

Chapter 5

Comments on specific aspects of the bill

100 per cent rule

5.1 Clause 16A(1)(a) states that a label may only use the word "Australian" on or in relation to the relevant food if it is 100 per cent produced in Australia.

5.2 The CEO of the Australian Food and Grocery Council (AFGC), Ms Kate Carnell, argued that this aspect of the bill was overly simplistic and populist, as it would not take into account the raw materials and additives (such as colourings, preservatives and flavourings) in processed food that are often only available from overseas sources. For example:

If we look at iconic Australian companies we can use a South Australian example, Haigh's Chocolates. You may have noticed that we do not grow too much cocoa in Australia; the climate is not quite right. So, for the vast range of chocolate products, such as chocolate ice cream, chocolate milk and so on ... the fact is that 100 per cent of the product is not from Australia so could not bear, in the words of the bill, 'the word "Australian"'. Bickford's, an old South Australian company, uses products that are made in Australia and products that are imported—products like citric acid, which is used broadly in manufacturing and not made in Australia. Those of you who do any cooking will know that in the essence section of supermarkets there is a range of Queen essences. Queen has been an Australian company for over 100 years. They manufacture in Brisbane. Even the little bottles and labels are manufactured in Brisbane. They have been around for a long time. They told me that they would not be able to say that any of their products that they could think of were made in Australia.¹

5.3 The dairy industry argued that its products would be severely disadvantaged were the bill to become law, resulting in a lack of recognition of Australian dairy products in both local and international markets:

The implications for the dairy industry are that only some white milks will be able to carry the Product of Australia label. It will effectively exclude all cheeses, natural/unflavoured yogurts and most dairy desserts that can currently make the claim. This would mean that most dairy products containing milk produced in Australia by Australian dairy farmers and converted into Australian dairy products in Australian factories employing Australian workers would not be able to claim Australian origin.²

1 Ms Kate Carnell, Australian Food and Grocery Council, *Proof Committee Hansard*, 30 October 2009, p 2.

2 Australian Dairy Industry Council, *Submission 8*, p 3.

5.4 Simplot told the committee that the 100 per cent rule would hurt its business, as it would not be able to sell processed products with minor imported ingredients to overseas markets with an Australian declaration on the label:

We like to promote 'Australian' wherever we sell our products, whether it is New Zealand, whether it is Asia or whether it is anywhere else in the world. 'Australian' has some strength and we definitely want to be able to support that market. A number of countries look for the Australian logo on our products ...³

5.5 An unintended consequence of the 100 per cent rule may be that such tough requirements could provide an incentive for manufacturers to use only imported products, as argued by the AFGC. The National Farmers' Federation also shared this concern. National Foods, however, suggested that the opposite could occur, but that this could create further supply issues 'as manufacturers will all attempt to source ingredients from an even smaller pool of suppliers, the ultimate result being a lack of supply of finished products to consumers'.⁴ Riverina Citrus said there was no evidence that processors would be forced to source a greater share of their supply from offshore.⁵

5.6 The 100 per cent rule has also been criticised as unworkable and potentially counter-productive, even by those who support the bill's broad intent.

5.7 AUSVEG stated that any changes to food labelling laws should recognise the complexity of food processing and should not disadvantage producers on a technicality. Growcom was concerned that banning any product that is not 100 per cent local from using the word "Australian" could give the impression that products that are 99 per cent local are actually 100 per cent imported:

An example from the horticulture industry is potato wedges made from 100 per cent grown Australian potatoes, with some imported flavourings or oils. Under the proposed bill, this product could not have the word "Australian" on its label.⁶

5.8 CHOICE also suggested that the 100 per cent rule goes too far:

Australian consumers would not be able to support local manufacturers and workers by choosing products that are made in Australia, particularly when there are no equivalent products that meet the higher hurdle set out in the "Product of Australia" provisions.⁷

3 Mr Philip Corbet, Simplot, *Proof Committee Hansard*, 30 October 2009, p 5.

4 National Foods, *Submission 16*, p 5.

5 Riverina Citrus, *Submission 24*, p 1.

6 Growcom, *Submission 2*, p 3.

7 CHOICE, *Submission 6*, p 5.

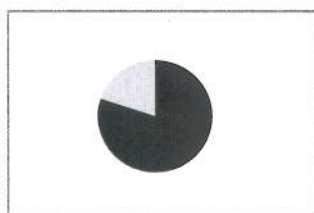
5.9 Dick Smith Foods argued that the 100 per rule was impractical, noting that its own slogan is 'As Australian as you can get':

Put simply, this means we have endeavoured to use as many Australian ingredients as possible, however in some cases, through absolute necessity, there may be some very minor foreign element due to lack of availability of an alternative. Under the current amendment, we would not be able to call the product Australian. Whilst this would be the same for other brands of the same product, you must acknowledge that in the absence of there being a 100% Australian content product, the consumer would be best served by being informed of the next best thing, i.e. the product with the highest possible Australian content.⁸

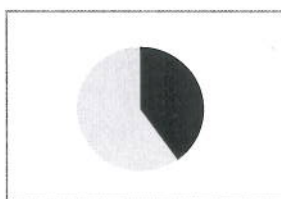
5.10 Dick Smith Foods suggested that the way to address this would be to provide a label which says "X% Australian product; Y% Australian owned."

5.11 Senator Joyce raised a similar suggestion during the public hearings—a proposal to show a mandatory diagrammatic representation of proportionality in the form of a pie chart or 'gold disc', indicating the percentage of Australian product and the percentage of Australian manufacturing value (and/or Australian ownership). For example:

Australian content



Australian ownership



5.12 Responses to this proposal varied. While the AFGC and the NFF were reluctant to comment on the merits of such a proposal, which was not included in the current bill, Riverina Citrus commented that a 'visual and graphic' symbol such as that would be useful for most consumers.⁹ AUSVEG was also supportive of such a representation.

5.13 McShane's Produce, a Queensland family-owned farming enterprise, suggested the following label¹⁰, arguing that there would be much less scope for manipulation with such a requirement:

8 Dick Smith Foods, *Submission 4*, p 1.

9 Mr Scot MacDonald, Riverina Citrus, *Proof Committee Hansard*, 30 October 2009, p 30.

10 McShane's Produce, *Submission 11*, p 3.

Contents		0%	25%	50%	100%
75%	Wheat Bran	Aust		USA	
21%	Wholegrain oats	Aust			
	Sugar	Aust			
	Malt Extract (Barley)	Canada			
	Minerals(calcium Carbonate,Iron)	Germany			
	Salt	China			
	Vitamins (Niacin,E,Bi,3-carotene)	Germany			
	Processed	Aust			
0%	Genetically modified organisms				

Sample label

5.14 The Australian Made, Australian Grown (AMAG) Campaign told the committee that the 100 per cent rule would be too exclusionary and unrealistic, and that a better threshold for the use of the word "Australian" would be 90 per cent of the product by weight. This definition was determined by a government and industry working party in 2007 and appears in the AMAG Code of Practice under Rule 18. Those who wish to use the green and gold AMAG licensed logo on their products can currently qualify under the 90 per cent by weight definition.¹¹ For example, a manufacturer could state "Australian Grown peas and corn" on a packet of frozen vegetables which may have some minor imported seasonings or coatings.¹²

5.15 Mr Ian Harrison, CEO of AMAG, was somewhat critical of Senator Joyce's proposal for a mandatory pie-chart showing proportionality, suggesting that to put another 'brand' or symbol into the marketplace was unnecessary, given the high level of recognition amongst consumers of the stylised green and gold kangaroo AMAG label.¹³

Requirement to state imported content

5.16 Clause 16A(1)(b) states that food that contains one or more imported ingredient must display this fact in letters of 15mm on the front label.

5.17 There was more support for this requirement from a number of submitters, including Australian Pork Limited and the Australian Made, Australian Grown Campaign.¹⁴ The Horticulture Australia Council noted, however, that the word 'imported' without a specification of an actual country of origin is not very useful.

11 Mr Ian Harrison, Australian Made, Australian Grown Campaign, *Proof Committee Hansard*, 5 October 2009, p 4.

12 Australian Made, Australian Grown Campaign, *Code of Practice*, May 2007, p 8.

13 Mr Ian Harrison, Australian Made, Australian Grown Campaign, *Proof Committee Hansard*, 5 October 2009, p 8.

14 See Australian Pork Limited, *Submission 14*, p 10; Australian Made, Australian Grown Campaign, *Submission 1*, p 4.

5.18 The Consumers' Federation of Australia told the committee that this clause was inadequate as it would not mandate the provision of enough relevant information:

Consumers are looking to find out where the imported ingredient comes from. For example, do the imported tomatoes come from Romania or Poland or is the orange juice imported from Spain or the USA. Just listing an ingredient as being imported does not provide this information, which in many cases is what the consumer really wants to know. Some consumers have indicated they do not want to consume products or ingredients coming from a particular country but unless this information is available to them via the label they have no means of making that choice. While the authorities maintain that there is no problem with ingredients such as additives and levels of pesticides and other chemicals in food produced or manufactured in this country—and most consumers probably accept that—they are not so believing of the same for imported products. Recent incidents, such as contamination, particularly from China, have led to this distrust.¹⁵

5.19 However, the AFGC and the Australian National Retailers Association argued that the requirement proposed in the bill could itself lead to a misleading impression being given to consumers. With the emphasis on imported content on the front of a product, even for one minor ingredient, consumers may be led to believe that the entire product is imported when that may not be the case.¹⁶

5.20 Coles also pointed out that the 15mm font was excessive. Its submission contained the following example of this font size on a can of salmon¹⁷:



Requirements for juice

5.21 Clause 16A(1)(c) states that for juice, the inclusion of concentrate and/or the percentage amount of imported ingredients must be displayed on a front label in 25mm font. Clause 16A(1)(d) requires that any drink derived from orange skins should not be described as orange juice.

5.22 Dick Smith Foods stated that the percentage amount of imported ingredients should be displayed on all food products, not just on juice.¹⁸

15 Ms Elaine Attwood, Consumers' Federation of Australia, *Proof Committee Hansard*, 30 October 2009, p 66.

16 Australian National Retailers Association, *Submission 27*, p 3.

17 Coles, *Submission 13*, p 3.

18 Dick Smith Foods, *Submission 4*, p 2.

5.23 Manufacturers and retailers again highlighted the excessive font size mandated by this clause.¹⁹ Riverina Citrus agreed there may be some merit in the argument that the font size will distort existing labels.²⁰

5.24 National Foods argued that there is already a requirement to state the inclusion of concentrate and the presence of fruit skins in the Food Standards Code and that stating a percentage of imported product is also unnecessary.²¹ Riverina Citrus disagreed, saying it was not credible for National Foods to say there is no additional benefit to be gained from stating the percentage of imported product.²²

5.25 The committee heard from Riverina Citrus that imported concentrate was often mixed with fresh Australian juice:

Senator XENOPHON—So why is it that we are told by some of these big manufacturers that we have to bring in Brazilian concentrate when we can freeze and store our juice?

Mr Brighenti—That is really not an argument. We also grow mid-seasons. There are new varieties out there which actually carry the juicing variety right through. So that really is not an issue.

Senator XENOPHON—Is it because they are trying to save a buck? They pass it off, as Senator Joyce has pointed out, as made in Australia, but virtually all of it could be a foreign concentrate. Look at the marketing advantage.

Mr Brighenti—That is correct. Most Australian juice is used in fresh juice, not concentrate. The fresh juice is added to concentrate in the largest selling lines to give it a better flavour and make it more palatable. That is where they use a lot of our fresh juice—to make the concentrate taste better. They use the concentrate as a cheaper alternative to bulk it up. Consumers really should be able to see how much is in there, because we are talking about a premium product compared with the cheap concentrate. We find it very unusual that consumers are not able to judge orange juices by how much fresh orange juice is in it against how much concentrate is in it.²³

19 Australian Food and Grocery Council, *Submission 9*, p 4.

20 Riverina Citrus, *Submission 24*, p 2.

21 National Foods, *Submission 16*, p 8.

22 Riverina Citrus, *Submission 24*, p 2.

23 *Proof Committee Hansard*, 30 October 2009, p 33.

Exclusion of packaging from calculation of Australian content

5.26 Clause 16A(1)(e) states that the percentage of Australian content of a product should not take into account the product container or label.

5.27 Some primary producers expressed support for this amendment.²⁴ However, Dick Smith Foods did not support this clause and posed the question: are Australian packaging and printing industries any less worthy of support than Australian farmers?²⁵

5.28 The AFGC and National Foods argued that this provision would give licence to manufacturers to import packaging materials from cheaper offshore markets.²⁶

Committee view

5.29 'Truth in labelling' through the provision of clear and accurate information for consumers on the Australian provenance or otherwise of a product is a commendable objective. However, it is clear from the evidence gathered that the proposed requirement to restrict use of the word "Australian" only to products which can claim to be 100 per cent Australian is impractical and sets an unrealistic threshold. Given Australia's shrinking manufacturing base and the need to source small quantities of imported ingredients for use in processed food, such a requirement would be counter-productive and disadvantageous to the Australian food industry, as consumers would be unable to distinguish a product with 99 per cent Australian content from a product with minimal Australian content.

5.30 This demonstrates that the bill does not meet its stated objective, namely, providing consumers with meaningful country of origin information in relation to food products, so that they may support the Australian economy and Australian food producers and manufacturers.

5.31 Moreover, the committee is unconvinced that amending the *Food Standards Australia New Zealand Act 1991*, as proposed by this bill, is the right way to attain greater transparency in this area. As discussed in chapter 4, the bill's requirement for Food Standards Australia New Zealand (FSANZ) to circumvent the established food regulation system (which is recognised via an intergovernmental agreement as well as treaty arrangements with New Zealand) would be highly undesirable. As noted in chapter 3, the current labelling review which is being overseen by the Australia and New Zealand Food Regulation Ministerial Council is the appropriate forum in which to pursue a broad range of reforms, including country of origin labelling.

24 See Growcom, *Submission 2*, p 3; McShane's Produce, *Submission 11*, p 3.

25 Dick Smith Foods, *Submission 4*, p 2.

26 Australian Food and Grocery Council, *Submission 9*, p 5; National Foods, *Submission 16*, p 7.

Recommendation 1

5.32 The committee recommends that the bill not be passed and that the changes to labelling laws proposed in the bill are taken up through the current review of food labelling under the Australia and New Zealand Food Regulation Ministerial Council.

Senator Annette Hurley

Chair