AFGC has concerns with most of these recommendations and provides the comments in respect of each of these as follows:

> **Blewett Review Recommendation 28:** *That as a general principle all foods or ingredients that have been processed by new technologies (i.e., all technologies that trigger pre-market food safety assessments) be required to be labelled for 30 years from the time of their introduction into the human food chain; the application of this principle to be based on scientific evidence of direct impact on, or modification of, the food/ingredient to be consumed. At the expiry of that period the mandatory labelling should be reviewed.*

AFGC does NOT support recommendation 28 *on the following grounds:*

This would impose an unnecessarily prescriptive and excessive regulatory requirement on industry, adding cost and complexity that will stifle investment and innovation in new technologies. This recommendation is founded on the view that potential safety issues, if they exist, will become clear after 30 years, yet this is an entirely arbitrary figure and no scientific evidence to demonstrate that the likelihood of identifying a problem is any more

9 http://www.coagreformcouncil.gov.au/agenda/index.cfm

10 http://www.foodlabellingreview.gov.au/internet/foodlabelling/publishing.nsf/Content/pubsreports

probable. Furthermore it sends the unwarranted and potentially damaging message that regulatory authorities are reserving judgement on whether a technology is safe, or not, until 30 years have lapsed. This is unnerving for consumers, and the food industry which might be considering adopting the technology. It also undermines the integrity of the food regulatory system and confidence in its ability to come to a conclusion that a food is safe and suitable for sale. This recommendation is, therefore, flawed and is in conflict with the principle that new technologies need to be considered safe in order to be approved for use in the food supply by two government regulators: the Office of the Gene Technology Regulator, and Food Standards Australia New Zealand. If there is a safety concern then it must be addressed in the assessment process used in determining that the product is fit for purpose and safe for use.

> ***Blewett Review Recommendation 29:*** *That only foods or ingredients that have altered characteristics or contain detectable novel DNA or protein be required to declare the presence of genetically modified material on the label.*

AFGC does NOT support recommendation 29 *on the following grounds:*

This issue was explored extensively during the development of the current standard. The exemptions were developed for good reasons, and circumstances have not altered rendering them inappropriate. Exemptions for adventitious presence and GM flavourings should remain.

> ***Blewett Review Recommendation 30:*** *That any detection of an adventitious genetically modified event be followed by a period of monitoring and testing of that food or ingredient.*

AFGC does NOT support recommendation 30 *on the following grounds:*

This adds unnecessary cost for testing. The Recommendation fails to appreciate the complexity of testing for components at very low levels and the expense of robust sampling plans to provide conclusive data.

> ***Blewett Review Recommendation 31:*** *That foods or ingredients with flavours containing detectable novel DNA or protein not be exempt from the requirements to declare the presence of genetically modified material on the label.*

AFGC does NOT support recommendation 31

GM flavours are required to be labelled and only exempt under current requirements when the amount of GM material is less than 1 mg/kg, which is less than the amount that can be present through adventitious presence. The AFGC notes there is no justification to remove current exemption for labelling of low GM levels (1ppm). The AFGC is seeking specific advice from flavour houses regarding the impact of this recommendation.

> ***Blewett Review Recommendation 32:*** *That foods or ingredients that have been genetically modified and would require declaration if labelled be declared on menu/menu boards or in close proximity to the food display or menu in chain food service outlets and on vending machines.*

AFGC does NOT support recommendation 32

Restaurants and food service outlets currently have obligations to provide information on request. Specific labelling of GM foods on display menus would be problematic as menu boards typically present meals – not individual products or ingredients. This will add complexity to operations with additional cost for no clear additional consumer benefit.

(Note: AFGC is preparing a more detail response to the Blewett Review which will be made available on completion.)

4. FOOD STANDARDS AMENDMENT (TRUTH IN LABELLING— GENETICALLY MODIFIED MATERIAL) BILL 2010

The labelling of foods derived from gene technology (GM Foods) is regulated under the Australian New Zealand Food Standards Code *Standard 1.5.2 Foods Derived from Gene Technology*. This standard has been in existence for over 10 years. It was developed against a backdrop of extensive public debate regarding the safety of GM foods and the appropriateness and extent of labelling. *Standard 1.5.2* prohibits the sale of GM Foods in Australia and New Zealand unless they have been approved by *Food Standards Australia New Zealand (*FSANZ) following a safety assessment. Standard 1.5.2 also prescribes the labelling requirements.

The AFGC notes that the *Food Standards Amendment (Truth in Labelling—Genetically Modified Material) Bill 2010* cites as one of the principle issues to be addressed, the labelling of food containing GM foods as well as GM ingredients which are accidentally present.

Specifically section 16C of the Bill prescribes that:-

> *Foods containing GM material must list that material as an ingredient of the food on the food's label, irrespective of:*
>
> *(a) the amount of GM material in the food; and*
>
> *(b) the manner in which the GM material made its way into the food; and*
>
> *(c) the fact that the food was not intended to contain GM material.*

The effect of this amendment would be to remove the current exemption from labelling of foods which inadvertently contain low levels of GM materials.

The food industry is large and complex, with many hundreds of different components (ingredients, additives, processing aids), from many hundreds of different sources. The industry is very successful in keeping these components segregated until required in the final product. There is, however, opportunity along the supply chain for occasional co-mingling of trace amounts leading to the "adventitious presence" of material not intended to be present. The levels have no impact on the quality of product but may be detectable with the highly sensitive methods of analysis available. Special procedures can be used to reduce the occurrence but it cannot practically be totally eliminated.

More importantly, adventitious presence cannot be predicted. Labelling foods to indicate adventitious presence under these circumstances is, therefore, problematic. Continuous testing is extremely expensive and it is not practical to change labels after detection, as the food may already be manufactured and packaged. Labelling, in case of adventitious presence is potentially misleading and in breach of the consumer protection legislation. To recognise adventitious presence, GM food labelling in Australia and around the world provides "thresholds". This recognises that if a company determines not to use GM ingredients and has production processes which for the vast majority of the time deliver non-

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GM foods, the occasional adventitious presence should not render the company non-compliant with food labelling regulations.

AFGC notes that the Bill provides due diligence provisions regarding the accidental presence of GM components. These are, however, extremely onerous. Verification of the chain of custody in relation to ingredients used to produce GM-free food; procurement or supply contract requirements for ingredients for GM-free food; and verification of testing and the results of testing GM-free food is an extremely costly approach.

Identity preserved certification have been introduced by industry. It is a rigorous process audited by a third-party that traces the ingredient from being a seed to a finished product. It provides for the segregation of GM and non-GM ingredients during all phases of the farming, handling and processing cycle. **It cannot, however, remove absolutely the risk of very low levels of adventitious presence of GM ingredients in non-GM ingredients remain**.

Advanced PCR[11] testing detects sequences of DNA that are specific to genetically modified organisms and can be highly sensitive. It can also be prone to error with false positives attributed to inadvertent contamination of samples in the laboratory.

Health authorities acknowledge that products grown without genetic modification may unintentionally contain traces of genetically modified organisms, due to cross-pollination during cultivation, harvesting, storage, transport or processing despite all rigorous processes that ingredients suppliers put in place. This is a well-recognised phenomenon and why countries around the world allow a varying amount to be present without requiring a finished product to be labelled as a GM food.

The regulations in Australia and New Zealand are among some of the strictest. All GM foods intended for sale in Australia and New Zealand must undergo a safety evaluation by Food Standards Australia New Zealand (FSANZ). FSANZ will not approve a GM food unless it is safe to eat.

FSANZ regulatory limits permit amounts of no more than 1% of genetically modified material per ingredient that is unintentionally present, without requiring a product to be labelled as a GM food.

The only feasibly labelling option for manufacturers should this Bill proceed would be to apply “May Contain GM ingredients” on all products, given that a low inadvertent level of GM material may or may not be present on a batch-by-batch basis. Such labelling would provide consumers with no greater certainty about the status of their foods and would not enable informed choice. Increasing the regulatory requirements for GM labelling reduces the incentive for industry to source non-GM foods, further reducing consumer choice.

In short the Bill proposes an unprecedented, costly, and impractical approach to guard against or label for an occasional presence of components, at very low levels, with no public health implications, and of only passing interest to most consumers[12]. On this basis it would be completely out of step with mandatory labelling for other matters related to food.

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[11] PCR – polymerase chain reaction.

[12] AFGC Submission on Review of Food Labelling Policy and Law - May 2010 http://www.afgc.org.au/tools-guides-.html#submissions. This document contains information on the level of consumer inquiries to food companies regarding GM.

The Bill itself recognises this as it calls for the suspension for other parts of the FSANZ Act when it comes to GM Food labelling. Specifically it suspends:

- any requirement for the labelling standard to be aligned to the Objectives of the Act;
- the usual processes in food standard development – including evidence gathering, processes of consultation, and regulatory impact statements;
- any opportunity to review the standards; and
- any opportunity to replace the standard, except with a similar one.

In doing so it also runs contrary to the COAG Agreements[13] on policy and regulatory developments discarding completely the notion of evidence-based regulation and need to demonstrate a positive benefit to the community.

Moreover it makes a complete nonsense of the concept of FSANZ operating as an independent statutory authority charged with developing food standards in the best interests of the community without interference.

It also threatens to leave Australia non-compliant with its obligations under international World Trade Organization agreements by introducing a technical barrier to trade by identifying 'high risk countries' and proposing measures against them.

Recommendation

That the Senate Community Affairs Committee reject outright *Food Standards Amendment (Truth in Labelling—Genetically Modified Material) Bill 2010* on the basis that it:

- inappropriately skirts the legislated approaches to food standards setting by suspending parts of the Food Standards Australia New Zealand Act;
- discards the obligation of the Commonwealth to the States and Territories to abide to agreed guides on policy and regulation setting;
- emasculates Food Standards Australia New Zealand as an independent statutory authority; and
- risks Australia's commitment to international trade agreements by proposing discriminatory provisions against countries based on their production of GM foods.

4.1. Overseas Labelling Approaches

In Australia the Food Regulation Ministerial Council and government regulators acknowledged that products grown without genetic modification, such as soy or maize, may unintentionally contain traces of GM material. This may be due to cross-pollination during cultivation, harvesting, storage, transport or processing despite all rigorous processes that farmers and ingredient suppliers put in place. This is a well-recognised phenomenon and the reason why countries around the world allow trace levels to be present without requiring a finished product to be labelled.

European law requires a label when adventitious presence of GM is above 0.9%. Japan requires a label if it is above 3%, South Africa and Thailand permit up to 5% before labelling

[13] Council of Australian Governments: Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard-Setting Bodies. Commonwealth of Australia. 2004.

is required and many nations, including Canada and the US, allow 100% GM content without any label. FSANZ has one of the strictest regulations in the world where no more than 1% unintentional presence of genetically modified material per ingredient may be permitted without labelling requirements.

4.2. Cost Implications for Additional GM Labelling

Increasing the complexity of labelling for declarations of the use, source or processing of foods associated with gene technology imposes significant costs on the processed, manufactured food industry. These costs arise from the need for industry to obtain materials from a variety of sources, depending on seasonable availability, and subject to fluctuations in commodity prices or adverse weather or other events affecting supply and availability. It is normal business practice to obtain similar ingredients from a variety of sources throughout the year, consistent with the management of business risk, production cycles and forward planning.

The most efficient means of ordering and managing labelling and packaging stock will depend on the type of product, consumer demand, price discounts on volume of production, and available storage. For high turnover, short shelf life foods companies may keep between 3 – 6 months of label stock on hand; while slower turnover and long shelf life products may keep 18 - 24 months labelling stock.

The location where the artwork is produced and printing is undertaken, and the delivery time is also a critical consideration. With the globalisation of the industry and the ease of digital transmission of images, artwork and printing is often sourced overseas but delivery may take between 1 – 2 months.

If the industry is required to increase the level of GM labelling requirements, the cost implications are follows:

For Manufacturers

- Costs for producing and holding multiple lines of labels of essentially for the same product but with different source or processing GM declarations.
- Costs in redesigning labelling to accommodate the increased area required on the label for the declarations.
- Costs to introduce complex requirements to track and control labelling of individual batches of food to ensure compliance with Trade Practices requirements for truth in labelling.
- Costs due to supply chain constraints – i.e. not sophisticated enough to deliver the “perfect” segregation required by the legislation.
- Costs for needing to produce new labelling if the crops for which forward purchasing orders have been made fail and crops needs to be sourced from another country.
- Costs associated with disruption of manufacturing activities due to compliance inspections/auditing by enforcement agencies to verify ‘truth in labelling’.

For Growers

- Costs to local growers if manufacturers increase reliance on imported ingredients to reduce and simplify labelling and ensure continuity of supply and thereby reduce use of locally grown produce.

- Costs to growers if manufacturers use Australian produce but pass labelling costs back on growers.
- Costs associated with damage to trade and export opportunities due to damage to Australian reputation through creation of an artificial trade barrier.

4.3. GENE TECHNOLOGY LABELLING

All foods derived from gene technology must be approved by FSANZ following a safety assessment process, prior to market release. This means that all foods derived from gene technology for sale in Australia and New Zealand are (by any sensible meaning of the word) safe. Labelling these foods does not add to their safety. Moreover there is a substantial body of evidence to indicate that genetically modified (GM) foods are generally safe viz:

1. GM foods have been on the market for over 20 years, and there has not been a single case of ill health associated with the GM nature of the food product;
2. there have been numerous official studies commissioned around the world and none have identified any health risks associated uniquely with GM technologies to the extent that would warranted abandoning the technology, or require specific labelling;
3. regulatory agencies in the USA, Europe, Canada, Australia and other countries have been assessing GM foods for many years with no cases (to AFGC's knowledge) of approval being denied due to health issues; and
4. there is no plausible underlying biochemical theory which proposes a mechanism for how the act of modifying genetic material is inherently dangerous, and empirical evidence from hundreds of years of conventional breeding (which results in changes to genetic material) suggest strongly that it is not.

AFGC recognises that GM food labelling remains a controversial issue, particularly among some elements of the community. Consumer affairs data from food companies suggests that GM labelling is not as prominent an issue with consumers as it was some years ago, perhaps reflecting the lower media interest, or that consumers are becoming more comfortable with the concept of GM foods.[12]

AFGC considers the current GM food labelling requirements are supportable and that there is not a strong case for amendment – either to relax them, or to tighten them. They meet the needs of consumers by requiring the labelling of foods which:

- are substantially altered through the use of GM technologies; or
- which contain modified DNA or protein from their components, or above trace amounts due to co-mingling through the supply chain.

Highly refined food ingredients or additives do not need to be labelled. If they did attract a label, their use would result in almost all foods being GM labelled, even in the absence of any modification of the product.

The Food Standards Code is silent on "non GM" claims. **This also allows industry to make label statements identifying foods in which GM has not been used, thereby assisting consumer choice.**

The current requirements are also enforceable as modified DNA or protein can be detected by quantitative assays – this is a critical issue for regulators required to enforce the standard.

The current standard is therefore a reasonable outcome from what was a highly contentious and charged debate. Notwithstanding this, it is reasonable to explore the implications of changing the standard. Alternative options for GM labelling are presented in the Appendix below, and compared with the current standard.

Under the current system there is NO evidence of a systemic information failure in the market place. There is little scope for deception and confusion for consumers as to whether the foods they are purchasing contain GM material.

Despite the fact that there is no apparent market failure under the current system, should a public benefit exist in providing further information, it would need to exceed the additional private costs to the industry and to enforcement agencies, and may need to also exceed any additional costs associated with lost trade opportunity.

Clearly, any changes to the current GM labelling requirements would are problematic. They may cause a proliferation of GM labels, even when there is no additional GM material and it would still leave situations where there was no label, leading to criticism from those who seek blanket labelling. There is no practical, technically sound option which would tighten the current labelling provisions which would lead to sensible labelling, meeting the needs and wants of all in the community. The use of thresholds, or definitions around ingredients, food additives and processing aids end up being arbitrary, attracting criticism from those who seek stricter labelling and from those seeking less labelling.

AFGC supports the current provisions of *Standard 1.5.2 Food Produced using Gene Technology* of the Food Standards Code. It requires labelling when food is altered, rather than labelling a process.

Recommendation

That the Senate Community Affairs Committee note the complex nature of the genetically modified food issue and support the current *Standard 1.5.2 Food Produced using Gene Technology* as an appropriate, practical means of providing consumers meaningful information about the presence of food components changed as a result of genetic modification.

5. CONCLUSIONS

It is inappropriate for any technology to be single out for additional regulatory oversight or impost unless there is a sound, scientific basis for it. Rigorous safety assessments are a given. Appropriate labelling for informed choice is also supported by AFGC. The nature of labelling should be informed by risk assessment and the concept of proportionate regulatory response. It is not in the interest of industry or the wider community, if the potential benefits from new technologies are delayed, or lost altogether, by onerous impractical regulation.

There is no doubt the GM technologies are potentially very useful. They have been adopted widely across the globe with ever greater production of a number of food crops using a range of specific GM outcomes. There is no doubt, that after some 20 years in production, the technology can make a significant contribution to more efficient agriculture with wide spread benefits including increased yields. The technology offers the possibility of reduced carbon emissions and water requirements into the future.

The agri-food sector faces enormous challenges in the coming decades to produce enough food, affordably, for the world's growing population, against the back drop of a changing

climate. GM will not be the panacea to these problems, but it can be a useful tool in assisting agriculture and the food manufacturing industry to be more efficient in producing better crops and products. Regulatory systems should provide high levels of protection to the population and the environment. They should also, however, facilitate the introduction of new technologies into industry rather than impose unnecessary constraints.

AFGC stands ready to provide further input into the inquiry should it be required.

APPENDIX . Comparison of the labelling requirements of *Standard 1.5.2 Foods derived from gene technology* with alternative approaches.

	Food[1]	Ingredient[2]	Additive[3]	Processing Aid[3]	Unintentional co-mingling[4]	Substantial change[5]	Feed[6]	Comment
Current Standard	Yes – DNA/ Protein >1%	Yes – DNA/ Protein >1%	Yes – DNA/ Protein >1% (flavours >0.1%)	No	Yes if >1% DNA/ Protein	Yes	No	Supportable technical basis for labelling i.e. if modified DNA/protein present. Refined GM foods are not required to be labelled Enforceable, including for imported foods. Practical to implement by industry. Any changes to the nature of food must be labelled.
Option 1. Label all GM foods or ingredients above a 5% threshold. Retain current provisions for additives and processing aids	Yes if >5% GM derived	Yes if >5%	Yes – DNA/ Protein >1% (flavours >0.1%)	No	Yes	Yes	No	Many foods containing appreciable levels of refined products (oils, starches etc.) will be labelled. Potential to distort the market and introduce costs as industry formulated to 4.9% with GM material and non-GM for the balance. Likely to be contentious around the "threshold level" as some would claim it is too high, other that it is too low. No assay available, thus enforcement is potentially costly and would need to audit QA systems. Difficult to enforce for imported foods. Any changes to the nature of food must be labelled
Option 2 Label when there is any GM use at all.	Yes – any level	Yes – any level	Yes – any level	Yes – any level	Yes – any level	Yes	Yes- any level	This labels the use of GM. Most food products currently would attract a label. Difficult to enforce. No assay available, thus enforcement is potentially costly and would need to audit QA systems. Difficult to enforce imported foods. Changes to the nature of food must be labelled
Option 3 Relax requirements to label only when food is changed by use of GM.	No	No	No	No	No	Yes	No	A label is required only when the use of GM causes a material change in the nature of the food, and ignores the use of GM technologies. Changes to the nature of food must be labelled.

[1] Packaged food as consumed pre-or post cooking. [2]Ingredient which might be purchased at retail – i.e. cooking flour, cooking oil. [3] Additive or processing aid as defined under the ANZ Food Standards Code. [4] Trace mixing of food components which occurs by chance along the supply chain.[5] A change to a food which occurs as a result of a genetic modification – e.g. high oleic soybean oil.[6] Labelling of products (meat, eggs, milk etc) from production animals fed GM feed components (not the feed itself).

Australian Food and Grocery Council

AFGC MEMBERS LIST – AS AT 13 DECEMBER 2011

Arnott's Biscuits Limited
Asia-Pacific Blending Corporation P/L
Barilla Australia Pty Ltd
Beak & Johnston Pty Ltd
Beerenberg Pty Ltd
Bickfords Australia
BOC Gases Australia Limited
Bronte Industries Pty Ltd
Bulla Dairy Foods
Bundaberg Brewed Drinks Pty Ltd
Bundaberg Sugar Limited
Byford Flour Mills T/a Millers Foods
Campbell's Soup Australia
Cantarella Bros Pty Ltd
Cerebos (Australia) Limited
Cheetham Salt Ltd
Christie Tea Pty Ltd
Church & Dwight (Australia) Pty Ltd
Clorox Australia Pty Ltd
Coca-Cola Amatil (Aust) Limited
Coca-Cola South Pacific Pty Ltd
Colgate-Palmolive Pty Ltd
Coopers Brewery Limited
Danisco Australia Pty Ltd
Devro Pty Ltd
DSM Food Specialties Australia Pty Ltd
Earlee Products
Eagle Boys Pizza
FPM Cereal Milling Systems Pty Ltd
Ferrero Australia
Fibrisol Services Australia Pty Ltd
Fonterra Brands (Australia) Pty Ltd
Food Spectrum Group
Foster's Group Limited
Frucor Beverages (Australia)
General Mills Australia Pty Ltd
George Weston Foods Limited
GlaxoSmithKline Consumer Healthcare
Go Natural
Goodman Fielder Limited
Gourmet Food Holdings
H J Heinz Company Australia Limited
Harvest FreshCuts Pty Ltd
Healthy Snacks
Hela Schwarz
Hoyt Food Manufacturing Industries P/L
Hungry Jack's Australia
Johnson & Johnson Pacific Pty Ltd
Kellogg (Australia) Pty Ltd
Kerry Ingredients Australia Pty Ltd
Kimberly-Clark Australia Pty Ltd
Kraft Foods Asia Pacific
Laucke Flour Mills
Madura Tea Estates
Manildra Harwood Sugars
Mars Australia
McCain Foods (Aust) Pty Ltd
McCormick Foods Aust. Pty Ltd
McDonald's Australia
Merisant Manufacturing Aust. Pty Ltd
National Foods Limited
Nerada Tea Pty Ltd
Nestlé Australia Limited
Nutricia Australia Pty Ltd
Ocean Spray International Inc
Parmalat Australia Limited
Patties Foods Pty Ltd
Procter & Gamble Australia Pty Ltd
Queen Fine Foods Pty Ltd
QSR Holdings
Reckitt Benckiser (Aust) Pty Ltd
Sanitarium Health Food Company
Sara Lee Australia
SCA Hygiene Australasia
Schweppes Australia
Sensient Technologies
Simplot Australia Pty Ltd
Spicemasters of Australia Pty Ltd
Stuart Alexander & Co Pty Ltd
Sugar Australia Pty Ltd
SunRice
Swift Australia Pty Ltd
Tasmanian Flour Mills Pty Ltd
Tate & Lyle ANZ
The Smith's Snackfood Co.
The Wrigley Company
Tixana Pty Ltd
Unilever Australasia
Vital Health Foods (Australia) Pty Ltd
Wyeth Australia Pty Ltd
Yakult Australia Pty Ltd
Yum Restaurants International

Associate & *Affiliate Members
Accenture
Australian Pork Limited
ACI Operations Pty Ltd
Amcor Fibre Packaging
*ASMI
AT Kearney
BRI Australia Pty Ltd
*Baking Association Australia
CAS Systems of Australia
CHEP Asia-Pacific
CSIRO Food and Nutritional Sciences
CoreProcess (Australia) Pty Ltd
Dairy Australia
Food Liaison Pty Ltd
FoodLegal
*Foodservice Suppliers Ass. Aust.
*Food industry Association WA
Foodbank Australia Limited
*Go Grains Health & Nutrition Ltd
GS1
Harris Smith
IBM Business Cons Svcs
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Leadership Solutions
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Linfox Australia Pty Ltd
Meat and Livestock Australia Limited
Monsanto Australia Limited
New Zealand Trade and Enterprise
RQA Asia Pacific
StayinFront Group Australia
Strikefoce Alliance
Swire Cold Storage
Swisslog Australia Pty Ltd
The Food Group Australia
The Nielsen Company
Touchstone Cons. Australia Pty Ltd
Valesco Consulting FZE
Visy Pak
Wiley & Co Pty Ltd

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Amcor Fibre Packaging
Bundaberg Brewed Drinks Pty Ltd
Schweppes Australia Pty Ltd
Coca-Cola Amatil (Aust) Limited
Foster's Group Limited
Golden Circle Limited
Lion Nathan Limited

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