



Country of Origin Labelling Taskforce
Portfolio Strategic Policy Division
Department of Industry, Innovation and Science
Email: originlabelling@industry.gov.au

Unilever Australia Limited
219 North Rocks Road,
North Rocks
NSW 2150
Australia

T: (02) 9869 6100
F: (02) 9869 6150

4 February 2016

Country of origin labelling
Consultation Regulation Impact Statement
Consumer Affairs Australia New Zealand

Dear CoOL taskforce

Unilever Australia is pleased to provide the following comments to the Australian Government's proposed Country of Origin Labelling (CoOL) framework. These comments are in response to the consultation on the proposed Commonwealth Government response to revise the country of origin labelling framework for food, including the following elements:

- using the Australian made logo on food made, produced or grown in Australia;
- displaying proportion of local ingredients on Australian food with a bar chart and text for most food;
- simplifying the rules for using certain origin statements for food and non-food products; placing country of origin statements on imported food in a box and clarifying claims.

Unilever has a significant portfolio of food products in the Australian market including leading brands such as Continental, Flora, Streets and Lipton, in addition to home and personal care brands Dove, Jif, Omo, Rexona, Tresemmé and Vaseline. Unilever's history in Australia dates back to 1899 when we opened our first soap factory Balmain, Sydney. Today, we employ approximately 2000 people throughout offices and manufacturing sites across Australia. At present more than 70% of the products we sell in Australia and New Zealand are manufactured locally and are used every day by millions of Australians. Consumers trust us to provide them and their families with products that are safe.

We are supportive of the provision of labelling information to better inform consumer choices and we take our responsibility to provide transparency on the origin of our products for Australian consumers very seriously.

Unilever is an active member of the Australian Food and Grocery Council (AFGC), the Business Council of Australia (BCA), and Accord and we wish to express our support for the general regulatory principles conveyed in their submissions.

In addition we ask for the following key points to be taken into consideration in the development of this framework:

- Clarification of CoOL safe harbour defences, where this is shown to deliver improved transparency and more understandable information for consumers.
- Improved alignment between the range of different regulatory instruments that interact to determine CoOL for both local and imported consumer products.
- Recognition of 'deemed to comply' options are required for imported consumer products. These should include:
 - a statement that the product is imported; or
 - CoOL applied in the country of manufacture, providing the information is not misleading or deceptive.
- Mandated labelling to be in the form of simple, plain English in text format, with other graphical elements considered voluntary.
- A fair and reasonable transition time is essential to implement any changes to the current CoOL framework as this will require information to be sourced through the supply chain. This information is critical to determine appropriate CoOL for consumer products, followed by a communication (including labelling in some cases) program. Unilever strongly believes two years is the absolute minimum implementation time period to ensure a smooth transition.

Unilever actively participated in the stakeholder information sessions and meetings with members of the Country of Origin Labelling Taskforce. Through this process we have been able to exchange information, better understand the implications of the proposed requirements, provide estimated industry costs and identify areas requiring improved clarification.

There are a number of areas in the draft framework which we believe require further improvements and clarifications:

- The framework and supporting regulatory instruments for mandatory CoOL should be based on the minimum information required to meet consumer needs. This will provide consistency with Australian regulatory principles and best practice. All additional information can then be provided voluntarily, with respect to the current overarching Australian Consumer Law provisions for misleading/deceptive conduct.
- The proposed regulatory framework needs to align with the underlying principles for CoOL with consistent terminology used across all consumer products.
- The scope of foods to be included within the proposal needs to be clarified. The Information Standard is targeted to provide information to consumers, therefore the focus of the Standard should be food to be sold directly to consumers. For example, Unilever's Food Solutions products are labelled as foods for retail sale, however they are not consumer-facing products.

As CoOL is an initiative that is designed to provide information to consumers on the packaging that foods are distributed in, we request clarification that products, such as Unilever Food Solutions products, which are not sold to consumers in their packaging, do not require this labelling.

- The basis for determining the CoOL calculations is unclear. Two concepts are presented – the Significant Ingredient concept and All Ingredients concept. In establishing a framework for all foods, only the All Ingredients concept is

supportable. The Significant Ingredient concept has the potential to add complexity and create confusion.

- The reason for the distinction between Priority Foods and Non-priority Foods needs to be defined and a rationale developed for this. This will be essential to facilitate effective implementation and also to explain and promote the framework with consumers. At this time, the basis for different labelling requirements is confusing – eg is it based on consumer research and the degree of consumer desire for this information or is it based on other factors, such as the degree of processing of a product?

There are a number of examples within Unilever brands where similar products would have different labelling requirements under the proposed scheme. Without a clearer rationale for this, we would have difficulty explaining to consumer why we are using different labelling.

A clear explanation is particularly important for imported foods as there are different requirements for imports depending on whether products are priority or non-priority foods. This imposes an additional barrier (Australian specific labelling requirement) to certain categories of imported foods.

Examples of these are:

- CoOL for Lipton tea (priority food) and Lipton Ice Tea (non-priority food);
- Imported food requirements – statement on a box - Lipton tea (priority food) and Streets ice cream products (non-priority foods);
- The Information Standard includes specific consideration for Seasonality. Unilever requests consideration for Sourcing Variations as this can occur within the foods supply chain on a reasonably regular basis and will have a very significant impact. The impact of Sourcing Variations can be very similar to Seasonality. Sourcing Variability may result from significant changes in cost and/or reliability of supply that make a change in sourcing an immediate necessity in order to continue to make the product available on the Australian market.
- Draft safe harbour defence amendments:
As stated earlier, we support clarification of CoOL safe harbour defences, where this is shown to deliver improved transparency and clearer information for consumers. However we are particularly concerned with the proposed significant change to include the following definition for Substantially Transformed:

Goods were substantially transformed in a country if:

- the goods:
 - Were subjected in that country to one or more processes that materially changed the identity or essential character of all of the ingredients or components that were imported into that country; and
 - Were new and fundamentally different from all of their ingredients or components that were imported into that country

The requirement that the identity or essential character of all of the ingredients or components that were imported into that country must be materially changed is a very significant change to the current Substantial Transformation test. The proposed change would have implications for ALL consumer products using this

safe harbour defence with the consequence that the entire portfolio of Unilever home, personal care and food products manufactured in Australia will require review to determine impact. We expect that a significant number of products will not meet the proposed new substantial transformation requirements due to the high threshold that the identity or essential character of all ingredients or components that were imported into Australia must materially change. This is a significant change to the lower threshold of the current Substantial Transformation test which requires a fundamental change in form, appearance or nature such that the goods existing after the change are new and different goods from those existing before the change. The ramifications of this proposed change have not been appropriately reflected in the Consultation RIS and the cost implications have certainly not been discussed or taken into account.

Examples for Unilever categories:

- All food products will require review of CoOL and label changes for the Food Information standard;
- All home care products manufactured in Australia will require review of revised safe harbour, including new substantial transformation definition;
- All personal care products manufactured in Australia will require review of revised safe harbour, including new substantial transformation definition.

This will have a significant impact on the labelling costs, resource costs to implement the change and also has potential to impact our ability to deliver changes to Food labels within the proposed timeframe given the impact to the rest of the portfolio.

It will also shift the focus from prioritising consumer needs for more and clearer information for Food to a situation where the scope of the change has become so broad that all products manufactured in Australia could be affected.

- As the CoOL reforms require putting in place and changing a range of different laws and government processes: we strongly encourage co-ordination and change management to consider the impact this will have on implementation. Each separate but related element affects how and when implementation can occur and it is not possible to start until there is certainty – this is especially the case for the changes to Safe Harbours. The reform requires change to each of the following:
 - Information Standard for Food;
 - Removal of the relevant provisions in the ANZ Food Standards Code;
 - Draft safe harbour defence amendments;
 - Proposed changes to the Changes to the Australian Made, Australian Grown Certification Trade Mark Code of Practice; and
 - There are also the Commerce (Imports) Regulations 1940 (Cth) made under the Commerce (Trade Descriptions) Act 1905 (Cth) that are related to this change.

For this reason, we strongly support time to allow for each of the separate elements to be put in place, (preferably with an education period) prior to the start of the actual implementation timing. Only when all elements are in place and appropriate education materials have been provided, companies can start to

source appropriate information to determine CoOL according to the revised framework.

Unilever therefore supports allowing the time for all of the separate elements of the proposed CoOL framework to be put in place prior to starting the effective transition timing for this reform package. An effective transition timing is a minimum of two years.

- Costs for Implementation:

The key elements required to implement a revised CoOL framework for foods efficiently and effectively include the following:

- A reasonable timeframe – 2 years is a minimum time for large scale labelling changes to be put in place;
- Clear and focused scope for the change – this change is to deliver improved Food CoOL for consumers, and there needs to be care taken that inadvertent changes do not dilute the focus and compromise the outcome;
- All reform elements need to be in place prior to commencing change;
- An efficient and effective way to educate on revised requirements to facilitate information gathering through the supply chain;

We have provided detailed estimates on the costs and time involved in implementing the proposed labelling system across our foods portfolio in our Department of Industry Innovation and Science Consultation Questionnaire.

Unilever wants to work towards an improved CoOL framework for foods to meet consumer needs. This requires improved clarity for 'Made in' labels being applicable across all consumer products and cost effective and realistic implementation timeframes. We are particularly concerned about the proposed changes to safe harbour defences and the potential impact this will have on all products manufactured in Australia (including home and personal care products).

Should any additional information be required on these matters, please do not hesitate to contact us directly.

Kind regards
Julie

Julie Newlands
Regulatory Affairs Manager
Unilever Australasia