



**CONSUMERS  
FEDERATION  
OF AUSTRALIA**

Developing and promoting  
the consumer interest

## Submission on the regulation of the export of organic products

February 2018

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Dear Brett

Thank you for the opportunity to provide a submission on the Department of Agriculture and Water Resources review into the regulation of the export of organic products.

Consumers Federation of Australia (CFA) is the peak national body for consumer organisations in Australia and plays an important role in ensuring consumer interests are represented in the development of Australian standards. In recognition of the importance of promoting consumer involvement in standardisation, Standards Australia provides an annual grant to facilitate participation by CFA representatives on Standards Australia committees through the CFA Standards Project.<sup>1</sup>

We suggest that the Review of a Standard for export of organic products should also consider Standards in the domestic market for organic products.

### Background

The organic industry has estimated the domestic market for “organics” in 2015 to be about \$1.4 billion<sup>2</sup>. The organic packaged food and beverage industry share of the total Australian domestic market was estimated to be about \$696m in 2016, an increase of 5.4% on 2015<sup>3</sup>. Once the preserve of specialist retailers, organic products are now widely sold by supermarkets and conventional food stores.

In Australia, organic certification is performed by several organisations that are accredited by the Department of Agriculture and Water Resources (DAWR), formerly the Australian Quarantine and Inspection Service (AQIS) under the *National Standard for Organic and Biodynamic Produce*<sup>4</sup> (referred to as the National Standard). Currently there are six registered DAWR accredited certifying bodies.

There is no mandatory requirement for certification of organic product sold domestically in Australia. The National Standard is thus basically an export standard. Many organic

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<sup>1</sup> See <http://consumersfederation.org.au/standards-2/>

<sup>2</sup> Australia Organic Report 2017 <https://user-cprcmgz.cld.bz/AOMR-2017-Web-File-Download/8>. It is unclear from this source whether the data relates only to produce / food and beverages, or also includes other organic products such as personal care and clothing products where the organic elements may not be produced in Australia but products are marketed here.

<sup>3</sup> Ibid

<sup>4</sup> National Standard for Organic and Bio-Dynamic Produce Edition 3.7 Last updated - 1 September 2016

businesses however choose to be certified by an organic certification body to underpin truth in labelling requirements and promote consumer confidence. The organic standards used in Australia are generally owned and managed by private organisations. Domestically marketed organic products are commonly certified by one of Australia's six private certifiers who base their certification standards on the National Standard used by DAWR for export certification.

The voluntary Standards Australia standard AS 6000-2015 *Organic and biodynamic products*, (AS 6000), was published in October 2009 and substantially amended in 2015 to facilitate practical and realistic management within the organic industry. Standards Australia developed the Australian Standard through a representative committee comprising organic certifiers and producers, retailers, manufacturers, consumer groups and government agencies. The Australian Standard was published with a certification standard MP100-2009, *Procedures for certification of organic and biodynamic products*<sup>5</sup>

The impetus for the AS 6000 was a decision of the Federal Court Judge, the Hon Justice Gray concerning an alleged misleading or deceptive representation that eggs were 'organic'. The ACCC had sought restraining orders by consent under the Trade Practices Act which would prevent the respondent, G O Drew Pty Ltd from supplying eggs that were labelled as 'organic' which were not organic. The ACCC had supported their view that the eggs were not organic because 'eggs labelled as organic' were different to eggs not so labelled, having regard to the chemicals, feed and other substances used in the production of eggs'.

Justice Gray stated 'attempts to overcome the lack of clear criteria by which it can be said eggs are, or are not, organic have been unsuccessful'. The judge found, in effect, at that time, the meaning of the description 'organic' was imprecise and there was no general agreement on precisely what inputs may be regarded as artificial or chemical and to be avoided in the production of organic foods.<sup>6</sup>

Currently DAWR accredit certifying organisations to use the National Standard for certifying clients for export purposes but it is not clear what standards are used when certifying produce and goods for the domestic market. Two certifiers - the National Association for Sustainable Agriculture (NASAA) and Australian Certified Organic (ACO) have their own standard, with ACO appearing to have two separate standards for the domestic market.

It is not clear which standard other certifiers use for the domestic market and none appear to use the AS 6000.

### Concerns for consumers

- **Consumer confidence**

When consumers choose to buy and eat organic products they should be able to have confidence that the product is genuine and complies with strict nationally uniform rules, notwithstanding that consumers generally pay more for organic products than conventional products. Currently in Australia there is confusion about the information and the 'organic' status of organic products available to consumers.

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<sup>5</sup> Dept. of Agriculture and Water Resources <http://www.agriculture.gov.au/ag-farm-food/food/organic-biodynamic>

<sup>6</sup> Federal Court of Australia Australian Competition and Consumer Commission v G O Drew Pty Ltd (2007) FCA 1246

Consumers often look to logos on product packaging for a quick indication of their contents concerning origin, health benefit, quality etc., but when it comes to organic certification in Australia there are at least six different logos and six different organic certifying organisations, which is confusing for consumers.<sup>7</sup>

Further some retailers and restaurants use the term 'organic' when only a small proportion of the products sold is organic. In addition to food other products (e.g. clothing, cosmetics) are sold as 'organic'. While the issues differ, it is important that these industries are included in the Review.

It is important that standards are of maximum benefit to the community as a whole. Standards add more value to the community when developed through a balanced committee of stakeholders, consensus agreement and transparency than standards developed by organisations that represent a particular group or interests

- **Transparency**

Organic standards used in Australia are generally owned and managed by several private organisations. In contrast with Standards Australia, we do not generally know who the stakeholders represent or the process involved in amending the *National Standard for Organic and Biodynamic Products* or others based on it.

The processes in developing the National Standard and certifier's standards, which are industry standards, raises consumer concerns about stakeholder representation and transparency as to who is actually developing the standards.

Certifying bodies auditing to, and interpreting their own standards, leaves considerable room for changes detrimental to the consumer. It is not clear from the certifying organisations' websites whether a third-party auditor such as JAZ-ANZ audits the certifiers

The Australian Standard AS 6000 was developed by Standards Australia under the strict development and engagement regime required by Standards Australia including consumer groups as stakeholders.

- **One Australian Standard**

There are a least four standards in use in the Australian domestic market not including AS 6000. Consumers would benefit if there was one standard which would focus suppliers, packers and certifying organisations on the one standard and define "organic".

In recommending one standard CFA acknowledges the need to establish a regime for organic products certified overseas and recognises the need to include a process to accept products that have been certified to a standard recognised and accredited by an official Government Agency.

One standard with consistent definitions and framework would support consumer confidence and assist regulators such as ACCC to take action.

Consumers may be misled that a product described as 'Organic' or 'Bio-dynamic' has gone through a vigorous auditing process to a recognised standard when in

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<sup>7</sup> <http://www.agriculture.gov.au/about/contactus/phone/aco>.

some instances little action has been taken to justify the status and at worst it is actually conventional produce.

- **Legislation**

Security of legislation would provide consumer confidence. In the US and the EU there are strict rules and the organic standards describe the specific requirements that must be verified by an accredited certifying agent before products can be labelled e.g. USDA organic.

Lack of regulation in Australia means there is very little protection for Australian consumers as what genuine 'organic' product is and what is not.

**Special cases**

Notwithstanding the above we note that there may be some internationally traded product categories where there are widely accepted international standards that should be recognised without alteration or additional regulatory burden. One example may be the Global Organic Textile Standard recognised by the USDA among others. Australian regulatory action should not create any barriers to consumer access to GOTS certified textile products.

**Conclusion**

Consumers Federation of Australia welcomes the review of the regulations involving organic exports and encourages the Review Team also to consider the domestic organic market and consumers. We urge the review to consider the value of one standard developed by a balance of stakeholder interests.

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