



Australian Government



Australian  
**Small Business and  
Family Enterprise**  
Ombudsman

17 April 2025

Country of Origin Labelling Team

Department of Industry, Science and Resources

10 Binara Street

CANBERRA ACT 2601

via email: [OriginLabelling@industry.gov.au](mailto:OriginLabelling@industry.gov.au)

Dear Sir/Madam

**Country of origin information for seafood for immediate consumption – proposed information standard being made under s134 of Schedule 2 of the *Competition and Consumer Act 2010***

The Australian Small Business and Family Enterprise Ombudsman (ASBFEO) appreciates the opportunity to provide comments to the Department of Industry, Science and Resources regarding the exposure draft of an information standard proposed to be made under s134 of Schedule 2 of the *Competition and Consumer Act 2010* to introduce mandatory country-of-origin labelling (CoOL) for seafood for immediate consumption.

This is the third time that ASBFEO has raised its concerns and advanced what we consider to be pertinent recommendations. In previous rounds of consultation, the ASBFEO has proposed practical and light-handed alternatives to mandatory country-of-origin labelling, which would further the policy objective of enhancing consumer information and choice. These included:

- Introduce country-of-option labelling for seafood as a voluntary national reporting standard that businesses may or may not choose to apply, or customers could seek information about.
- Exempt the use of seafoods as minor-share ingredients from any CoOL for seafood in hospitality requirements. Food service businesses should be given discretion to determine if the seafood in a dish they are serving is a major component and therefore requires CoOL, and that enforcement of compliance takes this into account.
- Add an additional category of ‘variable’ to the proposed categories of ‘Australian’, ‘imported’ and ‘mixed’, to give hospitality businesses a simple indicator to alert consumers that the jurisdictional source of the seafood product is frequently changing, or the business cannot certify the origin of the product from its supplier.
- Only require seafood restaurants with 15 employees or more to comply with CoOL.

As an advocate for small and family businesses, we are acutely aware of the disproportionate impact that government regulation has on these businesses – the very group which the exposure draft of the proposed information standard is targeting. We are disappointed that none of the above alternatives were considered by the regulation impact statement or incorporated into the proposed information standard.

A 2021 report prepared for the Food Regulation Standing Committee of the then Australia and New Zealand Ministerial Forum on Food Regulation – now the Food Ministers’ Meeting – found



hospitality businesses, the majority of which are small businesses, often face inconsistency in food regulation. It is also often a challenge for them to determine which government agencies are responsible for specific regulations.<sup>1</sup>

The proposed information standard will add to the complexity of this regulatory burden by expanding the level of government requirements directly imposed on small businesses in the hospitality sector from two (local and state government) to three (local, state and federal government).

The exposure draft of the proposed information standard fails to clarify key issues, including:

- which seafood products are included and which are not
- the types of providers to whom the standard will apply
- how the proposed standard will be enforced.

This lack of clarity will exacerbate regulatory burden by increasing compliance complexity for small business owners, especially those for whom English is not their first language.

Our recommendations set out below are designed to address the impact of this additional regulatory burden on small businesses in the hospitality sector in a way that does not detract from the policy intent of the initiative.

**Recommendation 1: Items 1, 2 and 3 of Section 5 of the information standard should be limited to the AIM model**

The ASBFEO does not support the introduction of mandatory country-of-origin labelling for the sale of seafood for immediate consumption by hospitality businesses in Australia. That said, we consider the AIM model, to be the least worst being considered for implementation – in terms of overall regulatory burden, additional costs, compliance complexity and enforcement simplicity. This position aligned with that of similar stakeholder groups.

While the positive benefit-to-cost ratio ascribed to the AIM model by the department's 2023 regulation impact statement does not accord with its 2021 cost-benefit analysis, it was preferable that the AIM approach was put forward to consumer ministers for their consideration and endorsement, over other approaches that evidently scored negative benefit-to-cost ratios.<sup>2</sup>

However, despite the AIM model being endorsed, we note that elements of the more prescriptive country model – which has a negative benefit-to-cost ratio – appear to have crept into the exposure draft of the proposed information standard. For example, items 1(c), 2(c) and 3(c) of subsection 5(2) of the exposure draft of the proposed information standard allow for the provision

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<sup>1</sup> MP Consulting (2021) '*Key Areas of Inconsistency in Food Regulation*' final report, commissioned by the Australia and New Zealand Ministerial Forum on Food Regulation.

<sup>2</sup> See Department of Industry, Science and Resources, *Country of origin labelling for seafood in hospitality settings: Regulation impact statement for decision* (October 2023) prepared by the.

Cf. the conclusion of the 2021 report by Deloitte Access Economics, which evaluated the implementation of the *Country of Origin Food Labelling Information Standard 2016*, remains pertinent: '[R]esults indicate the costs of extending CoOL to foodservices would exceed the benefits, largely driven by costs to foodservice businesses to comply with CoOL regulations coupled with the sheer size of the foodservice industry – and the number of small businesses in the industry.' See Deloitte Access Economics, *Evaluation of Country of Origin Labelling reforms: Cost Benefit Analysis*, final report, commissioned by the Department of Industry, Science, Energy and Resources, July 2021, p. vi.



of ‘a written reference to the location from which the seafood was harvested.’ Imposing this additional requirement would significantly increase the cost to small business. The regulation impact statement assessed the cost of this model to be approximately \$960 million over 10 years, which was almost double the cost to business of the AIM model.

We would therefore urge the drafters of the proposed information standard to remove items 1(c), 2(c) and 3(c) of sub-section 5(2) from the final information standard.

**Recommendation 2: The proposed information standard should clearly indicate (and provide examples) of which products are included and those products which are excluded.**

Section 4 of the exposure draft of the proposed information standard provides a definition of seafood products to which the standard will apply and those to which it will not. We were therefore surprised to note that on pages 6 and 7 of the Explanatory Memorandum, which accompanies the exposure draft of the proposed information standard, fish cakes are used as an example. We consider that a fish cake while being ready to eat at the time of purchase clearly meets the definition of a seafood in which no portion of the seafood remains solid. Consequently, fish cakes should be excluded under section 4 of the proposed information standard.

We consider a better way to meet the policy intent of this initiative, while minimising the impact on small businesses in the hospitality sector, would be to define a seafood product as per section 4 but also where seafood is the substantive or ‘hero’ element of a dish. In a cafe or restaurant (ANZIC classification 4511) this would include only items such as: the fish of the day, oysters, scallops, prawns, etc. In a takeaway facility (ANZIC classification 4512) this would include items such as: grilled or battered fish (either filleted or whole), fish cocktails, oysters, scallops, prawns, etc.

**Recommendation 3: The proposed information standard should clearly indicate the types of providers to whom the standard applies.**

Sections 5(1)(c) and (d) of the exposure draft of the proposed information standard provide greater clarity as to whom – e.g. canteens, schools, prisons, hospitals, etc. – the proposed information standard will apply to. We consider that this is insufficient information. Rather than exempting certain providers, a clearer approach would be to specifically state which providers are to be captured by the proposed information standard. We would also suggest that the Department of Industry, Science and Resources consider identifying the relevant ANZIC classifications to be covered by the proposed information standard, as was done in the original *Country of origin labelling for seafood in hospitality settings: Discussion paper* (December 2022).

**Recommendation 4: The proposed information standard should include examples of a compliant menu/price board, and the Department of Industry, Science and Resources should conduct an education and awareness campaign to support small and family businesses, including from culturally and linguistically diverse communities.**

We note that the *Country of Origin Food Labelling Information Standard 2016* sets out in various subsections within sections 21 and 22 examples of possible compliant labels. As many of the small business owners impacted by the proposed information standard are from the culturally and linguistically diverse community, we consider that there is significant benefit in providing replica examples of compliant menus/price boards.



In the 2021 Census, 56% of food and beverage service small business owners in Australia spoke a language other than English at home.<sup>3</sup> Ensuring education and awareness materials are available in multiple languages, as well as consulting effectively with culturally and linguistically diverse communities, is critical for the successful implementation of regulatory changes.

Additionally, the department should conduct an information campaign to support awareness of the regulatory changes and ensure that all affected businesses understand what precisely they need to do to comply. Ongoing consultation and engagement with the hospitality industry, alongside a collaborative approach from all levels of government, is essential to ensure that the information provided to small business operators is clear, reliable and fit for purpose.

As mentioned earlier, this intervention will be viewed by many intended respondents as the first time the Commonwealth has directly involved itself in sector-specific product presentation operational compliance for hospitality and food service businesses. Therefore, it is suggested that the necessary public awareness campaign should utilise familiar channels for this additional regulatory and compliance advice.

For guidance to find its audience and ‘cut through’ at a time most respondents are likely to be focused on business survival challenges and viability, having it embedded within primary and essential regulatory resources is recommended. For example, local government’s delegated function of food premise registration and handling might be where these additional compliance resources could be incorporated. Food premise licences and other accreditations that need to be obtained and, in many cases, displayed, could be delivered to hospitality and food service businesses with a simple and clear A4 laminated ‘explainer’ or pictorial *‘here’s what you are now required to do’* guide.

There is currently a lack of clarity around how the new labelling requirements are to be enforced. It may be advantageous to align the recommended public education campaign with planned enforcement agency activity, as interpretation of requirements is far from straight-forward and comprehensive education and implementation guidance should precede any enforcement action.

We would appreciate feedback on this submission. To provide any feedback, or request any further information, please contact the ASBFEO Policy & Advocacy team at [Advocacy@asbfeo.gov.au](mailto:Advocacy@asbfeo.gov.au).

Yours sincerely

**The Hon Bruce Billson**

Australian Small Business and Family Enterprise Ombudsman

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<sup>3</sup> Using the ABS’s definition of small business as having 0-19 employees. ASBFEO calculations, Australian Bureau of Statistics, 2021 Census, viewed 21 February 2023