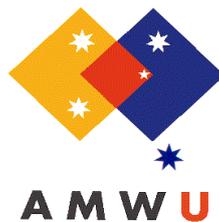


Australian Manufacturing Workers' Union

Submission

Green paper to inform the development of a
National Food Plan

September 2012



1. Introduction

The “Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union”, known as the Australian Manufacturing Workers’ Union (AMWU), welcomes the opportunity to make submissions in response to the National Food Plan Green Paper 2012.

The AMWU represents approximately 100,000 members working across major sectors of the Australian economy. AMWU members are primarily based in the manufacturing industries, in particular food and metal manufacturing, but are also present in large numbers in the industries of mining, building and construction, printing and graphic arts, vehicle manufacture, repair and service, aircraft and airline operations, and laboratory and technical services. This submission concentrates on a several matters contained in the green paper which are of central concern to the AMWU and its members.

For convenience, this submission will deal with the issues raised in the paper in (roughly) the order of the green paper’s chapters. However, as will be seen, many of the issues addressed in the green paper are inextricably linked as they all come back to our essential concern, which is the importance of maintaining and expanding local food manufacturing capability in Australia. Jobs are being shed as Australian food manufacturers are facing a confluence of cyclical, structural and global pressures.

2. Policy Framework

The AMWU considers that, by and large, the National Food Plan is a positive initiative and the overall approach to food policy adopted is appropriate. As stated above, the challenges facing the food industry are interconnected and it is appropriate to adopt a holistic approach when mapping out the future direction of the industry, examining land use, horticulture, processing, safety and quality, security and access.

The AMWU broadly supports the proposed outcomes and objectives outlined in the green paper. Specifically, we would be supportive of the merits of increased engagement with states and territories through COAG on food-related policy. Equally, we would support the periodic publishing of “State of the Food System” reports to monitor and evaluate industry performance. We would envision that such a report would track movements in all the areas covered in the Plan, including company and employment figures, import/export trade balance, trade barriers, competition levels in retail, biosecurity matters, foreign land ownership and arable land mass, skill development, R&D investment and private label sales. We would consider that significant movements in any of the

identified areas would trigger a review of the National Food Plan, in addition to a periodic review every five years.

That being said, there are grounds for policy responses to be implemented now to address the immediate pressures faced by Australian manufacturers to ensure manufacturing capabilities are sustained, reduce the risk of job losses and allow Australia to take advantage of emerging opportunities. This paper makes 20 recommendations for these policy responses.

3. Food security

As a general proposition, the AMWU accepts the characterisation of Australia as a food secure nation. However, there are a number of long-term challenges to this security, in particular with regard to competitiveness and productivity, which will be highlighted in this submission and need to be addressed as a priority in the development of any National Food Plan. These challenges are well-recognised and include:

- low cost imports driven, in part, by the high Australian dollar;
- a hostile domestic market, including the growth of private label brands;
- insufficient innovation and R&D;
- insufficient investment in skills;
- insufficient infrastructure; and
- trade barriers.

The danger in not taking action on these issues is that Australia may lose the capacity to be a self-sustaining food nation.

4. Safe and nutritious food

The high quality of Australian food, ensured by our produce standards and backed by the rigor of our food testing regime, is one of our greatest competitive advantages. However, weak labelling laws, the downward market pressures imposed by the supermarket “duopoly”, the increasing dominance of private label brands and lopsided regulatory standards for imported food (all discussed below) threaten the quality of Australian food and the competitiveness of the local food industry. In this sense the security and safety of Australian food and the long term prospects for the food industry are interconnected issues.

The AMWU believes that reform of labelling laws is an essential step to ensure the safety of Australian food and to enhance competition in the food industry by empowering consumers. Due to

the high reputation of Australian food quality, many domestic consumers use Country of Origin labelling (CoOL) as a surrogate for food safety and health information.¹ As we outlined in greater detail in our submission to the *Select Committee on Australia's Food Processing Sector* in October 2011, Australia's current CoOL creates confusion for consumers and can often be misleading as to where produce has been grown and/or processed, especially in the case of some private label products whose country of origin has been known to change over time (see below).

As the green paper noted, Australian food is recognised internationally as being of a high standard. Part of the challenge of the Australian food manufacturing industry in the coming years will be to find a point of difference to more effectively take advantage of our proximity to the emerging Asian markets. CoOL needs to be very clear to ensure we are utilising the competitive advantage provided by the international reputation of our food in the international market place as well as domestically.

Recommendation 1: We note the green paper's reference to the 2011 report *Labelling Logic: Review of Food Labelling Law and Policy* and we reiterate our position that the government ought to take immediate steps to implement Recommendations 40-43 of that report to make CoOL laws clearer so consumers can make informed choices about the food they purchase and support Australian jobs.

5. Innovation

The green paper correctly identifies innovation and research and development (R&D) as being central to raising productivity and ensuring Australia's long term food security. It has been recognised that in recent decades the resources boom has masked the fact that R&D investment in manufacturing has been neglected resulting in productivity decline and the erosion of our global competitiveness.² The AMWU notes the current initiatives identified in the green paper for encouraging and assisting industry participants, but this remains – as the paper acknowledges – fractured and with low rates of penetration, particularly amongst regional SMEs, who make up the vast majority of the food processing industry.

The small scale and remoteness of Australian food manufacturing presents a challenge to work designed to lift innovation. The Non-Government Members of the Prime Minister's Manufacturing Taskforce suggest that any policy approach with regard to R&D and innovation in the sector should

¹ *Labelling Logic: Review of Food Labelling Law and Policy* (2011) at p 107.

² Prime Minister's Manufacturing Taskforce, *Report of the Non-Government Members*, August 2012, at p 9.

focus on applied knowledge that is “primarily about adopting and adapting ideas, rather than inventing new-to-the-world scientific breakthroughs”.³ The ability to collaborate with and absorb the knowledge of others is crucial to the success of such a program. A cultural change is required to embrace collaboration and innovation. The Productivity Commission has found that Australia trails its peers in the key areas of management and creativity – skills which are critical to absorb and apply knowledge. “Organisations need people who can develop new and better ways of doing things, including through adopting and adapting existing knowledge and technologies.”⁴ Policy needs to focus on the need to lift management and leadership skills to be able to collaborate effectively.

We believe that initiatives along the lines of the Enterprise Connect Food Processing Industry Support Network and the proposed National Food Hub, which provide a focal point for innovation and R&D in food processing and create linkages between industry, research and education, offer an opportunity to think about innovation and R&D in the manufacturing industry in a different way. These initiatives allow SMEs to leverage off the position of larger firms to access global supply chains and benefit from the engineering expertise of larger manufacturers.⁵ It has been suggested that in addition to technological innovation, R&D hubs could also act as a source for SMEs to gain and share knowledge of management best practice. Moreover, it provides an opportunity to create access to trends in emerging markets which will be crucial to the success of Australian food manufacturing in the Asian Century and hence the long term security of Australian food. Similar initiatives are already well-advanced in other nations, including in the Asian region, meaning there is a degree of urgency to ensure Australia does not fall further behind its global competitors.

The implementation of such initiatives would necessarily incorporate appropriate safeguards for protection of intellectual property. There is a view that innovation within the food processing industry is stymied by the risk of innovations being stolen by competitors. Specifically, where major grocery retailers who are also de facto manufacturers of their own private label brands insist on their suppliers sharing IP in new product design as a condition of the supply contract, there is a risk created to the IP of the supplier. Reports of retailers then launching similar products through their private labels are being investigated by the ACCC. Any collaborative schemes would need to have

³Ibid, at p 37.

⁴ Productivity Commission, *Australia’s Productivity Performance: Submission to the House of Representatives Standing Committee on Economics* (2009), at p 44.

⁵ *Report of the Non-Government Members*, at p 43.

built into them appropriate rules of collaboration to protect the interests of producers in order to encourage participation.

Recommendation 2: Government investment in the field of innovation should focus on initiatives which emphasise collaborative approaches to applied knowledge, including the upgrading of Enterprise Connect.

Recommendation 3: Government must invest in a management skills scheme to enhance the capacity of SMEs to engage in effective collaboration.

Recommendation 4: Government should take an active role in promoting participation in R&D and innovation programs.

Recommendation 5: Government should ensure through appropriate regulatory mechanisms that the IP of participants in R&D and innovation programs is protected.

6. Education, labour and skills

A skilled workforce fuels innovation and drives productivity, which is fundamental to improving Australia's competitiveness. There is much more work that needs to be done in promoting the training and career opportunities available in the food processing industry – particularly for young workers. Retention of skilled employees and systematic effective training for current employees is equally important, which means an emphasis on management practices that promote employee engagement and participation and effective skill utilisation. It is important that training and career opportunities in food do not only focus on the minority graduate positions such as food technology and engineering, although these are indeed important, but on the increased implementation of VET training within the industry for processing employees. The rewards of a highly skilled, productive and qualified workforce are greatly underestimated. There needs to be more information and assistance available to encourage and enable food manufacturers to access this training and utilise it correctly to not only improve business but achieve industry qualifications for their employees.

Surveys show a general weakness in people management in Australian manufacturing firms, particularly in key areas such as instilling a “talent mindset” i.e. ensuring attraction, retention and development of talent is prioritised.”⁶ A shared commitment is needed to a cultural change that will allow Australian manufacturing firms to become high performing work places.

⁶ Ibid, at p 52.

Whilst acknowledging the difficulties faced by the industry of attracting workers with appropriate high level skills in some areas, particularly in agriculture, horticulture, food science, technology and engineering, the green paper indicates that the role of improving the “image” of the industry lies with the industry itself. We believe that all stakeholders – including the government - have a role to play to advertise and promote the training and career opportunities that presently exist, particularly VET, as well as encouraging the take-up of good management practices and training.

The AMWU cautions against changes to migration programs to address unmet skilled and unskilled labour demands. The AMWU does not accept that there is a shortage of either skilled or unskilled labour at the production level across the food processing sector, particularly as full time positions are gradually declining due to changes in technology and the contraction of the industry. The failure of the industry to consistently and properly implement VET for their workforce at the same time it is supporting migration policies on the basis of “skill shortages” needs to be addressed.

Whilst stating that “training and employment of Australians remains the government’s priority” the green paper provides limited insight into how this commitment will be given effect, e.g. through retraining and reskilling programs, improving access and implementation of VET, introducing Jobs Boards or encouraging traineeships/apprenticeships. It is the strong view of the AMWU that any reform agenda relating to migration programs in this area should have as its primary purpose the prioritisation of local labour to meet demands and we call for further detail from the government about how this is currently being achieved before any regulatory changes are proposed.

- Recommendation 6: Creation of a management skills program to build a culture in food manufacturing workplaces that prioritises the attraction and retention of talent and the provision of training opportunities.
- Recommendation 7: Investment in skills programs and an overhaul of the Industry Skills Council to ensure workers are trained in the skills that they and the industry need.
- Recommendation 8: Promotional activities, including targeted regional roadshows in areas of high youth unemployment and online resources to encourage young people, in particular, to enter the industry.
- Recommendation 9: Creation of a Jobs Board to ensure local labour is exhausted before turning to migrant labour to meet skills shortages.

7. Business regulation

The AMWU supports moves to reduce any unnecessary burden to industry imposed by regulation within certain, clearly articulated parameters. The multi-tiered and complex regulatory landscape in the Australian food industry creates a barrier to competition for local manufacturers whose competitors in the international market are not subject to such stringent regulations. The burden falls even more heavily on SMEs who have comparatively fewer resources to devote to compliance as compared with their multinational competitors.

Having said this, any review of changes to existing regulations should be carefully balanced against the need to meet the highest standards. Regulations protecting the environment, food safety and quarantine should not be removed or relaxed in the push for perceived greater efficiency if the result would be an overall reduction in standards. With regard to the specific questions asked in the green paper, we would be supportive of establishing an evidence base to provide for qualitative research which would allow for *considered* changes to regulation. If regulations concerning food *are* to be looked into then the focus should be on food that is coming into Australia. Put simply, the quality and testing standards that apply to food grown in Australia should apply equally to food coming into Australia. Currently this is not the case - to the detriment of our domestic growers and processors.

<p><u>Recommendation 10:</u> The Government pursue with its trading partners and through the WTO an agreed approach to food quality, testing and labelling that reflects best practice.</p>

8. Competition

As was detailed extensively in our previous submission to the Select Committee, Australia has one of the most concentrated food retail markets in the world, with the two major grocery retailers (MGRs) Coles and Woolworths, controlling as much as 80% of the market. This market share – which has increased from 50% in the early 1990s - continues to grow through acquisitions, despite the entry of new players into the market. The market power of the duopoly means they are able to set prices and dictate contractual terms to suppliers. The so-called “price wars” between the two MGRs have seen many suppliers exit the market due to margin pressures exerted by the retailers, who in many cases have moved to cheaper offshore suppliers for their private label brands (see below). At the same time, in announcing his investigation into the potential abuse of market power by Coles and Woolworths late last year, Federal Industry Minister Senator Kim Carr relayed allegations of abuses ranging from auctioning of shelf-space (known as “cliffing”), to the deduction of arbitrary costs for

stock handling services, to the rescinding of contracts mid term and expensive and unexpected changes to product specifications or requirements, such as packaging and destruction of intellectual property.

The view from the industry is clear: “The reality is with two key customers there has become an inhospitable environment for grocery manufacturers... We've seen our margins squeezed as the pressure comes on.”⁷ Additionally, the two supermarket giants also have substantial interests in the following areas: general retail, liquor, consumer electronics, home improvement, petrol, office supplies, hotels, gaming, pharmaceuticals, chemicals and resources and are also looking to expand into other industries and overseas markets.

Past governments have recognised that a market where there are so few players is not conducive to healthy competition and have acted accordingly in the fields of telecommunications and finance. The AMWU supports any reforms which would increase the powers of the ACCC to stop “creeping acquisitions” that have allowed this unhealthy level of market dominance.

As we have also previously submitted in detail, Coles and Woolworths are not just retailers; they manufacture their own private label brands in direct competition with independent brand manufacturers, placing further pressure on the margins of independents and, often, displacing them from premium shelf space. Private labels continue to increase their market share – from 15% to 25% of total supermarket sales in the last 10 years. And the two MGRs are open about their intention to continue to increase the sale of their private labels. Based on international examples, particularly the UK where private label sales make up around 50% of total supermarket sales, there is every reason to assume that comparable penetration rates could be met in Australia in the not-too-distant future.⁸

As noted above, in the push for increased profit margins, Coles and Woolworths are increasingly sourcing their produce from international suppliers taking advantage of lax CoOL laws to source cheaper produce from countries with less restrictive (i.e. less costly) food quality regulation. A recent

⁷ Arthur Winkleblack, CFO and Executive Vice President, H.J. Heinz Co., quoted in *The Sydney Morning Herald*, 30 August 2011.

⁸ Australian Food and Grocery Council, *2020: Industry at the Crossroads* (2011), at p 18.

Choice consumer survey found that only 38% of Woolworths and 55% of Coles private branded products were made in Australia, as compared with 92% of the market-leading branded products.⁹ In fact there is a direct correlation between the increase in private label share of supermarket sales and increasing imports.

Local manufacturers are struggling to compete with cheap local imports and are being forced out of the private label supply market. Meanwhile, the competition from those products against their own branded products increases. Combined with the abusive practices such as “cliffing”, the net effect is a hostile market place for independent producers.

The problems with the duopoly are well-recognised, having been repeatedly established across various inquiries and investigations over many years. The time for action on this matter is long overdue.

The CoOL reforms mentioned previously in regard to food safety would be an immediate and practical measure to enhance competition. Any modifications to the labelling regime in respect of country of origin would not present a huge cost impost to the vast majority of processors who predominantly source locally. However, given that nearly 60% of Australians say they look for Australian-made labelling when they purchase a product for the first time, it would give back some degree of competitive advantage to local manufacturers who use local produce when private label brands must make it abundantly clear where their food predominantly originates from.

The AMWU is not convinced that changes to the Produce and Grocery Industry Code of Conduct are an appropriate response to the competition issues which have been raised over a long period of time. The Code is not widely recognised or understood in the industry, its terms are unenforceable and its voluntary nature allows participants to opt in and out at will. For such a Code to have any potential impact it would need to be mandatory and form part of the consumer and competition law framework, with breaches subject to prosecution.

There are a number of complementary regulatory approaches available to the government, whether it be the formation of an industry Ombudsman or a non-legal administrative service along the lines of the state Civil and Administrative Tribunals. While the forthcoming report by the ACCC into its

⁹ *Australian Financial Review*, 6 September, 2012, at p 7.

investigation of the duopoly’s alleged abuse of market power may provide critical information about how best to deal with the issue, the AMWU calls for reforms aimed at enhancing the provisions of the *Competition and Consumer Act 2010* (Cth) to deal with the misuse of market power. Such legislation would need to include powers to compel evidence, civil and criminal penalties, powers to order divestment, and the strengthening of the s162A protections for complainants to protect suppliers from commercial retribution.

Recommendation 11: Amendment of the *Competition and Consumer Act 2010* (Cth) to give the ACCC greater scope to address the issue of so-called “creeping acquisitions” in the grocery retail sector.

Recommendations 12: Incorporate the PGICC into legislation, making compliance mandatory and non-compliance subject to prosecution.

Recommendation 13: Consider the creation of a separate body responsible for the oversight of the food and grocery sector, incorporating a complaints mechanism, investigative powers and a non-legal dispute resolution process.

Recommendation 14: Amend the *Competition and Consumer Act 2012* (Cth) to strengthen the ACCC’s powers in the areas of evidence, penalties and protections for complainants.

9. Infrastructure

The remoteness of the Australian food manufacturing industry has always been a challenge to productivity and global competitiveness. Food manufacturing in Australia is a predominantly regional activity due in part to the need for proximity to the raw materials required for production. Targeted investment in infrastructure in the form of transportation and provision of services to regional communities is crucial to ensuring the growth of food manufacturing and allowing the industry to take advantage of the opportunities posed by our proximity to the emerging Asian markets. The AMWU supports evidence-based infrastructure planning to ensure public and private resources are invested appropriately, efficiently and expeditiously. We also support calls to bring forward “shovel ready” infrastructure projects to alleviate some of the immediate pressures on manufacturers with restricted market access. This means not just providing the infrastructure but giving companies the capacity to capitalise on opportunities. For example, the rollout of the National Broadband Network opens up new means to gain access to foreign markets, but SMEs in particular need support to understand and utilise this capacity.¹⁰

¹⁰ *Report of the Non-Government Members*, at p 64.

Recommendation 15: Investment in infrastructure projects targeting at food transportation and supporting regional communities where food manufacturing is concentrated.

Recommendation 16: Food-specific initiatives to ensure ICT proficiency in the sector to take advantage of the opportunities provided by the rollout of the NBN.

10. Trade

The AMWU reiterates the concerns raised in its submission to the Select Committee about the difficulties faced by Australian food producers in exporting to foreign countries. The unprecedentedly high Australian dollar, combined with lopsided trade agreements wherein trading partners have not met the Australian reductions in tariffs and burdensome, behind-border controls are maintained or introduced, lead to an uneven playing field which disadvantages local manufacturers. In addition to these challenges, Australian food processors are doubly disadvantaged as they are forced to simultaneously compete with cheap imports in the domestic market.

The AMWU calls on the government to detail what it is doing to defend Australia's food processing industry against unfair trading practices. In what ways has it exercised its rights in the WTO to reduce the impediments faced by local producers?

With regard to the proposed review of biosecurity legislation outlined in the green paper, (specifically, the review of the *Imported Food Control Act* and subordinate export regulation) we reiterate the concerns articulated earlier in this paper that quality standards should not be allowed to fall simply because a regulatory regime is perceived as burdensome. We do not accept the view which is regularly articulated by the free trade lobby that our quarantine laws are a form of trade barrier. Quarantine laws preserve the safety and security of our food, contribute to its high quality, and protect our food industry from being decimated by exotic pests and diseases. If anything, the rigorous testing regime that applies to Australian food should also be applied to imported products. This would ensure the safety and security of our food and level the playing field for Australian producers.

We raised a particular example of this inequity in our submission to the Select Committee and we are very concerned that the issue appears to have been ignored, with repeated references throughout the green paper to the Food Standards Code, part of the Trans-Tasman Mutual Recognition Arrangement (TTMRA) with New Zealand, as an example of an efficient and effective

trade arrangement. The TTMRA allows New Zealand to opt out of any of the standards which form the Code under prescribed conditions, and the CoOL standard is an area where they have chosen to exercise this power. As we explained at length in that submission, unlike Australia, there is no mandatory requirement for CoOL on food in New Zealand, and the effect of New Zealand’s decision to opt out is that goods can be imported then packaged in New Zealand, then come into Australia bearing a “Product of New Zealand” label. In effect, this allows foreign produce to be imported to Australia by stealth, creating a risk to food safety and unfair competition for local manufacturers. As was recommended in the *Labelling Logic* report, this loophole needs to be closed.¹¹ This could be addressed through a number of the previous recommendations such as better CoOL, advocacy for improved international standards in food regulation, and fairer trade arrangements.

Recommendation 17: The AMWU calls on the government to adopt a reporting model similar to that used by the Office of the United States Trade Representative to publish annual accounts of the tariff regimes, including behind-border tariffs, of all its trading partners.

Recommendation 18: We call on the government to take a stronger stance with its trading partners and in the WTO in regard to the reduction of tariffs and elimination of behind border controls which disadvantage Australian food exporters.

Recommendation 19: The government should expand its testing regime to apply the same rigorous system of checks on imported food as it does to domestic produce.

Recommendation 20: The “opt out” provision in the TTMRA should be amended to align Trans-Tasman CoOL regulations to the highest standard.

11. Closing

The development of a National Food Plan presents an opportunity to address the challenges facing the Australian food industry from a multitude of angles. It is the view of the AMWU that it is essential to take the actions described in this submission in order to ensure that the Australian food manufacturing industry survives and thrives and jobs in the industry are protected.

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AMWU

¹¹ *Labelling Logic*, 107.