



Australian Government
Department of Industry,
Innovation and Science

Country of Origin Labelling Consultation package

Consolidated questions

RESPONSE FROM DANONE NUTRICIA EARLY LIFE NUTRITION (Danone ELN) January 2016

Country of Origin Labelling Taskforce
4 December 2015

<https://consult.industry.gov.au/cool-taskforce/cool>

Contents

Consultation RIS questions	3
Item 3 - Draft information standard - Explanatory and discussion paper questions	8
Item 4 - Proposed changes to the Australian Made, Australian Grown Certification Trade Mark Code of Practice questions.....	11
Item 6 - Draft safe harbour defence amendments - Explanatory and discussion paper questions..	12

Consultation RIS questions

What information will satisfy consumers and keep costs down for business?

Food covered by the framework

1. a. Is the list of non-priority food clear? **YES**
b. Are there any gaps? **Potentially – this will be resolved as companies assess individual products**
c. Do you have any other concerns about priority and non-priority food? **NO**

Easy to read labels

2. 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? **NO**
b. Are there any specific problems that might arise in relation to small packages? **Legibility would need to be factored into the considerations**

Proportion of Australian ingredients

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?
This is highly variable as there has been recurring shortages of some dairy ingredients, world-wide. This has resulted in repeated assessments of the CoOL statements to ensure compliance.
4. 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?
This must be reassessed every time an ingredient supply changes.
 - b. Please explain the cost impacts of these options for your business.
The cost of determining a CoOL statement is not calculated separately within the total cost of a label review and any subsequent alterations.
 - c. Can you suggest another option? **No comment**
 - d. What would be the estimated costs of your alternative option? **No comment**
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? **These appear to be reasonable assessments of minimal 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.
6. a. How do you think the proposed labelling changes would affect your record keeping time and costs? **There would clearly be an increase in costs. Changes may be required to the proportion for an individual ingredient, that may not change the format of a CoOL statement under the current requirements. These changes would likely be insignificant to those consumers who value CoOL information, yet would impose additional costs to all consumers of those products.**
 - b. Can you provide an estimate of these hours/costs? **No, this occurs from time to time, where there is short supply and so cannot be quantified in advance.**
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?

No comment

Specific country in which key ingredients were grown

8. Can you provide an estimate of the cost to your business to provide a label that details the origin of all ingredients? **This is highly variable, according to changes in supply.**
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? **As above, variable.**
10. Can you estimate the space that a label that details the origin of all ingredients would require on your product? **As manufacturers of products such as Infant Formula, that provide the sole source of nutrition for infants, the formulations are complex and the list of ingredient is substantial. Labelling the source of every ingredient would be substantial, to the point that we would query there being any real benefit to the consumer. We would have to question whether consumers would read through such a long list. As Infant Formula Products have additional labelling requirements, this would impact the space available on cans. Further, some minor ingredients will be sourced from suppliers in multiple countries. We would be concerned as to the cost to maintain accurate label information and the potential to be required to have very short runs for label production. This would impose severe costs to the manufacturers and subsequently to consumers.**
11. Do you believe providing such detailed origin information is a viable option the government should consider? **NO. Such a requirement would impose high costs that may well result in smaller manufacturers closing business.**
12. As a consumer, do you want this information to be provided? **Our consumers have made clear their interests in knowing where our milk and dairy ingredients are sourced from. There appears to be little interest in the source of minor ingredients.**

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

13. How many staff do you devote to interpreting, applying and establishing compliance with the current ACL safe harbour defences? **A minimum of 5 per SKU.**
14. a. What aspects of the current ACL safe harbour defences do you find the most difficult to interpret, apply and comply with? **No comment**
b. Why?
15. The Consultation RIS outlines estimates 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? **These estimates appear to be low**
b. If no, please provide your estimates.
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?

How should labelling of imported food be treated?

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?
Danone ELN products are produced internationally. We generally have labels that meet the Australian requirements and do not require stickered.
18. 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?
19. 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?
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?

What is the role for digital information?

21. a. If you are an Australian food manufacturer or producer, do you currently use digital solutions to provide additional information to your consumers? **Although Danone ELN manufactures predominantly in NZ, we do have digital information available to Australian consumers,**
- b. If so, what do you do? **Consumer websites and a consumer call line.**
22. 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?

Education and awareness raising

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? **No, the concerns with the lack of detail required by the current framework would not be addressed by an education campaign.**

The proposed response

Proposed labels

24. 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? **Yes. Labels need to provide clear and simple information. This should can then be backed up with provisions for readily available, on-line information would provide far superior information to consumers. Updating on-line information is far quicker and allows manufacturers to be more responsive to consumer needs than amendments to labelling. For example: where a supplier may experience a shortage and a minor ingredient is sourced from a supplier in a different country, this can be updated on-line, within 24 – 48 hours. Significant time is required for revised labels to be updated, produced, supplied and filled. This would also result in additional costs in handling, warehousing and supply.**
- b. What would the costs/savings of these options be? **This could be substantial, but has not been quantified, depending on the stores of printed tin-plate at the time of the shortage.**
25. 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?

26. 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?
27. Are there any unintended consequences for Australian food producers or manufacturers exporting products with Australian country of origin information?
28. Would there be benefits for consumers or food businesses if the bar chart could be used voluntarily on imported foods containing Australian ingredients?

Also see Explanatory and discussion paper for the Draft Information standard.

Safe harbour

29. Will the proposed changes to the safe harbour defences increase or decrease costs for your business? **No change**
30. 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?
31. 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?

Also see Explanatory and discussion paper for the Draft Safe harbour defence amendments.

Digital solutions

32. Should the government be helping to prepare consumers and business for more innovative technological solutions to country of origin labelling in the future? **Yes.**
33. How do you think businesses will implement these new measures?
34. What barriers are there to the use of digital solutions for country of origin labelling? **We do not see any barriers.**

Education campaign

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.

Implementation

Transition

36. How would a flat transition period affect implementation costs for your business?
A flat transition of 24 months would be preferred.
37. How would a phased transition arrangement affect implementation costs for your business?
38. Are there alternative transitional arrangements that will encourage speedy take up of the new labels without imposing undue costs on business?
39. a. Do you order your packaging or labels in advance? **Yes**
 - b. If so, how would the transition periods impact on your labelling approach? **The transition time is very important to allow for the revised artwork to be updated, produced and delivered prior to production and distribution. As production is conducted overseas, sufficient time to ensure compliance is essential.**
40. 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.
41. If you are a small business, are there alternative transitional arrangements that would better suit you?

- 42. If you are an importer, do you have any specific preferences or concerns about transition approaches?
- 43. 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.

Also see Explanatory and discussion paper for the Draft Information standard.

Compliance

- 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?
- 45. What would be the expected compliance costs for a business associated with the use of an audit power?
- 46. What alternative arrangements could be applied to support compliance with the information standard?

Item 3 - Draft information standard - Explanatory and discussion paper questions

Please review questions with the 'Draft country of origin food labelling information standard' and associated 'Explanatory and discussion paper'. Both items are available on the [Department of Industry, Innovation and Science Consultation hub](#). Note that the Explanatory and discussion paper provides discussion points for selected items.

Part 1 – Preliminary information

Section 8

- a. Do you agree with the lists of changes and processes for food that should or should not be considered as substantial transformation set out in Attachment A to Consultation Package Item 6? Why?
- b. What other changes or processes do you think are or are not sufficiently transformative to warrant a change in the origin of a product that incorporates imported ingredients? Why?
- c. Should the lists of changes and processes that are or are not substantial transformation be included in regulations, or should they be in guidance material? Why?

Section 9

- a. We welcome feedback on whether there is sufficient clarity about the scope of non-priority foods. For example, is the difference between biscuits and snack foods and fruit and nut products, muesli bars and cakes and other bakery products sufficiently clear?

Section 12

- a. As a business, is it easier to determine the percentage of Australian ingredients using ingoing weight rather than final weight? Why?
- b. Is there much difference between the ingoing weight of all ingredients in your food and the final weight? If so, what accounts for this difference?
- c. We have provisions dealing with how water should be treated when calculating the percentage of Australian ingredients (see Section 13 below). Do we need to make it clear that packaging is not an ingredient in food to make sure its weight is not used in the calculation?

Part 2 – Country of origin labelling requirements

Division 3

- d. While research showed that the origin information consumers most wanted to see in relation to food was the proportion of Australian ingredients, some consumers did want to see the origin of key ingredients. Would any businesses welcome the possible alternative approach that required the labelling of all of the different countries of origin of the food in the package instead of requiring a statement about the proportion of Australian ingredients? (but still with a bar chart reflecting the proportion of Australian ingredients).

Section 18

- a. Do we need to clarify the meaning of significant ingredients?
- b. Would consumers find the use of the filled bar chart misleading if all significant ingredients are Australian, rather than all ingredients?
- c. Do we need to make sure significant ingredients make up more than 90 or 95 per cent of the food by weight?

Section 19

- a. We would like your feedback on whether the percentage of Australian ingredients should be based on multiples of 10% or 25%. Please let us know the reasons for your preference. (See also question 25 in the Consultation RIS.)
- b. As an alternative to the 'at least' statements, should there be an option to nominate the actual percentage of Australian ingredients with a tolerance of up to five per cent – and using the bar chart filled to the 10% or 25% multiple below the claimed percentage?
e.g. 'Made in Australia from 55% Australian ingredients' with the bar chart filled to 50% – where the actual percentage could be between 50% and 60%?
- c. Or, as another alternative to the proposed provision, could businesses voluntarily name the single origin of ingredients that make up a significant proportion of the food (i.e. 70%, 75%, 80%, 90%, etc.)?
e.g. 'Made in Australia from Canadian pork' if the pork is only from Canada and meets the minimum percentage in a product like ham?
or
'Made in Australia from Australian milk' if the milk is only from Australia and meets the minimum percentage in a product like yoghurt?
- Noting that the bar chart partially filled to the appropriate level would still be required.

Section 20

- a. We would like to know if you would prefer an average seasonal label with a link to more batch-specific information on-line, rather than a label based on the actual ingredients in the food (see section 19) – and if so, why.
- b. Also, we would like your feedback on a formula for calculating the average that would not be misleading to consumers. Over what period do you think the average should be calculated? – and for how long should it be valid?
e.g. averages could be calculated annually (i.e. every 12 months) or perhaps over a 24 or 36 month period – and the average could then be used for a similar period after that. (See also question 4 in the Consultation RIS.)
- c. Should averages be calculated over calendar or financial years (or perhaps other periods of 12, 24 or 36 consecutive months)?
- d. Also, what other ways could consumers access the additional information on-line besides a bar code? For example, through a website address.
- e. Should the option of nominating the actual percentage of ingredients with a tolerance of up to five per cent be permitted for seasonal statements too?
- f. Are there any other situations, besides seasonality, where the proportion of Australian ingredients normally varies throughout the year, and consumers would accept the necessity for a similar approach to origin labelling?

Subsection 21

- g. We would like your feedback on whether a seasonal average label as well as a straight 'at least' label is needed for packs containing food from different countries, similar to those featured in section 20.

Part 4 - Legibility requirements, prohibitions and providing additional information

Section 26

- a. For packaged food, could the logo and bar chart appear separately from the text –
e.g. the logo and bar chart on the front and the text on the back?
- b. Comments on use of the logo and bar charts in off-label situations are also invited. For example, could the logo be used with a bar chart, but without the text, in off-label situations for multiple

foods that were all grown, produced or made in Australia, and that have the same proportions of Australian ingredients?

- c. Are there any situations in which the logo could be used on food without the bar chart, without misleading consumers?
 - e.g. In stores displayed over deli produce or meat, including products that are wholly Australian and those made in Australia from a mix of local and imported ingredients such as sausages and ham that might have different levels of local content?
 - e.g. In catalogues for food made, produced or grown in Australia, with local content from anywhere between 0% and 100%?
- d. The current draft does not allow the bar chart to be used to indicate the proportion of Australian ingredients in imported food. It is thought that there are other ways this information could be presented, and the use of the bar chart in this way might confuse consumers or be difficult to verify. However, we are interested in hearing your views, including whether you believe there are overriding benefits to allowing the bar chart to be used voluntarily on imported foods containing Australian ingredients. (See also question 28 in the Consultation RIS.)

Part 5 - Transitional provisions

Section 29

- a. We understand that consumers would like to see clearer origin labels on food as soon as possible. However, we also understand that having adequate transition arrangements can help to keep implementation costs down for food producers, manufacturers, importers and retailers – minimising the impact on food prices. We therefore invite views on the impact of the proposed options.
- b. We would also appreciate any practical suggestions on alternative transition arrangements that would ensure speedy adoption of the new labels, impose less cost on business and have the broad support of industry.

Dictionary

- a. Comments are invited on the definitions in the dictionary.

Item 4 - Proposed changes to the Australian Made, Australian Grown Certification Trade Mark Code of Practice questions

No Comment

Please review questions with the item outlining the proposed changes on the [Department of Industry, Innovation and Science Consultation hub](#).

1. Are the proposed changes to the Code of Practice for the AMAG Certification Trade Mark likely to result in any significant public detriments?
2. Would they be likely to have any significant effect on competition or impact on consumers?

Item 6 - Draft safe harbour defence amendments - Explanatory and discussion paper questions

No Comment

Please review questions with the 'Draft country of origin safe harbour defence amendments' and associated 'Explanatory and discussion paper'. Both items are available on the [Department of Industry, Innovation and Science Consultation hub](#).

1. Do you agree with the list of changes and processes that should or should not be considered as substantial transformation? Why?
2. What other changes or processes do you think are or are not sufficiently transformative to warrant a change in the origin of a product that incorporates imported ingredients or components? Why?
3. Should the lists of changes and processes that are or are not substantial transformation be included in regulations, or should they be in guidance material? Why?