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Proposal P1041 - Removal of Country of Origin Labelling Requirements

The Australian Food and Grocery Council (AFGC) makes this submission in response to the 22 January 2016 *Call for Submissions* in relation to the above Proposal.

The AFGC is aware of the background to this Proposal and has made separate submissions to appropriate agencies in relation to the proposed information standard for origin labelling under the *Competition and Consumer Act*.

The AFGC further accepts that this Proposal is a logical consequence and necessity of the Government's origin labelling agenda, and, leaving aside concerns in relation to that wider agenda, the AFGC offers no comment or objection to the specific measures proposed in P1041.

Uniform Food Standards

The AFGC is concerned that insufficient regard and assessment has been undertaken in relation to the more fundamental implications of these measures for future food regulation. In particular, the measures seem to contravene the requirements in Article 5(3) of the ***Agreement between the Government of Australia and the Government of New Zealand concerning a joint food standards system*** (the Food Standards Treaty), which provides -

Article 5 Adoption of food standards

(3) Subject to Annexes D and E of this Agreement, neither Member State shall by legislation or by other means establish or amend a food standard falling within the scope of this Agreement other than in accordance with this Agreement.

Although not binding on the Commonwealth of Australia, a similar provision exists in clause 22 of the ***Food Regulation Agreement 2008*** between the Australian Commonwealth, States and Territories –

22. No State or Territory shall, by legislation or other means, establish or amend a food standard other than in accordance with this Agreement.

The New Zealand Government has indeed expressed its concern over the proposed regulatory change in Australia, and its unwillingness to adopt similar regulation. At the 20 November 2015 meeting of the Australia and New Zealand Ministerial Forum on Food Regulation, New Zealand stated –



New Zealand has concerns about the impact that the proposed changes to CoOL will have on New Zealand food producers which import food into Australia and supply ingredients to Australian food manufacturers. New Zealand is the largest supplier of imported food to Australia and the changes will therefore have a significant effect on our food producers. The proposed changes to Australian CoOL run counter to the long ambition of both countries for closer economic relations and a single economic market between Australia and New Zealand. We will continue to raise these concerns with the Australian Government.

The AFGC sees great potential danger if the bi-national system of uniform standards development is discarded due to the political decision of one jurisdiction. There have been many occasions where there have been calls within one jurisdiction for specific food regulatory measures, and in general terms these have been tempered by the existence of the agreed procedure for bi-national uniform regulation. Examples include the defeat of proposals in NSW in relation to the labelling of monosodium glutamate in restaurant menus, and even in the life of the current Parliament in relation to labelling the origin of fish – see Senator Cash's comments of 12 August 2015 (*Hansard*, p.5046) in regard to the *Food Standards Amendment (Fish Labelling) Bill*.

The removal of a labelling measure specific to food from the *ANZ Food Standards Code* in favour of measures under the *Competition and Consumer Act* therefore has implications for the future integrity of the uniform food standards system, providing a precedent for unilateral action. The AFGC would be deeply concerned if the bi-national system of uniform food standards development continues to fracture in this way.

While the AFGC understands that FSANZ sees little scope other than to meet the Commonwealth Government's agenda, the AFGC expects FSANZ to protect the bi-national uniform food standards system and it is disappointing that the *Call for Submissions* make no reference to this substantial concern, especially given the concerns of New Zealand expressed at the Ministerial Forum meeting.

Commencement

The AFGC has supported a minimum of two years plus allowance for stock in trade in its submissions in relation to the information standard. It is important that this Proposal is not finalised until such time as the commencement of the overall package of regulation (including amendment to the Australian Consumer Law safe harbours and amendments to commerce regulations) has been settled, rather than linking commencement to the information standard only. Proposal P1041, like the information standard, is just one element of this wider package of measures, and appropriate coordination between agencies is necessary to ensure commencement of the new regime does not introduce new complexities.

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