Varietal Identity, Geographic Indications and Label Integrity

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This paper could be alternatively titled:

What has the label integrity program, geographical indications committee, European Union/Australian wine agreement, register of protected names, got to do with me?

From my perspective, this paper is about integrity in the Australian wine industry, with emphasis on where viticulture fits in this picture.

Background
The two principal pieces of Australian wine law legislation are:

- Australian Wine and Brandy Corporation Act 1980, administered by the Australian Wine and Brandy Corporation
- National Food Standards Code, as mirrored in Food Act legislation in each State and administered by the Minister of Health in each State

Historically, the Food Standards Code covered matters concerning public health, that is additives to wine and labelling of product. You may have heard of the P4 standards — they were that part of the Code specifically referring to wine and wine products. The AWBC Act traditionally was concerned with the promotion and export of wine.

Recent changes affecting Australian wine law
Label Integrity Program (LIP)
In the 1980s there was mounting interest in the wine industry to establish a system to ensure the integrity of wine in respect of any label claims made.

At the request of the industry, the Australian Wine and Brandy Corporation (AWBC) drafted the Label Integrity Program (LIP) which became law under the Australian Wine and Brandy Corporation Act 1980. The legislation was effective from the 1990 vintage.

The Label Integrity Program is a recording system for the manufacture of wine, to provide an audit trail from finished product back to purchase of grapes at a winery weighbridge. The LIP recording system is concerned with any wine which has a label claim as to vintage, variety or geographical indication (region of origin). There is at present no scientific test which can verify these label claims, although various research around the world is addressing these aspects.

In the AWBC Act, the Label Integrity Program has as its objective the advancement of the truthfulness and reputation for truthfulness of statements made on Australian wine labels, or made for commercial purposes in other ways, about the vintage, variety or geographical indication of all wines manufactured in Australia.

You will note that the LIP system stops short of commencing at the vineyard and I will come back to this point later. Another shortcoming in the LIP chain was the fact that Australian wine geographical indications were not legally named or defined.

European/Australian Wine Agreement
In 1993, Australia signed an agreement with the (then) European Community. The agreement provided for:

- better access to all EC countries for Australian wine
- a significant reduction in the number of analyses required for our wine
- mutual acceptance of each countries’ wine manufacturing practices and standards for the purpose of imported wine
- mutual protection for each countries’ wine intellectual property—geographical indications (e.g. Hunter, Barossa, Champagne, Bordeaux etc.) and, traditional expressions.

This was the first agreement signed by the EU with any country outside Europe and was considered a significant breakthrough. With the signing of the agreement, Australia had to get its house in order in order to meet its obligations. For instance, our wine regions had never been defined and were sustainable only under common law so, as a temporary measure, we had to provide an interim list of names of regions but, we could not say precisely where those regions were located.

The AWBC Act was amended to incorporate the changes necessary to meet both LIP and EC/Australia wine agreement obligations.

A Geographical Indications Committee was established to name and define the boundaries of Australian geographical indications. The Committee comprises an independent Chair, a winegrape growers’ representative and winemakers’ representative. The Committee examines submissions from interested parties and makes determinations after consulting peak industry bodies. There is an extensive appeal process available to all interested parties.

A Register of Protected Names has been created to record all European and Australian protected names. The Australian list comprises the interim list of regional geographical indications, the new geographical indications as they are formally determined (most Australian zones have already been determined and, most regions and subregions are expected to be determined by 1997) and, certain Australian traditional expressions. The register also provides for a list of grape varieties which may be used in Australia; however the list has not yet been compiled.

To mutually protect the registered names and their conditions of use, ‘trade practices type provisions were included in the AWBC Act regarding the ‘false or misleading description and presentation of wine’. These provisions are available to any interested parties from within either the EC or Australia by initiating prosecution and/or injunction action under the Act.

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will most likely contain varieties, including some hybrids, finalized and placed in the register of protected names. The list is still under discussion and it may be some time before it is used for the manufacture of wine in Australia. The list will the grape varieties (and any conditions for use) which can be protected either by copyright or trademarks, etc. In other words it is a legal way of protecting a concept (e.g. plant variety rights are a form of protecting intellectual property).

__Verification of product quality—a summary of the current situation__

Wine and dried fruit are routinely monitored for the presence of pesticides, but this is expensive, and the number of samples tested is limited by available funds. New ELISA assays for pesticide detection in grapes and dried fruit (and in the longer term wine) will be cheap, rapid and able to be performed in the field or at a fruit receival point. The number of samples tested will therefore increase.

Residue data has been collected that supports Extended Withholding Periods, in wine and dried fruit production, for the fungicides and insecticides most commonly used in viticulture. However some chemicals remain untested and these must be treated with caution if used on a crop that will be exported.

Spray diaries to record chemical use are maintained by many, but not all, growers.

__What this all means to the grapegrower__

The whole Australian wine integrity system starts with the grapegrower, what varieties you grow and, where you grow the grapes, forms the basis of the label integrity program which provides the industry and both domestic and international consumers with a reliably manufactured and labelled product. All Australian wine legislation relies on the label integrity program audit trail records as the foundation for establishing the integrity of wine.

The LIP provisions of the AWBC Act presently do not extend into the vineyard but, it is a subject under consideration—not in a way which would in any way prescribe viticultural practices but, only as a legal means of gaining entry to a vineyard to verify vintage, varietal and geographical indication claims made by grape growers and winemakers.

If legislation is introduced, it may mean, in the event of a label claim dispute, a visit to a vineyard to obtain vine samples for DNA identification, to verify any claims made.

There is already legislative provision in the AWBC Act to list the grape varieties (and any conditions for use) which may be used for the manufacture of wine in Australia. The list is still under discussion and it may be some time before it is finalised and placed in the register of protected names. The list will most likely contain varieties, including some hybrids, which are prohibited for export to the EU but, which may continue to be used in Australia.

We soon hope to have better protocols for the conduct of trials for registration of new chemicals. However, there is need for better access to residue data that is submitted to the NRA, so that the grape industries can interpret the degradation data in the context of the various target MRLs and Extended Withholding Periods.

Spray application research currently being undertaken may assist with pest and disease control by improving the precision of sprays applied, however we need to focus strongly on spray application extension messages.

Ongoing research and extension in integrated pest management will help to reduce reliance on chemicals and reduce the amounts of chemical being applied.

The grape industry must continue to liaise with the National Registration Authority and the chemical industry regarding protocols, to address the issues of label rates and volumes, to keep requesting access to relevant residue data, and to keep abreast of changes overseas regarding chemical registrations, MRLs and violations.

Much progress has been made to ensure that residues in Australian grapes, wine and dried fruit meet the specifications for residues in overseas markets. However, long-term responsibility for the assurance of product quality with respect to chemical residues rests equally with all sectors of the viticultural industry; growers, wineries and packers, funding agencies, policy negotiators, extension staff and researchers.

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A nother aspect of wine legislation is your right to benefit from investment in wine intellectual property. What is intellectual property?

One definition is: intellectual property is property in the abstract creations of the human intellect.

The Macquarie Dictionary defines it as ‘the rights of creative workers in literary, artistic, industrial and scientific fields which can be protected either by copyright or trademarks, patents, etc.’ In other words it is a legal way of protecting a concept (e.g. plant variety rights are a form of protecting intellectual property).

The AWBC Act protects your intellectual property and gives you legal rights to protect use of your regional name, a traditional expression and any conditions of use of those names, whether in Australia, in the European Union or, any other country which may have a wine agreement with Australia.

If your region has not yet been defined, it is in your interest to urge your local industry group to expedite a submission to the Geographical Indications Committee to protect in law your intellectual property. Further details of this process are available from the AWBC on 08 8364 2828.