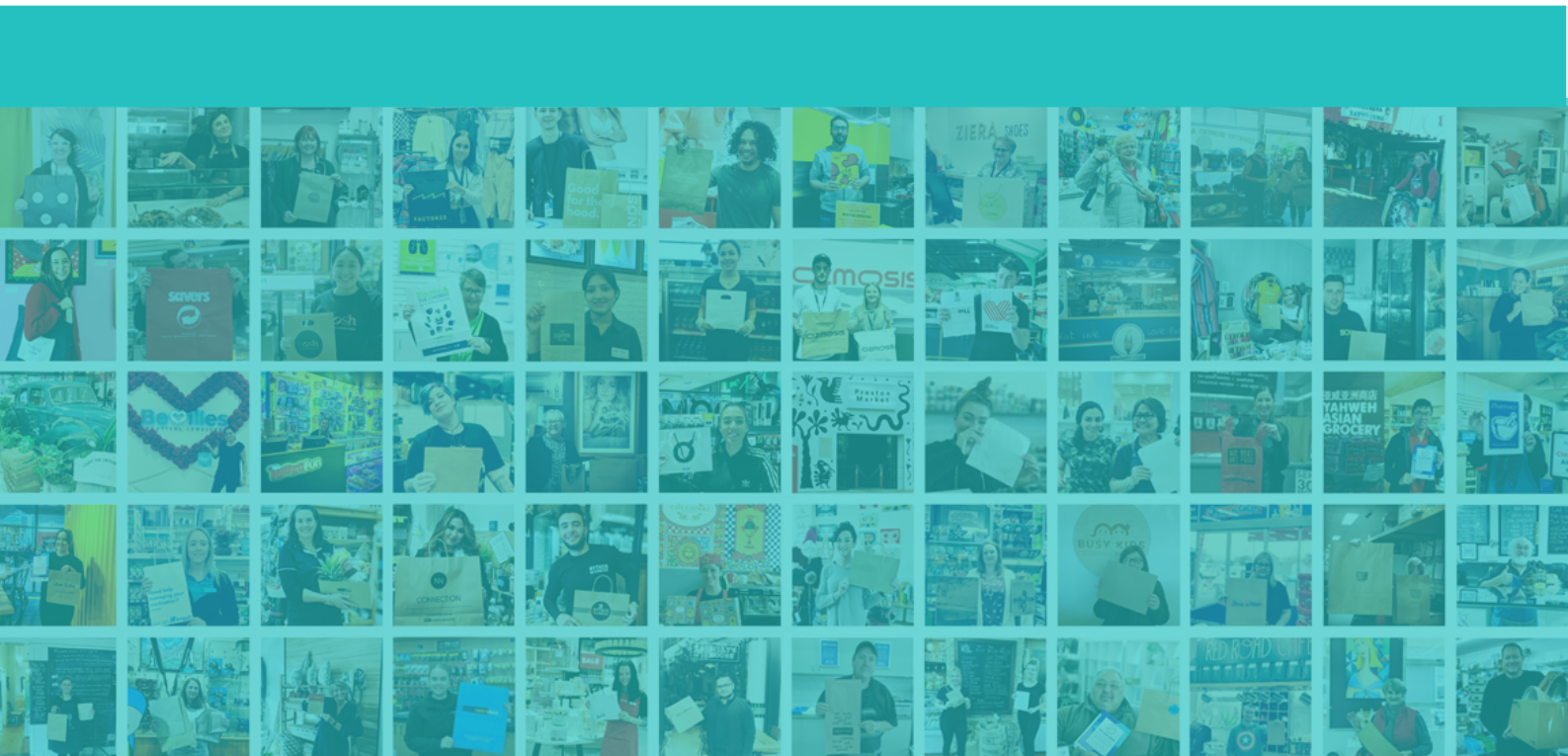




SUBMISSION FROM THE NATIONAL RETAIL ASSOCIATION

In response to Discussion Paper:
Evaluation of CoOL for Food

Country of Origin Labelling Team
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1. ABOUT THE NATIONAL RETAIL ASSOCIATION

The National Retail Association (NRA) is Australia's most representative retail industry organisation, servicing more than 39,000 stores and outlets nationwide. We are a not-for-profit organisation built on strong relationships with our members.

We exist to help retail and service sector businesses comply with an ever changing and growing regulatory environment. Our services are delivered by highly trained and well-qualified in-house experts with industry specific knowledge and experience. We provide professional services and critical information right across the retail industry, including the majority of national retail chains and thousands of small businesses, independent retailers, franchisees and other service sector employers.

Members are drawn from all of the sub-categories of retail including fashion, groceries, department stores, household goods, hardware, fast food, cafes and personal services like hairdressing and beauty. NRA has represented the interests of retailers and the broader service sector for almost 100 years. Our aim is to help Australian retail businesses grow.

2. DISCUSSION PAPER

The National Retail Association welcomes the opportunity to provide comment on the Australian Government's evaluation of the reforms to Australia's Country of Origin Labelling (CoOL) regulations for food.

1. Did the CoOL reforms achieve the objective of improving consumer understanding about the origins of their food?

The National Retail Association strongly supports the ongoing consumer education by the ACCC to understand how to interpret CoOL. The initial education campaign regarding CoOL was undertaken in July 2018, when not all products on shelf carried the new country of origin (CoO) labels due to the stock in trade provisions. The ACCC should complete another education campaign now that all priority foods products carry the new CoO label.

2. Does the differentiation between priority and non-priority foods continue to meet consumer expectations?

We note that the Country of Origin Food Labelling Information Standard 2016 is the only legislation to differentiate between priority and non-priority foods. All other food legislation, such as The Australian New Zealand Food Standards Code and the state and territory Food Acts, deal with foods under one classification. This differentiation may be confusing for consumers.

Whilst some retailers have taken the approach of applying CoOL across all food classifications, this is not the approach taken by the food industry as a whole. To mandate this approach more broadly would be at a significant cost to industry.

3. Is the current scope of mandatory CoOL appropriate? Should the exemption for food service be maintained?

We agree that the exemption for food service should be maintained. However, greater clarity is required around what constitutes "food service" under Section 14(2) and should be defined further in the Information Standard.

8. Have communication activities and online resources been effective in raising consumer awareness of the CoOL reforms and helping consumers to understand CoOL information?

The NRA commends the ACCCs communication activities, proving to be effective in raising consumer awareness about the CoOL reforms. However, as stock in trade provisions were in effect at the time of the campaign, not all priority food products carried the CoOL.

We recommend that another consumer education campaign should be completed now that all priority food carry the CoOL.

10. Have communication activities and online resources been effective in supporting businesses to understand, implement and manage CoOL requirements?

Communication activities

The ACCC's communications and guidance materials published to date have been helpful, particularly for large suppliers and retailers. However, attention is warranted for small suppliers who have difficulty interpreting the subject matter and implementing the CoOL requirements.

Online resources

Further updates should be made to the Information Standard that reflect industry learnings since the initiation of the scheme in 2018. In particular, additional or revised guidance notes that are better applicable to real life scenarios should be provided to assist suppliers.

Additional communication activities

The NRA recommends that the ACCC looks at alternative ways of communicating with businesses about CoOL compliance and flexible solutions.

The NRA supports the establishment of an industry working group to collectively consider operational gaps in expectations regarding the management of CoOL requirements through circumstantial changes, such as natural disasters, dangerous weather events and pandemics. The ACCC can also provide greater clarity on enforcement of CoOL compliance during these circumstantial changes. The National Retail Association is well placed to facilitate the formation of such group.

11. Did the transition period enable businesses to implement the reforms in an efficient manner, and minimise implementation costs?

Transition periods are an important part of any regulatory change, especially for major retailers, allowing adequate time for businesses to plan, invest in necessary technology, and minimise implementation costs. Insufficient transition periods increase pressure on infrastructure and resources, increases the risk of administrative errors, and can lead to the unnecessary wastage of packaging and product.

The CoOL regulation is complex and posed a significant change to mandatory food labelling requirements. Whilst retailers show a high level of support for the CoOL, many felt the transition period was insufficient in enabling them to implement the reforms efficiently with minimized implementation costs. Our members have recommended a transition period of four years for similar future legislations, with ongoing leniency for stock in trade.

15. How well have businesses complied with CoOL requirements?

The National Retail Association is concerned that retailers are at risk of non-compliance if the CoOL requirements are not met when they are intrinsically reliant on their suppliers. More clarity is required if retailers are also granted similar flexibility as suppliers, especially when considering the ongoing effects of the drought, bushfires and the COVID-19 pandemic.

16. Do the current CoOL requirements provide adequate flexibility for food and beverage producers to manage variations in the supply of ingredients?

The National Retail Association believes the Information Standard provides insufficient flexibility for food and beverage producers to manage variations in the supply of ingredients. Variations can occur due to unforeseen circumstances such as a pandemic, bushfires, floods, drought or a supplier's business closing, and presents ongoing costs to industry to ensure compliance.

Just in the past 12 months, the Australian food industry has experienced massive ingredient supply issues due to COVID-19, drought and bushfires seeing certain ingredients now sourced off-shore and reduced capacity of Victorian meat processors. Retail have struggled to keep CoOL or instore tickets updated with store teams already under significant pressure to keep shelves stocked and manage COVID-safe compliance.

The NRA supports greater tolerance and flexibility regarding CoOL compliance during these unprecedented times. Whilst quick solutions are available, such as over-stickering or providing information at the POS, there are practical limitations to these solutions, including inability to attach the sticker to certain packaging material, the size of packaging and human errors. Providing information at the point of purchase may be helpful. However, that information is not necessarily taken home by the customer with their purchase. These options also drive additional, unnecessary cost and complexity for manufacturers and retailers.

Flexibility should also be granted in displaying the exact percentage of Australian ingredients where minor percentage changes have occurred. Under the legislation, these products are non-compliant and cannot be sold until the packaging is updating, imposing significant business costs and disruption for industry and can lead to packaging and ingredient write-off costs, costs to update packaging and halted product sales during the updating process.

17. Did the CoOL reforms have any unintended consequences for particular products, including non-food products? What action, if any, was taken to address the impacts of the CoOL reforms on those that were negatively affected?

Our members have seen unintended consequences as a result of CoOL, including:

- The Information Standard provides insufficient flexibility for food and beverage producers to manage variations in the supply of ingredients.
- Increased costs and environmental impacts due to packaging changes to comply with CoOL requirements when ingredient supply variations arise, in particular due to unforeseen circumstances such as a pandemic, bushfires, floods, drought or a supplier's business closing.
- The CoOL requirements disincentivise returning to local supply when ingredients, originally sourced onshore but moved offshore due to temporary shortages, due to the cost and uncertainty of redesigning and implementing CoOL-compliant labelling.

3. CONCLUSION

We understand that consumers are increasingly discerning in terms of ethical sourcing and buying local and the National Retail Association's members strongly support the intent of the CoOL scheme.

The National Retail Association supports collaboration, negotiation and coordination between stakeholders to enable the creation of practical, viable and commercially-aware outcomes for all. We support positive regulatory initiatives that improve ethical sourcing across the retail industry, however these initiatives must be fair for all retailers regardless of size, commercially viable and realistic and supported by retailer and consumer education. Retailers continue to be faced with ever-evolving, and sometimes conflicting research, products, materials, processes and regulations further compounded by recent bushfires, droughts, floods and the COVID-19 pandemic.

Retailers are seeking:

- more flexibility in the interpretation and enforcement of the CoOL policy;
- delivery of a second consumer education campaign; and
- the establishment of an industry task force / working group or a hotline / "triage team" to answer retailer queries and provide necessary support.

Thank you for this opportunity to provide our submissions on behalf of the retail industry and our members.

Should you have any queries, I can be contacted on 0409 926 066 or d.stout@nra.net.au.

Yours faithfully,

A handwritten signature in black ink, appearing to read "D Stout".

David Stout

Director, Policy

National Retail Association

