

# Electrical goods

Country of origin guidelines to the  
Trade Practices Act

November 2003



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### **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 1974* (TPA) 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 TPA. 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 TPA 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 TPA. 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 11/03.

## Disclaimer

This guide is designed to help the electrical goods industry understand the provisions of the *Trade Practices Act 1974* (TPA) that relate to making country of origin representations. It aims to provide businesses and industry groups with information that will help them 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. Ultimately, interpretation of the law will always 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 ACCC’s views also constitutes a statement of its current enforcement policy for country of origin claims.

## Private actions

Businesses should be aware that persons other than the ACCC (such as competitors or customers) are sometimes able to start private legal proceedings to enforce ss. 52, 53(a), 53(eb) and 55 of the TPA. The ACCC generally has no say about the types of private actions that might be brought to the courts. Private litigants are not required to take the ACCC’s views, expressed in this publication, into account.

Except in limited circumstances, only the ACCC can institute legal proceedings for criminal offences under Part VC of the TPA, including ss. 75AZC(1)(a), 75AZC(1)(i) and 75AZH.

## State and territory laws

The TPA is Commonwealth legislation. State and territory fair trading acts generally mirror the obligations set out in the consumer protection provisions of the TPA, including the general provisions relating to country of origin claims contained in ss. 52, 53(a), 53(eb) and 55 of the TPA. Businesses may, therefore, have obligations under state and/or territory laws in addition to the TPA.

The defences set out in Part V, Division 1AA of the TPA (ss. 65AA to 65AN) only apply to ss. 52, 53(a), 53(eb), 75AZC(1)(a) and 75AZC(1)(i) and are not, at the time of publication, mirrored in state and territory legislation.

The ACCC understands that state and territory legislation will be amended eventually.

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# Introduction and background

## Country of origin and electrical products

The production of electrical and electronic goods is a global process that is becoming increasingly complex. Many products embody sub-assemblies and critical components that are available only from a few production centres in the world. In this context the industry raises significant challenges when it comes to questions of how to determine the origin of a product.

Country of origin cannot be equated with just Australian made. It involves any claim made in connection with the country of origin of a product. In the case of electrical and electronic products this is critical because countries as well as firms have different reputations for the quality of product performance and design. In a highly competitive industry it is not unusual to see others attempting to trade on the reputations of those countries or firms.

## Industry profile

Electrical appliances, accessories and consumer electronics represent some of the most significant investments made by consumers. The product range includes refrigerators, ovens and cook tops, washing machines, dryers, dishwashers, portable appliances and television and audio products. In 2001, 74 per cent of Australia's industry output went to final consumption in Australia, indicating high levels of consumer confidence and new housing construction output.

The market is characterised by a very high proportion of imported products but also has some strong locally manufactured brands particularly in the area of major appliances, electrical accessories, lighting and televisions.

## Background to guide

Following the production of a guide specifically for the complementary health care industry in December 1999, the Australian Competition and Consumer Commission decided to progressively convene joint working parties in the complementary health care; textile, clothing and footwear (TCF); electrical; food and beverage; furniture and furnishings; and toy industries to produce guidelines for each industry. The complementary health care industry guide was published in December 1999, the TCF guide in December 2001, the food and beverage guide in August 2002, and the furnishing guide in March 2003.

## Industry participation

This guide was written with the assistance of the Australian Electrical and Electronic Manufacturers' Association Ltd (AEEMA), through its Director, Technical & Regulatory.

AEEMA helped identify issues of interest to the industry, provided liaison services and set up the company visits. The companies visited are listed on page 15. AEEMA also participated in editing this guide.



# Country of origin claims

## 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. In a sector such as electrical and electronics, claims of origin associated with certain other countries are also significant.

Under the TPA it is not mandatory for companies to state where goods are from, but if they do then the claims must be accurate. The revised provisions clarify the steps that firms may take to ensure their country of

origin labelling or promotions do not breach the TPA. Sections 65C, D and E provide for the Commonwealth to proscribe product safety and information standards.

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.

At the time of printing the Commerce (Trade Descriptions) Act and Regulations are under review.

## The law

The TPA contains provisions of relevance to country of origin claims made by businesses.

Section 52 provides a general prohibition against conduct that misleads or deceives or is likely to mislead or deceive.

Section 53(a) provides a broad prohibition against making a false representation that goods, among other things, have a particular history.

Section 53(eb) provides a specific prohibition against making a false or misleading representation about the place of origin of goods. (See page 8 for an explanation of the differences between 'place' of origin and 'country' of origin).

Section 55 prohibits a person from engaging in conduct which is liable to mislead the public as to the nature, manufacturing process, the characteristics, the suitability for their purpose or the quantity of any goods.

Sections 75AZC(1)(a), 75AZC(1)(i) and 75AZH, contained in Part VC of the TPA, mirror ss. 53(a), 53(eb) and 55 respectively. There is no mirror provision of s. 52 contained in Part VC of the TPA.

Breaches of ss. 52, 53(a), 53(eb) and 55 give rise to **civil** action. Breaches of ss. 75AZC(1)(a), 75AZC(1)(i) and 75AZH give rise to **criminal** sanctions.

Sections 53(a) and 75AZC(1)(a) are relevant because a representation about the country of origin of goods is a representation of the history of those particular goods.

Sections 55 and 75AZH are relevant because a representation about the country of origin may be a representation about the nature, manufacturing process or the characteristics of particular goods.

Division 1AA of Part V of the TPA (ss. 65AA to 65AN) specifically applies to country of origin representations. These provisions set out defences (also called safe harbours) to the prohibitions in ss. 52, 53(a), 53(eb) and 75AZC(1)(a) or 75AZC(1)(i). This means that where certain tests are met, claims about the origin of goods do not breach ss. 52, 53(a), 53(eb), 75AZC(1)(a) or 75AZC(1)(i) of the TPA. These defences are explained below. It is important to note that the defences are not available for proceedings brought under ss. 55 or 75AZH of the TPA.

## 'Made in *country of origin*' defence

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

- *Made in Country of origin*
- *Country of origin Made*
- *Manufactured in Country of origin*

The defence has two components that must be met:

- the goods must have been substantially transformed in the country claimed to be the origin
- 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 *Country of origin*' 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.

Detailed guidelines for electrical goods are provided in the section [Electrical goods and substantial transformation](#).

### Minimum 50 per cent production costs

The provisions set out how to calculate the total 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, calculating the cost of materials is straightforward. They can be allocated to the final goods fairly easily. However, 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.

The ACCC will, however, accept the 50 per cent rule criteria contained in the 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* at page 16.

## 'Product of *Country of origin*' defence

'Product of *Country of origin*' 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 *Country of origin*' 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
- all, or virtually all, processes involved in the production 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.

### Qualified claims

Businesses unable or unwilling to make an unqualified claim of 'Made in *Country of origin*' for their product may wish to consider making a qualified claim. A qualified claim gives more information than the general claim and implies a lesser connection with the country represented. For example, 'Made in Australia' is an unqualified claim, while 'Assembled in Australia' and 'Made in Australia from local and imported components' are qualified claims.

Care must be taken to ensure the contents of the products correspond with the origin claims made for the products.

If goods do not qualify for the ‘Made in *Country of origin*’ or ‘Product of *Country of origin*’ defences, claims made about country of origin will be assessed on their merits. They run the risk of challenge and potential legal action by the ACCC or any person who is able to commence private legal action.

## Place of origin claims

Sections 53(eb) and 75AZC(1)(i) refer 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 Victoria’.

All false and misleading claims about the place of origin are prohibited by ss. 53(eb) and 75AZC(1)(i). 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 ‘Packed in Perth’ or ‘Assembled in Adelaide’.

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

# Issues raised by the industry

## Electrical goods and substantial transformation

As stated earlier, the TPA 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.

Production of electrical goods ranges from apparently simple processes of assembly and packaging to the manufacture of elaborately transformed products. It is important to distinguish between mere assembly and substantial transformation. The ACCC's view is that mere assembly does not constitute substantial transformation.

Getting materials into a final assembly and then into a package may, however, require the application of several processing steps.

The processes relevant in determining whether there has been substantial transformation are those processes undertaken by the 'manufacturer'. Generally, the manufacturer is defined as the business undertaking the last process in the manufacture of the goods.

Most commonly an electrical product consists of an assembly of numerous component parts. The components may have been produced either wholly or in part in the country of origin of the relevant electrical good or in another country. Some components may have been produced by the business undertaking the last process in the 'manufacture' of the final good, others are purchased from other manufacturers (suppliers). However, while the origin of components and other inputs may be the same as the origin of the final product, the assessment of whether there has been a substantial transformation of the final product is based on what occurs in the manufacturing processes undertaken by the 'manufacturer'.

It is the ACCC's view that transformation is not a cumulative process that can take account of transformations undertaken by suppliers of components, materials or assemblies.

Although it is not possible to outline the processes applied to each and every electrical product and its component parts, a number of common manufacturing processes are listed below. These may be combined in different ways and at different stages in overall production of electrical goods. While a single manufacturing process may not result in substantial transformation of the electrical product or component part, the combination of several processes undertaken by the business undertaking the last process may constitute substantial transformation.

Whether substantial transformation has occurred in the claimed country of origin will be determined from the totality of processes undertaken by the 'manufacturer' of the product.

## Manufacturing processes and substantial transformation

The process undertaken by the assumed 'manufacturer' of the goods may result in some form of change or addition to the product but these changes or additions may not necessarily qualify as 'substantial transformation'.

The following categorisation of processes is intended to provide guidance to companies in assessing the origin claims they can make about their electrical goods. The views expressed are those of the ACCC. However, whether or not these processes impart substantial transformation is ultimately decided by the courts.

Depending on their particular application in manufacture of the product, processes that could be viewed as contributing to substantial transformation include:

- **fabrication processes:** casting, moulding, extrusion, machining, cutting to size, forming to shape, notching, piercing, hardening
- **surface treatment:** porcelain enamelling, powder coating, painting, plating, anodising, metallising
- **insulating processes:** application of electrical insulating materials by dipping, extrusion, encapsulation, powder filling and sealing, foam in situ thermal insulation, bonding sound or thermal insulation
- **welding, bonding and sealing:** electric arc or resistance welding, oxy welding, soldering, ultrasonic and fusion welding, stapling, staking, crimping, stitching, adhesive bonding, sealing, encapsulation.

The ACCC is of the view that the following processes do not contribute to or involve a substantial transformation of an electrical good:

- **materials:** inspection, testing, cleaning, sorting
- **product:** inspection, testing, packing, mere assembly, distribution.

## Examples provided to assist businesses in assessing their origin claims

### *Example 1—a refrigerator*

A business that imports or sources all components from local suppliers and merely puts these components together to form a refrigerator is engaging in mere assembly. As such, the product would not meet the ‘substantial transformation’ test.

The ‘manufacturer’ of a refrigerator will have met the substantial transformation test when it has manufactured the refrigerator’s components including the cabinet, shelving and mouldings and has transformed these and other components into a refrigerator. The processes involved in manufacturing these components and transforming them into a refrigerator would be regarded as substantial transformation, irrespective of the fact that other components like wiring, insulation and the compressor may have been imported or purchased from a local supplier.

### *Example 2—an exhaust fan*

The fitting of an imported exhaust fan mechanism into housing above a stove is unlikely to constitute substantial transformation of the final product. The final product is likely to have been merely assembled.

However, if the electrical mechanism is made by the ‘manufacturer’ in Australia and is then incorporated into a casing, these processes combined are likely to constitute substantial transformation.

Note: It should be remembered that the process of substantial transformation does not, of itself, enable electrical products to meet the ‘Made in’ defence. The test of 50 per cent or more of the costs of production must also be met.

## Minimum 50 per cent cost of production

Specifically the following provisions would apply.

- All inputs into the manufacturing process (other than those materials treated as overheads) are to be treated as materials entering that process.

- Qualifying expenditure on materials is 100 per cent when the material is an unmanufactured raw product of Australia, e.g. timber.

Subject to the qualifications in the attachment, the following overhead costs associated with manufacturing functions may form part of qualifying expenditure: energy, fuel, water, lighting, lubricants, rags and other materials and supplies not directly incorporated in manufactured goods.

To the extent that any of the listed costs:

- are incurred by the manufacturer of the goods
- relate directly or indirectly to the production of the goods
- can reasonably be allocated to the production of the goods
- are not specifically excluded (see exclusions under overhead) and
- are not included elsewhere, e.g. in overhead

they may be included, in whole or in part, within qualifying expenditure. In other words no cost, like water, may be taken into account more than once.

## Product of *Country of origin*

Eligibility to use the premium claim of 'Product of *Country of origin*' is not a big issue in the industry. However, there may be some uncertainty regarding the tests for this defence, particularly the first one: each significant component of the good must originate from the country claimed to be the origin of the good.

This would make claims of 'Product of *Country of origin*' unsustainable for any product with a significant imported component. For example, any product that depended on an imported component for its specific nature would not be eligible.

Electrical and electronic goods are often complex products. They may undergo a series of processes and may require a range of components. The processing may be carried out at different locations outside the claimed country of origin, and the components may also come from different sources. If any of these processing locations or sources of **significant** components are not within the claimed country of origin, it would be inadvisable to use the 'Product of *Country of origin*' claim.

## The ACCC's enforcement view

The TPA does not require businesses to make an origin claim. However, if a business does it must be accurate and correct.

On the other hand, at the time of publication the Customs administered *Commerce (Trade Descriptions) Act 1905* and the *Commerce (Imports) Regulations 1940* require imported 'electrical appliances, apparatus and accessories ...' to have and maintain origin labelling. The *Commerce (Trade Descriptions) Act* and *Regulations* are under review.

The ACCC has previously agreed that claims such as 'Made in *Country of origin* from local and imported components' 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 components' or where the local content is greater 'Made in Australia from local and imported components'.

## General

### 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 TPA, 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.

## Internet assistance

On its webpage at [www.accc.gov.au](http://www.accc.gov.au) the ACCC 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.

Other relevant websites include

- Customs for rules of origin covering imports at [www.customs.gov.au](http://www.customs.gov.au)
- Industry, Tourism and Resources at [www.industry.gov.au/labelling](http://www.industry.gov.au/labelling).

## Companies inspected

It was agreed with AEEMA 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 following program of visits was arranged.

### *NSW*

Dux Hotwater (Moss Vale)

Sunbeam Victa (Campsie)

Email Major Appliance Group (Riverwood)

Sharp Corporation (Huntingwood)

Allen Fluorescent Lighting (Peakhurst)

Pierlite (Padstow)

### *VIC*

PDL Industries Pty Ltd (Blackburn Nth)

Atco Controls (Tullamarine)

### *SA*

Gerard Industries Pty Ltd/Clipsal (Bowden)

Electrolux (Dudley Park)

### *Qld*

Fisher & Paykel (Cleveland)

# Attachment

Edited extract from ANZCERTA as at June 2001.

Joint Australia/New Zealand Customs information booklet, *Rules governing entitlement to preferential rate of duty for trans-Tasman trade.*

## The 50 per cent rule-criteria

### What is the setting for the 50 per cent 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 per cent requirement must be incurred by the manufacturer of the goods.

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

## How is the 50 per cent calculated?

The 50 per cent 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 i.e. material, labour and overhead and inner containers are dealt with below.

## Elements of the 50 per cent

### 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
- inward transport to store

but **excludes**:

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

incurred by the manufacturer in Australia.

When materials:

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

the ACCC may determine a value which will apply.

### *Qualifying expenditure on materials*

Qualifying expenditure on materials is 100 per cent when:

- 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 and Australian content. Australia treats materials of mixed origin which reach 50 per cent or more local content as 100 per cent 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 per cent local content is not reached:

e-x-a-m-p-l-e		\$
	(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) =  $\$50 \div \$200 = 25\%$

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:

- on waste and scrap resulting from manufacturing or processing operations in Australia and
- 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 per cent 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
- handling and storage of goods within the factory.

To the extent that any of the listed costs:

- are incurred by the manufacturer of the goods
- relate directly or indirectly to the production of the goods
- can reasonably be allocated to the production of the goods
- are not specifically excluded (see exclusions under Overhead below)
- are not included elsewhere for example, 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:
  - plant, equipment and materials used in the production of the goods
  - work-in-progress and finished goods
  - liability
  - accident compensation
  - consequential loss from accident to plant and equipment
- dyes, 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:
  - insurance
  - rent and leasing

- mortgage interest
- depreciation on buildings
- maintenance and repair
- 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
- 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:

- are incurred by the manufacturer of the goods
- relate directly or indirectly to the production of the goods
- can reasonably be allocated to the production of the goods

- are not specifically excluded (see below)
- are not included elsewhere for example, 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:
  - insurance
  - rent and leasing
  - mortgage interest
  - depreciation on buildings
  - maintenance and repair
  - 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

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for all business and consumer inquiries

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website [www.accc.gov.au](http://www.accc.gov.au)

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