

**AUSTRALIAN MADE CAMPAIGN LIMITED**

**SUBMISSION TO THE  
PRODUCTIVITY COMMISSION**

**REVIEW OF RULES OF ORIGIN ARRANGEMENTS UNDER  
AUSTRALIA-NEW ZEALAND CLOSER ECONOMIC  
RELATIONS TRADE AGREEMENT**

**OCTOBER 2003**

## **Introduction to the Australian Made Campaign**

Australian Made Campaign Limited is a company limited by guarantee established to promote Australian manufacturing and industry development through the use of the Australian Made trade mark.

The trade mark of the Australian Made Campaign is a certification trade mark and the most recognised country of origin symbol in Australia, enjoying over 95% recognition amongst Australian consumers.

The owner of the Australian Made trade mark is Australian Made Campaign Limited, which recently obtained assignment of the trade mark from the Commonwealth. However, the Commonwealth has retained the right to have the trade mark reassigned to it and/or to take control of the scheme under specified circumstances. The Commonwealth can therefore be considered to have retained the beneficial ownership of the trade mark.

The members of the Australian Made Campaign comprise foundation members and logo members. The foundation members are the national, State and Territory Chambers of Commerce and Industry. Logo members include any individual or organisation that applies to use the Australian Made trade mark, meets the legislated criteria for a country of origin claim (as set out in the Trade Practices Act, 1974) and agrees to abide by the Australian Made Logo Code of Practice.

The Code sets out the rights and obligations of membership, correct usage of the trade mark, requirements for compliance auditing and dispute settlement processes.

The instruments that underpin operation of the Australian Made Campaign are the Trade Marks Act, the Trade Practices Amendment (Country of Origin Representations) Act 1998, and the Australian Made logo Code of Practice.

The Campaign's funding is largely derived from the fees paid by logo members. These fees are linked to the aggregated budgeted sales turnover of products bearing the trade mark. The Campaign receives no government funding.

### **Australian Made Trade Mark Awareness and Perceptions**

The Australian Made trade mark is now almost universally known in Australia amongst the adult population (95% of face-to-face respondents cf. 96% of telephone respondents). The population has more confidence in the Australian Made trade mark (as an identifier of Australian made produce) relative to other possible identifiers such as the Ausbuy logo, the Australian flag, a map of Australia or the words "Made in Australia". Two thirds of all respondents (66%) have most confidence in the Australian Made trade mark compared to these other identifiers.

Further to the aforementioned relative confidence in the trade mark vis-a-vis other possible identifiers, actual confidence in the Australia Made trade mark is also very favourable with

75% of respondents being either very confident, or fairly confident that the products displaying the trade mark are actually made in Australia.

### **Usage of the Trade Mark**

To use the trade mark, products must comply with the two part test for the made in Australia defence, as set out in the Trade Practices Act 1974.

The Campaign does permit other claims to be used in conjunction with the trade mark to provide more information for consumers. However, the minimum requirement remains compliance with the made in Australia defence and any other claims used must at least meet that defence, even if they are qualified claims.

If the CER trade agreement were amended to lower the minimum content threshold for a made in Australia claim, those goods with lower than 50% Australian content would not be eligible to carry the Australian made trade mark.

Since 1999 when Australian Made Campaign Limited was formed, total membership of the Campaign has grown to over 800 companies, representing over \$6 billion worth of products carrying the trade mark. Annual membership growth is currently around 15%.

### **The certification process**

The Campaign operates on the principle of industry-self regulation, underpinned by the TPA and the Trade Marks Act.

Applicants for the trade mark must certify that their goods meet the made in Australia defence in the TPA, and sign a statutory declaration to that effect. A random audit of the membership is undertaken each year to check compliance. The audit is undertaken independently of the Campaign by SAI Global Assurance Services (formerly Standards Australia). A report of the audit is provided by the Campaign to the companies involved and also to the Commonwealth. The Campaign will and has revoked membership for non-compliance.

Any complaints received by the Campaign about misrepresentation of membership or misuse of the trade mark are acted on in accordance with the provisions set out in the Australian Made Logo Code of Practice. Enforcement is a priority area of work for the Campaign and critical to maintaining the integrity of the scheme.

A public register of authorised businesses and products is maintained and updated daily. The register is accessible on the Campaign's website and is also published as a consumer guide to products.

## **Consumer attitudes towards country of origin issues**

The Australian Made Campaign regularly undertakes quantitative and qualitative research on consumer attitudes to country of origin issues and buying behaviour. Our research interests include: recognition of and confidence in country of origin claims; understanding of country

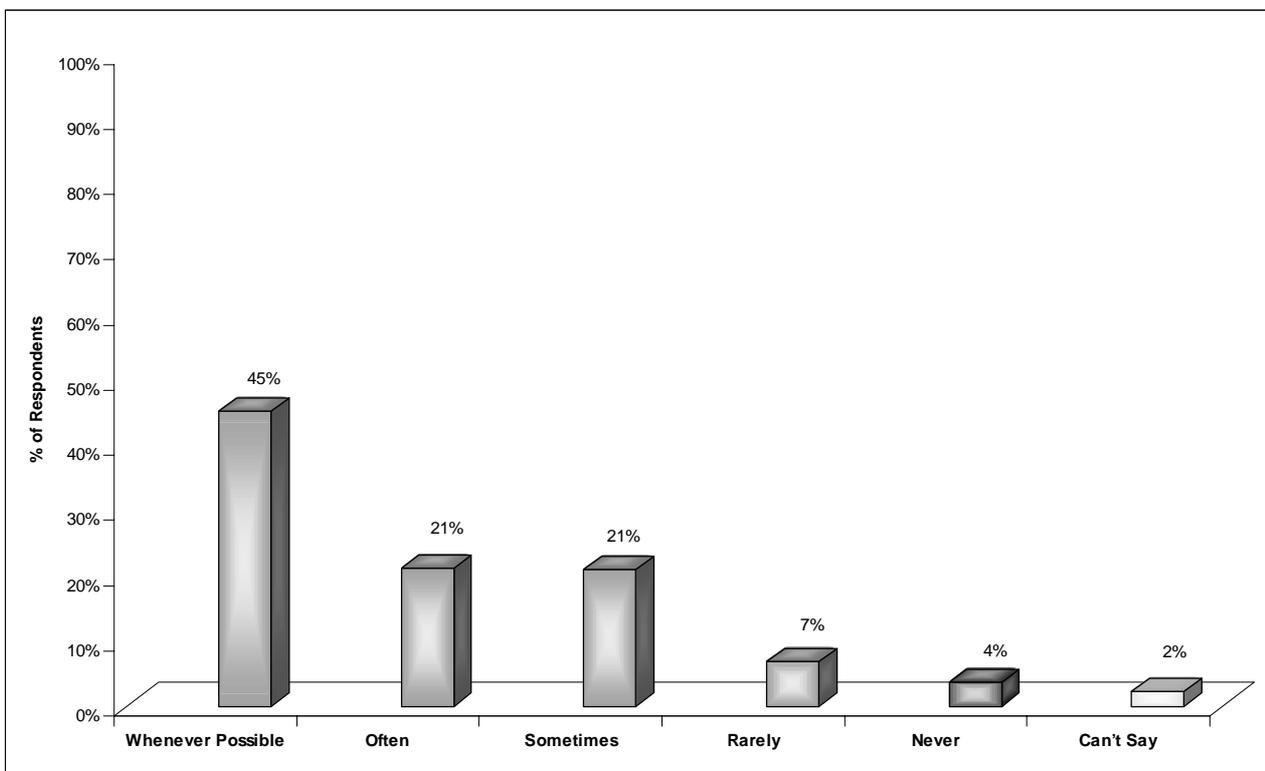
of origin claims; consumer perceptions of Australian products; motivators for buying Australian made; labelling issues.

Unless specified otherwise, the research referred to in this submission is our most recent research completed in October and November 2002 and February 2003.

### Buying Australian Made

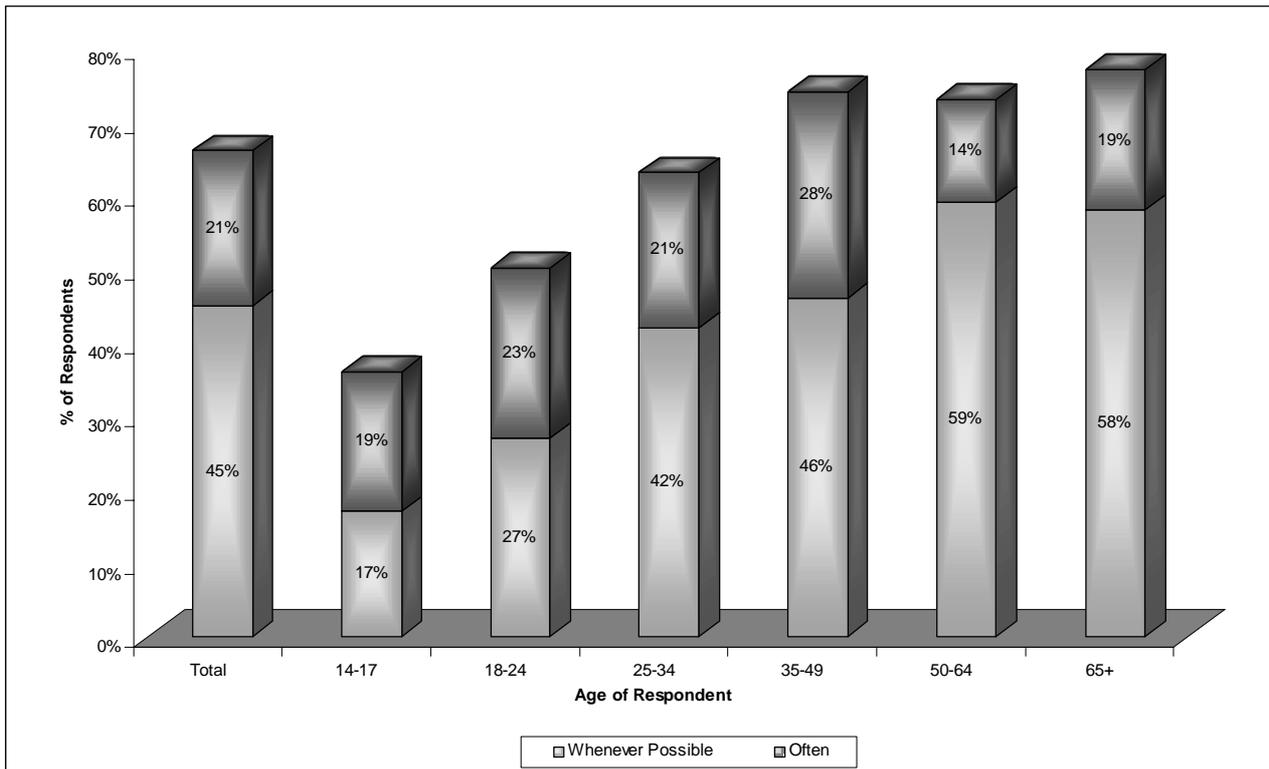
Almost a half (45%) of all Australian Adults aged 14+ claim to consciously buy Australian made products whenever possible (45%). A further 21% say they do so “often”. In total, over 85% consciously buy Australian made at least some of the time.

*“Now thinking about shopping how often, if at all, do you CONSCIOUSLY buy Australian made products?”*  
Base: Total respondents (CATIBUS), n= 626



There seems to be an almost direct relationship between age and propensity to buy Australian made products, as illustrated in the chart below. Younger people (particularly those aged 14-24) are significantly less likely than other age groups to frequently buy Australian Made products. However, a research report released on 8 October 2003 by Sweeney Research and Spin Communications reports that 90% of Australian youth (aged 16-28) is proud to be Australian and 59% buy Australian made products when they can. Frequency of buying Australian made increases with age.

*“Now thinking about shopping how often, if at all, do you CONSCIOUSLY buy Australian made products?”*

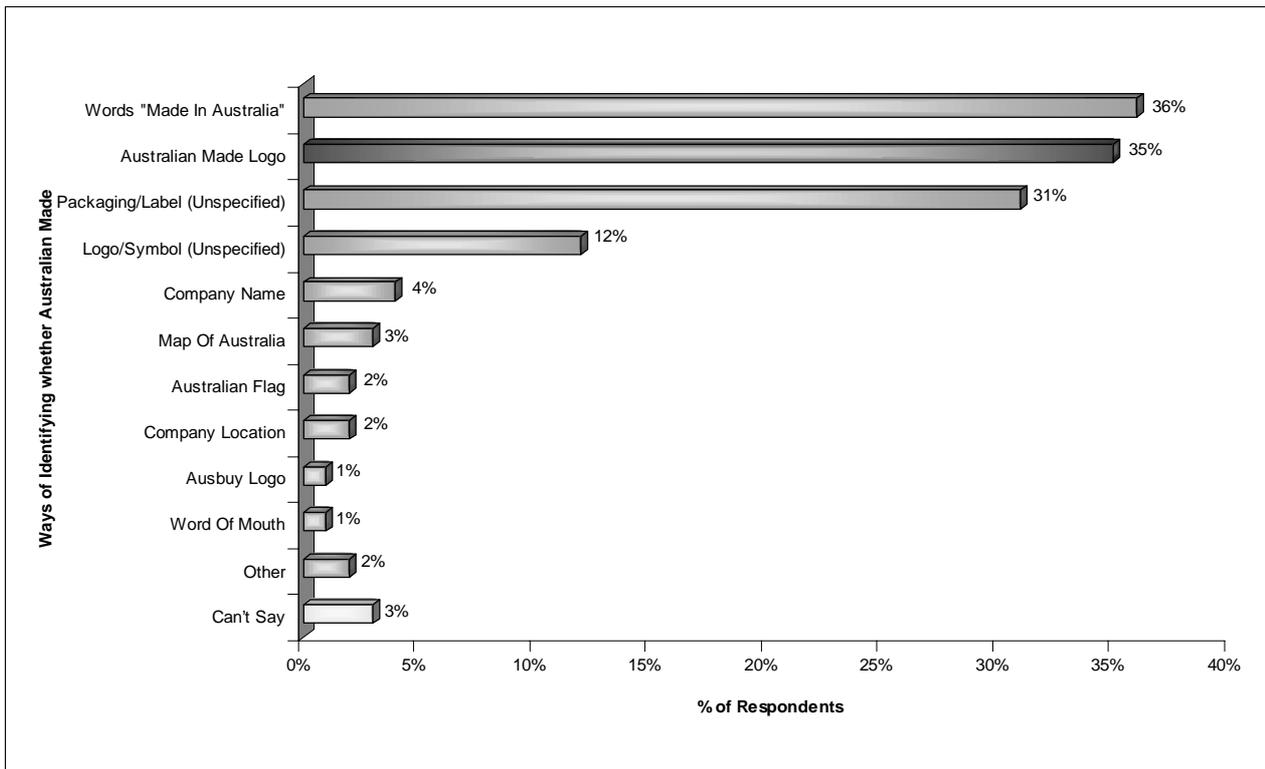


Base: Total respondents (CATIBUS), n=626

When trying to check whether a product is Australian made just over 1 in 3 (35%) specifically look for the Australian Made trade mark. A similar proportion usually look for the words “Made in Australia” (36%) or generally check the packaging or label (31%). These are by far the most widely used cues.

Looking at the three most widely mentioned ways of identifying whether a product is Australian made or not, there are some differences evident amongst the various age groups. Those aged under 35 years tend to rely more upon the Australian Made logo to identify Australian Made products - almost a half of this age group claim to do so. On the other hand, those aged 35 and over tend to rely more upon the words “Made in Australia” or on packaging/labeling in general.

*“What would you rely on or look for if you wanted to check if a particular product was Australian made or not?”*



Base: Total respondents (CATIBUS), n=626

Three quarters of all Australians have used some source of information in the past 12 months to find out if a product is Australian made or not. The mass media including TV, newspapers and magazines (50%) is the most widely mentioned source. This is followed by company information (26%). Exactly 1 in 5 Australian adults claim to have used information made available by the Australia Made Campaign.

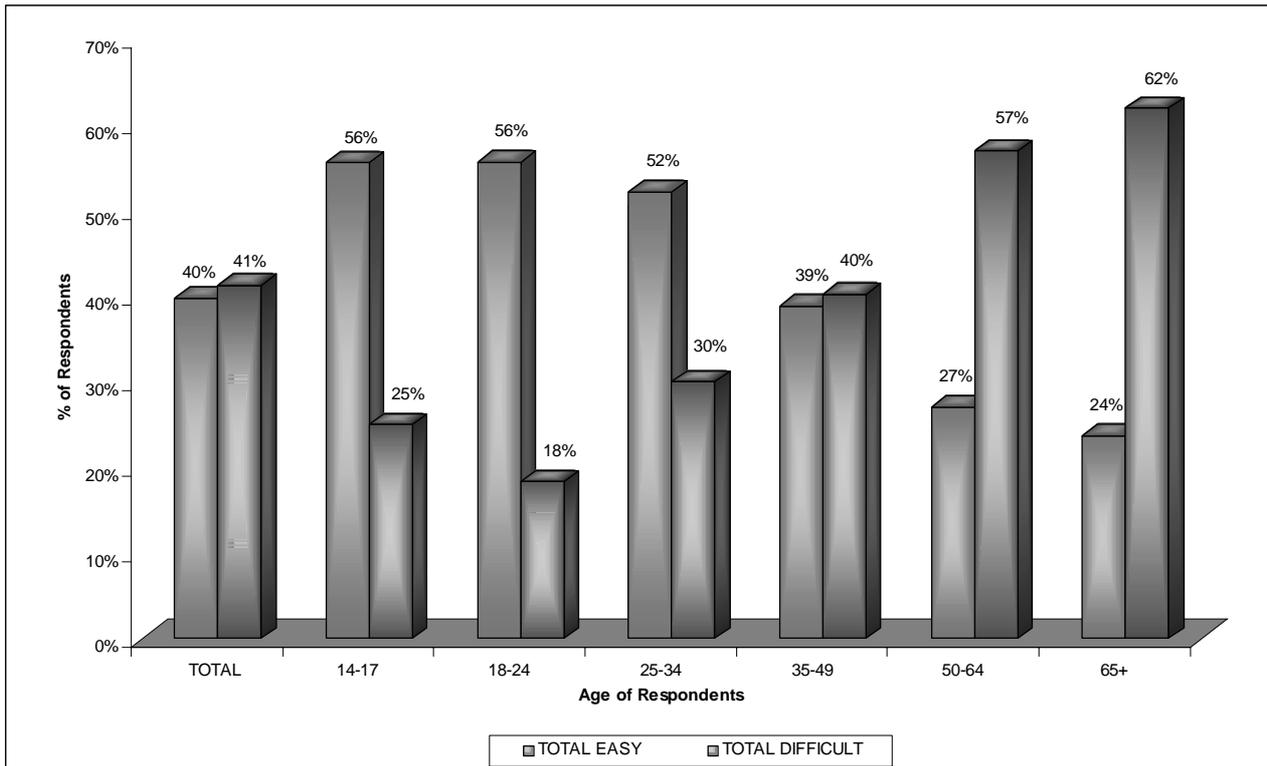
### **Ease of identifying Australian made products**

Research from a number of sources (some of which is cited below) reinforces the fact that consumers want to know where a product is made. However, the population is divided on whether it is easy or difficult to identify whether a product is made in Australia - 40% of those interviewed believed that it was very easy or fairly easy to identify, whilst 41% believed that it was fairly difficult or very difficult. Only 4% said it was ‘very easy’. The remainder couldn’t give an opinion.

Younger respondents (14-25 years) find it easier to identify Australian products than older respondents (50+), however younger people have less understanding of the meaning of a country of origin claim than older people.

*“How easy or difficult do you think manufacturers make it for you to identify that a particular product is Australian Made?”*

Base: Total respondents (CATIBUS), n=626



The respondents who find it difficult to identify a product as being Australian made indicate that the Australian Made logo or the wording “Made in Australia” could be larger or more obviously placed on the packaging.

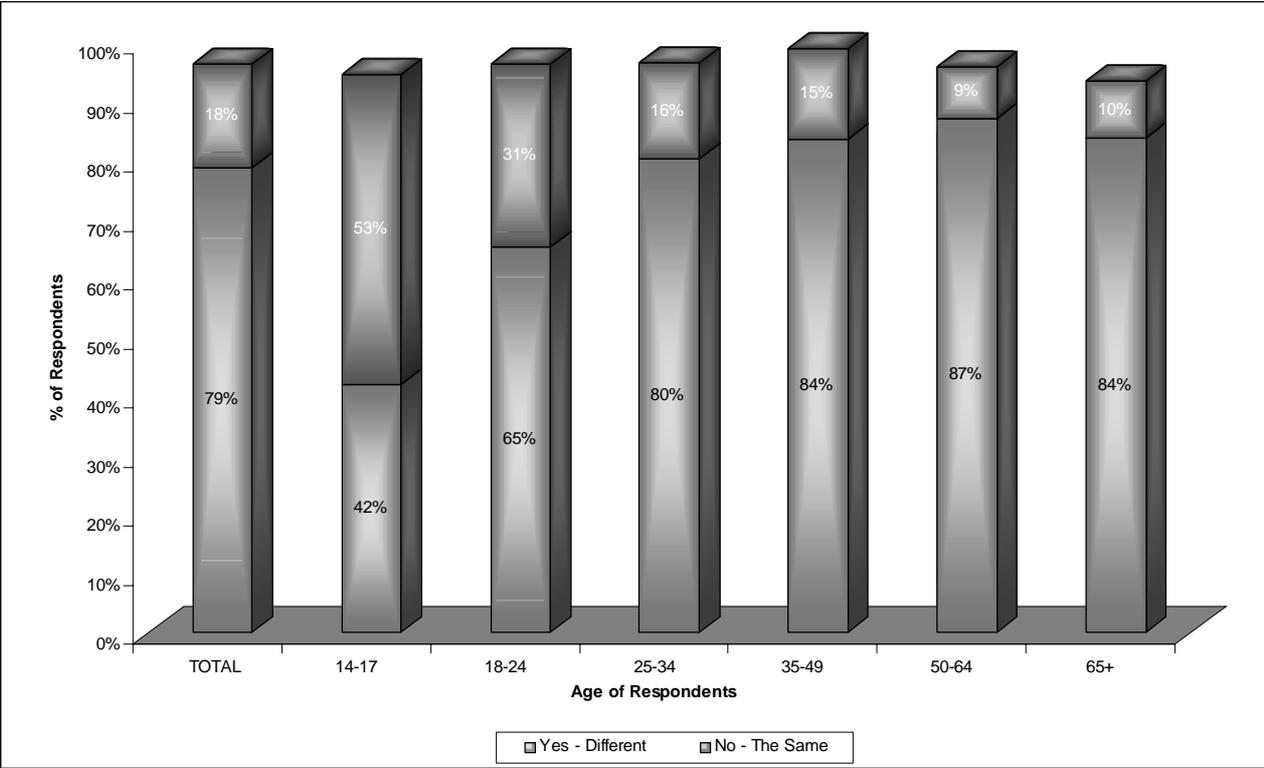
“If they made it [the symbol] bigger, it would remind you when you’re at the shelf.”

“Sometimes it’s just like an afterthought, down next to the chemical ingredients.”

### **Consumer understanding of country of origin claims**

The Campaign’s research findings are that almost 8 in 10 (79%) respondents correctly believed that the terms “Made in Australia” and “Product of Australia” have different meanings. Consumers generally understand “Product of Australia” to be the higher claim, though this understanding is significantly lower amongst younger people than older people. It appears that understanding of the difference between the ‘made in’ and ‘product of’ claims increases with age.

*“On product packaging you sometimes see the words “Made in Australia” or “Product of Australia”. Do you think there is a difference between the two terms or do they mean the same thing?”*



Base: Total respondents (CATIBUS), n=626

## Rules of Origin

### Principles

In an ideal world where trade barriers do not exist there would be no need for rules of origin. However, trade barriers do exist and today’s complex and global production systems mean few products are made solely in one country or by one producer. Thus rules of origin have become an important mechanism to provide consistency in determining the nationality of products and their treatment under various trade rules.

There is no single best formula for defining, administering and enforcing rules of origin. The underlying principle should be to ensure that rules of origin are transparent and precise, and as least trade distortionary as possible, whilst maintaining the integrity of their purpose.

Where rules of origin are complex or opaque, or where they differ across jurisdictions, they can become onerous for compliance purposes and a barrier to trade.

How rules of origin translate into product labelling is a separate but related issue. Country of origin labelling is not necessarily mandated by all jurisdictions or for all products.

The formula applied by Australia to determine the origin of a product is a common formula applied world-wide (though not exclusively – there are three other common systems) and consistent with draft WTO principles for determining rules of origin.

In the domestic context, the Australian Made Campaign advocates rules of origin, and country of origin labelling, that comply with the law, are consistent across jurisdictions, engender public confidence and meet the needs of industry.

The Campaign advocates that the interests of consumers and businesses are best served by having one set of rules relating to the nationality of products. In order to be effective those rules need to be clear and understood, and applied in labelling in such a way that is not only efficient for business but also meaningful to consumers.

It is neither practical, nor desirable, to have differing requirements across a number of jurisdictions that creates compliance burdens for business, higher costs, and can lead to conflicting interpretation of obligations and thus confusion.

However, the Campaign does not oppose country of origin regulation in circumstances where the lessening or removal of those provisions would increase the cost of monitoring compliance with the law and enforcement; make it more difficult to identify the origin of a product; enable manufacturers, importers, and retailers to mask the origin of a product in ways that may mislead; or undermine the confidence of business and/or consumers.

### **Domestic arrangements – country of origin**

Since the Trade Practices Amendment (Country of Origin Representations) Act 1998 was proclaimed it takes precedence over all other legislation or regulation relating to country of origin matters in Australia. While those provisions are not proscriptive, they nonetheless apply equally to all industries and businesses that use a country of origin claim.

The Campaign contends that the TPA provisions are imperfect but they have helped to bring greater certainty to industry in making country of origin claims and also to engender greater public confidence in country of origin labelling.

## **How country of origin claims are used in the marketplace**

Most countries, including Australia, have requirements relating to nationality of goods, the description of goods and labelling in relation to country of origin – generally through trade description, customs or trade practices legislation. Trade agreements eg. NAFTA also stipulate rules for trade in goods and generally contain a chapter on how the origin of a product is to be determined.

While the Commonwealth Trade Practices Act does not require goods to be labelled with their country of origin, any claim, representation, implication or impression that is made by any labelling or promotional material is required to be accurate and not misleading or deceptive or likely to mislead or deceive.

Some laws other than the Trade Practices Act do impose labelling requirements for particular products or in particular circumstances. These include the following.

- Food products. Each State and Territory has its own food legislation. These Acts require food sold in each State and Territory to comply with the labelling requirements of the Food Standards Code. The Food Standards Code currently requires country of origin labelling for all packaged foods and some unpackaged foods.
- Imported goods. The Australian Customs Service administers Australian import regulations under the Commerce (Trade Descriptions) Act. Some of these regulations require country of origin labelling.

These are just examples. Other laws may be enacted or amended from time to time imposing country of origin labelling requirements.

Commonwealth law is largely silent on how and where labels, tags and markings are to appear on goods. In some cases State legislation sets out the requirements for country of origin labelling on goods (eg. Queensland on furniture products).

Nor does Australian law require all imported goods to be labelled. However, many manufacturers choose to provide country of origin information because their customers want it. Australian manufacturers, in particular, provide that information to help consumers exercise their preference for locally made goods and services.

In contrast to Australia, US law requires that all imported goods be marked with their country of origin. It also prescribes the nature and location of country of origin markings. Significantly, the US Customs Act requires that markings of origin be located in a conspicuous place where it can be seen with a casual handling of an article – not where they can be concealed or covered by subsequent attachments or additions. The markings must be visible without disassembling the item or removing or changing the position of any parts. It must be marked as indelibly and permanently as the nature of the product will permit. A marking that will not remain on the article during handling or for any other reason except deliberate removal is not regarded as a proper marking.

Worldwide, country of origin information is valued by consumers and influences purchase decisions and behaviour so it is used by businesses as part of their marketing and communications mix. The most popular uses of country of origin information by business

are:

- Point of purchase swing tags, consumer packs, dump bins, packaging
- Outdoor advertising: conspicuous signage
- Promotional material - literature, advertising
- In store promotions
- Trade shows

Country of origin information, logo devices or claims are also used in the following ways:

- Stationery, quotation forms, delivery dockets, etc
- Packaging – outer packs and retail packs
- Tender documentation to influence purchasing by clients eg in quotations, Government purchasing decisions
- Corporate documentation – annual reports, brochures
- Marketing, communications and advertising messages
- Trade documentation.

The Campaign regularly conducts qualitative assessment of the use of country of origin claims in the marketplace. In most industries country of origin claims are not mandatory but are used by manufacturers mainly (1) as a marketing device (2) to provide information to consumers or (3) at the request of their customers ie other businesses.

The Campaign notes that devices to mask, confuse or misrepresent the origin of products are also used in the marketplace. Some of these practices may not be illegal in the strictest sense (or their legality has not been tested by the court), but clearly their intention is to give a product a particular identity where none exists. These devices do confuse consumers.

### **The country of origin effect and its relevance to consumers**

The country of origin effect is a phenomenon whereby consumers attach a stereotypical perception to products originating from a particular country, which in turn can influence their purchasing behaviour.

Consumers can be influenced by a combination of national economic, cultural, perceived quality or patriotic forces that may alter their attitude towards a particular product, depending on its origin. Procurement policy can also influence the selection of a product, based on its origin.

Consumers also attach attributes of safety to a product based on its country of origin, and will use country of origin information to evade products from particular countries based on perceptions of health, quality and safety.

### **Buying behaviour**

The extent to which the country of origin effect translates into buying behaviour depends on the product itself. For example, consumers will seek out and purchase Australian fresh and processed food products more often than they will other types of products (such as electrical items).

These findings are consistent with the results of industry and consumer research conducted nationally by Sweeney Research on behalf of the Commonwealth Department of Industry, Science and Resources (in May 1999). That study found that almost 70 per cent of consumers look for information about a product's origin when making purchasing decisions.

- Consumers look for country of origin labels to help them determine the quality of an item and to support local industry and employment.
- When consumers specifically ask for country of origin information at the point of sale 78 per cent of those who receive an answer go on to purchase the product whereas only 45 per cent of those who do not receive the requested information go on to purchase the good.

Australian Made Campaign research (October 2000) found that product packaging is by far the most significant source of country of origin information. Of the total respondent population 71.7 per cent said they used product packaging to identify the origin of products, 7.2 per cent said they used advertising and 5.9 per cent said they used in-store displays.

### **Consumer demand**

Consumers can be and are influenced by a range of cues in a purchase decision, either singularly or in combination. Country of origin appears in almost all research or analysis of common labelling cues, and is usually among the first six pieces of information a consumer will look for on a label.

Consumers world-wide use country of origin as an identifier of product attributes. They will ascribe certain attributes to a product simply because of its origin and the information also enables them [consumers] to seek out, or avoid, products.

Because country of origin information is important to consumers it is therefore also an opportunity for the makers and sellers of products.

Australia has the highest loyalty to locally produced products according to a world-wide survey of 13 countries that included Japan, Germany and the USA. Loyalty to Australian food products is particularly strong. This is because consumers perceive Australia to grow and produce among the best and safest food products in the world.

This strong loyalty also creates a strong incentive for businesses to provide consumers with country of origin information when it is likely to sway buyer behaviour. Conversely, it creates a strong incentive for businesses to mask the origin of their product(s) in circumstances where the origin might act as a disincentive to purchase.

Confidence is undermined every time a product is found to be using a wrong claim. It seems that every taxi driver and every consumer remembers the Brazilian orange juice concentrate that was imported into Australia, had water added, and was called 'Australian made'. That example, and others like it, is frequently mentioned in focus group discussions. Every time they appear in a television current affairs story or in a newspaper they serve to undermine all of our efforts to promote the integrity of our labelling system.

The Campaign's research suggests that consumers lack confidence in claims that are found to lack integrity. Many consumers have difficulty accepting that a product is of Australian origin if it has less than 50 per cent local content. In this regard there is a significant difference between integrity from a consumer's perspective and integrity from a legal perspective.

### **The role of rules of origin in consumer communication – eg product recalls**

How rules of origin translate into labelling is very important to firms that use country of origin labelling to communicate information to their customers.

Country of origin labelling is a blunt but effective tool for communicating certain types of information. It assists consumers to quickly identify the nationality of a product and was used recently in Australia to warn consumers about the risks of BSE. From time to time it has been an effective tool for the management of product recalls. However, it is a blunt, crude and inadequate source of information on public health or safety issues, such as genetic modification or allergens, and those matters are best dealt with under other labelling provisions and policy mechanisms.

Particularly in instances where a product recall is more widespread than one firm, one product line or one batch, country of origin labelling becomes a much more effective device than say a list of product names and batch numbers. For example, in the BSE recall it was much easier for industry and government to communicate to consumers that they should avoid beef of British or European origin rather than listing hundreds of product names or numbers.

Since it is not possible for either businesses or regulators to foresee all of the circumstances in which a product recall may occur, country of origin has continued to play a valuable, albeit limited, role in product recalls. This has been the case despite greater prescription in labelling.

### **Industry views**

Industry views on rules of origin and country of origin labelling tend to be influenced by:

- competitive factors in the domestic market place
- whether a firm is the only domestic manufacturer of a product
- the extent of import competition – and the nature of that competition (in terms of how imported goods are being represented to consumers)
- whether an industry is a net exporter
- the commercial value placed by a firm on country of origin as a marketing device
- seasonal availability of produce
- fluctuations in price of imported components/ingredients that may affect a country of origin claim.

The Campaign relies on a clear and enforceable legislative framework to clarify industry's obligations, to support and reinforce our own industry code of practice and to create the conditions in which we can successfully self-regulate. We rely on legislative framework operating effectively and being properly enforced to ensure that the integrity of the whole

rules of origin system is maintained in a domestic environment. Thus our self-regulatory Code operates effectively.

## **Rules of origin and the CER trade agreement**

Because Australia is a member of the World Trade Organisation (WTO), our bilateral trade agreements must comply with world trade rules and must eliminate all tariffs and other restrictions on substantially all trade in goods between the two countries.

In any bilateral agreement, Australia's objective should be to reduce the most significant barriers to accessing a market, not only for goods but also for services, investment, government procurement, telecommunications and e-commerce etc. as well as improve efficiency and encourage investment. The second key objective should be to ensure that an agreement does not undermine Australia's arrangements in other areas, such as consumer protection, quarantine and environment policy, or undermine other bilateral trade agreements.

Bilateral agreements are very worthwhile if they deliver more to Australia than would otherwise be achieved through WTO (or multilateral) processes and do not compromise our other trade relationships.

While Australia may have regard for New Zealand's difficulty in achieving 50 per cent local content on some of its products, and thus may be predisposed to lowering the local content level within the framework of the CER, it needs to be remembered that to do so would make the local content requirement lower than Australia's own domestic arrangements and would also invite consideration by Singapore, Thailand, and the USA with whom we also have or are negotiating FTA agreements.

The overall importance of rules of origin should be proportional to the nature and pervasiveness of the trade barriers.

Care must be taken to ensure that in meeting the needs of an important friend and neighbour that Australia does not create precedents that will have adverse impacts on future trade negotiations and agreements or that are not in Australia's best interests.

### **More than one system?**

Australia applies a two-part test to determine the origin of a product. The first test is that the good has been substantially transformed in the country where origin is being claimed; the second test is that 50 per cent or more of production process is attributable to the country of origin. This two-part test is set out in the Trade Practices Act (s.65AB) and is modelled on common international practice.

There are four methods for determining the origin of a product in common usage around the world. Australia and New Zealand's two-part test is one. The US applies a tariff classification system, where goods are defined in categories or chapters, and then headings and sub-headings.

For Australia changes to the existing system or the adoption of another system for the purposes of an FTA with a particular country (eg. the Australia – US FTA) would add to the complexity for trade and commerce of complying with rules of origin because it effectively means operating two or more systems for determining where a product is made. For some manufacturers that could also mean two or more sets of processes, two sets of paperwork, two sets of labelling, etc. etc. The cost impost, particularly for small businesses, could be considerable and may deter some firms from exporting.

The Campaign is also concerned about the need to maintain the integrity of our domestic country of origin arrangements. A good that says ‘made in Australia’ is understood by most ordinary people to contain 50 per cent or more Australian content. The Campaign and consumers need to be assured that an international treaty – such as the CER or an FTA – will not erode or undermine our domestic country of origin rules, or have unintended consequences for our labelling arrangements.

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