



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

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3 July 2006

DRAFT ASSESSMENT REPORT

APPLICATION A579

COUNTRY OF ORIGIN – PRINT SIZE FOR UNPACKAGED FOOD IN DISPLAY CABINETS

DEADLINE FOR PUBLIC SUBMISSIONS: 6pm (Canberra time) 31 July 2006
SUBMISSIONS RECEIVED AFTER THIS DEADLINE
WILL NOT BE CONSIDERED

(See 'Invitation for Public Submissions' for details)

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 for packaged foods and certain unpackaged foods.

Among 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.

The Application did **not** seek to change the 9 mm requirement for unpackaged food displayed for retail sale other than in an enclosed display cabinet (for example, fresh fruit and vegetables displayed in open bins).

In accordance with the *Food Standards Australia New Zealand Act 1991* (FSANZ Act), FSANZ prepared an Initial Assessment Report (available on the FSANZ website).

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 has 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.

On the basis of this work, FSANZ recommends Option 3 (amending the Standard to reduce the type size to a minimum of 5 mm for labels or signs in connection with unpackaged food in enclosed display cabinets only).

¹ For the purposes of this Draft Assessment Report, reference has been made to an ‘enclosed display cabinet’. This has the same meaning as ‘assisted service refrigerated display cabinet’. 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.

The proposed amendment to the Standard:

- is consistent with FSANZ's objectives;
- ensures that consumers have adequate information to enable them to make informed choices; and
- would allow consumers to better see the product, the price, and other important product information.

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.

Preferred Approach

FSANZ has undertaken a Draft 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 Preferred Approach

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 and independent consumer research, FSANZ recommends the approach detailed above for the following reasons:

- 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 that, for many consumers, country of origin information is a secondary purchase driver behind product appearance (quality) and price; and
- in terms of the most appropriate type size to be used in enclosed display cabinets:
 - the 5 mm option is preferred by a majority of consumers (based on consumer research);
 - 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 visible and 97% report 5 mm type size to be visible), FSANZ considers that there may be some circumstances where a type size smaller than 5 mm is significantly less visible 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 visible regardless of the font, or the type of sign, used by the retailer; and

- 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 in relation to the Application prior to making this Draft Assessment. In making this decision, FSANZ was satisfied that the Application raised issues of minor significance or complexity only. It should, however, be noted that both the benefit cost analysis and the consumer research that were undertaken to inform this DAR involved consultation with stakeholders.

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

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INVITATION FOR PUBLIC SUBMISSIONS

FSANZ invites public comment on this Draft Assessment Report based on regulation impact principles and the draft variation to the Code for the purpose of preparing an amendment to the Code for approval by the FSANZ Board.

Written submissions are invited from interested individuals and organisations to assist FSANZ in preparing the Draft Assessment of this Application. Submissions should, where possible, address the objectives of FSANZ as set out in section 10 of the FSANZ Act. Information providing details of potential costs and benefits of the proposed change to the Code from stakeholders is highly desirable. Claims made in submissions should be supported wherever possible by referencing or including relevant studies, research findings, trials, surveys etc. Technical information should be in sufficient detail to allow independent scientific assessment.

The processes of FSANZ are open to public scrutiny, and any submissions received will ordinarily be placed on the public register of FSANZ and made available for inspection. If you wish any information contained in a submission to remain confidential to FSANZ, you should clearly identify the sensitive information and provide justification for treating it as commercial-in-confidence. Section 39 of the FSANZ Act requires FSANZ to treat in-confidence, trade secrets relating to food and any other information relating to food, the commercial value of which would be, or could reasonably be expected to be, destroyed or diminished by disclosure.

Submissions must be made in writing and should clearly be marked with the word 'Submission' and quote the correct project number and name. Submissions may be sent to one of the following addresses:

Food Standards Australia New Zealand
PO Box 7186
Canberra BC ACT 2610
AUSTRALIA
Tel (02) 6271 2222
www.foodstandards.gov.au

Food Standards Australia New Zealand
PO Box 10559
The Terrace WELLINGTON 6036
NEW ZEALAND
Tel (04) 473 9942
www.foodstandards.govt.nz

Submissions need to be received by FSANZ by 6pm (Canberra time) 31 July 2007.

Submissions received after this date will not be considered, unless agreement for an extension has been given prior to this closing date. Agreement to an extension of time will only be given if extraordinary circumstances warrant an extension to the submission period. Any agreed extension will be notified on the FSANZ website and will apply to all submitters.

While FSANZ accepts submissions in hard copy to our offices, it is more convenient and quicker to receive submissions electronically through the FSANZ website using the Standards Development tab and then through Documents for Public Comment. Questions relating to making submissions or the application process can be directed to the Standards Management Officer at the above address or by emailing slo@foodstandards.gov.au.

Assessment reports are available for viewing and downloading from the FSANZ website. Alternatively, requests for paper copies of reports or other general inquiries can be directed to FSANZ's Information Officer at either of the above addresses or by emailing info@foodstandards.gov.au.

INTRODUCTION

An Application was received from Food Liaison Pty Ltd on the 10 March 2006 seeking to amend Standard 1.2.11 – Country of Origin Requirements of the 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 cabinet².

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. For example, fresh fruit and vegetables displayed in open bins would still need to be subject to the 9 mm requirements. In addition, any label would need to meet the legibility requirements of Standard 1.2.9.

1. 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 generally include the following core information:

- prescribed name or, where no name is prescribed, a name or a description of the food sufficient to indicate the true nature of the food;
- lot identification;
- name and business address in Australia or New Zealand of the supplier;
- mandatory warning and advisory statements and declarations specified in Standard 1.2.3 and any other warning and advisory statements specified elsewhere in the Code;
- list of ingredients;
- date marking;
- nutrition information panel;
- percentage labelling (characterising ingredient/s and component/s);
- directions for use or storage where, for reasons of public health and safety, consumers need appropriate directions for use or storage of the food; and
- country of origin.

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.

² For the purposes of this Draft Assessment Report, reference has been made to an ‘enclosed display cabinet’. This has the same meaning as ‘assisted service refrigerated display cabinet’. 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.

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.

1.1.1 For 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 For 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 Standard for packaged food is being phased in over a two-year period during which time manufacturers may continue to use old manufactured stock (stock-in-trade).

1.2 Historical Context

Prior to the existing country of origin labelling provisions, a transitional Standard for country of origin labelling requirements came into effect in December 2002. These were only transitional measures and were the subject of the review that led to the gazettal of the current Standard under Proposal P292. In Australia, the transitional Standard required: mandatory country of origin labelling on all packaged foods; mandatory country of origin labelling on or near certain unpackaged foods – fish, vegetables, fruit and nuts (with some exceptions); and for unpackaged foods allowed the use of the term ‘imported’, as well as the use of the specific country of origin.

In December 2003, the Australia and New Zealand Food Regulation Ministerial Council (Ministerial Council) referred Policy Guidelines for country of origin labelling to FSANZ to guide the review of the transitional Standard. The Council stipulated that the country of origin of food should be mandatory and should apply to whole foods, not individual ingredients. In addition, the Council required FSANZ to have regard to fair-trading and industry competitiveness issues, to be cost effective overall and to comply with Australia and New Zealand’s international trade obligations. FSANZ was also obliged to ensure that domestic and imported food products received consistent treatment.

Between May 2004 and October 2005, FSANZ undertook an assessment of the Proposal P292 in relation to country of origin labelling. This involved three rounds of public consultation. In October 2005, FSANZ completed the Final Assessment which was considered by the Ministerial Council. The resulting Standard (as described in 1.1 above) was gazetted as an Australia-only Standard in December 2005.

2. The Issue / Problem

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 of 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 (and not to country of origin labelling of food displayed in other environments).

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.

3. Objectives

In varying the food Standard for country of origin labelling FSANZ ensures 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.

4. Key Assessment Questions

There are four key assessment questions requiring investigation as part of FSANZ's consideration of this Application:

- How does size of type on labels in enclosed display cabinets affect consumer's ability to make informed choices? Answering this question also requires consideration of the interactions between type size, display type and style, view of products and view of other information such as price.
- Does a type size of 9 mm restrict view of products displayed in enclosed cabinets?
- Are there other more appropriate sizes of type? In addressing this question consideration also needs to be given to:
 - whether type sizes smaller than 9 mm can be adequately read in enclosed display cabinets; and
 - whether a reduced size of type will reduce the capacity for informed choice for some demographic sub-groups.
- 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?

RISK ASSESSMENT

5. Approach to Risk Assessment

As part of its Application, the Applicant provided an independent consumer response study carried out by consumer research company Taylor Nelson Sofres (TNS) in February 2006. The research addressed a number of the questions detailed above and included data on 9 mm, 5 mm and 2.5 mm type sizes. This study is available on the FSANZ website and is entitled 'A study of consumer responses to the legibility and importance of country of origin labelling February 2006'. This study is sometimes referred to as Phase 1 of the consumer research.

FSANZ considered that further data would be desirable to increase confidence in the research findings and to further investigate some of the interactions between label sizes, visibility of food items, visibility of other information pertinent to effective consumer choice and issues surrounding legibility of labels in display cabinets.

FSANZ therefore commissioned TNS to undertake a further study into consumer responses to legibility and the importance of country of origin labelling. The study is also available on the FSANZ website and is entitled 'A study of consumer responses to the legibility and importance of country of origin labelling – Phase 2 May 2006'.

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. Further detail regarding the methodology is included in the full TNS report available on the FSANZ website.

6. Risk Assessment Summary

The research commissioned by FSANZ gave rise to the following responses to the key assessment questions:

- How does the size of type on labels in enclosed display cabinets affect consumer's ability to make informed choices?
 - All type sizes tested were legible to the vast majority of consumers. In this sense, the size of type on labels did not affect consumer's ability to make informed purchasing choices based on the country of origin of a product. However, the 3 mm and 5 mm country of origin labels are preferred by consumers. They provide a less restrictive view of the product than the 9 mm requirement which, in most cases, requires an extra display label. Smaller type sizes may also allow consumers to better consider other information relevant to making a purchase. The consumer research provides adequate evidence to support the view that either 5 mm or 3 mm type better support the consumer in making an overall informed choice when purchasing a product displayed in an enclosed cabinet.
- Does a type size of 9 mm restrict view of products displayed in enclosed cabinets?
 - half of all respondents found the 9 mm type size restricted product view; and
 - 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.
- Are there other more appropriate sizes of type?
 - 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 this figure dropped to 75% for 2.5 mm type. However it should be noted that there were differences in the way the 3 mm and 2.5 mm labels were prepared and presented; and
 - most respondents believe they should pay no more for different 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?

- 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; and
- country of origin information is more important for older consumers with 25% of respondents aged 55+ rating it as more important compared to 23% and 10% for those aged 18-34 and 35-54 respectively.

RISK MANAGEMENT

7. Options

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

7.1 Option 1 – maintain 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

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

7.2 Option 2 – amend 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.

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

7.3 Option 3 – amend 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.

This option will result in an amendment to the Code by modifying subclause 2(3) of Standard 1.2.11 to reduce the prescribed size of type to at least 5 mm for unpackaged food when presented for sale in an enclosed display cabinet. It will not change the 9 mm size of type requirement for unpackaged food displayed for retail sale other than in an enclosed display cabinet. Any label also needs to meet the legibility requirements of Standard 1.2.9.

8. Impact Analysis

8.1 Affected Parties

The potentially affected parties are:

- retailers, in particular supermarkets, delicatessens, retailers of fish, butchers and other small business 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

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 website.

Following is an extract of the Executive Summary from the CIE Report. Please note that the CIE Report utilises the term ‘font size’ – this is intended to have the same meaning as the term ‘size of type’ or ‘type size’.

The main types of food likely to be affected by the standard are fish, olives, antipastos and some salads sold from enclosed cabinets. The Standard does not apply in New Zealand. About 85 of a typical supermarket’s 200 products sold from enclosed cabinets may be prescribed as requiring 9mm CoOL under the new Code. Fish products will account for around half of the prescribed products at supermarkets. Independent fishmongers are the other major group captured by the code. Small independent delicatessens and supermarkets will also be captured by the Code to varying degrees.

With a smaller font size, compliance costs could be lowered by about 1.6 per cent of the value of products sold

Evidence presented in this report suggests where food is displayed in an enclosed cabinet, were a 3mm font size required instead of 9mm the costs of compliance would be lower. Total costs would decline 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 in compliance costs. Lower enforcement costs and possible changes in production and consumption patterns otherwise caused by high compliance costs could be avoided adding further to cost savings, were a 3mm font size used instead of 9mm. It is also possible that more products than those prescribed will be affected by the requirement. Sensitivity testing suggests cost savings could exceed \$50 million a year.

In most cases compliance costs are passed on to consumers in the form of higher retail prices. A result of the 9mm standard will be some substitution of consumption away from prescribed foods toward non-prescribed foods. In the case of fish in particular, this could result in reduced sales which will impact back negatively on the Australian fishing industry. However, with a lower font size (3mm), many of these costs could be avoided.

Moreover, the compliance costs with the 9mm standard will be highest for particularly low-volume low-value sales items such as some domestically caught fish species. As a result, with the 9mm font size prices rises for some domestic fish products are likely to be considerably greater than for imported fish. This will cause some substitution of high-volume imported fish lines for low-volume low-value domestically caught fish. This is another negative impact on the Australian fishing industry that could be avoided with a 3mm font size.

Relative to 3mm, 5mm font size results in similar savings in compliance costs 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 cases, 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. However, this process itself may impose costs. Some retailers indicated that they were considering abbreviations. This may also assist.

Benefits to consumers of a 9mm 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 3mm. This would suggest the consumer benefits of a font size greater than 3mm are not large.

Shoppers' strongest preference appears to be for 5mm font size. However, perhaps because virtually all shoppers surveyed (94 per cent or more) can read CoOL information at 3mm, 5mm and 9mm, they do not appear to value larger font sizes highly.

Of the 4.0 per cent of surveyed shoppers who indicated they would pay more for a higher font size, they indicated they were prepared to pay only between about 1 and 3 per cent of the value of the product extra. When averaged across all consumers, the willingness to pay extra is only about 0.06 of one per cent of the value of the product (1.5 per cent times 4 per cent).

Consumer benefits need to be 25 to 50 times higher than indicated to match costs

Willingness to pay would need to be more than 25 times higher than indicated to match the compliance costs of 1.6 per cent of the 9mm standard. Even then the 9mm standard would only be regarded as marginally economical. Willingness to pay would need to be about 50 times greater than indicated to suggest that mandating a 9mm font size where unpackaged foods are displayed in enclosed cabinets is a good investment for the economy. This suggests there is a large gap between benefits and costs with the 9mm standard.

5mm standard offers advantages

Although consumers did not indicate a strong willingness to pay for 5mm font size over a 3mm font size, they nonetheless indicated a preference for 5mm over 3mm were it to be costless. They indicated these preferences even where abbreviations were used to make 5mm font size fit on one ticket.

Where the country of origin statement can fit on one label, a 5mm standard would be of a similar compliance cost relative to a 3mm 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 3mm standard.

In order to address this, one possibility is that a thinner font or redesign of the ticket lay-out may allow for unabbreviated information to be fitted on the ticket. However, this may either compromise brand font recognition or other information contained on the ticket due to a cluttered appearance. This would come at an economic cost but is difficult to quantify. Other retailers have indicated that they could use abbreviations in order to include the country of origin statement on one label.

The 3mm option is an economic winner when compared with 9mm where unpackaged foods are displayed in enclosed cabinets

From shopper survey data it would appear that the benefit of higher font sizes to consumers would be small and insufficient to clearly off-set the higher compliance cost of the 9mm standard. So, economically, the most efficient font size option would be a minimal 3mm standard. This is especially so, given:

- survey data showing that at 3mm CoOL information is legible to 94 per cent of shoppers;
- that even with a 17 per cent lower font size of 2.5mm and some other factors compromising legibility, still 75 per cent of surveyed shoppers could read the CoOL information, and
- of the 25 per cent who could not read 2.5mm only 6 per cent are highly concerned about CoOL.

Survey data suggests that most shoppers who are strongly concerned about CoOL information and most shoppers generally (even those not strongly concerned about CoOL) can read a font size less than 3mm even when other factors affecting legibility are not optimal. If we add to this the legal requirement that irrespective of font size a CoOL label must be legible, then the 3mm requirement begins to look like a safe minimum requirement if the policy objectives are:

- to ensure that virtually all shoppers can read it;
- other information of more value to consumers is not compromised.

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 is concerned that there may be some circumstances where 3 mm type size is significantly less visible than 5 mm type size. This concern is based on the fact that the first phase of research undertaken by the Applicant indicates that only slightly smaller signs (2.5 mm) in different font were visible to only 75% of surveyed shoppers. 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, including FSANZ' objectives, consumer research and the benefit cost analysis, 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

FSANZ decided, pursuant to section 36 of the FSANZ Act to omit to invite public submissions in relation to the Application prior to making a Draft Assessment. However, FSANZ now invites written submissions for the purpose of the Final Assessment under section 17(3)(c) of the FSANZ Act and will have regard to any submissions received. FSANZ made its decision under section 36 because it was satisfied the Application raised issues of minor significance or complexity only.

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

The CIE consulted major stakeholders in the development of their benefit cost analysis.

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 not any relevant international standards, and as this effects 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 will be 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

Following the consultation period for this document, the Final Assessment of the Application will be completed. Following the preparation of the Final Assessment Report and consideration by the FSANZ Board, a notification will be made to the Ministerial Council and it is anticipated that this will be completed by the end of 2006.

The amendments to the Code would come into effect upon gazettal, subject to any request from the Ministerial Council for a review.

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 label must be in size of type of at least 9 mm; or
- (b) where the food is in an assisted service refrigerated display cabinet, the label must be in size of type of 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 in the Editorial note following clause 2, 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 are 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. Or they may place a label on a sign in association with the food in 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 in 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.