

# Chapter 1

## Introduction and background

1.1 On 18 March 2015, the following matters were referred to the Senate Rural and Regional Affairs and Transport References Committee (the committee) for inquiry and report by 12 August 2015:

The effect of market consolidation on the red meat processing sector, and in undertaking the inquiry, the committee consider:

- (a) the potential for misuse of market power through buyer collusion and the resultant impact on producer returns;
- (b) the impact of the red-meat processor consolidation on market competition, creation of regional monopolies and returns to farm gate;
- (c) the existing selling structures and processes at saleyards, particularly pre- and post-sale weighing, as well as direct sales and online auctions, and whether they remain relevant;
- (d) the regulatory environment covering livestock, livestock agents, buyers and meat processors; and
- (e) any related matter.

1.2 On 14 May 2015, the Senate granted the committee an extension of time to report to 17 March 2016. On 22 February 2016, a further extension was granted by the Senate to 5 May 2016.

1.3 On 4 May 2016, the committee tabled an interim report in relation to its inquiry. The committee also sought, and was granted an extension (until 20 December 2016) to complete its inquiry.

1.4 On 9 May 2016, the inquiry lapsed with the dissolution of the Parliament for a general election (which was held on 2 July 2016).

1.5 Following the 2016 election, the Senate agreed to the committee's recommendation that the inquiry be re-adopted in the 45<sup>th</sup> Parliament. On 15 September 2016, the Senate re-referred the inquiry (with the same terms of reference) and set a reporting date of 30 March 2017. On 23 March 2017, the committee sought, and was granted, an extension (until 15 June 2017) to provide its report to the Senate.

1.6 On 15 June 2017, the committee sought, and was granted a further extension (until 17 August 2017) to complete its inquiry. On 10 August 2017, the committee requested and was granted an extension until 29 November 2017 to provide its final report to the Senate.

### Conduct of the inquiry

1.7 The inquiry was advertised in *The Australian* and on the committee's webpage. The committee also wrote to government departments, meat industry stakeholder groups and individuals to invite submissions. Details regarding the inquiry, and associated documents are available on the committee's webpage at

[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Rural\\_and\\_Regional\\_Affairs\\_and\\_Transport/Red\\_meat\\_processing](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Red_meat_processing).

1.8 The committee received 98 public and 24 confidential submissions. A list of submissions is included at Appendix 1. Public submissions to the inquiry are also published on the committee's webpage.

1.9 The committee held a number of public hearings in relation to its inquiry, which included: Roma on 4 August 2015 and Albury-Wodonga on 2 September 2015. Hearings were also held in Canberra on 27 August 2015, 17 November 2015, 5 April 2016, 8 August 2017, 10 August 2017 and 16 August 2017. A list of witnesses who appeared at the hearings is included at Appendix 2.

1.10 On 14 March 2017, the committee visited the Melbourne offices of Scott Technology Australia. The site visit provided the committee with the opportunity to discuss the issue of Dual Energy X-Ray Absorptiometry (DEXA) technology with a number of industry stakeholders – including representatives from Meat and Livestock Australia (MLA), the Australian Meat Processor Corporation (AMPC), the Australian Meat Industry Council (AMIC) and the Cattle Council of Australia (CCA). The committee also viewed a demonstration of the DEXA technology being developed by Scott Technology.

### **Previous inquiries**

1.11 The committee has, over many years, taken a keen interest in Australia's red meat sector. The ongoing themes, and issues of concern stakeholders have raised with the committee during that time have included: industry structures, producer representation, price transparency, grading, meat marketing, labelling, meat language and the relationships between various sectors of the industry.

1.12 Since 2000, the committee<sup>1</sup> has conducted a number of inquiries in relation to the red meat industry, including:

- The Australian Meat and Live-stock Industry (High Quality Beef Export to the European Union) Order 2000 (December 2000);
- The introduction of quota management controls on Australian beef exports to the United States by the Minister for Agriculture, Fisheries and Forestry (June 2002);
- The Australian meat industry consultative structure and quota allocation, Interim Report: Allocation of the US beef quota (September 2002); and
- The Australian meat industry consultative structure and quota allocation, 2<sup>nd</sup> Report: Existing government advisory structures in the Australian meat industry (December 2002).

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1 The Senate's rural and regional affairs committee has, over many years, undertaken various inquiries in relation to Australia's meat industry. At various times, the committees undertaking these inquiries have been the Senate Rural and Regional Affairs and Transport References Committee, the Senate Rural and Regional Affairs and Transport Legislation Committee, and the Senate Standing Committee on Rural and Regional Affairs and Transport.

1.13 Several of these inquiries examined issues such as quota management controls (specifically as they relate to the export beef sector). The committee has also reviewed, at various times, the consultative structures which exist across the red meat industry.

1.14 As far back as 2002, the committee responded strongly to what it deemed the undemocratic process by which MLA board members were appointed. At the conclusion of its 2002 inquiry, the committee recommended that the MLA board consult with its membership with a view to finding ways to introduce democratic reform to its Articles of Association.<sup>2</sup> Further, the committee recommended that, in the absence of progress on this matter before the 2003 MLA Annual General Meeting, the Minister [for Agriculture, Fisheries and Forestry] engage in a "detailed and open consultation with levy payers on reform options for a more democratic board selection process".<sup>3</sup> Concerns regarding representation and the MLA board arose again in 2013, during the committee's Inquiry into industry structures and systems governing levies on grass-fed cattle (which was tabled in September 2014).

1.15 More recently the committee's inquiries have focused on issues such as meat marketing, beef imports and industry structures and systems. Reports tabled by the committee have included:

- Meat Marketing (September 2008 and June 2009);
- Beef Imports into Australia (November 2013); and
- Industry structures and systems governing levies on grass-fed cattle (9 September 2014).

### ***Meat Marketing***

1.16 The committee's Inquiry into Meat Marketing (which commenced in 2008) examined a number of issues of concern across the meat industry, primarily in relation to marketing, and:

...with particular reference to the need for effective supervision of national standards and controls and the national harmonisation of regulations applying to the branding of meat.<sup>4</sup>

1.17 The committee's interim report (tabled in September 2008) focused on:

- incidents of hogget and/or mutton being substituted for lamb;
- the use of dentition as the primary determinant of animal as lamb; and

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2 Senate Rural and Regional Affairs and Transport Legislation Committee, *The Australian meat industry consultative structure and quota allocation – Second report: Existing government advisory structures in the Australian meat industry*, December 2002, p. 23.

3 Senate Rural and Regional Affairs and Transport Legislation Committee, *The Australian meat industry consultative structure and quota allocation – Second report: Existing government advisory structures in the Australian meat industry*, December 2002, p. 23.

4 Senate Standing Committee on Rural and Regional Affairs and Transport, *Interim Report into Meat Marketing*, September 2008, p. 1.

- the need for a uniform approach to the labelling of imported meat products – specifically pork.<sup>5</sup>

1.18 In conducting its inquiry, the committee also investigated the need for uniform domestic meat branding, grading, quality specifications and labelling.

1.19 The committee's final report (tabled in June 2009) focused on issues not addressed in its interim report – specifically around the labelling of beef products and the use of labels such as 'organic' and 'free range' (across all meat products). The report addressed issues such as:

- the lack of beef grading for quality in Australia and the options for providing better information to consumers;
- concerns about the 'budget' beef labelling agreement misleading consumers as to the nature of what they are purchasing; and
- perceived problems with the use of breed claims in marketing.<sup>6</sup>

### ***Beef imports into Australia***

1.20 The primary focus of the committee's 2013 Inquiry into Beef Imports into Australia was the importation of beef products from countries whose cattle herds have bovine spongiform encephalopathy (BSE) and/or foot-and-mouth disease (FMD).

1.21 During its inquiry, the committee did, however, also consider issues around food labelling and the adequacy of Australia's "food labelling laws to ensure Australian consumers can make a fully informed choice on Australian meat products".<sup>7</sup>

1.22 As part of its inquiry, the committee also received evidence regarding AUS-MEAT Language, and a grading system introduced by Meat Standards Australia (MSA) designed to provide consumers with simpler and more meaningful information.

### ***Industry structures and systems governing levies on grass-fed cattle***

1.23 In December 2013, the committee was referred an inquiry into the "industry structures and systems governing the collection and disbursement of marketing and research and development levies pertaining to the sale of grass-fed cattle". Part of the inquiry's terms of reference included:

- an examination of [meat] industry governance arrangements, consultation and reporting frameworks; and

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5 Senate Standing Committee on Rural and Regional Affairs and Transport, *Interim Report into Meat Marketing*, September 2008, p. 1.

6 Senate Rural and Regional Affairs and Transport References Committee, *Report into Meat Marketing*, June 2009, p. 2.

7 Senate Rural and Regional Affairs and Transport References Committee, *Report into Beef imports into Australia*, July 2013, p. 1.

- putting forward recommendations which would maximise the ability of grass-fed cattle producers to respond to challenges and capture opportunities in marketing and research and development.<sup>8</sup>

1.24 In its report (tabled in September 2014), the committee noted that the concerns expressed by submitters to the inquiry regarding the effective management of the levy system were also "symptomatic of a wider belief that the industry structures underpinning the levy system are too complicated to provide for adequate transparency and coherence, particularly in relation to roles and responsibilities".<sup>9</sup> The committee's report also highlighted the substantial changes which had taken place across Australia's meat industry since the current systems and structures were put in place – as far back as 1997-98. The committee argued that, as a consequence of these dynamics, its inquiry had revealed a growing support for a thorough and independent review of industry structures, coupled with a desire for substantial reform.<sup>10</sup>

#### *Seven recommendations*

1.25 The committee's inquiry into levies on grass-fed cattle produced seven recommendations, which were "directed at providing for greater producer representation, transparency and accountability within the grass-fed cattle levy system".<sup>11</sup>

1.26 The committee recommended:

- (1) That a producer-owned body be established by legislation. The body should have the authority to receive and disperse the research and development, as well as the marketing component, of the cattle transaction levy funds. The producer-owned body should also be authorised to receive matching government research and development funds. Reforming the Cattle Council of Australia to achieve these outcomes should be examined as part of this process.
- (2) The establishment of a cost-effective, automated cattle transaction levy system. The system should identify levy payers against levies paid. The automated system should provide for more immediate settlement of levy fees paid and the allocation of voting entitlements. It should be subject to regular independent auditing and verification.

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8 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 1.

9 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 5.

10 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, pp 5 and 6.

11 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 12.

- (3) That the *Primary Industries (Excise) Levies Act 1999* be amended to ensure that levies paid by processors are recognised as processor (or slaughter) levies and not as producer (or cattle transaction) levies.
- (4) That the Australian National Audit Office (ANAO) conduct an audit of the cattle transaction levy system, tracing the levy from inception and focusing on the revenue from, and expenditure of, the respective components of the levy.
- (5) That the Minister for Agriculture [and Water Resources] dissolve the Red Meat Advisory Council. The committee further recommends that the Minister for Agriculture establish a new system to manage and disperse earnings from the Red Meat Industry Reserve Fund, in consultation with the industry.
- (6) That the Minister for Agriculture revoke the status of the MLA Donor Company as an approved donor under the *Australian Meat and Live-stock Industry Act 1997*.
- (7) That the Department of Agriculture, in consultation with the cattle industry, conduct an analysis of the benefits, costs and consequences of introducing legislation akin to the *Packers and Stockyards Act 1921* and *Livestock Mandatory Price Reporting Act 1999*.<sup>12</sup>

1.27 The committee's 2014 report, and its seven recommendations, were very well received by various industry stakeholders, and the committee received considerable positive feedback – particularly from producers.<sup>13</sup>

1.28 Mr David Byard, Chief Executive Officer of the Australian Beef Association (ABA), summed up the views of a number of stakeholders when he argued that:

It is common ground amongst all rural industry groups and institutions that the current organisational representative structures have outlived their time and are no longer sustainable either from a funding or operational perspective in the long term.

The time has come to get on with the implementation of the reforms recommended by the Senate Inquiry into grass fed cattle levy funded structures and systems ...<sup>14</sup>

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12 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, pp xiii and xiv.

13 As noted in submissions to: Senate Rural and Regional Affairs and Transport References Committee, *Effect of market consolidation on the red meat processing sector: Interim report*, May 2016 – Mr Julian Carroll, *Submission 48*, p. 2, Victorian Farmers Federation – Ovens Valley Branch, *Submission 62*, p. 3, Ms Loretta Carroll, *Submission 63*, p. 3 and Mr Peter McHugh, Private Capacity, *Committee Hansard*, 4 August 2015, p. 44.

14 Beef Central, *Opinion: Get on with Senate recommendations for grassfed reform*, 1 February 2017 [p.4].

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## Interim report

1.29 As mentioned above, the committee tabled the *Effect of market consolidation on the red meat processing sector: Interim Report* [interim report] on 4 May 2016. In tabling its interim report – immediately prior to the dissolution of the Parliament and ahead of the 2 July 2016 general election – the committee had the opportunity to put some of its initial findings on record.

1.30 The committee presented its findings in relation to selling practices at saleyards. Specifically, the committee reported on the events that took place at Barnawartha and the potential for misuse of market power through buyer collusion and concerted practices. The committee also reported on evidence it had received in relation to:

- saleyards as a selling system, including the issues around pre- and post-weighing;
- evidence in relation to saleyards and price discovery;
- selling structures, including 'over the hook', direct sales and online sales; and
- the regulatory environment and the grading system.<sup>15</sup>

1.31 Submitters to the inquiry expressed particular concerns about the impact of consolidation across the processing sector and the lack of transparency in the supply chain. The committee agreed that these issues "in addition to what appear to be common practices, such as single agents representing multiple buyers, demonstrate the need for protections against uncompetitive practices, particularly to ensure a fair return to producers".<sup>16</sup> The key themes identified during the inquiry – particularly by producers – included:

- the lack of price transparency in the supply chain;
- the need for legislation regarding concerted practices; and
- the need to restore confidence in grading systems and processes.

1.32 The committee's interim report also reflected on the structures governing the red meat industry – which were described as both 'complex' and 'convoluted'.<sup>17</sup> The committee pointed to supply chains which encompass a wide range of stakeholders – including producers, contractors, processors, retailers and consumers – and evidence which suggested that within these complex supply chains, market power can show itself in a number of ways.

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15 Senate Rural and Regional Affairs and Transport References Committee, *Effect of market consolidation on the red meat processing sector: Interim Report*, May 2016, p. 13.

16 Senate Rural and Regional Affairs and Transport References Committee, *Effect of market consolidation on the red meat processing sector: Interim Report*, May 2016, p. 80.

17 Senate Rural and Regional Affairs and Transport References Committee, *Effect of market consolidation on the red meat processing sector: Interim Report*, May 2016, p. 79.

1.33 The committee was provided with examples of "non-competitive terms and prices, asymmetric information and price discrimination".<sup>18</sup> Evidence was also received in relation to commission buyer practices, the imposition of saleyard curfews, the 'over the hook' grading system, the current system of price setting, and the integrity of the systems surrounding the red meat industry more generally. In making its recommendations the committee also took into consideration issues such as concerted practices, price transparency, accountability and saleyard design.

1.34 The recommendations put forward by the committee in its interim report focused to a large extent on finding ways to create a fairer market. The committee recommended:

- that a transparent pricing mechanism be introduced at livestock saleyards and that MLA, in cooperation with the livestock and red meat industry, establish a national price disclosure and reporting system;
- that industry and producers work together to establish best practice modelling for saleyard design in cooperation with producers and their representatives;
- that the Australian Government introduce legislation to prohibit concerted practices as soon as practicable; and
- the establishment of a registration and training system for livestock agents. In addition, the committee recommended that a system of oversight be introduced by the registration body which includes a formal complaints mechanism.

1.35 The committee also recommended that the Senate grant an extension of time for reporting on the inquiry; to allow the committee to resume its examination of the terms of reference and provide its final report to the Senate. In recommending an extension, the committee also signalled its intention to review the findings of the Australian Competition and Consumer Commission's (ACCC) Cattle and beef market study. The ACCC's final report, which was scheduled for public release in November 2016, was ultimately released in March 2017.

### **Final report – key issues**

1.36 In undertaking its inquiry into the effect of market consolidation on the red meat processing sector, the committee continues its long tradition of investigating issues of concern to meat industry stakeholders – particularly producers. In this, its final report, the committee focuses on several issues within the terms of reference which remain a primary concern to industry stakeholders:

- price transparency and accountability across the industry;
- greater producer representation within and across the governing structures of the red meat industry; and

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18 Senate Rural and Regional Affairs and Transport References Committee, *Effect of market consolidation on the red meat processing sector: Interim Report*, May 2016, p. 80.



- mechanisms for independent grading and the lack of a complaints mechanism in a system that is not designed around producers.

### ***Structure of the report***

1.37 In April 2016, the ACCC announced that it would be conducting a detailed study of Australia's cattle and beef industry which would examine competition, efficiency, transparency and trading issues across the beef and cattle supply chain. The ACCC published the *Cattle and beef market study: Interim report* in October 2016. This was followed by its final report, which was released on 7 March 2017.

1.38 The committee has had the opportunity to review both reports and their findings. An overview of the ACCC's study, the ACCC's findings, and the committee's response to those findings is contained in Chapter 2. Chapter 2 also examines stakeholder concerns regarding the ACCC's investigative powers, including its ability to protect witnesses, gather evidence and make binding recommendations.

1.39 The committee's interim report pointed to evidence provided by stakeholders regarding the need for transparency across the supply chain. Submitters repeatedly argued that the pricing mechanism in the cattle market "lacks integrity at the saleyards and in over the hook sales".<sup>19</sup> These issues were examined as part of an MLA-commissioned project which conducted an in-depth study of supply chain transparency. The MLA project produced a series of 'Milestone' reports which provided the basis for some much needed discussion across the industry. The MLA's analysis, the project's findings and the committee's examination of these issues are set out in Chapter 3.

1.40 As noted in the committee's interim report, for many years producers and industry bodies have expressed concerns about various aspects of the meat grading system. Chapter 4 describes the current grading system and sets out some of the concerns raised by industry participants about the lack of appropriate mechanisms which would allow for both independent grading and the independent resolution of complaints. Chapter 4 outlines the progress that has been made in relation to the development of objective carcass measurement (OCM) technology and the options being examined by industry participants.

1.41 The committee is very much of the view that the question of effective producer representation is central to the challenges being faced by Australia's red meat industry. Chapter 5 examines issues such as the complexity of the red meat industry structures and buyer representation in decision making processes, and questions whether the time has come to conduct a thorough review of the red meat Memorandum of Understanding (MOU).

### **Committee comment**

1.42 As previously noted, the committee has undertaken a number of inquiries in relation to Australia's red meat industry over a period of many years. The committee

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19 Senate Rural and Regional Affairs and Transport References Committee, *Effect of market consolidation on the red meat processing sector: Interim Report*, May 2016, p. 81.

has investigated and reported on various issues of concern to industry stakeholders and involved itself in several ongoing debates. The subjects of the committee's inquiries range from the industry's organisational and representative systems and consultative structures to the collection and expenditure of levy funds and the need to reform the structure of representative bodies across the industry.

1.43 Over the years, the committee has been consistent in its view that the organisations charged with representing producers need to be truly representative and consultative bodies. As part of their obligations to producers, these organisations need to be undertaking an appropriate level of consultation with the people they are working for – producers and levy payers. For representative bodies to say they are truly working effectively, producers must feel that they have some level of control over the setting of priorities – including strategic and research goals and the financing of specific industry projects.

1.44 The terms of reference for the committee's recent *Inquiry into the industry structures and systems governing levies on grass-fed cattle* required that the committee put forward "recommendations which would maximise the ability of grass fed cattle producers to respond to challenges and capture opportunities in marketing and research and development".<sup>20</sup> The committee stands by the seven recommendations it made in its September 2014 report, which were aimed at providing for greater producer representation, transparency and accountability within the grass-fed levy system.

1.45 Evidence provided to this inquiry has highlighted the fact that many stakeholders – particularly beef producers – share the committee's concerns about the current lack of price transparency, the need for legislation to deal with concerted practices and the importance of rebuilding confidence in grading systems and processes.

1.46 The committee notes that, over a period of years, industry stakeholders have regularly made announcements signalling their support for reform across the cattle and beef industry. Industry leaders – including the Minister for Agriculture and Water Resources – have confirmed their support for reform and indicated that they are keen for peak industry bodies to express the views of their members and provide representation to government using a "more or less united voice".<sup>21</sup>

1.47 The CCA emphasised the need for strong leadership and called for an increased level of cooperation and collaboration across various sectors of the industry. The CCA also argued that national cattle producer representative bodies should play a larger role in leading reform. It has indicated that, by 2020, it would like to see a new national cattle producer body representing the majority of cattle businesses and cattle

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20 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 1.

21 Beef Central, *Opinion Piece: Strengthening the future of the grass fed cattle industry*, The Hon. Barnaby Joyce, MP, Minister for Agriculture, 15 July 2015, p. 2.

production that is working cooperatively with other peak industry councils across the value chain.<sup>22</sup>

1.48 MLA also addressed the issue of industry leadership in a recent annual report. The Managing Director, Mr Richard Norton, sought to clarify the point that, under its current Deed of Agreement, MLA is prohibited from engaging in any agri-political activity or lobbying; and that it is the peak industry councils which have the mandate to lobby and advance the interests of the industry.<sup>23</sup>

1.49 The committee agrees that it is vital for stakeholders – particularly producers – to have strong leadership. The committee also agrees that the industry needs clarity regarding who is responsible for providing stakeholder representation and leadership. The committee also notes, however, that there has been agreement for some considerable time about the need for industry reform. These sentiments are not new: they have been articulated in planning documents, media releases, strategic plans, studies, reviews and annual reports for more than a decade.

1.50 The time has come for representative bodies and peak industry councils to work cooperatively with each other (and their members) for the good of the industry as a whole. It is up to representative bodies to find ways to work with all stakeholder groups, to identify solutions to the problems facing the sector and drive the implementation of change once appropriate solutions are found. This report, by seeking to strengthen representative structures, should go some way to supporting the industry to achieve these goals.

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22 Cattle Council of Australia, *Beef Industry Strategic Plan 2020*, 9 September 2015, p. 8.

23 Meat and Livestock Australia, *Annual Report 2014-15*, p. 6.

