

29 January 2016

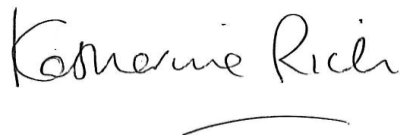
Country of Origin Labelling Taskforce
Portfolio Strategic Policy Division
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Dear Sir/Madam

Attached are the comments that the New Zealand Food & Grocery Council wishes to present on the ***Country of Origin Labelling: Consultation Regulation Impact Statement, Consumer Affairs Australia New Zealand.***

Yours sincerely



Katherine Rich
Chief Executive

Australian Department of Industry, Innovation and Science
COUNTRY OF ORIGIN LABELLING: CONSULTATION REGULATION
IMPACT STATEMENT, CONSUMER AFFAIRS
AUSTRALIA NEW ZEALAND

29 January 2016

The New Zealand Food & Grocery Council (the “NZFGC”) welcomes the opportunity to comment on the ***Country of Origin Labelling: Consultation Regulation Impact Statement, Consumer Affairs Australia New Zealand***.

New Zealand Food & Grocery Council

NZFGC represents the major manufacturers and suppliers of food, beverage and grocery products in New Zealand. This sector generates over \$34 billion in the New Zealand domestic retail food, beverage and grocery products market, and over \$28 billion in export revenue from exports to 185 countries – some 61% of total merchandise exports. Food and beverage manufacturing is the largest manufacturing sector in New Zealand, representing 46% of total manufacturing income and 34% of all manufacturing salaries and wages. Our members directly or indirectly employ 370,000 people – one in five of the workforce.

Overarching Comments

The proposals do not ensure undue costs to business. In fact the costs are extensive and as currently proposed will require the label of almost every food product manufactured in and imported by Australia to change. This is a high and unacceptable cost to New Zealand exporters and is totally inconsistent with Australia’s international trade obligations since the costs add nothing to safety concerns and are therefore a barrier to trade. It is particularly frustrating that almost all Australia’s imported food will have to be relabelled to put a box around the country of origin when the box could easily be removed from the overall design.

Costs are also escalated for products that rely on seasonal and global supply chains where supplies change regularly throughout the year. This might mean manufacturers are forced to change labels anywhere from every three months to annually.

Repeatedly in the Consultation RIS, it is claimed that the changes will be limited to priority food which will help manage the cost implications for business. In fact the vast bulk of the food supply by volume is proposed as priority. The key exceptions (estimated as up to 40 per cent of SKUs but not reflective of sales volume and therefore labelling costs) are seasonings, confectionary, biscuit and snack foods, bottled water, soft drinks and alcoholic beverages. These exceptions do not generally comprise the major food costs for consumers and therefore cost implications for business (other than those manufacturing treats and drinks) are significant.

If the proposed labelling requirements proceed, the period of transition is critical. For a change that will affect the bulk of the food supply by volume, simple logistics would suggest that access to physical aspects of label changes (designers, printers and material suppliers) would dictate a minimum transition. NZFGC suggests that a period of five years would be a minimum.

Specific Comments

Food covered by the framework

Question 1. a-c. a. Is the list of non-priority food clear? b. Are there any gaps? c. Do you have any other concerns about priority and non-priority food?

NZFGC Response: We consider the list to lack logic and a policy basis although we suspect that agricultural protection underpins the majority of the items on the list. For example, we find it surprising that consumers would identify vinegar as a priority food.

Easy to read labels

Question 2. a-b. a. Is there a risk that changes to improve prominence of country of origin labels would make it harder to identify other labelling information, such as allergen warnings? b. Are there any specific problems that might arise in relation to small packages?

NZFGC Response: The only labelling in the Australia New Zealand Food Standards Code (the Food Standards Code) that is mandated as requiring specific wording relates to mandatory warning statements (of which there is only one concerning Royal jelly), use by and best before dates and an infant minimum age statement that must read 'Not recommended for infants under the age of 4 months' and be a minimum of 3mm in text size. All other mandatory advisory statements concerning allergens are required with a "statement to the effect that ..." leaving the text up to the manufacturer (Standard 1.2.3 in the Food Standards Code). No health warnings or advisory statements in the Food Standards Code are required to be of a specific font size other than for infant formula and no placement or other format is mandated even though the likes of allergens have a real health and safety impact for the consumer.

By requiring specific text, formatting and 'boxing' of information relating to the non-health and safety information, the consumer is getting mixed and confused messages about the relative importance of the information. For NZFGC members that manufacture the same product for both markets, it means label changes for one market over the other and the potential to place Australian consumers at a disadvantage over their New Zealand counterparts in terms of label clarity and information priority. It is particularly frustrating that almost all New Zealand's exported food to Australia (and the food exported from all other countries) will have to be relabelled to put a box around the country of origin when the box could easily be removed from the overall design.

This issue is of particular significance for infant formula in small packages where the mandated text cannot be reduced to accommodate country of origin boxing or, for Australian manufacturers, graphical icons.

For New Zealand manufacturers exporting to Australia, label changes for every SKU only for the Australian market and only for consumer information are considered to be a non-tariff barrier.

Calculations on the cost of label changes is regularly undertaken for both the Australian and New Zealand markets by Food Standards Australia New Zealand (FSANZ) through modelling data collected over time. A good example of the costs incurred was published in 2008 reflecting work undertaken by the Centre for International Economics for proposed changes to the health and nutrition content claims. The Centre identified several potential market outcomes of labelling changes with costs varying by product size, food category, product life cycle and consumer willingness to pay additional costs (if passed on by manufacturers). These might be useful sources of information to update general costings and impacts. Note however, that the Centre for International Economics' findings for health claims labelling costs showed almost 80% of food packaging would not be affected. This is not the case with proposed country of origin labelling.

In relation to small packages, the obvious problem, recognised in several variations and exemptions by the Food Standards Code, relates to the area available for labelling. This includes 'boxing' the country of origin statement for imports. Space on the label to box information may mean changes in font size and placement simply to fit the box onto the label. Should the proposals proceed, it would be important to exempt small packages in the same way as the Food Standards Code for consistency reasons.

Proportion of Australian ingredients

Question 3. Can you provide an indication of the current number of hours spent and costs to your business from maintaining records to substantiate current origin claims being used today?

NZFGC Response: New Zealand manufacturers exporting to Australia and Australian manufacturers have provided record keeping information to FSANZ on several occasions over the past decade and the information has been updated at regular intervals. We suggest that you liaise with FSANZ on this requirement. In any event, the costs include the due diligence requirements associated with legislative requirements to demonstrate the source of all components of a manufactured product and are extensive.

Question 4. a-c. To allow for variations, businesses could calculate the average proportion of Australian ingredients and provide this average on the label. a. How often should business need to calculate the average proportion of Australian ingredients to have the least impact on business costs, e.g. every 12 months, 24 months or 36 months? b. Please explain the cost impacts of these options for your business. c. Can you suggest another option? d. What would be the estimated costs of your alternative option?

NZFGC Response: NZFGC comments are for two groups of suppliers: Group 1 – members that manufacture in New Zealand and export to Australia and Group 2 – members that manufacture in Australia, sell domestically in Australia and also export to New Zealand.

For Group 1, the proportion of Australian content would be a voluntary addition but those choosing to indicate this amount would likely follow the proposed scheme. From that perspective their concerns and costs would be the same as for Australian manufacturers.

For Group 2, Australian manufacturers, the level of flexibility is not enhanced by an "at least" statement since some ingredients at particular times of the year, would not contain a threshold amount of Australian grown product. The 'at least' amount would therefore be limited to, in the case of for example tinned food, the water and possibly flavourings. This would give a perverted, misleading and inaccurate view of the amount of Australian produce at all other times, would be costly and would disadvantage the domestically sold product. There is no easy solution to a proposal that lacks logic. As noted at the outset, repeated label changes throughout the year to address changing ingredient supplies are a high cost.

a. Ideally the least impact on business costs could be where no calculation of the average proportion of Australian ingredients was required. The next could be where frequency was flexible to align with individual business labelling processes up to 5 years. Costs would increase with every calculation that was outside the normal 3-5 year cycle. Therefore calculations every 36 months would be less costly than any more frequent time.

b. As noted, costs to individual businesses of labelling changes are likely to be available from FSANZ.

c. The best option is a voluntary scheme with no boxing around the 'country of origin'.

d. The costs for a voluntary scheme would vary by number and category of product range and labelling cycle.

Question 5. The Consultation RIS outlines estimated costs to change labels, including: - business processes - understanding new requirements, staff training, IT, inventory planning (\$14 000 per business) - initial label changes for packaged for (\$6245 per SKU) - initial label changes for fresh food (\$500–\$1300 per SKU) - regular label updates (\$2813 per SKU). a. Do

you agree with each of these estimated costs? b. If no, please provide your estimates. c. Are there any other areas of business costs that have not been covered here? Please explain.

NZFGC Response: It is not possible to determine the level of agreement with the estimated costs because the basis is not clear. However, given that the cost of a label with only two colours (the simplest label in the food supply), the label plate change was estimated in 2008 (some 8 years ago) as "...two plates required per SKU, this costs \$3 000 per SKU" (p32, Centre for International Economics 2008) then the estimate of \$2,800 for imported manufactured food in 2016 is a gross under-estimate.

As well, a statement is made that:

"Many businesses already track the proportion of ingoing ingredients based on weight as part of their normal record keeping processes. These businesses should not incur significant new costs to monitor this information." (p22, *Consultation RIS*).

This is not correct in relation to there being no significant new costs. While all businesses track ingoing weight of product, adding a new dimension to that monitoring for Australian manufacturers (the 'Australian-ness' of the ingredients) will add substantial costs to existing monitoring. It requires computer, analysis and response changes and therefore incurs ongoing resource costs. Monitoring is pointless unless results are analysed and acted upon.

Question 6. a-b. a. How do you think the proposed labelling changes would affect your record keeping time and costs? b. Can you provide an estimate of these hours/costs?

NZFGC Response: See above.

Question 7. Business size has not been accounted for in the estimates (noting that most food product businesses are micro or small). What impact will business size have on costs outlined here?

NZFGC Response: Small businesses have proportionally greater costs for effecting change in their product range because most/all technical expertise is contracted out. Therefore, as with a significant proportion of economic policy development, the hardest hit are the least able to bear the cost. Since the Consultation RIS states that the vast majority of businesses affected are small, the impact can be expected to be substantial. In the food supply area, this is complicated by the product range of each business and the value of the products.

Specific country in which key ingredients were grown

Question 8. Can you provide an estimate of the cost to your business to provide a label that details the origin of all ingredients?

NZFGC Response: NZFGC is not able to estimate of the cost to business to provide a label that details the origin of all ingredients. We would suggest that this may be a world first for the reason that the cost is prohibitive for the business and the consumer (through the passing on of costs). Again we would consider this a non-tariff barrier.

Question 9. How long do you believe the label will remain current? That is, how often would you estimate the need to update the label due to a change in the origin of ingredients?

NZFGC Response: There is very little commonality in label currency across businesses. Some products won't see a label change for years while others might change 2-3 times within a year for a range of reasons (most commonly a marketing imperative such as a promotional competition/event or a legislative reason such as has occurred with claims). Most recently there appears to have been an increase in label changes to accommodate the Health Star Rating System promoted by both the Australian and New Zealand Governments. For the proposed country of origin changes, add to that the seasonality of ingredients and the changing sources of ingredients depending on Australian/global supplies, costs and availability and the lack of commonality multiplies as does the cost. This is particularly the case where these factors change frequently requiring label changes every few months through to annual changes.

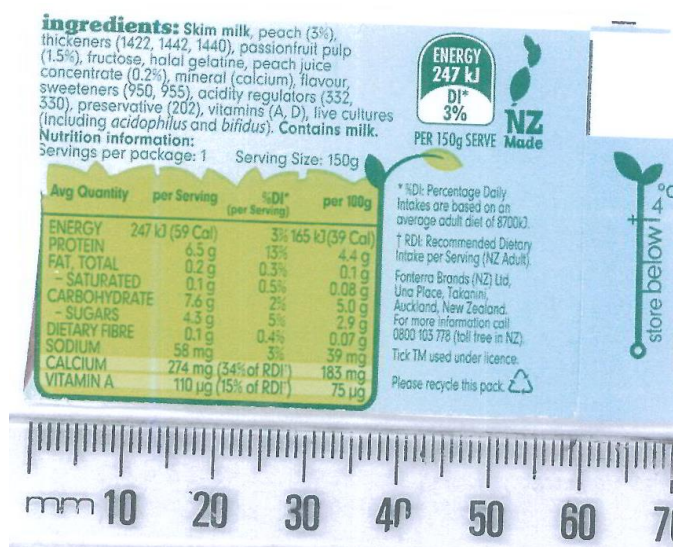
Question 10. Can you estimate the space that a label that details the origin of all ingredients would require on your product?

NZFGC Response: NZFGC considers the space on a product comprising 6-10 ingredients would require two-three times the space of the ingredients list depending on the grouping of ingredients by country and the level of specificity required. A significant amount of 'label real estate' is envisaged.

Question 11. Do you believe providing such detailed origin information is a viable option the government should consider?

NZFGC Response: NZFGC does not believe this to be a viable option. For example a pot of light yoghurt with a label 4cm x 19cm has the following 18 ingredients (picture enlarged):

- Skim milk
- Peach
- Thickeners (1422, 1442, 1440)
- Passionfruit pulp
- Fructose
- Gelatine
- Peach juice concentrate
- Mineral (calcium)
- Flavour sweeteners (950, 955)
- Acidity regulator3 (332, 330)
- Vitamins (A, D)
- Live cultures (including *acidophilus* and *bifidus*).



The ingredients list, nutrition and storage information is squeezed into 4cm x 7cm or more than a third of the label. Adding the country of origin of 18 ingredients would require around double the space and perhaps more if boxing is pursued. It also highlights the impracticality of a system that could see font sizes reduced to fit more on the label. Manufacturers juggle a wide range of competing informational demands from consumers and there are channels other than the label to convey some of that information.

For NZFGC's members that manufacture in Australia, the option is very clearly not viable since not only would they be at an immediate disadvantage to like imported products, they would also have to consider the prospect of two production runs to eliminate the Australian country of origin information for export markets.

Question 12. As a consumer, do you want this information to be provided?

NZFGC Response: NZFGC considers that unless information is directly relevant to safety, then consumers should generally receive information voluntarily supplied by manufacturers. There are other channels for delivering information to consumers, most notably company websites.

How can businesses be more confident in using the safe harbour defences?

Question 13. How many staff do you devote to interpreting, applying and establishing compliance with the current ACL safe harbour defences?

NZFGC Response: Not applicable.

Question 14. a-b. a. What aspects of the current ACL safe harbour defences do you find the most difficult to interpret, apply and comply with? b. Why?

NZFGC Response: NZFGC's members who are Australian manufacturers find aspects of interpretation, monitoring changes to interpretation, impact of formulation changes, and impact of changes to ingredients suppliers to be the most difficult and the most costly.

Question 15. a-b. The Consultation RIS outlines estimates [sic] time for businesses to undertake the 50 per cent production cost test, including: - time new businesses spend learning and understanding the test (approximately nine hours per year) - time new businesses spend applying the test for the first time (approximately 36 hours per year) - time most businesses spend reviewing the test to ensure they remain compliant (approximately 30 minutes per year). a. Do you agree with each of these estimated times? b. If no, please provide your estimates.

NZFGC Response: As with our response to Question 8, NZFGC is not able to verify the estimates of time to undertake the 50 per cent production cost test.

Question 16. Business size has not been accounted for in the estimates (noting that most food product businesses are micro or small). What impact will business size have on savings outlined here?

NZFGC Response: As with our response to Question 7, micro and small businesses have proportionally greater costs for assessing and effecting change in their product range because most/all technical expertise is contracted out. Therefore, as with a significant proportion of economic policy development, the hardest hit are the least able to bear the cost. In the food supply area, this is complicated by the product range of each business and the value of the products to that business.

How should labelling of imported food be treated?

Question 17. Do you believe the proposed labelling requirements will be met by the international manufacturer/supplier or will the imported products need to be stickered on arrival to Australia?

NZFGC Response: There is no 'formula' response for this question. Products imported by Australia that have a history of import and therefore an ongoing place in the market are likely to be subject to a label change and therefore to carry a cost with them. No estimate by volume of imported food is provided (only value) but even so, with an estimated value of \$11.6 billion in 2012-13 (p7 *Consultation RIS*), the impact is potentially substantial. For products currently 'over-stickered' this would add costs and complexity to the over-sticker particularly if the additional requirement (boxing) of country of origin expanded the area required for over-sticking.

We repeat our frustration that almost all New Zealand's exported food to Australia (and the food exported from all other countries) will have to be relabelled to put a box around the country of origin when the box could easily be removed from the overall design.

Question 18. a-b. If products are stickered in Australia: a. Will importers use a machine to apply the sticker or require people to apply the sticker? b. If by hand, can importers estimate the number of hours that would be required to complete the process?

NZFGC Response: NZFGC considers that if machines are currently used for producing and attaching over-sticking labels, this will continue as will over-sticking by hand. NZFGC cannot estimate the hours required by Australian importers to over-sticker but as noted above, removing the box around the country of origin would remove the problem.

Question 19. a-d. The Consultation RIS outlines estimates for label changes for imported food, including: - initial label changes for manufactured food (\$2800-\$6200 per SKU) - initial label changes for fresh food (\$500-\$1300 per SKU) - administrative costs (\$1560 per SKU). a. Do you agree with each of these estimated costs? b. If no, please provide your estimates. c. Are there any other areas of business costs that have not been covered here? Please explain. d. Would you expect any ongoing costs for label changes or business processes for imported food?

NZFGC Response: See Response to Question 5.

Question 20. Is the information on the number of countries ingredients have been sourced from readily available? If not, would there be any additional costs in seeking this information?

NZFGC Response: There would be additional costs in gathering information on the number of countries ingredients have been sourced from and ongoing costs to maintain currency. This is because the information is not comprehensive and may change over time as suppliers/ ingredients manufacturers change etc. We refer you to the example of yoghurt with 18 ingredients. A label listing all ingredient source countries could look like a global meeting membership and exacerbate consumer confusion about labels.

What is the role for digital information?

Question 21. a-b. a. If you are an Australian food manufacturer or producer, do you currently use digital solutions to provide additional information to your consumers? b. If so, what do you do?

NZFGC Response: All manufacturers, whether Australian or not, use digital solutions of some sort to provide additional information to consumers. Most commonly this is via their business website but, as noted, there is expansion into facebook, tweet and mobile apps.

Question 22. a-c. a. What are the costs associated with digital solutions in relation to the price of the food good? b. Is this cost likely to be passed onto consumers? c. Are the specific costs or solutions impacted by seasonality?

NZFGC Response: NZFGC is not aware of specific costs associated with digital solutions in relation to the price of a food. Whether costs of any manufacturing activity are passed on to consumers is a complex commercial decision made on the basis of a range of factors including seasonality and the extent of seasonal supply impacts. There would be seasonal costs if information had to be changed to reflect changing supplies and ingredient sources.

Education and awareness raising

Question 23. Do you think a targeted education campaign on the current country of origin labelling framework would be a cost- effective solution to address consumer concerns?

NZFGC Response: NZFGC considers that there are a number of experiences over time with consumer education campaigns in the food sector that could provide models as to cost-effectiveness of such campaigns. For importers, the most effective message would be to stress that imported food must meet Australian safety standards.

In our view, funding for country of origin labelling campaigns would be more effectively spent on educating consumers about elements that have a health and safety impact such as storage arrangements for perishable foods, date marking, Health Star Rating, fresh produce separation/cross contamination and washing fresh fruit and vegetables.

The proposed response

Proposed labels

Question 24. a-b. a. Are there other ways to express the proportion of Australian ingredients that are simple, clear and not confusing for consumers, yet not overly burdensome for business? b. What would the costs/savings of these options be?

NZFGC Response: The least burdensome approach for business would be a voluntary scheme. The proposed scheme combines both an interpretive element (kangaroo motif and bar) and text. This appears to be necessary because of the complexity in the matrix of terms, 'made in' and 'packed in' and local and imported ingredients. Interpreting a matrix is unlikely to have a simple solution unless they can be combined (such as has been done for the Health Star Rating System).

Question 25. a-c. a. If you are an Australian food manufacturer or producer, which of the two suggested variations for expressing the proportion of Australian ingredients on the bar chart

do you find the most appropriate for your business: - quartile - at least 25 per cent - decile - at least 10 per cent? b. Why? c. How does this flexibility affect your business costs?

NZFGC Response: For NZFGC's members that manufacture in Australia, neither option is ideal. Quartile labelling would be less costly but less informative and potentially more discriminatory for the manufacturer that 'just misses the threshold'. The decile labelling would be more complex to track and more costly.

Question 26. a-b. We understand that the percentage of Australian sourced ingredients in a product may be highly seasonal, or subject to large annual variations in supply. a. Will the proposed labelling requirements negatively impact on your business or industry? b. If so, why?

NZFGC Response: For NZFGC's members that manufacture in Australia, mandated labelling is always going to have a negative impact because of up front and ongoing compliance costs. It removes the commercial imperative of adding information where a benefit can be realised for either or both the business and consumer. Australian manufacturers might choose to add detail on 'Australian-ness' as a point of differentiation and for commercial return. Where an anticipated benefit is not realised, the labelling would presumably be changed.

Question 27. Are there any unintended consequences for Australian food producers or manufacturers exporting products with Australian country of origin information?

NZFGC Response: Advertising the Australian content will have differing impacts in different markets, the consequences not always intended. A key cost is having a separate production run for product that does not have the Australian country of origin information on it. If separate production runs are not pursued, the additional costs for adding the country of origin information initially and maintaining its currency impacts on the cost-competitiveness of Australian products in export markets.

Question 28. Would there be benefits for consumers or food businesses if the bar chart could be used voluntarily on imported foods containing Australian ingredients?

NZFGC Response: A voluntary uptake would have commercial imperatives as to return for investment in changing the label. The assessment of consumer response and product purchase would likely influence decision-making.

Safe harbour

Question 29. Will the proposed changes to the safe harbour defences increase or decrease costs for your business?

NZFGC Response: It is unclear what the impact will be at this time.

Question 30. a-b. a. If you are a food business, would the proposed changes make it easier for you to determine the correct country of origin claim to use? b. Would guidance material help?

NZFGC Response: NZFGC suggests guidance is always helpful.

Question 31. a-b. a. If you are a non-food business, are you supportive of the proposed simplification of the safe harbour defences? b. Would you be more likely to use country of origin labels following the proposed changes?

NZFGC Response: NZFGC is not aware of the impacts for non-food sector businesses.

Digital solutions

Question 32. Should the government be helping to prepare consumers and business for more innovative technological solutions to country of origin labelling in the future?

NZFGC Response: Government has a role in education and awareness of consumers and industry, but whether it is necessary in relation to 'innovative technological solutions' is uncertain unless Government is developing some of the solutions.

Question 33. How do you think businesses will implement these new measures?

NZFGC Response: Implementation, if the measures proceed, depends on the transition period. A three year transition was allocated to the Health and Nutrition Content Claims Standard in the Food Standards Code which affected 20% of the products in the food supply. This proposed change is much broader and potentially a 5 year transition would greatly assist uptake.

Question 34. What barriers are there to the use of digital solutions for country of origin labelling?

NZFGC Response: Barriers to the use of digital solutions for country of origin labelling are the same as for the use of digital solutions for any labelling and cover a range of factors including development, utility, ease of application, acceptance, familiarity and cost etc.

Education campaign

Question 35. Do you believe that it would be important to support any change to the country of origin labelling framework with an education campaign? Please explain.

NZFGC Response: Any labelling change should be accompanied by an education campaign.

Implementation

Transition

Question 36. How would a flat transition period affect implementation costs for your business?

NZFGC Response: Flat transition periods allow businesses to spread costs over time and align changes with other cyclic changes. The period of transition is critical and for the bulk of the food supply, simple logistics would suggest that access to physical aspects of label changes (designers, printers and material suppliers) would dictate a minimum transition – a period of five years would not be excessive.

Question 37. How would a phased transition arrangement affect implementation costs for your business?

NZFGC Response: A phased transition based on shelf life makes no sense in terms of the logistics of supply and execution of packaging.

Question 38. Are there alternative transitional arrangements that will encourage speedy take up of the new labels without imposing undue costs on business?

NZFGC Response: NZFGC is not aware of any alternative arrangements for a mandatory labelling change that delivers limited value.

Question 39. a-b. a. Do you order your packaging or labels in advance? b. If so, how would the transition periods impact on your labelling approach?

NZFGC Response: See Response to Question 37.

Question 40. a-b. a. Are there complicating or unusual factors about your business that would make either transition approach difficult to comply with? b. If so, please provide details.

NZFGC Response: Not applicable.

Question 41. If you are a small business, are there alternative transitional arrangements that would better suit you?

NZFGC Response: NZFGC suggests that the longer the transition, the lesser the impact.

Question 42. If you are an importer, do you have any specific preferences or concerns about transition approaches?

NZFGC Response: See Response to Question 41.

Question 43. a-b. a. As a business, would you choose to adopt the new labelling ahead of the timelines highlighted in the transition periods? b. If so, please describe the regime you would employ including how you would minimise costs and ensure compliance.

NZFGC Response: See Response to Question 37.

Compliance

Question 44. Do you consider an audit power is necessary for a regulator to assess compliance with the information standard? What are the associated benefits and costs?

NZFGC Response: NZFGC considers that since regulators have powers relating to labelling, powers should already exist.

Question 45. What would be the expected compliance costs for a business associated with the use of an audit power?

NZFGC Response: Businesses are already subject to multiple audits and every additional audit adds costs. If audits are required, then using existing regulators ('warranting' them to add additional aspects to existing audits) would be a more cost-effective approach.

Question 46. What alternative arrangements could be applied to support compliance with the information standard?

NZFGC Response: See Response to Question 45.