

# AUSTRALIAN MANUFACTURING WORKERS' UNION

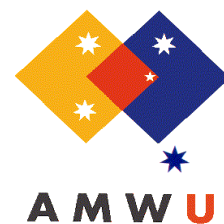
Submission

Issues paper to inform development of a national food plan

August/September 2011

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## Introduction

1. 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 *Issues paper to inform development of a national food plan*.
2. The AMWU represents approximately 110,000 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 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.
3. Whilst acknowledging the very positive fact that the Government is focusing some attention on the issue food within the nation, the AMWU has concerns that the inquiry is so wide ranging and broad that no action of any real worth or merit will be undertaken – we hope those concerns prove to be unfounded. This submission concentrates on a few areas of central concern to the AMWU which are raised in the Issues Paper.
4. The AMWU views questions 3 & 4 as being of primary importance. For reasons that will become apparent they are dealt with together. They are extracted here for convenience:
  3. What do you see as the major risks to Australia’s food supply in the coming years and decades? How could they be avoided or managed more effectively?
  4. What does food security mean to you? How would this be achieved? How would we know if/when we are food secure?
5. One of the major risks is making sure that there are enough raw materials grown in Australia. The issues facing the horticultural industry need to be dealt with. This means making sure that there is enough land available and that good agricultural and horticultural land is not sold off for other purposes. Planning laws need to be able to take this into account. There needs to be some Government (ministerial) accountability in relation to this.

6. Australia has control of its own food chain for now. The capacity to grow, manufacture, process and deliver enough food to feed the population of Australia, and which is safe to eat has been a reality in this country for a long time. Some might argue that provided the food you eat is safe it does not matter where it comes from. However, the AMWU believes that the preferable view is, if you do not have the capacity to grow enough food within your own country to feed the whole population then you are not secure because you are dependent on others to supply you with food. The question then arises what if, for whatever reason (for example those you become dependent on decide to feed their own people first) they no longer wish, or are able to supply you, what do you do?
7. The Australian Government needs to provide assistance to growers; to assist them to improve efficiencies of supplies and also to support processors. As a country we need to retain enough primary producers to supply the processors to supply the population. This submission discusses below what the main threats to our domestic suppliers, processors or manufacturers and producers are, but it must also be recognised that large scale selling of horticultural land to foreign interests is a matter of concern, and should not be dismissed as simply being a breach of our free trade obligations or a xenophobic knee jerk reaction. It is legitimate to ask questions such as, Why are we selling so much of our grazing land to China, complete with herds and abattoirs? Why are we selling so much of our wheat producing land and so much of our land used for dairy to Japan?
8. A company does not need to own the land in order to own an abattoir or a dairy herd. National Foods for example do not own the land, but that does not stop them from producing milk for the Australian market. Once land is bought up and it is used to supply overseas markets it reduces the ability of local food processors to find suppliers. We are at risk of losing food security. At the present rate, this is something which is not going to occur in 100 years it will probably only take 20 or 30 years.
9. The loss of a viable food processing industry in Australia constitutes a major threat to Australia's food supply. The issues which are causing the food processing industry to decline need to be addressed as a matter of urgency if the industry, and by extension food security, is to remain and be maintained. The threat to the processing industry if not checked soon may ultimately lead to the disappearance of the food processing

industry on any meaningful scale.

10. As with manufacturing generally, the high value of the Australian dollar is a major impediment to industry participants, especially in respect of exports. The AMWU recognises that there is little that industry participants can do about that when the dollar is floating on the international exchange markets and its high value is simply a reflection of factors such as the nation's wider economic strength, commodity prices, and demand from countries in the region such as China, India and Japan. However, it is the common experience of many food-processing exporters that there are difficulties in Australia accessing export markets for food which Australia produces in particular the tariffs imposed on imports in Europe, Japan and the United States. Australian food processors and producers fundamentally produce for the Australian market, which means that they are then at the mercy of the 'duopoly' (the major grocery retailers, Coles and Woolworths).

### **The Grocery Retailing Duopoly**

11. Ending the current duopoly's stranglehold would be the single greatest action that the Government could take that would benefit food consumers. A market is not a healthy competitive market where there is domination by so few players. Past governments have recognised this and acted accordingly in the fields of telecommunications and finance. The food industry, if anything, is even more vital to the interests of Australians and the same principles need to be applied and enforced in the retail grocery market, where it is acknowledged that the big two own or control 80% of the market. According to a 2007 report by PricewaterhouseCoopers, 'Australia has one of the most concentrated grocery markets internationally. The dominance of the major grocery retailers (MGRs) is clearly established with the market share of the top two MGRs being approximately 78-79%.<sup>1</sup> In the recent judgment considering whether the share acquisition in the grocery industry of Franklin's wholesale distribution business by Metcash would contravene s 50 of the Competition and Consumer Act 2010 Emmett J found at paragraph 239 that, 'Woolworths and Coles have approximately 80 per cent of the national grocery market share.'<sup>2</sup>
12. The Government and various governmental bodies need to recognise that the duopoly

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<sup>1</sup> *The economic contribution of small to medium-sized grocery retailers to the Australian economy, with a particular focus on Western Australia* prepared by PwC for the National Association of Retail Grocers of Australia ("NARGA") 2007.

<sup>2</sup> *Australian Competition and Consumer Commission v Metcash Trading Limited* [2011] FCA 967.

control the market and that access to the market is restricted. The common argument that the current domestic market situation is all about competition and if you are unable to successfully compete in the competitive domestic market it must be because your company is not as efficient or competitive is disingenuous. Coles and Woolworths set the price; other industry participants have to take that price. In its July 2008 report into the competitiveness of retail prices for standard groceries the ACCC recognised that 'there is some evidence of strong price competition,'<sup>3</sup> but formed the view that though there might be periods of competition, these periods would be short lived and ultimately, 'both chains are unlikely to initiate greater price competition because this would have the effect of giving up substantial benefits associated with the prevailing price behaviour.'<sup>4</sup>

13. The practice is potentially a restrictive trade practice. It was acknowledged in the ACCC pricing report that employees from the Coles and Woolworths groups commonly enter each other's premises to see what goods are on sale at reduced prices. 'In many cases retailers are aware of changes in the prices offered by competing retailers even before many consumers are aware.'<sup>5</sup> The result is that a basket of groceries purchased at either Coles or Woolworths will contain essentially the same brands and products at essentially the same price.
14. If, as is currently the case, people who control the market are putting their own private label products into the market that they control, they are not putting them in there on the basis that they are better or cheaper; they are putting them in there because they can. There is no real competition with own label goods when it is the supermarkets, who are purchasing and selling their own label goods, who are the ones controlling the market. It is not fair competition. Coles and Woolworths are not generally thought of in terms of being food processors, but through their use of their private brands they are in effect, if not in name, major processors. According to a report in the business section of the Sydney Morning Herald on 30 August 2011:

Addressing a briefing of US analysts to discuss the company's first-quarter earnings, the chief financial officer and executive vice-president [of Heinz], Arthur Winkleblack, singled out the Australian

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<sup>3</sup> *Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries*, July 2008, at p94.

<sup>4</sup> *Ibid* at p104.

<sup>5</sup> *Ibid* at p99.

supermarket sector as difficult, laying the blame for an erosion of its margins at the feet of the two biggest players.

“This is, as many of our peers have talked about, a very difficult environment,” Mr Winkleblack said.

“The reality is with two key customers there has become an inhospitable environment for grocery manufacturers. With it being such difficult market, we're going to take the measures ... to address that. We've seen our margins squeezed as the pressure comes on.”

In June, the Heinz chief executive, Bill Johnson, labelled Australia as the “worst market” where shoppers would be the “biggest losers” from a decision to strip out branded products.

15. The AMWU is convinced that if a large multinational manufacturer, such as Coca-Cola or Heinz, wanted to make a share acquisition of either Coles or Woolworths there would be calls of outrage from the ACCC and other parties about the multinational having an unfair advantage over their competitors. But this is exactly what Coles and Woolworths are doing. They do not own a single factory or employ a single person; they produce their private labels through the use of contractors. Essentially they are no different from any other manufacturer. Other manufacturers might use third party contractors to supply them with products from time to time, but in so doing it does not mean that they are any less of a manufacturer or processor. The same scenario when applied to Coles and Woolworths results in their different treatment when it should not; they are not recognised as being a processor or manufacturer and also selling their own goods in a market they control. This does not give their competitors, namely all the other processors, a “fair go”.
16. A similar view of Coles and Woolworths can be taken in respect of wholesalers in the grocery market. Although Coles and Woolworths may be termed as, or considered to be, retailers who are ‘self-supplying supermarket chains’<sup>6</sup> their operations, due to their size and reach are of vital importance when considering the notion of the market in wholesale grocery distribution industry<sup>7</sup>. It was recognised in the *ACCC v Metcash*

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<sup>6</sup> *Australian Competition and Consumer Commission v Metcash Trading Limited* [2011] FCA 967 para 4.

<sup>7</sup> However, it should be noted that in Tasmania, Woolworths operates a joint venture wholesale business called Statewide Independent Wholesalers Ltd with Tasmanian Independent Retailers.

case<sup>8</sup> that:

The grocery industry is characterised by a high degree of vertical integration in the distribution supply chain. The major supermarket chains are wholly vertically integrated. Metcash and Franklins are vertically integrated to a lesser, but still significant, extent. Metcash has extensive integration downstream, at the retail level, by way of contracts, and Franklins has extensive integration upstream, at the wholesale level, also by way of contracts. Accordingly, constraints arising from competition at the retail level between independent retailers supplied by Metcash and supermarkets operated by the major supermarket chains are highly relevant in defining the market for the purposes of the application of s 50 of the Competition Act. ... I am not persuaded that there is a separate market for the wholesale supply to independent supermarket retailers of packaged groceries.

17. In other words the Federal Court has found that the size and power of Coles and Woolworths is so great that a separate market of wholesale supply to retailers of packaged groceries does not actually exist in Australia! Is this also to be the fate of the food processing market in Australia? If a law preventing the practice of creeping acquisitions had been introduced in the early to mid 1990s perhaps the findings as to whether there is a market for wholesale supply to retailers of packaged groceries would arguably have been different. It has been observed,<sup>9</sup> that Coles and Woolworths in the early 1990s had a combined market share of about 50 per cent of national packaged grocery sales. This was at a time when there existed an independent grocery wholesaling business in each state. This is not the case now, and the predominant reason would appear to be the acquisitions made by Coles and Woolworths in the past 15 to 20 years of their competitors.
18. It is worthy of noting at this point that the two supermarket giants also have substantial interests in the following areas: general retail, liquor, consumer electronics, home improvement, petrol, office supplies, hotels, pharmaceuticals, chemicals and resources. In addition to improving their performance in their established industries and those they are consolidating they are of course also looking to expand into other industries and overseas markets.

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<sup>8</sup> *Australian Competition and Consumer Commission v Metcash Trading Limited* [2011] FCA 967 paras 339 and 342.

<sup>9</sup> NARGA's response to the ACCC's Statement of Issues in relation to the proposed Metcash acquisition of Franklins October 2010 at p5.

## Labelling

19. Coles and Woolworths have taken a huge number of brand names off the shelf, not for quality or pricing reasons, but because they want to control the market, lessen their own competition between brands and their own private brands, increase revenue and maximise their profits. The incoming chief executive of Woolworths stated, 'Our private label range generally increased by some 620 products in this year.'<sup>10</sup> According to the same source this now brings Woolworth's own private labelling to over 2,500 products. The article concludes with the statement, 'The push to increase the number of private label products comes as some analysts warn Australian supermarkets are looking to reduce their range of products in line with the UK's Tesco supermarkets which stock about 50 per cent private label brands.' Standard business practice is to withdraw the brands of competitors once the own private brands have become established. And once this has occurred the price of the supermarkets own private brand will rise to a similar level of what the now discontinued stock of the competitor once was.
  
20. After much lobbying from the growers and horticulturists fresh produce must now carry a large sign stating where it is grown. This provides people with the necessary information to allow them to make informed choice. Tinned fruit however does not have the same requirement to have such a prominent sign in place and consumers are unable to make an informed choice. All the own private label cans of fruit that once may have been grown and canned here (for example when SPC supplied them from local growers) are now predominantly grown in South Africa, although nothing from the look of the can alerts you to this fact. On any given day under the same own private label the cans could contain goods that have been grown and harvested in Australia, South Africa, South America or China. Without a very close examination of the label the consumer does not know. Typically, when a contract ends Coles and Woolworths put it out to worldwide tender. Most processors in Australia source their supplies from the same local suppliers. It is generally only in times of shortages due to crises in the local environment that most processors will change suppliers. Any modifications to the labelling regime in respect of country origin would therefore not present a huge cost impost to the vast majority of processors. A good example of a relatively cost effective innovative solution was provided in recent weeks by Berri

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<sup>10</sup> AAP NewsWire, 26 August 2011.



Fruit Juices (National Foods) who, when found itself with a shortage of raspberries on the market, decided to take the decision to use local plums as an ingredient instead, rather than sourcing raspberries from overseas. They explained this by placing a little round sticker onto their cartons of fruit juice.

21. The recommendations contained in *Labelling Logic, Review of Food Labelling Law and Policy*, (the Blewett Report) the final report released by the Australian Government in January 2011 should be adopted. Most of the recommendations are extremely practical, and the recommendations 40-43 dealing with consumer issues involving country-of-origin labelling (CoOL) issues would go some considerable way in allowing consumers to make an informed choice. This is especially the case when one considers that 59.1% of Australian consumers look for CoOL when they purchase a product for the first time<sup>11</sup> and that many consumers use it as a surrogate for health information.
22. AMWU has some reservations in respect of traffic light proposals dealing with nutritional labelling. Those reservations are primarily with the practical outcome in the situation where the traffic light proposals are adopted and implemented, while those relating to CoOL are not. Knowledge of the country of origin is fundamental in ascertaining the quality and safety of a product. If the supplier of a product changes and that supplier is located in a different country which has different food safety regulatory standards to those in the country of the former supplier it would not be unreasonable for the consumer to expect that the new supplier meets the same standard as the former supplier as well as the required Australian food import standards.
23. As was noted in the Blewett Report in addition to food safety standards CoOL also acts as a surrogate for many consumers for other information demands such as carbon miles [and] animal welfare.<sup>12</sup> The AMWU is of the view that the more information is mandated to be on a label such as carbon miles, the better the position consumers will be in to make an informed choice.
24. The AMWU understands that there is a loophole in respect of New Zealand's labelling of goods. Unlike Australia (with the exception of wine) there is no mandatory requirement for CoOL in New Zealand, instead suppliers may voluntarily opt to supply

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<sup>11</sup> *Labelling Logic, Review of Food Labelling Law and Policy* (2011) at Chp 6.35.

<sup>12</sup> *Ibid*

CoOL. Perhaps this is why in New Zealand goods can be imported, then packaged in New Zealand and labelled as a product of New Zealand. These goods can then come into Australia bearing a product of New Zealand label. It is the AMWU's understanding that goods, such as imported vegetables that arrive in New Zealand in crates and which are then subsequently bagged in New Zealand are being, and have been, exported to Australia as a product of New Zealand.

## **Free Trade and Biosecurity**

25. Many of the vegetable growers in Australia do not grow for the wider grocery market; they grow for the food processors. If the growers were to put all of their produce onto the market nobody would be making a living out of it and Australia would eventually lose its growers.
26. More and more people are moving out of the horticulture end of food production, particularly if they were locked into supplying for a processor that has gone out of business or has relocated outside of Australia. A lot of the fruit grown in the Goulburn Valley in Victoria for example is grown for processors such as SPC and Heinz. The growers have contracts with the processors – very little would be grown and sold outside of those contracts. Once those contracts end, who are the growers going to sell to? They will end up flooding the market and in so doing the price of the food crop they are selling will dive. Take the past example a few years ago of the orange growers in Griffith where a number of growers uprooted the trees. Once they lost their contracts it was not viable for them to continue to grow oranges.
27. The food processors located in Australia export very little for a number of reasons. The multinational firms have operations in other countries and they produce for those countries and the regions in which they are based. The same is true for those in Australia – they produce for the domestic market, hence the impact of Coles and Woolworths on the market and on the processors and producers. The Government should take note and act accordingly that it is not simply because the food processors have operations in other countries that deter them from exporting, and it is not just the high value of the dollar, and the costs of labour and transport that have a negative affect on the export market; it is the barriers to trade that other countries put in place in respect of food. The United States has huge barriers in place and it is very difficult to get into Japan unless it is something that country wants. The same is true of China

and the European Union is essentially a closed shop in respect of food. The only country actually practising free trade is Australia.

28. Australia imports approximately 10 per cent of its food<sup>13</sup>. It is the role of Australian Quarantine and Inspection Service (AQIS) to ensure compliance with import requirements, namely that exotic pests and diseases do not enter the country and that the food being imported meets the requisite health and safety standards. A summary of the procedures relating to the checking or surveillance of foods coming into the country can be found in Appendix C of the Productivity Commission's Food Safety Report of 2009. Details of the procedures and conditions that must be satisfied for products entering Australia can be found on the Import Conditions Database (ICON) hosted on the AQIS website. The same website contains an alert page with the most recent information about certain products imported from different countries and different regions within those countries. On 17 August for instance the following alert was posted:

Effective immediately, all imported fresh apples from New Zealand can be imported into Australia.

29. Biosecurity often conflicts with free trade. When objections to the importation of food are made on the grounds of biosecurity it is immediately flagged as a barrier to trade. Instances of this are the importation of apples from New Zealand where fireblight was prevalent enough to have been concern. There has also recently been the issue of the importation of tomatoes with a disease that can affect potato crops, now apples coming in from China because they are coming from regions where there are only a few fruit flies, namely Hebei, Shandong, Shaanxi and Shanxi<sup>14</sup>. It is not a secret that China has a huge fruit fly problem.

## **Food Policy and Regulation**

30. Question 9 appears to be phrased in such a way as being a push to remove or reduce regulation. The AMWU makes the point that if standards are to be harmonised in a push for greater efficiency the standards should not fall to the lowest common denominator they should be aligned to the best practice. Standards need to be maintained. Regulations protecting the environment, food safety and quarantine

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<sup>13</sup> Productivity Commission 2009, *Performance Benchmarking of Australian and New Zealand Business Regulation: Food Safety*, Research Report, Canberra p409.

<sup>14</sup> ICON database, accessed 31 August 2011

should not be removed in the push for perceived greater efficiency if the standards fall overall.

31. Australian food has always been able to sell itself on its high standards; it is safe, it is of good quality – these should not be put at risk because a regulatory regime is characterised as a burden. We should not lower our standards simply because other nations have lower standards than we have. This may allow those nations to have an unfair competitive edge, but our standards should not be lowered in response, we should instead be lobbying at an international level for higher global standards. Even OECD countries have lower standards than Australia, but it should not be forgotten that they also have more incidences of BSE and foot and mouth than we have.
32. If regulations concerning food are to be looked into then the focus should be on food that is coming into Australia. The quality standards that apply to food grown in Australia should apply equally to food coming into Australia – currently this is not the case; the AMWU is of the view that it should be as it is unfair to our domestic growers and processors.
33. The AMWU notes that in 2009 the Productivity Commission produced the report *Performance Benchmarking of Australian and New Zealand Business Regulation: Food Safety*. The report, while not containing any recommendations, contains a great amount of data that can be relevantly used to inform the Government of what should be done. One of the key points in chapter 14 of the report for instance echoes the point made by the AMWU in the paragraph immediately above:

Application of food safety requirements throughout the production chain for domestic businesses, but not for imported businesses, may unduly raise the opportunity costs of domestic businesses (unless similar requirements are made in the importer's home country) and has contributed to some products that are not approved for production nevertheless being imported.

### **Government Action to Benefit Business and the Community**

34. In respect to question 8, the AMWU notes that food is almost exclusively transported by road; the rail system is not adequate or appropriate much of the time. It used to be a lot more relevant and more widely used, but its use declined for a variety of reasons including issues concerning reliability, efficiency and a lack of central hubs which

meant that road haulage was still necessary.

35. The road infrastructure servicing many of the participants in the food industry is often wanting. Many of the food processors are located in rural areas near where the raw materials are and the roads leading there are often in very poor condition. Government really needs to put a lot more money into infrastructure.
36. There is not enough work being done within the food processing industry to advertise and promote the training and career opportunities that presently exist. Training may exist for agriculture and horticulture, but it also exists for processing; government could assist in the heightening of that awareness. There is no shortage of labour per se, but more of a lack of interest, more people, particularly younger people, would be encouraged to go into these industries if they knew they could get a trade certificate or diploma, but many people simply do not realise the opportunity to do so is there.
37. There is a real need to encourage investment back into plant and equipment and encourage innovation and research and development (R&D). This has been seriously depleted over the past few decades and, although some green shoots are beginning to appear, it has to be recognised that once government investment in innovation dropped away the innovators and the R&D moved off shore and took the benefits away with it. Once an industry has moved off shore it becomes a difficult and expensive process to re-establish it. The Government can play a central role in encouraging and assisting industry participants innovate and with their research and development.

## **Closing**

38. In closing the AMWU reiterates the argument that it is the unregulated continuation of the duopoly that poses the biggest threat to the existence of food processing in Australia. The Government should take action to remedy the current market travesty now, it should not be left for the nation's courts to do in the form of rulings in the wake of legal actions brought by corporations and other interested groups who are suffering detrimentally because of the uneven playing field in the retail grocery market.
39. The Government frequently provides as a reason for declining to support or fund local businesses our free trade obligations under international treaty. As stated above, it

appears to the AMWU that Australia is a rare exception in this regard. The AMWU calls on the Government to examine whether there are in existence trade barriers to foreign markets that our local food processors have to face. And if it is found that there are substantive and legitimate concerns the Government should pledge to follow these concerns up through WTO formal mechanisms. Other governments have used the WTO mechanisms when challenging the import restrictions into this country, even when there are legitimate biosecurity concerns. Australia should do the same. To do nothing is to shirk our responsibilities to our own industries. We should be robustly challenging those countries around the world that put up trade barriers (no matter how intricate the artifice) to our local processors and exporters (and potential exporters) more generally. The alternative would be to construct our own artifices that provide a similar outcome – a fairer result, but not a free one. That of course would be an anathema to the free trade idealists, but so should standing by and doing nothing while other nations act to the detriment of our industries and ultimately to the well being of Australia as a nation.

40. The Government should also act in the other areas outlined above, including planning, R&D support, infrastructure development, skills and professional development and in promoting the various initiatives, including education which have already been undertaken. The AMWU recognises many of the great initiatives and outcomes that are the result of input and support from the office of the Minister for Innovation, Industry, Science and Research, Senator Kim Carr. The AMWU submits that the Minister at this critical time should focus some of his and his department's energy and resources on the food processing industry, and to work in partnership with our local food processors to support, encourage and develop advances in the industry.
41. The AMWU will happily make itself available for further consultation and participation to expand and develop the points outlined in this submission if called upon.

Jennifer Dowell

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