

Chapter 3

Issues

3.1 The vast majority of submissions the inquiry received voiced concerns about, and opposition to, halal food certification. A number of submitters employed language and arguments which could be described as inflammatory, derogatory, and, in some cases, even obscene. In the interests of fostering an open dialogue and allowing submitters to have their opinions heard on what is clearly a contentious issue, the committee decided to accept and publish as many submissions as possible. Nonetheless, the committee is sensitive to the nature of some of the material in question, and some submissions were not published.

3.2 A number of valid arguments were made by organisations and individuals. Concerns raised by submitters are set out and addressed in this chapter.

Inadequate labelling

3.3 Not all consumers are interested or concerned about food certification or certification logos. However, those who are interested should have access to sufficient information to interpret what certification stamps represent. This could include information on:

- Who is the certifying body?
- What is the certifier's competence to provide certification, in terms of subject matter expertise and audit/compliance skills?
- What does a company need to do in order to be certified or remain certified?
- What checks or audits are undertaken to ensure the certification is used properly, and what is the experience of the auditor?
- Is the certification a profit-making enterprise or run only as cost-recovery?
- To what purposes are profits (if any) from certification fees devoted?¹

3.4 A large number of submitters expressed dissatisfaction with current labelling practices, particularly in the case of halal certified foods.² Mrs Kirralie Smith, representing Halal Choices, an organisation with the stated aim of providing consumers with information to help them easily identify halal foods, expressed the following view:

Australian consumers, myself included, are very frustrated with the lack of choice and information regarding halal certification on their everyday grocery purchases. It is almost impossible to make informed choices as many products are not clearly labelled or the company refuses to give clear

1 Australian Food and Grocery Council, *Submission 1412*, p. 11.

2 See for example Halal Choices, *Submission 1278*; Mr Burnie Riley, *Submission 514*; Ms Suzanne Strates, *Submission 776*; Name withheld, *Submission 443*; Mr Richard Sibthorpe, *Submission 467*; Mr Russell Gomez, *Submission 498*; Mr Anthony Crook, *Submission 647*.

and accurate information about halal fees and practices on the items they produce.³

I want that information. I want it to be clear. Through my submission, you can understand that it took years to find out from companies whether they are halal certified or not.⁴

3.5 Mr Bernard Gaynor, who made a comprehensive submission and appeared before the committee in a private capacity, stated:

There is no doubt that the failure of food producers to provide Australian consumers with information about the Islamic component used in the food-production process is because of negative connotations held by the Australian consumer about sharia-law-compliant food.⁵

Quite simply, where food, religion and money meet, this should be disclosed to the consumer.⁶

3.6 Melbourne based international halal consultant Mr Abdul Ayan, while supporting consumers' right to information, questioned why some in the community were so critical of halal certified product labelling:

In principle I support that consumers should normally have information about the products they buy or that appropriate information be made available to them. Consumers can also make themselves informed particularly if that information is readily available say on the internet. But to be informed or make oneself informed about a product does not begin with objecting to it on the basis preconceived ideas and prejudices. And if the product one is seeking information about is the same product he/she has always or often consumed, then what is it does he/she really want to know that is new or different from that which he/she has always known? But if information needs to be had then it must be simple useful and relevant information. A manufacturer, producer or certifier's website normally includes a customer inquiry page and other pages which the customer may consult to obtain information he/she needs about halal certified products. Perhaps such websites may be designed with a view to providing "adequate" information. Depending on what information is required this will add to the cost companies pay for certification and ultimately to the prices of products at the point of sale.⁷

3.7 When product labels carry certification stamps, they let target consumers know the products meet their expectations, and they help those who may wish to do so

3 Mrs Kirralie Smith, Director, Halal Choices Incorporated, *Proof Committee Hansard*, 24 September 2015, p. 17.

4 Mrs Kirralie Smith, Director, Halal Choices Incorporated, *Proof Committee Hansard*, 24 September 2015, p. 18.

5 Mr Bernard Gaynor, *Proof Committee Hansard*, 24 September 2015, p. 31.

6 Mr Bernard Gaynor, *Proof Committee Hansard*, 24 September 2015, p. 32.

7 Mr Abdul Ayan, *Submission 205*, p. 8.

avoid those products.. Their reasons for doing so are, in the committee's view, a matter of personal choice.

3.8 A number of stakeholders, usually representing business organisations and government, did not consider that current labelling practices were insufficient.

3.9 Government agencies and other organisations consider that sufficient avenues exist for consumers to verify third-party certifications, and that mandating further information disclosure on food labels is unnecessary.⁸ In its submission, the Department of Agriculture concluded that 'a market-driven, self-regulatory approach to consumer value concerns, such as halal labelling, is likely to be more responsive to consumer needs than a regulatory response.'⁹

3.10 The Department of Industry and Science expressed a similar view:

The department considers that Australian Consumer Law provides adequate protections in relation to the labelling of consumer preferences for food products and that current food regulation balances the need to protect and inform consumers with the need to avoid unnecessary costs to businesses.¹⁰

3.11 Further, the Australian Food and Grocery Council (AFGC) stated that brand owners and manufacturers could be legally constrained by their certification license agreements as to what information they can disclose about the certification logo on their labels; and that providing information was a role for the certifiers themselves.¹¹

The AFGC considers that, in the first instance, it is incumbent on certifiers to improve the recognition and trust in their program by embracing greater transparency. It is in the certifier's interest to do so as it increases the value of their certification. It would further enhance the reputation of certifications as a class by promoting consistency of disclosed information, enabling consumers and manufacturers to better judge the nature of the certification being provided.¹²

3.12 In their submission, the AFGC suggest the following information could be made available:

- The legal entity issuing the certification, and whether it is commercial or not-for-profit
- Its authority to issue certification
- Any limits on the acceptance of the certification (e.g. by country or by denomination)
- How a company obtains and maintains the certification

8 Department of Industry and Science, *Submission 1413*, p. 11.

9 Department of Agriculture, *Submission 1338*, p. 12.

10 Department of Industry and Science, *Submission 1413*, p. 4.

11 Australian Food and Grocery Council, *Submission 1412*, p. 11.

12 Australian Food and Grocery Council, *Submission 1412*, pp 11–12.

- What checks are undertaken to audit the certification, who undertakes such checks and what is their qualification to undertake the audit
- How consumers might check whether a claimed certification is valid
- What sorts of fees and charges are levied (description rather than amount)
- Whether the certification scheme is run not-for-profit or as a commercial venture, and if commercial, the uses to which profits are devoted.¹³

Anti-halal campaigns

3.13 The committee is familiar with various anti-halal certification campaigns. This, Mrs Kirralie Smith explained, is in response to inadequate labelling:

Consumer boycotts are a reaction to the betrayal of leading supermarkets and retail companies who refuse to adequately label products and give them a true choice at the point of sale. Promoting and funding religious practices must not continue without the consumer's knowledge or consent.¹⁴

3.14 Worryingly, the Australian Food and Grocery Council reported member concerns 'over the impact on consumer contact staff in particular of abusive anti-halal calls and mail.'¹⁵ The committee also heard disturbing suggestions that some companies have had to remove the halal logo from their products fearing violent attacks.¹⁶

Committee view

3.15 The committee did not receive sufficient evidence to either support or dispel the possibility that companies and their staff have been subjected to abusive phone calls or threats of violence. However, given the strength of feeling in some sections of the community and the tenor of some of the submissions received over the course of this inquiry, the committee believes such allegations may well have merit. The committee does not condone any such conduct, and strongly encourages anyone receiving threats of violence to contact police.

3.16 Nevertheless, the committee recognises that not all members of our community agree with or accept religious certification, and agrees that consumers should have sufficient information to make the choices they feel are appropriate. The committee also accepts that manufacturers cannot provide exhaustive information on food labels—such a demand would make it almost impossible to package products

13 Australian Food and Grocery Council, *Submission 1412*, p. 11.

14 Mrs Kirralie Smith, Director, Halal Choices Incorporated, *Proof Committee Hansard*, 24 September 2015, p. 17.

15 Australian Food and Grocery Council, *Submission 1412*, p. 9.

16 Halal Certification Authority Australia, *Submission 1437*, p. 11.

and result in significant production cost increases which would ultimately be passed on to consumers—this is not an outcome the committee advocates.

3.17 Consumer and business interests appear to be at odds on this issue. As previously stated, companies choose to label—or not label—their products "halal" as they see fit. These are rational commercial decisions made in the context of the market in which products are sold.

3.18 The committee is firmly of the view that people have a right to make informed decisions, whatever the basis of their preferences or prejudices. At the same time, consumers are urged to be sensible in deciding how to express their displeasure over food retailers' or manufacturers' practices. Shopping elsewhere and switching brands are valid personal choices people can make. Verbal abuse, intimidation and threats of violence are not.

Recommendation 1

3.19 The committee recommends that food manufacturers clearly label products which have received third party certification.

Do certification fees raise food prices?

3.20 Products certified organic attract a premium price due to the increased cost of production and the relatively smaller quantities available.

3.21 Most submitters were not concerned with the higher cost of organic products, but instead sought assurance that halal certification—which was in their view unnecessary and unwanted—would not drive up supermarket prices.¹⁷

3.22 One submitter claimed that price increases due to halal certification were already evident:

Of still further concern is the fact that some of the certification fees are as high as \$27,000 per month (\$324,000/year) and this obviously has to be passed on to the consumer which is evident in the increased prices I am paying which is not reflected in the price the primary producers are receiving for their goods.¹⁸

3.23 Evidence received by the committee overwhelmingly suggests that halal certification does not result in increased food prices. This view was shared by government departments and other submitters:

The department is not privy to the commercial costs of halal certification. However it considers that domestic and international food markets are competitive and price-conscious, and that market incentives are such that Australian businesses are very unlikely to noticeably increase the costs of their products through halal certification. Similarly, businesses are unlikely

17 For example see Mrs Helen Buckle, *Submission 644*.

18 Mrs Helen Buckle, *Submission 644*, p. 4.

to obtain voluntary halal certification if they perceive it would do their business financial harm.¹⁹

3.24 Mr Abdul Ayan pointed out that halal certification fees were lower than fees charged by the government for other types of certification and monitoring. Addressing perceived misconceptions about halal certification fees, Mr Ayan stated:

They are neither hidden fees destined for terrorists nor are they religious taxes as claimed by anti-halal groups. Instead they are generally known fees that are in fact modest and low by comparison. I doubt that that you will find many businesses that will agree with the proposition that they are high or extremely high. In a normal commercial environment one could have expected them to be significantly higher- probably between 50 or 100% higher than what they are now. It is important to point out in this respect that certification fees per se have barely risen for the past 20 years. Where a particular certifier has substantially raised his fees, it would be the exception rather than the rule. But you must bear in mind these are based on commercial agreements that are subject to change or termination as the parties may determine.²⁰

3.25 Mr Ayan added that halal certification may in fact have the opposite effect, pushing prices down,²¹ and quoted the Minister for Agriculture, the Hon. Barnaby Joyce MP:

He was clear and unambiguous about the value and importance of these market[s] for Australia stating that “in the rural sector, we know these are really strong markets for us, big markets, reliable markets that stood the test of time, and we work very well [with them]. They don’t ask us to become Islamic, we don’t ask them to become Christians, we trade extremely well and we get along very well and we understand each other very well and we don’t want any unnecessary heat brought into this space because the only people who [will] lose in this will be us”. This indeed is an impressive and candid appraisal of our trade relations with these countries and a warning signal to those who want to trash it. It is not easy to find a more unequivocal and indeed more sobering endorsement of halal certification and its importance for this country than Mr. Joyce’s.²²

3.26 The committee concluded that insufficient evidence exists to determine the effect of third party certification of food on supermarket prices. The committee notes, however, that retailers seek to be price competitive—the committee is of the view that consumers will shop elsewhere if prices are unfairly raised.

Imposition of religion

3.27 Many submitters were concerned about religious certification. The arguments underpinning these submissions ranged from the profane to the well-reasoned. A

19 Department of Industry and Science, *Submission 1413*, p. 14.

20 Mr Abdul Ayan, *Submission 205*, p. 10.

21 Mr Abdul Ayan, *Submission 205*, p. 10.

22 Mr Abdul Ayan, *Submission 205*, p. 11.

large number of submissions asserted that religious food certification imposes association with a particular religion on consumers, and that such an imposition has no place in secular society.²³ Although many submitters expressing this view spoke in broad terms against "any religion" being imposed on non-adherents, it must be noted that an overwhelming majority of submitters were clearly primarily concerned with halal, not kosher, certification.

3.28 A submission from the National Sikh Council stated:

I have carefully considered this very controversial subject also from a holistic perspective as almost 98% of the Australian are not Muslims. Yet, we are forced to pay to make food fit to eat for only 2% of the population.²⁴

3.29 Mr Bernard Gaynor went even further, arguing that halal certification represents the imposition of sharia law on Australians:

Firstly, halal certification is viewed as a form of religious tax that funds the growth and spread of Islam in Australia, and that it is ultimately funded primarily by the non-Muslim majority of the population. Secondly, halal certification is seen as a way of imposing sharia law and Islamic religious beliefs on the majority of non-Muslim Australians every time they sit down to eat. Thirdly, halal certification causes concern, because it results in the embedding of an Islamic religious ritual in the food-production process of meat products. This necessarily results in discriminatory employment practices, and raises additional concerns about a loss of religious freedom.²⁵

3.30 Mr Gaynor went on to explain that, in his view, there is a considerable problem caused by halal certification:

It is irrelevant whether these concerns held by ordinary Australians are about Islamic religious beliefs and halal certification are valid or not in terms of this inquiry. But I would argue that there are strong and legitimate reasons to hold those concerns. Those concerns exist, and the Commonwealth government has no power or legal role to play in presenting the case or proselytising for Islam. It does, however, have a role to play in ensuring that consumer confidence is addressed when there is a clear market failure in food-labelling arrangements. The market failure and crisis-in-confidence over halal certification can be addressed very easily, and it can be done in such a way that it does not limit any Australian's religious freedom, whether they be Muslim or not, and it can be done in a way that fits with our fundamental belief in freedom and choice.²⁶

3.31 The committee notes that Mr Gaynor is among a number of submitters who expressed their conscientious objection to products which are halal certified. The

23 For example National Sikh Council, *Submission 234*.

24 National Sikh Council, *Submission 234*, p. 1.

25 Mr Bernard Gaynor, *Proof Committee Hansard*, 24 September 2015, p. 31.

26 Mr Bernard Gaynor, *Proof Committee Hansard*, 24 September 2015, pp 31–32.

committee also recognises that Mr Gaynor does not describe his stance as a conscientious objection:

I would say conscientious objection is where you are a minority in a larger system that is imposing requirements on you that have some problem with your conscience and you object to those. I represent the majority of Australians who are non-Muslim, so we are not conscientiously objecting at all. We just want to see our way of life continue; but the majority of meat in Australia is sacrificed to Allah.²⁷

3.32 An important distinction must however be made between the terms "halal" and "kosher", and halal and kosher *certification*. The former refers to standards producers, manufacturers and retailers have to meet, while the latter is a commercial transaction.

3.33 Secondly, products are certified because the seller—not the certifier—sought the certification. These are rational business decisions made on economic grounds; that is, food retailers and producers seek to expand profits by increasing their market access. They are business transactions, not religious rituals. This means that consumers who are not Muslim or Jewish are not partaking in, or subject to, religious rites when they buy religiously certified food.

3.34 This is a crucial point. Non-Muslim consumers are not forced to engage with a religious ritual by purchasing halal certified goods because no such ritual takes place during certification—the food is not altered in any way or substantively different before and after certification. Evidence provided by the Australian Federation of Islamic Councils (also known as Muslims Australia) explained that halal certification, even halal slaughter, does not involve religious rituals:

No, this word 'ritual' is used unnecessarily. There is no ritual involved. Islam introduced halal slaughter to get rid of the ritual slaughter, where the animal was slaughtered in this god's name or that god's name or for other purposes. Ritual is the wrong word to use. As soon as the animal is stunned, it falls down in front of where the slaughterman is standing. He has a sharp knife as a requirement and he slaughters the animal. Then the other people working in the abattoir take over.²⁸

3.35 Similarly, Mr Peter Wertheim, Executive Director of the Executive Council of Australian Jewry, confirmed that no rituals are performed or prayers said over animals prior to kosher slaughter.²⁹

3.36 Furthermore, the perceived increase in halal certified foods is largely a product of rational, financially-driven business decisions; not the spread of Islam. As the Department of Industry explains, Australian food businesses produce goods to

27 Mr Bernard Gaynor, *Proof Committee Hansard*, 24 September 2015, p. 33.

28 Mr Wasim Raza, Manager, Australian Federation of Islamic Councils (Muslims Australia), *Proof Committee Hansard*, 3 November 2015, pp 2–3.

29 Mr Peter Wertheim, Executive Director, Executive Council of Australian Jewry, *Proof Committee Hansard*, 21 August 2015, p. 22.

meet the needs of a variety of export markets, not just the domestic market. They have their products certified in order to increase their client base:

To promote the attributes of their products whilst also managing production costs efficiently and flexibly, Australian businesses often produce food products with a range of voluntary certifications, including halal, so that their full production runs can be sold into both domestic and international markets.³⁰

3.37 In the department's view, individual businesses can decide whether to seek such certification and 'make consumer marketing decisions concerning halal certification for their food products.'³¹ The committee concurs with the department.

Committee view

3.38 The committee welcomed input from all witnesses at its hearings, but is careful to dispel the assertion that views expressed by any individual represent the majority of Australians.

3.39 The committee notes that many submissions conflate the term "halal" with the process of halal certification. Halal certification is purely a commercial exchange, and represents a considerable economic opportunity for Australian food exporting businesses. Certification does not require a religious ritual, nor does it in itself make food any more or any less halal. Products are either halal or they are not—certification merely verifies the fact. It cannot be asserted that the act of certification imposes religion on consumers. In the committee's view more could be done to explain what halal certification entails—this would assist in clarifying prevailing misconceptions.

3.40 The committee believes that, as long as products are clearly labelled, whether food businesses seek halal certification is a matter for them.

Where does the money go?

3.41 A significant number of submitters expressed a deep mistrust of halal certification and speculated that a link might exist between halal certification in Australia and terrorist activity by extremists:³²

There is a lot of mistrust by many Australians in regards to this whole business, and rightly so. The genuineness of these Certifiers should also be called into question, when products that are naturally halal, such as water and milk, are attracting certification as well. There is also a genuine concern that these certifiers are masquerading as a type of charity to the Muslim population, but are instead lining their pockets, and also funding

30 Department of Industry and Science, *Submission 1413*, p. 14.

31 Department of Industry and Science, *Submission 1413*, p. 14.

32 See for example Ms Erica Grace, *Submission 15*; Ms Suzanne Strates, *Submission 776*; Ms Leona Duncombe, *Submission 1038*; Ms Julia Rook, *Submission 206*; Mr Kev Gilchrist, *Submission 207*; Ms Lesley Anne Sullivan, *Submission 209*.

other organisations that have strong links to criminal activity such as Terrorism.³³

3.42 The committee considered these serious allegations very closely and sought the clarification of a number of government agencies with expertise on anti-money laundering and counterterrorism financing (AML/CTF). Evidence supplied by AUSTRAC, Australia's regulator and specialist financial intelligence unit with responsibility for monitoring AML/CTF, stated that despite these allegations, such a link does not exist:

There have been various public claims that fees from certifying halal food may be funding terrorism. AUSTRAC has no information that indicates halal certification is linked to terrorism. AUSTRAC receives financial transaction reports from businesses providing designated services under our act. AUSTRAC monitoring of reported financial transactions allows analysts to make judgements about potential risks of terrorism financing or money laundering and refers relevant information to investigating agencies. AUSTRAC monitors reported financial transactions, including reports of suspicious financial activity and related transactions to identify money movements associated with halal certification. Of the information identified from this monitoring of reported financial transactions, none of these have been assessed as being related to the funding of terrorism, with regard to halal certification fees. AUSTRAC will continue to monitor reported financial transactions and analyse data related to halal certification to identify information that may be relevant to investigating agencies.³⁴

3.43 Representatives of the Australian Crime Commission (ACC) explained that any sector from which large amounts of money are being remitted carries with it an 'opportunity for either serious and organised crime or people sympathetic with terrorism to utilise and exploit that particular sector.'³⁵ The ACC confirmed that no direct link between halal certification in Australia and the funding of terrorism had been found.

3.44 A number of submitters remained unconvinced by the lack of evidence suggesting a direct link between halal certification in Australia and terrorism funding, and continue to speculate:

[T]o me, it is quite clear that the government cannot definitively say that there are no links to funding either extremists or terrorism. Over and over again in those reports they talk about the charities being one of the major conduits for funding terrorism, and all of the halal certifiers—maybe not all, but let's say the majority—boast about how much money they give to charity. I do not think that there is ever going to be a direct link. As with most criminal activity, there are no direct links, and that is why we need

33 Ms Suzanne Strates, *Submission 776*, p. 1.

34 Mrs Angela Jamieson, National Manager, Compliance, AUSTRAC, *Proof Committee Hansard*, 24 September 2015, p. 8.

35 Mr Hamish Hansford, National Manager, Strategic Intelligence and Strategy, Australian Crime Commission, *Proof Committee Hansard*, 24 September 2015, p. 15.

investigations to uncover these sorts of things. But it is quite clear that the halal certifiers are giving to charities, and AUSTRAC, AIC and ACC have all said repeatedly that those charities are major conduits for funding extremists and terrorism both here and overseas.³⁶

3.45 The committee did not receive any evidence supporting this view.

Committee view

3.46 The committee defers to the view of agencies which are at the forefront of Australia's counter-terrorism and anti-money laundering endeavours, which have access to classified intelligence and considerable resources, and whose evidence indicates that there is no direct link between halal certification in Australia and terrorism funding.

3.47 The committee has complete confidence that these agencies are vigilant in their efforts to protect our nation and its interests.

Oversight of halal certification—a two-tiered system

3.48 Halal certification is 'a modern development barely fifty years old.'³⁷ The recent proliferation of certifiers reflects the realities of a rapidly expanding market. The committee was informed that there were approximately 13 registered halal certifiers in Australia in 2011/2012—today there are some 22.³⁸

3.49 Not long into this inquiry it became apparent that a two-tiered system governs halal certification in Australia: one framework is in place for the export market, and another system, characterised by the absence of a framework, for the domestic market.

Certification for meat export

3.50 While the government oversees the halal certification of goods bound for the export market, its regulatory role is limited to only the halal certification of meat.³⁹ When evidence was sought on the Department of Agriculture's engagement with and oversight of halal meat certifiers, the department explained the complexities of the system and the interplay between its oversight and the demands of the export market:

Effectively, Islamic certifiers will need to have an approved arrangement, if you like, with the department. That approved arrangement will contain names, relevant qualifications and experiences of the parties that are involved or making the application, when seeking approval from the department to enter

36 Mrs Kirralie Smith, Director, Halal Choices Incorporated, *Proof Committee Hansard*, 24 September 2015, p. 22.

37 Mr Abdul Ayan, *Submission 205*, p. 4.

38 Mr Abdul Ayan, *Submission 205*, p. 11. The Department of Agriculture publishes a 'list of recognised Islamic bodies for halal certification of red meat', see: <http://www.agriculture.gov.au/export/food/meat/elmer-3/list-islamic-halal-certification> (accessed 3 November 2015).

39 Other goods are certified on a commercial basis. See discussion with Mr Greg Read, First Assistant Secretary, Exports Division, Department of Agriculture, *Proof Committee Hansard*, 21 August 2015, p. 33.

into the field of halal certification. In relation to considering that application, we also consider a range of other aspects, including financial standing, 'fit and proper', and essentially their competency to fulfil that role. As you can imagine, the other side of our requirements in terms of halal certifiers is that they have to be recognised by a local mosque. These requirements are the requirements of the overseas countries. They need to be recognised by an importing country authority, so there is no point just wandering into the department if you do not actually have countries that recognise your competency and standing in that particular field. They must have some degree of documentation supporting that. They must provide details to the department of their training and supervision of Muslim slaughtermen and issue Muslim slaughtermen with identity cards once they are assessed as competent.⁴⁰

3.51 Audits of halal certification bodies are not carried out by the department; this responsibility instead rests with the Islamic organisations the department works with:

They conduct their own audit oversight as part of their approved program and their oversight responsibilities, so those are the reports that will be forwarded to the department. The department is also auditing its approved Islamic organisations to ensure their compliance with those requirements.⁴¹

3.52 The department explained the reasoning behind this system, and emphasized that Islamic organisations are guided by clearly set out responsibilities:

As you could understand, if we have a religious review in Australia by a competent authority from an importing country with a focus on the religious aspects of ritual slaughter, then obviously we want the approved Islamic organisation to be front and centre through that review.⁴²

Our regulatory framework also outlines the responsibilities of the Islamic organisations, the responsibilities of the department and the responsibilities of the plant. So, from a regulatory perspective, we have Islamic organisations that have a very clear framework of how they are going to operate on our various export plants in terms of halal supervision. From the plants' side we also have in their approved arrangements how they are going to fulfil their obligations in terms of halal slaughter, segregation of product and a range of other requirements of them. From the department's perspective, we have an oversighting role over both of those participants through our review and audit processes.⁴³

3.53 Others were critical in their assessment of the quality control mechanisms in place:

40 Mr Greg Read, First Assistant Secretary, Exports Division, Department of Agriculture, *Proof Committee Hansard*, 21 August 2015, p. 33.

41 Mr Greg Read, First Assistant Secretary, Exports Division, Department of Agriculture, *Proof Committee Hansard*, 21 August 2015, p. 37.

42 Mr Greg Read, First Assistant Secretary, Exports Division, Department of Agriculture, *Proof Committee Hansard*, 21 August 2015, p. 33.

43 Mr Greg Read, First Assistant Secretary, Exports Division, Department of Agriculture, *Proof Committee Hansard*, 21 August 2015, p. 33.

It is fair to say that halal certification, and particularly how certifiers practice it, has many deep seated problems. Their audit and supervision as well as their service provision are poor. There are also credible reports that some engage in corrupt, unethical and improper practices. The system allows them to do so and some therefore take full advantage of it. Halal certification has been widely described by leading members of the Muslim community, aptly in view, as a cash cow whose function is to collect as much money as possible in exchange for little or no provision of services beyond signing and issuing certificates. Each halal registered establishment is required to have a halal program to serve as its operational manual. Halal programs are seldom examined by certifiers to ascertain if they are fully in line with the standard with which they are supposed to comply, or reviewed to ensure that the system is working well to standard. Some of them appear out of date and not relevant to the importing countries requirements.⁴⁴

3.54 The committee understands that meat exporters, in particular, are restrained by the current system precisely because arrangements for securing halal certification in Australia are frequently determined by the importing country. Any given importing country only recognises a small subset of 'authorised' halal certifiers, and this varies from country to country. As a consequence, meat exporters can often be required to obtain multiple halal certifications in order to export to more than one country.⁴⁵

3.55 What this in effect means is that some approved certifiers have a 'monopoly of sorts', as there is 'no competitive force to encourage innovation and efficiency and manage costs.'⁴⁶ One exporter reported 'having to pay for first class air travel for a short factory visit as an example of this lack of competition.'⁴⁷

Committee view

3.56 The committee accepts that these isolated incidents do not reflect the practices of all certifiers, but nonetheless believes that more could be done to ensure greater competition and, as a consequence, improved accountability and quality in certification. It is important to recognise that this would require the government considering taking a greater role. As put by Australian Food and Grocery Council:

It is perhaps naive to hope that one halal certification might satisfy the disparate religious authorities across the varied cultural and economic Islamic world, and in a sense obtaining the 'correct' certification for an export market is simply a cost of doing business in that market. However, it would appear there is opportunity for Australia's trade negotiators to raise this issue in appropriate bilateral and multilateral contexts as a potentially significant non-

44 Mr Abdul Ayan, *Submission 205*, p. 6.

45 Australian Food and Grocery Council, *Submission 1412*, p. 12. For details on the certifiers recognised by each red meat importing country see <http://www.agriculture.gov.au/export/food/meat/elmer-3/list-islamic-halal-certification> (accessed 18 November 2015).

46 Australian Food and Grocery Council, *Submission 1412*, p. 12.

47 Australian Food and Grocery Council, *Submission 1412*, pp 12–13.

tariff barrier to trade, and it would likely reduce the costs of Australian exporters if the current arrangements could be rationalised.⁴⁸

3.57 This being the case, the committee is of the view that a good place to start would be for the government to work with industry to define a minimum standard for halal certification, which halal certification bodies registered with the Department of Agriculture would be required to comply with, and that the department would routinely monitor.

3.58 The government should also consider becoming the sole signatory on the government halal certificate while recognising a panel of current halal certifiers as third party providers. This would effectively mean that the government would be responsible for the management and enforcement of halal standards for export meat products. The government would also through bilateral and multilateral discussions pursue greater acceptance of an Australian government-led halal certification system for future meat exports with all of its current customers. The government, in consultation with industry would set a minimum published set of standards to accompany the establishment of this system.

Recommendation 2

3.59 The committee recommends that the government, through the Department of Agriculture, consider the monitoring and compliance of halal certification of meat for export; and becoming the sole signatory on the government halal certificate.

Recommendation 3

3.60 The committee recommends that the government, through bilateral and multilateral forums, promote greater acceptance of a 'whole-of-country', government-led halal certification system.

The domestic market

3.61 Regulation of halal certification in the domestic market can be generously described as lacklustre.⁴⁹ The committee heard credible reports suggesting that the lack of regulation has at times been unscrupulously exploited.⁵⁰

3.62 Government agencies, however, did not express concern or indicate that they perceived any significant shortcomings in how certification bodies operate in the domestic market. The Department of Industry and Science, for example, stressed that certification entities 'are required to comply with Australia's business licencing, registration and disclosure frameworks.'⁵¹ The inference was that this requirement was sufficient.

48 Australian Food and Grocery Council, *Submission 1412*, p. 13.

49 Certification is for the most part sought voluntarily by business owners and is in fact not regulated. See Department of Agriculture, *Submission 1338*, p. 3.

50 Mr Abdul Ayan, *Submission 205*, p. 16.

51 Department of Industry and Science, *Submission 1413*, p. 15.

3.63 Given the depth of concern among submitters about halal certification, however, the committee was surprised to discover how little verifiable information is available on certification in the domestic market. It is easy to see why misconceptions about halal certification are rife, and easy to imagine that the absence of regulation could be exploited.

3.64 The committee noted a repeated reference to halal certification authorities as "Islamic bodies" or religious societies. The Department of Agriculture's list of recognised certifiers refers to the entities as "Islamic bodies". However, the committee was advised that not all certification authorities are Islamic bodies:

There are three categories of halal certifiers. Firstly those that are unambiguously mosque or in other ways religiously based societies; secondly those that are privately owned family concerns and thirdly those that are sole traders or partnerships. Sometimes the boundaries seem blurred.⁵²

3.65 The committee is also aware of allegations of misconduct and corruption among halal certifiers. These are beyond the scope of the committee's current inquiry. It is the committee's position that anyone who believes they have evidence of illegal activity should contact the appropriate law enforcement agencies.

Committee view

3.66 Incorporated halal and kosher certification authorities are required to comply with Australian law. Like other Australian businesses, they are subject to penalties should they fail to do so. Questioning whether it is right to profit financially from religious certification, as some submitters did, is a point of philosophy and is not a question for this inquiry. The committee unanimously supports Australian exporters in their endeavours to increase access to overseas markets.

3.67 The domestic halal certification system is, however, clearly in disarray. The lack of regulation has created chaos and uncertainty, and opened the door to unscrupulous conduct. In turn, this threatens to taint halal certification as a whole and must be addressed in the interests of increasing our access to lucrative overseas markets. How the system could be improved is examined below.

Improving the integrity of the system

3.68 Since certification is a commercial exchange wherein the business owner and certifier are, in most cases, pursuing profit, without adequate oversight there is little to discourage unscrupulous operators.

3.69 The committee consulted a range of stakeholders in its bid to ascertain how best to regulate halal certification in the domestic market.

52 Mr Abdul Ayan, *Submission 205*, p. 13.

3.70 Mr Abdul Ayan, who has considerable experience in the field, provided substantial and comprehensive evidence on how regulation could be improved.⁵³

3.71 Representatives of the Department of Industry and Science suggested:

There are a range of approaches...You could envisage a regulatory authority for each and every issue that comes up, but we do have a range of measures in place across the economy that can be used. They may not appear to have direct relevance, but the provisions of the Competition and Consumer [Act] are at the forefront in relation to misleading and deceptive conduct. Section 52 could be brought to bear on that, and, if my memory serves me correctly, an action under that section can be brought either by the ACCC [Australian Competition and Consumer Commission] or by a private sector competitor, for example.⁵⁴

3.72 The committee explored the possibility of requiring domestic halal certification bodies to register certification trademarks (CTMs):

A CTM indicates to consumers that a product or service meets a particular standard. For example, a CTM might indicate that a product is of a particular quality or manufactured in a particular way or location or process.

CTM schemes should have a mechanism and expertise to determine compliance with the certification requirements and allegations of failure to meet those standards.⁵⁵

3.73 Such a requirement would, as set out in chapter 2, improve the regulation of certifiers.

3.74 For this regulation to be effective, a single standard for halal certification would need to be established. This would be an ambitious and complex undertaking, although the committee was provided with a suggestion by Mr Ayan.⁵⁶

Committee view

3.75 The committee agrees in-principle with the AFGC, which 'does not consider that certification schemes should be mandated to be CTMs...without evidence of significant regulatory failure.'⁵⁷ It is the committee's view, however, that this inquiry has unearthed significant cause for concern and reason to believe that some halal certification entities operating in Australia are exploiting the lenient regulatory environment. For this reason, and given the importance of a healthy and robust halal

53 Mr Abdul Ayan, *Submission 205*. See also Mr Abdul Ayan, *Proof Committee Hansard*, 3 November 2015, pp 10–18.

54 Mr Peter Chesworth, Head of Division, Sectoral Growth Policy Division, Department of Industry and Science, *Proof Committee Hansard*, 21 August 2015, pp 46–47.

55 Mr Scott Gregson, Executive General Manager, Consumer Enforcement, Australian Competition and Consumer Commission, *Proof Committee Hansard*, 24 September 2015, pp 1–2.

56 Abdullahi Ayan, *Accessing the Global Halal Market*, Chapter 6, tabled at public hearing 3 November 2015.

57 Australian Food and Grocery Council, *Submission 1412*, p. 8.

certification system to Australia's interests, the committee believes enough evidence exists to require that halal certification schemes be CTMs.

3.76 The committee also believes that to ensure greater confidence and clarity, the halal certification community should look to establish a single industry-led halal certification authority to provide quality control of all domestic focused certifiers and their operations. This would include the consolidation of existing halal certification logos/trademarks into a single national registered CTM that has been endorsed by the ACCC. The standards set would be comparable to the same standards as those for export.

3.77 The committee also wishes to stress that a number of halal certification authorities were approached over the course of this inquiry and invited to make submissions or participate in public hearings. Most chose not to engage with the committee or its inquiry, which, in the committee's view, was not helpful. The committee sincerely thanks witnesses and submitters with halal certification expertise who made submissions or appeared as witnesses; the inquiry benefited greatly from their contributions.

Recommendation 4

3.78 The committee recommends that the government consider requiring certification bodies to register their operations under certification trademarks.

Recommendation 5

3.79 The committee recommends that the government consider requiring that halal certification of goods in the domestic market comply with the standard agreed for export.

Recommendation 6

3.80 The committee recommends that the halal certification industry consider establishing a single halal certification authority and a single national registered certified trademark.

Employment discrimination

3.81 Submitters also raised the question of employment discrimination in religious certification, pointing to 'a large discrepancy between theory and practice in Australian anti-discrimination laws when it comes to halal slaughter.'⁵⁸ Again, halal certification attracted the most interest:

In halal-certified abattoirs only Muslim males can now find employment as slaughterers. Non-Muslims and women are considered Haram - unclean.

58 Drs Stephen and Dianne Grocott, *Submission 986*, p. 1. See also Mr Dylan Boyd-Tomlinson, *Submission 436*, p. 3; Mr Greg McKay, *Submission 230*, p. 1; Ms Vicki Hohenhaus, *Submission 307*, p. 1.

This is overt sharia law, manifest in discrimination on gender and religious grounds, and applied with full consent of Australian government agencies.⁵⁹

3.82 A submission from the Halal Certification Authority Australia (HCAA) disputed this assertion:

Halal Certification in abattoirs do not discriminate against non-Muslims or women.

The only Muslims employed in an abattoir are usually limited to slaughtering. This could be from two (2) to six (6) Muslims out of the whole workforce.

Other non-Muslim slaughterers are employed by abattoirs for emergencies and to do non-Halal slaughtering.

From an Islamic point of view there are no impediments for a woman to hold the position of slaughterer.⁶⁰

3.83 The advice received from HCAA was put to the Australian Federation of Islamic Councils (Muslims Australia). Representing AFIC, Manager Mr Wasim Raza stated:

If you have got that advice from a reliable source, then I will not dispute it. But, as far as my understanding, it has to be a man, for one reason, because it is not a good experience to slaughter, to cut an animal's throat, so it is recommended that a man be there.⁶¹

3.84 The committee noted the differing views and concluded that a definitive answer could not be established with the available evidence. On the question of whether halal slaughter has to be performed by a Muslim, Mr Raza explained:

If he is going to say the words, 'bismillah ir-rahman ir-rahim', 'bismillah' means 'in the name of God', so he has to be a Muslim. Some scholars even say 'an adherent of a godly faith'—Christians or Jews, for instance. But these days all the Muslim scholars have said that it has to be a Muslim to do that slaughter.⁶²

Committee view

3.85 The committee notes submitters' views on perceived discriminatory practices, but also notes that there is a question of potential infringement of religious freedom to consider. Many of the religions practiced in Australia, including some Christian denominations, adhere to particular norms which may not on face value reflect equal opportunity principles but are nonetheless accepted.

59 Mr Greg McKay, *Submission 230*, p. 1.

60 Halal Certification Authority Australia, *Submission 1437*, p. 9.

61 Mr Wasim Raza, Manager, Australian Federation of Islamic Councils (Muslims Australia), *Proof Committee Hansard*, 3 November 2015, p. 3.

62 Mr Wasim Raza, Manager, Australian Federation of Islamic Councils (Muslims Australia), *Proof Committee Hansard*, 3 November 2015, p. 3.

Animal welfare

3.86 A number of submitters were concerned about kosher and halal certified meat from an animal welfare perspective. These submitters identified ethical issues with slaughtering livestock that had not first been stunned, and reject assertions that religious slaughter is no more or less cruel than any other type of slaughter.⁶³

3.87 One submitter stated:

Muslims in general are opposed to the stunning of animals prior to slaughter and non-stunning (or possibly partial stunning) prior to slaughter is a requirement for halal meat certification.

The non-stunning of animals prior to slaughter is a cruel and inhumane process whereby the animal suffers unnecessary pain and distress prior to dying...The process of partial stunning is also dubious and there seems reasonable potential for a partially stunned animal to "wake up" during the slaughtering process creating considerable distress and pain to the animal.⁶⁴

3.88 Another concurred:

On the RSPCA website I read that some abattoirs in Australia have permission to conduct religious slaughter without prior stunning, which of course would be extremely distressing and painful for the animals. Cutting the throat first and then stunning, as per common practice, is completely unacceptable, as no living thing should suffer the pain of a physical injury like this while conscious. And reversible stunning is not really much better; it is estimated to take 15-45 seconds (variably reported) for the stun to wear off and the animal becomes conscious. The length of time it takes for the animal for bleed out to death is the concern here. The EFSA Journal 2004 published that cattle can take up to 2 minutes to become insensible, and up to 2.5 minutes in poultry and 15 minutes or more in fish. These animals wake up only to find they are bleeding to death, I can hardly imagine that terror. This just cannot go on, pre-stunning is the only way, and it cannot be reversible. There are too many variables to go wrong for the animals, as the arteries need to be severed properly and it has to be done very rapidly. I have seen footage of ritually slaughtered animals hung up on racks after their throats were slit, and they are bleeding out and are jerking and writhing as they die fully conscious. I find this extremely distressing, and cannot stand by and let it happen without trying to be a voice for these animals.⁶⁵

3.89 However, other submitters questioned the premise underlying opposition to religious slaughter and the sincerity of those opposing religious slaughter on animal welfare grounds:

63 See for example Mr Burnie Riley, *Submission 514*, p. 2; National Sikh Council, *Submission 234*, p.1; Mr Jurgen Oehme, *Submission 457*, p. 2; Mr Craig Litchfield, *Submission 485*, p. 1; Ms Lesley Anne Sullivan, *Submission 209*.

64 Name withheld, *Submission 1282*, p. 2.

65 Name withheld, *Submission 919*, pp 2–3.

At what point does an act of violence, an act of cruelty, or the process of slaughter, become acceptably or unacceptably inhumane? To draw the line between one type of slaughter, and another which at most results in six seconds of additional pain, seems arbitrary in the extreme.⁶⁶

Even if halal slaughter was especially cruel, is it the claim that there is a clear line between that cruelty and lesser cruelty that is defined by reasoning? Is it a coincidence that those who oppose halal slaughter also happen to oppose (Islamic) immigration to Australia; or even to reject Indigenous land rights; or in many cases even the place of Jewish people in Australia?

The answer is no. The opposition to halal slaughter is discriminatory because the proponents selectively concern themselves with animal rights when the abusers happen to be of the race or religion they demonise, rather than also seeking to promote animal welfare elsewhere in Australian society.⁶⁷

3.90 Considering the importance of halal and kosher-compliant slaughter to people of the Islamic and Jewish faiths respectively, objectivity is important when evaluating slaughter methods from an animal welfare perspective. The committee therefore broached the subject with representatives of both the Jewish and Muslim communities with expertise in religious certification.

3.91 Mr Wasim Raza, representing the Australian Federation of Islamic Councils (Muslims Australia), confirmed that stunning 'has to be reversible or 'not permanent' to be accepted as halal.'⁶⁸ He added:

They (abattoirs) work in conjunction with RSPCA, so they use their stunning procedures. Our concern is mainly: is this stunning reversible? If the animal were left alone for a minute or two, would the animal regain consciousness? If that is the case, then we have no problem with the stunning.⁶⁹

3.92 The committee, however, understands that Islamic organisations are divided on the question of whether any form of stunning is appropriate.⁷⁰

3.93 Rabbi Mordechai Gutnick confirmed that kosher slaughter of livestock does not permit any form of pre-stunning.⁷¹ Rabbi Moshe Gutnick expanded:

The exemption for not having pre-stunning is a longstanding one for many years. It also falls into best practice of animal welfare as well. If we are talking about lamb, which are the smaller animals, the slaughter is done

66 Mr Andre Bosch, *Submission 571*, p. 2.

67 Mr Andre Bosch, *Submission 571*, p. 3.

68 Mr Wasim Raza, Manager, Australian Federation of Islamic Councils (Muslims Australia), *Proof Committee Hansard*, 3 November 2015, p. 2.

69 Mr Wasim Raza, Manager, Australian Federation of Islamic Councils (Muslims Australia), *Proof Committee Hansard*, 3 November 2015, p. 2.

70 See discussion, *Proof Committee Hansard*, 3 November 2015, p. 2.

71 Rabbi Mordechai Gutnick, Rabbinic Administrator, Kosher Australia Pty Ltd., *Proof Committee Hansard*, 21 August 2015, p. 19.

with a very special knife in a very special way so that the animal falls into unconsciousness within seconds. A cow takes a bit longer to fall unconscious and that is why there is an immediate post-stun. The actual cut itself is not considered a breach of animal welfare principles, and this has been shown by Professor Temple Grandin, who is a world-known expert in animal welfare. The actual slaughter cut done in kosher is as appropriate, and fulfils animal welfare guidelines in the same manner, as any other method of slaughter. This has basically been accepted by Australian animal welfare authorities as well.⁷²

3.94 The committee did not receive input from animal welfare organisations, and did not have the necessary evidence to make a firm judgement on this issue. The committee notes, however, that religious slaughter methods are compliant with Australian animal welfare legislation:

All animals slaughtered for human consumption in Australia, including those slaughtered as halal, must be produced in accordance with the Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption. This Standard stipulates requirements for animal welfare including a required outcome of ‘the minimisation of the risk of injury, pain and suffering and the least practical disturbance to animals’.⁷³

Committee view

3.95 The committee is of the view that individuals and organisations who believe the slaughter methods employed are sub-par or even cruel should engage constructively and positively with Australian Muslim and Jewish communities. Norms evolve over time; the committee is not aware of any reason for religious requirements and animal welfare to be mutually exclusive.

Recommendation 7

3.96 The committee recommends that meat processors clearly label products sourced from animals subject to religious slaughter.

Conclusion

3.97 While the committee sought to publish the bulk of submissions received, it is cognisant of the pronounced anti-Islamic tenor permeating a regrettably large portion of these. Many Australians, Muslim and non-Muslim alike, may have been justifiably confronted by the vitriolic nature of some of the published submissions. The committee therefore again stresses that the decision to publish much of this material was not taken lightly.

72 Rabbi Moshe Gutnick, Rabbinic Administrator, Kashrut Authority Inc., *Proof Committee Hansard*, 21 August 2015, p. 19.

73 Department of Industry and Science, *Submission 1413*, p. 11. See also Mr Greg Read, First Assistant Secretary, Exports Division, Department of Agriculture, *Proof Committee Hansard*, 21 August 2015, p. 34.

3.98 At the same time, it was open to all to make a contribution to this inquiry. Engaging with the process is the best way to have your voice heard.

3.99 It is an inescapable fact that halal certification is poorly understood and arguably under-regulated, certainly in the domestic market. This compromises the integrity of the system and has allowed the proliferation of questionable conduct by certifiers of questionable expertise and intent. This has in turn contributed to tainting public sentiment and, in the committee's view, amplified the perceived seriousness of what shortcomings may exist. As with many commercial endeavours, improvements can no doubt be made—but the committee stresses that calling for reform is vastly different from advocating abolition.

3.100 The committee reiterates that the international market for halal-certified food is considerable. There is every reason for Australian food businesses to seek to increase their share in this market; doing so can only be of benefit for Australia.

3.101 There is a risk, however, that problems with public perception domestically could pose a threat to Australia's ability to take advantage of the abundant economic opportunities available through export. The committee is persuaded by evidence indicating that shortcomings in Australia's halal certification system must be overcome if we are to capture a larger share in this growing overseas market.

3.102 Implementing the recommendations contained in this report would strengthen Australia's halal certification system and position our food producers, manufacturers and related businesses to be more competitive globally. The lack of a broadly recognised and respected halal certification standard internationally provides a tremendous opportunity for Australia to establish itself as a world leader in the field. For this to happen, Australian businesses, halal certification professionals and government agencies must work together to design, implement and oversee an authoritative, consistent and transparent standard and system for certification. The committee hopes that this opportunity will not be missed.

Senator Chris Ketter
Chair

Senator Sam Dastyari
(Chair until 22 October 2015)