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Portfolio Strategic Policy Division  
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Dear Sir/Madam

Thank-you for the opportunity to provide comment to the Taskforce on the Consultation Regulation Impact Statement (RIS) and the Commonwealth Government's proposed response to revise the country of origin labelling framework.

Apple & Pear Australia Limited (APAL) is the peak industry body representing the interests of Australia's 600 commercial apple and pear growers located across a number of growing regions across the country. In addition to providing direct grower services and owning / managing a number of international trademarks (such as Pink Lady®), APAL represents growers in matters of national importance including regulation and legislation, marketing, research and development.

APAL welcomes the Government's move to improve the country of origin labelling laws to better assist consumers to make informed decisions about the source of the fresh and processed foods they purchase. APAL does not believe that a targeted education campaign on the *current* country of origin labelling framework would be a cost-effective solution to address consumer concerns. An education program could only be directed at informing consumers about the true definitions of confusing terms such as "Made In", "Packaged In" and "a mix of local and imported ingredients". A consumer education program could not feasibly inform consumers about the *origin of the key ingredients* of every food product they purchase. Instead a new labelling framework is required.

In response to selected questions posed within the Consultation Regulation Impact Statement, APAL submits the following comments:

#### ***Proposed labels – origin of ingredients***

APAL recognises that one label design will not suit all within a supply chain, be they growers, food manufacturers or importers. However, it is important that the new country of origin framework address the key consumer concern that has driven the Department to revise the country of origin labelling framework.

As the Regulatory Impact Statement (RIS) notes, "research on food labelling in Australia has reiterated the importance Australian consumers place on knowing the *country of origin* of food products" {italics added}<sup>1</sup>. This view has been confirmed by the Colmar Brunton research commissioned by the Department as part of this review. Specifically, the research highlighted that "while price was usually the dominant decision factor

<sup>1</sup> [https://consult.industry.gov.au/cool-taskforce/cool/user\\_uploads/coolitem1.docx](https://consult.industry.gov.au/cool-taskforce/cool/user_uploads/coolitem1.docx) Page 7

across a range of food types, the next key considerations were quality (for fresh products) and *the country where key ingredients used in the product were grown*" {italics added}<sup>2</sup>.

APAL welcomes the focus of the proposed label system on the relative "Australianness" of food through the employment of the logo and bar charts. APAL also welcomes the proposal that if the food was not grown, produced, made or packaged in Australia, the supporting information will be required to identify the country of origin of the food (if it is from a single country) or that the food is of multiple origins (if from more than one country).

However APAL is concerned that the proposed labelling system does not require the identification of the country of origin in cases where the food is *made* in Australia but some or all of the significant ingredients are not Australian. It is our understanding that a food is considered to be *made* in Australia if it underwent its last substantial transformation in Australia. The RIS proposes that in such cases the label only requires a statement that aligns with the bar chart that clearly states the proportion of the food's Australian content.

It does not require that a statement of the primary source of origin of key ingredients that are not grown in Australia. This situation needs to be rectified. For foods *made* in Australia, labels should clearly state where the key ingredients are from (such as USA, Thailand, or Poland).

#### ***Proposed labels – Kangaroo Label***

APAL does not support the application of the kangaroo label to any food where the key ingredient is not grown in Australia. We believe that consumers associate the kangaroo logo with a product's Australianness and that the provenance of the ingredient determines whether or not it qualifies as being Australian.

We are also very concerned that the power of the bar chart (to convey information) will quickly lose its appeal. Consumers are often time poor and it is highly likely that they will simply focus on the kangaroo label rather than scrutinize the bar chart. As a result, consumers will be led to believe that the product has an Australianness quality, that it is Australian, that the ingredients were grown in Australia. In a vast number of cases this assumption would be simply wrong.

The broad availability of the kangaroo label places foods *made* in Australia on an equal footing with those that are *grown* here which seems somewhat unfair. For example, if company A manufactures an apple pie in Australia using Australian apples it can use the kangaroo logo and bar chart. Likewise, company B who manufactures an apple pie in Australia using imported apple pulp can use the kangaroo logo and bar chart. The fact that company A's bar chart is 100% coloured and company B's might be 50% coloured is likely to be "lost" on busy consumers who will assume that the kangaroo logo implies that the apples in apple pie are Australian.

APAL would therefore prefer that the use of the kangaroo be restricted to those fresh or packaged products where at least 90 per cent of the key ingredient(s) is grown in Australia. Restricting the use of the kangaroo ensures that the symbol retains value and reflects what reasonable people would expect it to reflect, that the product is Australian. Maintaining the integrity of the Australianness symbol will be particularly important moving forward as a greater emphasis is placed on exporting Australian fresh produce.

#### ***Proposed labels – Bar Chart***

APAL believes that the proposed bar chart is somewhat difficult to understand. Specifically a blank bar chart is at first confusing. APAL believes that wherever a zero count (0% Australian ingredients) applies it would be

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<sup>2</sup> ibid

prudent to remove both the bar chart and the Australian logo to eliminate consumer confusion. APAL also believes that in such cases the supporting statement information needs to be reversed so that the imported nature of the goods is highlighted before the process is nominated. This would better match consumer priorities which indicate that they seek information about the *country of origin* rather than the *country of process*.

Labels for manufactured goods would therefore look like:

**Made from imported ingredients.  
Made in Australia**

Rather than



### *Transformation*

It is not clear whether the fermentation process is considered a substantial transformation as it does not appear on the list in Attachment A to consultation package item 6. This needs to be clarified.

Assuming that fermentation is a transformative process cider labels will need to state where the product was fermented or, more precisely, *made*. The proposed labelling laws, however, will not require cider makers to specify the country of origin of the juice or apples used to make the cider (because cider is not included as a high priority listed product). This means that cider made in Australia by fermenting imported juice concentrate will be allowed to post exactly the same label as a cider fermented in Australia from Australian apples.

Worse, cider made in Australia by fermenting imported juice concentrate will be allowed to use the Australian kangaroo logo when clearly only the fermentation process actually occurred in Australia. Cider consumers will be easily misled into assuming that the Australian logo authenticates the cider being made from Australian grown apples. This puts foreign grown ciders at a considerable and unfair competitive advantage over locally grown product.

Moreover, this situation is a considerable watering down of the existing Australian Made Campaign rules. The Campaign's Code of Practice has a detailed list of the processes that are not considered to be a substantial transformation and cannot claim to be 'Made in Australia'. This list includes packaging, bottling, reconstituting, pasteurisation *and fermentation*. Cider made from imported juice concentrate is therefore not currently permitted to use the "Made in Australia" kangaroo logo and can only display the kangaroo logo if the ingredients are *grown* in Australia. The proposed framework outlined in the RIS therefore devalues the kangaroo logo by allowing access to a class of products that would not be considered Australian by reasonable consumers.

### *Seasonality*

APAL supports a framework which accommodates seasonal variabilities in the percentage of ingredients that are Australian. Labels that carry an 'at least' percentage based on the average proportion of Australian ingredients over a 12 month period would provide suppliers with the flexibility to substitute ingredients based on supply availability (and international pricing).

### *Packaging and Transition Periods*

APAL supports a transition period of two years. Our grower packers report that the turnaround on some packaging types, such as flowraps for punnets can be as short as 3 to 5 months whilst cartons can be held for as long as 2 to 3 years.

### *Education campaign*

APAL agrees that it would be important to support any change to the country of origin labelling framework with an education campaign. The education campaign would need to be on-going.

### *Food covered by the framework*

APAL remains disappointed that cider will not be included in the goods subject to the new labelling requirements. APAL supports Cider Australia's submission which seeks that cider be treated like comparable products such as fruit juice and vinegar. The only major difference between cider and fruit juice is that cider undergoes fermentation. Likewise, the only difference between cider and vinegar is a second fermentation process whereby alcohol is converted into vinegar by acetic acid-forming bacteria. Both fruit juice and vinegar are included as high priority food & beverages and will therefore be subject to the new labelling framework. APAL believes that for labelling purposes cider should therefore be treated as a juice or vinegar and comply with labelling laws for high priority foods.

### *Juice and Water*

APAL applauds the Department's view that water used to reconstitute dehydrated or concentrated ingredients or other components of food (including food additives) is taken to have the country of origin of that ingredient or component. This means that juice made by reconstituting imported concentrate using water sourced within Australia can no longer use labels that mislead consumers by specifying a composition of "a mix of local and imported ingredients".

APAL also supports the Department's view that reconstitution of juice concentrate cannot be considered a transformative process because the imported ingredient (apple juice concentrate) is not fundamentally different from, retains its identity and has the essential character of the finished product (apple juice). This means that juice made from reconstituted imported apple concentrate can no longer claim to be *made* in Australia. This is a sensible and correct approach.

Yours sincerely



John Dollis

Chief Executive