



EXTENDING MANDATORY COUNTRY OF ORIGIN LABELLING TO SEAFOOD

A PERSPECTIVE FROM THE FOODSERVICES SECTOR







OVERVIEW

Pragmatic Governments, industry and the community want Country of Origin Labelling (CoOL) reform - but not if it is ambiguous and dysfunctional, and not if the cost significantly outweighs the benefit. Extending CoOL to the foodservice sector falls precisely into these categories.

The foodservices sector is a diverse and dynamic industry. There are 85,200 foodservice businesses across Australia, employing some 780,000 Australians in cafés, restaurants, pubs, clubs, motels and hotel establishments. Calls for mandatory CoOL for cooked or pre-prepared seafood will increase administrative red tape and compliance costs for many foodservice businesses; many of which already struggle with the cost of compliance at a federal, state and local government level.

A balanced and pragmatic examination of the regulatory burden and economic impact of mandatory CoOL must occur to accurately determine the cost to the foodservice sector.

The industry has outlined key considerations in determining the appropriateness of mandatory CoOL for cooked seafood in the foodservices sector in this document.



KEY CONSIDERATIONS FOR CoOL: LIMITED BENEFITS

DEMAND FAR EXCEEDS SUPPLY

In simple terms, extending CoOL to the foodservice sector will not result in more Australian seafood being sold. Australia's wild catch is already at its sustainable limit. Current demand exceeds Australia's aquaculture production, and will continue to do so into the foreseeable future. Our seafood supply is distinctly different from other food commodities in its unavoidable dependence (72 per cent) on overseas production, processing and packaging.

LIMITED RETURNS TO AUSTRALIAN SEAFOOD PRODUCERS

Extending CoOL will not result in higher prices to producers. Price growth for Australian seafood is constrained by affordability, with two thirds of Australian consumers already unable to afford fresh local seafood regularly. Higher consumer prices do not always lead to greater returns to Australian producers, especially if they are the result of increases in the cost of sales, such as meeting additional compliance requirements of mandatory CoOL.

HIGH COST OF COMPLIANCE & REGULATORY BURDEN

Mandatory CoOL would limit the flexibility of operators to source produce based on price, seasonality, quality, menu design, and supplier relationships. The administrative cost and regulatory burden to foodservice businesses in displaying continually changing information at various points of sale is likely to run into the millions of dollars annually. A mandated system does not recognise the complexity or divergence of different businesses operating in the foodservices sector, exposing smaller operators to increased liabilities and uneven enforcement. The cost of enforcing mandated labelling will also be a substantial cost borne by taxpayers.



LIMITED INFORMATION TO CONSUMERS

Country of origin information to be displayed on menus would be so limited, and so frequently ambiguous, that in many cases it would be just as misleading as it would be informative. Concerned consumers should ask for detailed information on the source of their seafood from their foodservice outlet - an avenue already available and supported by businesses and consumer legislation.

VOLUNTARY SYSTEMS ARE THE KEY

Over time, consumers will be better served by voluntary industry investment in improved (but not prescribed) information distributed throughout the entire supply chain. Investment has already occurred in upstream information gathering, including certification logos and branding that improve the traceability of seafood. This is in addition to existing government safeguards around food safety and social accountability.

By mandating CoOL to the foodservices sector, there is a real danger that Australia will put in place a de facto, second-rate advisory system relying simply on 'country brands' rather than on promoting a genuine understanding of the sustainability and performance record of local and international seafood suppliers.



THE COMPLEXITY AND COST OF MANDATORY CoOL IS UNDERSTATED

CASE STUDY:

A closer examination of the Northern Territory Study:

In November 2008, the Northern Territory Government unilaterally introduced mandatory country of origin labeling to foodservice outlets.

The report: *Tracking the impacts on seafood consumption at dining venues arising from the Northern Territory's seafood labelling laws*, commissioned by the Northern Territory Seafood Industry Council and funded by the Fisheries Research and Development Corporation (FRDC), is largely referenced as an example of the benefits and process to be adopted in the implementation of CoOL for seafood nationwide.

However, these regulations are a condition of a fisheries license issued to each food retailer in the Territory – not food standards. This model is not replicated elsewhere in the country.

A further examination of this study reveals:

- The report makes no recommendations for replicating any aspect of the Northern Territory model in other jurisdictions;
- The report is based on a sample size of 20 establishments. This sample size is not representative of the 85,200 foodservice businesses that exist nationally;
- 'Availability of product' is identified as a barrier to increasing the usage of local seafood, with difficulties sourcing sufficient and consistent quantities reported during the peak season; and
- The study revealed that consumers had a 'mediocre' understanding of labelling laws.

An exhaustive national study and regulatory impact statement must be conducted to determine the true impact of mandatory CoOL on the foodservice sector in Australia. The Northern Territory study is not representative of the foodservices sector nationally, nor does it reflect the true impact legislative changes would have on businesses across different jurisdictions.



DEMAND VS SUPPLY

Will mandatory CoOL result in more Australian seafood being sold?

Australia's wild catch quota is already at the limits of sustainable production with no significant increases predicted in the near future. Australian aquaculture currently lacks the capability to produce the volume of high-tonnage species to meet Australian consumer demand for inexpensive, boneless, skinless white-flesh fillets¹.

Research suggests that by 2020, Australia will require an estimated 610,000 tonnes of imported seafood to meet expected growth in per capita consumption². In order to meet the 40 per cent increase in individual adult consumption of seafood recommended by the National Health & Medical Research Council in its 2013 Australian Dietary Guidelines, Australia would need to import approximately 850,000 tonnes of seafood per year by 2020³.

With opposition to the expansion of fish farming in Australia, and only a small number of commercial species suitable to Australian conditions, there will always be a significant component of seafood sold in Australia that is sourced from international suppliers. Often the costs associated with the aquaculture of fin-fish species in Australia results in products that cannot compete with imports, particularly from Asia.

Therefore there is little, if any, latent capacity for Australian producers to meet any increase in demand that may result from the extension of CoOL.

¹ Dundas-Smith, P. & Huggan, C. (2006) *An overview of the Australian seafood industry*, April 2006.

² Kearney, R., Foran, B., Poldy, F., & Lowe, D., (2003) *Modelling Australia's Fisheries to 2050: Policy and Management Implications*, Deakin ACT: Fisheries Research and Development Corporation.

³ Kearney, R. (2012) *Inquiry into the Role of Science for Fisheries and Aquaculture 2012* - Submission by Robert Kearney, PhD, DSc, AM Emeritus Professor of Fisheries, University of Canberra.



SEASONALITY & PRICE SENSITIVITY

Most Australian seafood is seasonal, which often dictates the availability of certain seafood species and their country of origin. Foodservice businesses, even those amenable to sourcing Australian produce, will generally require produce that is consistently available, and at consistent prices. Therefore the decision to use imported seafood may not necessarily be the preference of the operator, but occur simply because the dynamics of the market determine imported seafood is the most consistent and viable option at that point in time.

Mandatory CoOL would limit the flexibility of operators to source produce based on price, seasonality, quality, menu design, and supplier relationships. Mandatory CoOL would require that each time a substitution occurs, menus would have to be updated and re-printed.

Australian seafood is often only available in generic forms because it is too expensive to process and value-add in Australia. It is rarely available in the highly portion-controlled, filleted, skinned or shelled, de-boned or de-veined, frozen, packaged-form required by foodservice businesses. To meet these needs, Australian seafood is increasingly sent overseas for processing but as a result may not be able to retain its Product of Australia status when re-imported.

The Northern Territory Seafood Labelling Report showed no substantial increase in the volume of local seafood sold as a result of mandatory labelling. It did, however, reveal that imported product is increasingly sold during peak periods, highlighting the capacity constraints of Australia's local seafood producers: "During periods of extra demand, the need for increased supply appears to be met largely from overseas sources⁴".

⁴ Calogeras, C., Morgan, S., Sarneckis, K., Cooper, L., and Lee, T.Y. (2011) FRDC Project No. 2099/216 *Tracking the impacts on seafood consumption at dining venues arising from the Northern Territory's seafood labelling laws*, Final Report, p32.



“ At Nick’s Seafood we pride ourselves on providing the freshest quality seafood experience in Sydney. This involves sourcing a range of Australian and imported seafood to feature on our menu. Seafood in our business is sourced daily; based on the availability of produce, the quality of seafood product, and the price attracted at market. As a result, no two days are ever the same; the composition and country of origin of our seafood varies from day-to-day, week-to-week, season-to-season.

Labelling the country of origin of seafood on our menus would be an administrative nightmare and a significant cost burden to our business. It would require our restaurants to re-print menus daily, re-labelling some 20-30 seafood dishes promoted on our menu. A conservative estimation would place these changes at \$150,000 per annum. This is a significant cost to bear in an industry where margins are thin, market forces dictate seafood supply, and very little benefit is delivered to the consumer.

I have been in the seafood industry for 50 years; Nick’s Restaurant & Bar Group has, and will continue to, source and support Australian seafood on its menu. However, forcing operators to label the country of origin on their menus does not make economic sense and will make it harder for us to do business. ”

Nick Manettas

Owner, Nick’s Restaurant & Bar Group



SUPPORTING AUSTRALIAN PRODUCERS

Will it result in higher returns for Australian producers?

Research funded by the FRDC indicates a strong consumer preference for Australian seafood, and is commonly cited as a reason for extending CoOL by local seafood producers. This is in addition to research that suggests Australian consumers are increasingly concerned about the origins of the food they eat, and believe it is very important to be able to identify Australian food, or where their food is manufactured⁵.

There are no restrictions on foodservice businesses sourcing and promoting Australian seafood in their businesses. In fact, many foodservice businesses already source and promote Australian produce on their menus. However, the industry believes the process of identifying, promoting and incorporating Australian produce on menus should remain at the discretion of the business owner, not mandated by government.

While consumer preferences may exist for Australian seafood, the decision to source Australian produce is constrained by the higher prices of these products and consumer perceptions of affordability and perceived value. If consumer research rings true, foodservice businesses across Australia would already stock Australian produce in their businesses if the price, availability, product form, and customer willingness to pay supported this commercial decision. Two thirds of consumers already cannot afford to eat fresh local seafood regularly⁶, and most will decline to pay the even higher prices that are likely to result by extending CoOL to cooked or pre-prepared seafood.

".... the industry believes the process of identifying, promoting and incorporating Australian produce on menus should remain at the discretion of the business owner, not mandated by government."

Consumer research has found that concerns about country of origin are largely driven by a range of variables including economic, health and food safety, ethical and environmental factors. While some consumers may prefer to buy 'Australian owned and produced', purchasing decisions often depend on other factors such as type of food and price⁷. Broader research indicates that whilst consumers may express concerns about issues related to country of origin, less than 5 per cent reflect those concerns in their actual purchasing decisions⁸.



Higher consumer prices do not always lead to greater returns to Australian producers, especially if they are the result of increases in the cost of sales, such as meeting additional compliance requirements of mandatory CoOL.

Will it prevent margin rip-off?

A common complaint by Australian producers is that some foodservice businesses misrepresent cheaper imported seafood as Australian produce and charge a premium for that product.

There is no empirical evidence to suggest that this is common practice. The Northern Territory Seafood Labelling Report found that 92 per cent of Barramundi sold in Darwin food outlets was indeed Australian.

Consumers already have the right to ask foodservice businesses where their seafood comes from, and foodservice operators are obliged under State and Territory consumer law to answer honestly. The issue of misrepresenting food products is a matter for consumer law not a case for mandatory labelling through legislation. It will not be a panacea for all unlawful conduct.

“Broader research indicates that whilst consumers may express concerns about issues related to country of origin, less than 5 per cent reflect those concerns in their actual purchasing decisions.”

⁵ Parliament of the Commonwealth of Australia (2014), *A clearer message for consumers*, p33-34.

⁶ Ruello & Associates (*pers com*)

⁷ CHOICE submission 47, p.5. as quoted in the Parliament of the Commonwealth of Australia (2014), *A clearer message for consumers*, p35.

⁸ Dr Wendy Umberger, University of Adelaide, address at the 2015 ABARES Outlook Conference, Canberra.



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I currently run six restaurants - five in Sydney and one in Melbourne. We are planning to open another six around Australia by 2017. All our restaurants have the same menu throughout. We average 700 covers per day, per location.

We use Australian and imported seafood. We have over 300 items on our menu, with seafood in nearly 50 per cent of the items. To guarantee constant supply of seafood to all our outlets we must use seafood from many origins. In fact, we are always searching for seafood from different origins just to fulfill our written menus without compromising their authenticity and where they were inspired from. Across the whole menu, many of those origins are changing every day.

What you are asking us to do is reprint our menus daily. Our last menu re-print was \$50,000 for all sites. Imagine the costs if we had to do it daily.

Our margins are low but with rising costs on everything, soon no one will be able to eat out, as it will be too expensive. This idea will make our seafood prices go up even more because of yet another law made without even consulting us.

I love what I do with a passion you can't imagine, but to implement this idea will be commercial suicide for restaurants. The more seafood they sell, the harder it will be. It's hard to believe this crazy idea comes from the seafood industry itself. We won't support it, and we won't support an industry sector that tries to do this to us.”

John Lanzafame
Executive Chef, Criniti's





COST OF COMPLIANCE

What will be the cost to businesses as a result of mandatory labelling?

The design and mechanics of compliance measures to support mandatory labelling have not been scoped or investigated, despite discussions surrounding mandatory CoOL progressing significantly. Understanding this component of mandatory CoOL is necessary for the industry to evaluate the administrative burden and cost of compliance on foodservice businesses.

Mandatory CoOL in the Northern Territory is a condition of the fisheries license issued to each food retailer. This model is not replicated elsewhere in the country. The size and complexity of seafood markets in the larger states also calls into question how compliance will be enforced. The NSW Food Authority in their submission to the Inquiry into Country of Origin Labelling for Food⁹ highlighted:

"...while the Authority actively enforces country of origin requirements, these can be resource intensive operations and they need to be carefully prioritised against overarching food safety priorities in terms of resource allocation. Accordingly, the Authority notes that the emphasis given to country of origin compliance does vary between food regulatory jurisdictions."

Furthermore, the Standing Committee on Agriculture and Industry has referred the issue to COAG, recognising such laws would require harmonisation of state and territory laws and regulation.

Of particular interest to foodservice businesses is:

- What records will businesses be required to keep and for how long?
- Which agency will enforce legislative requirements and what will enforcement measures cost?
- What changes will need to occur at the wholesale level to ensure retailers have the appropriate information?

⁹ Parliament of the Commonwealth of Australia (2014), *A clearer message for consumers*, p30.



- Will a simple 'made from a mix of imported and Australian seafood' suffice to meet CoOL requirements?
- If so, what value is delivered to consumers?

These questions remain largely unanswered as the case for mandatory labelling is progressed.

CASE STUDY:

Single Component Pricing and the impact on restaurant menus

The introduction of mandatory CoOL is reminiscent of component pricing legislation that was introduced in 2009. The legislation, which required a single price to be displayed for goods and services, resulted in cafes, restaurants, and bistro operators having to print separate menus when displaying weekend and public holiday surcharges.

Work completed by Restaurant & Catering Australia (R&CA) revealed the cost of such measure ranged from \$8,000-\$10,000 per business. Not only was there an administrative cost to operators, it also led to considerable confusion among consumers when two prices were displayed on the menu (surcharge and non-surcharge rates).

As a result, cafes, restaurants, and bistros were exempted from the requirement in 2012.





SUSTAINABILITY & SAFETY

Will mandatory labelling provide consumers with information about the sustainability of seafood products?

The assumption that Australian seafood is always more sustainably produced than imported seafood is an over-simplification of the regulatory processes governing overseas production. Seafood products from New Zealand (our main source of imported fish) for example, are harvested under fisheries and environmental management standards that are equivalent to Australia's.

In addition, of the 243 Marine Stewardship Council (MSC) certified products available for sale in Australia in March 2015, 241 were imported. In fact, the number of overseas fisheries and farms certified to credible environmental standards such as MSC, the Aquaculture Stewardship Council (ASC), Global Aquaculture Alliance's Best Aquaculture Practice (BAP), and GlobalGap, far exceed the dozen or so fisheries that are certified here in Australia.

"... using CoOL as an indication of the sustainability practices of fisheries may in fact mislead consumers, and result in consumers avoiding the purchase of sustainable seafood options."

Perceptions of sustainability are often different to reality. For instance, the world's largest individual source of sea-cage Barramundi is located in Vietnam, and in 2014 was rated by Monterey Bay Aquarium Seafood Watch - arguably the world's most credible seafood sustainability guide - as Best Choice. By contrast, Greenpeace and the Australian Marine Conservation Society (AMCS) in their 2014 consumer guide recommended consumers eat less Barramundi caught in the Northern Territory or Western Australia, and to avoid Queensland-caught Barramundi, due to concerns of over fishing on vulnerable marine wildlife¹⁰. Therefore, using CoOL as an indication of the sustainability practices of fisheries may in fact mislead consumers, and result in consumers avoiding the purchase of sustainable seafood options.

¹⁰ Australian Marine Conservation Society (2014) Australia's Sustainable Seafood Guide <http://www.sustainableseafood.org.au/fish.php?seafoodName=barramundi&classificationOption=2&typeOption=&state=>



Will it allow consumers to make informed decisions about food safety?

Most consumers are not familiar with international food production standards for seafood, and will not be aware that these standards are generally far more demanding than Australia's domestic standard - the Primary Production and Processing Standard. In addition, Australia has a comprehensive mandatory inspection and testing regime imposed by the Department of Agriculture (for food safety and biosecurity) on all imported seafood products.

Furthermore, in the 2011 *Labelling Logic: Review of Food Labelling Law and Policy*, an independent panel led by Chair Neal Blewett AC warned that:

"It is clear from the submissions that CoOL is used by some people as a surrogate for health information; however the Panel accepts that prescriptive requirements for CoOL cannot be sustained on public health grounds.... Indeed, a 2003 Communiqué of the Ministerial Council states that in relation to the 'policy direction on mandatory country of origin labelling of food, Ministers emphasised that this is not a public health and safety issue, as the safety of the food supply is assured through other means"¹¹.

Subsequently this report did not support the extension of CoOL to the foodservice sector.

¹¹ Commonwealth of Australia (2011), *Labelling Logic: Review of Food Labelling Law and Policy*, p107.



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