



Brand Management Group

Our Ref: 10.6
King Island Brand
Enquiries: Jenny Thorn

Tuesday, 05 August 2008

The Secretary
Senate Standing Committee on
Rural and Regional Affairs and Transport
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Ms Radcliffe,

Brand King Island Management Group Submission Inquiry into Meat Marketing

We are very pleased to have this opportunity to forward this Submission to the Senate Standing Committee on Rural and Regional Affairs and Transport's Inquiry into Meat Marketing.

Background

Brand King Island Management Group (KIBMG) is a Special Committee of the King Island Council set up to develop and protect the King Island brand. King Island is widely recognised for transforming its primary produce into fine food that frequently commands a premium on both the domestic and export markets.

Since the Group has been established it continually receives reports from food processors that operate on King Island, as well as from local residents, that food that has not been produced on King Island is being sold under the King Island (brand) name.

This ongoing issue deeply concerns the Group, King Island Council and the community as a whole as there are potentially powerful ramifications for the industries operating on the island; and therefore the overall economy of King Island.

King Island, being 100km from both mainland Australia and Tasmania, is defined as a particularly isolated area by the Australian Taxation Office. It is critical to maintain the baseline population of the island to ensure continued provision of supporting services such as transport (air and freight), healthcare, social services, retail, services and tourism.

There are a number of food processing plants currently operating on the island and these are vital to the economy of the island. The employment they offer to residents helps to maintain the population and thus the viability of services such as power, shipping and airlines. If these services were to be reduced it would greatly reduce the standard of living and also hamper tourism.

King Island Brand

The King Island brand name is highly regarded, both domestically and internationally. For example, in recent market research by ACNielsen, it was shown that 'King Island Beef' had the strongest branded beef awareness in the country.

On the back of this strong brand awareness, wholesalers and consumers of King Island produce are prepared to pay a premium not only for the brand name but also because produce originating from the island is perceived to be of quality. Consumers are also showing more interest in the provenance, traceability and health benefits of what they are consuming. In the case of food being branded as King Island, it would not be unreasonable for consumers to believe that it is actually produced on the island.

In regards to the beef industry, Tasmania is the only Australian state where the use of hormone growth promotants (HGP's) is prohibited through Government legislation. As a result, beef processed on the island is guaranteed to be 100% HGP and antibiotic free and this attracts many consumers.

The perception in the marketplace of the King Island brand name is a major reason for our largest employers, National Foods ('King Island Dairy') and Swift Australia ('King Island Beef'), to operate processing plants on the island. Companies that have invested significantly to maintain operations on the island need to command a premium price to offset the high operating costs to maintain viability. However, by the continual misrepresentation of the King Island brand, legitimate King Island brands are being undermined and will eventually be seen as commodity goods due to the flooding of the market by fakes.

In regards to beef, it is already an industry joke that King Island must be larger than mainland Australia due to the amount of King Island Beef that is available on the market!

The island's main beef processing plant recently acquired by JBS Swift Australia from Tasman Group Services has invested significant resources (both time and money) into its marketing activities, to promote King Island Beef, increase the brand awareness and the brand values to the Australian consumer. All of this work is being undermined by the misrepresentation of King Island Beef in the marketplace.

Place of Origin Legislation and the 'Trade Practices Act'

The King Island community does not have the resources to test cases of alleged misuse of the King Island name through legal civil proceedings. The inability of the community to challenge misuse of the name has created an environment where this misuse has become common. KIBMG is not aware of any case of misuse that has been prosecuted by either State or Federal agencies.

To protect the meat processors that operate on the island, we believe that there are a number of provisions under the *Trade Practices Act* which assist our case:

- s52 prohibits misleading and deceptive conduct
- s53(eb) false representations as to the place of origin of goods is prohibited
- Under s65AB, a representation as to the place of origin will be legitimate if the goods have been 'substantially transformed' in that place; and 50% or more of the cost of producing or manufacturing the goods can be attributable to processes that occurred there. Substantial transformation refers to a fundamental change in the form, appearance or

nature of the goods, such that they are new and different goods from those existing before the change (s65AE(1)).

- The corporation may also be penalized under s75AZC which makes false representations as to the place of origin an offence of strict liability with a penalty of 10,000 units (\$1,100,000).

If the defence conditions above were to apply to place of origin, the logical inference would be that the current practice of companies buying live animals and transporting them elsewhere to be killed and processed but marketed as King Island Beef or King Island Meat would clearly be seen as breaching one or more aspects of the *Trade Practices Act*.

Under s65AB, we also do not believe that substantial transformation has occurred if animals are taken off the island live and processed elsewhere.

However, despite the abovementioned *Trade Practices Act* Provisions, meat that is processed from animals shipped off the island is being sold as King Island Beef.

The current situation also leaves loopholes for product substitution. In the current environment it would be quite possible for an unscrupulous company to purchase a few live animals from King Island but to sell the meat of cattle that have been sourced elsewhere (other than from King Island) under the King Island name.

It is also seriously undermines the Tasmanian Government's legislation regarding Hormone Growth Promotants (HGP's), as live cattle can be shipped to Victoria for example, placed in a feedlot, fed hormones, be processed and then be marketed as Tasmanian and/or HGP free!

Therefore, the Group would like to submit to the Inquiry that urgent legislation be introduced and passed by Federal Parliament similar to the existing *Australian Wine and Brandy Corporation Act 1980* which deals specifically with Geographical Indications.

Geographical Indications ("GI") is a descriptive term indicating the geographical origin of a product and a specific quality or reputation which is due to this particular geographical origin. There are several ways to define a GI. The broad clarifications include: (1) 'indication of source', which requires only that a product came from the named location without necessarily linking the product to quality, (2) 'designation of appellation of origin', which requires features and characteristics of a product to be attributable exclusively or essentially to its geographical environment, or (3) 'geographical indication', which requires a specific quality, reputation or other characteristic of a product that is attributable to that geographical area of origin and its production and/or processing and/or preparation takes place in the defined geographical area (Donaldson 2004).

The *Australian Wine and Brandy Corporation Act 1980* deals specifically with the 'place of origin' issue by the inclusion of a number of provisions, including the following extract:

- **"geographical indication"**, in relation to wine, means:
 - (a) a word or expression used in the description and presentation of the wine to indicate the country, region or locality in which the wine originated; or
 - (b) a word or expression used in the description and presentation of the wine to suggest that a particular quality, reputation or characteristic of the wine is attributable to the wine having originated in the country, region or locality indicated by the word or expression.

- ***Establishment of Committee***

A committee to be known as the Geographical Indications Committee is established.

- ***Function and powers of Committee***

(1) The functions of the Committee are:

*(a) to deal with applications for the determination of geographical indications for wine in relation to regions and localities in Australia (**Australian GIs**) in accordance with this Part; and*

(b) to make determinations of Australian GIs in accordance with this Part; and

(c) to make determinations for the omission of Australian GIs in accordance with this Part; and

(d) any other functions conferred on the Committee under this Part.

(2) The Committee has power to do all things that are necessary or convenient to be done by, or in connection with, the performance of its functions.

The Group believes that the introduction of such Federal Legislation is vital to protect the King Island community, its economy and assets. It is also the only way forward to protect other geographical indications within Australia that are affected by similar issues, especially within the meat industry.

We also advocate that the Australian Competition and Consumer Commission (ACCC); and industry bodies including Aus-Meat Limited and Meat & Livestock Australia (MLA) should be proactively involved in the policing of how (red) meat is marketed and retailed to consumers. It is time that issues relating to the misrepresentation of meat products in the marketplace are addressed and dealt with.

On behalf of the Group we look forward to the opportunity of presenting examples of misrepresentation to the Committee.

Yours Faithfully



Lydia Horsburgh
Chairperson
King Island Brand Management Group