

**Summary of Stakeholder Responses on
Food Regulation Standing Committee
Consultation Paper**

Country of Origin Labelling

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Overview

A broad stakeholder consultation period on Country of Origin Labelling (CoOL) of food took place over January – February 2003 at the request of the Food Regulation Standing Committee (FRSC). The Consultation Paper was sent directly to 186 stakeholders and was placed on the Food Regulation Secretariat website. Advertisements were also placed in The Australian newspaper, and three national newspapers in New Zealand calling for submissions.

52 submissions were received in response to the consultation from Australia and New Zealand from four stakeholder groups. This included: industry organisations and businesses (primary producers, processed food manufacturers and others), research organisations, government organisations and consumer/community organisations.

The majority of submitters favoured either retaining the current mandatory CoOL provisions (Option 1) and removing the current mandatory CoOL provisions from the joint Code (Option 2) (See **Table A**).

It is worth noting that many submitters raised the issue of definitions, particularly that of “Made in...”. However, as the *Food Standards Code* does not provide these definitions, these comments were outside the scope of this Review.

Food industry- 43 submissions were received from the food industry and demonstrate a high proportion of support for Option 1 and Option 2. Of these, support for Option 2 outweighed support for Option 1.

Generally there was more support from the large processed food manufacturers in Australia and New Zealand for removing mandatory CoOL. This was on the grounds that CoOL is not a public health and safety issue, is outside the broad framework identified by FRSC, including minimum effective regulation principles, and will still be provided by manufacturers in the majority of cases because of market forces. Most favoured removing the provisions completely (Option 2), however a number were prepared to accept the less regulatory voluntary options (3 and 4).

However, there was support for mandatory CoOL from a number of major Australian food processors and primary producers from both countries (primarily Option 1). Support for mandatory CoOL was on the grounds of providing consumers with information to make informed choice, and reducing the possibility of misleading or deceptive conduct in relation to CoOL of food. They argue that the consumer demand for Australian food products creates an incentive for businesses to hide the origin of their product in circumstances where the origin might act as a disincentive to purchase.

A small number of submissions were received from the primary producer sector proposing that the current mandatory provisions on fresh food items be extended to all fresh food products. They also suggested that the current labelling requirement to identify imported fresh food products at point of sale be strengthened to include country names.

The majority of industry submitters, even those that did support Option 1, agreed that CoOL alone is not adequate in enabling product recall or traceability. Some submitters argued that CoOL should be part of any identification system adopted to assist in traceability

Businesses which operate in both Australia and New Zealand emphasised the desirability for CoOL requirements to be consistent between the two countries.

Submissions from the wine industry in both Australia and New Zealand sought commodity specific CoOL to detail the origin of grapes or the country of blending which could potentially be included in Standards 2.7.1.

Health organisations- No submissions were received from any health organisations.

Research organisations- 3 submissions were received - 1 each for Option 1,2 and 4. One submitter also raised the issue of simply retaining the existing provisions for both countries as they currently stand, but acknowledged that this would not provide the uniformity between the two countries sought by the Review. The submitter in favour of Option 1 considered that a move to a voluntary position appeared to be to placate New Zealand rather than seek harmony with Codex or other trading partners. The submitter in favour of Option2 considered that the *Food Standards Code* should refer to the *Trade Practices Act 1974* (TPA), but not attempt to summarise the TPA provisions as it could possibly lead to confusion and misinterpretation.

Government organisation – 1 Government submission was received which supported Option 1 on the grounds of public health and safety. The key reason was the use of CoOL in matters associated with major international food safety emergencies.

Consumer organisations/ Community groups – 5 submissions were received. Almost all Australian consumer organisations argued for the retention or strengthening of Australia’s current CoOL regulations. The opposite was true of most of their New Zealand counterparts.

The submitters in favour of Options 1 and 5 considered that mandatory provisions were justified on the grounds of provision of adequate information to enable consumers to make informed choice – that public health and safety should not be the only criteria in determining what information should be required on labels and that the information provides a means of supporting local businesses and addressing employment issues.

A major Australian consumer organisation supported a strengthening of CoOL requirements to incorporate CoOL of ingredients. This was in response to the threat of deliberate contamination of the food supply from a terrorist act.

However a major consumer group in New Zealand supported a voluntary approach, on the basis that there has been little demonstrated demand for CoOL from New Zealand consumers and that the NZ Commerce Commission is prepared to act against food manufacturers and processors when they mislead or deceive consumers.

Comments on regulatory options

Option 1- Australia's current mandatory CoOL provisions in the joint Code

For

This option was supported by some submitters, but was not the favoured approach of the majority (12/ 51). Most of those submitters supporting this option for the following reasons:

1. Necessary to assist consumers in making informed choices;
2. Necessary for the promotion of produce from countries with respected safe and quality food reputations, such as Australia and New Zealand. This includes the GM issue;
3. Enables traceability and is a useful tool in product recalls (particularly major international food safety emergencies) which in turn plays an important part in ensuring public health and safety;
4. Reduces the possibility of misleading or deceptive conduct relating to CoOL of food.

There were also additional rationale in support of this option which were:

- The current system is well understood by food manufacturers;
- Enables consumers to support locally produced product;
- Would not result in any additional cost to Australian industry;
- Allows the Australian Quarantine and Inspection Service to identify risk and the presence of CoOL on packaged foods is used in matching product to paperwork during inspections;
- Meets the Food Standards Australia New Zealand (FSANZ) objectives of providing adequate information to enable consumers to make informed choices; and
- Is critical for maintaining the quality and integrity of Australian wine

Against

There was a wide range of opposing arguments for this option, largely from the processed food sector, however submitters generally opposed this option on the grounds of:

1. CoOL is not solely adequate for a food recall; and
2. Mandatory labelling would continue to limit flexibility in sourcing products and/or ingredients from alternative sources due to seasonal variation (eg current drought), which results in costly label changes.

The other opposing arguments included:

- Cost to industry can not be justified on a health and safety basis;
- Is not consistent with Codex and other international food standards;
- Substantial costs would be imposed on New Zealand food manufacturers, as NZ manufacturers are more reliant on imported ingredients than their Australian counterparts;
- Will retain the inconsistencies between food standards and the Trade Practices Act (TPA); and

- Does not promote fair-trading, facilitate trade or promote an internationally competitive food industry.

One industry submitter opposed Option 1, but commented that should this option be adopted, it should only apply to food for retail sale rather than products for further processing.

Option 2 – No mandatory CoOL provisions in joint Code

For

23/ 51 submissions supported this option.

The majority of support for this option came from the processed food industry sector, largely on the following grounds:

1. That CoOL is not a public health and safety issue;
2. That prevention of misleading or deceptive information is the mandate of the TPA, which encompasses CoOL, and for any CoOL dispute TPA will always take precedence;
3. That CoOL is an issue of market demand/advantage; and
4. That this option is consistent with minimum effective regulation principles.

There were also a large number of other supporting arguments, which included:

- New Zealand health regulators have been able to undertake food recalls without using CoOL;
- Australian health regulators have been able to undertake most food recalls without using CoOL;
- TPA requirements for CoOL, especially in light of the newly established CoOL guidelines, are adequate to provide consumers with sufficient information to make informed choices;
- This option reduces costs to Australian consumers;
- That the costs to both Australia and New Zealand should be minimal, as only those manufacturers who choose to make changes to labels will be impacted;
- This option is consistent with most international standards and WTO obligations;
- That consumers and industry are best served by having one set of rules relating to CoOL regardless of the industry sector;
- That this option would reduce the cost of enforcement to AQIS, which does actively enforce the provisions;
- That a risk analysis approach based on the information in the consultation paper would indicate that mandatory CoOL is not necessary; and
- That this option will aid in the development of an efficient and internationally competitive food industry.

It was acknowledged, however, that in order to produce consistency under this option, New Zealand Fair Trading Act and TPA requirements would need to be aligned.

Against

The main opposition to this option came from consumer organisations and other food industry sectors. There were five main arguments given in opposition to this option, which were that:

1. There would be a reduction of information to consumers
2. Consumers do not embrace the idea of industry making CoOL claims only where they perceive a market advantage to do so;
3. Relying on the TPA has a poor track record in relation to food
4. The TPA alone is insufficient in meeting the FSANZ objectives; and
5. Misleading and deceptive conduct of CoOL may increase.

Option 3- Voluntary Code of Practice under the FSANZ Act

For

2/ 51 supported this option.

It received the least amount of support, but was listed as an acceptable alternative to Option 2 by many, particularly by New Zealand submitters, on the understanding that it would be voluntary. A drafting error has resulted in some confusion over this option. The intent is for the Code of Practice to be voluntary, and as such it would be under the *Food Standards Australia New Zealand (FSANZ) Act 1991*, rather than the *Food Standards Code*. Supporters consider that this option:

- would enable adverse consumer reaction to be addressed through manufacturer/importer voluntary action.

Against

The rationale in opposition of this option were wide ranging with one main argument being made consistently by all of the food industry sectors:

1. That this option is not consistent with minimum effective regulation as it would add an additional level of complexity and duplication

Submitters, largely from the processed food and consumer/ community sectors, made the following additional justifications for not supporting this option:

- This option is completely unacceptable to consumers as it provides less information for consumers unless industry sees an advantage to do so;
- That the CoP only applies to those labelling and itself is no guarantee of accurate labelling;
- This option blatantly disregards consumer protection as laid out in the FSANZ objectives; and
- That a voluntary CoP for CoOL would not reinforce the traceability requirements for foods.

Option 4 – A CoOL standard mirroring TPA provisions that would have voluntary application

For

7/ 51 supported this option.

Although Option 4 gained more support than Options 3 and 5, there was no main supporting argument given by submitters. Instead the range of arguments included that:

- This option appears to best satisfy the various sectoral needs;
- This option would provide a consistent approach between fair trading and food legislation;
- This option would facilitate consumer understanding of the regulations as they would be the same requirements for all CoOL regardless of industry sector;
- Most manufacturers currently follow the guidelines established by TPA;
- This option would have minimum impact on industry; and
- This option would produce a consistent approach to CoOL in Australia and New Zealand.

Against

As was found with the comments made against Option 3, the main argument given largely by the food industry sector against this option was that:

1. This option would result in a duplication of current requirements and is therefore not minimum effective regulation.

The other opposing arguments made by submitters included that:

- This option does not take consumer rights into consideration;
- Consumers would have to rely on TPA for protection and this is not seen an effective method for protection as it has not had a thorough track record on food labelling;
- Any attempt to summarise TPA provisions into the Code will possibly lead to confusion and misinterpretation; and
- This option goes against the principles of the new joint Food Standards Code.

Option 5 – Extending existing provisions – labelling of ingredients

For

4/ 51 supported this option.

This support came from a few industry organisations and a large consumer association. Their supporting arguments were that this option:

- Allows consumers to buy products that contain ingredients from countries who they believe produce better and safer food, especially in light of possible terrorist attacks on food trade; and

- Would assist further in product recalls and foster consumer confidence as smaller product categories would be able to be identified.

One submitter maintained that

- In the current world situation CoOL constitutes minimum effective regulation.

Other submitters qualified their support, stating that only major ingredients would need to be labelled, or that CoOL of ingredients should only apply to those ingredients that constitute greater than 5% of the contents.

Against

This option was strongly opposed by industry submitters, as the Option:

1. Would result in increased cost and labelling complexity without any commensurate benefits to consumers;
2. Is impractical when you have multiple ingredients from multiple suppliers.

Other opposing comments given by submitters, mainly from the food industry sector, included:

- CoOL does not meet minimum effective regulation requirements;
- Labels would become increasingly confusing and busy which could detract consumers from important label information;
- Any extension to CoOL provisions should be considered as amendment to the TPA and not the FSC;
- CoOL would be trade restrictive and internationally inconsistent; and
- CoOL is more restrictive than Codex and would be challenged through WTO.

COUNTRY OF ORIGIN LABELLING

TABLE A

TABLE A: Preferred options by stakeholder group – Australia and New Zealand

Type of respondent	No. of submissions	Option 1 - Australia's current mandatory provisions in the joint Code	Option 2 – No mandatory provisions in joint Code	Option 3 – Voluntary Code of Practice under the FSANZ Act	Option 4 – A standard mirroring TPA provisions with voluntary application	Option 5 – Extending existing provisions – labelling of ingredients	Alternative Option
Industry	43	8	21	2	5	3	4
Research organisation	3	1	1	N/A	1	N/A	N/A
Health organisation	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Government organisation	1	1	N/A	N/A	N/A	N/A	N/A
Consumer/Community organisation	5	2	1	N/A	1	1	N/A
Total	52	1	23	2	7	4	4

EXPLANATORY NOTES:

- I. 6 Australian industry submitters were in favour of Option 1 – these were a mix of primary producers and manufacturers
- II. 2 New Zealand industry submitters were in favour of Option 1 – these were both primary producers
- III. 12 Australian industry submitters were in favour of Option 2 – these were a mix of primary producers and processors
- IV. 9 New Zealand industry submitters were in favour of Option 2 – these were a mix of primary producers and processors
- V. 6 industry submitters and 1 research organisation in Australia and New Zealand listed Option 3 as a viable alternative
- VI. 3 Australian industry submitters were in favour of Option 5 – these were all primary producer groups
- VII. 9 industry submitters from Australia and New Zealand were strongly opposed to Option 5
- VIII. 1 Community Group and 1 Industry submitter listed any voluntary approach as acceptable – (Options 2,3 or 4)
- IX. Overall, there were 32 responses in favour of a voluntary approach (Options 2,3 and 4), and 20 in favour of a mandatory approach (Options 1 and 5)
- X.

Respondents to consultation paper

Australian Respondents

<i>Industry</i>	Bundaberg Sugar Ltd Queensland Retail Traders and Shopkeepers' Association Appledale Processor Cooperative Parmalat Australia Pty Ltd Sanitarium Health Food Company Australasian Soft Drink Association Winemakers Federation of Australia Heinz Wattie's Australasia Coles Myer Ltd Apple and Pear Australia Limited The Australian Associated Brewers Inc Cadbury Schweppes Australian Subtropical Coffee Growers' Co-operative Ltd Goodman Fielder Golden Circle Ltd Nestle Australia Ltd and Nestle New Zealand Ltd Golden North Pty Ltd International Flavours and Fragrances (Australia) Ltd National Meat Association of Australia Australian Made Campaign Ltd Unilever Australasia NSW Farmers Association Australian Wine and Brandy Corporation Australian Food and Grocery Council Australian Dairy Products Federation Australian Pork Limited Queensland Fruit and Vegetable Growers Food and Beverage Importers Association Australian Fruit Juice Association
<i>Research</i>	CSIRO Health Sciences and Nutrition Food Science Australia Food Technology Association of Victoria Inc
<i>Government</i>	Food Section of Queensland Health Environmental Health Unit
<i>Consumer/ Community groups</i>	Consumers Association of South Australia Inc The Queensland Country Women's Association Australian Consumer Association

New Zealand Respondents

<i>Industry</i>	Beer Wine and Spirits Council of NZ ENZAFOODS NZ Federated Farmers of NZ (Inc) Fonterra Co-operative Group Limited Foodstuffs (NZ) Ltd Griffins Foods Ltd Independent Fisheries Ltd Mount Erin Pacific Limited NZ Grocery Marketers Association NZ Pork Industry Board NZ Winegrowers Red Seal Natural Health Ltd VegFed NZ Retailers Association
<i>Consumer/ Community groups</i>	National Council of Women of NZ Consumers' Institute