

What does 'Made in Australia' really mean?

Is the fact that a product is labelled 'Made in Australia' an important factor in your decision to buy it?

Do you understand the difference between 'Made in Australia' and 'Product of Australia'?

If you suspect something doesn't originate in Australia, but claims to, do you know what you can do about it?

The Trade Practices Act prohibits businesses from making a false or misleading claim about the place of origin of goods. Under the Act, businesses are protected against such charges if they meet certain tests. For a product labelled 'Made in Australia', the two tests are that the product should be substantially transformed here, and at least 50 per cent of the costs of production should have occurred here.

Australian icon, Golden Circle, agreed to amend its labelling three years ago when it claimed some juices were Australian made when, at the time, they actually contained high levels of imported concentrate.

As ACCC Chairman, Professor Allan Fels, said, 'The ACCC takes seriously potentially misleading claims about a product's country of origin as many consumers place great importance on buying Australian products.'

What is 'substantially transformed'?

For goods to be 'substantially transformed' they must have undergone a fundamental change in form, appearance or nature so that they are new and different goods to those

existing before. This means that processes such as repackaging or mere assembly are not likely to qualify an imported good as 'Made in Australia'.

But it can be difficult to pick. For example, the ACCC decided, despite some legal opinion to the contrary, that substantial transformation occurs when tablets or capsules are made in Australia from imported ingredients. This decision, welcomed by the complementary health care industry, arose from a review of how the country of origin laws applied to the industry.

What are the costs of production?

Not only must goods be substantially transformed, but 50 per cent or more of the cost of their production or manufacture must have occurred here. To qualify, three broad categories of costs of production or manufacture are considered: the costs of materials, labour and overheads.

Material costs are usually easy to calculate. But labour and overheads only count towards the costs of the final goods.

How does 'Made in Australia' differ from 'Product of Australia'?

'Product of ...' is a premium claim about a good's origin, and the criteria to qualify for protection under the Act are much stricter. They are:

- each significant component or ingredient must originate from the country of the claim; and
- all, or virtually all, of the production processes must take place in Australia.

These criteria apply to any variations of the words, including 'produce of' and 'produced in', and they also apply to goods produced in any country, not just Australia.

In July 2000 the ACCC took Taj Food Sales Pty Limited to court for making false country of origin claims about its basmati rice. It had been importing basmati rice from Pakistan and packaging it in 1-kilo bags marked with the words 'Produce of India'.

Some consumers believe Indian basmati rice to be superior to that grown in other countries and it was this conception that the company was trying to exploit.

The Federal Court, where the case was heard, found that it had made these false claims. The company agreed not to do so again and published corrective newspaper advertisements offering refunds to consumers.

In another case the issue of what constitutes a 'significant ingredient' was raised. YBD Pty Ltd is a Victorian-based company that produces muesli slices and other related products. Many of its products were labelled as 'Product of Australia' and, in finer print, 'Made from local and imported ingredients'.

The imported ingredients were apricots, sultanas and coconut. The ACCC believed these constituted significant ingredients because they were the essential defining element of the product, rather than the main ingredient in terms of percentage.



The ACCC's new rural and regional program

The ACCC contacted the company, which agreed to remove the words 'Product of Australia' and replace them with 'Australian made Australian owned'.

Other claims are sometimes made

Some companies prefer to use more qualified claims so that they don't have to meet in full the 'substantial transformation' or '50 per cent content' tests for 'Made in Australia'. However, even for qualified claims, close attention should be paid to the wording. For example, if the imported content is greater than the local, the label should read 'Made in Australia from imported and local ingredients'. Or if the local content is greater, 'Made in Australia from local and imported ingredients'.

Other claims, if brought to the notice of the ACCC, will be assessed on their merits. They may try to imply a lesser connection with the country, for example, 'Built in ...' or 'Assembled in ...'. But if they are misleading they still run the risk of legal action by the ACCC, a competitor or any other interested party.

The ACCC is developing a program specifically to keep people in rural and regional Australia informed about their rights under the Trade Practices Act. It should mean they're better prepared to recognise anti-competitive practices and consumer protection issues.

Through its first Competing Fairly Forum (discussed below), the ACCC learned that many in these communities know nothing about the Act or the ACCC.

Over the next six months the ACCC will be working with rural and regional communities to identify relevant trade practices issues to help it better target the work of the program.

The ACCC already has an extensive network of contacts throughout all States and Territories that includes fair trading organisations, small business industry associations, local government, area consultative committees and business enterprise centres.

Communication with rural and regional communities is one of the key aims of the new program, so the ACCC will be hiring regional outreach officers in each of its regional offices and it will be their job to regularly visit communities to discuss trade practices issues and concerns.

They will build on the work the ACCC has already done with the satellite broadcasting of its Competing Fairly Forums, which give these communities the opportunity to participate directly with the ACCC's Chairman and

Commissioners, and other trade practices experts, and to have their concerns heard directly.

Two forums have been broadcast so far. The first in November 2000 discussed broad trade practices issues and went to 28 towns. The second, in May 2001, went to 62 and focused on the issue of unconscionable conduct — a topic participants in the first forum wanted more information about.

Future forum broadcasts will explore other trade practices issues relevant to rural and regional communities. Information on the forums can be found at the website <<http://www.forums.accc.gov.au>>.

The ACCC produces a wide range of information about its role and functions, and the Trade Practices Act. One publication directed specifically at the rural and regional sector is **Rural industry and the Trade Practices Act**. More, on topical issues, are planned. Videos are also planned, to add to one already available on unconscionable conduct.

The program will also target rural and regional press with advertisements and articles on trade practices issues.

For more information on the rural and regional program, call the ACCC infocentre on 1300 302 502.