



**FOOD STANDARDS**  
Australia New Zealand  
Te Mana Kounga Kai - Ahitereiria me Aotearoa

**3-06**

**31 May 2006**

## **INITIAL ASSESSMENT REPORT**

### **APPLICATION A579**

### **COUNTRY OF ORIGIN - PRINT SIZE FOR UNPACKAGED FOOD IN DISPLAY CABINETS**

For information on matters relating to this Assessment Report or the assessment process generally, please refer to <http://www.foodstandards.gov.au/standardsdevelopment/>

## **Executive Summary**

A new country of origin labelling Standard for the *Australia New Zealand Food Standards Code* (the Code) was gazetted on 1 December 2005. Extended labelling requirement under Standard 1.2.11 – Country of Origin Requirements (Australia Only) for most unpackaged food will come into force on 8 June 2006. The Standard mandates that where a country of origin statement is required on unpackaged food the label size of type has to be at least 9 mm.

Under Annex D of the *Agreement Between the Government of Australia and the Government of New Zealand Concerning a Joint Food Standards System*, New Zealand has varied from this Standard. Accordingly, this Standard does not apply in New Zealand.

An Application was received from Food Liaison Pty Ltd on the 10 March 2006 seeking to amend Standard 1.2.11 – Country of Origin Requirements of the Australia New Zealand Food Standards Code. The Applicant seeks to modify country of origin requirements to reduce the prescribed size of type of at least 9 mm to at least 3 mm for unpackaged food when presented for sale in an enclosed display cabinet. The Applicant does **not** seek to change the 9 mm requirement for unpackaged food displayed for retail sale other than in an enclosed display cabinet. For example, fresh fruit and vegetables displayed in open bins would still need to be subject to the 9 mm requirements.

The Applicant argues that a large proportion of the cost associated with country of origin labelling could be avoided if the size of type mandated for unpackaged products sold from an enclosed display cabinet was smaller than 9 mm. The Applicant further argues that with a reduced font size consumers would be better able to see country of origin, as well as other important product information.

FSANZ will consider three options. Option 1 is to maintain the *status quo* by not changing the prescribed size of type of at least 9 mm for unpackaged food. Option 2 is to amend the Code to approve a prescribed size of type of at least 3 mm for unpackaged food when presented for sale in an enclosed display cabinet. Option 3 is to amend the Code to approve a prescribed size of type of at least 5 mm for unpackaged food when presented for sale in an enclosed display cabinet.

The Application relates to a matter that may warrant a variation of a food regulatory measure and there is no similar previous Application. FSANZ has taken these matters into account and accepts the Application.

FSANZ will undertake an assessment to determine if font sizes smaller than 9 mm will allow consumers to better see country of origin information of unpackaged foods sold in enclosed display cabinets as well as other important product information. In doing so, it will consider the cost to industry for implementation of country of origin labelling with prescribed size of type of at least 3, 5 and 9 mm for unpackaged food when presented for sale in an enclosed display cabinet.

Under section 36 of the *Food Standards Australia New Zealand Act 1991* (FSANZ Act), FSANZ decided to omit to invite public submissions in relation to the Application prior to making a Draft Assessment. It was satisfied that that the Application raised issues of minor significance or complexity only.

## **Purpose**

The purpose of the Application is to amend Standard 1.2.11 – Country of Origin Requirements to reduce the prescribed size of type from at least 9 mm to at least 3 mm for unpackaged food when presented for sale in an enclosed display cabinet.

## **Preferred Approach**

In accordance with Section 13 of the FSANZ Act, FSANZ has undertaken an Initial Assessment and recommends accepting the application.

## **Reasons for Preferred Approach**

The Application has been assessed against the requirements in Section 13 of the FSANZ Act and FSANZ recommends accepting the Application for the following reasons:

- The Application relates to a matter that may warrant a variation of a food regulatory measure and there is no similar previous application.
- If Standard 1.2.11 was varied as a result of the Application the likely outcome would be a reduction in costs to industry, government and the community. It is also possible that the amendment would allow consumers to better see the product, other important product information and the price.
- Other measures would not be appropriate in addressing the problem raised by the Applicant.
- FSANZ's objectives outlined in section 10 of the FSANZ Act will not be compromised by the proposed changes.

## **Consultation**

FSANZ decided, pursuant to section 36 of the FSANZ Act, to omit inviting public submissions in relation to the Application prior to making a Draft Assessment. In making this decision, FSANZ was satisfied that the Application raised issues of minor significance or complexity only.

FSANZ will seek public comment following Draft Assessment in order to proceed to Final Assessment of this Application.

# CONTENTS

<b>INTRODUCTION.....</b>	<b>2</b>
1. BACKGROUND.....	2
2. THE ISSUE.....	3
3. OBJECTIVES.....	3
<b>RISK MANAGEMENT.....</b>	<b>4</b>
4. OPTIONS.....	4
4.1 Option 1 – Maintain the requirement of Standard 1.2.11 for prescribed size of type of at least 9 mm for country of origin labelling of unpackaged food.....	4
4.2 Option 2 – Amend Standard 1.2.11 to approve a prescribed size of type of at least 3 mm for unpackaged food when presented for sale in an enclosed display cabinet. In addition, any label would need to meet the legibility requirements of Standard 1.2.9.	4
4.3 Option 3 – Amend Standard 1.2.11 to approve a prescribed size of type of at least 5 mm for unpackaged food when presented for sale in an enclosed display cabinet. In addition, any label would need to meet the legibility requirements of Standard 1.2.9.	4
<b>COMMUNICATION.....</b>	<b>5</b>
5. COMMUNICATION AND CONSULTATION STRATEGY.....	5
5.2 World Trade Organization (WTO).....	5
<b>CONCLUSION.....</b>	<b>5</b>
6. CONCLUSION AND PREFERRED APPROACH.....	5

## **INTRODUCTION**

An Application was received from Food Liaison Pty Ltd on the 10 March 2006 seeking to amend Standard 1.2.11 – Country of Origin Requirements of the Australia New Zealand Food Standards Code. The Applicant seeks to modify subclause 2(3) of the Standard to reduce the prescribed size of type of at least 9 mm to at least 3 mm for unpackaged food when presented for sale in an enclosed display cabinet.

The Applicant does **not** seek to change the size of type of at least 9 mm requirement for unpackaged food displayed for retail sale other than in an enclosed display cabinet. For example, fresh fruit and vegetables displayed in open bins would still need to be subject to the 9 mm requirements. In addition, any label would need to meet the requirements of Standard 1.2.9 – Legibility Requirements.

The Applicant considers that implementation of the current country of origin labelling requirements will involve substantial costs for the retail industry. The Applicant argues that a large proportion of this cost could be avoided if the size of type is mandated for unpackaged products sold from an enclosed display cabinet was smaller than 9 mm. The Applicant further argues that with a reduced font size requirements consumers would be better able to see country of origin information of foods, as well as other important product information.

### **1. Background**

Standard 1.2.11 - Country of Origin Requirements sets out the requirements for country of origin labelling of packaged and unpackaged fish, fruit and vegetables, and pork. Where a label is mandated, the standard requires such a label to be **legible and in a size of type of at least 9 mm**.

Under the *Agreement Between the Government of Australia and the Government of New Zealand Concerning a Joint Food Standards System*, New Zealand has varied from this standard. Accordingly, this standard does not apply in New Zealand.

Prior to the existing country of origin labelling provisions, a transitional Standard for country of origin labelling requirements came into effect in December 2002. In December 2003, the Australia New Zealand Food Regulation Ministerial Council (Ministerial Council) referred Policy Guidelines for country of origin labelling to FSANZ to guide the review of the transitional Standard.

FSANZ released an Initial Assessment Report in May 2004, inviting public comment on a number of issues. In March 2005, a Draft Assessment Report was released for a second round of public consultation. Following Draft Assessment, FSANZ prepared a Discussion Paper released in August 2005 detailing specific issues for consideration in the context of a revised standard. Final assessment was completed in October 2005.

The new Standard was gazetted on 1 December 2005. The labelling requirements for unpackaged fresh food, unpackaged processed food and fresh food in packages that do not obscure the nature or quality of the produce will come into force on 8 June 2006. The labelling requirements for unpackaged fresh pork and pork products such as ham and bacon will come into effect on 8 December 2006.

## **2. The Issue**

Country of origin labels on food products provide an important source of information for consumers. Consumers should have the ability whether or not to purchase a product based on the information provided on the label, including country of origin information, or from other information provided in association to the product. A label needs to provide effective and credible information that is understood by consumers. Otherwise, a label will not enable consumers to make informed choices, and there will be no benefit to consumers.

It has been suggested that while labels in enclosed display cabinets provide country of origin information, the labels might block consumers' view of the food for sale. With a minimum font size of 9 mm, consumers are better able to see country of origin information of foods and the price, but the display label obscures a part of their view of the food products for sale and their ability to discern quality.

This trade-off will vary from product to product and among consumers, and for some consumers the 9 mm font size requirement may mean they have less information on which to make purchasing decisions.

Proposed changes would specifically apply to unpackaged food displayed for retail sale in an enclosed display cabinet. The precise definition of an 'enclosed display cabinet' will need to be considered during assessment.

## **3. Objectives**

In varying the food standard for country of origin labelling FSANZ assures that its statutory obligations under section 10 of the *Food Standards Australia New Zealand Act 1991* (FSANZ Act) are met.

The objective of this assessment is to ensure that any amendment of Standard 1.2.11- Country of Origin Labelling Requirements is consistent with providing adequate information to enable consumers to make informed choices on products in display cabinets with labels containing country of origin information. In particular, the objective of the assessment is to ensure that the size of labels used in enclosed display cabinets is such that consumers are better able to see country of origin information relating to a food, as well as other important product information and the price.

In meeting its statutory obligations, FSANZ recognises that country of origin labelling is not a public health and safety issue.

In developing or varying a food standard, FSANZ is required by its legislation to meet three primary objectives which are set out in section 10 of the FSANZ Act. These are:

- the protection of public health and safety;
- the provision of adequate information relating to food to enable consumers to make informed choices; and
- the prevention of misleading or deceptive conduct.

In developing and varying standards, FSANZ must also have regard to:

- the need for standards to be based on risk analysis using the best available scientific evidence;
- the promotion of consistency between domestic and international food standards;
- the desirability of an efficient and internationally competitive food industry;
- the promotion of fair trading in food; and
- any written policy guidelines formulated by the Ministerial Council.

## **RISK MANAGEMENT**

### **4. Options**

FSANZ is required to consider the impact of various regulatory (and non-regulatory) options on all sections of the community, including consumers, food industries and governments. The regulatory options available for this application are:

#### **4.1 Option 1 – Maintain the requirement of Standard 1.2.11 for prescribed size of type of at least 9 mm for country of origin labelling of unpackaged food**

This option maintains the *status quo* by not changing the prescribed size of type of at least 9 mm for unpackaged food.

#### **4.2 Option 2 – Amend Standard 1.2.11 to approve a prescribed size of type of at least 3 mm for unpackaged food when presented for sale in an enclosed display cabinet. In addition, any label would need to meet the legibility requirements of Standard 1.2.9.**

This option will result in an amendment to the Code by modifying subclause 2(3) of Standard 1.2.11 – Country of Origin Requirements to reduce the prescribed size of type to at least 3 mm for unpackaged food when presented for sale in an enclosed display cabinet. It will not change the size of type of at least 9 mm requirement for unpackaged food displayed for retail sale other than in an enclosed display cabinet. In addition, any label would need to meet the legibility requirements of Standard 1.2.9.

#### **4.3 Option 3 – Amend Standard 1.2.11 to approve a prescribed size of type of at least 5 mm for unpackaged food when presented for sale in an enclosed display cabinet. In addition, any label would need to meet the legibility requirements of Standard 1.2.9**

This option will result in an amendment to the Code by modifying subclause 2(3) of Standard 1.2.11 – Country of Origin Requirements to reduce the prescribed size of type to at least 5 mm for unpackaged food when presented for sale in an enclosed display cabinet.

It will not change the size of type of at least 9 mm requirement for unpackaged food displayed for retail sale other than in an enclosed display cabinet. In addition, any label would need to meet the legibility requirements of Standard 1.2.9 – Legibility Requirements.

## **COMMUNICATION**

### **5. Communication and Consultation Strategy**

During the assessment process, FSANZ will carry out intensive consultation of key stakeholders. FSANZ will seek public comment following Draft Assessment in order to proceed to Final Assessment of this Application.

FSANZ decided, pursuant to section 36 of the FSANZ Act to omit to invite public submissions in relation to the Application prior to making a Draft Assessment. However, FSANZ now invites written submissions for the purpose of the Final Assessment under section 17(3)(c) of the FSANZ Act and will have regard to any submissions received.

FSANZ made its decision under section 36 of the FSANZ Act because it was satisfied that that the Application raised issues of minor significance or complexity only.

Section 63 of the FSANZ Act provides that, subject to the *Administrative Appeals Tribunal Act 1975*, an Application for review of FSANZ's decision to omit to invite public submissions prior to making a Draft Assessment, may be made to the Administrative Appeals Tribunal.

#### **5.2 World Trade Organization (WTO)**

As members of the World Trade Organization (WTO), Australia and New Zealand are obligated to notify WTO member nations where proposed mandatory regulatory measures are inconsistent with any existing or imminent international standards and the proposed measure may have a significant effect on trade.

This issue will be fully considered at Draft Assessment and, if necessary, notification will be recommended to the agencies responsible in accordance with Australia's and New Zealand's obligations under the WTO Technical Barrier to Trade (TBT) or Sanitary and Phytosanitary Measure (SPS) Agreements. This will enable other WTO member countries to comment on proposed changes to standards where they may have a significant impact on them.

## **CONCLUSION**

### **6. Conclusion and Preferred Approach**

Section 13 of the FSANZ Act prescribes those matters that must be taken into account by FSANZ in making an initial assessment. FSANZ has taken these matters into account and accepts the Application.

FSANZ decided, pursuant to section 36 of the FSANZ Act to omit to invite public submissions in relation to the Application prior to making a Draft Assessment. Accordingly, FSANZ will now proceed to the Draft Assessment of this Application.