

# Complementary Healthcare Sector and Country of Origin Labelling Taskforce

## Terms of Reference

### 1. Background

The purpose of the Complementary Healthcare Sector Country of Origin Labelling (CoOL) Taskforce (the Taskforce) is to examine concerns raised by the Complementary Healthcare Sector (the Sector) about changes to the use of the 'Australian Made, Australian Grown' (AMAG) logo, and investigate options that may address these concerns while maintaining consumer confidence in the authenticity of 'Made in Australia' claims.

The Sector reports that a rapid increase in international sales of vitamins, minerals and supplements has led to greater domestic investment and job creation. The Sector has identified that claiming Australian origin and using the AMAG logo is a key marketing advantage when selling into both domestic and export markets.

The overall sector revenue is reported by industry as \$4.9 billion in 2017 across 82 Australian-based manufacturers. Industry representatives say that if a significant reduction in sales occurs in export markets, impacts could include reduced employment and growth in the sector.

The AMAG logo is licensed to industry by Australian Made Campaign Limited (AMCL) in accordance with the Deed of Assignment between the Commonwealth of Australia and AMCL and the AMAG Logo Code of Practice (certified trade mark rules). The AMAG logo can only be licensed for products that are consistent with Australian Consumer Law (ACL) safe harbour defences.

The February 2017 changes to the substantial transformation test under the ACL, meant for claims of 'Made in Australia' to qualify for the relevant ACL safe harbour defences, a new product with imported ingredients needs to be fundamentally different in identity, nature or essential character from the imported ingredients.

The Australian Competition and Consumer Commission's (ACCC) guide to the Sector in March 2018 outlined a number of production scenarios that the ACCC considers likely to either meet or not meet safe harbour defences. The Sector is concerned that many of its products will not meet the ACCC's interpretation of substantial transformation and therefore will not be allowed to use the AMAG logo.

### 2. Purpose

The Taskforce will consider and assess reported impacts on the Sector of the changes to the substantial transformation test under the ACL. Both industry and consumer interests will be considered in this process.

### **3. Scope**

The Taskforce shall:

1. Assess how the current CoOL policy framework, including ACCC guidance regarding the substantial transformation test, interacts with the complementary healthcare sector. This shall include reporting on industry concerns about how this policy and guidance may be impacting upon business decisions within both the Sector, and AMCL in licensing use of the AMAG logo.
2. Assess the commercial impacts of the current substantial transformation test under the ACL on the complementary healthcare sector regarding products generally referred to as vitamins, minerals and supplements.
3. Assess Australian consumer expectations relating to suggested changes by the Sector regarding rules governing the use of the AMAG logo. This will include consideration of impacts on consumer choices in purchasing products, and the need to protect and ensure the integrity of Australian made claims and the AMAG logo.
4. Give consideration to broader market or industry impacts regarding CoOL and AMAG logo use beyond the complementary healthcare sector.
5. Identify appropriate next steps for responding to the Sector's concerns

### **4. Membership**

The Taskforce will comprise representatives from the:

1. Department of Industry, Innovation and Science;
2. Department of the Prime Minister and Cabinet;
3. Treasury;
4. Department of Foreign Affairs and Trade/ AusTrade;
5. Department of Agriculture and Water Resources;
6. Therapeutic Goods Administration;
7. Department of Health; and
8. Australian Competition and Consumer Commission.

In conducting its activities the Taskforce will consult with:

- Relevant State Government agencies;
- Complementary Medicines Australia;
- manufacturers within the complementary healthcare sector;
- other industry stakeholders with an interest in 'Made in Australia' claims
- consumer organisations;
- Australia Made Campaign Ltd; and
- other agencies and/or stakeholders as required.

### **5. Operations**

The Taskforce:

1. Will meet as required. If required, members can ask the chair to hold additional meetings, providing at least two weeks' notice is given.

2. Will meet via teleconference with the option to meet in person if appropriate. Members may (on agreement with the Chair) undertake work out-of-session to inform and support the deliberations of the Taskforce.

The Department of Industry will provide the Chair and Secretariat for the Taskforce.

Members will contribute professional knowledge and expertise to discussions of the Taskforce.

Members may be requested to contribute data to establish an evidence base for the Taskforce to consider options.

Some sales, employment or marketing data (or other commercial information) relevant to Taskforce deliberations may be commercial-in-confidence. The Taskforce will seek advice as appropriate to manage the confidentiality of data provided to the group.

The Taskforce may draw upon the expertise of non-members to inform the discussions of the group on an ad-hoc basis. The Chair will consider and approve such requests.

The Chair will consider for approval requests for the attendance of non-members (outside of the Secretariat) at Taskforce meetings.

## **6. Deliverables**

The Taskforce shall provide Government with a report addressing each of the issues identified for examination within scope for the Taskforce.

The Taskforce will provide advice to Government by the end February 2019.

## **7. Review and reporting**

Members of the Taskforce will have scope to review and comment on the final report. The final report will be delivered to the Minister for the Department of Industry, Innovation and Science and the Assistant Treasurer.