

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

10 – 11 February 2010

Question: aet 5

Topic: Food Labelling

Hansard Page: Written

Senator XENOPHON asked:

1. Does the ACCC concede that current labelling laws are potentially misleading for consumers, when ‘Made in Australia’, for example, means that only 51 percent of the total value of the product has to be from Australian manufacturers or producers – which could include the packaging?
2. Is there any likelihood of a review of this standard?

Answer:

1. The ACCC is responsible for securing compliance with and enforcing the *Trade Practices Act 1974* (TPA). The TPA includes a number of provisions which seek to ensure that consumers are not misled by claims made by firms, in trade or commerce, about their products and services. Sections 52 and 53(eb) of the TPA are particularly relevant to claims made about the origin of goods.

Section 52 prohibits misleading or deceptive conduct or conduct that is likely to mislead or deceive. Section 53(eb) prohibits businesses from making a false or misleading representation concerning the place of origin of goods.

The TPA contains two defences to alleged misleading or deceptive conduct or false or misleading representations in relation to country of origin labelling on food products. These defences fall under sections 65AA to 65AM.

The first defence involves general origin claims such as ‘made in’ or ‘manufactured in’ and for that defence to apply, goods must be *substantially transformed* in the country that is the subject of the representation **and** 50% or more of the cost of producing or manufacturing the goods must be incurred in relation to processes of that country.

The second defence is for ‘product of’ claims whereby each significant ingredient or component must originate from the country of the claim **and** all (or virtually all) of the production or manufacturing processes must take place in that country.

The TPA does not prescribe what information must be on packaging but it does require that, when information is on products, it does not mislead consumers. The ACCC therefore considers the overall impression that is being conveyed to the consumer by the representation on a case by case basis.

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2. The ACCC is an independent statutory authority responsible for seeking compliance with the TPA. Any proposed amendments to the place of origin defences within this legislation are a matter of policy that fall within the portfolio of the Department of Innovation, Industry, Science and Research.