



AUSTRALIAN OLIVE  
ASSOCIATION<sub>INC</sub>

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# Consumers are being conned Why Australia needs to mandate the Australian Olive Oil Standard

Revised - November 2013

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In 2013, olive oil again topped the "food  
fraud league table", according to the U.S.  
Pharmacopeia Convention!

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# 1. EXECUTIVE SUMMARY

It is common knowledge worldwide that olive oil is prone to fraud, disadvantaging consumers and honest olive oil producers worldwide. This report will explain:

- why olive oil is prone to fraud,
- what other countries are doing about it
- what Australia is doing about it.

This report also outlines serious concerns that Government in Australia, at all levels, is failing to protect Australian consumers and, by its inaction, is threatening the viability of olive producers in Australian and elsewhere.

This situation has arisen despite significant Government investment of over more than a decade in partnership with the Australian olive industry to:

- investigate olive oil quality factors,
- develop a Code of Practice for the domestic industry and
- to develop a world leading Australian Standard (AS 5264-2011).

The Australian Standard for Olive Oils and Olive Pomace Oils [AS-5264-2011](#) introduced in July 2011 by Standards Australia has so far had little impact. The Standard is being ignored or dismissed even by Government bodies that were directly involved in its development mainly because it is "voluntary".

The level of fraud and consumer deception in Australia is enormous and will only start to subside when the Australian Standard (AS 5264-2011) becomes mandatory.

**Efforts to mandate the Australian Standard  
have recently been derailed by an  
incomplete and incorrect report  
prepared by Government Departments.**

Please click on this link to read [the Australian Olive Association response](#) to the Chair of COAG Legislative and Governance Forum on Consumer Affairs (CAF) concerned about the lack of basic technical knowledge displayed by Australian authorities, particularly with regard to the results of the CAF market surveillance and compliance program.

## 2. FRAUD

### a. Evidence of widespread fraud

- The European Parliament Committee on the Environment, Public Health and Food Safety released a report on 8.10.13 [on the food crisis, fraud in the food chain and the control thereof \(2013/209\(INI\)\)](#). In this report the note "that food fraud generally occurs where the potential financial gain is high and the risk of getting caught low". They also acknowledge that olive oil is the No.1 product that is most at risk of food fraud.
- The [Institute of Food Technologists](#) found that olive oil fraud can be anything from the substitution of Greek olive oil for Italian olive oil to the addition of cheaper oils such as corn, hazelnut and palm oil -[Journal of Food Science](#) (Volume 77 Issue 4, pages R118-126, April 2012)
- Olive oil was rated as the top adulterated product with 167 records cited (16%); milk was second with (14%).[Download the entire issue here](#). In 2013, olive oil again topped the "[food fraud](#) league table", according to the U.S. Pharmacopeia Convention!

## 3. WHAT MAKES EVOO SO SPECIAL – WHY IS IT WORTH PROTECTING?

### a. Quality and Health Benefits

Of all the mainstream edible oils, Extra Virgin Olive Oil (EVOO) is the only oil that has not been chemically or physically refined and rectified; it is 100% natural juice squeezed from the fruit of the olive.

EVOO is a natural and fresh product with well documented health benefits not present in refined oils. Dr Mary Flynn PhD, RD, LDN, Associate Professor of Medicine, Clinical, Brown University, Research Dietician and founder of The Olive Oil Health Initiative of The Miriam Hospital at Brown University says... "People raised on diets that include Extra Virgin Olive Oil (EVOO) daily have lower rates of most chronic diseases, such as less heart disease, cancers, arthritis, and type 2 diabetes. EVOO has been shown to decrease a number of risk factors for chronic diseases" read more about Dr Flynn's work [here](#).

Unlike wine, olive oil deteriorates with age, therefore best before dates (BBD's) are an important decision making tool for consumers. Many olive importers to Australia are not including a best before date on their products. Best before dates are a requirement under Australian food laws for products that degrade in less than two years.

b. Consumers Preference for Extra Virgin Olive Oil and the Opportunity for Fraud

The world trend to EVOO for its documented superior health benefits has led to increased consumer demand for this product. Unfortunately it is easy to substitute lower grade olive oils or other vegetable oils into retail EVOOs and this is the basis of the documented high rate of fraud found in Extra Virgin Olive Oil.

## 4. CONSUMERS ARE REALLY CONFUSED

a. Labelling and Consumer Research

In an attempt to gain consumer trust many brands who blend low grade refined olive oils use misleading label terms to try and confer the impression of a premium product. An independent report by GfK commissioned by the Australian Olive Association (*which confirms studies done in Europe*) shows consumers are confused by the terms "Pure" "Light" and "Extra Light" on olive oil labels. To read the full report [click here](#).

b. Summary of GfK Report

- "Extra Light" ... Almost two thirds (64%) of those surveyed associate Extra-light Olive Oil with being 'lower in fat', with a similar proportion (62%) see the olive oil as 'lower in calories'. 22% consumers rate it as lower fat than Extra Virgin Olive Oil (when in fact it is higher in fat). In terms of quality, nearly one in two (47%) consumers see Extra-light as being of similar quality to Extra Virgin, rating it close to Virgin in terms of overall quality.
- "Pure" , while there is near unanimous consent 'Pure Olive Oil' is made only from olives, less than one in ten of users and non-users understood "Pure" Olive Oil is a blend or refined, and only 16% think it is a blend of different oil grades. Pure Olive oil is also consistently rated as one of the higher quality blends, and consumers appear ignorant to the amount of processing and treatment that oil receives: 49% associate 'Pure Olive Oil' with being 'of the same quality as Extra Virgin Olive Oils'.

## 5. CONSUMER DETRIMENT

a. Consumers are paying too much for poor quality

A report, commissioned by the Australian Olive Association in October 2012 entitled "[Australian Consumer Detriment – Olive Oil](#)" found that Australian consumers are paying 22% more for refined olive oil than consumers in the EU. In the EU refined olive oil is labelled and sold as refined olive oil and is priced accordingly, however in Australia consumers are misled into believing "Pure", "Light" and "Extra Light" are the same quality as high grade EVOO when in fact they are not.

Misleading terms used to describe lower grade refined olive oil such as “Extra Light” and “Pure” made up the labelling of approximately 40% of Australia's olive oil consumption. Consumers are not olive oil experts and it is reasonable for them to expect that the Government will protect them from those that seek to mislead and confuse them.

b. Summary of Findings

- Olive oil is 22% more expensive in Australia due to non-compliance with the Australian Standard which costs Australian olive oil consumers a total of \$54.8M per year in cash. This equates to \$1.22 per litre or \$4.88 per 4 litre tin sold.
- Consumers are paying 39% too much at the cash register for “Extra Light” and “Pure” olive oil (\$6.16 per 4 litre tin). The annual cost to Australian consumers is \$27.7m.
- Based on a Government and industry funded supermarket survey from 2008 until 2011 - 74% of imported olive oil labelled as EVOO and 21% of the domestic olive oil labelled as EVOO was not actually Extra Virgin grade at all. This overcharge is costing consumer's \$26.7m per year in total or \$3.96 per 4 litre tin sold. Consumers are paying 18% more on average for olive oil that is low grade masquerading as high grade.

## 6. WHAT HAS AUSTRALIA DONE TO ADDRESS THE ISSUE

The Australian Olive Association Ltd (AOA) has undertaken the following in attempt to halt olive oil fraud and protect all segments of the olive oil supply and consumption chain.

a. Truth in labelling

Since **2002** the AOA has continued to work on **truth in labeling** and the authenticity of olive oil sold in Australia. The AOA along with numerous other industries are firm believers that consumers want to be informed about where their food comes from and also the ingredients in those foods. The AOA has been active globally on this topic in relation to olive oil in collaboration with our colleagues in other countries including the USA, New Zealand, South Africa, Argentina and Spain.

b. Overseas and Australian Government Work

In January 2012, AOA President Paul Miller was asked to give evidence at a [California Senate Enquiry](#) into the adulteration of olive oil. Since then he has been invited to speak and has attended numerous related meetings; including a landmark [EC Workshop on Olive Oil Authentication](#) on behalf of the American Oil Chemist's Society. He will soon address and chair a Session on Food and Nutrition Safety at an upcoming Chinese Nutrition Conference.

The AOA continues to work with government departments in Australia including DAFF, HAL, RIRDC, DFAT, Customs, FSANZ, State Departments of Agriculture and of course the Australian Competition and Consumer Commission (ACCC).

In particular the AOA has worked closely with DAFF at international meetings such as Codex Alimentarius attempting to address some of the problems outlined in this document.

c. Developed an Australian Olive Industry Code of Practice

In **2004** the AOA reported problems with olive oil quality and authenticity to DAFF and FSANZ and discussed this with the ACCC. It became clear on government advice that the olive industry in Australia needed to develop its own [Code of Practice](#) for olive oil to establish some reasonable expectations and parameters for olive oil in this country. That Code of Practice was published in 2005 and to date nearly [300 Brands of Australian](#) olive oil are signatories to The Code representing well over 90% of Australia's olive oil production. The development of the Code was in part funded by DAFF.

d. Questioning of ACCC and FSANZ in Senate Estimates.

In **2012** the ACCC and FSANZ were questioned at Senate Estimates on this issue. FSANZ stated they are not an enforcement agency and enforcement must be done by the individual states. The ACCC said "*at the moment, Australian standard is a voluntary standard. So we cannot take someone to court for not using that standard*"... At a meeting between the AOA and the ACCC in 2012 the ACCC stated that it would indeed be easier for them to take action if AS 5264-2011 was mandated as they cannot enforce a voluntary standard. [Senate Estimates and FSANZ Transcript](#).

e. Television, Conferences and Presentations

In **2008** further research, sponsored in part through RIRDC and conducted by NSW DPI, identified more widespread problems with olive oil quality and authenticity in the Australia market. These were aired on the [7.30 Report on October 8 2008](#). These results were reported to the ACCC who then went on to conduct their own investigation. The ACCC expressed its views and presented the outcomes of their investigation (including some action) at the [International Society for Fat Research \(ISF\) Conference in Sydney 2009](#).

f. Engaged Standards Australia to develop an Australian Standard

In **2010** the AOA engaged Standards Australia to develop an [Australian Standard for Olive Oil and Olive Pomace Oil](#). After a comprehensive review of data, evidence, world's best practices in other countries and over 800 public comments [Committee FT-034](#) approved this Standard by consensus and in July **2011** [AS-5264-2011](#) was published by SAI Global under license from Standards Australia. The FT-034 committee



has as its members Standards Australia, AOA, DAFF, NSW DPI, RIRDC, the Australian Olive Oil Association (importers), Private Laboratories, Customs, and Consumers Federation of Australia with the ACCC, FSANZ and Choice as observers. The comments of the ACCC were sought and included in the Standard during its development. **The committee reached consensus on all aspects of the Standard for Olive Oil.**

g. Ongoing Market Surveillance

Since the publication of the Australian Standard (AS 5264-2011) in July 2011 the AOA has sponsored further market surveillance in September 2011, December 2011, March 2012, September 2012, November 2012, March 2013 and August 2013.

During this time the AOA has tested 167 samples of olive oils (62 olive oils of Australian origin and 105 imported olive oils) and has found that, even though the Australian Standards have been in place since 2011 83%\* of the imported product still does not comply with the Australian Standard and 41% does not comply with Codex Alimentarius standards. The testing also showed that 39% and 18% of the Australian oils failed to comply with those standards respectively.

Tests revealed that many imported olive oils were not just mislabelled but were also not suitable for human consumption based on well recognised regulations.

\*9% of the imported oils that did not meet the Australian Standard failed due to not declaring a best before date.

A comprehensive [study supported by an Australian Government RDC \(RIRDC\) in 2008, 2009 and 2010](#) showed that more than half the Extra Virgin Olive Oil sold in Australia (mostly imported) was labeled Extra Virgin but was actually **not**. EVOO grade.

In **2012** the ACCC took action against an Australian producer “The Big Olive”, and earlier this year they took action against MOI International (a Malaysian company with offices in Australia). This month the AOA presented the ACCC with further evidence of misleading labelling that we believe they are currently looking into. However in all of these cases the fraudulent activity was obvious. For example:

- With The Big Olive, it was proven that they were tampering with best-before-dates on their tapenade product and that their olive oil did not pass numerous tests;
- With MOI it was an open and shut case as they had labelled a product Olive Oil when on the back panel it clearly stated that the tin contained 93% canola oil
- With the current investigation into Romanella brand 4 litre tins, the packaging once again claims to contain olive oil, yet on the back label they state the contents are a blend of olive oil and sunflower oil.

These are three easy cases for the ACCC to win yet it is not enough to deter marketers from willingly misleading consumers.

The ACCC has made it clear that the Australian Standard is 'voluntary' and that unless it is mandated they are powerless to enforce it. The ACCC seems unwilling to challenge brands that repeatedly fail quality tests.

It is fair to say that over the last 12 months there has been limited improvement in labeling by some importers regarding the use of "Extra Light" and "Pure", most olive oil labels are still misleading and do not comply with the Australian Standard. The worrying practice of refined oil being passed off as high quality EVOO is still rampant.

## 7. WHAT HAVE OTHER COUNTRIES DONE TO ADDRESS OLIVE OIL FRAUD?

Olive oil fraud has been around for as long as the product has been produced. Countries without Standards have always been a dumping ground for low grade mislabelled olive oil. Canada has supported Australia's international efforts at Codex Alimentarius to change standards for olive oil. In addition over many years Canada has been one of the few countries testing olive oil at its borders and prosecuting those who attempted to import fraudulent olive into that country. The Canadian Food Inspection Agency outlined its activities at the recent [European Commission Workshop on Olive Oil Authentication](#) [Australia should do the same](#) with the advantage of its own recently developed standards.

Many companies and retailers use standards for trade in Europe that are perfectly aligned with the Australian Standard (AS 5264-2011) when they are seeking to define and purchase genuine olive oils, particularly Extra Virgin Olive Oil.

Click here to view the current retailer specifications that apply to olive oil in [Germany](#) and [France](#) by the largest supermarkets in northern Europe, Aldi and Lidl. These improvements in the market in those countries came after the German government Official Chemistry Laboratory for Food in Hagen worked mid last decade to define the problems in that market, publicize them and provide solutions for the supply chain.

Below is a list of countries that have seen the need to pass laws to protect consumers from olive oil fraud and confusion:

### a. United States of America

- In September 2013, The USA International Trade Commission (USITC) published a report on olive oil competitiveness. This extensive review documents the depth of challenges extra virgin olive oil producers face in the USA and foreign markets. The bottom line in the report is clear: widespread olive oil fraud and mislabeling plus trade protections and enormous subsidies enjoyed by European producers add up to one giant hurdle for USA olive oil producers. Click here to read the report, entitled [Olive Oil: Conditions of Competition between U.S. and Major Foreign](#)

[Supplier Industries](#). This document highlights Australia's leading role as a pioneer in the field of olive oil standards and testing – an asset for Australia which is the result of a long-term Australian government industry partnership and something that should not be squandered now at the last stage of this process.

- The US olive oil industry is in the process of upgrading and reviewing the standards for olive oil in that country.
- The Agricultural Marketing Service (AMS) of the [Department of Agriculture \(USDA\)](#) is currently seeking comments on the proposed revision to the United States Standards for Grades of Olive Oil. [Proposed US Standards for Grades of Olive Oil and Olive-Pomace Oil](#).
- In California there is a Senate bill before the Governor seeking to establish an Olive Oil Commission that would amongst other activities update the existing laws regarding olive oil quality and authenticity in that State.

#### b. European Union

European Commission Regulation [\(ED\) No. 61/2011 of 24<sup>th</sup> January 2011](#), amending regulation (EEC) N° 2568/91 on the characteristics of olive oil and olive-residue oil and on the relevant methods of analysis and subsequent amendments is mandatory in the European Union member States.

Europe is also tightening up its labeling - read this information from [Virginia Brown Keyder](#), from the State University of New York at Binghamton and Sabanci University in Istanbul, Turkey, who says that traditional olive oil producers have lately turned toward advocating for a stricter regulatory regime as global competition increases.

Recently Mr Jean-Louis Barjol, Executive Director of the International Olive Council in Madrid wrote to the Australian Olive Association and advised that the IOC are reviewing section 10 of the IOC trade standard that details with labelling. The IOC are aware that "Pure", "Light" and "Extra Light" are misleading terms that are not used in the EU but used elsewhere. Refined Olive Oil is recognized as a grade of oil under the IOC Standard that requires it to be the label. The Australian Standard goes further and specifically requires that the label must accurately describe the contents of the bottle and in doing so not be labelled "Extra Light" or "Pure".

#### c. Brazil, China, Argentina and South Africa

Argentina has mandatory standards for olive oil through its [Codigo Alimentario Argentino](#) (Argentinean Food Code). Brazil through its [Norm 419-2011](#) and China through their [Norm GB 23347-2009](#). Last year South Africa implemented a countervailing duty for olive oil bought into their country to protect the local industry and is now proposing to adopt AS 5264-2011 into law in that country.

## 8. HOW THE AUSTRALIAN GOVERNMENT CAN HELP

### a. Make the Australian Standard Mandatory

Under the Australian Consumer Law ('ACL') the Federal Minister responsible for Competition Policy, has the ability to declare the information standard (AS 5264-2011 Australian Standard for Olive and Olive Pomace oils) mandatory under s135 of the ACL.

The ACL intergovernmental agreement obliges the commonwealth to seek support of the states and territories for this declaration at the 6 monthly meeting of COAG Legislative and Governance Forum on Consumer Affairs (CAF). CAF meetings are attended by the Federal minister for Consumer Affairs and all the State Ministers for consumer affairs. We have been advised that if the commonwealth and 4 states agree, the Standard can be mandated.

### b. Mandating the Australian Standard has recently been derailed by incomplete, incompetent and incorrect reports prepared by government departments

The process of mandating the Australian Standard for olive oil was initiated last year thanks mostly to a [letter](#) and [press release](#) from Shadow Minister for Small Business, Competition Policy and Consumer Affairs, the **Hon Bruce Billson** and NSW minister for Fair trading the **Hon Anthony Roberts**.

Below is a summary of the outcomes since then:

- At the July 2012 meeting of CAF, ministers decided to put this issue formally on their agenda for the December 2012 meeting and requested Federal Treasury and NSW Fair Trading to report on the feasibility of mandating the Australian Standard (AS5264-2011).
- At the 7 December 2012 CAF meeting it was decided not to mandate the Australian Standard at that time as the individual states were conducting a comprehensive compliance and enforcement program – refer to letter from [the Hon Anthony Roberts](#).
- On the [11<sup>th</sup> of July 2013 the Australian Olive Association received another letter](#) from Anthony Roberts stating amongst other things that the compliance and enforcement program was complete, and **“that most oils complied with the Australian Standard and they had found no widespread adulteration or mislabeling problems in the olive oil category”**. The letter also reaffirmed CAF's original position that it did not see a case for mandating the olive oil standard.
- The letter from The Hon. Anthony Roberts stated **“...all products tested were found to be within the parameters of the Australian Standard”**. This statement is misleading as it gives the impression (falsely) that the oils were tested to the Australian Standard. They were not.

- We have been advised in writing that consumer and government agencies utilised Near Infrared (NIR) technology for testing these oils and that the specific tests done were an ineffective tiny subset of what both international and Australian standards require.

It is important to point out that NIR technology is a quick and unofficial testing method with limited accuracy and repeatability. NIR testing is not recognised by Codex Alimentarius, International Olive Council (IOC) or in the Australian Standard, deeming even these minimal results result invalid and lacking the scientific and legal support necessary to be considered within the parameters of those standards.

- On the 28<sup>th</sup> of August the Australian Olive Association responded to the Chair of CAF concerned about the lack of basic technical knowledge displayed by Australian authorities, particularly with regards to the results of its market surveillance and compliance program [click here to read the response from the AOA](#)

**IMPORTANT - READ THIS LETTER**

#### c. Support for mandating the Australian standard for olive oil

During May and June of **2012** the following speeches were made in Federal parliament in support of mandating the Australian Standard:

- [Senator John Williams, Wednesday 9<sup>th</sup> May 2012](#)
- [Amanda Rishworth MP, Monday 18<sup>th</sup> June 2012](#)
- [GaiBrodtmann MP, Monday 18<sup>th</sup> June 2012](#)
- [Michael McCormack MP –Monday 18<sup>th</sup> June 2012](#)
- [Mark Coulton MP Monday 18<sup>th</sup> June 2012](#)

Letters of support:

[AOA letter to The Hon David Bradbury formally requesting mandating of AS5264-2011](#)

[The Hon Bruce Billson letter to The Hon David Bradbury](#)

[Letter from Choice to the AOA in support of mandating the Australian Standards](#)

## 9. WHAT IS THE AUSTRALIAN STANDARD

### a. Standards in General

- Australian Standards are published documents setting out specifications and procedures designed to ensure products, services and systems are safe, reliable and consistently perform the way they are intended to. They establish a minimum set of requirements which define quality and safety criteria.
- Australian Standards are voluntary consensus documents that are developed by agreement. Their application is by choice unless their use is mandated by Government or called up in a contract. Many Australian Standards, because of

their rigor, are called up into legislation by Government and become mandatory. Australian Standards are one tool in a regulatory spectrum that may be applied by Governments or an industry to provide a solution to a problem.

- Australian Standards differ from Industry Standards because of the importance of rigor, robustness and consensus in the development process. Third party certification, inspection and testing bodies assess whether a product conforms to an Australian Standard. Standards Australia is not involved in conformity assessment or compliance.

*One of the most significant things to consider is all interested parties in the Australian Olive Industry reached consensus on the Australian Standard*

*With a lot of the hard work already done, mandating the Australian Standards should not be controversial or a difficult decision*

#### b. Australian Standard AS5264-2011

- The Australian Standard is a voluntary standard developed by Standards Australia and applies to all olive oils and olive-pomace oils that are traded in Australia. This Standard defines grades of olive oils and olive-pomace oils; specifies chemical composition and quality parameters for these grades; establishes requirements for labeling and packing; and lists acceptable methods of analysis. Click [here to view/buy a copy of AS5264-2011](#).
- As you will read, the Australian Standard for olive and olive pomace oil (AS 5264-2011) is well supported by science and world best practice, followed rigorous Standards Australia protocols and procedures including extensive public consultation, and the members of the committee reached consensus and agreed on all aspects of AS 5264-2011.

## 10. WHO DEVELOPED THE AUSTRALIAN STANDARD

The Australian Standard for Olive and Olive Pomace Oils (AS 5264-2011) was developed by Standards Australia with advice from, and consensus of, the following representative organisations:

- Department of Agriculture Fisheries and Forestry (Government)
- Rural Industries Research Development Corporation (Government)
- Industry & Investment NSW (Australian oils Research lab) – NSW Government
- Private Labs (private)
- Australian Olive Association (Industry)
- New Zealand Olive Association (Industry)
- Australian Olive Oil Association (Importers)
- Australian Customs (Government)

- Australian National Retailers Association (representing Coles & Woolworths)
- Food & Grocery Council NZ
- Consumers Federation of Australia (private)
- Choice (private observer)
- ACCC (Government observer)
- Food Standards Australia & New Zealand (Government observer)

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The Australian Standard for Olive Oil is part INFORMATION/TRUTH IN LABELING (i.e. cannot label products “Extra Light” or “Pure” and must call the olive oil what it is, ‘refined olive oil’) and part FOOD SAFETY (extra virgin must not be refined and meet certain quality specifications). Rancidity is a health issue. In extreme cases of adulteration poisonings have occurred. [Read this article to learn more about the effects of consuming rancid olive oil.](#)

## 11. IS THE AUSTRALIAN STANDARD A BARRIER TO TRADE?

- a. Mandating the Standard does not give Australian Producers an advantage and is not a Technical Barrier to Trade.

Prior to publication of the Australian Standard, the Standards Committee, DAFF and DFAT prepared a paper providing a thorough analysis of any considerations regarding technical barriers to trade. This document was presented to Standards Australia for their consideration as they are a signatory to the WTO TBT (Technical Barriers to Trade) Agreement Code of Good Practice. The document concludes that limited departures from existing international standards have been carefully considered and justified in terms of their effectiveness and appropriateness to meet legitimate objectives and avoid creating unnecessary obstacles to trade.

- b. Mandating the Australian Standard for Olive Oil will still allow flexibility for changes in the future.

All Standards need to be reviewed from time to time, as technology, knowledge and community needs change. For this reason, within Standards Australia, a review process exists to keep the Australian Standards up to date. The olive oil standard is set to be revised and republished if needed within a period of five years. Mandating the Standard will not compromise this process and still allows the committee to make changes to the Standard with consensus of the committee.

- c. Do Australian producers face TBT's when dealing with Europe?

The European Commission, International Olive Council and Codex Alimentarius Standards all currently act as technical barriers to trade for Australian producers because they do not accommodate the natural variations in olive oil as follows:

- Variations in fatty acid composition from several varieties and regions in the world are regularly outside these standards.
- Variations in phytosterol composition from several varieties and regions in the world are regularly outside these standards.

*The ACCC and FSANZ are on record as being generally powerless to enforce the Standard unless it is mandated by the Government*

Such non-quality factors are used by traders in Europe to discount oils being traded within and into Europe. Large sums of money are at stake in such trade.

Australia has been battling alongside the USA, Canada and others to combat the ingrained TBT issues within European Union and IOC standards against political and commercial (not technical) resistance from the EU (supported by the IOC) at Codex Alimentarius since 2003.

The ability to impose TBT is worth hundreds of millions of Euros to the few major global traders based in Europe at the expense of consumers and genuine producers worldwide.

d. Why is there some international resistance to the Australian Standards?

AS 5264-2011 differs from the other standards because it must – in order to be technically and practically correct in defining true olive oil quality and detecting fraud and misrepresentation.

If the Australian Standard (AS 5264-2011 mirrored the IOC/EU/Codex standards then there would be less resistance, however **that is exactly the point**. It is the **deficiencies in these other old standards that allow the trade of low grade olive oil to be passed off as Extra Virgin and the trade of other types of oils as olive oil**.

The terms “Pure”, “Light” and “Extra Light” are not used in Europe because they are considered misleading terms. These terms are used in Australia and other countries that lack enforced mandatory Standards to describe low grade olive oils in the hope of causing confusion and enticing consumers to purchase an olive oil product for a higher price than warranted.

The Australian Standard AS 5264-2011 specifically prohibits the use of these terms and requires that olive oil is truthfully labeled.

e. Progress with Coles and Woolworths

- In 2011 the AOA formally wrote to Richard Goyder, Managing Director, Wesfarmers Limited (Coles) and Michael Luscombe, Managing Director & CEO Woolworths plus all their Board members individually, to ask them about knowingly



selling olive oils that are mislabeled and/or adulterated; and when they plan to implement the Australian Standard.

- Not unexpectedly Coles and Woolworths both responded that our Standard is 'voluntary' but that they will ensure that their 'own' and 'home brand' olive oils comply with Australian Standards in the future. At this points Coles are complying with the Standard for their own products but Woolworths are yet to comply. Pure and Light (not complying with Australian Standard) are continuing to be sold as well as Extra Virgin that does not meet specification.
- The AOA has held meetings with and made presentations to Independent supermarkets and Foodland to help them understand more about the Australian Standards and the potential issues with their selling oil that, in some cases, is not fit for human consumption.

# APPENDIX 1

## Facts about Olive Oil

**FACT 1:** Of all the mainstream edible oils, EVOO is the only oil that's not chemically or physically refined and changed; it is the natural juice of the olive.

EVOO has many unique health benefits and is highly sort after by consumers. **Refined olive oil does not have the health benefits of EVOO** and in fact has similar health attributes to other refined oils such as Canola, but sells for double the price of Canola mainly because consumers are being misled.

**FACT 2:** The Australian olive industry has grown substantially over the last 10 years:

- More than \$1 billion has been invested in Rural Australia in olive orchards and processing plants, creating thousands of jobs.
- Australians consume over 45 million litres of olive oil per year with consumption rising rapidly over the last 20 years which makes us the highest consumers per capita outside the Mediterranean area.
- Australian olive oil producers have captured about 30% of this market due to the outstanding quality of their Extra Virgin Olive Oil.

**FACT 3:** Australian olive oil consumers are being conned and misled and Australian olive growers are fighting for their survival because:

- Chemically and physically refined olive oil is currently labeled and sold as EVOO alongside authentic EVOO.
- Chemically and/or physically refined olive oil is also being sold with misleading and intentionally deceptive labeling such as "Pure", '100% Pure', "Light" or "Extra Light".
- The European Union considers these terms "unsatisfactory and confusing definitions that cause disruption on the market".
  - Refer to Annex XVI "[Descriptions and Definitions of Olive Oil and](#)

'Pure', 'Lite/Light', 'Extra lite/light', '100% olive oil / olive oil' products make up approximately 45% of the Australian retail market and sell for a similar price to Extra Virgin...ripping off millions of Australian consumers who mostly think they are buying Extra Virgin but who, are in reality, buying a much lower grade of oil!

[Olive Pomace Oils referred to in Article 118 of the Official Journal of the European Union.](#)

- o Refer to page 59 of the [Data Monitor's Report "Study on the Promotion of Consumption of Olive Oil and Olives in the USA and Canada"](#) that states *"The recent and strong growth of olive oil consumption and usage has also resulted in a rather confused structure to the retail market. For instance, many consumers still have great difficulty in understanding the differences between extra virgin, pure and extra-light varieties of olive oil, while the rapid proliferation of product options has increased at a faster rate than the mass of consumers' ability to understand them, especially as many shoppers are relatively new to the category". This lack of distinction makes shopping for olive oil particularly difficult as consumers have no reference points for their purchasing decisions and thus an increasing polarisation in the market. A third of consumers state that they buy more expensive olive oils as they expect the product to be better, whilst a third of consumers state that they buy whatever is cheapest as they believe all olive oils to be the same. This means, for example, that a consumer can be confronted with a Botticelli branded 100% pure olive oil being retailed for under \$10 for a two-litre tin, while at the same time being offered an artisanal Extra Virgin Olive Oil with a price point of \$15 per litre. Similarly, across 2008 and 2009, brands such as Capatriti, Kalamata and Bonelli were frequently selling oil for as low as \$2 per litre.*

**FACT 4:** Extra-light is not low in FAT.

This is evidenced in the Colmar Brompton Research on Consumer Attitudes and a report released by RIRDC into [Consumer Attitudes towards Australian Extra Virgin Olive Oil](#) attitudes towards olive oil

**FACT 5:** Adulteration and mislabeling in olive oil is nothing new.

- Over **50% of olive oil** that is traded around the world has some quality or authenticity problem. The [Food Fraud website](#) gives an idea of the extent of the problem worldwide. Search for Olive Oil and you will find over 183 references from the literature (most have been peer-reviewed) that discuss adulteration of olive oil.
- Dan Flynn, executive director at the University Of California Davis Olive Center, said "two recent studies his group conducted found that two-thirds of the largest imported brand names did not meet the international standards for Extra Virgin Olive Oil".*"My main piece of advice is to look for a harvest date on*

the label and the bottle," Flynn said. "Olive oil is a natural product and the fresher the better. We are not used to thinking of it that way. It has been sold like a canned good, basically," Flynn said. Olive oil should be consumed within 15 months of harvest, Flynn said. [Read full article here](#)

- A Government/industry funded study titled "[Evaluation of new analytical methods to detect lower quality olive oils](#)" that was supported by Rural Industries Research & Development Corporation (RIRDC) of retail olive oils in 2008, 2009 and 2010. This study tested 265 samples; 127 from Australian producers and 138 from imported oils.
- When these results were compared to the Australian Standard (AS5264-2011) that was published by Standards Australia in July 2011 it found the following:
  - The 2008 study found that **84%** of imported Extra Virgin Olive Oil was labeled Extra Virgin but was not Extra Virgin;
  - In 2009, **66%** failed;
  - In 2010, **91%** failed. This means that only 9% of imported Extra Virgin was true to label;
  - Across all year's **18%** of the oils (all imported) were classified as Lampante (LAMP OIL); and
  - It also found that approximately **20%** of Australian oils are also mislabeled.

According to the Australian Standard and all other internationally recognized olive oil standards, lampante oils are NOT SUITABLE FOR HUMAN CONSUMPTION

#### **FACT 6:** Adulteration and mislabeling in olive oil can be financially lucrative

- There are two main reasons why there is a wide spread practice of falsely labeling olive oils:
  1. **Financial gain** – It can be very profitably to purchase only lower grade cheaper product (refined olive oil) and sell it as a higher grade (Extra Virgin). As one EU official puts it "*olive oil fraud is comparable to cocaine trafficking, with none of the risks*".  
[On the 3<sup>rd</sup> of November 2013 another oil maker was caught adulterating olive oil.](#) Formosa Oilseed Processing was fined NT\$15M for blending inferior oils into olive oil it marketed as 'pure' and 'imported' from the EU.
  2. **Supply and Demand - An abundance of low grade refined olive oil and a shortage of Extra Virgin.** Europe produces 80% of the world's olive oil but half of their production is not fit for human consumption and must be refined...they then transport it to consumers in Australia as "Extra Light" or "Pure" or call it 'Extra Virgin'.

- On [The 7.30 Report](#) in 2008 Minister for DAFF **Tony Burke** said:  
*"My prime concern isn't in what sort of penalty can you whack at someone; my prime concern is making sure every consumer gets what they are paying for ... We're working with industry towards that end."*

He went on to say:

*"The point that we have to get to is when somebody believes they are buying Extra Virgin Olive Oil that they are ....at the moment it may well be the case that the only guarantee of the quality of the product is if you are buying the Australian product. The tests which have been referred to by industry certainly put some very serious doubts over what people have been purchasing."*

- Mr. **Graeme Samuel**, ex Chairman ACCC said this on the 7.30 report in 2008:  
*"It is appropriate for us to investigate these issues. But it may well be that circumstances, lack of standards or the like, might make it difficult."*

Click [here](#) to read the full transcript.

## **FACT 7:** Authentic EVOO is the best main stream cooking oil for your health.

- EVOO is rich in natural antioxidants and vitamins which are proven to interact and stabilize free radicals. Free radical damage may lead to cancer. A paper entitled "[Antioxidants: Its medicinal and pharmacological applications](#)" published in the African Journal of Pure and Applied Chemistry – August 2010 presents information about the benefit of antioxidants.
- Natural Extra Virgin Olive Oils have been shown to have much better positive heart health outcomes than refined olive oils. Studies such as the [Euroolive Study 2009](#) recommended a daily intake of 25 ml of virgin (un-refined) olive oil for all adult humans for its preventative effects on heart disease.
- Almost all natural antioxidants and vitamins are lost during the refining process that creates lower grade olive oils labeled as "Light", "Extra Light" and "Pure".
- Given these positive health outcomes for true Extra Virgin Olive Oils and the negative outcomes for lower grades and rancid products :
  1. Consumers need clear labeling to enable them to understand the different grades of olive oil available on supermarket shelves. Terms such as "Light", "Pure" and "Extra Light" for low grade refined olive oils were invented as a marketing ploy to sell lower grade oils to uninformed consumers.

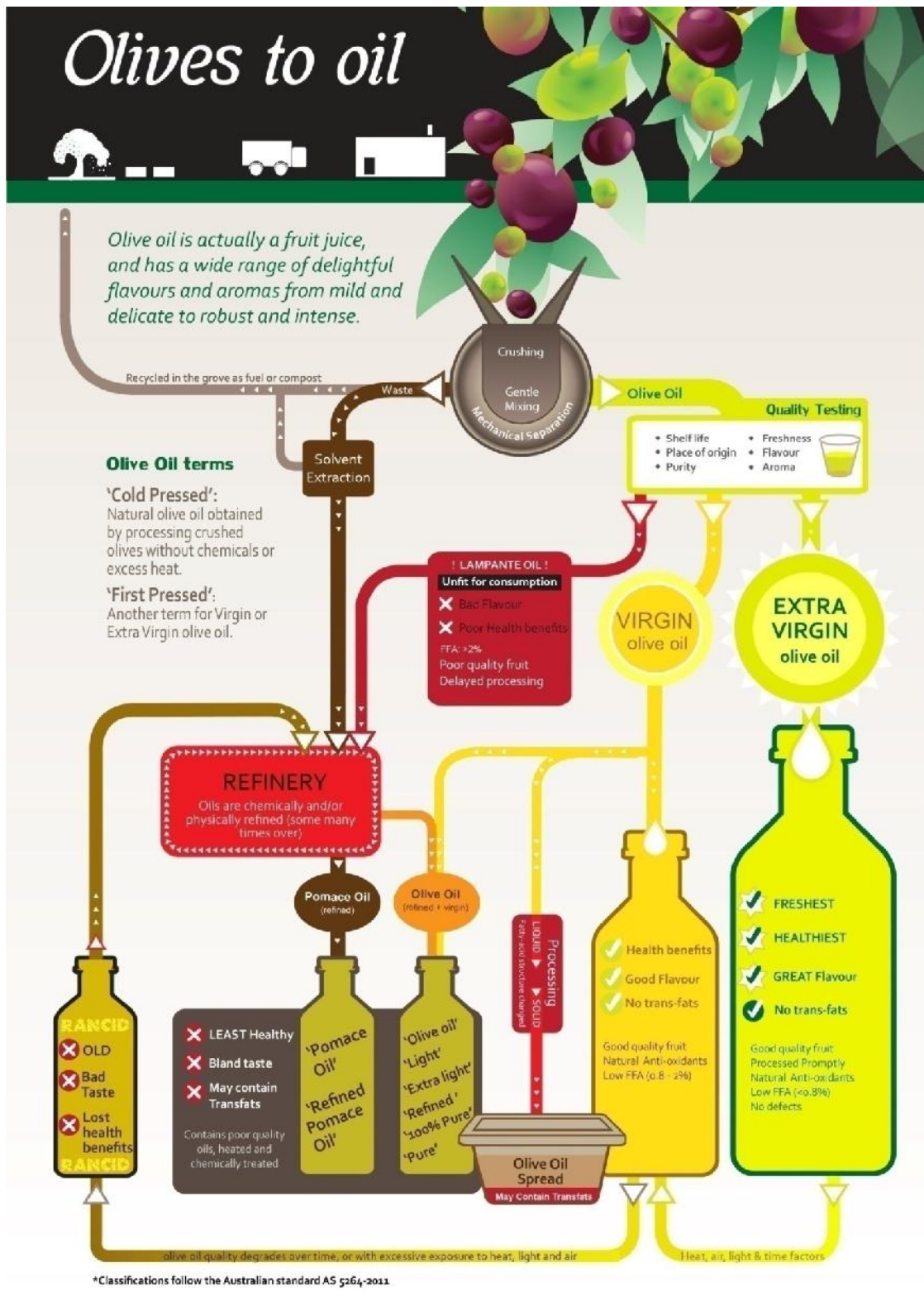
2. Low grade products masquerading as healthy natural olive oil should be removed from the shelves or re-labeled stating their correct name.

**FACT 8:** There is adverse health effects connected to refined and adulterated oils.

- Many refined olive oils contain certain amounts of [trans fatty acids](#) and stigmastadienes which are not present in EVOO. FSANZ explain more about trans fatty acids [here](#).
- Trans fat is the common name for a type of unsaturated fat with trans-isomer fatty acid(s) formed during the processing of fats and oils. Unlike other dietary fats, trans fats are not essential, and they do not promote good health.
- The consumption of trans fats increases one's risk of coronary heart disease by raising levels of "bad" LDL cholesterol and lowering levels of "good" HDL cholesterol. Health authorities worldwide recommend that consumption of trans fat be reduced to trace amounts.
- [Stigmastadienes](#) are by-products of the refining process and are formed by dehydration and degradation of the beneficial phytosterols present in EVOO. They are considered food contaminants and pose some health risks.
- Many olive oils found in retail and food service surveys in Australia have degraded to the point where they only qualify as 'lampante' or not suitable for human consumption. Most of those lampante oils were of very poor quality and clearly rancid.
- [Rancid food oil](#) forms harmful free radicals in the body, which are known to cause cellular damage and have been associated with diabetes, Alzheimer's disease and other conditions. [Rancid oils](#) can also cause digestive distress, diarrhea and deplete the body of vitamins B and E. Free radicals can cause damage to DNA, accelerate aging, promote tissue degeneration and foster cancer development.

# APPENDIX 3

## Different grades of olive oil





## APPENDIX 2

# Evidence of Adulteration and Mislabelling

### Authenticity – a few examples

- 2010 [Choice Magazine study](#) found that more than 80% of the 51 imported oils tested failed to meet Extra Virgin requirements as a result of being poor quality, too old and/or refined. Choice found half, mostly imports, did not even meet the International Olive Council standards and that some had traces of fermentation, and were stale.
- 2011 [The Weekly Times conducted their own tests](#) on Coles and Woolworths house brands of premium 'Extra Virgin' olive oil and found that they failed to meet the Australian Standard for that grade.
- 2012 The Australian article "[Inside the Murky World of Olive Oil](#)" gave a good explanation of the sorts of issues faced in Australia and the level of corruption that exists.
- 2012 – January [The Advertiser](#) ran a story listing the Top five and bottom five oils in Australia. Coles and Woolworths representatives were contacted and Coles said "*it will withdraw any products that do not meet labeling laws or pose a safety risk to consumers*"; Woolworths said "*its olive oil would comply with the standard by the middle of the year*", but to date nothing has changed.
- Again in 2013, olive oil topped the "[food fraud](#)" league table, according to the U.S. Pharmacopeia Convention!
- 2007 – August, the New York Times ran an article called "[letter from Italy – Slippery Business – the trade in adulterated olive oil](#)". In this article the author talks about the EU recognizing several inferior grades, including "lampante" which is not suitable for human consumption and that basic tests can detect fraud.
- 2013 – August, The examiner ran a story Olive oil: The great American fraud! <http://www.examiner.com/article/olive-oil-the-great-american-fraud?cid=rss>
- An entire book has been written about the history of olive oil fraud throughout the world. This book, titled "[Extra Virginity: The Sublime and Scandalous World of Olive Oil](#)", makes a convincing case that the fraudsters are busier and richer now than ever before by passing off oil from all sorts of plants as that of olives. Through the deodorizing and cleaning techniques that are used to render seed oil or even oil chemically extracted from the stones and twigs of olives they can produce very bland oil.
- In [2008 the Australian Oils Research Laboratory \(AORL\)](#), a government facility, reported that most of the imported olive oil labeled as EVOO it tested failed to comply with this labeling.
- In 2009 the Australian laboratory Modern Olives confirmed the observation of AORL, publishing results of an extensive survey in Australia showing that about 80% of food service and supermarket olive oils labeled as Extra Virgin were not of that grade.



- In a [EuropaPress.es article from Spain](#) it is claimed that 80 percent of the oils sold in supermarkets and labeled Extra Virgin are not.
- In 2005 the [German Society for Fat Science \(DGF\)](#) reported one third of the olive oils it tested over a 10 year period were wrongly labeled as EVOO with many containing refined olive oil.
- In [2008 Italian police arrested 23](#) people and confiscated 85 farms in an operation that exposed the scale of the country's fraudulent olive oil trade mainly centered around importing cheap olive oil from other countries and passing it off as high quality Italian olive oil but also substituting inferior grades for Extra Virgin.
- In 2008 the [Canadian Food Inspection Agency](#) reported that about 25% of olive oil samples it tested in Canada in 2006-2007 failed to meet IOC Standards because of adulteration and it found that lower grades of oil and sunflower oil were the common adulterants. Past testing since 1994/95 showed a range of from 7% to 42% of non-compliant olive oils.

Canada – [LIF Foods fined \\$50,000 for selling sunflower oil as EVOO.](#)

Canada – [Italian Products Distribution Inc fined \\$7,500 for substituting sun flower oil for EVOO.](#)

- The [2010 GAIN Report \(IT1028\)](#) of the USDA Foreign Agricultural Service noted that 'Olive oil trade is vulnerable to fraud based on the quality of the oil or the labeled country of origin'.
- In 2010 UC Davis released a report "[Tests indicate that Imported EVOO Often Fails](#)" [010 UC Davis released a report](#) after sampling olive oils from the domestic market showing that 70% of imported EVOOs were in fact not and the same applied to 10% of Californian oils.
- In April 2011 UC Davis released a report "[Evaluation of EVOO Sold in California](#)" showing that 73% of the five top selling brands of EVOO in the USA failed to comply with that label.

USA - [Chefs file law suit against fraudulent olive oil.](#)

- The American Oil Chemist Society (AOCS) recently wrote an article entitled "[Questioning the virginity of olive oils](#)" – "Is a significant percentage of olive oil labeled as 'extra virgin' and imported into the United States for retail sale out of spec with international and US Standards?"
- In November [2010 the Junta of Andalusia](#) in Spain tested 25 local EVOOs and found 14 of them did not comply with the stated quality of the label, being either defective or refined oil.
- In [2011 Italian police seized Spanish olive](#) oil being passed off as Italian.
- In July 2011 the South African olive industry commissioned a study into EVOOs in their domestic market – 7 local and 23 imported. It was reported that 66% of the tested oils were not Extra Virgin. Only 22% of imported oils were Extra Virgin while 71% of domestic oils passed the testing. Of the imported oils 26% were 'fraudulently bottled' and could be criminally prosecuted under South African law.
- In 2008, U.S. food safety officers seized more than 10,000 cases of counterfeit [Extra Virgin Olive Oil](#), worth more than \$700,000, from warehouses in New York and New Jersey. Olive oil is considered one of the most frequently counterfeited food products, according to

the FDA, with one study finding that a lot of products labeled as "Extra-Virgin Olive Oil" actually contained up to 90% soybean oil.

- Other Standards (IOC, Codex, EC, etc.) are based on average European oils' characteristics, traditional varieties and do not contemplate new world's olive oils. They do not detect refined olive oils utilizing new technologies (e.g. Soft Column®) and use confusing denominations of the grades.
- On 22/2/2010 the US Food & Drug Administration sent a letter to the President of Pompeian Inc in Baltimore warning them about making invalid claims on labeling and websites.

<http://www.fakefoodwatch.com/2012/02/great-extra-virgin-olive-oil-scam-in.html>

### **Misbranded Food**

*Your "Pompeian Imported Extra-light Olive Oil" product is misbranded within the meaning of section 403(r)(1)(A) of the Act [21 USC § 343(r)(1)(A)] because the product label bears a nutrient content claim but does not meet the requirements to make the claim. Under section 403(r)(1)(A) of the Act, a claim that characterizes the level of a nutrient which is of the type required to be in the labeling of the food must be made in accordance with a regulation promulgated by the Secretary (or by delegation, FDA) authorizing the use of such a claim. Characterizing the level of a nutrient in food labeling of a product without complying with the specific requirements pertaining to nutrient content claims for that nutrient misbrands the product under section 403(r)(1)(A) of the Act.*

*The product is labeled "Extra-light Olive Oil." The regulation governing claims using the term "Light" to describe a food is found at 21 CFR 101.56. Pursuant to 21 CFR 101.56(b)(1), a nutrient content claim using the term "Light" or "lite" to describe a food that derives 50 percent or more of its calories from fat may only be used on the label of the food, without further qualification, if the fat content of the food is reduced by 50 percent or more per reference amount customarily consumed (RACC) compared to an appropriate reference food as specified in 21 CFR 101.130(1).*

*Your "Pompeian Imported Extra-light Olive Oil" product derives more than 50 percent of its calories from fat and, accordingly, must meet the requirements set forth in 21 CFR 101.56(b)(1) to bear a nutrient content claim containing the term "Light" without further qualification.*

*The Nutrition Facts panel for this product declares 14 g fat per RACC of one tablespoon, which is comparable to the reference food for this product as specified in 21 CFR 101.130(1). Therefore, this product cannot be labeled with the nutrient content claim containing the term "light," without further qualification, because the fat content is not reduced by 50 percent compared to an appropriate reference food.*

*The term "Light" may be used in a nutrient content claim on the label of a food which does not meet the requirements set forth in 21 CFR 101.56(b)(1) only if the term "Light" describes some physical or organoleptic attribute of the food such as texture or color and the information, so stated, clearly conveys the nature of the product, and the attribute appears immediately proximate to the term "Light" on the product's label [21 CFR 101.56(e)]. Your*

*“Pompeian Imported Extra-light Olive Oil” product’s label contains no such qualifying language associated with the term “Light” and therefore does not meet the requirements to use the term “Light” on its label.*

- In Australia when making claims about a product being ‘Light’ producers need to refer to the [FSANZ Qualitative consumer study related to nutrition content claims on food labels](#) – section 14 ‘Lite’ and “Light” claims. In a FSANZ report that looked into the views of consumers who purchased “Light” products it found that the majority of participants were uncertain, and many were confused, about what the ‘lite/light’ term referred to.
- The following conversation indicates the lack of consensus amongst consumers in this study typically felt.

*“it is everywhere, but what does light mean?”*

*“low calorie”*

*“low fat”*

*“low in alcohol?”*

*“low in sugar”*

*“but when it is on a product it doesn’t mean it is light in all of the above, it might be light in one of those particular things” [Aust, lower SES, special health needs, 45-64yrs]*

In several other groups both in Australia and in New Zealand, participants discussed the example of ‘lite/light’ olive oil, which they had each initially assumed to mean ‘light in fat’ but had later found out meant light in colour. Other examples where “Light” which was now known to refer to colour included soy sauce and fruitcake.

In the absence of any clarity as to the meaning of the ‘lite/light’ claim, most consumers would assume that the claim referred to the nutrient in the food that most needed reducing, and the default assumption was that ‘lite’ referred to fat.

*“I feel like I’ve been conditioned that L I T E is referring to fat”*

## APPENDIX 3

# Supporting Information on relevant ACL

**RELEVANT CLAUSES IN** Australian Consumer Law - Competition and Consumer Act 1010  
(Volume 3 page 191)

### **Part 3-4—Information standards**

#### **134 Making information standards for goods and services**

- (1) The Commonwealth Minister may, by written notice published on the internet, make an **information standard** for one or both of the following:
  - (a) goods of a particular kind;
  - (b) services of a particular kind.
- (2) Without limiting subsection (1), an information standard for goods or services of a particular kind may:
  - (a) make provision in relation to the content of information about goods or services of that kind; or
  - (b) require the provision of specified information about goods or services of that kind; or
  - (c) provide for the manner or form in which such information is to be provided; or
  - (d) provide that such information is not to be provided in a specified manner or form; or
  - (e) provide that information of a specified kind is not to be provided about goods or services of that kind; or
  - (f) assign a meaning to specified information about goods or services.

#### **135 Declaring information standards for goods and services**

- (1) The Commonwealth Minister may, by written notice published on the internet, declare that the following is an Information Standard for goods or services of a kind specified in the instrument:
  - (a) a particular standard, or a particular part of a standard, prepared or approved by Standards Australia International Limited or by an association prescribed by the regulations;
  - (b) such a standard, or such a part of a standard, with additions or variations specified in the notice.
- (2) The Commonwealth Minister must not declare under subsection (1) that a standard or a part of a standard, referred to in that subsection is an information standard for:
  - (a) goods of a particular kind; or
  - (b) services of a particular kind;if that standard or part is inconsistent with an information standard for those goods or services that is in force and was made under section 134(1).

# APPENDIX 4

## ACL relevant to this issue

The Australian Consumer Law (ACL) introduced a new nationally consistent system to regulate the safety of consumer goods and product related services.

The information provided below is a brief guide to the product safety provisions of the ACL. Further information on the ACL can also be found on the [Consumer Law website](#) established by the Commonwealth Department of the Treasury.

### 1. The Product Safety Provisions

The ACL's product safety provisions set out how the Australian and state/territory Governments can regulate consumer goods and product related services to ensure they are safe. These can include:

- imposing mandatory safety standards or information standards on goods or product related services;
- banning goods or product related services, either on an interim or permanent basis; or
- issuing a compulsory recall notice requiring suppliers to recall a good.

They also regulate what a supplier has to do, including:

- responsibilities if a Minister bans a product or imposes a safety or information standard on a good or product related service;
- when to recall a good and how to do this;
- what to do if a Minister issues a compulsory recall notice;
- when to report an incident associated with a good to the Minister; and
- when a manufacturer may be liable for loss or damage caused by a good with a safety defect.

The ACL is contained in a schedule to the [Competition and Consumer Act 2010](#), which has replaced the Trade Practices Act 1974. The schedule is also mirrored in state and territory fair trading legislation.

### 2. Mandatory safety standards or information standards

Under the ACL, only the Commonwealth Minister has the power to make or [declare a mandatory safety or information standard](#) for a good or product related service. These apply nationally. A full list of safety standards currently in force is available on the mandatory standards page of this website.