

Additional Comments

Senator Cory Bernardi

1.1 The aim of this inquiry was to obtain the facts about food certification in Australia, amid the uncertainty voiced by businesses and consumers.

1.2 The 1492 submissions received illustrate the level of public concern about third party certification of food. As mentioned in the committee's report, Australians particularly had questions and concerns about halal certification.

1.3 Some submitters who were critical of halal certification also made the point that they accepted and supported Muslims being able to access halal certified food. In many cases, submitters were not calling for a complete removal of halal certification; just more information so that they could choose whether or not to buy halal certified products. This reflects the committee's view that "calling for reform is vastly different from advocating abolition."¹

1.4 I support the committee's recommendations and most of the conclusions made by the committee; however, there are a number of points the report did not address and areas where the report didn't go far enough.

Inquiry welcomed

1.5 This inquiry was welcomed by a broad cross-section of the Australian food community, including the Australian Food and Grocery Council (AFGC), the Organic Standards and Certification Council, the Executive Council of Australian Jewry, Food SA² and Australian Organic.³

1.6 Robert Goot, the President of the Executive Council of Australian Jewry said "we don't see the inquiry as a threat. It might even provide an opportunity to dispel some misconceptions, and thereby encourage greater understanding and respect for our religious beliefs."⁴

1.7 Indeed, even Mr Abdul Ayan, who had been critical of the inquiry's establishment initially, told the committee in November that he valued the work of the

1 Committee report, Chapter 3.

2 Audio file attached to the following story: Anna Vidot, 'Food industry back Senate certification inquiry, hopes to address 'misinformation' about halal', ABC Rural, 14 May 2015, <http://www.abc.net.au/news/2015-05-14/senate-to-hold-inquiry-into-halal-other-food-certification/6470112>, (accessed 15 May 2015).

3 Australian Organic Twitter account, <https://twitter.com/AustOrganic/status/599075725413457920>, (accessed 15 May 2015).

4 As quoted in Gareth Narunsky, "Kashrut probe not a threat", Australian Jewish News online, 21 May 2015, <http://www.jewishnews.net.au/kashrut-probe-not-a-threat/41983>, (accessed 25 November 2015).

inquiry and he hoped “that this inquiry will be productive and beneficial for Australia’s trade and commerce in halal products and services.”⁵

1.8 The AFGC considered it a “good thing” if the inquiry “can put to bed” the claims and misinformation, and establish the facts, particularly around halal certification.⁶

1.9 This inquiry was possibly one of the best opportunities that certifiers had to debunk misconceptions and to counter suspicions with truth.

Halal certifiers ignored opportunity

1.10 The total number of halal certifiers in Australia is not known in any official capacity. There are at least 22 halal certifiers involved in our export markets⁷, and an unknown number that serve the domestic market.

1.11 Yet very few certifiers took up the opportunity to contribute to the inquiry and I share the committee’s dissatisfaction with this lack of participation. If certifiers are worried about being misunderstood or misrepresented, they were given a chance to present their views to politicians, the parliament and the public.

1.12 This inquiry was an opportunity for certifiers to allay misconceptions and community anxieties, and to detail the benefits of certification to the Australian community.

1.13 The fact that so many refused to do so suggests that people have a right to be concerned.

Mohamed El-Mouelhy

1.14 Mr Mohamed El-Mouelhy, head of the Halal Certification Authority (a halal certifier), made a submission but chose to not appear before the committee at a hearing.

1.15 Mr El-Mouelhy has taken every opportunity on social media and on TV to broadcast his views on halal certification, yet when offered the chance to do so at a Senate committee hearing, he refused to appear.

1.16 On Facebook he called the inquiry an “exercise in bigotry”⁸. He insulted other submitters as bigots⁹. He claimed – incorrectly - that the inquiry wanted to destroy the halal certification industry, and that the government had ‘shut down’ the inquiry.¹⁰

5 Abdul Ayan, Answers to questions on notice, 3 November 2015 hearing, p. 20.

6 Anna Vidot, ‘Food industry back Senate certification inquiry, hopes to address ‘misinformation’ about halal’, ABC Rural, 14 May 2015, <http://www.abc.net.au/news/2015-05-14/senate-to-hold-inquiry-into-halal-other-food-certification/6470112>, (accessed 15 May 2015).

7 ‘List of recognised Islamic bodies for halal certification of red meat’, Department of Agriculture and Water Resources website, (current as at 2 November 2015), <http://www.agriculture.gov.au/export/food/meat/elmer-3/list-islamic-halal-certification>, (accessed 25 November 2015).

8 Mohamed Elmouelhy Facebook post, 25 August 2015, (accessed 13 October 2015).

1.17 While he has the right to refuse, the committee would have benefited from his appearance to present questions and seek further information about his role in halal certification.

Labelling

1.18 I agree with the committee's conclusions regarding inadequate labelling and the lack of information available to consumers, particularly with halal certified products.

1.19 It cannot be emphasised enough that consumers have a right to make informed decisions –regardless of their motivations. Current labelling practices do not allow them to fully realise this. This is particularly problematic for the Sikh community in Australia whose beliefs prohibit them from consuming halal food.

1.20 The Executive Council of Australian Jewry agreed with improved certification labelling: “We would welcome any tightening of the law to ensure both proper disclosure and truth and accuracy in labelling.”¹¹

1.21 The report maintains that certification does not represent the spread of religion, but that is not always the case. Kosher certification is done on a cost recovery basis but halal certification raises money that is then (in many cases) spent on religious communities and facilities for the proselytization of Islam. Even Islamic organisations with charitable status (like AFIC), that maintain halal certification is done on a cost recovery basis, identify large profits attributable to their certification business in their financial reports. These funds clearly contribute to their organisational aims which include supporting schools, mosques, and other Islamic organisations.

1.22 Further, in respect to halal certification, some certifiers have mentioned supporting Islamic charities which have been associated with extremist Islamic groups whilst AUSTRAC have identified Islamic charities as a major conduit of funds to proscribed or terrorist organisations.

1.23 Also, regardless of people's views on that point, a lack of labelling still means that Australians are unknowingly supporting a cause that they may or may not wish to support.

It's about choice

1.24 A lack of choice was a key concern of most submitters that were worried about halal certification. They made it clear that they had no problem with Muslims accessing foods that fit with their belief systems. That is as it should be. It was the lack of choice that they took issue with.

1.25 They do not appreciate purchasing halal certified food without their knowledge, given that many halal certified products are not labelled as such. Without

9 Mohamed Elmouelhy Facebook post, 9 July 2015, accessed 13 October 2015.

10 Mohamed Elmouelhy Facebook posts, 23 and 25 August 2015, accessed 13 October 2015.

11 *Committee Hansard*, 21 August 2015, p. 17.

a label, consumers cannot easily determine at the point of sale whether a product is halal certified.

1.26 The main purpose of certification is to ensure Muslims that the products are permissible to consume. If Muslims are not able to determine at the point of sale which foods are halal certified, why bother with certification? As one submitter said, it “causes one to ponder what the point of the certification is if the consumers requiring halal certified products do not know it is halal certified.”¹²

1.27 Many submissions were concerned that the cost of halal certification was being passed on to them when they purchased products. While there are those who argue that the costs cannot possibly be passed on to the consumer because the cost is so minimal when spread across millions of products, the point remains that the manufacturer paid money to a halal certifier, and some consumers may not wish to support in any way a manufacturer that has given money to a particular organisation, be it religious or not.

1.28 If companies were paying the Catholic Church for Catholic certification, and then not telling consumers about it, one can imagine that many Australians would be up in arms about it.

1.29 Australians want the freedom to support causes and ideologies of their choosing. They want to support schools, charities and businesses that represent their concerns and they want to be able to make informed choices.

1.30 That means proper and transparent labelling and a clear indication of how money collected through any certification scheme is utilised.

1.31 Another consideration is where certification revenue goes. Some Australians may prefer not to support companies that sell certified products if the certification revenue is sent overseas. For example, an Australian halal certifier – the Islamic Coordinating Council of Victoria (ICCV) – is funding a mosque and orphanage complex in Indonesia, even though the Deputy Chair of the ICCV had initially said that the money stays in Australia.¹³

1.32 Halal certificated products need to be labelled as such on the packaging in order for consumers to make an informed choice at the point of sale. They may still choose to purchase the product or they may not, but the main point is that the choice is theirs to make.

Consumers want information

1.33 Increasingly, consumers want to be informed in detail about the products they purchase. This includes the country-of-origin, fair trade, sustainability, where ingredients were grown and where the product was manufactured, among other considerations.

12 R Smith, *Submission 399*, p. 2.

13 Geoff Thompson, Peter Cronau and Joel Tozer, ‘The Truth About Halal’ transcript, *Four Corners*, Australian Broadcasting Corporation, 7 September 2015.

1.34 Ethical slaughter is an important issue for many Australians. The outrage stemming from the live export trade a few years ago demonstrates that people care about animal welfare and the method of slaughter undertaken. This was also reflected in a number of submissions. These people would like the opportunity to purchase meat that has not been slaughtered in a way that they do not agree with. How many of these Australians are unknowingly purchasing and eating meat that has been slaughtered in a way that they may regard as unethical?

1.35 Therefore, wanting to know about certification is just another piece of information that consumers would like to be able to access easily.

Double standards

1.36 Halal certification has caused a number of people in the community to question why all Australian consumers are expected to support Islamic religious causes in the purchase of their everyday grocery products.

1.37 It seems a legitimate question to ask and yet, for daring to voice that concern, some Australians have been labelled racists and Islamophobes. As Halal Choices argued in their submission, when you choose to buy Australian products, no one labels you a racist. Yet when you choose not to buy halal products, you are labelled a racist and a bigot.¹⁴ The double standard in how consumers are treated is nonsensical.

Confusion for consumers

1.38 With a lack of certification labelling, particularly with halal certification, consumers are left to contact the manufacturer or supermarket directly to confirm whether a product is certified or if a company has paid for certification.

1.39 Astonishingly, it can be hard to find a simple answer to such a simple question.

1.40 Some companies are unwilling to provide confirmation, others do not know the certification status of their products and some provide conflicting information.

1.41 One submitter explained his efforts to find out whether products were halal certified.¹⁵ He contacted different Woolworths stores about their meat products. Staff in the first and second stores were not able to confirm whether meat they sold was halal certified but they believed all chicken products were halal certified. The second store's halal certificate for chicken in the deli had gone missing. Staff in both stores were not able to produce any lamb, beef or chicken products that were guaranteed to not be halal certified.

1.42 At the third Woolworths store, staff said that it was illegal to sell halal products without a logo (which is not the case) so no meat in the store was halal certified except for those with a certification logo. Yet no meat products appeared to have a logo. A deli worker then said that the chicken was halal, but there was no halal certificate.

14 Halal Choices, *Submission 1278*, pp 8–9.

15 Mr Bernard Gaynor, *Submission 1383*, pp 18–21.

1.43 Woolworths customer service gave the consumer even more mixed messages. The first customer representative confirmed via phone that all Woolworths branded meat was halal certified but it was not possible to confirm this for other branded meat products. Then a second customer representative stated via email that Woolworths branded meat was not halal certified while apparently also indicating that Woolworths branded meat is often produced in abattoirs that are halal accredited:

Some of the meat and poultry that is sold at Woolworths comes from abattoirs that are halal accredited and these sites do use pre-stunning as part of the slaughter process. Woolworths is not halal accredited and therefore meat and poultry sold in our stores is not recognised as halal.¹⁶

1.44 Finally, a local independent butcher told the consumer that over 90 per cent of chicken, lamb and beef in Australia was halal slaughtered.

1.45 Such mixed messages do not assist any Australian consumer, be it a Muslim consumer or someone not wishing to purchase halal certified products.

Products that don't require certification

1.46 Halal Australia states that “All foods are considered halal” except for pork/pork by-products, blood, alcoholic drinks, animals improperly slaughtered, carnivorous animals, birds of prey and particular other animals and “foods contaminated with any of the above products including all meat, fat and biproducts such as emulsifier and gelatin.”¹⁷ This includes plants and fish.¹⁸

1.47 So there are a wide range of products that are already permissible (halal) for Muslims to consume without certification being necessary.

1.48 The Australian Federation of Islamic Councils (AFIC), believed to be one of the country's largest halal certifiers, adds that “some products are naturally Halal and do not require verification”. AFIC said that lists are available for Muslim consumers, yet provided no further detail to the committee about where these lists are and how widely they are made available to Muslims in Australia.¹⁹

1.49 The Kashrut Authority indicated that for kosher certified food:

16 Email received from a Woolworth's representative, 30 June 2015, as quoted in *Submission 1383*, p. 20.

17 Halal Australia website, General FAQ page, accessed 29 April 2015.

18 “Products made from the following substances are Halal unless containing or come into contact with a Haram substance: 1. All plant and their products 2. Certified Halal meat, poultry, game birds and animals. 3. All water creatures, fish, crustaceans and molluscs. 4. Egg from acceptable birds only. 5. Rennet from certified Halal slaughtered calves 6. Non animal rennet (NAR, culture) 7. Gelatine produced from certified Halal beef skins and/or bones, 8. Animal ingredients certified Halal” The Islamic Council of Western Australia, ICWA Halal Guidelines, <http://www.islamiccouncilwa.com.au/halal-certification/halal-guidelines/>, (accessed 25 November 2015).

19 Australian Federation of Islamic Councils, Answers to questions on notice, 3 November 2015 hearing.

It is a matter of knowing the facts about the ingredients in the product and how the product is made. Sometimes those factors are so obvious that the product is kosher and we publish that in our guides... We provide that service free to the community.²⁰

1.50 More effort needs to be made by Islamic certifiers and bodies to inform Muslims within Australia that there are a number of products they can consume; and to provide this information freely, without resorting to certification being paid by manufacturers.

Comparison with kosher

1.51 While the kosher system does have the challenge of dealing with fake kosher labels, the kosher authorities in Australia told the committee about its efforts to ensure as many products as possible were accurately labelled, and that Jewish communities were informed of kosher products via apps, websites and printed information.

1.52 In supermarkets in populated Jewish communities (mainly in Melbourne and Sydney), kosher labels appear on the shelves of kosher certified products, if not on the product packaging. Some supermarkets also have a separate kosher section or aisle.²¹

Religious certification

1.53 The committee's report states that no religious ritual is involved in kosher or halal slaughter. The kosher authorities stated that no prayer or words are uttered during kosher slaughter.²² However, the name of Allah is invoked during halal slaughter by the slaughterman when he says "bismillah" ('in the name of Allah') as he cuts the animal's throat. This was confirmed by Mr Wasim Raza, Manager of AFIC.²³ There is clearly a religious connotation to this so to deny any religious element during halal slaughter is not accurate.

1.54 While there are those, such as Mr El-Mouelhy's Halal Certification Authority,²⁴ who say there is no discrimination and claim that Islam allows women to perform halal slaughter, the reality is different. Mr Raza (from AFIC) confirmed that no females take part in it at all:

All I can say at this stage is that currently there are no females, in Australia or overseas or in Muslim countries, that are involved in this practice.²⁵

1.55 The exclusion of women and non-Muslims from participation in the slaughter process in many of our major abattoirs raises questions of discrimination, particularly when evidence suggests the majority of meat consumed domestically by non-Muslims is slaughtered in accordance with halal requirements.

20 Rabbi Moshe Gutnick, Kashrut Authority Inc, *Committee Hansard*, 21 August 2015, p. 22.

21 *Committee Hansard*, 21 August 2015, p. 21.

22 *Committee Hansard*, 21 August 2015, p. 22.

23 *Committee Hansard*, 3 November 2015, p. 3.

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

25 *Committee Hansard*, 3 November 2015, p. 3.

Halal certification: lack of regulation, transparency, accountability

1.56 The committee heard examples of a lack of regulation and transparency in halal certification systems, and improvements that could be made in both the export and domestic markets.

Export market

1.57 I agree with the committee's conclusions that improvements need to be made to the halal certification system of exported products. The current system – where importing countries set the rules – can lead to non-tariff barriers to trade such as monopolistic situations and Australian companies having to get multiple certifications.

1.58 The AFGC said that a number of their members – particularly meat processing companies – have raised these issues with them:

In facilitating trade we should be mindful of avoiding those sorts of monopoly situations, because that can quickly become a barrier or it can quickly impose costs that are unreasonable. That has absolutely been raised with us. A flow-on issue that is raised is that the same company and the same processing plant can be required to get two, three or four different halal certifications.²⁶

1.59 This was echoed by a group meat processors, according to additional documents sent to the committee, which were not mentioned in the committee's report. Their concerns are significant, because these meat processors product a large majority of beef and are at the forefront of halal export certification in Australia.

1.60 This group of meat processors – including some of the largest processors in the country – state that the current halal certification system is “not transparent...demonstrates inconsistent application of halal standards...is high cost to Australian industry...does not have the confidence of consumers of halal beef” and “is causing market access failures.”²⁷ Further documents illustrate the confusing web of agreements, audits and arrangements that are currently in place.

1.61 They “call on the Australian Government to initiate urgent reform of the system by which Australian beef is halal certified”, including greater oversight by the Australian Government.²⁸

1.62 Making improvements to the export certification system is a sensitive issue, given that it involves overseas governments. However, this should not deter our nation from seeking improvements in this system. Encouraging our government to discuss these matters with other governments, even as part of regular trade negotiations and agreements, could be a possible solution, as suggested by the AFGC and the Export Council of Australia.²⁹

26 *Committee Hansard*, 21 August 2015, p. 8.

27 Additional comments from Australian meat processors.

28 Additional comments from Australian meat processors.

29 *Committee Hansard*, 21 August 2015, pp 4, 7, 9, and 12.

Domestic market

1.63 I agree with the conclusions made by the committee regarding the lack of regulation and potential for exploitation within the domestic halal certification system.

1.64 Mr Wasim Raza said that “the biggest issue that is facing this halal certification is local certification.”³⁰

1.65 Certification relies on the integrity of the certifier and the confidence that consumers have in the certifier’s credentials. Yet very little information is available about the certifiers themselves; and the current domestic system is confusing, lacks structure and transparency, and is unaccountable to any overarching authority or body. None of this helps Muslim and non-Muslim consumers have confidence in halal certification.

Basic questions unanswered

1.66 Even some of the most basic questions about halal certification could not be answered by halal certifiers or other witnesses.

1.67 These included questions as to how many certifiers there are in Australia, how many abattoirs permit halal slaughter, the lower and upper ranges of certification fees and what percentage of meat and non-meat products are certified in the domestic market.

1.68 In contrast to this confusion, the kosher authorities and organic organisations were able to clearly answer most of these questions for their respective systems. For example, after this inquiry, we know how many organic and kosher certifiers there are in Australia yet we still don’t have a number of halal certifiers that serve the domestic market.

1.69 Also, among the Australian Muslim community, there are differences regarding the most basic elements of certification, including the definition of ‘halal’ and whether reversible stunning is permitted under Islam or not.³¹

Lack of transparency

1.70 As mentioned earlier, little is known about many halal certifiers in Australia. Some do make an effort to provide information to the public via websites and other methods, yet overall there is still a lack of information about processes, credentials, audits and accountability.

1.71 The AFGC encouraged certifiers to do more to improve transparency:

30 Mr Wasim Raza, Australian Federation of Islamic Councils, *Committee Hansard*, 3 November 2015, p. 6.

31 For example, evidence presented by AFIC permits reversible stunning of animals before their throats are cut by the halal slaughtermen, yet the Islamic Council of WA states that they are opposed to the stunning of animals before slaughter. See *Committee Hansard*, 3 November 2015, p. 2 and ICWA Halal Guidelines, available on their website at <http://www.islamiccouncilwa.com.au/halal-certification/halal-guidelines/>.

When you are dealing in the consumer space, it is in their interest to take those steps. That would be things like: who they are—are they not-for-profit? Are they a commercial entity? What are the standards, competencies, skills and processes followed?; greater clarity on how the certification is undertaken; and; particularly; if they have charitable status, tax-deductible status, to be quite open about revenue and spending and where the money goes.³²

1.72 For those certifiers who are charities, there should be even more transparency:

If you have a government imprimatur or you have a charitable status confirmed by government, then it is reasonable to say there should be a higher standard of transparency.³³

1.73 Two of what are believed to be the largest halal certifiers are registered charities (AFIC and the Supreme Islamic Council of Halal Meat in Australia).

1.74 Surely in the current environment, more information, rather than less, could help counter any suspicion and confusion in consumers' minds.

Lack of oversight, standards and qualifications

1.75 There is no overarching body that oversees or accredits halal certification in Australia, and there is no national halal standard which certifiers are accountable to.

1.76 In contrast, organic certification has the Organic Industry Standards and Certification Council which oversees the national organic standard.³⁴ The Executive Council of Australian Jewry presented a submission on behalf of kosher certifiers, and the Association of Kashrut Organisations is an international body which ensures its members maintain kosher certification standards.³⁵

1.77 Additionally, Mr Ayan spoke critically of the qualifications of some certifiers and their staff. He said that “most organisations have got a very low educational and professional profile” and claimed that some the leading figures lack the educational qualifications that would normally be expected of business leaders.³⁶

1.78 This again comes down to credibility and accountability. If there is no regulation or standard to follow, what is a halal certifier's performance measured against? If there is no overarching authority, who keeps the certifiers accountable? Indeed, who certifies the certifiers? Taking steps towards more accountability can only improve consumers' confidence in halal certification.

Where does the money go?

1.79 Some organisations were forthcoming about where the revenue from certification goes.

32 *Committee Hansard*, 21 August 2015, p. 9.

33 *Committee Hansard*, 21 August 2015, p. 10.

34 Australian Organic, *Submission 1374*, p. 1.

35 Executive Council of Australian Jewry Inc., *Submission 874*, p. 6.

36 *Committee Hansard*, 3 November 2015, p. 14.

1.80 For the NSW Kashrut Authority, “All income is absorbed in financing operating costs and improving services to kosher consumers.”³⁷ Some of the surplus from Kosher Australia is used to “expand its own operations”. The remainder goes to Mizrahi Nominees for the provision of overheads and in return for “the support it provided for kosher certification services for many years” when Kosher Australia was not able to recover its costs.³⁸ Funds collected by the Kashrut Authority of Western Australia “are used to entirely offset the cost of providing kashrut services.”³⁹ The committee’s report mentions that money from organic certification goes back into operating costs, market access and education.

1.81 Therefore, cost recovery is the main motivation for kosher certification and for some in the organic certification industry.

1.82 The 1982 Royal Commission into the Australian Meat Industry was in favour of halal certification not being “a profit-making venture.” At the time, the Commission reported that “AFIC has expressed general agreement with this principle”.⁴⁰ During the course of this inquiry, AFIC again confirmed its agreement that certification shouldn’t be for profit.⁴¹ This does represent a division within the Islamic community, where some halal certifiers are private companies that operate for profit.

Financial confusion

1.83 In his evidence to the committee Mr Wasim Raza said that “Certification fees are ... mainly to recover expenses incurred by AFIC for certification purposes.”⁴²

1.84 Also, AFIC is a registered charity listed with the Australian Charities and Not-for-profits Commission and therefore receives all the tax exemptions, rebates and concessions that come with that status.

1.85 Despite the declaration that halal certification should not be for profit, AFIC’s own charity status, and Mr Raza’s confirmation that fees are mostly a cost recovery exercise, AFIC’s own financial statements for 2012 and 2014 show significant monies raised from halal certification.⁴³ When ‘halal expenses’ were subtracted from the ‘halal income’ listed over the last four years, the profits raised from halal certification

37 Executive Council of Australian Jewry Inc, *Submission 874*, p. 8.

38 *Ibid.*, p. 9.

39 *Ibid.*

40 Sir A. E. Woodward, Report of the Royal Commission into Australian Meat Industry, Victorian Legislative Assembly, September 1982 (Government printer, Melbourne), p. 235.

41 Australian Federation of Islamic Councils (Muslims Australia), Answers to Questions on notice, 3 November 2015 hearing.

42 *Committee Hansard*, 3 November 2015, p. 1.

43 AFIC Financial Statement for the period ended 31 December 2012, pp. 5-6 and AFIC Financial Statement for the period ended 31 December 2014, available from the Australian Charities and Not-for-profits Commission website.

were as follows: \$489,592 (2011), \$647,722 (2012), \$609,886 (2013) and \$751,009 (2014). As I mentioned in the hearing, that hardly seems like a cost recovery exercise.

1.86 When asked about this during the hearing, Mr Raza was not able to provide a definitive answer, stating that he had not seen the financial statements and that they did “not sound correct” to him.⁴⁴ A few weeks later, Mr Raza explained that:

Halal Income was mentioned separately but all Halal expenses were not accumulated under a separate heading of Halal expenses but were accumulated with all of the AFIC expenses, which gave the impression Halal activity made huge profits.⁴⁵

1.87 No further information was provided as to what the correct figures were.

1.88 Mr Raza also mentioned during the hearing that figures in the financial statements were “revised” and “downgraded”, without providing further information or corrected financial statements.⁴⁶ Such bungling does not imbue confidence in the accounting abilities of one of Australia’s largest halal certifiers. Combine this with the many investigations of AFIC financial mismanagement conducted by police, federal departments and state departments in recent years, and there is reason to be concerned.⁴⁷

1.89 At the very least AFIC needs to improve their financial reporting to make it perfectly clear how much money is raised from halal certification, and where those certification funds go.

Potential funding for extremism

1.90 The committee’s report does not go far enough in detailing the evidence presented regarding the potential for halal certification funds to find their way to radicals. My intention is not to doubt the abilities of the relevant authorities in this matter; I merely wish to present some additional points in the context of this discussion.

1.91 Officials from the Australian Transaction Reports and Analysis Centre (AUSTRAC), while stating that they had no information to indicate halal certification is linked to terrorism, also said that they do not follow certification funds from a certifier to wherever the certifier sends it (for example, to a mosque, school, charity or bookstore).⁴⁸ AUSTRAC also has “much more limited visibility of domestic financial

44 *Committee Hansard*, 3 November 2015, pp 4–5.

45 AFIC, Answers to questions on notice, 3 November 2015 hearing.

46 *Committee Hansard*, 3 November 2015, p. 4.

47 The financial mismanagement of AFIC and its schools has been widely reported in Australian media, particularly by Leo Shanahan at *The Australian*. In 2012, the NSW Government ordered an AFIC school to repay \$9 million that it had received in grants after an investigation found that the school was operating for profit, which goes against conditions of that government funding. The case is currently before the courts.

48 *Committee Hansard*, 24 September 2015, p. 10.

activity”⁴⁹ and is not able to track money overseas once it moves on from its first overseas recipient.⁵⁰

1.92 The Australian Crime Commission said they “have not found any direct links” between halal certification and terrorism funding.⁵¹ Yet it’s logical to conclude that funding derived from halal certification could be directed to Islamic charities and objectives. AUSTRAC’s 2014 report *Terrorism Financing in Australia* found that there is a high risk that charities and not-for-profit organisations could be used as channels for terrorism funding; indeed “some Australia-based charities and NPOs have been exploited by terrorist groups”.⁵² Mr El-Mouelhy, for example, boasts that he contributes to Human Appeal International (HAI).⁵³ The overseas branch of HAI has been named as a possible fundraiser for Hamas.⁵⁴

Corruption

1.93 I support the committee’s suggestion that allegations of illegal activity within certification schemes should be presented to law enforcement authorities.

1.94 However, it is still crucial to at least mention the claims of corruption and allegations of misconduct involving Australian halal certifiers. The scope of allegations alone raises concerns that the confusion and lack of transparency surrounding halal certification leaves it open to such behaviour. This is in stark contrast to the kosher and organic certification certifiers, who presented little evidence of misconduct in their systems.

1.95 Numerous examples of alleged corruption were presented to the committee, in addition to reports from the media. These examples included allegations of bribery, conflicts of interest, intimidation, suspect certification practices and fraudulent certificates, in both the domestic and overseas halal certification systems.

1.96 Mr Ayan documented a number of claims of corruption and misconduct in his submission, his evidence at the hearing and in documents he tabled with the committee. Not all of them are explored here but a few examples are given below.

Allegations of bribery

1.97 Mr El-Mouelhy, an Australian halal certifier, admitted on national television that he paid bribes to Indonesia halal officials in order to access the Indonesia market.

49 *Committee Hansard*, 24 September 2015, p. 9.

50 *Committee Hansard*, 24 September 2015, p. 10.

51 *Committee Hansard*, 24 September 2015, p. 14.

52 AUSTRAC, *Terrorism financing in Australia 2014*, 2014, p. 15.

53 Mohamed El-Mouelhy Facebook post, 22 March 2015 and ‘The Truth About Halal’ transcript, *Four Corners*, ABC, 7 September 2015.

54 ‘The Truth About Halal’ transcript, *Four Corners*, ABC, 7 September 2015, and Nick McKenzie, ‘Claim money from Aust sent to organisations linked to terrorism’, *7.30 Report*, ABC, 24 June 2003, and ‘Jonathan Harley, ‘Concern charity channelling funds to Hamas’, *Lateline*, ABC, 22 September 2003.

He was asked by ABC's Four Corners about paying \$28,000 in cash and travel costs to Indonesian officials visiting Australia nine years ago:

Geoff Thompson: And in your mind, that was a bribe?

Mohamed El-Mouelhy: In my mind, ah- in er-er, you know, as a, as a, as an after-fact: yes, it is a bribe.

Geoff Thompson: But you paid it nevertheless.

Mohamed El-Mouelhy: I paid something, yes.⁵⁵

1.98 Mr El-Mouelhy repeated this story to Indonesia's *Tempo* magazine – presented to the committee as evidence - which included in its article a copy of a statutory declaration signed by Mr El-Mouelhy in 2012 attesting to the payments he made to Indonesian officials.⁵⁶

1.99 *Tempo* also mentions evidence of alleged money transfers (ranging from \$3000 to \$10,000) from a different Australian halal certifier to an individual within the Indonesian Council of Ulama (MUI) in March 2013, in an effort to stop MUI from revoking that certifier's authorisation to certify products for the Indonesian market.⁵⁷

1.100 Fairfax Media offered further information:

Fairfax Media has established a Melbourne whistleblower wrote to three Australian government departments including the Federal Police in March telling them of corruption allegations between the MUI and Australian halal certifiers trying to firm up the lucrative export market in Indonesia.

The allegations include bribes paid to the MUI. Fairfax Media has seen an MUI contract sent to Australian certifiers requiring them to “contribute in activities for the halal product service in Indonesia.”⁵⁸

1.101 And the ABC concludes:

Four Corners has learned that there is a global pattern of complaints about the MUI expecting payment from halal certifiers.⁵⁹

1.102 Professor Azyumardi Azra, a key religious adviser for the Indonesian halal authority, admitted there are problems with the certification system between his country and Australia:

...need to clean up all this mess. Not to use these halal certificates for personal enjoyment like visiting Australia on business class Singapore Airlines for instance...This is the case. I check. The person visit Australia

55 *Four Corners* transcript, ‘The Truth About Halal’, ABC, 7 September 2015.

56 Bagja Hidayat, Kartika Candra and Asmayani Kusri, ‘The High Cost of Halal Labels’, *Tempo*, 2 March 2014, p. 17.

57 *Ibid*, and Abdul Ayan, Answers to questions on notice, 3 November 2015 hearing, p. 9.

58 Chris Johnston, ‘Knives come out in halal food fight’, *Sunday Canberra Times*, 28 December 2014.

59 *Four Corners* transcript, ‘The Truth About Halal’, ABC, 7 September 2015.

with their wife and asked for business class airline ticket. So I think it's not credible. It's not accountable. So we need to put this in order.⁶⁰

Claims of intimidation and misuse of certificates/labels

1.103 The committee was presented with allegations of intimidation by halal certifiers. Kirralie Smith and Abdul Ayan included examples of this behaviour by halal certifiers in their submissions and tabled documents. Mr Ayan summarised:

Some of them do not hesitate to exert, sometimes with impunity, their market power and influence to extract concessions or unfair or illegal advantages...This manifests itself sometimes in the form of threats and intimidation of halal establishments who do not cooperate to become willing clients.⁶¹

1.104 The misuse of certificates and labels is another problem within the halal certification system; an issue that was raised by the Royal Commission into the Australian Meat Industry in 1982.⁶² More recently, there are claims that some companies display other companies' certificates on their premises, create fake certificates and use labels without permission in order to avoid paying for certification.⁶³ Last year, the Federal Court heard the case of two kebab shops and a wholesaler that were involved in using fake halal certificates.⁶⁴

1.105 When I spoke of what Senator Dastyari described as "con men" and what I termed "opportunists" within the domestic certification market, Mr Raza, replied: "I would agree with the senator and yourself."⁶⁵

Conclusion

1.106 I agree with the committee's conclusion that improving the halal certification system would bring benefits for Australian businesses in our export markets. However, this shouldn't be the only reason why this inquiry advocates for improvements. There is an additional reason that the committee failed to mention in these final paragraphs. Ensuring that Australian consumers have access to more information about the products they purchase, so that they can make informed choices, is also of paramount importance and should be a driving force behind change in the halal certification system.

1.107 Consumers have a right to know what they are supporting when they purchase products, whether that is organic farming, the Jewish community or Islamic causes.

60 Professor Azyumardi Azra, Sky News, 8 September 2015.

61 Abdul Ayan, Answers to questions on notice, 3 November 2015 hearing.

62 Sir A. E. Woodward, Report of the Royal Commission into Australian Meat Industry, Victorian Legislative Assembly, September 1982 (Government printer, Melbourne), pp 228–229.

63 Halal Certification Authority Australia, *Submission 1437*, p.14.

64 *Ibid*, and John Hannebery and Penn Glenn, 'Federal Court awards additional damages for flagrant infringements of Halal Certification trade mark', Davies Collison Cave Intellectual Property website, 10 September 2014.

65 *Ibid*.

There are no concerns about consumers exercising their choice when they purchase products with the Heart Tick or products that don't contain palm oil. Such attitudes should also extend to religious certification.

1.108 This inquiry has attempted to shed light on certification in Australia. I am grateful that those who participated did take the opportunity to put facts on the table.

1.109 However, it is disappointing that more answers were not forthcoming, particularly with regard to halal certification.

1.110 We know more than we did at the start of this process but many questions remain unanswered due to the lack of cooperation by those directly involved in the halal certification industry.

1.111 Hopefully the recommendations in this report will lead to improvements in certification across the board and increased transparency and certainty for Australian consumers.

Senator Cory Bernardi

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