

Executive Council of Australian Jewry Inc.

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יהודי אוסטרליה

The Representative
Organisation of
Australian Jewry

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14 May 2010

The Review Secretariat
Review of Food Labelling
Law and Policy
MDP 150
GPO Box 9848
CANBERRA ACT 2601

By email: FoodLabellingReview@health.gov.au

Dear Secretary,

I enclose the joint submission of the Executive Council of Australian Jewry and the Organisation of Rabbis of Australasia, on the Review of Food labelling Law and Policy.

Kindly acknowledge receipt.

Yours faithfully,

**Robert M Goot AM SC
President**

COVER SHEET FOR SUBMISSIONS

REVIEW OF FOOD LABELLING LAW AND POLICY

This completed form must be included with your submission. If completing by hand, please ensure your writing is clear and legible.

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FOOD LABELLING LAW AND POLICY REVIEW

Submission of the Jewish Community of Australia

Introduction

- 1 This submission is made jointly by the Executive Council of Australian Jewry (ECAJ), the elected representative organisation of the Jewish community in Australia, on behalf of the Australian Jewish community, and the Organisation of Rabbis of Australasia (ORA), the peak body of Orthodox Rabbis in Australasia, on behalf of the Orthodox Jewish Rabbinat in Australia. This submission is in response to the Issues Consultation Paper: Food Labelling Law and Policy Review dated 5 March 2010.
- 2 The submission specifically addresses the comments in paragraph 3.14 of the Issues Consultation Paper and the terms of question 17 which expressly raise the issue of whether a definition of “kosher” should be included and referenced in the Food Standards Code.

What is Kosher?

- 3 The word “kosher” is the Hebrew word meaning “fit or proper”. The notion of kosher in context means that which is fit or proper to eat according to Jewish religious law.
- 4 The Biblical origins of these laws are principally contained in the book of Leviticus chapter 11. That chapter concerns the identification of those animals, birds and fish which are permitted to be eaten by Jews. However, even animals, birds and fish which are permitted to be eaten, must be prepared for consumption according to Jewish religious law
- 5 In addition to Biblical law, the requirements for food to be kosher are expounded with great complexity in the oral tradition which was recorded in the Talmud (meaning “instruction, learning”) between the 1st and the 6th centuries CE. The laws were then conveniently embodied in the Code of Jewish Law authored by Rabbi Joseph Caro (16th Century) and the extensive commentaries on that work. In the centuries since then, there have been voluminous further refinements of kosher laws to accommodate a range of issues.

- 6 The emergence of the high technology food production industry, with complex, synthesised and derived ingredients as well as new modes of production has precipitated a substantial body of contemporary scholarship by rabbinic authorities, particularly in Israel and the United States.
- 7 In short, the certification of kosher food is a highly complex and specialised area undertaken or supervised by Rabbis who have many years of training and relevant experience both in the fundamentals and the complexities of Jewish Law and the contemporary food production industry.

Kosher Certification

- 8 Throughout the world there are several significant authorities devoted to certification of kosher products. Some of these are large corporate structures with numerous employees for the purpose of inspecting food production under specialist rabbinic supervision.
- 9 Such organisations are based in Israel, the United States, the United Kingdom, Europe, South Africa as well as in Australia. They have well recognised logos which are used for certification of kosher food and are largely recognised by religiously observant Jewish consumers throughout the world.

Kosher Labelling in Australia

- 10 Similarly, in Australia there are several State-based organisations that have a well developed infrastructure for the inspection and certification of kosher foods.
- 11 Primarily, these are “Kosher Australia” based in Melbourne, the “Kashrut Authority” based in Sydney, the “Adath Israel Authority” based in Melbourne and the “Kashrut Authority of WA” based in Perth. These authorities work co-operatively to investigate and certify the manufacture of foods throughout Australia.
- 12 Hitherto in Australia, the determination and labelling of kosher products has been self-regulated by the Jewish community. Members of the Jewish community have come to recognise and rely upon the certification provided by the relevant Australian Jewish authorities either through a logo on the product or through lists of certified products published (in hard copy and online) and maintained by those authorities for that purpose.

- 13 It is important to appreciate therefore that the word “kosher” placed on a product without any indication that it has been certified or by whom, provides no assurance to the Australian kosher consumer that the product is indeed kosher. Rather, the kosher consumer in Australia generally understands that a particular product is kosher, only when it has been endorsed by one of the recognised kosher authorities either through that authority’s logo appearing on the product, or by the product’s appearance in the list of endorsed products published by the relevant authority.
- 14 Over many years, the Australian kosher consumer has become accustomed to the self-regulating nature of this system and kosher consumers are generally familiar with the necessity to ensure that a product is endorsed by an appropriate and recognised authority; and knows that the kosher status of a product cannot be identified simply by the appearance of the word “kosher” on the product itself.

Is Self-Regulation Satisfactory?

- 15 Generally speaking, there have been very few problems with this self-regulating system, with which the Jewish community is very familiar and which it considers has served it well. The kosher authorities work co-operatively with the religious leadership of the community, most notably the Beth Din (religious courts) in each state, with ORA, as well as with one another. ORA recognises that in a self-regulated environment, there is potential for confusion and even fraudulent conduct through the potential for rogue producers to use the word “kosher” with impunity.
- 16 Plainly, the rabbinic authorities in Australia have no capacity to prevent a producer from labelling or self-certifying a product as “kosher”. A producer could rely on some definition not acceptable to the rabbinic authorities in Australia, which might have some cogency in another context. Even the consumer protection legislation, such as the misleading and deceptive conduct provisions in federal and the various state legislation, would be unlikely to prevent a producer from labelling a product “kosher” if that producer could claim that it had its own definition or standard of kosher, albeit not one acceptable to the local rabbinic authorities.
- 17 In short, self regulation of the certification of kosher products has worked well in Australia, but there is potential for problems to arise. The relevant question therefore is

whether including kosher labelling within a legislative or regulatory scheme will resolve this

Government Regulation

- 18 Government regulation which enshrines some definition of the word “kosher” may not of itself resolve any potential problems. If the word “kosher” is defined broadly by reference to Biblical sources or broad Jewish practice then a manufacturer could claim adherence to such a broad definition without satisfying rabbinic or kosher authorities and contemporary rabbinic law and practice.
- 19 Indeed that would make the situation worse because it would provide a legislative imprimatur to manufacturers who may be emboldened to advance their own definition of “kosher” which does not comply with Jewish religious law.
- 20 For that reason, this submission considers that the only viable means of regulation of kosher labelling would be to enshrine (by legislation or regulation) the present self-regulated system, that is, to give legislative or regulatory authority to the endorsement of the rabbinic or kosher authorities within Australia.
- 21 Such legislation could simply provide that the word “kosher” may only be used on a label if the product bears a form of endorsement that it has been certified as kosher by a recognised rabbinic or kosher authority in Australia. Such recognition can be conferred by ORA as the designated body representing the religious Jewish leadership for this purpose.
- 22 The Jewish community would support such an outcome.
- 23 However, in the absence of a proposal of that kind, the Jewish community considers that it would be better served by maintaining the present self-regulating system.

14 May 2010