



8 June 2017

## **Supplementary Submission: Consumers' Right to Know (Country of Origin Labelling) Bill**

**To: Primary Production Select Committee (PPSC)**

**From: FreshPork NZ Ltd and NZPork**

### **1. Summary**

This supplementary submission is from FreshPork NZ Ltd and NZPork, to add further input on two aspects relevant to this Bill.

These aspects are:

- Clarification on the effect of New Zealand's current labelling requirements for pork
- Discussion as to how the CoOL Bill could apply to labelling of pork products (and other products) which include water, salt, sugar and other ingredients to preserve and / or flavour.

### **2. Current labelling requirements are set in the Food Standards Code**

Currently requirements for food safety, composition and labelling (or information required) are set in the Food Standards Australia and New Zealand (FSANZ) Food Standards Code, whose standards (for the most part) apply in New Zealand and Australia. Enforcement and interpretation of the Code is the responsibility of each individual country. In New Zealand enforcement is the responsibility of the Ministry for Primary Industries (MPI).

As the PPSC is aware, the Food Standards Code currently includes requirements for country of origin labelling of a range of food products including meat, fish, chicken, fruit, vegetables, as well as packaged fruit and vegetables and packaged food offered for retail sale. However,

these requirements do NOT apply in New Zealand, as New Zealand exercised its right to opt-out<sup>1</sup>.

### **Actual labelling requirements for packaged foods for retail sale**

- ***Name and address of supplier***

The Code requires the ***Name and address of supplier*** to be provided on packaged food for retail sale. This is defined in the Code (standard 1.2.2—4) as follows:

*For the labelling provisions, a reference to the name and address of the \*supplier of a food or food for sale is a reference to the name and \*business address in either Australia or New Zealand of a person who is a supplier.*

What this means in practice is that imported pork can - and is - presented for retail sale (in supermarkets and butcheries) with a supermarket / butchery label, stating the New Zealand retailer as the name and address of the supplier.

No country of origin needs to be declared, so there is no offence under the Fair Trading Act 1986.

However given the only 'country' information is the name and address of the New Zealand retailer the obvious impression given to the New Zealand consumer is that the pork is New Zealand product when it may be imported pork.

- ***Date marking***

The Code also requires that food for retail sale is date marked on labels (standard 1.2.5 –3) as follows:

(1) *For the labelling provisions, the date marking information is:*

- (a) *if there is a \*use-by date for the food—that date; or*
- (b) *otherwise—any of:*
  - (i) *the \*best-before date of the food; or*
  - (ii) *for bread that has a shelf life of less than 7 days:*
    - (A) *the best-before date; or*
    - (B) *the \*baked-for date; or*
    - (C) *the \*baked-on date.*

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<sup>1</sup> As NZPork explained in its submission Australia has introduced a new country of origin food labelling system under the Competition and Consumer Act 2010 (an Act of the Australian Commonwealth). The Country of Origin Food Labelling Information Standard 2016 (<https://www.legislation.gov.au/Details/F2017C00114>) will require more comprehensive labelling information for consumers, including information about where food was grown or produced and the percentage of Australian ingredients contained in a product. The 2016 Standard is currently voluntary, but it will become mandatory for all Australian retail businesses to comply with on 1 July 2018. At that time, FSANZ Code will be amended to remove its country of origin labelling requirements.

In practice New Zealand supermarkets and larger butcheries provide both a 'packed on' and 'best before' date on packaged pork. In some cases supermarkets and butcheries cut, further process and re-pack imported pork. So the 'packed on' date is not the actual, original 'packed' date but a 're-pack' date.

This imported pork can then sit in the chiller alongside fresh New Zealand pork, giving the impression that it is 'fresh' (when it is not), that it was packed in the last few days (when it was in fact re-packed) and due to the New Zealand supermarket supplier name, that it is New Zealand product (when it is not).

### **Meat is NOT required to be labelled as pre-frozen or thawed**

In practice, imported pork in the form of 'consumer ready cuts' is being imported into New Zealand 'chilled', in vacuum packs, and then being presented in retail stores alongside New Zealand 'fresh' pork. There are now significant quantities of such imported pork being landed in New Zealand.

This imported pork in long shelf life packaging may be shipped as low as -8 °C which is frozen. The temperature is then raised back to the 'chill' temperature range for sale as 'fresh' (chilled) product in New Zealand.

Some of this imported product is then being re-packed as described above by retailers at store level.

There is no requirement currently in the Food Standards Code to label pre-frozen, thawed meat as pre-frozen. We believe this is particularly misleading to many consumers because there used to be a requirement in New Zealand that pre-frozen meat was labelled as such.

Our view is that the sum total of the current labelling requirements provides considerable scope for misleading consumers in regard to pork / pork products. The requirement for CoOL information would greatly assist consumers, not only in regard to country of origin which they clearly want, but also as an indication of quality and freshness.

We have included a couple of examples of what consumers may be presented with in the marketplace currently. (See pp 5 -6).

### **3. Application of CoOL to pork / pork products which include water, sugar, salt and other ingredients to preserve and / or flavour**

The PPSC is obviously giving consideration to how CoOL can sensibly apply to single component foods as defined in the scope of the Bill. The Bill includes within its scoping of single component foods that these foods ... *may also contain water, sugar or its substitutes, salt or other ingredients used in preserving, colouring or flavouring.*

A number of pork products fall within this scope including bacon, ham and a range of moisture infused, flavoured and marinated products.

Our view is that the key objective of this Bill is to require CoOL for 'single component foods'. In other words, the core ingredient.

In the case of pork products falling within the scope of the Bill as defined, the core ingredient is pork. Such pork products are not offered for sale and purchase based on the brine or flavouring solution!

There is an established precedent for this approach in the Food Standards Code.

The Code requires information to be provided on the characterising ingredient / component of the food (standard 1.2.10). It defines what is, and as importantly, what is not, the characterising ingredient / component of the food as follows:

*(Definition of **characterising component** and **characterising ingredient**) provides as follows:*

*(1) In this Code, in relation to a food for sale:*

**characterising component** means a component of the food that:

- (a) is mentioned in the name of the food; or*
- (b) is usually associated with the name of the food by a consumer; or*
- (c) is emphasised on the label of the food in words, pictures or graphics.*

**characterising ingredient** means an ingredient or a category of ingredients of the food that:

- (a) is mentioned in the name of the food; or*
- (b) is usually associated with the name of the food by a consumer; or*
- (c) is emphasised on the label of the food in words, pictures or graphics.*

*(2) Despite subsection (1), any of the following is not a **characterising ingredient**:*

- (a) an ingredient or category of ingredients that is used in small amounts to flavour the food; or*
- (b) an ingredient or category of ingredients that comprises the whole of the food; or*
- (c) an ingredient or category of ingredients that is mentioned in the name of the food but which is not such as to govern the choice of the consumer, because the variation in the amount is not essential to characterise the food, or does not distinguish the food from similar foods.*

Standard 1.2.10—3 then sets out the requirements to declare characterising ingredients and components.

Our view is that this approach may be useful to set operating rules for single component foods as defined in this Bill.





The first example shows UK product (the UK stamp is shown) over-wrapped with a New Zealand retail label including a New Zealand 'supplier name and address'

The second example shows Swedish product (the Swedish stamp is shown) with a statement saying 'Product of Australia'! (This label also included a New Zealand 'supplier name and address')