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Australia New Zealand
Te Mana Kounga Kai - Ahitereiria me Aotearoa

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FINAL 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

On 8 December 2005, a new country of origin labelling Standard (Standard 1.2.11) under the *Australia New Zealand Food Standards Code* (the Code) was gazetted. This Standard applies in Australia only and came into force on 8 June 2006.

Amongst other things, the Standard mandates that where a country of origin statement is required on unpackaged food, and where a sign or label is displayed in association with the food, the size of type on the label must be at least 9 mm.

On 10 March 2006, FSANZ received an Application from Food Liaison Pty Ltd seeking to amend the Standard to reduce the prescribed size of type from 9 mm to at least 3 mm for signs in connection with unpackaged food presented for sale in an enclosed display cabinet.

In accordance with the *Food Standards Australia New Zealand Act 1991* (FSANZ Act), FSANZ prepared an Initial Assessment Report. The regulatory options identified in the Initial Assessment Report for signs in connection with unpackaged food presented for sale in an enclosed display cabinet¹ were:

- Option 1 - maintain the status quo by not changing the prescribed size of type of at least 9 mm for unpackaged food;
- Option 2 - 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; and
- Option 3 - 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.

Under section 36 of the FSANZ Act, FSANZ decided not to invite public submissions on the Initial Assessment Report as FSANZ was satisfied that the Application raised issues of minor significance or complexity only.

Following the Initial Assessment Report, FSANZ commissioned independent consumer research (undertaken by Taylor Nelson Sofres (TNS)), a benefit cost analysis (undertaken by the Centre for International Economics (CIE)), and conducted a full risk assessment.

The Draft Assessment Report, including the consumer research and benefit cost analysis, was made publicly available for consultation in July 2006. FSANZ received 16 submissions in response to the Draft Assessment Report. A majority of submitters supported the recommended option (Option 3) 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.

Based on all of the evidence, FSANZ continues to recommend Option 3. This recommended amendment does not apply to produce displayed in other environments such as free standing displays or bins.

¹ For the purposes of this Final Assessment Report, reference has been made to an 'enclosed display cabinet'. This has the same meaning as 'assisted service refrigerated display cabinet' which is the term used in the draft Standard at Attachment 1.

Purpose

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

Decision

FSANZ has undertaken a Final Assessment and has prepared a draft variation to amend subclause 2(3) of Standard 1.2.11 to change the size of type requirements for country of origin labels in relation to labels or signs in connection with unpackaged food in enclosed display cabinets from *at least 9 mm* to *at least 5 mm*.

Reasons for Decision

On the basis of an assessment against FSANZ's objectives in section 10 of the FSANZ Act together with a risk assessment, an independent benefit cost analysis, independent consumer research and an assessment of submissions made by stakeholders, FSANZ recommends the approach detailed above for the following reasons:

- it is consistent with FSANZ's objectives and ensures that consumers have adequate information to enable them to make informed choices;
- it allows consumers to better see the product, the price, and other important product information; and
- it allows retailers additional flexibility and has the potential to reduce compliance costs.

While it continues to be feasible for retailers to adopt a 9 mm type size (Option 1), the evidence shows there are some benefits to consumers if the type size is reduced as it allows consumers to better see the product and other product information where products are displayed in enclosed cabinets. This is important given the results of consumer research which indicate the importance of product appearance (quality) and price. More specifically the consumer research showed that:

- the 5 mm option is preferred by a majority of consumers. This was also supported by a majority of submitters; and
- while there is no significant difference in visibility between the 3 mm and 5 mm option (94% of consumers report 3 mm type size to be easily read and 97% report 5 mm type size to be easily read), FSANZ considers that there will be some circumstances where a type size smaller than 5 mm is less readable than type of 5 mm or larger. A type size of at least 5 mm provides a high degree of certainty that the type will be easily read regardless of the font, or the type of sign, used by the retailer.

The benefit cost analysis showed that:

- both the 3 mm type size and the 5 mm type size would be of lower cost to retailers than 9 mm. The difference in cost between 3 mm and 5 mm type size is marginal and there may be a marginal economic benefit to consumers if the 5 mm option is adopted.

Overall, where foods are displayed in an enclosed cabinet, the 5 mm type size (Option 3) is most effective at ensuring that consumers are able to clearly see the product, the country of origin information relating to the food and other important product information. As a secondary consideration, when compared to the 9 mm size of type it also ensures greater flexibility for retailers and has the potential to reduce compliance costs. The proposed reduction in the type size has the potential to lower the costs of compliance by between 0.7 and 10 per cent of the product value and average around 1.6 per cent. This equates to around \$34 million a year.

Consultation

In accordance with section 36 of the FSANZ Act, FSANZ omitted inviting public submissions on the Initial Assessment Report. Public submissions were, however, invited on the Draft Assessment Report and FSANZ received 16 submissions. Previous submitters to country of origin were notified electronically of this application. All State and Territory Governments and the New Zealand Government were advised of this application and a teleconference was held.

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INTRODUCTION

1. The Application

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

The Applicant does **not** seek to change the 9 mm size of type requirement for unpackaged food displayed for retail sale other than in an enclosed display cabinet.

2. Background

Chapter 1 of the Code specifies the general labelling requirements for food. In most circumstances, food for retail sale or catering purposes is required to carry a label setting out all the information prescribed in the Code. The label on a package of food for retail sale or for catering purposes must include a range of information including certain country of origin information.

1.1 Current Standard

On 8 December 2005, a new Standard was gazetted for country of origin labelling. Standard 1.2.11 sets out the requirements for country of origin labelling of packaged foods and certain unpackaged foods including fish, fruit and vegetables and pork.

The Standard does not apply to unpackaged cereals, meat other than pork, eggs, edible oils, dairy products, sugar and honey, vinegar and related products, and salt. It applies to food sold to catering establishments in catering packs, but not to food sold to the public by restaurants, canteens, schools, caterers or self-catering institutions where the food is offered for immediate consumption.

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. Standard 1.2.11 applies in Australia only.

The Standard requires businesses to label all packaged and certain unpackaged foods with their country of origin as follows.

² For the purposes of this Final Assessment Report, reference has been made to an ‘enclosed display cabinet’. This has the same meaning as ‘assisted service refrigerated display cabinet’ which is the term used in the draft Standard at Attachment 1

1.1.1 *Packaged foods*

- Label packaged foods with a statement on the package that clearly identifies where the food was made or produced, or a statement on the package that identifies the country where the food was made, manufactured or packaged for retail sale and to the effect that the food is constituted from imported ingredients or from local and imported ingredients.
- In this context ‘ingredients’ should be understood to include any food component or substance used in the preparation, manufacture or handling of a food.

1.1.2 *Unpackaged foods:*

- Label unpackaged fresh and preserved fish with the country or countries of origin of the fish, or a statement indicating that the fish is a mix of local and imported foods or a mix of imported foods, as the case may be.
- Label unpackaged fresh pork with the country or countries of origin of the pork, or a statement indicating that the pork is a mix of local and imported foods or a mix of imported foods, as the case may be.
- Label unpackaged preserved pork that has not been mixed with food not regulated by country of origin labelling of unpackaged foods with the country or countries of origin of the pork, or a statement indicating that the pork is a mix of local and imported foods or a mix of imported foods, as the case may be.
- Label unpackaged fresh vegetables or fruit with the country or countries of origin of the vegetables or fruit, or a statement indicating that the vegetables or fruit are a mix of local and imported foods or a mix of imported foods, as the case may be.
- Label unpackaged preserved vegetables or fruit that have not been mixed with food not regulated by country of origin labelling of unpackaged foods with the country or countries of origin of the vegetables and fruit, or a statement indicating that the vegetables or fruit are a mix of local and imported foods or a mix of imported foods, as the case may be.
- In connection with the display of unpackaged fish, pork, and fruit and vegetables, **provide a label that is legible and in a size of type of at least 9 mm.**

The new 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 (as detailed above) came into force on 8 June 2006. The labelling requirements for unpackaged fresh pork and pork products will come into effect on 8 December 2006.

The transitional country of origin Standard 1.1A.3 continues to operate in parallel to Standard 1.2.11 for a period of two years, with the exception of clauses 3, 4, 5 and 6 of that Standard, which will only operate for a period of 6 months.

In addition, subclause 1(2) of Standard 1.1.1 provides for a 12-month period of grace for compliance with new provisions in the Code.

The net effect is that, from the commencement of Standard 1.2.11, manufacturers and retailers can continue to comply with Standard 1.1.A3 for a period of three years, except for the requirements in Clauses 3, 4, 5 and 6. For those foods, retailers can only continue to comply with those provisions for six months. After that period, compliance with the requirements of subclauses 2(2) and 2(3) of this Standard will be required.

Alternatively, manufacturers and retailers may comply with Standard 1.2.11 from its commencement, or at any time from commencement.

THE ISSUE AND OBJECTIVES

3. The Issue

Country of origin labels on food products, provide an important source of information for consumers. Country of origin is one consideration, among many, that influences decisions by consumers about whether or not to purchase a product. One of the important objectives of labelling (and associated product information) is to enable consumers to make informed choices.

The issue that has been raised by the Applicant (for assessment by FSANZ) is whether the current requirements for 9 mm sized type on country of origin labels in connection with unpackaged food in enclosed display cabinets in fact has a negative impact on the capacity of the consumer to make an informed choice. In general, a 9 mm type size requirement will necessitate the use of an extra display label in order to present the information and thus while the 9 mm type size enables consumers to see the country of origin information for foods, the extra display label may obscure a part of their view of the food products for sale and therefore their ability to discern product quality and other information.

In the case of some products the 9 mm size of type requirement (leading to an extra display label) may also mean that consumers have less information on which to make purchasing decisions.

It is important to note that the problem that has been identified relates only to unpackaged food in enclosed display cabinets, as defined, and not to country of origin labelling of food displayed in other environments, such as unpackaged produce in free standing displays or bins. For these products the 9 mm size of type requirement remains unchanged.

The principle of minimum effective regulation also requires that Standards must provide the minimum regulation necessary to provide consumers with information about the source of a food product and provide the food industry with certainty in the marketplace without imposing unnecessary compliance burdens. The Applicant has suggested that the 9 mm requirement in relation to unpackaged food in enclosed display cabinets poses significant costs to industry and that a reduction in the size of the type will provide a better balance of benefits to consumers and costs to the retail industry.

4. Objectives

In varying the food Standard for country of origin labelling FSANZ must ensure that its statutory obligations under section 10 of the FSANZ Act are met. The objective of amending Standard 1.2.11 is to provide 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 this assessment is to ensure that the size of type on labels used in enclosed display cabinets is such that consumers are able to clearly see: the product; country of origin information relating to the product; and other important product information.

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 ASSESSMENT

5. Key Assessment Questions

As part of its assessment, FSANZ has considered four key assessment questions:

- How does size of type on labels in enclosed display cabinets affect consumer's ability to make informed choices?
- Does a type size of 9 mm restrict view of products displayed in enclosed cabinets?
- Are there other more appropriate sizes of type?
- If capacity for informed choice of some demographic sub-groups is reduced by use of smaller type sizes in display cabinets, what is the importance of country of origin information to these sub-groups?

6. Risk Assessment Summary

As noted in the Draft Assessment Report, in order to assist FSANZ to address these questions, FSANZ commissioned consumer research company Taylor Nelson Sofres (TNS) to undertake a study into consumer responses to legibility and the importance of country of origin labelling.

The survey involved face-to-face intercept interviewing of 200 grocery buyers between 19 and 20 May 2006 in the Deli and Seafood section of Woolworths Cherrybrook in Sydney. The grocery buyers were asked a number of questions and shown different type sizes and asked to provide their reactions.

The research commissioned by FSANZ made the following main conclusions:

- All type sizes tested (3 mm, 5 mm and 9 mm) were legible to the vast majority of consumers.
- The 3 mm and 5 mm country of origin labels were preferred by consumers.
- Half of all respondents found the 9 mm type size restricted product view. The 9 mm type size polarised respondents – in the 18-34 age range, 41% considered it the most preferred font and 54% the least preferred font. In the 35-54 age range, 46% said it was the most preferred and 43% the least preferred. In the 55+ age range, 49% chose it as their most preferred font size and 37% the least.
- The majority of respondents (97%) found the 5 mm as legible as the 9 mm size of type (97%).
- The 5 mm type size had the highest net desirability score amongst respondents (63%) and the 3 mm type size scored lowest (36%) in net desirability.
- The majority of respondents found 3 mm legible (94%) but, based on research undertaken by the Applicant, this figure dropped to 75% for 2.5 mm type. It should, however, be noted that there were differences between the research commissioned by FSANZ and that undertaken for the Applicant in terms of the way the 3 mm and 2.5 mm labels were prepared and presented.
- Most respondents believe they should pay no more for different sizes of type.
- More respondents ranked product appearance (32%) and price (30%) than knowing where the product has come from (21%) as the most important factor when making a purchase from the deli/seafood section of the supermarket.

Full details of the TNS consumer studies are available on the FSANZ website³.

RISK MANAGEMENT

7. Options

FSANZ has considered the following three options:

³ The studies are available at www.foodstandards.gov.au in the Standards Development Section, Applications, A579 - Country of Origin - Print size for unpackaged food in display cabinets

- Option 1 – Maintaining the requirement of Standard 1.2.11 for country of origin labelling in connection with unpackaged food in enclosed display cabinets to have size of type at least 9 mm
- Option 2 – Amending Standard 1.2.11 to allow a minimum type size of 3 mm for country of origin labelling in connection with unpackaged food when presented for sale in an enclosed display cabinet.
- Option 3 – Amending Standard 1.2.11 to allow a minimum type size of 5 mm for country of origin labelling in connection with unpackaged food when presented for sale in an enclosed display cabinet.

8. Impact Analysis

8.1 Affected Parties

The potentially affected parties are:

- retailers, in particular supermarkets, delicatessen, retailers of fish, butchers and other small businesses involved in the sale of unpackaged fresh food in enclosed cabinets;
- consumers; and
- Government (including State and Territory enforcement agencies).

8.2 Benefit Cost Analysis

As noted in the Draft Assessment Report, a benefit cost analysis was prepared by the Centre for International Economics (CIE). The CIE Report is entitled ‘The microeconomics of font size – Country of origin labelling on unpackaged food in display cabinets’ and is available on the FSANZ website⁴.

The CIE made the following main conclusions:

- With a smaller font size (3 mm), compliance costs could be lowered by about 1.6 per cent of the value of products sold. This equates to around \$34 million a year in compliance costs.
- The 5 mm font size results in similar savings in compliance costs, when compared to the 3 mm option, in circumstances where the country of origin statement can fit on one label. However, in 20-30 per cent of cases a second label may be required. In these circumstances, the savings in compliance costs would be around \$24 million with potential to improve this if retailers are able to adjust fonts and layouts to enable the country of origin statement to be included on one label.

⁴ At www.foodstandards.gov.au in the Standards Development Section, Applications, A579 - Country of Origin - Print size for unpackaged food in display cabinets

- Benefits to consumers of a 9 mm font size do not appear to be high where unpackaged foods are displayed in enclosed cabinets. Although consumers appear to regard CoOL information as important, they do not seem to be prepared to pay more to read the information in font sizes above 3 mm. This would suggest the consumer benefits of a font size greater than 3 mm are not large.
- Shoppers' strongest preference appears to be for 5 mm font size. However, perhaps because virtually all shoppers surveyed (94% or more) can read CoOL information at 3 mm, 5 mm and 9 mm, they do not appear to value larger font sizes highly.
- Although consumers did not indicate a strong willingness to pay for 5 mm font size over a 3 mm font size, they nonetheless indicated a preference for 5 mm over 3 mm were it to be costless. They indicated these preferences even where abbreviations were used to make 5 mm font size fit on one ticket.
- Where the country of origin statement can fit on one label, a 5 mm standard would be of a similar compliance cost relative to a 3 mm standard and might provide a marginal economic benefit to consumers based on the evidence assembled here. However, it is estimated that in 20-30 per cent of cases a second label may be required which will increase costs relative to the 3 mm standard.
- Economically, the most efficient font size option would be a minimal 3 mm standard.

8.3 Comparison of Options

FSANZ considers that while it continues to be feasible for retailers to adopt a minimum 9 mm type size (Option 1), this is not the preferred option because in some circumstances, type size of 9 mm can restrict consumers' view of the product.

There may, therefore, be some benefits to consumers if the type size is reduced (to allow greater visibility of the product and other important information) and benefits to retailers (by increasing flexibility to use smaller type size).

In terms of the most appropriate type size, it is noted that:

- both the 3 mm type size and the 5 mm type size would be of lower cost to retailers than 9 mm. However, as indicated in the CIE Report, the difference in cost between 3 mm and 5 mm type size is marginal and there may be a marginal economic benefit to consumers if the 5 mm option is adopted;
- based on the consumer research, the 5 mm option is preferred by a majority of consumers; and
- the consumer research indicates that there is not a significant difference in visibility between the 3 mm and 5 mm option (94% of consumers report 3 mm type size to be visible and 97% report 5 mm type size to be visible). However, FSANZ considers that a type size of at least 5 mm provides greater certainty that the type will be visible regardless of the font, or the type of sign, used by the retailer.

Taking into account all relevant considerations, FSANZ considers that the 5 mm type size (Option 3) is preferable to both the 3 mm type size (Option 2) and the 9 mm type size (Option 1). Option 3 best ensures that consumers are able to clearly see the product, the country of origin information relating to the food and other important product information. As a secondary consideration, it also ensures greater flexibility for retailers and has the potential to reduce compliance costs.

COMMUNICATION

9. Communication and Consultation Strategy

A user guide on Country of Origin labelling for food manufacturers and retailers and State and Territory enforcement agencies was published in March 2006. A Country of Origin labelling brochure for consumers was launched when the new requirements for fruit vegetables, nuts and seafood came into force on 8 June 2006. If this minor amendment is agreed to, then both these publications will be amended.

10. Consultation

Pursuant to section 36 of the FSANZ Act, FSANZ did not invite public submissions in relation to the Initial Assessment. FSANZ did, however, invite submissions in relation to the Draft Assessment and received 16 submissions as follows.

Category	Australia	NZ	Total
Government	2	1	3
Industry	13	-	13
Grand Total	15	1	16

A majority of submitters (seven) gave at least qualified support for the recommended option - Option 3 (5 mm). Four submitters (mainly from the Australian seafood industry) supported maintaining the *status quo* (Option 1) and four submitters supported Option 2 (3 mm). Two submitters stated that they would have preferred no type size requirements, but legibility requirements only.

The main issues raised were as follows (with the FSANZ analysis of the issues raised included in italics):

- **In relation to Option 1 (Status quo – 9 mm)** – opposing views were expressed. On the one hand, it was argued that the status quo is too costly, limits the consumers’ view of the product and means that in some supermarket delicatessen the 9 mm typeface for country of origin is larger than the name of the product. The opposing view stated that: the existing standard is appropriate, has been developed after extensive consultation, has widespread support and should not be watered down; smaller type sizes may mislead consumers; retailers are already complying with the status quo; there is no information supplied by retailers that is more important than country of origin; and decreasing the size of type requirements will not necessarily decrease the size of the label.

While FSANZ acknowledges the stated benefits of Option 1, on balance, FSANZ considers that, based on the consumer research, the readability of 5 mm is comparable to 9 mm, consumers are better able to see additional information and the net desirability of 5 mm is higher. The benefit cost analysis also favours 5 mm over 9 mm. FSANZ considers that this warrants amending the standard to require a minimum type size of 5 mm.

It is however, important to note that this is a minimum requirement only. If individual retailers consider that their customers are better served with a larger type (given, for example, the specific nature of the display or the product) retailers may choose to use a larger size of type.

- **In relation to Option 2 (3 mm) and Option 3 (5 mm)** - Retailers thought that smaller type sizes would reduce costs. They also argued that smaller font sizes would benefit consumers by improving view of the product and other information. It was stated that the smallest type size would be most consistent with an approach to using the minimum effective regulation. Some submitters thought that the size of type should not be specified in the Standard. They argued that mandating type size constitutes overregulation and that a requirement for signage to be legible is sufficient. It was feared that the introduction of different type sizes into the standard would add complexity and be burdensome to business.

FSANZ acknowledges that 3 mm size of type would be the lowest cost option compared to 5 mm or 9 mm. However, FSANZ also considers that 5 mm size of type better preserves the intent of specifying CoOL size of type, ensures readability and does not obscure the product. FSANZ considers that it provides greater flexibility and opportunity for reduced cost to retailers compared to 9 mm.

- **In relation to the consumer research** - Submitters expressed a range of opinions on the validity of the research and the conclusions that could be drawn from this work. Some submitters felt that the research showed that signs smaller than 9 mm can be easily read by consumers and that a 5 mm type is as effective as 9 mm in informing consumers on the country of origin of a product. Submitters also thought that the research demonstrated that consumers consider price and appearance more important than the country of origin of a food, and that this further supported mandating a smaller size of type. Some submitters concluded that, based on the consumer research, there was little difference to legibility using 3 mm or 5 mm size of type while others thought that the consumer research clearly supported the 3 mm option.

Stakeholders noted that there was a significant increase in legibility of the smallest type size between the two research phases, and that there was no difference between the legibility of the 5 mm signs. It was argued that while this may have been partly due to the layout of the signage, this showed that there was improved legibility when type size was increased from 2.5 to 3 mm. In contrast to submissions from the retail sector, some submitters from other industries were highly critical of the consumer research. Others disagreed that the 9 mm requirement leads to poor visibility of the products, and argued that there was no evidence that consumers would benefit from a reduction in type size, and that consumers wanted CoOL to be clearly displayed. To the contrary, some submitters suggested that decreasing type size would decrease the visibility of CoOL, and disadvantage consumers.

FSANZ acknowledges the wide range of views regarding the consumer research. There are clearly differing views regarding the merits of the 3 mm size of type (particularly whether or not this is sufficiently legible) and the 9 mm size of type (particularly whether or not this obscures the product). It is evident that the majority of submitters considered that the 5 mm option is preferable and results in the best balance of costs and benefits.

- **In relation to the cost benefit analysis** - Like the consumer research, a range of views was expressed. Some argued that there were significant cost savings to retailers flowing from the 5 mm option. However, it was also argued that the benefit-cost analysis clearly support a size of type of 3 mm, and that cost savings would be much less with a mandated size of type of 5 mm. It was noted that the benefit-cost analysis suggested that cost for 5 mm signage could be reduced by adjusting layouts and fonts. Submitters raised concerns about the legibility of some fonts and abbreviations, and argued that such an approach to signage could result in additional costs to industry. Some submitters rejected the view that there are greater costs associated with a 9 mm type size requirement compared to mandating reduced type sizes. It was argued that retailers could save money by using consistent font sizes and that this was not reflected in the analysis.

FSANZ considers that the benefit cost analysis establishes that both the 3 mm and 5 mm options are less costly than the 9 mm option and that the 3 mm option is likely to lead to greater cost savings than the 5 mm option. This was also agreed by the majority of submitters. However, when the benefits of the 5 mm option are also considered, FSANZ considers that the overall benefit cost analysis supports the 5 mm option.

- **In relation to other issues related to the Application** – Other issues that were raised included the following: The Code does not provide any explicit permission to use abbreviations and there is a need for guidance in this matter; the definition for the cabinet ensures a one-on-one relationship which opens an avenue for effective information exchange which would allow information to be provided on request; some technical adjustment to the drafting is necessary; and there are EU standards in place that are relevant to this application.

As suggested, minor technical amendments have been made to the Standard (refer Attachment A). FSANZ has also examined the EU standards but these do not directly address the issue of size of type. In relation to the relationship between the retailer and the customer, FSANZ agrees that there is potential for this type of direct information exchange. On the abbreviation issue, FSANZ notes that while the Standard does not provide any explicit information about abbreviations, the critical issue from FSANZ's perspective is that any declaration used must be readily understood by the consumer and must stand on its own merits.

10.1 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.

There are no relevant international standards, and as this affects Australian retailers only, amending the Code to reduce the font size of country of origin labels for unpackaged food in enclosed display cabinets is unlikely to have a significant effect on international trade.

Therefore no notification has been made to the agencies responsible in accordance with Australia's and New Zealand's obligations under either the WTO Technical Barrier to Trade (TBT) or Sanitary and Phytosanitary Measure (SPS) Agreements.

CONCLUSION

11. Conclusion and Preferred Option

Option 3 is the preferred option. It is recommended that subclause 2(3) of Standard 1.2.11 be amended to change the size of type requirements for country of origin labels in relation to unpackaged food in enclosed display cabinets from at least 9 mm to at least 5 mm.

A copy of the proposed amendment to the draft Standard is included at Attachment 1.

12. Implementation and Review

It is anticipated that this Final Assessment Report will be notified to the Ministerial Council in September 2006. Following consideration by the Ministerial Council, and subject to any request from the Ministerial Council for a review, the amendments to the Code will come into effect upon gazettal.

ATTACHMENTS

1. Draft variation to Standard to 1.2.11 of the *Australia New Zealand Food Standards Code*

Draft variation to the *Australia New Zealand Food Standards Code*

To commence: on gazettal

[1] **Standard 1.2.11** of the *Australia New Zealand Food Standards Code* is varied by –

[1.1] *omitting* subclause 2(3), *substituting* –

(3) Where the food listed in Column 1 to the Table to subclause 2(2) is displayed for retail sale other than in a package, and the requirements of Column 2 are being met by a label in connection with the display of the food, in addition to the requirements of Standard 1.2.9 –

- (a) the size of type on the label must be at least 9 mm; or
- (b) where the food is in an assisted service refrigerated display cabinet, the size of type on the label must be at least 5 mm.

(4) For the purposes of paragraph 2(3)(b), an assisted service refrigerated display cabinet means a refrigerated enclosed or semi-enclosed display cabinet which requires a person to serve the food as requested by the purchaser.

[1.2] *omitting the* Editorial note *following* subclause 2(3), *substituting* –

Editorial note:

Subclause 2(2) governs the country of origin requirements for fresh and processed unpackaged produce, or fresh produce that is packaged in such a way that the nature or quality of the food is not obscured, such as in a plastic or mesh bag, that is currently available on the market.

Generally, retailers will have two options. They may label the individual commodities, such as with a sticker, as is a common practice with apples, oranges and lemons etc. Alternatively, they may place a label on a sign in association with the food in at least 9 mm type stating the country or countries of origin of the produce or make a ‘qualified claim’ that the foods are a mix of local and/or imported foods as the case may be. This would commonly be the case with soup mixes of whole vegetables that are displayed for retail sale in a plastic bag.

However, where the food is displayed in refrigerated glass display cabinets, such as in delicatessens, butchers or fish shops, the label placed in association with the food must be at least 5 mm type.

If the mix comprises Australian produce and produce from other countries, the retailer can either declare each country of origin, or that the food is a mix of local and imported produce.

If the mix comprises produce from other countries, the retailer may either declare the individual countries of origin, or declare that the food is made up of imported produce.

This subclause also applies to unpackaged fish, fruit and vegetables that have undergone some form of processing. In the case of fruit and vegetables, the subclause applies to food products such as olives that have been soaked in salt water or vinegar, sun-dried tomatoes in olive oil or tofu. Where those products have been mixed with other foods not regulated by the subclause, such as pasta, the country of origin provisions do not apply.

Standard 1.2.9 provides that each word, statement, expression or design prescribed to be contained, written or set out in a label must, wherever occurring, be so contained, written or set out legibly and prominently such as to afford a distinct contrast to the background, and in the English language.

Fruit and vegetables are defined in Standard 2.3.1, and that definition includes nuts.

Summary of Submissions

Count of Submitter	Country		
Category	Australia	NZ	Grand Total
Government	2	1	3
Industry	13	-	13
Grand Total	15	1	16

Submitter	Remarks
<u>INDUSTRY</u>	
Australian Food & Grocery Council(Australia)	<ul style="list-style-type: none"> • Supports reduction in font size • Should assist consumers in making an informed choice, reduce unnecessary costs to industry, not result in misleading or deceptive labelling • Supports 3 mm option, reject 9 mm • Rejects 5 mm as there is negligible adverse impact on consumers but substantial benefit to industry and consistent with the principle of minimum effective regulation • 3 mm and 5 mm are legible by majority of consumers • Smaller label result in less obstructed view, therefore, 3 mm and 5 mm are preferable to 9 mm • There is a negligible difference in consumer response between 3 and 5 mm • Important that consumers considered price and appearance more important than CoO • 3 mm is the approach most consistent with minimum effective regulation • Overregulation a major concern for business • The need for this application demonstrates the inadequacy of the original proposal and flawed RIS • There is sufficient evidence provided in consumer research reports to support that consumers are able to read legible signs smaller than 9 mm in enclosed seafood and delicatessen display cabinets. • Notes the findings of the Phase 2 report found that there was a significant increase in legibility compared to the Phase 1 study, between the 2.5 mm and 3 mm type size

Submitter	Remarks
	<ul style="list-style-type: none"> • Acknowledges that one explanation for this may be the labels used in the second trial, but it highlights that there is improved legibility • Notes that there was no significant difference in the legibility of 5 mm labels • Considers the benefit : cost implications for Option 2 also justify establishing a minimum type size of 3 mm on the basis of not requiring retailers to purchase new equipment • Agrees that a large proportion of this cost could be avoided if the size of type mandated was set at a minimum of 3 mm • CIE report indicates that if this option were adopted there is an anticipated saving of \$34 million dollars to industry. • While the CIE report indicates that there would also be a saving to industry of around \$24 million for 5 mm , it also identified that between 20 – 30 % of products would still require a second label and reduce the ability to clearly see the product displayed. • The CIE report suggests that there is the potential to reduce this need for second display cards if retailers were able to adjust fonts and layouts, the CIE report assumed that it was possible for retailers to use abbreviations. • However, this raises concerns about legibility, interpretation of abbreviations and potentially adds further costs to industry. • Does not consider these suggestions to be a practical solution, and are less desirable compared to adopting Option 2 for a 3 mm minimum type size • The Standard does not provide an explicit permission to use abbreviations, nor is there advice on using abbreviations in the editorial note, and the terms ‘Product of’ or ‘Made in’ are prescribed terms in the Trade Practices Act • This would permit only the name of the country to be abbreviated. This raises questions as what sort of abbreviations may be used and the need for guidance • The CIE report notes that an alternative solution to abbreviations may be thin fonts • However, legibility is an issue and the report fails to take into account that this requires printers capable of producing thin fonts and may necessitate additional equipment, adding costs • The CIE Report supports the option of using 3 mm in conjunction with the requirements for legibility. • The CIE report identifies that there are significant costs to retailers in introducing labelling requirements. • The sensitivity analysis identifies that there is a 90 per cent chance that the direct benefit of adopting Option 2, and establishing a minimum type size of 3 mm in place of the current 9 mm, is \$30.5-\$52.6 million. • Supports the findings and considers that these are conservative estimates • Benefit to cost ratio is clearly in favour of establishing a minimum type size of least 3 mm. • Businesses most likely to be hit hardest are the independent small delicatessen and seafood retailers as they are least likely to have access to expensive label printers required for 9 mm type labelling • Support that this Application raises issues of minor significance and minor complexity • Appropriate to invite public comment prior to the Final Assessment.

Submitter	Remarks
Australian Prawn Farmers Association (Australia)	<ul style="list-style-type: none"> • Strongly opposes amending the standard • 9 mm requirement predates new standard • Retailers already compliant • Businesses that did not comply with the old standard should be made to comply with the new standard • New standard has been extensively consulted on and has wide support • Consumers want CoOL clearly displayed • Does not believe 9 mm labels affect visibility of food • Opposes any watering down of the standard
Coles Myer (Australia)	<ul style="list-style-type: none"> • Support 5 mm • Would have preferred legibility • 9 mm is excessive and costly • 9 mm requirements takes up to much space, limiting information provided to the consumer • 5 mm would benefit consumers, as shown by the research • 5 mm would reduce compliance costs
Food Liaison Pty Ltd (Australia)	<ul style="list-style-type: none"> • 5 mm is a vast improvement on 9 mm • 3 mm would have been the better option. • 3 mm is supported by the consumer research and the CBA • Definition of display cabinet requires a person to serve the Food Standards This one-on-one relationship provides for effective information exchange • This should be adequate to only require legibility under 1.2.9 rather than specify a font size • The best option would be no font size requirement. • In the absence of such an option 3 mm would be the best option
Franklins (Australia)	<ul style="list-style-type: none"> • Notes that in current delicatessen format, 9 mm typeface is larger than the name of the product, and has required new, larger ticketing that tends to obscure the displayed product. • Consumers are entitled to many forms of information so they may make their purchase decisions based on food safety, nutrition, value for money, political, religious or ethical grounds • To be of value, this information must be reliable • Established a compliance and training system to ensure this CoO information is correct • The research in support of the Application shows that a 5 mm typeface will achieve the same ends as the 9 mm • Can comply with a 5 mm CoO typeface at a lower cost than the larger typeface • Supports Option 3 of Application, where the country of origin labelling is displayed with a minimum font size of 5 mm.

Submitter	Remarks
FTA Victoria (Australia)	<ul style="list-style-type: none"> • Supports 5 mm font size requirement
George Weston Foods (Australia)	<ul style="list-style-type: none"> • Supports 3 mm, but will support 5 mm if 3 mm is rejected • 9 mm is inappropriate • Evidence supports 3 mm • Has a number of specific comments regarding pork • Concerned about lack of consultation in P292 in regards to pork • Process has damaged FSANZ image • FAR has not allowed for natural justice • Fresh pork needs to be labelled even though it cannot be imported and sold • This could mislead consumers into believing fresh pork can be imported and sold • 9 mm requirement major problem for retailers of smallgoods • Requirement for fresh pork should be removed from the Code
Metcash trading (Australia)	<ul style="list-style-type: none"> • Supports the very clear need for smaller font size of country of origin for all COOL signage wherever possible including those enclosed in display cabinets (especially delicatessen and produce display or fish / seafood displays). • Acknowledges and accepts that retail customers should be informed about CoOL and not be deceived • Expresses concerns at the possible unintended consequences and the high and unnecessary costs associated • Supports Option 2 to specify a type size of at least 3 mm for all small ticket displays. • Rejects the status quo on the facts of the costs and evidence presented about unworkable display problems. • Rejects Option 3 to require a type size of at least 5 mm on the basis that there is no realistic difference for consumers based on the 3 mm display research. • 5 mm does not meet standard approach of using an effective regulatory minimum • One of the major impacts for retailers of unpackaged food has been the unworkable regulations relating to font size • In addition to cost and operational impacts, concerns related to the visual display, and the practical desire of all retailers staff to easily meet the requirements • 9 mm font is a far greater font size than many of our actual product descriptions and could not reasonably fit onto existing Product ticketing • To comply will require additional tickets and as proposed will clutter the displays adding to customer confusion • Obliterates the view for customers of some products altogether and minimise ability to identify texture, colour and other quality determinants • Application seeks to have the minimum 9 mm font requirement reduced to 3 mm when food is displayed in enclosed display cabinets

Submitter	Remarks
	<ul style="list-style-type: none"> • 3 mm font size is based on the results of consumer research conducted on behalf of the applicants by TNS Global and your own research results that confirm these findings. • Reduction in extra labels for small retailers to comply would prove a major saving and 3 mm best solution • Requests Application be amended as proposed within the CIE report to ‘the most efficient font size option [that] would be a minimal 3 mm standard’ and that enforcement of the 9 mm font size be only applied for foods that are displayed where large sized A4 sized tickets are the norm • Request that 3 mm font size be permitted to be used in small ticket ‘open’ displays
National Aquaculture Council Inc (Australia)	<ul style="list-style-type: none"> • 9 mm should stay • Supermarkets are already compliant • Research behind the application is not transparent to the public • 9 mm was in place prior to the new Standard, should therefore have been complied with already • Retailers and staff have little concern with arrangements • The new regulation, including 9 mm, was already extensively consulted on • Current laws have been widely supported by the Australian public, media, producers, Ministers • Consumers want a clear display of CoOL • Does not agree that 9 mm blocks the visibility of seafood displays • Opposes any change to labelling requirements
SA Aquaculture Council (Australia)	<ul style="list-style-type: none"> • Opposes any modification of the standard • Rejects findings of the CBA • 9 mm requirement does not add to compliance cost. Totally rejects that there are any additional cost from 9 mm requirements • Portions of seafood are not individually labelled • Decreasing the size of CoOL does not decrease the size of the label • Retailers could reduce the size of the prize • There is no information used by retailers that is more important than CoO • 9 mm font does not block view of seafood, smaller font sizes would make it more difficult to see CoOL • Retailers could save money by having consistent font sizes. This is not considered in the report • Retailers are not complying with CoOL • There is no evidence that consumers will benefit from a reduction in font size • There are international standards. In the EU wide controls on food labelling are in place • If consumers are adequately informed they will buy the Australian product • Prominence of labelling is critical

Submitter	Remarks
	<ul style="list-style-type: none"> • EU and UK are more sensitive to consumer needs and have recognised the importance CoOL • Standard should be improved not watered down • Concerns are raised on a number of other issues concerned with the competitiveness of the local seafood industry <ul style="list-style-type: none"> - Australian exporters have to meet more stringent requirements than imports into Australia - Report should consider the detrimental impact of cheap seafood on the local industry - AQIS does not check imports enough - Imports are subsidised • Environmental and labour conditions are not up to Australian standards
SA Marine Finfish Farmers Association (Australia)	<ul style="list-style-type: none"> • See submission by SA Aquaculture Council
Seafood Processors and Exporters Council (Australia)	<ul style="list-style-type: none"> • Industry has been responsible in their country of origin labelling of food • Small number of unscrupulous operators have mislead consumers • Strongly supported CoOL standard • Suggested amendment would water down the Standard • Reduction in font size will allow rogue traders to mislead consumers • There is no valid reason for reducing font size • Smaller font sizes would lead to consumers being mislead in regards to imported and local seafood • New standard was widely supported • Retailers attempting to make lettering so small that consumers will be confused • There was wide consultation on the CoOL and that has resulted in an appropriate standard • There is now some attempt to undo the achievement by watering down the legislation • Vigorously opposes any change to labelling requirements • 9 mm can be easily accommodated for unpackaged seafood

Submitter	Remarks
Woolworths (Australia)	<ul style="list-style-type: none"> • Fails to understand the necessity to prescribe a 'Font Size' for CoOL, given that the TNS survey results indicate 3 mm is equally acceptable to the recommended option of 5 mm. • Confirms the view that the prescription of a font size for the display of unpackaged foods is 'Over Regulation' and font should only be considered in terms of legibility • The introduction of prescribed font sizes adds complexity to an already burdensome piece of legislation and will necessitate two different font sizes in the one Standard • Changing prescribed font sizes to one of 'Legibility' is surely the more practical and less onerous approach • Somewhat reluctantly and with no other recommended option for font size for CoOL of unpackaged products in refrigerated display cases, accepts 5 mm font and will support the recommended amendments
GOVERNMENT	
New South Wales Food Authority (Australia)	<ul style="list-style-type: none"> • Supports 5 mm • Notes that 9 mm requirements remain for retail sale other than in a display cabinet • Rejects 3 mm • Suggests some minor drafting changes
New Zealand Food Safety Authority (New Zealand)	<ul style="list-style-type: none"> • Does not support mandatory CoOL • Supports the 5 mm option
Queensland Health (Australia)	<ul style="list-style-type: none"> • Supports 5 mm