



Textiles, clothing and footwear industries

Country of origin guidelines
to the Trade Practices Act

December 2001



© Australian Competition and Consumer Commission 2001
ISBN 0 642 40311 2

This work is copyright. Apart from any use as permitted under the *Copyright Act 1968* no part may be reproduced by any process without permission from the Australian Competition and Consumer Commission. Requests and inquiries concerning reproduction and rights should be addressed to the Director Publishing, Australian Competition and Consumer Commission, PO Box 1199, Dickson, ACT 2602.

Important notice

Please note that this guideline is a summary designed to give you the basic information you need. It does not cover the whole of the Trade Practices Act and is not a substitute for professional advice.

Moreover, because it avoids legal language wherever possible there may be some generalisations about the application of the Act. Some of the provisions referred to have exceptions or important qualifications. In most cases the particular circumstances of the conduct need to be taken into account when determining the application of the Act to that conduct.

While it refers to other legislation, such as the *Commerce (Trade Descriptions) Act 1905*, the purpose of this guideline is only to outline the relevant principles to country of origin representations under the Trade Practices Act. Issues and queries arising out of other legislation should be raised with either the relevant government body charged with administering that legislation (in the above example, Customs) or with independent legal advisers.

Produced by the ACCC Publishing Unit. 12/01.

Disclaimer

This guide is designed to help textile, clothing and footwear industries understand the August 1998 provisions of the *Trade Practices Act 1974* that relate to making country of origin representations. The objective is to provide businesses and industry groups with information that will help them to develop strategies to improve compliance with the Trade Practices Act.

This paper cannot be relied upon as stating 'the law' on country of origin claims.

While this guide reflects the Australian Competition and Consumer Commission's current views, they may well change as courts make rulings on cases, or government regulations are made or changed. In any case, interpretation of the law will always ultimately be up to the courts. Prudent businesses will take legal advice to ensure they stay abreast of developments in the law.

This statement of the Commission's views also constitute a statement of its current enforcement policy for country of origin claims.

Private actions

Anyone (e.g. competitors, other parties) can take private actions under the Trade Practices Act, and there is no requirement that they must take the Commission's views into account. The Commission has no say about the types of private action claims that might be brought to the courts under ss. 52 and 53(eb).

State and Territory laws

The Trade Practices Act is Commonwealth legislation. State and Territory Fair Trading Acts generally mirror the consumer protection elements of the Trade Practices Act, including ss. 52, 53(a) and 53(eb).

The defences set out in the August 1998 provisions of the Trade Practices Act apply only to breaches of ss. 52 and 53(eb). It is the Commission's understanding that State and Territory legislation will be amended eventually to pick up these new provisions.

Contents

Introduction and background	1
TCF industry profile	1
Key statistics	1
Background to guide	2
TCF Working party	2
Country of origin claims	3
The law	3
'Made in Australia' defence	4
Substantial transformation	4
Costs of production	4
What does that mean?	5
'Product of Australia' defence	5
Logos	5
What if you don't want to use a safe harbour?	6
Place of origin claims	6
Issues raised by the industry	7
Made in Australia	7
Product of Australia	11
General	12
Companies inspected	14
Attachment	16
The 50% rule — criteria	16
ACCC contacts	22

Introduction and background

TCF industry profile

The Australian textiles, clothing, footwear and leather (TCF) industries occupy a key position in Australia's economic and social landscape. They are major employers of Australians in city and regional locations, and are growing and significant exporters.

The industries incorporate every stage of the value chain from raw materials processing, intermediate, and finished goods to retail. They include large and small business and the full range of production strategies from raw material and technology-intensive production to more labour-intensive production, branding and differentiated markets and end users.

The range of products developed in Australia for local and international markets includes processed wool, cotton and hides; fine yarns; woven and knitted fabrics; bed and bath products; carpets; domestic furniture and automotive leather; high fashion designer clothing and shoes. There is also a growing market for woven and non-woven industrial textiles.

Key statistics

The TCF industries in Australia are a significant sector. They:

- encompass over 5000 establishments;
- generate annual turnover of \$9.8 billion;
- export over \$2.9 billion per annum;
- directly employ over 86 000 Australians;
- make up 7.6 per cent of total manufacturing employment;
- had an export growth of intermediate and finished products from \$294 million to \$1 billion between 1987–88 to 2000–01; and
- in 1998–99 produced over \$3.3 billion in value-added activity.

(Extract from DISR webpage. Last updated 3 April 2000. Updated by TFIA September 2001.)

Background to guide

Following the production of a guide specifically for the complementary health care industry in December 1999, the Commission decided to progressively convene joint working parties in the textile, clothing and footwear; electrical and whitegoods; food and beverages; furniture and furnishings; and toy industries to produce guidelines for each industry.

TCF working party

The TCF working party was established and led by the Commission. The Council of Textile and Fashion Industries of Australia Limited (TFIA), selected as the participating industry association, was represented by its executive director, and a representative from the Business Law and Competition Reform Section of the Department of Industry, Science and Resources participated in the Melbourne visits. The companies the working party visited are listed at the end of the guide.

Country of origin claims

Revised provisions for country of origin representations came into effect on 13 August 1998.

A country of origin representation is any labelling, packaging, logo or advertising that makes a statement, claim or implication about which country goods come from.

The most common claims are 'Made in Australia' and 'Product of Australia'— or similar claims about goods from other countries.

Under the Trade Practices Act companies do not have to state where goods are from, but if they do then the claims must be accurate. Therefore the revised provisions are not proscriptive but clarify the steps that firms may take to ensure that their country of origin labelling or promotions do not breach the Trade Practices Act.

Companies may be obliged to state where goods are from under other pieces of legislation such as the *Commerce (Trade Descriptions) Act 1905*. Queries about these requirements should be directed to Customs or independent legal advisers.

The law

The Trade Practices Act prohibits conduct that misleads or deceives, or is likely to mislead or deceive. Specifically, s. 53(eb) prohibits businesses from making a false or misleading representation about the place of origin of goods.

(See page 6 for an explanation of the difference between 'place' and 'country' of origin.)

The Act defines a set of defences (also called safe harbours) for goods that pass certain tests. These are explained below.

The revised provisions are found in Division 1AA of Part V of the Trade Practices Act — Country of origin representations, ss. 65AA to 65AN.

'Made in Australia' defence

The first defence, or safe harbour, is for general country of origin claims that may include:

Made in ...

Australian Made

Manufactured in ...

The defence has two components that must be met:

- the goods must have been substantially transformed in the country claimed to be the origin; and
- 50 per cent or more of the costs of production must have been carried out in that country.

This defence does not apply to claims that goods are the 'product of' a particular country. These now come under the 'Product of Australia' defence.

Substantial transformation

The provisions define substantial transformation as:

a fundamental change ... in form, appearance or nature such that the goods existing after the change are new and different goods from those existing before the change.

Ultimately it is the court's view that is important. The court will usually arrive at a view on whether a substantial transformation has occurred by considering the average consumer's perspective of any label claim, and whether goods are new or different.

The Federal Government can make regulations stating that certain changes (i.e. unsophisticated processes) are not considered to be fundamental changes for the purposes of the legislation. Currently there are no such regulations.

Costs of production

The provisions set out how to calculate the cost of production or manufacture of goods. Three broad categories of costs are considered: expenditure on materials, labour, and factory overheads.

What does that mean?

Generally, materials costs are straightforward to calculate. They can be allocated to the final goods fairly easily. But labour and overheads count towards costs only where they can reasonably be allocated to the final goods.

Under the law the government can make regulations to allow or disallow certain costs from being counted towards production and manufacturing costs. Currently there are no such regulations.

However, the Commission will accept the 50 per cent rule criteria contained in the attached edited extract from ANZCERTA (as at June 2001) Joint Australia/New Zealand Customs Information Booklet on *Rules governing entitlement to preferential rates of duty for trans-Tasman trade*.

'Product of Australia' defence

'Product of ...' is the premium claim about a good's origin.

The defence, or safe harbour, for claims that a good is a product of a certain country is more demanding than the Made in Australia defence.

For goods to qualify, two rigorous criteria must be met:

- the country of the claim must be the country of origin of each significant ingredient or significant component of the goods; and
- all, or virtually all, processes involved in the production or manufacture must have happened in that country.

These criteria apply to any variations of the words 'product of', such as 'produce of' and 'produced in'.

Logos

Logos are frequently used to promote goods to build brand recognition, or to associate the goods with desirable characteristics that may include their origin.

The law allows for a country of origin logo or logos to be prescribed by regulation. A prescribed logo will signify that

both substantial transformation and a certain percentage of costs (above 50 per cent) of producing the goods occurred in a given country. No regulations have yet been made to prescribe any logos.

What if you don't want to use a safe harbour?

The legal position for claims that do not rely on the new defences remains unchanged. For example, the use of qualified claims or terms that imply a lesser connection with the country. Examples might be 'Packaged in Australia', 'Bottled in Australia', 'Australian Owned' or 'Made/Manufactured in Australia from imported ingredients'.

If goods do not qualify for the defences then claims made about country of origin will be assessed on their merits. They then run the risk of challenge and potential legal action by the Commission, a competitor or any interested party.

Place of origin claims

Section 53(eb) refers to 'place' of origin claims. 'Country' of origin claims are a subset, and are distinct from 'place' claims.

A place of origin claim can be that a good originates from a narrower or more localised region than a country. For instance, 'Made in Melbourne' or 'Product of the Hunter Valley'.

All false and misleading claims about the place of origin are prohibited by s. 53(eb). If the claim is 'place' only, and not also a country of origin claim, the August 1998 changes do not affect it. 'Place' only claims will be assessed on their merits. They may also use the qualified claims that might imply a lesser connection with the place, such as 'Tailored in Melbourne' or 'Woven in the Hunter Valley'.

The August 1998 Part V Division 1AA defences — the safe harbours — specifically relate only to country of origin claims.

Issues raised by the industry

Made in Australia

1. The industry association's position

'Notwithstanding that the Act provides a defence on the basis of achieving both substantial transformation and (50 per cent) value (added locally), it is not the intention of the Act to provide a direction that both must apply. There are industries in which the extent of workmanship in Australia will be sufficient to label the goods 'Made in Australia'. For example, the clothing industry in which the manufacture of a garment of foreign materials in which all fabric and trimmings are cut, sewn and pressed totally in Australia and where the cost of the materials are greater than 50% of the total cost, 'Made in Australia' is still applicable. Determination of such industries and products still remain a case by case approach to be determined by the courts ...'

The industry association also points to a number of anomalies like:

'... the same garment of a different size may have different connotations as to its country of origin. When using imported fabrics, the larger size garments will have a demand for fabric that increases at a greater rate (cost based) than the manufacturing expenses. Somewhere in the size range these cost factors will change what is essentially the same garment to other than Australian made depending only on its size. For example, a size 8 two-piece suit will have less fabric and more labour, relative to fabric cost, than a size 12. This will mean a change in labelling depending on size of garment.'

This problem was also raised by the Complementary Health Care Industry.

'It also creates anomalies when the cost of the imported ingredients is particularly high. For example, it is

possible that a packet of 5mg tablets will meet the 50 per cent requirement, but a packet of the same 20mg tablets will not because it has four times the level of expensive imported ingredient. Suppliers must then decide whether the advantage of making an origin claim for the lower potency product outweighs the cost of having two sets of labels.’ (Page 22, Report Of The Working Party On The Complementary Health Care Industry, August, 1999.)

‘Equally, fabric prices vary greatly depending on the colour of the fabric. Darker colours are, in general, much more expensive. A white ladies dress is therefore likely to be made in Australia while a black garment of identical structure and size is not. This is a logistical nightmare for manufacturers and ... build(s) an equally confusing outcome for consumers.’

The industry association also asked:

‘... whether labelling for consumer awareness should be dependent upon exchange rate variations? Faced with an identical fabric and manufacturing process, a particular product manufactured last November, using imported fabric, may (not) have qualified as Australian Made under the ... second test of the ... legislation. However, that very same product would today ... satisfy the (second) test; while all actual activities are the same, the cost of the imported fabric is (lower) due to exchange rate variations.’

The Commission’s view on the industry association’s position is as follows. The defences in Division 1AA provide safe harbours for country of origin claims. Provided that a firm’s country of origin claim comes within these safe harbours, the firm will have a statutory defence to an action brought by the Commission (or any person) for a contravention of ss. 52 or 53(eb).

However, the Commission would not take action in the above garment manufacturing or similar examples, because substantially not all of the components/ ingredients/raw materials comprising the end product were imported, and substantially all of the manufacturing processes involved in the manufacture of the garment occurred in Australia.

2. Substantial transformation

A major shoe manufacturer asked the Commission for a clear definition of what substantial transformation means in the context of footwear manufacturing. In their case they label their footwear 'Made in Australia' because the product is clearly substantially transformed here and local production costs are way in excess of 50 per cent (they probably have a good case for some of their styles being 'Product of Australia'). However, there are a number of local manufacturers that brand their product 'Made in Australia', but in fact import the shoe upper with overseas leather that has already been cut and stitched.

Their view is that the substantial transformation has already taken place despite the fact that local production costs may still exceed 50 per cent.

The Commission's view

The Commission supports this view and considers that a more appropriate claim in such circumstances might be 'Assembled in Australia from imported leather'. The Footwear Manufacturers Association of Australia (FMAA) agrees that if the upper and sole are imported the foregoing claim would be appropriate. If, however, the upper is imported and the sole and lasting is local then, depending on factory production cost, a general claim may be appropriate. In such circumstances the Commission still believes it would be safer to use a qualified claim like 'Made in Australia from local and imported components'.

3. Minimum 50% production cost

- a. A major socks and underwear manufacturer sought clarification of what can be included in costs of manufacture to achieve the 50 per cent local value added. For example, can wool purchased in Australia by an overseas buyer and processed into fabric overseas be partially counted as Australian content when it is made into apparel here?
- b. A major bed linen manufacturer also requested a more detailed analysis of what can be included to achieve the minimum 50 per cent threshold. For example, can

design and intellectual property in computer programs used in the production process be considered?

The Commission's view

- a. Based on the 'materials' section of the 50% rule criteria contained in the attachment, the answer to this question would be no.
- b. The 'overhead' criteria in the attachment provide that 'research, development, design and engineering' may form part of qualifying expenditure.

4. Qualified claims

Businesses unable or unwilling to make an unequivocal claim of 'Made in Australia' for their product may wish to consider making a qualified claim.

A qualified claim gives more information than the general claim. For example, 'Made in Australia' is an unqualified claim, while 'Made in Australia from local and imported ingredients' is a qualified claim.

The Commission has previously agreed that claims such as 'Made in Australia from local and imported ingredients' do **not** have to use or meet in full the requirements for the substantial transformation and 50 per cent production cost defences. It also encourages the use of qualified claims where the extra information provided is accurate, relevant and useful and does not give a false or misleading impression. For example, where the imported content of a product is greater than the local content, the label claim should read e.g. 'Made in Australia from imported and local ingredients' or where the local content is greater 'Made in Australia from local and imported ingredients'.

In this regard there were a number of requests for additional industry-oriented examples as follows: 'Made in Pakistan under Australian supervision', 'Crafted in Australia', 'Designed in Australia/Made in China', 'Made in China from Australian fabric'.

The Commission's view

The following is an actual question put to the Commission and the answer provided.

Question. We produce bed linen and table linen. Does this require a country of origin label? If I bring in partly decorated fabric and hand finish that by painting details on in my factory in Australia can I then claim Australian Made?

Answer. The Trade Practices Act does not require you to make an origin claim. However, if you do it must be accurate and correct. On the other hand, the Customs administered *Commerce (Trade Descriptions) Act 1905* and the Commerce (Imports) Regulations 1940 require imported 'textile products and articles of apparel including shoes' to have and maintain origin labelling. The example of imported 'partly decorated fabric' which you hand finish by painting on details in your factory is unlikely to meet the Trade Practices Act test for substantial transformation in which case you could not use the Made in Australia defence. The alternative is to use a qualified claim, e.g. 'Made in Australia from imported fabric'.

Product of Australia

Eligibility to use the premium claim of Product of Australia appears to be well understood and is not a big issue in the industry. As mentioned earlier there are some full leather shoes produced in Australia that may well qualify for the premium claim in lieu of their existing Made in Australia claim. However, there is still some uncertainty regarding the first test for this defence, i.e. 'each significant component (or ingredient) of the good must originate from the country of the claim'.

The Commission's view

The Commission has previously advised the industry association as follows: 'It is our understanding that, in your industry, (where) dyestuffs are considered to be a significant component or ingredient of the final fabric ... (and the) dyestuffs are imported, it would be difficult in our view to sustain the claim Product of Australia in terms of s. 65AC of the Act'.

1. Imports

Two of the manufacturers visited raised the issue of labelling and expressed concern about the practice of changing or removing labels on imported products after entry to Australia. One even claimed that there is plenty of imported product in the marketplace without an origin claim on the label. This is a problem in the context of consumer perceptions of the industry's products i.e. 'If there is no claim on the label, it must be made in Australia'.

The Commission's view

While this matter is controlled by Customs through the *Commerce (Trade Descriptions) Act 1905*, it is noted that this Act is being reviewed. This could exacerbate such problems in the industry and generate more complaints to the Commission because the Trade Practices Act is silent on the need for labels. However, it is clear that anyone passing off imported products as having been made in Australia would be contravening the Trade Practices Act. At present both the Customs provisions and the Trade Practices Act are required to provide an effective system of consumer protection in the TCF industry.

2. Silence

In some circumstances failure to disclose important information can be misleading. If the overall impression is misleading in any way, then more information needs to be provided or the representation needs to be made clearer. The misleading impression must be corrected at the same time and with the same impact as the initial representation. While there is no general duty of disclosure in the Act, including origin claims, it is up to a business to make sure that the combination of what is said and what is left unsaid does not give consumers the wrong overall impression.

3. Internet assistance

On its webpage at <<http://www.accc.gov.au>> the Commission has a country of origin site with an interactive question and answer (Q&A) segment that will provide an email response within 48 hours to any issues or queries not already covered there or in this guide. An example of the type of Q&A dealt with on the site follows.

Question

We will be importing some garments namely polo shirts made out of Australian printed fabric from Fiji. The Australian proportion on the cost of these garments is 73 per cent and the Fiji content is 26 per cent and 1 per cent (labels) is imported from Taiwan.

1. Could we label these garments Made in Australia?
2. If not, could we insert the country label on the side seam of the polo shirt?
3. Or is there a recommended place to signal the country of origin?

Answer

1. The garments (polo shirts) have been made (substantially transformed) in Fiji, so you would not be able to use the defences in the Trade Practices Act to justify a 'Made in Australia' claim. In this case the fact that 73 per cent of the cost is attributable locally is irrelevant. The appropriate qualified claim to make in the circumstances would be 'Made in Fiji from fabric printed in Australia' or 'Made in Fiji from Australian printed fabric'.
- 2 & 3. The Trade Practices Act does not require firms to make country of origin claims; it simply requires the truth in any claims that are made. It also does not have any requirement in respect of location of labels so long as there is nothing misleading or deceptive intended by the placement.

Follow-up question

Although the Trade Practices Act does not require a country of origin on the garments as stipulated in my initial fax; the Customs Act itself is more stringent and requires that a clear label be sewn on the garment which has to stipulate not only the content of the fibre making up the garment but the country of origin as well. So on one side we have the Trade Practices Act saying no country of origin is required and on the other the Customs Act saying if you do not clearly stipulate the country of origin you will be fined \$10 000. Which department regulates my query and whom do I believe?

Answer

The simple answer is that you must abide by all applicable legislation. If Customs requires labelling with country of origin you must provide it. If you provide it you are obliged to observe the requirements of the Trade Practices Act as described previously.

Companies inspected

In the TCF working party's terms of reference it was agreed that a representative range of the industry's manufacturing processes would be inspected to help determine if they would satisfy the tests relating to country of origin representations. The TFIA arranged the following program of visits.

NSW

Kolotex Hosiery, Leichhardt

J Robins, ladies footwear, Belmore

Macquarie Textiles, yarns, fabrics & home textiles, Albury

VIC

Flair, structured apparel, Preston

Florsheim, men's shoes, Preston

Brintons Carpets, Geelong

Bradmill Undare, yarn, knits, wovens, industrial fabrics,
Yarraville

Yakka, Workwear, Brunswick

Holeproof, socks, underwear, Nunawading

J Boag, men's shirts, Brunswick

Australian Country Spinners, hand knitting yarns, Wangaratta

SA

Sheridan, bed linen, Adelaide

Levi Strauss, jeans, Adelaide

Spinelli, fashion garments, Kensington

WA

Permapleat, school uniforms, Osborne Park

Football Specialists Aust., football jumpers & supporters
gear, footballs & indoor cricket balls, Bassendean

Seekers Aust., swimwear, Perth

Canning Vale, towels, Canning Vale

Attachment

Edited extract from ANZCERTA as at June 2001
Joint Australia/New Zealand Customs information booklet
Rules government entitlement to preferential rate of duty for
trans-Tasman trade.

The 50% rule — criteria

What is the setting for the 50% and who must incur it?

The scheme of current Australian legislation is built around 'the factory' which is defined as the place where the last process in the manufacture of *the goods* was performed. It is important to understand that the manufacturer is defined as the person undertaking the last process in the manufacture of *the goods*. Manufacture of *the goods* must take place in Australia. When put together, the significance of these concepts is that:

- all inputs into the manufacturing process (other than those materials treated as overheads) are to be treated as materials entering that process;
- all expenditure forming part of the 50% requirement must be incurred by the manufacturer of *the goods*.

Another important aspect of the 50% calculation is that no cost may be taken into account more than once.

How is the 50% calculated?

The 50% rule is a value added test and is based on the formula:

$$\frac{\text{qualifying expenditure (Q/E)}}{\text{factory cost (F/C)}} \%$$

Q/E = Qualifying expenditure on materials + qualifying labour and overhead (includes inner containers)

F/C = Total expenditure on materials + qualifying labour and overhead (includes inner containers)

The elements of factory cost viz., material, labour and overhead and inner containers are dealt with next.

Elements of the 50%

■ Materials

Total expenditure on materials includes all directly attributable costs of acquisition into the manufacturer's store. This will **include**:

- the purchase price;
- overseas freight and insurance;
- port and clearance charges; and
- inward transport to store

but **excludes**:

- customs duty;
- anti-dumping or countervailing duty;
- excise duty;
- sales tax; and
- goods and services tax

incurred by the manufacturer in Australia.

Where materials:

- (a) are provided free of charge or at a cost which is found to be more or less than normal market value; or
- (b) are added or attached to goods in order to artificially raise qualifying expenditure,

the Commission may determine a value which will apply.

Qualifying expenditure on materials

Qualifying expenditure is 100% where:

- the material is an unmanufactured raw product of Australia; or
- the material is wholly manufactured in Australia from the unmanufactured raw products of this country.

Materials of mixed origin

These are materials which incorporate both imported content and content of Australia. Australia treats materials of mixed origin which reaches 50% or more local content as 100% qualifying materials. Australia

calculates the percentage of local content as the sale price of the material minus the imported content.

The following example illustrates the Australian outcome where the 50% local content is not reached:

	\$
A. Cost of imported materials	150
B. Cost of materials manufactured in Australia	20
C. Labour and factory overhead for manufacture of materials	30
D. Total factory cost of materials	200
E. Other overhead and profit	50
F. Selling price of material to factory	250

Qualifying expenditure on materials

Australian goods exported

Qualifying expenditure (B+C) = \$50

Qualifying expenditure/total factory cost (D)
= \$50/\$200 = 25%

Qualifying expenditure on materials
= 25% of F (\$250) = \$62.50

Materials recovered from waste and scrap

Australia has agreed to the following interpretation of this provision. Thus, expenditure:

- (a) on waste and scrap resulting from manufacturing or processing operations in Australia; and
- (b) on used articles collected in Australia, which are fit only for the recovery of raw materials, shall be treated as qualifying expenditure on materials used in manufacture of goods.

Inner containers

Inner containers includes any container or containers into which any finished goods are packed other than pallets, containers or similar articles which are used by carriers for cargo conveyancing.

Australia treats materials for inner containers in the same manner as any other materials. The effect of this is that where there is less than 50% Australian content, Australia may allow some qualifying expenditure.

■ Labour

Labour costs associated with the following functions may form part of qualifying expenditure:

- manufacturing wages and employee benefits;
- supervision and training;
- management of the process of manufacture;
- receipt and storage of materials;
- quality control;
- packing goods into inner containers; and
- handling and storage of goods within the factory.

To the extent that any of the listed costs:

- (a) are incurred by the manufacturer of the goods;
- (b) relate directly or indirectly to the production of the goods;
- (c) can reasonably be allocated to the production of the goods;
- (d) are not specifically excluded (see exclusions under overhead below); and
- (e) are not included elsewhere e.g., under overhead, they may be included, in whole or in part, within qualifying expenditure.

■ Overhead

Subject to later qualifications, the following overhead costs associated with manufacturing functions **may form part of qualifying expenditure**:

- inspection and testing of materials and the goods;
- insurance of the following kinds:
 - (i) plant, equipment and materials used in the production of the goods;
 - (ii) work-in-progress and finished goods;
 - (iii) liability;
 - (iv) accident compensation;
 - (v) consequential loss from accident to plant and equipment;
- dies, moulds, tooling and the depreciation, maintenance and repair of plant and equipment;
- interest payments for plant and equipment;

- research, development, design and engineering;
- the following real property items used in the production of the goods:
 - (i) insurance;
 - (ii) rent and leasing;
 - (iii) mortgage interest;
 - (iv) depreciation on buildings;
 - (v) maintenance and repair;
 - (vi) rates and taxes;
- leasing of plant and equipment;
- energy, fuel, water, lighting, lubricants, rags and other materials and supplies not directly incorporated in manufactured goods;
- storage of goods at the factory;
- royalties or licences in respect of patented machines or processes used in the manufacture of the goods or in respect of the right to manufacture the goods;
- subscriptions to standards institutions and industry and research associations;
- the provision of medical care, cleaning services, cleaning materials and equipment, training materials and safety and protective clothing and equipment;
- the disposal of non-recyclable waste;
- subsidisation of a factory cafeteria to the extent not covered by returns;
- factory security;
- computer facilities allocated to the process of manufacture of the goods;
- the contracting out of part of the manufacturing process within Australia;
- employee transport;
- vehicle expenses; and
- any tax in the nature of a fringe benefits tax.

NOTE: The cost of any depreciation must be worked out in accordance with generally accepted accounting principles applied by the manufacturer.

To the extent that any of the costs included in qualifying expenditure:

- (a) are incurred by the manufacturer of the goods;**
 - (b) relate directly or indirectly to the production of the goods;**
 - (c) can reasonably be allocated to the production of the goods;**
 - (d) are not specifically excluded (see below); and**
 - (e) are not included elsewhere e.g., under Labour,**
- they may be included, in whole or in part, within qualifying expenditure.**

The following costs are specifically excluded as qualifying expenditure:

- any cost or expense relating to the general expense of doing business (including, but not limited to, any cost or expense relating to insurance or to executive, financial, sales, advertising, marketing, accounting or legal services);
- telephone, mail and other means of communication;
- international travel expenses including fares and accommodation;
- the following items in respect of real property used by persons carrying out administrative functions:
 - (i) insurance;
 - (ii) rent and leasing;
 - (iii) mortgage interest;
 - (iv) depreciation on buildings;
 - (v) maintenance and repair;
 - (vi) rates and taxes;
- conveying, insuring or shipping goods after manufacture;
- shipping containers or packing the goods into shipping containers;
- any royalty payment relating to a licensing agreement to distribute or sell the goods;
- the manufacturer's profit and the profit or remuneration of any trader, agent, broker or other person dealing in the goods after manufacture;
- any other cost incurred after the completion of manufacture of the goods.

ACCC contacts

ACCC Infocentre

(for all business and consumer inquiries)

Infoline: 1300 302 502

Websites: <http://www.accc.gov.au>
<http://forums.accc.gov.au>

ACT (national office)

PO Box 1199
DICKSON ACT 2602
Tel: (02) 6243 1111
Fax: (02) 6243 1199
Publishing Unit: (02) 6243 1143
Media liaison: (02) 6243 1108

New South Wales

GPO Box 3648
SYDNEY NSW 1044
Tel: (02) 9230 9133
Fax: (02) 9223 1092

Regional NSW

PO Box 2071
TAMWORTH NSW 2340
Tel: (02) 6761 2000
Fax: (02) 6761 2445

Victoria

GPO Box 520J
MELBOURNE VIC 3001
Tel: (03) 9290 1800
Fax: (03) 9663 3699

Tasmania

GPO Box 1210
HOBART TAS 7001
Tel: (03) 6215 9333
Fax: (03) 6234 7796

Queensland

PO Box 10048
Adelaide Street Post Office
BRISBANE QLD 4000
Tel: (07) 3835 4666
Fax: (07) 3832 0372

North Queensland

PO Box 2016
TOWNSVILLE QLD 4810
Tel: (07) 4729 2666
Fax: (07) 4721 1538

South Australia

GPO Box 922
ADELAIDE SA 5001
Tel: (08) 8213 3444
Fax: (08) 8410 4155

Western Australia

PO Box 6381
EAST PERTH WA 6892
Tel: (08) 9325 3622
Fax: (08) 9325 5976

Northern Territory

GPO Box 3056
DARWIN NT 0801
Tel: (08) 8946 9666
Fax: (08) 8946 9600