



Australian Government

Consultation on a Possible New Geographical Indications Right

General operation of a possible GI system
20 October 2020



Introduction

We are seeking your views on process considerations for a possible new GI right.

Presentation

Registration process for a possible new Australian GI right

Discussion

Discussion questions and Q&A

Please Note: Nothing in this consultation means the Australian Government has agreed, or will agree, to make any changes to its existing GI regulatory framework or policy.

Process overview

Application



Examination



Opposition



Registration



Enforcement

Cancellation
Infringement/Exceptions



Application

Who can apply

- A person with legal personality
- Has a connection with and is properly representative of the goods and the region

Requirements for filing

- A description of:
 - the goods
 - the region
 - the quality, reputation or other characteristic of the relevant good and how it is essentially attributable to the geographical origin
 - What it means to originate in the region (% production or raw materials)
 - Any conditions of use (e.g. production methods)
- Foreign applications - also need evidence that the GI is protected in the country of origin



Examination

- Could be modelled on the trade mark examination process
- Grounds for rejection
 - does not meet the definition of a GI
 - prior trade mark or GI rights
 - common name of the good, plant variety or animal breed
 - Other?
- Relationship between rights
 - Conditions for co-existence of a GI and trade mark
 - Homonymous GIs – domestic and international



Opposition

- Process
 - Evidence
 - Hearing (if required)
 - Decision (appellable)
- Grounds
 - Same as examination as well as GI specific opposition grounds



Registration, amendments, assignment

- Renewal
- Permissible amendments after registration?
- Ability to change the rights holder



Enforcement

Who could enforce a possible GI right?

- Generally, holders of an IP right are responsible for enforcing the right
- As users of a GI also have an interest in maintaining the integrity of the GI they may also be interested in enforcing the right
- Other possible enforcement mechanisms – administrative, border, criminal?

Exceptions to Infringement



Cancellation

- Cancellation, revocation and removal provisions could be modelled on the existing trade mark provisions, modified as necessary
- Could someone else take on the GI if the right holder wants to cancel
- For foreign GIs there may be a nexus with protection in the country of origin



Discussion questions

1. Who should be able to apply for a GI?
2. What evidence should be required to file an application?
3. Under what circumstances should a prior trade mark prevent registration of a GI?
4. Should amendments to a GI be allowed after registration? If so, what amendments?
5. Where the right holder requests cancellation, should there be an opportunity for interested parties to object to the cancellation and assume responsibility for the GI?

Conclusion

- Consultation will be open until 30 November



Write to us



Take a five
minute survey



Join us for a
themed virtual
roundtable



Call us
02 6283 7911

- Details are available on our consultation hub:
<https://consultation.ipaustralia.gov.au/policy/geographical-indications/>