

Review of Food Labelling Law and Policy

**Australian Pork Limited - Submission 2
Response to Issues Consultation Paper**

AUSTRALIAN PORK LIMITED



May 2010

COVER SHEET FOR SUBMISSIONS

REVIEW OF FOOD LABELLING LAW AND POLICY

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Table of Contents

Abbreviations..... 4

1. Executive Summary 5

2. Australian Pork Limited – our interest in this review 6

 2.1 Overview of the Australian Pork Industry 7

3. Country of Origin Labelling (CoOL) 8

 Text Box 1: The Australian PorkMark Initiative 9

 Text Box 2: COOL Developments in the EU 11

 Text Box 3: UK COOL Code for Pork Products 11

4. What should be included on food labels? 11

5. Method of Production (MOP) Labelling..... 12

 Text Box 4: Comments from Meat Marketing Report 12

7. GM Food Labelling 13

 Text Box 5: CASE STUDY – GM Free Chicken 14

8. Food Labelling Administration and Enforcement..... 14

9. Presentation of Label Information 17

10. Conclusion..... 17

Abbreviations

ABARE	Australian Bureau of Agricultural and Resource Economics
ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
APL	Australian Pork Limited
CoOL	Country of Origin Labelling
CWE	Carcass Weight Equivalent
EU	European Union
FSANZ	Food Standards Australia and New Zealand
FSC	Food Standards Code
GM	Genetically Modified
MoP	Method of Production (refers to agricultural production systems)
QA	Quality Assurance
TPA	Trade Practices Act
UK	United Kingdom
US	United States of America

I. Executive Summary

Australian Pork Limited (APL) is the national representative body for Australian pig producers. It is a producer-owned not-for-profit company combining marketing, export development, research and innovation and strategic policy development to assist in securing a profitable and sustainable future for the Australian pork industry.

APL is pleased to have the opportunity to participate as a stakeholder in this Review. We consider this an opportunity to resolve some important food labelling issues affecting the pork industry for the benefit of our producers, customers and consumers. While addressing the questions posed in the *Issues Paper*, APL will expand on the information presented in our first submission, particularly addressing Country of Origin Labelling (CoOL), Method of Production (MoP) labelling, and GM food labelling.

APL supports mandatory CoOL labelling for both packaged and unpackaged pork products to identify both the origin of ingredients of a product and also to identify the proportion of content in a product that is of domestic origin. While CoOL requirements for fresh pork are effective, we believe that current CoOL standards for processed pork products are inadequate to help consumers distinguish Australian from imported ham, bacon and smallgoods.

The “Made in” and “Product of” Australia terms remain misleading and confusing to consumers despite significant public education initiatives on the issue. APL’s primary concern is that under the FSC (Section 1.2.11 Subclause 2(1)) provision is made for packaged processed pork products to be labelled with a statement indicating where the product (e.g. ham or bacon) was “made” or produced. This allows packaged ham and bacon made from imported pork to be labelled with the confusing “Made in Australia” claim, provided it meets the requirements set by the Trade Practices Act (TPA)¹. To exasperate the problem, many processed pork products made from Australian pig meat are prevented from using the “Product of Australia” claim under the TPA due to the inclusion of small amounts of imported preservatives that are not available in Australia. This makes it very difficult for Australian pork producers and consumers to differentiate between Australian and imported packaged ham and bacon at retail level because both are labelled with the confusing “Made in Australia” claim.

APL recommends review of the CoOL requirements for packaged pork products in the Food Standards Code and a review of the use of the terms “Made in” and “Product of” Australia on pork products to enable real consumer choice and to differentiate Australian pork from imports.

On GM labelling, APL believes that current labelling laws are adequate to protect consumers and allow choice. However to ensure this is informed choice, we suggest GM labelling should be accompanied by more consumer education confirming that all food sold in Australia (GM or not) is safe to eat. We believe that decisions about GM labelling should be based on science and food safety and should not act to inhibit development and acceptance of GM technology. We reconfirm our position that products derived from GM fed animals do not and should not require GM labelling and

¹ ‘Made in’ – the goods must have been substantially transformed in the country claimed to be the origin and 50% of the costs of production must have been carried out in that country. Under the Trade Practices provisions, substantial transformation is defined as – ‘a fundamental change...in form or nature such that the goods existing after the change are new and different goods from those existing before the change’ (Editorial Note Section [Standard 1.2.11 FSC](#)).

suggest that clearer documentation around this is required in the FSC to avoid inconsistency in enforcement.

On Method of Production (MoP) labelling, APL advocates for a voluntary system and the development of enforceable standard production descriptors to reduce confusion about the meaning of terms such as *Bred Free Range* and to ensure due prosecution of misconduct. We recommend industry involvement in the development of a standard set of production descriptors and the development of a voluntary code of practice to prescribe and monitor the use of these production descriptors on food labels. The Code would be developed in consultation with the industry and enforced by the ACCC. We also recommend the use of licensing agreements and the possibility for use of existing industry quality assurance programs as a means of validating MoP claims.

On the presentation of food labelling, APL believes that enough information should be presented at the point of sale to enable an informed choice to be made before purchase. Further information should be provided on websites and via consumer education to increase consumer understanding of labelling terms as required.

APL would support the development of a more streamlined, efficient and consistent approach to food labelling administration and enforcement. The instatement of a national body responsible for food labelling administration and enforcement is likely to bring benefits in this regard.

APL would support a move to a co-regulatory approach to food labelling especially in relation to providing additional voluntary consumer information (e.g. MoP labelling) on food. Government oversight of the food labelling system would maintain integrity in the public eye while utilisation of industry experience, research, knowledge and existing resources and communication channels would ensure that food labelling is able to better meet the needs of different industries and the needs of consumers.

APL believes that Australia's food labeling system should be designed to support Australian producers and consumers; inform rather than confuse consumers; and should be monitor able and enforceable. The development of a more consistent, transparent and informative food labelling approach for pork products would be an ideal outcome for the pork industry from this review.

2. Australian Pork Limited – our interest in this review

APL is a unique rural industry body that represents the Australian pork industry. It is a producer-owned company delivering integrated services to enhance the viability of Australia's pig producers. The organisation aims to enhance opportunities for the sustainable growth of the Australian pork industry by delivering integrated marketing, innovation and policy services along the pork industry supply chain. APL pursues opportunities for the industry at both the domestic and international level and works in close association with industry and government stakeholders.

ALP is pleased to have the opportunity to participate in the *Review of Food labelling Law and Policy*. We have already provided [an initial submission](#) outlining our primary concerns and attended a stakeholder consultation meeting in Canberra on April 12th 2010. As an industry facing competition from imports, competition from substitute products and public scrutiny of our production systems, food labelling is an important issue for the Australian pork industry.

Our primary objective in this Review is to ensure consumers are provided with accurate information about the pork products they consume and to reduce the potential for misleading conduct in the labelling of pork products for the benefit of pork producers, our customers and consumers.

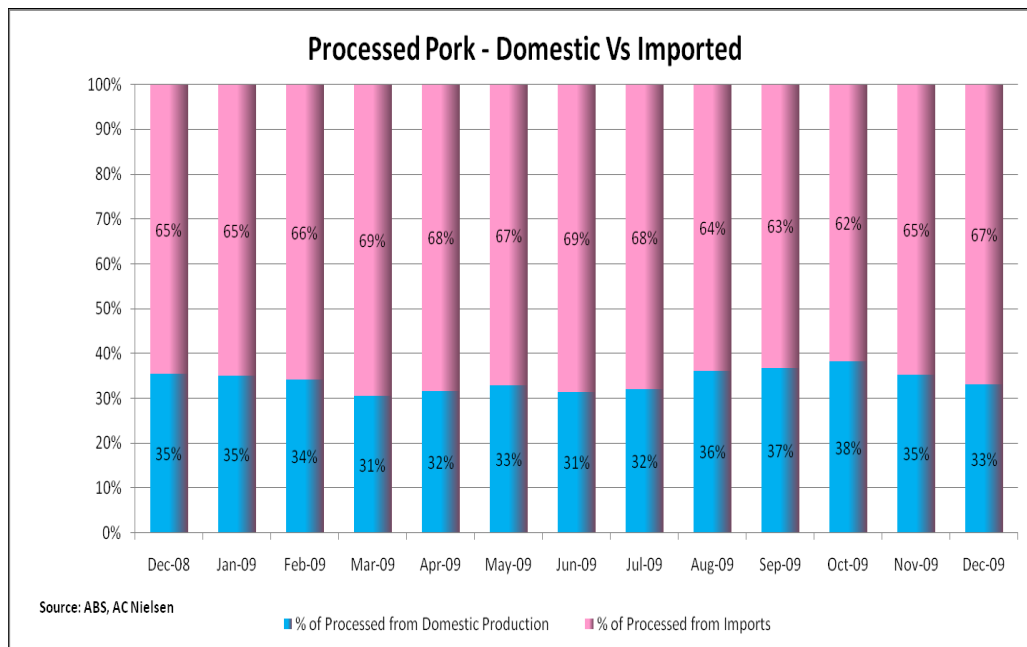
2.1 Overview of the Australian Pork Industry

The Australian Pork industry consists of roughly 1500 pig producers producing around 5 million pigs annually. There are approximately 2.2 million pigs in Australia (2008-09)² with the largest numbers in QLD and NSW. The gross value of Australian pig meat for 2008-09 was \$ 1160 million with pork representing approximately 2.13% (in 2008-09) of total Australian farm production, a figure that has remained relatively constant since 2005.²

The Australian pig industry competes with increasing volumes of imports (228 382 CWE tonnes in 2008-09) from Canada, Denmark and the US and maintains a small export market (49 072 CWE tonnes in 2008-09) to Asia and New Zealand.³ The Australian pork industry’s excellent herd health status underpins its competitiveness in overseas markets.

All fresh pork sold in Australia is supplied by domestic producers due to quarantine restrictions preventing the sale of imported fresh pork. However, increasing competition from imports has reduced the domestic industry’s share of the Australian processed pork market. Imports as a percentage of overall apparent consumption has been steadily increasing up to 45 % in 2008-09. If the processed pork market is considered separately, this figure is almost 70 % (see graph 1 below) illustrating why country of origin labelling is such an important issue for the pork industry.

Graph 1 - Processed Pork - Domestic Vs Imported Dec 08 - Dec 09



² ABARE 2008-09 data

³ APL data from ABS figures

3. Country of Origin Labelling (CoOL)

APL is in favour of mandatory CoOL on pork products in order to distinguish Australian pork from imports. APL believes that consumer choice, and the positive image of Australian products, should be maintained by clear CoOL that protects against consumer confusion.

While current CoOL arrangements work well for fresh pork, the requirements for packaged processed pork are less effective. APL's primary concern is that under the FSC (Section 1.2.11 Subclause 2(1)) provision is made for packaged processed pork products to be labelled with a statement indicating where the product (e.g. ham or bacon) was "made" or produced. This allows packaged ham and bacon made from imported pork to be labelled with the confusing "Made in Australia" claim, provided it meets the requirements set by the Trade Practices Act (TPA)⁴. To exasperate the problem, many processed pork products made from Australian pig meat are prevented from using the "Product of Australia" claim under the TPA due to the inclusion of small amounts of imported preservatives that are not available in Australia. This makes it very difficult for Australian pork producers and consumers to differentiate between Australian and imported packaged ham and bacon at retail level because both are labelled with the confusing "Made in Australia" claim. Most consumers would be surprised to learn that up to 70% of the ham and bacon sold in Australia is made from imported pork.

Another issue is that many processors use a mix of imported and domestic ingredients in their ham and bacon, making the CoO of processed product difficult to differentiate. Requirements for unpackaged processed pork (Section 1.2.11 subclause 2 (2) in FSC) sold in the deli somewhat address this issue by requiring disclosure of the country or countries of origin of the food, or a statement indicating that the food is a mix of local and imported ingredients.

The "Made in" and "Product of" Australia terms remain misleading despite significant APL public education initiatives to address this. There is no question that consumers find the current CoOL regime confusing. Consumer research undertaken by Newspoll in 2008 on behalf of APL found that:

- ❖ 33% of Australians mistakenly believe that some fresh pork is imported when in reality all fresh pork sold in Australia is Australian grown.
- ❖ Only 40% of Australians think that some ham or bacon is imported when in reality up to 70% of ham and bacon sold in Australia is made from imported pigmeat (see graph 1).

In the absence of effective CoOL standards APL has been forced to turn to an industry initiative - the Australian Pork Mark Program to address the above concerns. This initiative is described for The Panel's information below (Text Box 1).

⁴ 'Made in' – the goods must have been substantially transformed in the country claimed to be the origin and 50% of the costs of production must have been carried out in that country. Under the Trade Practices provisions, substantial transformation is defined as – 'a fundamental change...in form or nature such that the goods existing after the change are new and different goods from those existing before the change' (Editorial Note Section Standard 1.2.11 FSC).

Text Box I: The Australian PorkMark Initiative

The Australian PorkMark initiative is an APL initiative designed to support consumers and processors to support Australian pig farmers by countering confusion caused by CoOL laws. The program involves APL licensing companies to use the distinctive pink Australian Pork logo (pictured left) on packaging and advertising. The Program aims to help everyday Australians clearly identify home-grown, fresh Australian pork by simply looking for the distinctive pink Australian PorkMark on Australian fresh and processed pork products.

Since the launch of the PorkMark in July 2009, more than 100 local butchers and smallgoods manufacturers have been licensed with the program and large retailers including Coles, Woolworths and IGA stores are now carrying goods displaying the PorkMark logo. Companies licensed with the PorkMark Program are listed on the APL marketing website www.pork.com.au.

The Licensing Process

There are different licensing processes for labelling of smallgoods depending on whether the company is an import permit holder or a non import permit holder. If the company holds an import permit they must apply to become part of an APL licensing arrangement to gain the right to use the logo. Companies that do not hold an import permit, simply complete a one page agreement stating commitment to appropriate use of the logo. A licence is not required to use the PorkMark logo on packaging and advertising for uncooked fresh pork as all fresh pork sold in Australia is Australian grown.

In addition, APL is aware of a number of suspected cases of mislabelling of pork products as Australian when they were in fact likely to be made from imported pork. In general, APL believes that a more robust enforcement system is required than currently operates, to prevent cases like this and other incidences of non-compliance and mislabelling.

Q15. What criteria should determine which, if any, foods are required to have country of origin labelling?

There is no question that CoOL is desired by consumers. APL's research (undertaken by Newspoll in 2008) indicates that 87 % of consumers prefer to buy Australian. In addition, our research found that 85 per cent of Australians are probably prepared to pay a 20 % premium for Australian Pork, while 35 per cent are probably prepared to pay a 60 % premium for Australian pork. Considering that Australian farmers are among the best in the world at producing safe, clean, green food, consumers have good reason to choose Australian products and should be the given means to enable them to do so.

There are many good reasons to include CoOL on certain foods, particularly on perishable products like pork. Most obviously, CoOL allows consumers to decide whether or not they want to patronise food that was not produced in Australia. In promoting Australian grown pork APL aims to raise awareness of the high food safety and herd health status of the Australian pork industry as a point of difference for Australian grown pork.

Another important reason for providing CoOL on certain foods is to ensure that domestic growers do not share the blame if a food safety issue arises in relation to an imported product. CoOL information on food can assist with traceability and food recalls if necessary and CoOL plays a key role in avoiding and acting on food-related public health and safety risks. The provision of information to consumers and food traceability is consistent with FSANZ's objectives.

In terms of which products should be subject to CoOL, APL proposes that CoOL is only necessary on products that compete significantly with imports, especially highly perishable products like pork, fresh fruit and vegetables and fish. For products like these, consumers may rightly be concerned about freshness and the food safety standards and disease status of the country in which the food

was produced. CoOL standards already exist for pork, fish and fresh fruit and vegetables under the FSC for these reasons.

Q16. How can confusion over this [CoOL] terminology in relation to food be resolved?

Most of the confusion over the origin of packaged pork products stems from use of the ambiguous terms “Made in Australia” and “Product of Australia”. APL recommends that The Panel reviews the use of the “Made in” and “Product of” Australia label claims on pork products as these terms increase consumer confusion and work against the original intention of giving consumers real choice when it comes to processed pork products.

From APL’s perspective, labelling requirements for processed pork still do not go far enough to protect Australian producers and consumers. In practice, many variations of CoOL exist in the marketplace which indicates that the current labeling regime is not adequate or clearly understood in its application. The current legislation does still not provide the full scope of information necessary to enable consumers to make well informed decisions when buying food items.

We believe that if the “Made in Australia” claim is used on packaged processed pork products, it should be a qualified claim such as “Made in Australia from Danish Pork” or “Made in Australia from Local and Imported Ingredients”. This would at least align requirements for packaged processed pork products with unpackaged pork. APL also recommends that The Panel reviews requirements for use of the “Product of Australia” claim on processed pork products.⁵ We propose that a “significant ingredient” should be measured in terms of a volume threshold or a percentage of the product. This would make the claim more transparent and more functional in cases where the primary raw ingredient is 100 % Australian produced but traces of imported preservatives prevent it from being labelled as such.

Movements to clear up CoOL issues similar to those facing the Australian pork industry are currently occurring in the EU and UK with a push towards requiring meat products to indicate the country in which the animal was born, reared and slaughtered. APL refers The Panel to the information below on these developments (see Text Box 2 and 3 on page 11).

APL also suggests that CoOL should apply to both whole foods and their ingredients. It is fundamentally important that processed products, such as manufactured smallgoods, identify the country or countries of origin of ingredients. We would like to see requirements to identify the proportion of content in a product that is of domestic origin. (This could be described as a range of up to x% in recognition of sometimes seasonal availability of certain products.) It is essential that consumers have accurate information regarding both the whole food and the individual ingredients to enable them to make informed purchase decisions and to enable traceability in the event of a food safety issue.

⁵ ‘Product of’ is a premium claim and the country of origin claimed must be the country of origin of each significant ingredient of the food and all or virtually all the processes of production or manufacture of the goods must have happened in that country (Editorial Note Section 1.2.11 FSC).

Text Box 2: COOL Developments in the EU

Changes to European CoOL laws have been proposed in a new draft legislation aimed at modernising, simplifying and clarifying food labelling within the EU. New research published by the Food Standards Authority indicated confusion among consumers about CoOL.

Proposed new rules will require manufacturers who use CoOL on meat products to indicate where the animal was born, reared and slaughtered – not just where it was processed.

The draft legislation was approved in March 2010. EU Parliament Environment and consumer protection committee voted in favour of requiring CoOL on meat, poultry, dairy, fresh fruit and veg and other single ingredient products – as well as meat poultry and fish when used as an ingredient in processed food.⁶

Text Box 3: UK COOL Code for Pork Products

UK CoOL laws allow pork products to be labelled with the last place of substantial change rather than the true CoO of the pork. In response to this issue, a Voluntary Code of Practice for the labelling of pork products was released February 2010 to deliver clear and unambiguous CoOL labelling to British consumers. The Code was developed as a result of the Pig Meat Supply Chain Task Force brought together by Defra (UK Department for Environment, Food and Rural Affairs) representing stakeholders from the supply chain including government, farmers, retailers, processors and consumers. A number of leading retailers and food service companies are expected to have implemented the code by April 2010.

Businesses that agree to adopt The Code must adhere to the standards outlined below when labelling pork products. Key elements of the standards are:

- Where a single country of origin is displayed it means that the pig was born, reared and slaughtered in that country;
- The term "produced in the UK" will not be used without qualification of the origin of the pork;
- The use of national terms and symbols (such as flags) will mean that the pork comes from that country;
- Product specific terms such as Wiltshire Cure will mean that the pork used to make the product comes from within the UK. If not the origin will be clearly stated;
- Imagery that could imply UK origin will only be used on UK origin product, otherwise there will be a statement of origin on the pack;
- Food service outlets will make origin information readily available to customers such as on the menu, in literature or on company websites; and
- Where the term "local" is used it will be clearly defined.

The Code will be self policing. A list of supporting companies will be available on the code website and BPEX¹ will publish a review of good labelling practice at the end of 2010. There will be no formal auditing of the code, but a number of Quality Assurance (QA) schemes such as the Red Tractor assurance have independent auditing which covers the use of their CoO logos. A sub group of the Pork Supply Chain Task Force will oversee the implementation of the Code.

4. What should be included on food labels?

Q13. To what extent should the labelling requirements of the Food Standards Code address additional consumer-related concerns, with no immediate public health and safety impact?

Although we believe that most forms of consumer information do not need mandating (with the exception of CoOL on some foods) we believe that all claims made on food labels should be able to be monitored. APL believes this necessitates the development of a set of agreed industry approved standards for popularly used forms of consumer information on food labels such as MoP (e.g. standard definitions for terms such as Free Range) and environmental labelling (e.g. agreement on measurement of environmental footprint) against which information provided to the public on food labels could be scrutinised.

⁶ European Parliament, 'Press Release – Clearer and More Informative Food Labelling Rules', 16 March 2010, viewed 31 March 2010.

APL suggests that rather than inclusion of standards in the FSC, voluntary codes of practices could be used to provide documentation and guidance on consumer information claims. Enforcement and policing of these codes could be provided by the ACCC with the help of industry. APL believes that if this approach is used, standards in the FSC would not be necessary.

5. Method of Production (MOP) Labelling

6. Q17. Is there a need to establish agreed definitions of terms such as 'natural', 'lite', 'organic', 'free range', 'virgin' (as regards olive oil), 'kosher' or 'halal'? If so, should these definitions be included or referenced in the Food Standards Code?

Activists have been successful in generating increased consumer interest in the methods used to produce food animals leading to the mainstream use of terms such as “free range” and “bred free range” on food labels. The problem is that as there are currently no universally accepted definitions for these terms, and consumer understanding of these terms varies. APL is concerned that in the absence of any agreed definitions for terms used to describe production systems, it is far too easy for marketers to mislead consumers and far too difficult for the ACCC to prosecute against misconduct in the current regulatory environment.

Producers, animal rights groups, politicians and regulators alike have each picked up on the need for greater transparency in MoP labelling. APL refers the panel to 2 comments (see text box 3) made in the Senate Committees Final Report on the Inquiry into [Meat Marketing held in 2008 \(report released 30 June 2009\)](#).

Text Box 4: Comments from Meat Marketing Report

3.27 The committee agrees that it is currently too easy for food producers to make dubious claims about their animal welfare practices on the labels seen at retail level. This is because it is too difficult for the ACCC to prosecute misleading and deceptive conduct in this area when the meaning of these descriptors are broadly understood but not clearly defined. Any misuse of animal welfare descriptors such as 'free range' threatens the competitiveness of genuine producers bearing the increased costs associated with meeting high animal welfare standards.”

3.28 Animal welfare-related labelling should be subject to tighter controls to protect both consumers and genuine producers. The committee notes that the Australia and New Zealand Food Regulation Ministerial Council is due to start a comprehensive review of food labelling law and policy in 2009. Defined standards for welfare-related descriptors will be included in this review if animal welfare groups bring the issue to the Council's attention.⁷

APL agrees with the committee's comments and believes that consumers should be given accurate information about the production method used to produce their food if they desire. As with all types of labeling we believe it should be clear and unambiguous. APL advocates for a voluntary, but standardised approach to MoP labelling to protect consumers and genuine producers. As already stated, APL recommends that a standard set of production descriptors (i.e. agreed definitions for terms such as free range) needs to be developed by or in close consultation with the pork industry. APL and other industry organisations have already started defining terms to describe production systems and would be happy to be engaged to provide assistance, leadership and support. We

⁷ The Senate Standing Committee on Rural and Regional Affairs and Transport, '[Meat Marketing – Final Report](#)', June 2009.

believe the use of these production descriptors on food labelling should remain voluntary and industry and market driven. However we also believe it should be monitored to ensure correct use and to prevent deceptive conduct.

We would not support inclusion of mandatory MoP standards in the FSC. A mandatory approach is unnecessary and would force information and additional costs onto consumers that may not be desired. APL can see greater benefits in the use of a voluntary code of practice. This would provide the documentation against which misleading food labelling claims could be prosecuted and would provide a reliable guide for companies striving to meet new requirements.

Q18. What criteria should be used to determine the legitimacy of such information claims for the food label?

APL suggests that an initial site audit of the production system would need to be conducted to verify its status before labelling could be approved. This could be built into existing independently audited industry QA Programs like the Australian Pork Industry Quality Assurance Program (APIQ) which covers food safety, animal welfare and biosecurity. Oversight could be maintained by requiring government endorsement (by the ACCC or another food labelling agency) of suitable QA programs to undertake this task. Companies would be required to sign a license agreement to adhere to the requirements set out in a voluntary code of practice following audit and verification of their production system.

It is also important that consumers are aware that although a pig may have been raised in a particular production system e.g. free range, this does not necessarily mean that the pig has been raised with a high standard of welfare. To ensure that consumers are not misled by claims that appear to convey a message of high welfare, APL suggests a quality assurance audit covering welfare should be passed by producers before being licensed to use MoP labelling claims.

7. GM Food Labelling

Q19 In what ways can information disclosure about the use of these technological developments in food production be improved given the available state of scientific knowledge, manufacturing processes involved and detection levels?

APL does not believe that consumers or the pork industry benefit significantly from the extra cost associated with mandatory labelling of foods containing GM ingredients. GM feed is generally avoided by Australian pig producers and there are no GM animals used to produce food in Australia. Considering that all GM foods have to pass a rigorous food safety assessment conducted by FSANZ before sale in Australia, arguably, there is no health and safety reason for mandatory labelling of GM ingredients. Nevertheless, considering that GM free food is actively being sort out by some consumers, we understand that there is need for GM labelling standards in the FSC to protect consumer's interests and to support the right for choice.

To ensure that GM labelling supports informed choice, we believe there is a need for public education to complement GM labelling to increase awareness of the safety standards that exist to ensure that all food sold in Australia (GM or not) is safe to eat. APL believes that food labelling laws

should not act to inhibit the development and acceptance of GM technology and that labelling decisions should be based on food safety and science.

APL is firmly opposed to requiring mandatory GM labelling on products (meat, milk and eggs) derived from GM fed animals. APL has concerns about the inconsistency between ACCC and FSANZ on enforcement of this issue that has occurred in the past (see text box 4 below).

Text Box 5: CASE STUDY – GM Free Chicken

In December 2004, the ACCC announced that it would not allow *positive* GM claims such as *GM free* or *non-GM* labels on chickens because:

- i. the chickens could have been fed GM feed and the labels could mislead the public; and
- ii. there are no '*GM chickens*' and therefore there can be no claims of *GM free* chickens (Under the Trade Practices Act, where there is no positive, you cannot claim a negative).

According to the ACCC, you can only claim *GM free* chicken provided the label is followed by a descriptor which provides words to the effect that this animal may have been fed GM grain etc (unless the producer can clearly prove otherwise). While the ACCC decision on labelling chickens *GM free* (because there are no *GM chickens*) is not in dispute, it appears to have gone much further than required and directly contradicts FSANZ and the FSC. To be considered a genetically modified food for the purposes of Standard 1.5.2 Division 2 in the FSC, the food must contain novel DNA and or novel protein; or have altered characteristics. Scientific consensus is that this is not the case for products derived from GM fed (non GM) animals. Therefore the ruling should not have referred to animal feed and certainly sends a mixed message to consumers.

The Panel should also note that GM labelling is not required on end products derived from animals fed GM feed anywhere in the world and there is good science to support this. APL believes that clearer documentation is required in the FSC (Standard 1.5.2 Division 2 (4)) indicating that products originating from GM fed livestock are not considered "genetically modified food" for the purposes of Standard 1.5.2 Division 2 in the FSC. This would avoid future inconsistencies such as that described above (text box 4).

8. Food Labelling Administration and Enforcement

Q29. In what ways can consistency across Australia and New Zealand in the interpretation and administration of food labelling standards be improved?

Q30. In what ways can consistency, especially within Australia, in the enforcement of food labelling standards be improved?

APL understands that in Australia, food labelling responsibilities are vested across FSANZ, AQIS, ACCC, the Federal Department of Health, the State Departments of Health and The State Food Agencies. There appears to be far too many bodies involved in administering food labelling law and policy for consistency and efficiency to be achieved.

APL points out that neither the food industry nor consumers are bound by state borders. Many food manufacturers distribute products Australia wide, larger retail chains trade in all states and consumers are free to move between states as they wish. Therefore, it is difficult to find a physical reason for maintaining separate food labelling administration and enforcement agencies in each state.

A significant weakness of the current enforcement system is that the states are often too poorly resourced to carry out effective routine compliance checks and to follow through cases of

misconduct. APL is aware of a number of incidents of mislabelling of pork products that have occurred over the years and we believe there may be more cases of misconduct that the current system is unable to detect or discourage due to inadequate resourcing.

Q31. What are the strengths and weaknesses of placing the responsibility for the interpretation, administration and enforcement of labelling standards in Australia with a national authority applying Commonwealth law and with compatible arrangements for New Zealand?

APL would support the development of a more streamlined, efficient and consistent approach to food labelling administration and enforcement. We can see benefits in having a single point of contact for industry, government, and the public and consistent enforcement and interpretation of the FSC. For example when trading across a number of states it would be easier and less costly for food companies to comply with labelling laws that are consistent across Australia. Having a single national body responsible for food labelling administration and enforcement would also minimise inefficiencies associated with repetition of services.

Q32. If such an approach was adopted, what are the strengths and weaknesses of such a national authority being an existing agency; or a specific food labelling agency; or a specific unit within an existing agency?

The benefits of using a specific food labelling agency would be that the agency would be specifically focused on food labelling administration, interpretation and enforcement. One of the problems with the current system is that food labelling is just one of the many areas the agency must administer which may lead to it not being a priority. A specific food labelling agency would also lead to an agency specialised in food labelling interpretation and enforcement, leading to better interpretation and more consistent enforcement of food labelling standards in the long term.

If national food labelling responsibility was handed to an existing agency or a unit within an existing agency the most obvious choices would be FSANZ, the ACCC or the Federal Department of Health. In terms of benefits, an existing agency would bring experience to the job and it would be less costly than establishing an entirely new agency.

A weakness of this option would be that the existing agency may have an inherent bias. For example, a unit within the ACCC may focus more on consumer's perceptions than on health issues or the needs of industry. Likewise, a unit within the Health Department may focus mostly on health and safety and disregard consumer desire for choice. Another weakness may be that an existing agency would not be exclusively focused on food labelling, possibly leading to it not being given the priority or resources it deserves.

Q34. What are the advantages and disadvantages of retaining governments' primary responsibility for administering food labelling regulations?

The advantages of government maintaining primary responsibility for food labelling are that it would maintain integrity in the public eye and would ensure that providing accurate information to consumers remains the primary objective. However we believe that government can make more use of industry organisations particularly in the administration of voluntary consumer information (e.g. MoP labelling) on food labels. Consultation and collaboration between industry and government should be encouraged when solving food labelling issues that apply specifically to an

industry (e.g. industry specific CoOL issues and when designing production system descriptors). Also existing industry research (e.g. consumer and market research) and experience (knowledge of the industry and the issues of our customers) could be better utilised by food labelling agencies. Most food industries also have comprehensive QA programs which could be used to for validation of labelling claims. Industry communication and marketing channels could also be used to assist with community education campaigns.

Q35. If a move to either: self regulation by industry of labelling requirements; or co-regulation involving industry, government and consumers were to be considered, how would such an arrangement work and what issues would need to be addressed?

APL would be happy to help with defining food labelling terms and providing input into the development and enforcement of food labelling standards under an informal arrangement considering that efficient food labelling would benefit the industry.

Where food labelling laws have been inadequate, industries have already developed their own marketing initiatives to fill gaps in legislation such as the Australian Pork Mark initiative described in Text box 1. This is a good example of how food industries can become involved in food labelling to address industry specific needs. However, there is a danger under voluntary industry involvement, that where there are many different interest groups that too many different schemes may be developed causing information overload for consumers and causing credibility to suffer. There is also the risk that credibility of food labelling may suffer in the public eye if food labelling was regulated by industry without government oversight and that labelling issues that were not in the interest of industry would not be prioritised efficiently.

Another issue with industry self regulation and co-regulation in the food industry will be defining who the 'industry' is. Food production involves an entire supply chain, with each component an industry in its own right. For example in the pork supply chain there are agricultural, manufacturing, processing and retail industries.

APL would support a co-regulatory approach to food labelling in Australia as this would maintain government oversight and endorsement of food labelling whilst making use of industry knowledge, experience and existing programs and resources.

Q36. In what ways does such split or shared responsibility strengthen or weaken the interpretation and enforcement of food labelling requirements?

APL believes that allowing more industry involvement in the development, interpretation and enforcement in food labelling via a co-regulatory approach would strengthen interpretation and enforcement of food labelling standards. Under the current system, attempts to please all industries and consumers are resulting in food labelling standards and requirements that are too broad to be effective and too difficult for authorities to enforce and consumers and manufacturers to interpret.

More industry involvement in food labelling would insure that more food labelling issues were addressed on a case by case basis and that solutions are designed to meet the needs of industry and consumers. Shared responsibility may take the form of voluntary codes of practice for food labelling (as described in section 5 on MoP labelling) developed by or in close consultation with industry, which would be endorsed and enforced by the ACCC.

Q38. What are the strengths and weaknesses of having different approaches to the enforcement of food labelling standards for imported versus domestically produced foods?

APL believes that Imports must be subject to at least the same labelling requirements and enforcement system as domestic foods. Under the current system where AQIS enforces labelling of imported products there may be some inconsistency with enforcement of labelling for domestic products. Also some pressure may be taken off AQIS (allowing them to focus on biosecurity and quarantine) if food labelling standards for imports were enforced by a specialist food labelling body.

9. Presentation of Label Information

Q24. In what ways can consumers be best informed to maximise their understanding of the terms and figures used on food labels?

Standardisation of the terminology used on food labels, as previously discussed in relation to MoP labelling, would help diffuse confusion and allow consumers to become familiar with the terminology used on labels. Manufacturers could also provide reference to a website address on packaging or in store where consumers can find more information about the food product and its attributes and the meaning of the terms used on labels. Consumer education campaigns run by government in partnership with industry could also be used to increase consumer awareness and understanding of the terms used on food labels.

10. Conclusion

APL believes that Australia's food labelling system should be designed to support Australian producers and consumers; inform rather than confuse consumers; and should be monitor able and enforceable.

APL would like to see a more streamlined, efficient and consistent system for administration and enforcement of food labeling and can see benefits in having a national food labeling body especially considering that food labeling is such a large and important issue. We also advocate for a co-regulatory approach to food labeling by which government makes more use of industry consultation, experience, quality assurance programs, resources and communication channels and voluntary code of practice.

APL is strongly in favor of mandatory CoOL on pork and on other products that compete substantially with imports. However we suggest that CoOL requirements for packaged pork and the use of the "Made in" and "Product of" Australia claims on packaged pork products require review to reduce consumer confusion. We would also support a move to requiring disclosure of the CoO of the ingredients in a product and indicating the proportion of a product that is Australian.

APL would not support inclusion of mandatory standards in the FSC for MoP labeling but agrees that a standardized, easily monitored system for MoP labeling is required to protect consumers and producers. We suggest development of a voluntary code of practice by or in close consultation with industry which would be enforced by the ACCC (or another food labeling body) using licensing agreements and industry QA programs to verify claims.

On GM labeling, we reconfirm our position that products from GM fed livestock do not and should not require GM labeling and suggest that this could be made clearer in the FSC. We believe GM labeling should be based on science and food safety and should not act inhibit development and uptake of technology.

Food labeling is a complex issue that affects all food industries and consumers, and we acknowledge the size and difficulty of the task that is before The Review Panel. APL thanks the Review Panel for considering these views in the Review of Food Labeling Law and Policy.