

The Senate

Rural and Regional Affairs
and Transport
References Committee

Effect of market consolidation on the red
meat processing sector

September 2017

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Abbreviations

ABA	Australian Beef Association
ABARES	Australian Bureau of Agricultural and Resource Economics
ACC	Australian Country Choice
ACCC	Australian Competition and Consumer Commission
ACL	Australian Consumer Law
AFI	Australian Farm Institute
AGM	Annual General Meeting
AGMIN	Agriculture Ministers meeting
ALEC	Australian Live Exporters' Council
ALFA	Australian Lot Feeders' Association
ALMA	Australian Livestock Markets Association
ALPA	Australian Livestock and Property Agents Association
AMIC	Australian Meat Industry Council
AMILSC	Australian Meat Industry Language and Standards Committee
AMLC	Australian Meat and Livestock Corporation
AMPC	Australian Meat Processor Corporation
AMPG	Australian Meat Producers Group
ANAO	Australian National Audit Office
BSE	bovine spongiform encephalopathy
CCA	Cattle Council of Australia
CCP	Concerned Cattle Producers
CTL	Cattle Transaction Levy
Department	Department of Agriculture and Water Resources
DEXA	Dual Energy X-Ray Absorptiometry (technology)
EY	Ernst and Young
FMD	foot-and-mouth disease
LIA	Leadership in Agricultural Industries' (fund)
LiveCorp	Australian Livestock Export Corporation Ltd
MDC	MLA Donor Company Ltd
MISP	Meat Industry Strategic Plan

MLA	Meat and Livestock Australia
MOU	Memorandum of Understanding
MSA	Meat Standards Australia
NAMI	North American Meat Institute
NFF	National Farmers Federation
NLIS	National Livestock Identification System
NLRS	National Livestock Reporting Service
NPG	Northern Pastoral Group
NTCA	Northern Territory Cattlemen's Association
OCM	objective carcass measurement
OTH	over the hook/s
PC	Productivity Commission
PGA	Pastoralists and Graziers Association of Western Australia
PIC	Peak Industry Council
RDC	Research and Development Corporation
R&D	Research and development
RMAC	Red Meat Advisory Council
SCA	Sheepmeat Council of Australia
SFO	State Farming Organisation
USDA	United States Department of Agriculture
VFF	Victorian Farmers Federation

List of recommendations

Recommendation 1

2.7 The committee recommends that the Minister for Agriculture and Water Resources consider requesting Meat and Livestock Australia to conduct a study into pre- and post-sale weighing to provide the southern industry with an evidence-base on which to consider selling methods at saleyards.

Recommendation 2

2.103 The committee recommends that the Australian Livestock and Property Agents Association (ALPA) lead the development of industry Standards of Practice that cover all commercial transactions in relation to livestock – including online, paddock and saleyard transactions. The Standards of Practice should include guidelines which encourage all parties to conduct transactions in good faith, do not mislead other parties, and ensure that all such transactions are negotiated under the law.

Recommendation 3

4.108 The committee recommends that the Department of Agriculture and Water Resources conduct a review into the operations and capability of AUS-MEAT to determine whether it is the most appropriate body to oversight the installation, inspection, calibration, replacement and quality assurance auditing processes of the new DEXA technology. The review should also identify what reforms and resources AUS-MEAT would require to fulfil this role.

Recommendation 4

5.77 The committee recommends that the Australian Government provide immediate support, including appropriate financial assistance, to the grass-fed cattle sector in its efforts to replace Cattle Council of Australia with a transparent and accountable producer-owned body as the sector's Peak Industry Council.

Recommendation 5

5.78 The committee recommends that the Australian Government officially recognise Cattle Australia as the grass-fed cattle sector's Peak Industry Council under the Australian Meat and Live-Stock Industry Act 1997 and Red Meat Memorandum of Understanding once it is operational and has a membership structure in place.

Recommendation 6

5.88 The committee recommends that a joint industry and government meat and livestock task force be established to conduct a comprehensive review of all aspects of the Red Meat Memorandum of Understanding (MOU).

Recommendation 7

5.89 As part of the Red Meat MOU review, the joint industry and government meat and livestock task force should consult widely across the industry and consider options for reform.

5.90 The task force should present a report to the Minister for Agriculture and Water Resources within two years of its establishment. The report and its recommendations should be made public.

5.91 To ensure full transparency and encourage industry ownership over the reform process, the task force should endeavour to publish its preliminary findings during the review period as well as bi-annually.

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 45th 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.

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 committee¹ 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, 2nd Report: Existing government advisory structures in the Australian meat industry (December 2002).

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.² 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".³ 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.⁴

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

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.⁵

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.⁶

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".⁷

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

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.

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- 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.⁸

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".⁹ 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.¹⁰

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".¹¹

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.

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*.¹²

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.¹³

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 ...¹⁴

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].

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.¹⁵

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".¹⁶ 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'.¹⁷ 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.

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".¹⁸ 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

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".¹⁹ 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

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".²⁰ 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".²¹

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

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.²²

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.²³

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.

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.

Chapter 2

The ACCC's Cattle and Beef Market Study

2.1 As indicated in its interim report, the committee has major concerns about the culture of collusion which exists in cattle saleyards. The committee shares the concerns of stakeholders – particularly producers – in relation to a number of saleyard practices – including the behaviour of commission buyers. The committee has also placed on record its concerns in relation to competition between cattle buyers and the need for transparency in pricing and grading methods. The committee has argued consistently for these issues to be addressed.

Matters specific to the Victorian saleyards

2.2 This inquiry was triggered by events at the Barnawartha saleyards when, on 17 February 2015, agents agreed to a post-weigh system of selling without "consultation with producers who pay all the sale yard fees".¹ The committee's interim report detailed the impact of this event together with the non-attendance of up to ten commission buyers at the sale, on the price that producers received for their cattle.²

2.3 Saleyards remain the main method of sale in southern Australia and are most commonly utilised by producers who have small herds and sell in small lot sizes. In some regions, such as Victoria, many farmers are reliant on saleyards as they don't produce livestock in volumes that would provide them bargaining power with meat buyers. At the same time, it should be noted that sale by auction establishes the value of other forms of sale. Therefore, the saleyard sets the benchmark on cattle prices.

2.4 The ACCC's investigation into the events at Barnawartha revealed that certain processors strongly opposed the pre-sale weighing method at saleyards.³ This was confirmed in evidence to the committee. When asked about the preference for post-sale weighing, Mr Bradley Teys of Teys Australia argued the point that post-sale weighing in combination with a curfew gave all involved the "best and most consistent results" when purchasing cattle.

2.5 However, the only evidence provided to support the claim that post-sale weighing was the better method of purchasing cattle, was that of a scientific study

1 Ms Loretta Carroll, *Submission 63*, p. 1. See also, Victorian Farmers Federation – Ovens Valley Branch, *Submission 62*, p. 1.

2 Senate Rural and Regional Affairs and Transport References Committee, *Effect of market consolidation on the red meat processing sector, Interim report*, May 2016.

3 Australian Competition and Consumer Commission, 'Alleged Barnawartha boycott concerns investigated', *Media release*, 9 December 2015, cited in Senate Rural and Regional Affairs and Transport References Committee, *Effect of market consolidation on the red meat processing sector, Interim report*, May 2016, p. 9.

conducted by Dr Jennifer Wise in the 1980s. According to Mr Teys, the study indicated that scientifically, post-sale weighing provides for the most consistent result. He informed the committee that the paper's findings had been verified by anecdotal experience.⁴ At the same time, numerous other bodies including the Victorian Farmers Federation (VFF) have made clear their view that pre-sale weighing provides maximum information to all buyers and is a far more transparent method of selling.⁵

2.6 As a means of restoring confidence to southern producers, consideration should be given to undertaking contemporary scientific research into pre- and post-sale weighing. Such research would provide an evidence base for the industry.

Recommendation 1

2.7 The committee recommends that the Minister for Agriculture and Water Resources consider requesting Meat and Livestock Australia to conduct a study into pre- and post-sale weighing to provide the southern industry with an evidence-base on which to consider selling methods at saleyards.

Saleyard selling practices

2.8 The issue of selling practices at saleyards is one that was raised consistently by stakeholders throughout the inquiry. The events which took place at Barnawartha in early 2015 were described by a number of producers as a misuse of market power; while others suggested that the processor 'boycott' of the prime cattle sale was done with the primary purpose of changing the selling practice at the saleyard from pre-sale to post-sale weighing.⁶

2.9 One of the major consequences of consolidation and rationalisation across the processing sector has been that fewer buyers actually attend cattle markets. A situation such as Barnawartha – where processors withdrew at short notice – or where they don't attend at all – can have a significant impact on the market price of livestock. As noted in the committee's interim report, the events at Barnawartha were viewed by many producers as a reminder of the excessive level of market power buyers and processors are able to demonstrate.

2.10 The events at Barnawartha also gave rise to concerns about market competition, the reporting of livestock sales, the selling systems at saleyards and the role of commission buyers. Submitters told the committee about a number of practices used by buyers designed to influence the purchasing price for livestock and limit market competitiveness. The committee also heard evidence about stock agents

4 Mr Bradley Teys, Teys Australia, *Committee Hansard*, 27 August 2015, p. 2.

5 Mr Ian Feldtmann, Victorian Farmers Federation, *Committee Hansard*, 2 September 2015, p. 30.

6 Mr Norman Sharp, *Submission 27* and Ms Loretta Carroll, *Submission 63*, p.1, cited in Senate Rural and Regional Affairs and Transport References Committee, *Effect of market consolidation on the red meat processing sector: Interim Report*, May 2016, p. 15.

operating on both sides of a transaction – by representing both vendor and buyer. As noted in the interim report, evidence provided to the inquiry built a clear picture of practices and conduct used specifically to influence market prices.⁷

ACCC's Cattle and beef market study

2.11 The committee therefore welcomed the ACCC's announcement (on 5 April 2016) that it would be undertaking a market study into Australia's cattle and beef industry and that it would be examining issues such as competition, efficiency, transparency and trading issues in the beef and cattle supply chain. In announcing its study, the ACCC acknowledged that it was a combination of the issues raised during the committee's inquiry, and its own work that had led to the market study.⁸

2.12 In its May 2016 interim report, the committee signalled its intention to review the findings of the ACCC's market study – including its final recommendations – to determine whether the issues raised by stakeholders echoed the concerns raised during its inquiry. For this reason, the committee sought an extension to report from the Senate.

2.13 The ACCC's Cattle and beef market study was conducted in two parts. The ACCC commenced its market study in April 2016, and its *Cattle and beef market study – Interim Report* was released for comment in October 2016. The ACCC's *Cattle and beef market study – Final report* – which incorporated some minor changes – was released on 7 March 2017. The committee notes that the recommendations contained in the ACCC's final report are closely aligned with many of those in the committee's interim report – tabled in May 2016.

2.14 The following chapter provides an overview of the process undertaken by the ACCC in conducting its study. It also outlines some of the issues considered by the Commission, its findings and its recommendations. The chapter also examines the question of whether the ACCC's current investigatory powers are sufficient to protect witnesses, gather useful evidence and make binding recommendations.

Purpose of the market study

2.15 In undertaking the market study, the ACCC indicated that its purpose was to:

- examine competition and transparency in the supply chain; and

7 Senate Rural and Regional Affairs and Transport References Committee, *Effect of market consolidation on the red meat processing sector: Interim Report*, May 2016, pp 16-32.

8 Australian Competition and Consumer Commission, Media Release, *ACCC launches market study into cattle and beef industry*, 5 April 2016, p. 1 and Australian Competition and Consumer Commission Media Release, *Cattle and beef study reveals price transparency issues and allegations of anti-competitive conduct: ACCC*, 31 October 2016, p. 1.

- consider whether there are impediments to competition and efficiency at various stages of the supply chain in cattle and beef markets.⁹

2.16 The key issues examined as part of the ACCC's market study included:

- competition between buyers of cattle, and suppliers of processed meat to downstream customers;
- the implications of saleyard attendees bidding on behalf of multiple buyers;
- impediments to greater efficiency, such as bottlenecks or market power at certain points along the supply chain;
- differences in bargaining strength, and the allocation of commercial risk between cattle producers and buyers;
- the transparency of carcase pricing and grading methods;
- information on the share of profits among the cattle and beef production, processing and retailing sectors; and
- barriers to entry and expansion in cattle processing markets.¹⁰

Consultation

2.17 In conducting its inquiry, the ACCC indicated that it had sought evidence through both written and oral submissions and held five public forums in a number of regional areas. It was also noted that, in undertaking its inquiry, the ACCC had accepted confidential submissions (and additional information) from anonymous sources.

2.18 The ACCC received 85 written submissions and consulted with a wide range of interested parties "including industry bodies, producers, agents, commission buyers, processors, supermarkets and live exporters".¹¹

2.19 It was also noted that the market study had involved "consultations with all parts of the supply chain, and analysis of available market information and industry data".¹² The final report does not specifically indicate whether feedback was sought (or received) in relation to its interim report. However, the committee notes comments made by the CCA which indicated that it had been engaged throughout the review period, and had:

9 Australian Competition and Consumer Commission, *Cattle and beef markets – a market study by the ACCC: Issues Paper*, 7 April 2016, p. 2.

10 Media Release, *ACCC launches market study into cattle and beef industry*, 5 April 2016, p. 1.

11 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 3.

12 Cattle and beef market study – Final Report/Australian Policy Online, <http://apo.org.au/node/74287>, accessed 10 March 2017.

...provided significant feedback on the draft recommendations – particularly regarding existing policy positions and the relevant work already being undertaken by Meat and Livestock Australia at our direction.¹³

'Boycott' at Barnawartha

2.20 The ACCC's interim report noted that prior to commencing its market study, it had conducted a detailed investigation "into an alleged collective boycott by cattle buyers at the Barnawartha saleyard on a day in February 2015".¹⁴ The ACCC reported that evidence obtained during the investigation:

...did not demonstrate that any of the processors entered an arrangement or reached an understanding not to attend the sale, which is required to establish that the behaviour of buyers amounted to anti-competitive agreements pursuant to the *Competition and Consumer Act 2010*.

However, these matters prompted the ACCC to examine the dynamics of the industry in depth and in a context broader than the specific provisions of the Act.¹⁵

2.21 The ACC's final report did not expand further on the comments made in the interim report in relation to the 'alleged' collective boycott by cattle buyers at the Barnawartha saleyard in February 2015.¹⁶

Summary of findings¹⁷

2.22 In providing its findings, the ACCC prefaced its comments by suggesting that any concerns about particular industry practices (and any impacts they may have on farm profitability) can vary between small and large-scale producers. It was noted, for example, that smaller scale producers tend to rely more on saleyards than large-scale producers – who often sell direct to abattoirs.

2.23 The ACCC also suggested that there is a cyclical element to many of the concerns raised about the competitiveness of market structures in the Australian

13 Beef Central, *Beef sectors react to ACCC beef and cattle market study*, 8 March 2017, [p. 2].

14 Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016, p. 3.

15 Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016, p. 3.

16 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 3.

17 The following section is based on material contained in Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016 and Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 3.

industry. The report noted that strong concerns about market concentration and buyer power were being expressed during the peak of the 2013-14 drought. By 2014, the industry was characterised by high rates of cattle turn-off and strong overseas demand for Australian beef in export markets – conditions which were favourable to the profitability of cattle buyers. Export processors in particular, found themselves in a stronger than usual bargaining position. At the same time however, producers' profits were considerably down, due largely to the high costs of supplementary stock feed and low cattle prices.

2.24 The ACCC argued that since 2015 (and the end of drought conditions in a number of areas) the supply of cattle to processors has altered significantly. It was noted that many producers have taken advantage of good seasonal conditions and have started to rebuild cattle herds, and that this has resulted in a decrease in cattle turn-off and producers purchasing re-stocker cattle. In turn, there have been greater numbers of buyers in cattle acquisition markets which has been putting upward pressure on prices. The reduction in the supply of cattle has also resulted in the under-use of processing facilities – with processors reporting significant excess capacity during 2016.

Competition for the acquisition of prime cattle

2.25 The ACCC reported that in most regions of Australia, producers have a range of potential buyers – including the major supermarket chains, re-stockers, processors and live exporters – competing for their cattle. It was acknowledged, however, that the presence of buyers in particular regional markets and the competition between them, will vary according to a number of seasonal and commercial factors. As a result of these findings, the ACCC reported that:

...there are circumstances where further consolidation in the processing sector through mergers or acquisitions, or other conduct, could substantially lessen competition and the ACCC, as it has previously, will carefully scrutinise proposed future aggregation.¹⁸

Conflicts of interest

2.26 The ACCC indicated in its interim report that, not only does it share the concerns of many in the industry about collusion in saleyard auctions, it considers that conflicts of interest "between individuals who bid for livestock on behalf of multiple clients or cattle vendors and buyers are likely to be common".¹⁹

2.27 The ACCC's inquiry found that conflicts of interest are also a regular occurrence in saleyard transactions "when agents represent both a cattle seller and a

18 Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016, p. 4.

19 Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016, p. 5.

cattle buyer in the same transaction".²⁰ Further, it was noted that, as cattle producers are generally unaware of these arrangements, it can reduce competition for their cattle.

Collusion in saleyard auctions

2.28 The ACCC reported that it had heard serious allegations regarding bid-rigging among buyers in particular saleyards. Allegations also emerged during the market study about anti-competitive agreements between livestock agency businesses. The ACCC noted that because "cartel conduct has a serious impact on competition" it is currently investigating these allegations separately from the market study.²¹

Price transparency

2.29 In reporting its findings in relation to price transparency, the ACCC indicated that cattle prices are not "usefully transparent, particularly prices for prime cattle".²² It argued that there are significant gaps in reporting and that the prices for paddock sales and over the hook (OTH) and saleyard transactions are "inconsistently reported and in some cases incomplete in terms of the cattle types and geographic locations".²³ The ACCC argued that, as a consequence, it is difficult for producers to compare historical prices between sales channels on a like-for-like basis. It was also argued that this lack of transparency has the capacity to distort pricing signals (used to guide production decisions) and create information asymmetries between industry participants.

2.30 The ACCC also found that:

- direct sale prices are frequently not reported, and the prices reported for OTH transactions actually reflect the prices offered to producers, rather than the prices subsequently paid; and
- pricing grids are difficult to interpret and sometimes difficult to access.²⁴

2.31 It was noted that some data does exist in relation to cattle prices, OTH sales, saleyard purchasing and online auctions and this data is published on a regular basis by MLA (and other sources). The ACCC highlighted, however, that some gaps and inconsistencies still remain in relation to this information. Further, it was argued that

20 Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016, p. 4.

21 Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016, p. 10.

22 Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016, p. 4.

23 Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016, p. 10.

24 Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016, p. 4.

not all of the data that is available and published is easy to interpret or use comparatively, which reduces its usefulness to the industry.²⁵

2.32 The ACCC's final report did acknowledge, however, that while there are still some gaps in useful price data, the industry has started to take steps to address this situation. It was noted, for example, that MLA had launched an update of the market reports section of its website, "which allows producers to access and interrogate historical data more easily".²⁶

Pricing grids

2.33 The ACCC once again acknowledged the complexity of price grids, and added that:

An important test of the usefulness of pricing grids is whether a seller of prime cattle can easily compare the price the stock would realise if sold to any one of a number of competing processors. Some producers experience difficulties in doing this.²⁷

Mandatory price reporting

2.34 At the present time the debate regarding the mandatory reporting of all non-saleyard cattle sales is finely balanced. The ACCC argued that Australian beef and cattle markets are currently so complex it could make mandatory price reporting difficult to implement, and perhaps reduce its potential benefits. Importantly, the ACCC once again indicated that it does not recommend the introduction of mandatory reporting at this time. It was again stressed, however, that:

... if market participants do not take steps to improve the market reporting in line with recommendations on price reporting ... the arguments in favour of mandatory reporting will become more compelling over time.²⁸

The grading system

2.35 The ACCC's interim report raised concerns about some aspects of the grading system. Specifically, it was argued that there is a lack of independence and transparency in the process of grading carcasses at abattoirs, and that this is particularly concerning, given that the existing audit systems are not sufficient to ensure the integrity of the grading process. The ACCC concluded that "integrity and trust in the

25 Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016, p. 9.

26 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 8.

27 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 9.

28 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 9.

grading system are essential, given its role in determining pricing received by producers".²⁹

2.36 The ACCC asserted that the "quality assurance process for grading carcasses to AUS-MEAT and MSA standards is rigorous, and AUS-MEAT's audits and training of chiller assessors (graders) lessen the risks of unfair grading".³⁰ At the same time, however, it was argued that the potential for conflicts of interest in the trimming and grading process does remain "because AUS-MEAT's audits of grading in individual plants are infrequent".³¹

2.37 The ACCC's findings about the meat grading system echoed views expressed during the committee's inquiry:

Although there is a detailed training and oversight system administered by AUS-MEAT, a conflict of interest remains during the process of grading carcasses at abattoirs. Existing audit systems do not appear to give many producers faith in the integrity of the process, and there is no industry wide standard for dispute resolution. Integrity and trust in the grading system are essential, given its role in determining prices received by producers. AUS-MEAT, processors and other industry participants need to work together to extend education about the existing grading and oversight processes to producers.³²

2.38 Further, the ACCC argued that some producers may be more likely to view a negative grading result as procedural unfairness, rather than a case of a carcass not meeting the required grade or specification. It was also acknowledged that these are problems that are not necessarily isolated to producers and processors, but "are also known to occur between the feedlots and processing plants of vertically integrated players in the industry".³³

2.39 Both the committee's inquiry and the ACCC's study have brought to the fore the shortcomings in price reporting, a lack of trust in the carcass grading system and concerns about anti-competitive conduct affecting competition in cattle and beef

29 Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016, p. 4.

30 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 9.

31 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 9.

32 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 4.

33 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 9.

sales.³⁴ The ACCC's final report stressed that changes are required if there are to be improvements in transparency in Australia's cattle and beef markets.

2.40 Further, in making its final recommendations, the ACCC again emphasised the importance of objective carcass measurement (OCM), arguing that OCM technology "will increase accuracy and transparency of value assessments". It also welcomed moves by MLA to "introduce objective carcass measurement technology throughout the industry, as recommended in the Interim Report".³⁵

2.41 In supporting MLA's proposal to introduce OCM throughout the industry, the ACCC argued that any data produced as a result of OCM grading would be of increased benefit to the industry if it was aggregated and shared. The ACCC suggested that the sharing of data would allow producers to measure their own performance against the rest of the industry "and make any production adjustments necessary to achieve higher cattle grades and prices".³⁶

2.42 The ACCC argued that the development of common data standards across the meat industry and the implementation of industry-wide agreements (to cover data access rights) would increase stakeholder confidence in data systems and facilitate better risk management options. The ACCC also noted, however, that while conducting the market study, producers had raised various concerns about the grading technology – including who would be responsible for overseeing its calibration.³⁷ The ACCC concluded therefore, that while it may provide certain benefits, "technology is not a panacea", but something that "should be implemented in conjunction with suitable auditing systems and an independent dispute resolution system" to maximise system integrity.³⁸

Analysis of margins and profits

2.43 The ACCC noted that its ability to undertake an assessment of margins and profits had been limited. While it was able to engage positively with the industry in general (and a number of organisations had provided useful information) it "did not receive sufficient data showing the prices paid for cattle purchases, prices received for the wholesale supply of beef, or margins for the retailing of beef". Therefore, more information would be required to "identify how profits are distributed throughout the

34 Cattle and beef market study – Final Report/Australian Policy Online, <http://apo.org.au/node/74287>, accessed 10 March 2017.

35 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 12.

36 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 12.

37 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 77.

38 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 77.

industry, and to identify the existence or exercise of market power with greater certainty".³⁹

Pre-sale versus post-sale weighing

2.44 The ACCC received insufficient information to "analyse any differences in outcomes resulting from pre-sale versus post-sale weighing of cattle at saleyard auctions". For the purposes of the *Competition and Consumer Act 2010* the market study has, however:

...revealed the categories of information that would be relevant to future assessments of competition issues arising under the CCA [Act]. In specific circumstances where the ACCC considers there may have been a breach of the CCA [Act], it has the capacity to compulsorily obtain information and documents to inform its investigations.⁴⁰

ACCC's conclusions

2.45 In making its conclusions, the ACCC noted that the diversity of the cattle herd, production regions and producers are key features of Australia's cattle industry. This diversity means that commercial outcomes for producers will vary and are not necessarily an indication of market failure. It was also noted however that "certain long-standing and accepted practices, when combined with other industry features such as intersecting personal and professional relationships, are characteristics which risk damaging transparency, competition and efficiency in the industry".⁴¹

2.46 Regardless of whether mandatory reporting is introduced at some time in the future, the ACCC stressed the importance of producers, processors and stakeholder groups such as MLA, the Australian Livestock and Property Agents Association (ALPA), the Australian Livestock Markets Association (ALMA) and the Red Meat Advisory Council (RMAC) working together. It was the ACCC's expectation that stakeholder groups work cooperatively to: educate industry participants about carcass grading; expand data collection; improve market and price reporting; increase transparency in the saleyards and standardise licensing of livestock agents to benefit the industry as a whole.

ACCC recommendations

2.47 The ACCC's market study identified a number of areas that require improvement across the cattle and beef supply chain. The ACCC indicated that some

39 Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016, p. 5.

40 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 5.

41 Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016, p. 5.

of its recommendations are intended to improve the work of specific organisations, while the implementation of some of its more general recommendations will, however, require industry leadership and stakeholder cooperation.

2.48 The following are the recommendations contained in the ACCC's interim report:

Transparency in cattle markets

Recommendation 1: Availability of price grids

All processors and major cattle purchasers should routinely make price grids publicly available in a timely manner to increase market transparency.

Recommendation 2: Price grids

- All buyers should consider whether their price grids can be improved to make it easier for the industry to understand and compare grids.
- Buyers, agents and producer representative bodies (led by the CCA) should improve their engagement with producers to enhance industry understanding of price grids and their interpretation.

Recommendation 3: Improvements to existing market reporting

The ACCC encourages MLA to make changes to the way existing cattle sale prices are collected and published to improve transparency and usability, including specifically:

- standardising cattle types for reporting across channels;
- publishing time series data of saleyard prices in a format which allows for easy interpretation (prices are currently only reported weekly in .pdf files, making comparison through time difficult);
- producing a co-products index for comparison with cattle prices; and
- improvements to the domestic retail beef price series.

Recommendation 4: Additional market reporting

The ACCC encourages MLA, ALPA and ALMA to work together to expand data collection and reporting of prices, including specifically:

- direct (paddock) sales prices;
- actual prices paid for OTH sales;
- saleyard prices for additional saleyards of regional market importance which are not currently reported; and
- actual prices for cattle sold to the live export market.

Recommendation 5: Mandatory reporting of non-saleyard transactions and prices

The ACCC considers the arguments for and against mandatory reporting of all non-saleyard cattle sales are finely balanced, and does not recommend its implementation at this time.

If market participants do not take steps to improve market reporting in line with recommendations 3 and 4, the arguments in favour of mandatory reporting will become more compelling over time.

Over the hook transactions and grading

Recommendation 6: Objective carcass grading

The industry, led by the processing sector, should allocate high priority to the adoption of technology to enable objective carcass grading to be introduced as soon as possible. This will, of necessity, include the development of appropriate auditing and verification systems that instil confidence in the integrity of such systems.

Recommendation 7: Dispute resolution for OTH sales

- Processors and buyers should review, and in many cases improve, their internal processes for responding to complaints about OTH sales.
- Cattle processors should develop a uniform and independent complaints and dispute resolution process, with AUS-MEAT filling the role of an independent and binding arbitrator.

Recommendation 8: Auditing of carcass grading

The industry should implement a more robust auditing system for carcass grading, with AUS-MEAT implementing random and unannounced audits in addition to the current audit regime. The result of these audits should be made publicly available on a regular and timely basis.

Recommendation 9: Carcass feedback and producer education

- All buyers and agents should consider whether carcass grading feedback can be improved.
- Buyers, agents, and producer representative bodies (led by the Cattle Council) should increase their communication and education surrounding the current grading and feedback system to ensure that producers better understand cattle market trends and why some cattle attract a premium compared to others.

Conduct in cattle markets

Recommendation 10: Saleyard buyer register

The ACCC encourages the introduction of a mandatory Buyers Register to be publicly available prior to the commencement of all physical livestock auctions. This register should include details of commission buyers and livestock agents intending to bid at the sale and the principals that those commission buyers will be acting for.

ALPA should work with its members to have this requirement incorporated into auction terms and conditions at saleyards.

Recommendation 11: Terms of sales at auctions

The ACCC encourages MLA to work with ALPA to introduce a mandatory requirement that the terms of auction be displayed in a conspicuous position at all saleyards. This should include a notice about the penalties for collusive practices under the *Competition and Consumer Act 2010*, in addition to any notices required by state and territory legislation. The ACCC notes that many saleyards and agents are already demonstrating industry leadership by doing this.

Recommendation 12: Livestock agent licensing

Legislation should be introduced requiring standardised national licensing of livestock agents and professional buyers (applying to commission and salaried buyers), in order to raise the levels of compliance with the *Competition and Consumer Act 2010* and general professionalism within the industry.

Recommendation 13: Implementation of recommendations

The ACCC encourages the Agriculture Ministers meeting (AGMIN) to consider the above recommendations, particularly with a view to monitoring their implementation. This will be especially important to ensure that recommendations are progressed, given the diverse industry interests. Ministers may wish to consider alternative approaches if progress is not made.

ACCC concluding comments

2.49 At the time of releasing its interim report, the ACCC indicated that – in addition to its concerns about cartel and other conduct affecting competition in saleyards – it had identified "serious shortcomings" in areas such as current price reporting and the independence and auditing of carcass grading at abattoirs.⁴²

2.50 In summary, the ACCC's interim report concluded that the competitiveness of Australia's cattle and beef markets could be improved by adopting objective carcass grading, making improvements to the nature and coverage of market reporting, and implementing measures to lessen the risk of collusive and anti-competitive behaviour in saleyard auctions.⁴³

ACCC's *Cattle and Beef market study* - final report

Recommendations

2.51 The ACCC released its findings in relation to its Cattle and beef market study on 7 March 2017. In releasing its findings, the ACCC made a series of recommendations aimed at improving transparency and reporting in Australia's beef

42 Australian Competition and Consumer Commission Media Release, *Cattle and beef study reveals price transparency issues and allegations of anti-competitive conduct: ACCC*, 31 October 2016, p. 1.

43 Australian Competition and Consumer Commission Media Release, *Cattle and beef study reveals price transparency issues and allegations of anti-competitive conduct: ACCC*, 31 October 2016, p. 1.

sector. Whilst they were articulated using slightly different language, the fifteen recommendations made in the ACCC's final report did not differ significantly from those included in the interim report. The ACCC's recommendations again covered the following issues:

- The improvement of price information by requesting that meat processors publish price grids for sales made direct to processors. This is aimed at making it easier for producers to consider and compare price offers. (Nationally, the vast majority of prime cattle are sold this way).
- The need to increase the frequency of AUS-MEAT's random and unannounced audits of cattle grading and trimming in processing plants to improve integrity in the system.
- The introduction of an independent dispute resolution process to apply across the industry.
- The need to prioritise OCM technology to increase the accuracy and transparency of carcase assessments, and the sharing of data arising from the technology with cattle producers.
- The introduction of a buyers' register and post auction buyers report for major saleyards.
- An expansion of the reporting of historical prices to make it easier for producers to compare prices paid for cattle sold through saleyards, paddock sales and OTH.⁴⁴

Implementation of recommendations

2.52 In its interim report, the ACCC indicated that it would be "encouraging" the Agriculture Ministers meeting (AGMIN) to consider its recommendations "particularly with a view to monitoring their implementation".⁴⁵

2.53 In its final report, the ACCC amended this recommendation and indicated that it would be asking RMAC to implement its recommendations on behalf of industry. However, the ACCC stopped short of making the changes compulsory.⁴⁶ In giving primary responsibility to RMAC for monitoring compliance, the ACCC also added a requirement that it report annually to Commonwealth, state and territory Agriculture

44 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017.

45 Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016, p. 13.

46 ABC Rural, *ACCC calls for more transparency and better reporting on beef markets*, 7 March 2017.

Ministers, "detailing progress in implementing these recommendations and any reasons for a lack of progress".⁴⁷

2.54 The decision to have RMAC take responsibility for implementing its recommendations was questioned in a *Beef Central* article published shortly after the release of the ACCC's final report. The article's author argued that despite having no direct authority to enact the type of change the ACCC had called for, RMAC was being asked to "pick up the ACCC's ball and run with it" – a move that was likened to RMAC being thrown "one serious hospital pass".⁴⁸ On-line stakeholder comments echoed the views expressed in the article and argued that RMAC does not have the capacity to deliver change of the scale encompassed by the recommendations, nor does it have the "legal authority or the organisational remit to take this role on".⁴⁹

2.55 In response to questions about why RMAC had been given responsibility for the implementation of its recommendations, the ACCC's Agriculture Commissioner, Mr Mick Keogh, told *Beef Central* that "no single organisation or level of government has the responsibility or the power to implement all of the ACCC's recommendations". While acknowledging that the ACCC has no direct 'power' as such, the Commissioner argued that as the body responsible for 'whole of industry matters' under the industry's Memorandum of Understanding (MOU), RMAC "comes closest to being an overarching body to progress the matters raised".⁵⁰ Mr Keogh added that:

The ACCC could have made a recommendation that the Minister direct RMAC to progress the matters raised, but generally took the view that it would be better for industry to progress these matters than the Commonwealth Government, noting that the option is available to the ACCC to revisit this issue in the event it seems progress is not being made.⁵¹

2.56 Following the release of the ACCC's final report, the committee held further hearings with a number of industry stakeholders. In the first instance, the committee had the opportunity to get a clearer picture of the ACCC's motivation for giving RMAC the responsibility for implementing its recommendations. The committee also sought stakeholders' responses to the ACCC's findings and recommendations.

2.57 At its hearing on 8 August 2017, the committee questioned the ACCC about why, given all the stakeholders in the industry, it had chosen RMAC to take the lead.

47 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 14.

48 Beef Central, *Has the ACCC thrown RMAC a massive hospital pass?* 22 March 2017, [p. 2].

49 Beef Central, *Has the ACCC thrown RMAC a massive hospital pass?* 22 March 2017, [p. 7].

50 Beef Central, *Has the ACCC thrown RMAC a massive hospital pass?* 22 March 2017, [p. 3].

51 Beef Central, *Has the ACCC thrown RMAC a massive hospital pass?* 22 March 2017, [p. 3].

Ms Gabrielle Ford, General Manager, with the ACCC's Agriculture Unit responded by saying that:

Initially you would have seen our draft report suggested that agriculture ministers take that role. But we know that these recommendations are less about legislation or policy than industry action. So rather than choose, for example, processor representatives or Cattle Council as a representative of producers, there should be more of an umbrella organisation that can oversee all the different aspects of the recommendations because they reach different parts of the industry.⁵²

...

The basis of our recommendation about RMAC was that it was in a position of leadership in the industry and, as distinct from any powers to actually make changes, that it was in a position to lead the industry to make the changes itself.⁵³

2.58 In correspondence to the committee, ACCC Agriculture Commissioner, Mr Mick Keogh indicated that the ACCC had identified the industry participants it considered to be in the best position to implement or progress certain recommendations and it had allocated specific recommendations accordingly. Further Mr Keogh noted that:

...RMAC is in a unique position in the industry. RMAC is the only organisation that regularly holds discussions with a wide range of industry participants and then advocates on behalf of members directly with the Minister for Agriculture and Water Resources. As a result, RMAC is uniquely placed to facilitate discussions about implementing the ACCC's recommendations and to report back to the Minister on progress.⁵⁴

2.59 Mr Keogh's correspondence also indicated that the ACCC had not wanted to burden the industry with the additional costs associated with establishing an industry body (for the purpose of implementing its recommendations) and therefore had not recommend it. Further, Mr Keogh stated that the ACCC remains of the view that there is no other organisation with capabilities that are more suitable than RMAC's. In making this point, Mr Keogh pointed to RMAC's own evidence, which stated that RMAC:

52 Ms Gabrielle Ford, General Manager, Agriculture Unit, Australian Competition and Consumer Commission, *Committee Hansard*, 8 August 2017, p. 3.

53 Ms Gabrielle Ford, General Manager, Agriculture Unit, Australian Competition and Consumer Commission, *Committee Hansard*, 8 August 2017, p. 4.

54 Correspondence from Mr Mick Keogh, Agriculture Commissioner, Australian Competition and Consumer Commission, dated 28 August 2017, p. 2.

...was designed to provide a forum so that we could interchange and exchange views. Where it is possible to have a consensus on things, we prosecute that case on behalf of the whole industry.⁵⁵

Stakeholders' responses to the implementation of ACCC recommendations

2.60 MLA indicated that it had been working through the ACCC recommendations that were within its remit. In addition to making enhancements to its 'reporting and insights services', MLA noted that it had been working toward providing producers with a greater variety of market information. MLA also told the committee that it had prioritised the development and adoption of objective measurement technology – including the proposal to accelerate the adoption of DEXA technology and the investment of \$28 million in new research into the objective measurement of the eating quality of meat.⁵⁶

2.61 MLA representatives also outlined the steps that were being taken in response to ACCC's Recommendations 4 and 12, which go to the issue of price transparency across the supply chain. MLA's response to these recommendations – and some of the difficulties they have experienced in addressing them – are outlined in more detail in Chapter 3.

2.62 Representatives from both AMPC and AMIC provided the committee with an overview of the progress that their organisations had made to address some of the problems being experienced across the industry. Both organisations pointed to a number of positive advancements that had been made, but were less forthcoming about the lack of a common industry position on many of the challenges facing the industry.⁵⁷

2.63 AMIC CEO, Mr Patrick Hutchinson told the committee, for example, that since making its initial submission to the inquiry two years previously, the change in the industry had been "dynamic and vast". However, when pressed by the committee about whether in fact the industry had actually been progressing "as one in one direction", Mr Hutchinson conceded that there continues to be conflict between various industry stakeholders.⁵⁸

2.64 In correspondence provided in advance of the committee's 16 August 2017 hearing, RMAC's Independent Chair, Mr Don Mackay stated that the membership of

55 Evidence provided by Mr Don Mackay, cited in Correspondence from Mr Mick Keogh, Agriculture Commissioner, Australian Competition and Consumer Commission, dated 28 August 2017, p. 2.

56 Mr Richard Norton and Mr Sean Starling, Meat and Livestock Australia, *Committee Hansard*, 10 August 2017.

57 Rural and Regional Affairs and Transport References Committee, *Committee Hansard*, 8 August 2017.

58 Mr Patrick Hutchinson, Chief Executive Officer, Australian Meat Industry Council, *Committee Hansard*, pp 11-21.

RMAC was concerned that the ACCC's recommendations "would have no material impact or improvement on competition for the beef cattle supply chain".⁵⁹ Mr Mackay's correspondence also indicated that whilst RMAC did support aspects of the ACCC's findings, RMAC was also of the view that it is not its "role to lead competition policy reform as suggested in the ACCC's Study".⁶⁰

2.65 At its 16 August 2017 hearing, the committee asked representatives of RMAC to respond to the ACCC's proposal that it be given responsibility for implementing all the recommendations contained in its Cattle and beef market study.

2.66 Mr Mackay took the opportunity to outline the responsibilities of RMAC and argued that the oversight and implementation of the ACCC's recommendations was not within RMAC's jurisdiction. Mr Mackay reiterated the comments made in his correspondence by stating that he was not sure whether the ACCC's recommendations "would assist in growers being in a better place".⁶¹ Further, Mr Mackay told the committee that RMAC had not been directly consulted by ACCC in relation to taking on the role of overseeing its recommendations prior to the publication of its final report.

2.67 Mr Mackay's assertion that RMAC had not been contacted prior to the release of the ACCC's report was disputed by the ACCC's Agriculture Commissioner, Mr Mick Keogh. In correspondence to the committee, Mr Keogh indicated that:

...I spoke with RMAC prior to the release of the ACCC's final report to discuss RMAC's oversight role. Then, throughout April, May and July of 2017 the ACCC contacted RMAC attempting to arrange a meeting to discuss Recommendation 15 of the final report and the ACCC's view of the role RMAC would play.⁶²

2.68 The committee appreciates the clarification provided by the ACCC with regard to identifying RMAC as the appropriate body to act upon and realise its recommendations. As the ACCC has noted, RMAC is the body responsible to represent the interests of the whole of the industry and should be in charge of advancing industry reform.

2.69 However, separate to the ACCC's market study process, the committee has held long-standing concerns regarding RMAC and its role. These concerns are further considered in Chapter 5.

59 Correspondence from Mr Don Mackay, Independent Chair, Red Meat Advisory Council, dated 14 August 2017, p. 1.

60 Correspondence from Mr Don Mackay, Independent Chair, Red Meat Advisory Council, dated 14 August 2017, p. 1.

61 Mr Don Mackay, Independent Chair, Red Meat Advisory Council, *Committee Hansard*, 16 August 2017, p. 3.

62 Correspondence from Mr Mick Keogh, Agriculture Commissioner, Australian Competition and Consumer Commission, dated 28 August 2017, p. 2.

The ACCC's investigatory powers

2.70 As noted by the committee in its interim report, a number of submitters to the inquiry have stressed the need for industry and regulatory reform. Stakeholders argued that if, into the future, the red meat sector is going to be able to prevent collusive practices and curtail the misuse of market power – change will be critical. Various stakeholders also suggested ways to improve fairness and transparency and increase legislative protections against anti-competitive behaviour.

2.71 The Sheepmeat Council of Australia (SCA), for example, advocated additional measures to address the power imbalance between processors and producers and suggested that greater emphasis be placed on creating competitive markets and increasing price transparency. The SCA also recommended:

...an increased role for the ACCC in regulating the red meat processing industry, including oversight of mergers and improved investigatory powers regarding incidents of uncompetitive market behaviour.⁶³

2.72 While the SCA has suggested that the ACCC should be given an increased regulatory and oversight role, some sections of the industry questioned whether the ACCC's current investigative powers are actually adequate.

2.73 As an independent statutory authority, the ACCC enforces the *Competition and Consumer Act 2010*. The ACCC has the power to investigate potential breaches of competition and consumer law – including cartel conduct, anti-competitive arrangements, misuse of market power, false or misleading representations and unconscionable conduct.⁶⁴ The ACCC's investigative powers include:

- (1) the power to obtain documents, information and evidence and to enter premises and seize documents under Section 155 and Part XIX respectively of the *Competition and Consumer Act 2010*; and
- (2) the power to issue substantiation notices, requiring persons who have made representations or claims in trade or commerce regarding the supply of goods or services, or the sale or grant of interests in land, or the offer of employment, to provide information or documents to substantiate the claims (found in Section 219 of the Australian Consumer Law (ACL)).⁶⁵

63 Sheepmeat Council of Australia, *Submission 59*, cited in Senate Rural and Regional Affairs and Transport References Committee, *Effect of market consolidation on the red meat processing sector: Interim Report*, May 2016.

64 These powers are found in the body of the *Competition and Consumer Act 2010* and in Chapter 5 of the Australian Consumer Law.

65 Website: <http://lexisweb.lexisnexis.com.au/Practical-Guidance-Topic.aspx?tid=2317>, accessed 15 May 2017.

2.74 Under current legislation, the ACCC also has powers to:

- issue Public Warning Notices where it has reason to believe that a person has breached the ACL and one or more persons has suffered loss or detriment as a result of the breach and it is in the public interest to issue the notice;
- issue an Infringement Notice where it has reason to believe that a person has breached the ACL;
- accept court enforceable undertakings where it believes that there has been a breach of the ACL and the party in question agrees to give the undertaking; and
- commence proceedings to enforce breaches of the ACL, on its own behalf and as a representative for a class of persons affected by the offending conduct. It can also seek compensation orders on behalf of injured persons and non-party consumers.⁶⁶

2.75 It is also worth noting that in both its interim and final report, the ACCC pointed to the existence of an "established immunity policy for both corporations and individuals who have been involved in a cartel but then report their involvement to the ACCC".⁶⁷ The ACCC's policy document as it relates to immunity states that:

Cartels usually involve secrecy and deception. Collusion is difficult to detect – there may be little documentary evidence and parties often go to great lengths to keep their involvement secret. In these circumstances, discovery and proof of cartels can be more difficult than discovery and proof of other forms of corporate misconduct. An immunity and cooperation policy in relation to cartels encourages insiders to provide information and enables the ACCC to penetrate the cloak of secrecy. When the extent of the immunity to be provided, or the process for recognising cooperation with law enforcement authorities is certain, persons are more likely to take advantage of such a policy and disclose illegal and harmful conduct.

Just as importantly, an immunity and cooperation policy that provides incentives to businesses and individuals to disclose illegal behaviour is also a powerful disincentive to the formation of cartels, as potential participants will perceive a greater risk of ACCC detection and court proceedings. An immunity and cooperation policy does not offer a reward to 'good corporate citizens'. It is a detection tool designed to deliver benefits to all Australians

66 Website: <http://lexisweb.lexisnexis.com.au/Practical-Guidance-Topic.aspx?tid=2317>, accessed 15 May 2017.

67 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 93.

by identifying, stopping and taking action against harmful and illegal behaviour.⁶⁸

2.76 As previously noted, the ACCC's decision to undertake its Cattle and beef market study was, in part, due to concerns raised by cattle producers regarding an alleged misuse of market power by processors.⁶⁹

2.77 In April 2016, the ACCC's Issues Paper invited submissions to its market study into cattle and beef markets. The issues paper signalled that to protect the interests of those providing evidence to its inquiry, both confidential and anonymous submissions would be accepted and that the ACCC, would, to the extent that it was reasonably possible, seek to protect the confidentiality of that information. The ACCC's invitation to submit also stressed that the Commission would take into account the possible 'commercial sensitivities' around industry stakeholders submitting evidence.⁷⁰

2.78 The ACCC noted – in both its interim and final report – that as a self-initiated inquiry, its assessment of the issues was based on information provided by industry participants on a voluntary basis. Using the evidence provided, the ACCC conducted a detailed examination of industry margins in relation to pre- versus post-sale weighing at saleyards and processor operating costs. The ACCC requested additional data from industry participants, including saleyards, processors, supermarkets and agents to support its analysis. In response to its request, the ACCC received "positive engagement from the industry in general and a number of companies provided useful information and data".⁷¹

2.79 The information and evidence provided to the ACCC enabled the Commission to determine that there are practices and issues in the industry that risk harming both competition and efficiency. The ACCC was able to conclude that conflicts of interest regularly arise in saleyard transactions – particularly when agents represent both a cattle seller and a cattle buyer in the same transaction. The market study also drew attention to possible anti-competitive conduct which the ACCC indicated it would examine separately (and in more detail) to determine whether any laws had been breached.

68 Australian Competition and Consumer Commission, *ACCC immunity and cooperation policy for cartel conduct*, September 2014, p. 1.

69 It was alleged that in Victoria in 2015, nine meat processors boycotted the first sale at new saleyards built at Barnawartha because they disagreed with a decision to pre-weigh cattle prior to sale. It was claimed that saleyard managers ultimately made the decision to switch to post-weighing cattle to encourage the processors to return.

70 Australian Competition and Consumer Commission, *Cattle and beef markets – a market study by the ACCC: Issues Paper*, 7 April 2016, p. 4.

71 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 5.

2.80 At the same time, however, the ACCC reported that it did not receive sufficient detailed data – that showed prices paid for cattle, wholesale beef prices or margins for the retailing of beef – and that this information "would be necessary to identify how profits are distributed throughout the industry, and to identify the existence or exercise of market power".⁷² While these topics are addressed to some extent in the body of its report, the ACCC acknowledged that it was unable to make any definitive findings or recommendations in relation to these issues.

2.81 The ACCC also noted that it had received insufficient detailed, objective, research information about the relative impacts of pre- versus post-sale weighing procedures at saleyards. As a result, the ACCC reported that despite the Barnawartha dispute being the catalyst for its inquiry, it would not be able to rule on the pre-weigh versus post-weigh debate.

2.82 Following the release of its interim report (in October 2016) the ACCC received feedback from a number of industry participants.⁷³ The Australian Beef Association (ABA) for example, raised specific concerns about the ACCC's use of "ten-year-old data in the interim report on the percentage of the retail beef dollar producers receive".⁷⁴ In raising its concerns, the ABA noted that the interim report referred to information supplied by Coles in 2007 regarding the breakdown of retail prices. The information provided showed the supermarket receiving a three percent margin and farmers receiving more than half the retail dollar. The ABA suggested that this was both incorrect and misleading "with industry service provider figures indicating the average for the ten years to 2015 was 32 percent for farmers".⁷⁵

2.83 The ABA suggested that the major supermarkets' choice not to provide evidence to the market study – because they were under no legal obligation to do so – had resulted in the ACCC using outdated information in its report. The ABA argued that there was a danger that legislative decisions (regarding competition in the cattle industry) could also be based on incorrect data – to the detriment of producers. The ABA called for the ACCC to be given more power to collect relevant and up-to-date information.

2.84 In his response to the ABA's call for the ACCC to be granted compulsory data gathering powers, the ACCC's Agriculture Commissioner, Mr Mick Keogh, confirmed that the 2007 data was the only information available to the ACCC at the retail level. Mr Keogh also acknowledged that this was contentious, but explained that the information had been used as "an example of the sort of calculation that might be

72 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 5.

73 Farm Online, *Give the watchdog more powers, beef producers say*, 17 January 2017, [p. 3].

74 Farm Online, *Give the watchdog more powers, beef producers say*, 17 January 2017, [p. 2].

75 Farm Online, *Give the watchdog more powers, beef producers say*, 17 January 2017, [p. 2].

required and how broad the information needed to be, if mandatory price reporting was to be implemented".⁷⁶

2.85 Mr Keogh also explained that there are two different types of ACCC inquiries.⁷⁷ In conducting internally-initiated inquiries (such as the Cattle and beef market study) the ACCC does not have the power to compel market participants to provide information and documents.⁷⁸ If, however, the inquiry is government-initiated and the ACCC is instructed to undertake an inquiry by a relevant Minister, the ACCC does have compulsory information and document gathering powers (as detailed in Section 95ZK of the *Competition and Consumer Act 2010*).⁷⁹

2.86 It is worth noting that while the ACCC's market study was prepared on the basis of evidence and information voluntarily provided by interested parties, the study has been the catalyst for further ACCC investigations. The ACCC has gone on to conduct investigations into several allegations of bid rigging at cattle auctions under anti-cartel laws and at least two investigations of illegal, anti-competitive behaviour. Under the terms of the concurrent investigations the market study has prompted, the ACCC is able to exercise its powers under section 155 powers to compel witnesses to provide evidence and produce documents.⁸⁰

2.87 Following the release of its final report, ACCC Agriculture Commissioner, Mr Mick Keogh, once again conceded that the market study had not been provided with sufficient useful data to support detailed responses to some issues. Mr Keogh also acknowledged, however, that in terms of the ACCC's ability to effect change:

Even if we were inclined to make a mandatory recommendation, the ACCC probably doesn't have the power to enforce it, and there are certain situations at the saleyards where one situation or the other doesn't suit.⁸¹

2.88 It is also worth noting that, on 5 September 2016, the Government began consultations on an exposure draft of the Competition and Consumer Amendment (Competition Policy Review) Bill (the Bill). The purpose of the Bill is to implement, in part, reforms identified by the Competition Policy Review (Harper Review). One of the reforms included in the Bill is the amendment of the *Competition and Consumer*

76 Farm Online, *Give the watchdog more powers, beef producers say*, 17 January 2017, [p. 3].

77 Farm Online, *Give the watchdog more powers, beef producers say*, 17 January 2017, [p. 3].

78 Farm Online, *Give the watchdog more powers, beef producers say*, 17 January 2017, [p. 3].

79 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 16.

80 Australian Financial Review, *ACCC chases cowboy cartels*, 1 November 2016, p. 28.

81 ABC Rural, *ACCC calls for more transparency and better reporting on beef markets*, 7 March 2017.

Act 2010, to introduce prohibitions against 'concerted practices' that substantially lessen competition.⁸²

2.89 The Bill, which was introduced into the House of Representatives on 30 March 2017, would, if enacted prohibit corporations from engaging in a 'concerted practice' that has the purpose, effect or likely effect of substantially lessening competition. Under the proposed legislation, the ACCC would also be granted additional powers, under certain circumstances, to obtain information and documents.⁸³

Committee comment

2.90 The committee has, during its many inquiries, heard evidence from industry stakeholders about what they describe as the 'culture of collusion' that exists in cattle saleyards. Stakeholders – particularly producers – have consistently raised concerns about a number of saleyard practices – including uncompetitive behaviour – on the part of commission buyers. The committee has been clear in its opposition to any form of collusive practice and in its support for mechanisms which increase transparency in pricing and fairness in grading systems.

2.91 The committee was encouraged by the ACCC's decision to carry out a market study of Australia's cattle and beef industry, particularly given the study came about, in part, on the basis of issues raised during the committee's inquiry. The committee was pleased to see that the terms of reference for the study included an examination of issues such as competition, efficiency, transparency and trading across the beef industry supply chain.

2.92 The committee had the opportunity to review the reports released by the ACCC, including their findings and recommendations and acknowledges the subtle differences (primarily in relation to the terminology used and the presentation and format of the recommendations) between the ACCC's interim and final reports. It is noted, for example, that ACCC's concerns about "conduct affecting the competitiveness of saleyard auctions",⁸⁴ no longer includes reference to "collusion among buyers".⁸⁵ Apart from some 'softening' of the language used, however, the reports do not vary substantially in their content or conclusions.

82 Website: <https://consultation.accc.gov.au/legal-economic/draft-framework-for-concerted-practices-guidelines/>, accessed 1 June 2017 and Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 92.

83 Website: <https://consultation.accc.gov.au/legal-economic/draft-framework-for-concerted-practices-guidelines/>, accessed 1 June 2017 and Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 92.

84 Australian Competition and Consumer Commission, *Cattle and beef market study – Final report*, 7 March 2017, p. 3.

85 Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016, p. 3.

2.93 The committee appreciates the investigation undertaken by the ACCC and supports the study's findings and recommendations. The committee notes the difficulties experienced by the ACCC in its attempt to identify solutions to some of the problems that exist across the cattle and beef industry. In taking evidence from a number of industry stakeholders following the release of the ACCC's final report, the committee is acutely aware of the resistance being shown by a number of industry players, the lack of will to engage with the problems that exist and the lack of commitment to drive much needed reform. Whilst industry stakeholders have indicated their support for the ACCC's study, the committee has serious concerns about the commitment these stakeholders have to implementing the ACCC's recommendations and working toward reform, particularly in relation to market and price transparency.

2.94 The response to the ACCC's recommendations has only served to confirm that there is a lack of agreement across the industry about the exact nature of long-standing problems and even less agreement about the solutions, and who is responsible for leading reform.

2.95 In conducting the market study, the ACCC received evidence in relation to bid-rigging among buyers (in particular saleyards) and heard specific allegations of anti-competitive agreements between livestock agency businesses. The committee notes that the ACCC has undertaken to assess a number of allegations of anti-competitive conduct raised during the course of its market study. The committee also notes that the ACCC has undertaken to monitor the industry, and investigate reported instances of collective behaviour by cattle buyers; including cattle purchasing boycotts designed to alter industry practices, and other potentially anti-competitive practices in cattle acquisition markets.

2.96 The committee appreciates the work undertaken by the ACCC in conducting its investigations. However, the ACCC's report, and evidence provided to the current inquiry has only served to increase the committee's concerns about anti-competitive behaviour and collusive practices in the cattle and beef sector. The committee notes, however, that the Consumer Amendment (Competition Policy Review) Bill was introduced into the House of Representatives in March this year [2017]. The ACCC considers it likely that the introduction of this proposed new legislation would have an influence on conduct across the industry. To this end, the ACCC has indicated that it would give close consideration to allegations of anti-competitive behaviour and concerted practice within the industry if, and when, the proposed legislation is enacted.

2.97 In addition to identifying specific examples of anti-competitive conduct – which it committed to investigating further – the ACCC's study also highlighted a number of issues of concern to industry stakeholders, including shortcomings in price reporting and a lack of confidence in the carcase grading system. The committee shares the concerns of stakeholders in relation to these issues.

2.98 It is also noted that the concerns previously expressed by the committee regarding the events that took place at Barnawartha, and the potential for misuse of market power – through buyer collusion and concerted practices – remain. The committee is firmly of the view that the disconnection between the industry, and the structures that underpin it, is a continuing problem. As a consequence, the description of the industry as one "beset by market failures and plagued with a lack of integrity, transparency and accountability" continues to be relevant.⁸⁶

2.99 The committee has long advocated the need for change. Evidence provided to this committee has ensured that it will continue to advocate for change, and for systems to be put in place to ensure that events such as the 'Barnawartha boycott' do not happen again. The committee has long been clear in its view that the industry should work together to develop a set of guidelines around commercial transactions – particularly in saleyards. Unfortunately, the committee has become increasingly frustrated at the apparent lack of will on the part of industry stakeholders to work cooperatively to develop appropriate systems and guidelines.

2.100 The committee therefore recommends that the industry take steps to develop an industry Standards of Practice which covers all commercial transactions in relation to livestock. The Standards of Practice should take the form of an overarching set of guidelines for industry participants. The Standards should be underpinned by best practice principles aimed at preventing collusion and anti-competitive behaviour across the supply chain.

2.101 The committee is of the view that the industry's Standards of Practice should apply to all parties engaged in commercial transactions. The committee is also of the view that the Standards of Practice should contain specific guidelines to ensure that parties act in good faith, and under the law.

2.102 The Standards of Practice should also deal with issues such as equity between vendors and buyers, consistency across pricing mechanisms, the use of commission buyers, nationally consistent industry training and registration, reporting systems and dispute resolution practices.

Recommendation 2

2.103 The committee recommends that the Australian Livestock and Property Agents Association (ALPA) lead the development of industry Standards of Practice that cover all commercial transactions in relation to livestock – including online, paddock and saleyard transactions. The Standards of Practice should include guidelines which encourage all parties to conduct transactions in good faith, do not mislead other parties, and ensure that all such transactions are negotiated under the law.

86 Mr Derek Schoen, NSW Farmers' Association, *Committee Hansard*, 2 September 2015, cited in 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.

2.104 The committee advises that it has been working toward the development of a framework for a mandatory industry code of conduct. The committee notes that it will pursue its enforcement should the industry not commit to the development of industry Standards of Practice. The industry must demonstrate its commitment by providing evidence to the Minister for Agriculture and Water Resources within three months of the tabling of this report. Once provided to the Minister, this evidence should also be made public.

2.105 The committee acknowledges the ACCC's finding that, on one level, data in relation to saleyard purchases, online auctions, cattle prices and OTH sales is available (and in some cases, published, on a regular basis). The ACCC also found, however, that there is still a level of inconsistency which often makes the available data difficult to interpret or use comparatively. The ACCC's findings are consistent with the concerns raised by industry stakeholders, who told the committee that the inconsistency of data reduces its usefulness to the industry.

2.106 The committee notes that the Cattle and beef market study was a self-referred inquiry and, as such, the ACCC did not have the power during its inquiry to compel information and documents from market participants. The committee also notes that, given its current legislative powers, the ACCC stopped short of making its recommendations for change mandatory.

2.107 Increasing the ACCC's investigatory powers and enabling it to obtain accurate, up-to-date data would assist the ACCC to undertake more detailed analyses, reach more definitive conclusions, and make more accurate recommendations.

2.108 Concerns have been raised about RMAC's ability to implement the ACCC's recommendations. A number of stakeholders argued that RMAC currently lacks the legal or organisational authority required to effectively deliver the level of reform that is so desperately needed.

2.109 The committee also has some reservations about whether RMAC is the appropriate body to oversee the implementation of these important reforms. However, the committee is of the view that no one organisation should be responsible for implementing the reforms that are so desperately needed across the cattle and beef industry.

2.110 The committee acknowledges that the ACCC expressed a similar view when releasing its market study. The Commission indicated that its study had highlighted a number of areas of concern across the cattle and beef supply chain. Further, it argued that while some of its recommendations were intended to improve the work of specific organisations, the implementation of some of its more general recommendations would require industry leadership and stakeholder cooperation.

2.111 The committee has been involved in inquiries into the cattle and beef sector for many years, and has observed the culture within stakeholder groups becoming increasingly more insular. The committee acknowledges that, on one level, it is natural for the leadership of industry representative bodies and peak industry councils

to see the specific needs of their own organisations as their primary focus. However, the committee is concerned that for some representative bodies and peak industry councils, this narrow view of the industry is being worn as a badge of honour. The committee has also observed, that without real consultation with members, and those at the grass roots level of the industry, the views and agendas of those in leadership roles become more entrenched. Increasingly, industry groups and representative bodies are reluctant to look beyond the narrow scope of what they see as their immediate responsibilities. Unfortunately, this limited way of operating discourages industry groups from looking beyond their own interests, and makes it difficult for them to focus on anything other than what will benefit their own small part of the industry.

2.112 The level of trust between industry stakeholders, (particularly between producers and processors, and producers and their representative bodies) is currently at an all-time low. The committee is of the view that the need for reform has become critical. The future sustainability of Australia's cattle and beef industry is now dependent on a complete cultural change, which will include finding ways to rebuild trust, and an acknowledgement on the part of industry leadership that it is not possible for individual sections of the supply chain to operate in isolation.

2.113 It remains the committee's view that all stakeholder groups need to work together to find solutions to the problems the industry is currently facing, and work cooperatively to implement reforms that will lead to increased trust between industry stakeholders, increased competitiveness, price transparency and consistency in grading.

Chapter 3

Price Transparency (across the supply chain)

3.1 The committee has long advocated for increased price transparency and accountability mechanisms within Australia's red meat industry. The committee has argued consistently about the importance of price transparency as well as the need for information regarding profits and margins (along the supply chain) to be made available to producers.¹

3.2 Evidence gathered during this inquiry (and during previous red meat inquiries) has clearly pointed to the need for reform – particularly in relation to a mechanism of price discovery and the implementation of a price reporting system. In recent times, the industry has been trying to identify ways of increasing price transparency across the supply chain. It is noted, for example, that the grassfed cattle sector has been actively working to develop an Australian beef yield indicator and wholesale carcass 'cut-out' to provide more transparency and more price information back to producers.²

3.3 The committee's interim report again highlighted the need for price transparency throughout the supply chain. Submissions provided by various industry stakeholders argued that the pricing mechanism in Australia's cattle market currently lacks integrity – both at the saleyard and in over the hook (OTH) sales.³

Committee inquiry into industry structures and systems governing levies on grass-fed cattle

3.4 The committee's September 2014 report, *Industry structures and systems governing levies on grass-fed cattle*, noted evidence provided by a number of producers who pointed to the disproportionately small margin (of the end retail dollar) they receive for their cattle. There are a number of factors – including the diversity of product coming out of the farm gate, an increased focus on export markets, the consolidation of the processing sector and a perceived lack of genuine competition at stockyards – that make it difficult for producers to get clear information on the beef pricing system.⁴

1 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 73.

2 Beef Central, *Beef yield indicator pursued amid price transparency debate*, 30 January 2017, [p. 1].

3 Cattle Council of Australia, *Submission 83* and Agforce Queensland, *Submission 85*, quoted in 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.

4 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 75.

3.5 Various methods for improving transparency were put to the committee – including same day payment to producers. It was suggested that a legislative mechanism which would require disclosure of the farm-to-wholesale as well as wholesale-to-retail prices could only bolster competitiveness in the livestock market. Supporters of price transparency also advocated for a system which establishes the true price of the cattle market, by requiring transparency in market reporting and which is underpinned by the prospect of investigation into anti-competitive behaviour. It is these types of changes to the system which, it was argued, have the potential to shift cattle producers from their current position as price-takers.⁵

3.6 The 2014 report highlighted both a lack of transparency in relation to cattle pricing and the need for a level market playing field. It also highlighted the lack of official data on the margins or differences between what a producer "receives for the sale of a beast to a processor, compared to sales at the processing and retail stages".⁶

3.7 A number of submitters to the grass-fed cattle inquiry argued that the development of a transparent pricing and trade practices system was one way to counter the industry's trend toward concentration and consolidation of the retail and processing sectors. It was also suggested that a close examination of legislation similar to the United States' Packers and Stockyard Act and the Livestock Mandatory Reporting Act was warranted.⁷

3.8 In tabling its 2014 report, the committee took into consideration the concerns raised by submitters and acknowledged the need to investigate mechanisms which could provide such transparency. The committee's report contained seven recommendations, including that: the Department of Agriculture, in consultation with the cattle industry, conduct an analysis of the pros, cons and costs of introducing legislation similar to that of the United States *Packers and Stockyard Act 1921* and *Livestock Mandatory Reporting Act 1999*.⁸

MLA's assessment of price transparency in the beef supply chain

3.9 Following the release of the committee's 2014 report (and its recommendations), the CCA requested that MLA undertake an in-depth study of supply chain price transparency. In addition to examining the issue of price transparency, MLA was also requested to identify possible options for increasing price transparency in the beef supply chain, "including the benefits and costs of introducing

5 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 75.

6 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 73.

7 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, pp 73-74.

8 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 86.

mandatory price reporting arrangements in Australia, similar to those operating in the United States".⁹

3.10 MLA engaged consultancy firm AgInfo to undertake the study, which was allocated the Project Code G.POL.1503. The aim of the study was to assess whether there is a lack of price transparency in the beef supply chain and, if so, identify specific points in the supply chain where greater price transparency is needed. AgInfo was also requested to consider the costs and benefits of various options for improving price transparency, including mandatory price reporting.

3.11 The project was overseen by a steering committee which included representatives from the CCA, the Department of Agriculture and Water Resources, the Australian Bureau of Agricultural and Resource Economics (ABARES) and industry.¹⁰

3.12 AgInfo conducted the appropriate reviews, research, and analysis, provided feedback, and made a series of recommendations regarding the benefits and costs of introducing a mandatory price reporting framework in Australia. To date, AgInfo has provided a number of 'Milestone' reports in relation to Project G.POL.1503 which have been released in stages by MLA.

3.13 A joint report in relation to Milestone 2: *Price Reporting systems overseas* and Milestone 3: *Australian beef and cattle price transparency* was released on 2 March 2015. The report on Milestone 4: *The likely benefits of improved beef price transparency* was published on 13 April 2015. MLA released the Milestone 5 report: *Options to address cattle and beef price transparency*, in May 2016.

3.14 All of the MLA reports have noted that a range of market information is provided to producers through MLA, ABARES and private service providers. The reports also noted that information currently available to producers includes saleyard prices and volumes, slaughter numbers, OTH and beef prices.¹¹

Milestone 2: Price reporting systems overseas¹²

3.15 In undertaking the first part of the project, the authors conducted a review of price reporting systems available in other comparable major beef producing and exporting countries. They also reviewed and assessed the United States Department of

9 Meat and Livestock Australia, Milestone Report [Milestones 2 and 3], *Assessment of price transparency in the beef supply chain*, 2 March 2015, p. 10.

10 Beef Central, *MLA responds to questions about delayed price transparency report*, 16 June 2016, [p. 2].

11 Meat and Livestock Australia, Milestone Report [Milestones 2 and 3], *Assessment of price transparency in the beef supply chain*, 2 March 2015, p. 10.

12 The following section is based on information contained in Meat and Livestock Australia, Milestone Report [Milestones 2 and 3], *Assessment of price transparency in the beef supply chain*, 2 March 2015. The Milestone 1 report comprises the Terms of Reference for the review.

Agriculture (USDA) Packers and Stockyards Administration and investigated whether:

...the US mandatory price and cut-out value information has improved producer decision making, marketing options, or prices through a review of any related studies and interviews with key buyers, sellers and their representatives and US livestock market intelligence providers.¹³

3.16 MLA's report indicated that as part of its Mandatory Pricing Reporting structure, the US has a good wholesale and retail price transparency system. It was also noted that the US system is well accepted by the full cross section of producers, including cattle producers and lot feeders. The report also noted that the attitude of the North American Meat Institute (NAMI) – which represents both large and small beef packers and processors – has started to change. Initially opposed to mandatory price reporting, NAMI has indicated that its members are currently more positive about the system and its role in the marketplace.

3.17 The review of the background and operation of the US Mandatory Price Reporting system found that industry and government stakeholders consider that the system has improved producer decision making and marketing options, however, any direct impact on price is harder to find. MLA's report also noted that the system is "used by the Chicago Mercantile Exchange as a basis for the live cattle futures contracts and by buyers and sellers in cattle sale basis contracts or formula pricing".¹⁴

3.18 It was reported that there is generally a high level of support for the US system. It was noted that there is also a medium to high level of satisfaction with the integrity of the data collected under the system: including its reliability, the detail and the presentation of results by the USDA (and others) and the USDA's administration of the system, including issues of confidentiality.

3.19 It was argued that the system's widespread use (by both producers and processors) suggests that its existence has improved the operation and stability of cattle and beef markets, probably to the benefit of all parties. The MLA review also suggested that the price reporting system had gone some way to demonstrate that packers are not cooperating with each other on prices (against producers); which has in turn reduced producer concerns about 'fair pricing'.

3.20 In addition to the US, the review also collected information on price transparency chains in Canada, Brazil, New Zealand, Great Britain and Ireland. It was noted that none of these countries have mandatory price reporting, however "producer

13 Meat and Livestock Australia, Milestone Report [Milestones 2 and 3], *Assessment of price transparency in the beef supply chain*, 2 March 2015, p. 10.

14 Meat and Livestock Australia, Milestone Report [Milestones 2 and 3], *Assessment of price transparency in the beef supply chain*, 2 March 2015, p. 3.

sensitivity to fair value for cattle" has been identified in Ireland, New Zealand and Great Britain in recent years.¹⁵

3.21 The report suggested that, overall, price transparency in cattle and beef appears to be better in Brazil and Canada than in Australia. It was argued that this is due to both the existence of reporting on direct-to-works cattle sale prices collected from producers, and some wholesale price reporting.

3.22 The report concluded, however, that based on the information available, there is no evidence to suggest that the cattle and beef value chain has a higher degree of transparency in New Zealand, Great Britain or Ireland compared to that which exists in Australia.

Milestone 3: Australian beef and cattle price transparency¹⁶

3.23 The project also investigated the extent of price transparency at every stage of typical cattle and beef supply chains in Australia. This second part of the MLA project involved a review of existing market information sources and existing information providers. The authors interviewed and surveyed cattle producers, agents and cattle buyers – including processors and live exporters – and undertook an analysis of both the current extent of transparency and the likely benefits of improved transparency.

3.24 The review found that although there is a reasonable degree of transparency in cattle prices and transactions in Australia, there is poor beef price transparency in wholesale markets and retail markets. Beef price transparency – as it applies to wholesale, retail and export markets – was assessed to be unacceptably low from a cattle producer's perspective.

3.25 It was reported that beef chain price transparency is poor for:

- medium to heavy grown steers and heifers for export markets;
- the domestic supermarket programs of the two main retail chains;
- cattle for the European Union and other specialised HQ (high quality) beef markets; and
- the live cattle trade.¹⁷

3.26 It was argued that these trades have limited transparency for cattle sales (as most are sold direct-to-works or to live cattle exporters) and at the consumer or end

15 Meat and Livestock Australia, Milestone Report [Milestones 2 and 3], *Assessment of price transparency in the beef supply chain*, 2 March 2015, p. 3.

16 The following section is based on information contained in Meat and Livestock Australia, Milestone Report [Milestones 2 and 3], *Assessment of price transparency in the beef supply chain*, 2 March 2015.

17 Meat and Livestock Australia, Milestone Report [Milestones 2 and 3], *Assessment of price transparency in the beef supply chain*, 2 March 2015, p. 4.

user level. This is in addition to non-existent transparency at the wholesale level, which, it was argued is a feature of all beef supply chains in Australia.

3.27 It was suggested that price transparency is marginally better for:

- cattle targeting domestic retail (other than the two main supermarkets);
- foodservice pathways for chilled beef (MSA and non-MSA); and
- cull cows and bulls primarily processed for manufacturing beef.

3.28 It was argued that these supply chains have well-reported cattle auction trades in most states and regions (by the National Livestock Reporting Service), which provides good transparency at the cattle level and some price reporting at the exporter and butcher level.

3.29 The report suggested that while there is no price reporting for beef at wholesale, and little further down the chain, interested producers can obtain some idea of movement in export or domestic beef chain value by accessing market reports provided by MLA, ABARES, *Beef Central*, agents, rural radio and television programs, weekly rural newspapers and a few small commercial marketing service providers. It was also suggested however, that on the whole, producers "usually have networks that they use to accurately assess the veracity of this information".¹⁸

3.30 Further, MLA's report concluded that the market information that is provided in Australia is seen as inferior to that available to cattle producers in most competitor countries – particularly the US, Canada and Brazil. It was also argued that the market information available is generally not at a good enough level to assist in any useful way with on-farm investment decisions. It was suggested that, in part, this probably reflects "the lack of forward contract and derivative markets in this country: these hedge tools directly assist in investment and marketing decisions in the US and Brazil and give rise to vibrant commercial market intelligence communities in these countries".¹⁹

Milestone 4: The likely benefits of improved beef price transparency

3.31 The Milestone 4 report drew on information collected for both the Milestone 2 and the Milestone 3 reports. These reports were tasked with determining the likely benefits of improved price transparency at each point of typical cattle supply chains in Australia, including benefits from:

- improved marketing decision making on farm – using additional price information;

18 Meat and Livestock Australia, Milestone Report [Milestones 2 and 3], *Assessment of price transparency in the beef supply chain*, 2 March 2015, p. 4.

19 Meat and Livestock Australia, Milestone Report [Milestones 2 and 3], *Assessment of price transparency in the beef supply chain*, 2 March 2015, p. 4.

- attracting investment – the value of accurate price information to potential investors in beef cattle production;
- increased competition from new entrants – with accurate price information allowing new entrants to do due diligence; and
- any other identified benefits.²⁰

3.32 MLA's report indicated that the key benefit of full cattle and beef price transparency is "to assist Australian cattle and beef markets to work more efficiently in matching beef and co-product production to consumer or export customer requirements".²¹ It was also argued that price transparency has the potential to assist producers, processors, wholesalers, exporters, retailers and foodservice operators to "more quickly direct production or purchases towards areas of greatest demand, to better meet latest market specifications and to produce at times when demand is highest".²²

3.33 It was suggested that specific benefits for cattle producers include the ability to:

- easily decide who to sell to on any given day and at what price;
- better meet processor target specifications or grades;
- decide whether to target different cattle grades; and
- make other medium to long-term production, marketing and investment decisions.²³

3.34 It was argued that price transparency could also be helpful for potential investors (particularly those from outside the industry) and capital providers such as banks to assess the merits and risk of investments in Australian cattle farms. This in turn has the potential to raise the level of capital input and lower the cost of capital to the sector.

3.35 The report noted that the US experience suggests that beef and cattle price transparency – when combined with enforcement:

...could help to ensure the integrity of cattle sales and allay any fears of further meat processing sector concentration and consolidation – something that some Australian producers are currently most concerned about.

20 Meat and Livestock Australia, Milestone Report, Milestone 4: *The likely benefits of improved beef price transparency*, 13 April 2015, p. 5.

21 Meat and Livestock Australia, Milestone Report, Milestone 4: *The likely benefits of improved beef price transparency*, 13 April 2015, p. 31.

22 Meat and Livestock Australia, Milestone Report, Milestone 4: *The likely benefits of improved beef price transparency*, 13 April 2015, pp 32-32.

23 Meat and Livestock Australia, Milestone Report, Milestone 4: *The likely benefits of improved beef price transparency*, 13 April 2015, p. 32.

It could also underpin the provision and uptake of a broader range of cattle selling options, especially forward selling and direct sales to end-users.²⁴

Milestone 5: Options to address cattle and beef price transparency

3.36 The Milestone 5 report – released in 2016 – was provided in the form of an Executive Summary of findings (in relation to Project G.POL.1503). The authors noted that, in undertaking the project, the following matters were taken into consideration:

- previous findings from MLA Project G.POL.1503 and the Senate committee's Inquiry into grass-fed cattle levies (which it was noted revealed dissatisfaction with current levels of transparency);
- the US experience regarding mandatory price reporting (including studies which generally show small, but tangible, producer benefits from this legislation); and
- an examination of the differences between the US and Australian industries (which led the authors to conclude that any benefits from improved price transparency in Australia would likely be greater than in the US).²⁵

3.37 The report released by MLA:

- provided a number of options for the future direction of the Australian cattle and beef industry;
- provided a list of potential options for increasing cattle and beef price transparency; and
- identified a number of specific issues which require additional consideration.

3.38 The MLA report also suggested that, on the balance of evidence, producers would likely benefit from increased price transparency in Australian cattle and beef markets. It was also argued, however, that these benefits would be marginal unless specific initiatives in relation to transparency result in one of the following outcomes:

- Improved market information, and confidence in published price information results in support for a cattle futures market in Australia. (In this context it is noted that the source of 95 percent of cattle price discovery in the US is the Chicago cattle futures market).
- As a result of greater price transparency, including increased confidence in, and understanding of, assessment of cattle against grids, increased

24 Meat and Livestock Australia, Milestone Report, Milestone 4: *The likely benefits of improved beef price transparency*, 13 April 2015, p. 32.

25 Meat and Livestock Australia, Milestone Report, Milestone 5: *Options to address cattle and beef price transparency*, 2016, p. 2.

numbers of cattle are transacted on the basis of their true value (ie. value based marketing).²⁶

3.39 The report confirmed that Australia's beef production system is much more diverse than that of the US and that Australia's payment systems are much more complicated. For example, in the US, when cattle are sold on a grid basis, payment is generally based on three factors: the dressed weight of the animal, the USDA grade achieved and the yield grade achieved. In comparison, Australian grids can contain as many as "104 values for the Ox category alone".²⁷ It was also noted that in the US, the USDA grade and the yield grade is determined independently (by a USDA inspector) rather than by the processor (the buyer).

3.40 The report acknowledged that Australian price grids are complex, and that simply collecting more data on cattle and beef prices will not, in isolation, solve the price transparency problem. Further, it was argued that there is no single solution and that, realistically, a range of solutions will be required to address the price transparency issue and increase confidence in pricing systems.²⁸

3.41 MLA's Milestone 5 report outlined a number of potential options for increasing cattle and beef price transparency, including:²⁹

- **Mandatory price reporting** of all cattle and beef data prices and volumes by contracting methods, with the data presented in a format that is easily understood and interpreted by producers.

The system would be modelled on the USDA Agricultural Marketing Service mandatory cattle and beef price reporting which was introduced in 1999 and has been reauthorised for an additional five years (2015-2020). The system would include all OTH transactions and direct consignment of cattle. It is intended to include the net price (including discounts in relation to weight and grade beef carcasses). It is also intended that all wholesale and export beef prices (by specification and export codes) be reported.

The costs associated with establishing this type of system would be substantial. Initial cost estimates suggest \$0.20 per head – which is the equivalent of approximately \$1.9 million annually. An ongoing system of auditing would also be required.

26 Meat and Livestock Australia, Milestone Report, Milestone 5: *Options to address cattle and beef price transparency*, 2016, p. 2.

27 This figure was quoted in Meat and Livestock Australia, Milestone Report [Milestones 2 and 3], *Assessment of price transparency in the beef supply chain*, 2 March 2015, p. 56.

28 Meat and Livestock Australia, Milestone Report, Milestone 5: *Options to address cattle and beef price transparency*, 2016, p. 4.

29 The following section is based on information contained in Meat and Livestock Australia, Milestone Report, Milestone 5: *Options to address cattle and beef price transparency*, 2016, pp 5-7.

It was noted that support for mandatory price reporting – from meat processors and supply chain participants (including supermarket chains) – is likely to be quite low.

The report made no comments regarding the level of producer support for a mandatory price reporting system.

- **Voluntary price reporting** would involve processors voluntarily disclosing prices (on an anonymous basis). This type of price disclosure would support the reporting of various OTH grid prices in weight ranges (steers, cows and yearlings) plus minimums and maximums and weight by weekly plant slaughter.

Under the proposal, processors and producers would provide 'actual' prices paid and 'actual' prices received across each category. It is intended that reports would then summarise and track discounts according to weight ranges.

Although the required data is available, the system would also need an adequate number of grids and the reporting of OTH grids by state and region. The costs associated with establishing voluntary price reporting would be similar to that of mandatory price reporting. This system would also require ongoing auditing and data reconciliation, comprehensive training, producer and processor communication and industry consultation.

- **Carcase cut-out reporting** would include export composite steer cut-out, export cow cut-out, supermarket steer and heifer domestic carcass cut-out reporting. The methodology is as follows:

Steer cut-out – use a typical yield for a steer and prices for either individual cuts or a composite of chilled and frozen beef cuts including loin cuts, butt cuts, forequarter cuts and manufacturing beef trimmings. (Use an indicator 300 kilograms hot standard carcass weight body).

Cow cut-out – a full carcass cow broken up for manufacturing purposes into fore and hind trimmings with indicator 90 percent chemical lean and frozen. Body weight estimates 240 kilograms hot standard carcass weight. Use retail cut-out of bone-in and boneless retail cuts as sold by Australian domestic supermarkets based on a typical 250 kilograms hot standard carcass weight beef body. (Using a 74 percent yield of bone-in and boneless cuts as advised by industry sources for the typical supply chain partner to supermarkets).

It was noted that the required data in relation to beef cuts and prices is currently available through the Australian Bureau of Statistics (ABS) subscription, the Nielsen Homescan and the butcher price survey. The preliminary estimated annual cost of this system is \$300,000; which includes \$255,000 for the ABS data subscription, and approximately \$42,000 for MLA staff time.

The advantages of this system were identified as the ease and speed of implementation and the relatively low costs (if ABS figures are used). It was also argued that this system would be less disruptive to market participants – including meat processors, exporters, supermarkets and butchers.

The report provided no comment on how this system would impact producers.

- An **on-line board including final OTH carcass selling price** system would provide an open source online facility for collecting and collating actual, real time OTH (which have been submitted by producers). It is proposed that producers would enter the data based on the regular OTH grids provided to them by processors. It was noted that this data is available and that producers require the OTH grid to be published weekly and distributed by processors to their producer suppliers.

The cost of this system is estimated at \$1.42 million. This estimate includes producer time of \$925,000 and agreement to complete the login to the online board and update the final price received (after their cattle are processed, weighed and graded). It was noted that there would be a delay of 2 to 3 days when MSA cattle are included, and the cost was estimated at between \$0.46 and \$0.93 per head.

It was proposed that the on-line board would aggregate the data, and display prices by weight ranges and grades of cattle – including steers, cows, bulls and heifers. The proposal is that only adult, slaughter cattle would be included and volumes would be incorporated to provide weighted average price groupings.

Costs associated with the system's introduction include the cost of developing the online board and any incentives that may be required to ensure producers provide a critical mass of useful data.

- **Enhanced MLA and commercial market reporting and intelligence services** – this would involve the regular generation of National Livestock Identification System (NLIS) data regarding direct consignment of cattle from property of origin Peak Industry Council (PIC) to meat processor PIC. This proposal would involve MLA being provided with detailed data (by region) on a weekly basis.

The NLIS data is, however, critical to this type of system and it is currently not available.

- **Other feasible, beneficial mechanisms to improve price transparency** suggested in the Milestone 5 report were:
 - mapping the beef supply and value chain in detail (with volumes of transactions and regional factors);
 - including live export;
 - the provision of volume data by selling method (locations for major volumes that drive prices); and
 - including unit price trends over time to value the segments in the supply chain.

3.42 During the committee's November 2015 hearing, MLA's Managing Director, Mr Richard Norton, was asked to provide an update of MLA's position on price

transparency in the beef supply chain. Mr Norton updated the committee on the MLA-commissioned review of price transparency across all areas of the beef supply chain. In addition providing an overview of the review project, Mr Norton told the committee that the true definition of price transparency is "to know all of the points of the value chain from cost of production overlaid with the sale price and knowing what the margin is in between". Further, Mr Norton suggested that:

We are never going to get price transparency. We can work on it to get to a point where, in the domestic market, we will try and do something like an EYCI. The EYCI is a live weight indicator. It is just a market indicator. But if it is used over the period of time we have been collecting it, people can see the movements in the market.³⁰

3.43 By June 2016, however, Mr Norton indicated that a decision in relation to price transparency and price reporting, was not one MLA could make. Therefore, the final Milestone Report – Milestone 5 – did not make any recommendations to the industry on a preferred system or a way forward.

3.44 Further, Mr Norton was reported as stating that:

As for the big question of any change from a voluntary price reporting system to a mandatory system, this is one that industry must itself resolve, not MLA which is the industry's service provider.³¹

ACCC findings on price transparency

3.45 In October 2016, the ACCC reported its findings in relation to price transparency, and concluded that cattle prices were not "usefully transparent, particularly prices for prime cattle".³² The ACCC noted that there are significant gaps in reporting and that the prices for paddock sales and over the hook OTH and saleyard transactions are "inconsistently reported and in some cases incomplete in terms of the cattle types and geographic locations". It was argued that, as a consequence, it is difficult for producers to compare historical prices between sales channels on a like-for-like basis. It was also argued that this lack of transparency has the capacity to distort pricing signals (used to guide production decisions) and create information asymmetries between industry participants.

3.46 The ACCC also found that:

30 Mr Richard Norton, Meat and Livestock Australia, *Committee Hansard*, 17 November 2015, p. 30.

31 Beef Central, *MLA responds to questions about delayed price transparency report*, 16 June 2016, [p. 1].

32 Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016, p. 4.

- direct sale prices are frequently not reported, and the prices reported for OTH transactions actually reflect the prices offered to producers, rather than the prices subsequently paid; and
- pricing grids are difficult to interpret and sometimes difficult to access.³³

3.47 The ACCC noted that some data does exist in relation to cattle prices, OTH sales, saleyard purchasing and online auctions and this data is published on a regular basis by MLA (and other sources). It was also noted, however, that some gaps and inconsistencies still remain in relation to this information and that not all of the data that is available and published is easy to interpret or use comparatively. This reduces its usefulness to the industry.³⁴

3.48 The ACCC's final report – released in March 2017 – did acknowledge, however, that while there are still some gaps in useful price data, the industry has started to take steps to address this situation. It was noted, for example, that the MLA had launched an update of the market reports section of its website, "which allows producers to access and interrogate historical data more easily".³⁵

3.49 The ACCC's final report also acknowledged the complexity of price grids, and indicated that:

An important test of the usefulness of pricing grids is whether a seller of prime cattle can easily compare the price the stock would realise if sold to any one of a number of competing processors. Some producers experience difficulties in doing this.³⁶

3.50 As noted in the previous chapter, the ACCC concluded that the debate regarding mandatory reporting (of all non-saleyard cattle sales) is finely balanced. It was argued that Australian beef and cattle markets are currently so complex it could make mandatory price reporting difficult to implement, and perhaps reduce its potential benefits. Significantly, the ACCC indicated that while it does not recommend the introduction of mandatory reporting at this time:

...if market participants do not take steps to improve the market reporting in line with recommendations on price reporting ... the arguments in favour of mandatory reporting will become more compelling over time.³⁷

33 Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016, p. 4.

34 Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016, p. 9.

35 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 8.

36 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 9.

37 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 9.

Stakeholder views on price transparency

3.51 Calls for increased price transparency have continued throughout the committee's current inquiry. Mr Rob Atkinson, a representative of NorthBeef (a producer group with plans to develop a new processing facility near Hughenden in Queensland) argued that processors should release more pricing information, and was quoted as saying that:

The processors might say they are losing money, but there is no transparency there. We don't know what they are losing. We can't look inside their business. That is one of the things I think producers deserve to be able to do, to see some sort of reporting on their profitability at least.³⁸

3.52 Mr Atkinson also stated that:

...after years of huge fluctuations in cattle prices, he would like to see the price stabilise so that everyone in the supply chain is making reasonable profit, even if that meant a floor price was introduced.³⁹

3.53 In responding to recommendations regarding price transparency (made by the committee in its 2016 interim report) the CCA cited the importance of having an approved beef language. Further, it was argued that while the committee's recommendations "provided a sound starting point" there was also room for some fine tuning.⁴⁰

3.54 While the CCA acknowledged that greater transparency is something producers continue to call for, it was argued that the specific mechanism – which would achieve the transparency required – has yet to be determined.⁴¹ The peak body also suggested that what the committee's recommendations had failed to recognise was that improving the beef language is a vital part of achieving transparency:

That's the language we use to describe the cattle and describe the beef that we're selling and trading. If we can have improved language then we can have improved information flow.⁴²

38 ABC Rural, *Price transparency remains a key issue for beef producers despite inquiries*, 5 October 2016, p. 1.

39 ABC Rural, *Price transparency remains a key issue for beef producers despite inquiries*, 5 October 2016, p. 1.

40 ABC Rural, *Senate inquiry into red meat processing calls for changes to address culture of fear in the industry*, 5 May 2016, p. 2.

41 ABC Rural, *Senate inquiry into red meat processing calls for changes to address culture of fear in the industry*, 5 May 2016, p. 2.

42 ABC Rural, *Senate inquiry into red meat processing calls for changes to address culture of fear in the industry*, 5 May 2016, p. 2.

Stakeholder views on MLA's findings

3.55 Following the release of MLA's Milestone 5 report, feedback provided by industry stakeholders – particularly producers – was the subject of a number of media reports. Cattle producers in particular raised a number of concerns about MLA's findings, and questioned both the content of the reports and the timing of their release.

3.56 In June 2016 for example, *Beef Central* reported that the Milestone 4 report – which was completed in April 2015 – was "clearly positive about the potential benefits of mandatory price reporting in Australia".⁴³ Specifically, it was noted that the report had stated that:

... any increase in price disclosure would assist Australian cattle markets to work more efficiently in matching beef and co-product production to customer requirements.⁴⁴

3.57 Further, the *Beef Central* article also noted that MLA's Milestone 5 report – which was completed in May 2016 – was "less positive in its assessment of the value of mandatory price reporting in Australia",⁴⁵ and had concluded that:

...while the benefits of introducing mandatory price reporting would exceed the cost, the benefits were likely to be small.⁴⁶

3.58 On 25 May 2016, MLA announced the completion, and publication of its Milestone 5 report. At the same time, the MLA's Milestone 4 report – which had been completed over a year earlier – was also published on the MLA website.⁴⁷ Producer groups – including the ABA – drew attention to the delayed release of the Milestone 4 report, and suggested that it was an example of "opponents of mandatory price reporting successfully working to suppress findings that support its introduction" in Australia.⁴⁸

3.59 In January 2017, the Ovens Valley branch of the Victorian Farmers' Federation (VFF) were reported to be calling for the Government to legislate a

43 Beef Central, *MLA responds to questions about delayed price transparency report*, 16 June 2016, [p. 1].

44 Beef Central, *MLA responds to questions about delayed price transparency report*, 16 June 2016, [p. 1].

45 Beef Central, *MLA responds to questions about delayed price transparency report*, 16 June 2016, [p. 1].

46 Beef Central, *MLA responds to questions about delayed price transparency report*, 16 June 2016, [p. 1].

47 Beef Central, *MLA responds to questions about delayed price transparency report*, 16 June 2016, [p. 1].

48 Beef Central, *MLA responds to questions about delayed price transparency report*, 16 June 2016, [p. 1].

mandatory price reporting system "to provide clear and relevant information for beef farmers and the industry".⁴⁹

3.60 The Ovens Valley branch set out its views in an open letter to the Minister for Agriculture and Water Resources, which was later published by several media outlets, including the *Border Mail*. The Ovens Valley branch stated that there was overwhelming support for mandatory price reporting among beef producers in their branch and argued that the process of developing a transparent price reporting system was something that "could not be left in the hands of industry".⁵⁰

3.61 The Ovens Valley branch also pointed to the compelling case that had been made for price transparency reform in Milestone reports 2, 3 and 4 and argued that the Milestone 5 report "backed away from the wide-ranging benefits clearly stated in earlier reports" and "had a definite tone of reluctance about the introduction of price transparency that is not found in earlier reports". In its letter, the group called for the Minister's support to "investigate why *Milestone 5, Beef Price Transparency Options to address cattle and beef price transparency* is so different to the reports from Milestone 2, 3 and 4".⁵¹

3.62 In response to questions about why the 'more favourable' report was not released when it was completed and why its release was "seemingly hidden behind the second, less favourable report",⁵² MLA's Managing Director, Mr Richard Norton, argued that the reports focused on different aspects of mandatory price reporting:

Price transparency is a complex matter and, implemented to its full extent, has many implications for the beef industry. Given this, the price transparency project was designed to be considered in its entirety, rather than viewed as individual progress sections. For this reason both milestones four and five need to be considered together and were released in close succession.⁵³

49 The Border Mail, *Ovens Valley VFF urges government to make Mandatory Price Reporting just that in open letter to Barnaby Joyce*, 20 January 2017, [p. 1].

50 The Border Mail, *Ovens Valley VFF urges government to make Mandatory Price Reporting just that in open letter to Barnaby Joyce*, 20 January 2017, [p. 1].

51 The Border Mail, *Ovens Valley VFF urges government to make Mandatory Price Reporting just that in open letter to Barnaby Joyce*, 20 January 2017, [pp 2 and 3].

52 Beef Central, *MLA responds to questions about delayed price transparency report*, 16 June 2016, [p. 1].

53 Beef Central, *MLA responds to questions about delayed price transparency report*, 16 June 2016, [p. 1].

The way forward

3.63 One of the primary objectives of the MLA project – G.POL.1503 – was to examine the US system of price reporting and determine whether it had applications for the Australian industry.⁵⁴

3.64 MLA's report pointed to key differences between both industries and their systems, suggesting that while the US industry is largely feedlot based (with approximately 80 percent of product sold on the US domestic market), the Australian beef industry is primarily export focused.

3.65 As previously noted, MLA's Milestone 5 report also identified a number of potential options for increasing cattle and beef price transparency. The shortlist of possible options fit into three broad categories: a mandatory price reporting system, voluntary price reporting, or improving the existing market information services.⁵⁵

3.66 Prior to the public release of the Milestone 4 and Milestone 5 reports, MLA's Managing Director, Mr Richard Norton, told the committee that the Milestone 5 report had identified "a number of options to deliver greater price transparency at identified points along the supply chain".⁵⁶ At a public hearing held on 17 November 2015, Mr Norton flagged MLA's intention to ask industry to decide what the next steps for this project would be and to determine the cost implications for industry.

3.67 Mr Norton also told the committee that the industry's directive would need to consider:

...whether significant evidence is now available to conclude that Australian cattle producers would benefit on net from an increase in price transparency along the cattle supply chain or whether further research is required; whether government intervention is required to secure increased price transparency or whether, at least in the first instance, industry should itself implement measures to secure this outcome; and whether new or additional services in education to facilitate greater opportunities for comparison of grids and to give greater confidence in the assessment of cattle against the grids could be implemented.⁵⁷

3.68 The CCA responded to MLA's final project report (Milestone 5) – and its vision for the future – following a meeting of its board in May 2016. An

54 Meat and Livestock Australia, Milestone Report, Milestone 5: *Options to address cattle and beef price transparency*, 2016.

55 The following section is based on information contained in Meat and Livestock Australia, Milestone Report, Milestone 5: *Options to address cattle and beef price transparency*, 2016, pp 5-12.

56 Mr Richard Norton, Meat and Livestock Australia, *Committee Hansard*, 17 November 2015, p. 29.

57 Mr Richard Norton, Meat and Livestock Australia, *Committee Hansard*, 17 November 2015, p. 29.

announcement was made that the CCA board had resolved "to request MLA to investigate the development of a system to capture information, including the cut-out value of domestic and export boxed beef".⁵⁸ Further, it was noted that a resolution had been put forward:

...in response to MLA's report into price transparency in the beef supply chain released today, with the project review committee agreeing voluntary price transparency was the preferred option.⁵⁹

3.69 In requesting this investigation, a spokesperson for the CCA acknowledged that while the project undertaken by MLA had highlighted the complexity of the issues, it had also narrowed down the options available in relation to price transparency in the beef industry. Further, the CCA Chairman, Mr Peter Hall, argued that:

...on the balance of evidence, it is a conclusion of this paper that producers are likely to benefit from increased price transparency in Australian cattle and beef markets. The primary price transparency gap along the beef supply chain is at the wholesale/export stage, with no data currently available. This is also the beef price stage closest to, and of most relevance to, the value of cattle sold by producers.⁶⁰

3.70 Shortly after the public release of the Milestone 4 and 5 reports, an MLA spokesperson described the Milestone 4 report as having outlined 'in theory' the benefits that full price transparency could provide. It was noted that the Milestone 5 report had provided additional context, outlined critical factors like cost, and identified some of the practicalities that would need to be taken into consideration prior to the implementation (of a price transparency system). The spokesperson also acknowledged that while the Milestone 5 report concluded that a "reasonable amount" of cattle and beef market information already exists in Australia, it did not, however, suggest a range of further initiatives.⁶¹

3.71 The MLA's Project Review Committee met in December 2015 to review the G.POL.1503 project. The review committee considered a number of issues – including the findings of the Milestone reports – and made a series of recommendations; one which suggested that more work needed to be done in relation to price transparency.⁶²

58 Cattle Council of Australia, Media Release, *Cattle Council calls for more information on boxed and wholesale beef prices*, 24 May 2016, p. 1.

59 Cattle Council of Australia, Media Release, *Cattle Council calls for more information on boxed and wholesale beef prices*, 24 May 2016, p. 1.

60 Cattle Council of Australia, Media Release, *Cattle Council calls for more information on boxed and wholesale beef prices*, 24 May 2016, p. 2.

61 Beef Central, *MLA responds to questions about delayed price transparency report*, 16 June 2016, [p. 2].

62 Beef Central, *MLA responds to questions about delayed price transparency report*, 16 June 2016, [p. 2].

3.72 In March 2016, following its consideration of the project report and the Project Review Committee's recommendations, the CCA requested that MLA undertake a further examination of:

- the 'carcase cut out option' to encompass determining values for export markets, domestic markets and whole animal products;
- the development of a reporting system to enable up-to-date data on wholesale beef prices, offal and co-products; and
- the need for greater education to enable producers to effectively market their cattle.⁶³

3.73 In June 2016, MLA Managing Director, Mr Richard Norton, told *Beef Central* that work had commenced on the CCA's request, and that MLA would continue to report on its progress. Mr Norton indicated that MLA would also be involved in developing an online platform to facilitate easy data sharing for processors and producers, and providing education to assist producers to best use the information available.⁶⁴

3.74 It was also noted that MLA was working on enhancements to its market information reporting, including the weekly OTH cattle indicator reports, which had been revamped to assist producers and industry to better analyse key market trends. Mr Norton also pointed to a number of other changes which MLA had been involved in, including:

- changes in the Queensland, NSW and Victorian reports – which now include charts to make the interpretation of price differences between weights and livestock categories much easier;
- the inclusion of heaviest weights, fat depths and muscle scores of the cattle categories in the graphic representations – which is aimed at best reflecting those most sought after by processors;
- MLA's OTH cattle reports now include an explanation of how best to use and apply the indicators for business needs, how they are generated and what percentage of the state's processing capacity contributes to the calculations; and
- the number of indicators in each state depends on the number of contributing processors, but in Queensland alone, more than 98 indicators are generated each week.

63 Beef Central, *MLA responds to questions about delayed price transparency report*, 16 June 2016, [p. 3].

64 Beef Central, *MLA responds to questions about delayed price transparency report*, 16 June 2016, [p. 3].

3.75 At its 10 August 2017 hearing, the committee questioned Mr Norton about MLA's response to Recommendation 4 of the ACCC report; which goes to MLA's role in improving the collection and public reporting of cattle sale prices. Mr Norton told the committee that various improvements had been made to the MLA's data collection:

What we have done is enhance that website so that, if you had a category, like an 18-to-20-kilo lamb, you could put that that's what you are planning to sell and, through that category, benchmark saleyards within your region for just that price point. Previously you'd be looking through paper based models and trying to understand. You'd have to collect that data from each saleyard, put it together and do that yourself. That's now readily available.⁶⁵

3.76 While MLA reported that it is starting to deliver more information back to the processing sector around export values and export volumes, it was acknowledged that the reporting of prices throughout the supply chain – including wholesale, retail and export beef prices – is not part of the information provided on the website. MLA has been able to obtain approximately 70 percent of the required data freely, but has experience difficulty obtaining price data from processors.⁶⁶

3.77 Mr Norton was also asked to outline the steps MLA had taken to act on the ACCC's Recommendation 12, which called for saleyards, commission buyers, auctioneers and agents to provide MLA with information "that enables regular standardised market reports for each reported saleyard".⁶⁷ Mr Norton told the committee that:

The only thing MLA can do in that is deploy reporters to each market. At this point in time we cover the top 25 per cent of the market. We do not – and the industry has not asked us to – report every single saleyard. So, at this point in time, we are covering the top 25 per cent.

It costs us \$4 million per annum to do that now, and then it would be cost-benefit analysis of reporting every single market. By covering the top 25 per cent – and this is an estimate and not an actual number that I have researched, but I've probably been told it in the past – we'd be covering probably 60 per cent by volume through covering those top 25 per cent of saleyards.

...

In terms of reporting every single market, the question would be – and we've had these discussions with the ACCC – whether or not the cost-benefit analysis of doing that would change anything in the industry whatsoever. And the answer to that is that the cost of covering every single

65 Mr Richard Norton, Meat and Livestock Australia, *Committee Hansard*, 10 August 2017, p. 3.

66 Mr Richard Norton, Meat and Livestock Australia, *Committee Hansard*, 10 August 2017, p. 3.

67 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, March 2017, p. 13.

market would outweigh the benefit of covering the top 25 per cent that we do now.⁶⁸

Committee comment

3.78 Throughout the inquiry, a number of industry stakeholders raised concerns about the culture of collusion that exists in saleyards. The committee shares stakeholders' concerns and agrees that this is an issue that needs to be addressed, as a matter of priority. As indicated in its interim report, the committee suggests that what is required to resolve the problem is a system of price disclosure at saleyards. At a minimum, there is a need for a freely available, transparent, pricing mechanism at saleyards; and prices need to be displayed publicly. Various options have been suggested – including the use of a Dutch auction system – however, ultimately, this is a decision that needs to be made by industry.

3.79 The committee has long argued for increased price transparency and accountability mechanisms across the cattle and beef market supply chain. The committee has been consistent in its calls for information regarding profits and margins across the supply chain to be made available to producers. Evidence provided to the inquiry supports the committee's view that there is a need for reform in this area.

3.80 Stakeholders told the committee that for there to be increased efficiency and competitiveness across the red meat supply chain, it is vital that producers receive maximum returns at the farm gate. Unfortunately, under the current system, it is not possible for producers to determine, with any accuracy, the asset value of their stock.

3.81 The reporting of livestock sales (made both within and outside saleyards) is also a matter of some concern to producers. Stakeholders argued that market reports and benchmark indicators do not accurately reflect the state of the market, given that they are often based on a small, unrepresentative sample.

3.82 The committee is well aware that it is the saleyard price that tends to set, drive and influence the marketplace as a whole. However, the committee is also aware of the downward trend in saleyard purchases over recent years, which suggests that there is a growing need for a comprehensive market indicator.

3.83 The committee notes that price transparency was one of the key issues considered by the ACCC in its Cattle and beef market study. The ACCC's report acknowledged the complexity of Australia's beef and cattle markets and argued this could make mandatory price reporting difficult to implement – or reduce its potential benefits. The ACCC stopped short of recommending the introduction of mandatory reporting at this time. However, it is worth repeating that the ACCC also indicated

68 Mr Richard Norton, Meat and Livestock Australia, *Committee Hansard*, 10 August 2017, pp 4 - 5.

that, unless the industry takes steps to improve market reporting (in line with its recommendations on price reporting), the "arguments in favour of mandatory reporting will become more compelling over time".⁶⁹

3.84 The committee has also had the opportunity to review the Milestone 4 and 5 reports commissioned by MLA, which examined both the pros and cons of introducing a mandatory beef reporting system to the Australian beef industry. As previously indicated, the first report – Milestone 4 – was completed in April 2015 and was clearly positive about the potential benefits of mandatory price reporting in Australia. The committee notes, however, that it has heard no adequate explanation about why the second report – Milestone 5 – which was released in May 2016, was somewhat less positive in its assessment of the value of mandatory price reporting in Australia.

3.85 The committee recognises that the MLA-commissioned reports identified a number of potential options for increasing cattle and beef price transparency – which include both voluntary and mandatory price reporting. The committee also notes that MLA has recently indicated that it is up to the industry to determine which option to adopt. The committee does, however, question whether MLA, having concluded that the complexity of the supply chain would make mandatory price reporting too difficult to implement, has been attempting to influence the industry's decision.

3.86 Having had the opportunity to review both the ACCC and MLA reports, and take further evidence from the ACCC and MLA in August 2017, the committee in no way underestimates the complexities of the supply chain. However, it also recognises the need for transparency and consistency in selling structures and practices – particularly as there is a strong desire amongst producers for price transparency (and some form of pricing mechanism) to be implemented. As recommended in the interim report, the committee is of the view that it is time for the industry to move towards establishing a national price disclosure and reporting system, which takes into account all methods of sale.

3.87 The committee will watch with great interest to see whether the CCA's recommended mechanisms meet the needs of the industry, whether they are efficient, and whether they are compatible with the views put forward by beef producers.

69 Australian Competition and Consumer Commission, *Cattle and beef market study – Final Report*, 7 March 2017, p. 9.

Chapter 4

Grading

4.1 As noted in Chapter 1, the issues of meat marketing, labelling and grading have been investigated by the committee over a number of past inquiries.

4.2 During its inquiry into Meat Marketing,¹ for example, the committee examined, amongst other things:

- 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.²

4.3 The committee's inquiry into meat marketing was largely focused on labelling and the provision of information to the consumer. However, as part of its inquiry, the committee examined both the AUS-MEAT System and the role of Meat Standards Australia (MSA).

The AUS-MEAT system

4.4 AUS-MEAT Ltd is an industry owned body which operates as a joint venture under the control of a Board of Directors appointed by MLA and AMPC. AUS-MEAT Ltd is the body responsible for the development of uniform specifications for beef through the use of AUS-MEAT Language (the Language). The Language classifies a number of carcase traits at various stages of processing. These include descriptions of dentition (age), sex, weight and fat measurement at the slaughter floor; marbling, meat colour, fat colour and rib fat at the chiller stage; and cut description, cut lines and fat depth in the boning room.³

4.5 The AUS-MEAT Language has been adopted across the Australian meat industry, and in addition to providing customers with an accurate way of describing and ordering meat products, AUS-MEAT's objective descriptions are available for use by producers, abattoirs, boning rooms, wholesalers and food service organisations.⁴

1 The committee's inquiry into Meat Marketing commenced in 2008. The Committee tabled an interim report in September 2008 and a final report in June 2009.

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

3 AUS-MEAT Ltd, *Submission 27*, Submission to Senate Rural and Regional Affairs and Transport References Committee, *Report into Meat Marketing*, June 2009, p. 9.

4 Industry Standards - Meat, accessed at <https://www.ausmeat.com.au/industry-standards/meat.aspx>, 21 February 2017.

Beef/Veal Chiller Assessment Language

4.6 Chiller Assessment Language was developed to enable AUS-MEAT accredited enterprises to assess, grade or class beef and veal carcasses using a uniform set of standards under controlled conditions. The scheme provides a means of describing meat characteristics and classifying product prior to packaging. These characteristics include the colour of meat and fat, the amount of marbling, eye muscle area, the fat depth and the maturity of the carcase. Assessments are made by qualified assessors and results are allocated to the carcase and provide a means of (carcase) selection according to individual contract specifications, grading schemes and or company brand requirements. The AUS-MEAT Chiller Assessment Language is only available to AUS-MEAT accredited enterprises, their clients and suppliers.⁵

The Australian Meat Industry Language and Standards Committee (AMILSC)

4.7 The AMILSC is made up of industry representatives and provides advice to the AUS-MEAT Ltd Board on matters relating to the AUS-MEAT National Accreditation Standards. The Committee is made up of representatives from:

- Australian Meat Industry Council;
- Cattle Council of Australia;
- Australian Lot Feeders Association;
- the Sheepmeat Council of Australia;
- Australian Supermarkets/Independent Retailers;
- Australian Pork Limited; and
- the Department of Agriculture and Water Resources.⁶

4.8 As noted in the committee's May 2016 interim report, all beef is graded according to a range of Australian and international standards.⁷ These standards are set out in the *Handbook of Australian Meat* which is published by AUS-MEAT Limited. Under these standards, beef is graded according to a number of quality-related traits including the cut, age, sex and fat depth. The standards also specify:

- labelling requirements;
- country of origin;
- date processed;
- weight; and

5 Industry Standards - Meat, accessed at <https://www.ausmeat.com.au/industry-standards/meat.aspx>, 21 February 2017.

6 The Australian Meat Industry Language and Standards Committee (AMILSC), accessed at <https://www.ausmeat.com.au/about-us/industry-committee.aspx>, 21 February 2017.

7 Senate Rural and Regional Affairs and Transport References Committee, *Effect of market consolidation on the red meat processing sector: Interim Report*, May 2016, p. 67.

- the company the product was packed by.⁸

Meat Standards Australia

MSA standards

4.9 Of the two beef grading systems – MSA and AUS-MEAT Language – MSA is currently used only in the domestic market. MSA sets standards regarding:

- fat depth;
- fat colour;
- marbling; and
- other indicators which relate to eating quality.

4.10 During the inquiry, concerns were raised about the separate company specifications that overlay the MSA standards. Producers told the committee that even though they may meet the MSA standards, they might not meet additional company standards (relating to things such as dentition and P8 fat). Some producers suggested that when "they do not meet the company standards, they do not get paid for the MSA – even if they have met the MSA standards".⁹

4.11 The committee heard numerous other comments in relation to the grading system, including:

- MSA grading is hopelessly inconsistent;¹⁰
- MSA requires immediate and continual development, as producers are currently receiving discounts based on company specifications that have no relevance to consumer requirements;¹¹
- supplier confidence in industry developed grading systems is at an all-time low;¹²
- it is time [grading systems] were made more objective, transparent and verifiable given their importance in determining producer returns;¹³
- because measurement is subjective, disputing a grading is made very difficult – this provides scope for the interpretation of an individual classifier;¹⁴ and

8 Mr Ashley Sweeting, *Submission 1*, p. 7.

9 Mr Gary Warren, *Committee Hansard*, 4 August 2015 and Mr David Hill, *Submission 86*, [p. 6].

10 Australian Beef Association, *Submission 23*, p. 15.

11 Cattle Council of Australia, *Submission 83*.

12 Teys Australia, *Submission 55*, p. 16.

13 Teys Australia, *Submission 55*, p. 16.

14 Mrs Maureen Cottam, *Submission 25*, p. 2.

- processing companies provide their own graders of carcasses – these people are effectively company employees, which means that MSA grading can amount to a task effectively performed by abattoir owners who have a vested interest in downgrading carcasses.¹⁵

MSA carcass feedback

4.12 The difficulties associated with receiving feedback on meat grading and the reasons for particular determinations was another issue raised – particularly by producers – throughout the inquiry. The committee was told that:

- changes to the colour of meat occur naturally over time – the timeframe for these changes (and other variables that have an impact on grading) are not within the control of the producer;¹⁶
- producers do not have access to the very information that determines the price they receive for their cattle – and the lack of adequate feedback from processors means that producers of MSA beef are hampered in their efforts to deliver a high quality product;¹⁷
- processors do not articulate why cattle did not meet the company standard and frequently report only that the product "does not meet company standards";¹⁸ and
- the MSA carcass feedback sheet does not include the MSA grader's registered number – which reflects a lack of transparency.¹⁹

AUS-MEAT's independence

4.13 As noted above, as a joint venture between MLA and the AMPC, AUS-MEAT is responsible for the development and meat of meat language. It is mandatory for all AUS-MEAT accredited abattoirs to pay on Hot Standard Carcass Weight (HSCW) and AUS-MEAT standard carcass trim and they must also provide carcass feedback.²⁰

4.14 A number of submitters to the inquiry have questioned the independence of AUS-MEAT. Many producers argued that as an organisation, AUSMEAT is heavily influenced (or dominated) by processors.²¹ Questions were also raised about the relationship between processors, meat retailers, the AUS-MEAT carcass assessment

15 Mr Neil Paulet, *Submission 42*.

16 Mrs Maureen Cottam, *Submission 25*, p. 2.

17 Mrs Maureen Cottam, *Submission 25*, p. 2.

18 Mr Gary Warren, *Committee Hansard*, 4 August 2015, p. 9.

19 Mrs Maureen Cottam, *Submission 25*, p. 2.

20 <https://www.ausmeat.com.au/>, accessed 5 March 2017.

21 Mr Ian McCamley, *Committee Hansard*, 4 August 2015, p. 18.

process and its internal auditing program.²² It was also argued by some industry stakeholders that processors are able to exert undue influence over MLA.²³

ACCC's Cattle and beef market study

4.15 Following its investigation of the cattle and beef supply chain, the ACCC indicated that it too had concerns about various aspects of the grading system.²⁴

4.16 The adoption of technology (which would allow OCM to be introduced as a matter of priority) was one of a series of recommendations made by the ACCC in relation to grading technology. In addition to recommending that the technology be introduced quickly, it was argued that the processing sector should take the lead in its introduction. The ACCC also recommended that:

- the new technology be underpinned by a robust transparency and integrity regime;
- processors should develop and implement an independent dispute resolution process, (with AUS-MEAT taking on the role of an independent and binding arbiter);
- the industry implement a more robust auditing system for carcase grading;
- AUS-MEAT implement random and unannounced audits (in addition to the current audit regime); and
- buyers, agents and producer representatives (led by the CCA) should increase the level of communication and education regarding the current grading and feedback systems to assist producers to better understand cattle market trends (and the reasons why particular cattle attract a premium price).²⁵

4.17 The ACCC's Recommendations – 6 to 9 – which relate to OTH transactions and grading, are detailed in Chapter 2.

Objective carcase measurement (OCM)

4.18 Prior to the tabling of the ACCC's interim report in October 2016, MLA had announced the establishment of a project to develop new technology which would allow for the objective measurement of both sheep and beef carcasses. The following provides an overview of events which have taken place over the past year in relation to the development of new measurement technology.

22 Livestock SA, *Submission 81*, p. 1.

23 Australian Beef Association, *Submission 23*, p. 13 and Mrs Linda Hewitt, Australian Beef Association, *Committee Hansard*, 27 August 2015, p. 67.

24 Beef Central article, *MLA to drive \$150 million rollout of objective carcase measurement in 90 abattoirs*, 10 November 2016.

25 Australian Competition and Consumer Commission, *Cattle and beef market study – Interim Report*, October 2016, p. 12.

Chronology of events

April 2016

4.19 In April 2016 an announcement was made regarding the commencement of a joint project. The project, to be led by MLA, was designed to accelerate the development of new technology, including x-ray and 3D digital imaging.²⁶ MLA indicated that it had received a \$4.8 million grant from the Australian Government "to develop advanced measurement technology that will transform the meat industry".²⁷ MLA also indicated that it had been funded through the *Rural Research and Development for Profit Program*. Under the funding agreement, three measurement technologies would be developed for use on farm and within the processing sector to "objectively determine carcass composition and accurately determine eating quality".²⁸ It was argued that for processors, the technology would assess lean meat yield, allow for precise valuing of carcasses, and assist in making market-based cutting and deboning decisions.

10 November 2016

MLA announcement

4.20 On 10 November 2016, MLA announced at its Annual General Meeting in Hahndorf what it described as a 'revolutionary plan' to install OCM technology across the Australian meat industry.²⁹ As a first step, MLA would create a platform to install Stage One of the new OCM technology into all AUS-MEAT registered slaughter facilities in Australia.

4.21 In making the announcement, MLA Managing Director, Mr Richard Norton noted that the ACCC's interim report supported the CCA's "focus on how the competitiveness of Australian beef and cattle markets could be improved by the adoption of OCM".

4.22 According to the MLA, the gains to be made from the technology revolved around the scientific measurement of saleable meat yield, industry-wide productivity gains through processing automation, genetic improvement and data-based on-farm decision making. It was suggested that the technology would:

26 Collaborating with MLA on the project were Australian Pork Limited; Scott Technology Ltd; Murdoch University; University of Technology Sydney; Department of Agriculture and Food, Western Australia; Victorian Department of Economic Development, Jobs, Transport and Resources; NSW Department of Primary Industries; South Australian Research and Development Institute; JBS Australia; Australian Cattle and Beef Holdings; Australian Country Choice Pty Ltd; Teys Australia Management Pty Ltd; Harvey Beef, Carometric; PorkScan Private and the University of Melbourne.

27 MLA Media Release, *New technology investment to "transform" meat industry*, 14 April 2016.

28 MLA Media Release, *New technology investment to "transform" meat industry*, 14 April 2016.

29 The following section is based on information contained in an MLA Media Release, *MLA to install objective measurement across industry*, 10 November 2016.

- assist the Australian red meat industry to continue to be able to compete in global markets;
- drive a shift from the current subjective grading of lamb and beef to a new system of livestock production and marketing where producers can be transparently rewarded against objective data and value measurements;
- reduce wastage and workforce injuries within processing plants and boost productivity through the use of accurate, objective measurement and automation;
- ensure that data generated from OCM is accessible and easy for producers to use;
- further enhance the integrity of the grading system and form the basis of MLA's 'digital strategy'; and
- in the longer term, reduce the cost of grading to the industry.

4.23 At the time of the 10 November 2016 announcement, MLA also stated that:

- the small-stock DEXA technology (for sheep) was ready for commercial deployment;
- the research and development for beef technology was nearing completion (and should be ready for commercial installation trials early in 2017); and
- under the plan, AUS-MEAT would be the whole-of-chain regulator and would calibrate the system, conduct the audits and provide a complaints resolution process.³⁰

4.24 In describing how the new technology would be financed, Mr Richard Norton explained that MLA would "acquire a commercial loan on behalf of industry to finance the \$150 million one off cost of installing DEXA technology in up to 90 AUS-MEAT registered slaughter facilities".³¹

4.25 It was noted that MLA had received in-principal support from the Minister for Agriculture and Water Resources for the introduction of OCM technology across industry. MLA also indicated that it would continue to consult the industry's peak councils about how best to structure the one-off cost of its introduction.

Beef Central article

4.26 An article published in *Beef Central* on the same day³² suggested that it would actually be up to each abattoir to decide whether it wanted to install and use the technology. It was noted that some of the larger processors were already down the

30 MLA Media Release, *MLA to install objective measurement across industry*, 10 November 2016.

31 MLA Media Release, *MLA to install objective measurement across industry*, 10 November 2016.

32 The following section is based on information contained in a *Beef Central* article, *MLA to drive \$150 million rollout of objective carcass measurement in 90 abattoirs*, 10 November 2016.

path of OCM technology for their own commercial purposes, and it remained to be seen whether the particular technology being proposed by MLA would fit their objectives (or indeed be welcomed by them).

4.27 It was noted that both the CCA and the SCA had been consulted by MLA, and both organisations had indicated their support for the proposed project.

14 November 2016

4.28 On 14 November 2016, the CCA announced that it welcomed MLA's commitment to OCM technology. The CCA described MLA's intention to install DEXA technology in AUS-MEAT registered slaughter facilities across Australia as another positive step towards OCM for the beef industry.

4.29 The CCA also argued that ongoing collaboration would only be successful "if the costs associated with reducing risk and increasing reward are equitably shared, as well as any benefits".³³

8 December 2016

4.30 MLA announced that a consultation workshop would take place in Brisbane on Monday, 12 December 2016.³⁴ The workshop would provide an opportunity for industry members to learn more about MLA's work with industry, research institutes and technology providers in developing the application of DEXA as an OCM tool. The workshop included the following panel of speakers:

- Mr Richard Norton, MLA Managing Director;
- Mr Sean Starling, MLA's General Manager, Research Development and Innovation;
- Professor David Pethick, Murdoch University;
- Dr John Langbridge, Manager Industry and Corporate Affairs, Teys Australia; and
- Mr David Hill, CCA, board member and producer.

4.31 In announcing the Brisbane workshop, MLA acknowledged that DEXA technology had been used in other sectors (including the medical sector) for many years. It emphasised that the small-stock DEXA technology was ready for commercial deployment, and that the research and development for beef technology was nearing completion.

31 January 2017

4.32 On 31 January 2017 it was reported in *Queensland Country Life* that the processing company Australian Country Choice (ACC) was examining the DEXA technology in its Cannon Hill processing plant. General Manager, Mr David Foote,

33 Cattle Council of Australia Media Release, *Another step towards objective carcass measurement*, 14 November 2016.

34 The following section is based on information contained in an MLA Media Release, *Red meat industry to discuss DEXA technology rollout*, 8 December 2016.

indicated that the company has a major red meat supply agreement with Coles supermarkets and has been looking very closely at ways in which the DEXA technology could improve processing operations.³⁵

22 February 2017

4.33 *Queensland Country life* reported that both AMIC and AMPC had rejected the idea of an industry-wide roll-out of the DEXA technology.³⁶ The article quoted a 20 December 2016 letter – widely circulated among peak industry bodies – in which AMIC Chairman, Lachie Hart, stated that:

- the processing sector was not able to support the P150 project (DEXA) in its current form;
- there were many conceptual, methodological and policy-related deficiencies in the proposal (the least of which was that there was no evidence of systemic deficiencies in the grading and reporting system);
- the fact that producers have complaints about feedback does not mean that those complaints are justified and supported by evidence;
- the adoption of OCM technology is one way of addressing specific issues, but this is subject to the technical and commercial viability of the technology in practical processing conditions; and
- the MLA proposal appears to view OCM as a means of transforming the entire supply chain which is entirely disproportionate to the nature and dimension of the issues to be addressed.

4.34 The February article also reported that:

- processing companies – including JBS and Teys Australia – would be forced to 'go it alone';
- JBS had already 'proven' the technology for sheep carcass processing and is currently trialling the technology with beef carcasses;
- Teys was involved in the MLA trial work and had announced (in February 2017) that it would introduce the technology into its Rockhampton plant; and
- Coles supplier, ACC has indicated its intention to introduce the new technology.

4.35 The article pointed to the fact that despite AMIC 'claiming to be' representative of the processing sector, neither JBS nor Teys are members of the organisation – although they are required to pay levies to AMPC.

35 Queensland Country Life article, *ACC is looking at the adoption of DEXA technology at Cannon Hill processing plant*, 31 January 2017.

36 The following section is based on information contained in a Queensland Country Life article, *DEXA: Objective carcass technology roll-out at risk*, 22 February 2017.

4.36 It was noted that producers are currently being asked to consider bankrolling the \$150 million cost of rolling out DEXA in all Australian processing plants from industry funds. Interestingly the article also submitted that, in return for their investment, producers would 'own' the data gathered by the OCM.

4.37 However, it was also suggested that there are other models under consideration for funding the roll-out. These included a shared funding arrangement with processors – using AMPC levy reserves – as well as possible federal government funding.

23 February 2017

4.38 An article published in *Beef Central* reported that processors had rejected MLA's proposal because they were not convinced that an industry-wide investment was justified. It was also noted that the processors were not necessarily opposed to OCM as such, but were simply objecting to it in its current form.

4.39 MLA's prior statements regarding OCM technology for beef being close to 'operations ready' were questioned, with some large processors claiming that a "commercially viable system for beef is still years away".³⁷ Further, it was noted that one of Australia's largest processors was continuing to trial and 'prove-up' OCM technology in its plants, but had reported that there was "still a long way to go"³⁸ due to the complexity in the beef carcass.

24 February 2017

Ernst and Young Review

4.40 The following day – 24 February 2017 – it was reported that AMPC and AMIC had jointly commissioned Ernst and Young (EY) to undertake an independent review of MLA's plan to introduce OCM. It was noted that the review team would be headed by Mr Andrew Metcalfe, former Secretary of the Department of Agriculture and Water Resources.³⁹

4.41 In announcing the review, AMPC Chairman, Mr Peter Noble, was reported as saying that:

Without adequate consultation, cost-benefit analysis or due diligence there can be no level of comfort in investing substantial industry funds in DEXA technology which is yet to be sufficiently proven.⁴⁰

37 Beef Central article, *Processors reject MLA's objective carcass measurement proposal – in its current form*, 23 February 2017.

38 Beef Central article, *Processors reject MLA's objective carcass measurement proposal – in its current form*, 23 February 2017.

39 Beef Central article, *Processor bodies commission independent study into carcass measurement technology*, 24 February 2017.

40 Beef Central article, *Processor bodies commission independent study into carcass measurement technology*, 24 February 2017.

4.42 EY was requested to provide an independent assessment of whether MLA's proposal to install DEXA units in AUS-MEAT registered processing facilities (Project 150) is a "prudent operational and commercial decision for the industry at this time". The review also requested EY to evaluate the "strategic, financial, technical, commercial, operational, governance and implementation aspects of what has been proposed".⁴¹

4.43 Further, it was noted that AMPC had already invested (and committed to invest) \$6.6 million of processor levy funds in jointly-funded projects related to carcass measurement technologies. AMIC Chairman, Mr Lachie Hart, was also reported as saying that:

...capital investment of the scale proposed in Project 150, that is without appropriate governance, consultation and feasibility assessments could encumber an industry already facing unprecedented cost pressures related to regulation, utilities, livestock and labour.⁴²

4.44 It was reported that processors would be looking to the independent trials undertaken by Teys at its Rockhampton plant which, it was suggested, would better inform the industry as to the merits of the technology and provide the necessary confidence on which to base investment decisions.

AMIC and AMPC in 'damage control'

4.45 In announcing the appointment of EY to evaluate the feasibility of DEXA, *The Land* suggested that AMIC and AMPC were in 'damage control' after having been placed under the spotlight by the leaking of Mr Hart's 20 December 2016 letter.

4.46 It was also suggested that the AMIC Chairman's refusal to support the MLA roll-out in its current form and the EY review were 'delaying tactics' which were:

...set against a backdrop of both AMPC and AMIC agreeing to the introduction of OCM by 2020 – as stated in the Meat Industry Strategic Plan.⁴³

MLA response

4.47 On 24 February 2017, MLA responded to AMIC and AMPC in an article in *ABC Rural* by saying that transparency is the number one issue for producers. Mr Norton indicated that he had met with "14,000 key levy payers in the past two years who want objective carcass measurements installed in the meatworks".⁴⁴

41 Ernst and Young, *Independent Review of the proposed installation of DEXA in AUSMEAT registered processing facilities, Issues Paper #2*, p. 4.

42 Beef Central article, *Processor bodies commission independent study into carcass measurement technology*, 24 February 2017.

43 The Land article, *Processor bodies put slow chop on DEXA*, 24 February 2017.

44 ABC Rural, *Meat processors say rollout of objective carcass measurement technology not prudent until commercially tested*, 24 February 2017.

4.48 In response to concerns that a feasibility study had not been conducted, Mr Norton stated that the Meat Industry Strategic Plan (MISP) released two years previously contained economic modelling around the feasibility of OCM and what industry needed to do to reduce some of the high costs of processing. Mr Norton went on to say that the "whole of industry has to decide whether or not they want MLA to take out the commercial loan".⁴⁵

27 February 2017

4.49 CCA announced that it was backing MLA's plan to install "the ground breaking objective carcass measurement system DEXA on a voluntary basis in Australian meatworks".⁴⁶

4.50 Councillor David Hill said the CCA would continue to work with MLA, other peak councils and industry stakeholders on how best to structure the \$150 million one-off cost of the roll-out. Mr Hill also indicated that while the MLA model centres on producers funding the roll-out of DEXA, the method of funding is yet to be determined.

8 March 2017

4.51 An article published in the *Weekly Times* reported that in announcing its plan to roll-out OCM technology in 90 AUS-MEAT accredited processing plants, it was MLA's intention to use levy funds to raise the \$150 million needed to fund the project. It was also noted that while the project would not go ahead without the full support of industry, Mr Norton argued that it is MLA's preference for a whole of industry roll-out rather than processors installing OCM technology on an individual basis. Mr Norton continued:

MLA's proposal was for data from DEXA (dual energy xray absorptiometry) units to be amalgamated and collated for the whole industry to use, while if processors pay for it they can share whatever data they want with the producer and not the whole supply chain.

If we funded it, we could have uniform DEXA in every processing unit that wanted one – it isn't mandatory – and then could collect all the data to come out of those DEXA units.⁴⁷

4.52 Mr Norton further argued that processors controlling the implementation of OCM could also lead to further concentration within the sector, and suggested that if the industry decides not to go ahead with a whole of industry funding model, there are enough processors now investing in these units "that they will have a huge range of data to gain a competitive advantage".⁴⁸

45 ABC Rural article, *Meat processors say rollout of objective carcass measurement technology not prudent until commercially tested*, 24 February 2017.

46 Queensland Country Life, *Cattle Council backs voluntary DEXA roll-out*, 27 February 2017.

47 The Weekly Times, *Objective carcass measurement: A matter of how*, 8 March 2017, p. 1.

48 The Weekly Times, *Objective carcass measurement: A matter of how*, 8 March 2017, p. 1.

4.53 Mr Mark Inglis, JBS' Farm Assurance supply chain manager, argued that OCM technology was the "biggest issue holding the lamb industry back".⁴⁹ Further, Mr Inglis stated that:

...while the DEXA technology in their Bordertown, South Australia, plant was primarily to run an automated cutting robot, it had the side benefit of providing more accurate prediction of lean meat yield: up to 88 per cent accuracy compared to the less than 20 per cent accuracy offered by fat palpitation.⁵⁰

4.54 It was noted that there appears to be a lack of clarity regarding whether OCM technology is ready for use. The Executive Officer of the ABA, Mr David Byard, for example stated that he had been assured that the OCM technology was not ready to be commercialised. At the same time, questions remain regarding machinery and intellectual property ownership in relation to MLA's proposal. Mr Byard argued that:

...common sense suggests a demonstration model would be a good starting point to show the capabilities of the equipment".⁵¹

24 March 2017

4.55 EY published its first issues paper on 24 March 2017. The one-page paper provided a brief overview of the independent review EY had been requested to undertake into the proposed \$150m installation of DEXA technology across AUS-MEAT registered processing plants – a project referred to as *Project 150*. EY's introduction to the review stated that:

Project 150's stated aim is to provide accurate and objective carcass grading through the use of objective carcass measurement (OCM) technology. On 10 November 2016, the announcement to install objective measurement across the industry, indicated that 'the initiative paves the way for scientific measurement of saleable meat yield, future value based marketing and industry-wide productivity gains through processing automation, genetic improvement and data-based on-farm decision making'. The DEXA independent review will be examining these claims.⁵²

28 March 2017

4.56 An article published in *Beef Central* included a statement from MLA's Mr Richard Norton. In the statement, Mr Norton announced the findings of a year-long examination of the value of adopting advances in objective measurement and systems across the red meat industry. The inquiry, which was jointly commissioned by MLA and AMPC, had been undertaken by Greenleaf, Miracle Dog Consulting and S. Williams Consulting.

49 The Weekly Times, *Objective carcass measurement: A matter of how*, 8 March 2017, p. 2.

50 The Weekly Times, *Objective carcass measurement: A matter of how*, 8 March 2017, p. 2.

51 The Weekly Times, *Objective carcass measurement: A matter of how*, 8 March 2017, p. 2.

52 Ernst and Young, *DEXA Independent Review: Issues Paper #1*, 24 March 2017, [p. 1].

4.57 Mr Norton noted that the 'Greenleaf Report' had identified a \$420 million potential annual benefit to the industry from the full adoption of objective measurement technology. The inquiry also found, however, that unless the roll-out of the technology was fast-tracked, "only \$72 million per annum of benefit is likely to be realised by 2020 on current rates of adoption".⁵³

4.58 Mr Norton also suggested that the report's findings had prompted MLA to work hard (with industry) to find solutions; and were also behind its proposal to fast track the adoption of DEXA technology as an objective measure of lean meat yield in meat processing plants.

4.59 The *Beef Central* article also included a statement from AMPC regarding the release of the first Independent Issues Paper on DEXA technology. Mr Noble told *Beef Central* that AMPC and AMIC had commissioned the EY review because they have a responsibility to their membership; to ensure that investments made on their behalf are thoroughly evaluated and that they deliver commercial benefits to the entire industry.

3 May 2017

4.60 EY released a report titled *Independent Review of the proposed installation of DEXA in AUS-MEAT registered processing facilities: Issues Paper #2* (Issues Paper 2).

4.61 The purpose of Issues Paper 2 was to invite further input from industry stakeholders regarding MLA's Project 150 proposal. As such, the paper provided a broad overview of Australia's red meat industry, examined various aspects of the MLA proposal and outlined the key issues being considered by EY, including:

- whether the proposed application of DEXA meets the needs of industry;
- whether consideration should be given to alternative OCM technologies;
- the costs associated with the implementation and operation of DEXA (as proposed by MLA);
- the commercial, contractual and financial considerations of the proposal – including intellectual property rights, data ownership etc;
- the identification of an 'industry standard' use of DEXA;
- the facilitation of data access for the industry;
- the benefits to be gained by the collection, storage and analysis of DEXA data;
- the benefits to processors of the proposed technology;
- the key implementation and operational considerations in relation to both small and large processing plants; and

53 Beef Central article, *MLA report says fast-tracking OCM worth \$420m, AMPC says more study needed*, 28 March 2017, [p. 2].

- the suitability of rolling out DEXA technology (following consideration of the options and the associated risks).⁵⁴

22 May 2017

4.62 MLA announced that it would proceed with its plan to install OCM systems across the red meat processing sector, despite the review commissioned by AMPC and AMIC.

4.63 MLA stated that it would be investing up to \$10 million to co-fund the installation of DEXA systems in sheep meat and beef meat processing plants following "multiple requests to accelerate the adoption of the technology".⁵⁵

4.64 Under the \$10 million co-funding project, MLA would be working with "willing partners to develop a single scientific measurement of lean meat yield".⁵⁶ MLA also signalled that the project would assist in the development of systems to collect and use information across supply chains for future research and development.

4.65 Mr Norton, noted that MLA was continuing to work with the PICs regarding its proposal to install stage one of the DEXA technology into all of the AUS-MEAT registered facilities who wanted it. Mr Norton also indicated that:

This \$10 million project that we've announced today is funded through the MDC [MLA Donor Company] and simply allows MLA and those companies who want to get on with implementing DEXA to do so.⁵⁷

4.66 Mr Norton went on to say that:

If the industry's peak councils and processors do decide to accelerate the adoption of objective carcase measurement across the industry through an investment of producer levies, we can do so.⁵⁸

Ernst and Young Review – final report

4.67 EY's *Independent Review of the proposed installation of DEXA in AUS-MEAT registered processing facilities* was officially released on 9 June 2017.

4.68 EY explained that it had approached the review in a consultative and collaborative way. In addition to conducting its own research and analysis, it had

54 Ernst and Young, *Independent Review of the proposed installation of DEXA in AUS-MEAT registered processing facilities, Issues Paper #2*, 3 May 2017, pp 6-7.

55 Sheep Central article, *MLA pursues DEXA roll-out with \$10 million red meat processor project*, 22 May 2017, [p. 1].

56 Sheep Central article, *MLA pursues DEXA roll-out with \$10 million red meat processor project*, 22 May 2017, [p. 1].

57 Sheep Central article, *MLA pursues DEXA roll-out with \$10 million red meat processor project*, 22 May 2017, [p. 2].

58 Sheep Central article, *MLA pursues DEXA roll-out with \$10 million red meat processor project*, 22 May 2017, [p. 2].

sought the views of various stakeholder groups, through interviews, surveys and seeking feedback to two issues papers.⁵⁹

4.69 The EY review found that OCM technology had been used successfully in relation to sheep and lamb processing and is currently being used to support automated beef processing by a major processor.

4.70 EY reported that the consultations undertaken as part of the inquiry revealed that there is general acceptance across the industry about the need for OCM. There was also a common view across stakeholders that the introduction of OCM could have the potential, over time, to restore some trust in commercial relationships and may lead to increased productivity across the value chain. At the same time, however, it was acknowledged that some questions about the technology had yet to be answered and that there is currently no industry consensus on these issues.⁶⁰

4.71 The review also acknowledged stakeholder concerns around whether the widespread installation of high cost capital equipment – owned by a Research Development Corporation (RDC) – at the post slaughter stage of processing plans, is an activity that should be undertaken by RDC's. It was argued that there are still some important questions to be answered regarding data collection, ownership and use of equipment and technology, and intellectual property rights. Some stakeholders also questioned whether the uptake of this type of technology should only be at the request of processors.⁶¹

4.72 The EY report concluded that DEXA technology has strong promise, and there may be a number of significant benefits to the collection and use of data derived from OCM technology. It was also argued, however that it is still unclear whether these benefits can be achieved on an industry-wide basis, with more proof needed to convince producers and processors that the technology could work for the entire red meat sector.

4.73 The report concluded that all the potential impacts on producers, processors and other industry stakeholders are yet to be identified and will need to be considered further. The review also found that:

...a significant amount of industry wide change management activity and stakeholder engagement is necessary: so that all stakeholders are clear on the potential impacts of the Proposal, not only for the broader industry, but for their specific businesses as well.⁶²

59 Ernst and Young, *Independent Review of the proposed installation of DEXA in AUS-MEAT registered processing facilities, Final Report*, 9 June 2017, p. 11.

60 Ernst and Young, *Independent Review of the proposed installation of DEXA in AUS-MEAT registered processing facilities, Final Report*, 9 June 2017, p. 15.

61 Ernst and Young, *Independent Review of the proposed installation of DEXA in AUS-MEAT registered processing facilities, Final Report*, 9 June 2017, p. 15.

62 Ernst and Young, *Independent Review of the proposed installation of DEXA in AUS-MEAT registered processing facilities, Final Report*, 9 June 2017, pp. 15-16.

4.74 In terms of taking the issue forward, the review argued that the "potential technological and data-driven advancements represent too important and transformative an opportunity to be missed".⁶³ It was also argued, however, that the "necessary level of shared purpose and collaboration for such transformational change"⁶⁴ does not as yet exist, and that:

...this area is one which requires overall industry participation and alignment. It impacts on both pre-competitive and competitive areas of the many processor and producer businesses involved. Being a "shared space" it thus needs to involve both key Research and Development Corporations and all industry representative bodies.⁶⁵

4.75 The report suggested that the ALMTech⁶⁶ program, which involves all RDC players, and/or the governance arrangements suggested by the OM Strategy Report⁶⁷, would appear to be the structures best placed to support these reforms.

EY recommendations

4.76 The EY report made the following recommendations:

1. The industry should advance OCM initiatives: (including the technologies to be researched and trialled, and potentially to be voluntarily deployed by processing companies according to their business model when commercially proven) in an open, consultative and collaborative manner and driven by a clear common purpose.
2. As these issues directly relate to the research and development activities of both the processing and production sectors, AMPC and MLA need to work together to achieve alignment, as they both have key roles in taking these initiatives forward.
3. One way to achieve recommendations (1) and (2) would be for industry governance arrangements relating to technological developments to be revitalized.

63 Ernst and Young, *Independent Review of the proposed installation of DEXA in AUS-MEAT registered processing facilities, Final Report*, 9 June 2017, p. 16.

64 Ernst and Young, *Independent Review of the proposed installation of DEXA in AUS-MEAT registered processing facilities, Final Report*, 9 June 2017, p. 16.

65 Ernst and Young, *Independent Review of the proposed installation of DEXA in AUS-MEAT registered processing facilities, Final Report*, 9 June 2017, p. 16.

66 ALMTech – refers to the 'Advanced measurement technologies for globally competitive Australian meat' (ALMTech) project, which was established in 2016 under the Commonwealth Government's Rural Research and Development for Profit program. The project focuses on supporting beef, sheep and pig farmers to have access to more accurate descriptions of the key attributes that influence the value of their livestock including: carcass lean meat yield, eating quality and compliance to market specifications.

67 The OM Strategy Report refers to: MLA/AMPC commissioned report prepared by Greenleaf, Miracle Dog Consulting and S. Williams Consulting: MLA, *Development of supply chain objective measurement (OM) strategy & value proposition to stakeholders*, March 2017.

4. To provide the necessary levels of transparency, there should be a series of conferences or open workshops to allow industry participants to be briefed by experts on progress with OCM to date; enabling a clear and agreed roadmap for the future to be established.
5. ALMTech should consider updating its work plan, timetable and key performance indicators.
6. AMPC and MLA, either through the ALMTech structure or in some other way, should work with AMIC and individual processing companies to explore how the potential benefits of an industry wide database of key objective measures could be achieved; and to consider its implications, including the impact on the intellectual property and commercial operations of individual processing companies.

4.77 In releasing the report, EY's Independent Review Leader, Mr Andrew Metcalfe, noted that EY had adopted a consultative and evidence-based approach to conducting its review and formulating its recommendations. Further, Mr Metcalfe argued that:

We have engaged extensively with major industry bodies, independent experts, and directly with a number of large and small producers and processors. We strongly recommend that these initiatives are taken forward as consultatively and collaboratively as possible, given the significant transformational change that is being considered by the proposal.⁶⁸

Response to EY report

4.78 Representatives of both AMPC and AMIC welcomed the findings and the recommendations contained in the EY report. AMPC Chairman, Mr Peter Noble, restated that the purpose of the review was to provide a fact-based assessment MLA's proposed roll-out of DEXA technology, and indicated that AMPC:

...stands ready with industry to provide the research, development and education in support of their voice and to answer the many questions raised by the review.⁶⁹

4.79 AMIC Chairman, Mr Hart reiterated AMIC's continued support for the use of technology for OCM and noted that that AMIC's views had been "specifically endorsed through Strategic Recommendation 1 of the report".⁷⁰ Mr Hart also stated that AMIC:

...plans to form a specialised OCM/DEXA committee from within its beef and sheep/goat policy groups to manage progression of the technology

68 Beef Central article, *Important questions remain over DEXA adoption, report finds*, 12 June 2017, [p. 3].

69 Beef Central article, *Important questions remain over DEXA adoption, report finds*, 12 June 2017, [p. 3].

70 Beef Central article, *Important questions remain over DEXA adoption, report finds*, 12 June 2017, [p. 3].

within industry and provide direction to AMIC executive on responses, positions and partnerships regarding OCM/DEXA.⁷¹

4.80 In responding to the release of the EY report, the CCA called for MLA and AMPC to jointly invest in, and accelerate, the roll-out of DEXA technology.⁷²

4.81 The CCA President, Mr Howard Smith, argued that the EY report reflected the findings of the Greenleaf Report; which found that the potential benefits of the technology relating to measuring lean meat yield were shared between producers and processors.⁷³

4.82 Mr Smith also highlighted that OCM technology had been recommended by the ACCC, the Meat Industry Strategic Plan (2020) and MLA's Strategic Plan (2016-2020). He stressed the need to fast track the roll-out of the technology "in order to realise the full financial benefits for the industry"⁷⁴, and argued that the adoption of DEXA technology would provide a number of market advantages and would "change the way we do business for the better".⁷⁵

4.83 In mid-June 2017, MLA formally sought agreement from AMPC to jointly fund an accelerated roll-out of DEXA OCM technology. MLA proposed that the \$150 million cost of installing DEXA units (in up to 90 AUS-MEAT accredited facilities) should be split between the processing and production sectors. MLA argued that its proposal reflected "the shared benefit that the new system for accurately measuring lean meat yield will provide".⁷⁶

4.84 On 27 July 2017, *Beef Central* reported that the AMPC board had given its unanimous support to MLA's request for processor levies to jointly fund an accelerated \$150 million of DEXA technology. MLA's joint funding proposal included:

- 50 percent from the MLA Donor Company (which comprises matching Government R&D funding);
- 25 percent private funding from each processor who installs a DEXA unit under the voluntary roll-out;
- 12.5 percent producer levy funding; and

71 Beef Central article, *Important questions remain over DEXA adoption, report finds*, 12 June 2017, [p. 4].

72 Beef Central article, *MLA seeks formal agreement with AMPC to jointly fund DEXA roll-out*, 14 June 2017, [p. 3].

73 Beef Central article, *MLA seeks formal agreement with AMPC to jointly fund DEXA roll-out*, 14 June 2017, [p. 3].

74 Beef Central article, *MLA seeks formal agreement with AMPC to jointly fund DEXA roll-out*, 14 June 2017, [p. 3].

75 Beef Central article, *MLA seeks formal agreement with AMPC to jointly fund DEXA roll-out*, 14 June 2017, [p. 3].

76 Beef Central article, *MLA seeks formal agreement with AMPC to jointly fund DEXA roll-out*, 14 June 2017, [p. 3].

- 12.5 percent processor levy funding.⁷⁷

4.85 The AMPC board did, however, qualify its support for the proposal by suggesting that the "number of plants willing to 'opt-in' and the corresponding funding in question were still very fluid and, as such, the AMPC Board decided that greater clarity was required before finalising the exact extent of its specific commitment".⁷⁸

4.86 The AMPC board did, however, confirm its support for the newly formed red meat industry OCM Taskforce being led by industry expert Gary Burrige. AMPC also agreed to jointly co-fund with the MLA, the OCM Taskforce request for an independent review on the plant per plant costings associated with DEXA's implementation. It was noted that the review is expected to be completed within three months.

4.87 Further, it was reported that it would "now be up to peak industry councils to decide on whether levies should be used for this purpose", and that while the SCA, AMIC and CCA have all expressed support for OCM technology in the past, they had not yet given a firm commitment to "spending their sector's levies until they see the full financial details of the plan".⁷⁹ It was also noted that the diversion of funds into the OCM/DEXA project could mean that some existing programs would be displaced.

4.88 At the committee's August 2017 public hearing, MLA Managing Director, Mr Richard Norton advised the committee that over the past ten years, MLA had been working to reduce the cost of production – particularly in the processing sector.

4.89 Mr Norton told the committee that MLA has also been working toward providing transparency through the processing sector, and argued that applying objective measures would provide producers with independent data about their livestock. Further, Mr Norton argued that while DEXA technology represents only one piece of the jigsaw puzzle – it represents a very large piece – which will ultimately provide producers with transparency through objective measurement.⁸⁰

4.90 The committee questioned MLA representatives about the oversight measures that would be required to be implemented following the introduction of DEXA – particularly in relation to nationally consistent inspection and calibration of the technology.

4.91 The committee was advised that each DEXA unit will contain a certification block that will calibrate the machinery automatically, which will mean that processors will not be reliant on operational staff to do the calibration on a day-to-day basis. MLA representatives told the committee they envisage that AUS-MEAT will be the body which will verify, manage and control the certification blocks. AUS-MEAT will

77 Beef Central article, *AMPC backs MLA's DEXA rollout plan*, 27 July 2017, [p. 1].

78 Beef Central article, *AMPC backs MLA's DEXA rollout plan*, 27 July 2017, [p. 2].

79 Beef Central article, *AMPC backs MLA's DEXA rollout plan*, 27 July 2017, [p. 1].

80 Beef Central article, *Senators frustrated at lack of grassfed cattle restructure progress*, 10 August 2017, [p. 3].

also keep a licence number on each block issued to specific facilities and then, as required, replace the certification block.⁸¹

4.92 MLA General Manager, Mr Sean Starling, acknowledged the possibility that any measurement device could provide a false output, and told the committee that:

...it's the practices and the operating procedures you put behind how it's calibrated, how it's used and how it's certified that hopefully underpin any measurement device. DEXA would be no different.⁸²

4.93 The committee also sought an update on the progress being made during trials of the DEXA technology and asked whether it was intended to calibrate the machines after each unit of inspection:

Mr Norton: If that is possible, that would be best practice.

Senator O'Sullivan: Mr Starling, you're saying that there's technology that's being trialled – in the development stage – with the intent to make that possible?

Mr Starling: That's correct.

Senator O'Sullivan: Do you know what stage of development it is in?

Mr Starling: In the design phase, on paper, ready to be trialled.

Senator O'Sullivan: Are you brave enough to provide a time frame for when we might know whether or not it's possible to use that technology?

Mr Starling: By Christmas time – this Christmas.⁸³

4.94 Following MLA's response, the committee indicated that it would be keeping a watching brief on the roll-out of the technology, and requested MLA representatives to keep the committee informed of any changes to the timetable for the DEXA roll-out.⁸⁴

Committee comment

4.95 The committee has – over a period of years – conducted numerous inquiries and examined various aspects of the red meat industry's grading system. Unfortunately, the committee's current inquiry has only served to highlight the fact that while advances have been made in terms of measurement technology, the industry is no closer to reaching a common viewpoint about the benefits (or otherwise) of OCM technology.

81 Mr Sean Starling, General Manager, Research, Development and Innovation, Meat and Livestock Australia, *Committee Hansard*, 10 August 2017, p. 4.

82 Mr Sean Starling, General Manager, Research, Development and Innovation, Meat and Livestock Australia, *Committee Hansard*, 10 August 2017, p. 5.

83 Mr Richard Norton and Mr Sean Starling, Meat and Livestock Australia, *Committee Hansard*, 10 August 2017, p. 7.

84 Senate Rural and Regional Affairs and Transport References Committee, *Committee Hansard*, 10 August 2017, p. 7.

4.96 The inquiry has underlined the extent to which the lack of a common understanding, vested interests and a lack of shared purpose can hinder industry cooperation, complicate the process of finding solutions to problems, and delay the implementation of necessary reforms.

4.97 Following its study of the cattle and beef supply chain, the ACCC also detailed its concerns about various aspects of the grading system. The ACCC made a series of recommendations in relation to grading, and argued for the implementation of technology which would facilitate the introduction of OCM as a matter of priority.

4.98 In addition to recommending that the introduction of OCM technology should be prioritised by the industry, the ACCC argued for the processing sector to take the lead in its introduction.

4.99 The committee also notes that by forging ahead with the development and introduction of DEXA technology, MLA pre-empted the findings of the ACCC's *Cattle and beef market study*; a study which ultimately recommended that the processing sector should lead the industry through the process of introducing OCM technology.

4.100 In announcing its decision to invest \$10 million to co-fund the installation of DEXA systems in sheep meat and beef meat processing plants, the committee also notes that MLA pre-empted the findings of the study conducted by EY and jointly funded by AMIC and AMPC.

4.101 While it would appear that MLA has the CCA's support in making all of these decisions, the committee questions the extent to which either of these organisations consulted with industry stakeholders – including levy payers – to gauge their views. This is of particular concern to the committee, given that the EY report concluded that all the potential impacts (of OCM technology) on producers, processors and other industry stakeholders had yet to be identified. The EY report emphasised that the changes being proposed are both significant and transformational, but that any new initiatives need to be taken forward as consultatively and collaboratively as possible.

4.102 Further, the committee notes that in its attempts to inform stakeholders – particularly producers – about OCM technology, MLA continues to state that the technology will provide greater price transparency. In making this assumption, MLA has also suggested that producers would be granted ownership of both the technology and the data it is capable of providing.

4.103 The committee acknowledges that the industry-wide roll-out of DEXA technology appears inevitable. The committee also notes, however, that given that both taxpayer and levy-payer money is being used to fund the roll-out of DEXA, it is vital that all sectors of the red meat industry benefit from its introduction.

4.104 The committee supports greater transparency in the grading system, and accepts that OCM technology is one way of addressing some of the problems that currently exist in this area. The committee is aware, however, that while the technology has been tested for sheep carcass processing, it is yet to be completely tested for use in beef carcasses. It is also noted that the technical and commercial viability of the technology has yet to be assessed.

4.105 The committee is firmly of the view that it is vital that the data provided to producers through the installation of the new DEXA technology is nationally consistent. The committee is also clear in its view that the installation, inspection, calibration and replacement of the new DEXA technology should be overseen by an expert body.

4.106 The committee notes the evidence provided to the inquiry, and acknowledges that industry stakeholders largely accept that AUS-MEAT is the appropriate body to have responsibility for the oversight of the new DEXA technology. However, given the committee's long-held concerns about AUS-MEAT and its Australian Meat Industry Language and Standards Committee (AMILSC) the committee notes that it has reservations about this role being undertaken by AUS-MEAT.

4.107 The committee is, therefore, of the view that a review of AUS-MEAT's operations and capabilities needs to be conducted. Such a review would ascertain whether it is in fact the most appropriate organisation to provide structured and independent oversight of the installation, inspection, calibration, replacement and quality assurance auditing processes in relation to the new DEXA technology.

Recommendation 3

4.108 The committee recommends that the Department of Agriculture and Water Resources conduct a review into the operations and capability of AUS-MEAT to determine whether it is the most appropriate body to oversight the installation, inspection, calibration, replacement and quality assurance auditing processes of the new DEXA technology. The review should also identify what reforms and resources AUS-MEAT would require to fulfil this role.

4.109 The committee further notes that the installation of the new DEXA technology will also require the establishment of a national complaints resolution mechanism.

4.110 The committee also notes that under current arrangements, it remains unclear who will have ownership – and ultimate control – over the technology. The committee is therefore, very concerned about the prospect that producers may once again see assets that they have made a significant financial contribution to, being controlled by processing companies.

4.111 At this point, it is worth noting that in its *Meat Industry Strategic Plan: MISP2020*, which was released in September 2015, RMAC acknowledged that the "biggest non-economic challenge facing our industry is cultural change".⁸⁵ RMAC further argued that:

...this is a far greater task than delivering any related technologies. Our enterprises, supply chains and industry as a whole must engender, support and reward a business and customer focus. Industry organisations must lead by example in promoting collaboration and transparency across our

85 Red Meat Advisory Council, *Meat Industry Strategic Plan: MISP 2020*, 14 September 2015, p. 12.

industry. These are essential criteria if we are able to fully realise the value on offer in *MISP 2020*, and if we are to cement community and consumer – and levy payer – confidence in the industry.⁸⁶

4.112 The committee agrees with RMAC's assessment regarding the need for cultural change. The committee also points to the history of grading and OCM in the red meat industry as a prime example of an initiative that is being impeded by vested interests and a lack of common understanding. The events described above clearly demonstrate to the committee that, regardless of any technological advances that can be made in relation to OCM, there is also a need for common agreement and consensus across the industry. Without industry agreement on an integrity regime – based on transparent, consistent standards, that would underpin the implementation and use of this technology – grading and OCM will continue to be initiatives about which there is disunity and divide.

86 Red Meat Advisory Council, *Meat Industry Strategic Plan: MISP 2020*, 14 September 2015, p. 12.

Chapter 5

Red Meat Memorandum of Understanding

Origins and purpose

5.1 The *Australian Meat and Livestock Industry Act 1997* (Act) provides the legislative framework for the structural and funding arrangements of the red meat industry and its marketing and R&D activities. At the time of the originating bill's introduction, the Minister for Primary Industries and Energy, the Hon John Anderson MP, noted that the bill marked the final steps towards "empowerment by providing the industry with a structure which offers ownership and management of its own affairs".¹

5.2 In his second reading speech, Minister Anderson detailed the findings of a 1996 joint industry and government meat and livestock industry reform task force, which was responsible for reviewing the then *Meat and Live-stock Industry Act 1995*. More than twenty-one years on, and the findings of the 1996 task force are as relevant today:

The task force found that the current statutory arrangements, which had worked well in the past, needed to be adjusted to deliver what industry required for the future. Prevailing and future commercial realities demand a structure which can deliver more flexible and focused commercial programs and operations. A sense of industry ownership and deeper involvement by levy-paying stakeholders is also required.²

5.3 The passage of the *Australian Meat and Livestock Industry Act 1997* (Act) led to the establishment of the Red Meat Advisory Council (RMAC) and the three incorporated companies, MLA, AMPC and Livecorp. While the red meat industry's structural arrangements are set out under the Act, it is the Red Meat Industry Memorandum of Understanding (MOU) that underpins these arrangements.

5.4 Providing linkages between the three corporations, together with the Commonwealth Government, Peak Industry Councils (PICs) and RMAC, the MOU was designed to "achieve cooperation in the overall interests of the red meat industry".³

5.5 As noted by the Department of Agriculture and Water Resources (the department), the MOU incorporated the definition of agreed roles and responsibilities; funding, planning and service delivery arrangements; the Meat Industry Strategic

1 The Hon John Anderson MP, Minister for Primary Industries and Energy, *House of Representatives Hansard*, 1 October 1997, pp. 8845-6.

2 The Hon John Anderson MP, Minister for Primary Industries and Energy, *House of Representatives Hansard*, 1 October 1997, p. 8846.

3 Australian National Audit Office, *Restructuring of Meat and Livestock Statutory Organisations*, 1998, p. xi, https://www.anao.gov.au/sites/g/files/net616/f/ANAO_Report_1997-98_50.pdf (accessed 16 May 2017).

Plan; industry reserves; research and development; and the seven schedules.⁴ The MOU committed all industry sectors to the principles laid down in the Meat Industry Strategic Plan (MISP).

5.6 As part of its report on the 1997-98 reforms and restructure, the Australian National Audit Office (ANAO) commented that:

The policy framework for the new structural arrangements was defined by the Government. The new arrangements are designed to minimise Government involvement in industry affairs, empower industry in running its own affairs and encourage ownership and leadership by industry. The Government did not prescribe the operational details of the new structures. The latter were to be the responsibility of the industry. Remaining key linkages involving Government were to be established in the MoU and through Deeds of Agreement directing appropriate use and accountability for compulsory levies, industry reserves and Commonwealth matching funds for R&D with the new companies.⁵

Peak Industry Councils (PICs)

5.7 Under the MOU, each PIC is responsible to "provide leadership, formulate policies, set strategic imperatives and agree overall levels of expenditure" for the whole of the industry sector it represents. Another key role of the PICs under the MOU is to "co-operate through RMAC with other Peak Industry Councils in developing a vision and strategic imperatives for the industry in consultation with MLA through MISP".⁶ In addition, the PICs are tasked with developing "jointly with MLA goals for achieving the vision and strategic imperatives for the industry sector it represents".⁷

5.8 Minister Anderson noted in his second reading speech that while there will always be dissenters and detractors of any systems put in place, "the peak councils are expected to be as broadly representative of their sectors' interests as possible".⁸

5.9 In the years since the introduction of the 1997-98 reforms, red meat industry PICs have faced numerous challenges; including the provision of effective representation and a declining membership base.⁹ Part of the challenge for PICs such

4 The seven schedules include RMAC, joint and core functions, AUS-MEAT Ltd, SAFEMEAT, funding, crisis and issues management, and intellectual property. Department of Agriculture and Water Resources, *Red meat livestock industry structure*, 2016, <http://www.agriculture.gov.au/ag-farm-food/meat-wool-dairy/red-meat-livestock/facts> (accessed 17 May 2017).

5 Australian National Audit Office, *Restructuring of Meat and Livestock Statutory Organisations*, 1998, p. xii, https://www.anao.gov.au/sites/g/files/net616/f/ANAO_Report_1997-98_50.pdf (accessed 16 May 2017).

6 Red Meat Industry MOU – Version 4 (October 2010), p. 8.

7 Red Meat Industry MOU – Version 4 (October 2010), p. 8.

8 The Hon John Anderson MP, Minister for Primary Industries and Energy, *House of Representatives Hansard*, 1 October 1997, p. 8847.

9 Beef Central article, *Life still in grassfed cattle restructure*, 21 January 2016.

as the CCA has been the diverse range of producers they are required to represent. With approximately 82,000 properties in Australia producing beef, the CCA has a considerable engagement and representation challenge.¹⁰

5.10 The challenges for PICs have been repeatedly identified, in evidence to the committee, in various industry reports and by those engaged in the industry. Representation has remained a primary issue. In March 2014, the Australian Farm Institute (AFI) released a report into the effectiveness of farmers' advocacy groups, which noted the considerable difficulties facing farmer representation and advocacy bodies in Australia "exemplified by declining membership, fragmentation, and perceived ineffectiveness".¹¹ This was followed in August 2014, by the publication of the Newgate Communication review of farm sector representation; which recognised that effective representation of the farm sector is impeded by structural issues, changing membership, revenue and restricted resources.¹² More recently, the Chairman of RMAC, Mr Ross Keane, noted in January 2016 that the "operating environment for Peak Industry Councils today is vastly different to that of the late 1990s".¹³

Red Meat Advisory Council (RMAC)

5.11 The Red Meat Advisory Council (RMAC) is primarily responsible for providing advice to government on issues affecting the whole industry. The directors of RMAC comprise the chairs of the PICs who serve as voting members. Under the terms of the MOU, RMAC serves as the custodian of both the MISP and the MOU. RMAC is also tasked with providing an interface for resolving sectoral differences, in a manner that does not adversely affect industry but rather, promotes the image and purpose of the industry.

5.12 While the role of the PICs on RMAC requires that they represent the interests of the industry more generally, in their daily capacity as Peak Industry Councils, they represent the views and interests of their members. However, the RMAC board represents a diverse range of interests – beef, sheepmeat and goat meat production sectors, exporters, feedlotter, retailers, wholesalers as well as livestock and boxed meat exporters – making it almost inevitable that these interests will collide. Questions have repeatedly been raised as to whether RMAC is capable of providing effective representation; particularly in relation to issues where an industry-wide consensus is not possible.

5.13 In its 2014 report on the grass-fed sector of the cattle industry, the committee recommended that the Minister for Agriculture and Water Resources disband RMAC.

10 Cattle Council of Australia, *Proposed New Structure and Budget*, 2015, p. 5.

11 Australian Farm Institute, *Opportunities to Improve the Effectiveness of Australian Farmers' Advocacy Groups – A Comparative Approach*, March 2014.

12 Newgate Communications, *The Newgate Review of the Future of Australian Farm Sector Representation*, August 2014.

13 Mr Ross Keane cited in Beef Central article, *Business analysis chosen to review peak industry council operations*, 29 January 2016.

In his response, the Minister indicated that RMAC would not be abolished because it had a function to "perform in administering the industry fund". He did, however, acknowledge that RMAC needed to "lift their game".¹⁴ Following the committee's recommendation, the government noted in its July 2015 response that:

The government does agree that improvements can be made to the efficacy of the Red Meat Advisory Council in terms of the delivery of its core mission and therefore notes the most beneficial course of action is to work with the organisation to make it more transparent and accountable to address the concerns raised in the inquiry.¹⁵

5.14 The committee is not satisfied that RMAC has demonstrated sufficient improvement in terms of efficacy or accountability over the past two years. There also remain longstanding concerns that the very structure of RMAC inhibits its role to effectively advocate for and represent an agreed industry position. The committee recognises that the role and responsibilities of RMAC requires a comprehensive review leading to either substantial restructure or abolition.

Changing circumstances

5.15 There is no doubt that market and industry circumstances have changed considerably since the 1997-98 reforms. A number of factors, including vertical integration, market share, an increasing concentration of supermarket power, and extended feed-lotting have transformed the industry's operating environment. In addition, the dynamics around consumer attitudes, growing competition from other protein sources, international trade arrangements, animal welfare challenges and technological developments will continue to have an impact on the industry's performance.

5.16 These changing industry dynamics and challenges have also placed considerable pressures on the industry's institutional and structural arrangements. RMAC has previously noted that the dramatic changes that have taken place since the 1997-98 reforms, have transformed the sectors that the structures were designed to service. It has been suggested that it would be rare that any representative structure that was designed nearly 20 years ago could, in the absence of any reform, continue to "serve its customers with optimal efficiency".¹⁶

5.17 In mid-2015, NH Food Australia Director, Mr Stephen Kelly, argued that given the MOU was established approximately 17 years ago, it was time that it was re-examined. Mr Kelly made the point that input into an MOU review should be sought

14 Beef Central article, The Hon Barnaby Joyce MP, Minister for Agriculture, *Opinion piece: Strengthening the future of the grassfed cattle industry*, 15 July 2015.

15 Australian Government response to the Senate Rural and Regional Affairs and Transport References Committee report: *Inquiry on industry structures and systems governing levies on grass-fed cattle*, July 2015, p. 6.

16 RMAC cited in Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 22.

not just from the MOU signatories but also from industry stakeholders and other interested parties.¹⁷

5.18 The extent to which these arrangements no longer reflect the realities of the industry is clearly evident in the relationship between the CCA and MLA. A primary role of the CCA is to guide and assess MLA's performance in the expenditure of grass-fed cattle levy funds. However, the CCA's resourcing constraints have made it extremely difficult, if not impossible, for the PIC to apply adequate scrutiny to, or to exert influence over, the well-resourced MLA.

5.19 A recent performance review of MLA (and the MLA Donor Company) conducted by ACIL Allen Consulting observed that the accountability arrangements outlined in the MOU "have proven to be complex and unclear". Further, the review argued that if partnerships under the MOU are to work effectively there needs to be a level of trust between MLA, AMPC and LiveCorp. ACIL Allen also indicated that in undertaking the review it had:

...received considerable feedback that relationships between MLA and AMPC have broken down and are largely a result of personality-based issues. Such relationships will need to be repaired so the effectiveness of these partnerships can be improved in the future.¹⁸

5.20 The recent developments in relation to OCM and the new DEXA technology demonstrate the complexity of the relationships between MLA, AMIC and AMPC and their respective levy payers.

5.21 There are conflicting views, for example, regarding the progress of OCM technology development. Several large processors claim that a commercially viable system for beef is still "years away", while MLA has continued to assert that the technology for beef is "close to being operations-ready". At the same time, AMIC assert that several of Australia's larger processors are already well advanced in their investigation of OCM technology "for their own commercial purposes", and have yet to determine whether the DEXA technology "will fit their objectives".¹⁹ Given these conflicting positions, it remains difficult for industry stakeholders to get a clear picture of progress.

5.22 Questions also remain about the decision making process in relation to levy-payer funds, and again, discussion around these issues elicit differing views.

5.23 In November 2016, MLA announced its proposal to install DEXA technology in 90 AUS-MEAT accredited abattoirs across Australia, at an estimated cost of \$150 million. Reports at the time indicated that processors had been "taken by surprise" by the announcement and claimed a "lack of prior consultation" over the proposal. In

17 Beef Central article, *Is it time to re-examine red meat industry MoU?* 31 July 2015.

18 ACIL Allen Consulting, *Performance Review of Meat and Livestock Australia and the MLA Donor Company*, April 2016, p. 99.

19 Beef Central article, *Processors reject MLA's objective carcass measurement proposal – in its current form*, 23 February 2017, [p. 2].

correspondence to MLA Chair, Dr Michele Allan, AMIC questioned MLA having responsibility for "using industry (or public) funds for such a purpose in the red meat processing industry".²⁰ Further, AMIC noted that:

The processing sector's service provider, AMPC, has no mandate to facilitate structural engineering in the industry in this fashion, and accordingly AMIC/AMPC could not endorse the use of funds for this purpose.²¹

5.24 It is also difficult to ascertain whether levy payers themselves have been consulted about the use of their funds. The EY review noted, for example, that:

...consultations with the industry suggest a considerable portion remain unconvinced that a technology investment of this size is the right solution to meet the needs of industry at this time. Should the consideration of possible solutions be undertaken and provided to the industry, it would provide them with the opportunity to participate in the decision making process on how best to meet the needs, opportunities and challenges which may or may not require a large technology investment.²²

5.25 The role of RMAC has also been repeatedly brought into question. As previously noted, one of the primary roles of RMAC is to provide advice to the Minister for Agriculture and Water Resources on cross-sector or whole-of-industry matters. At the same time, RMAC is responsible to develop and monitor the MISP which provides the industry's overarching strategic framework while serving as the custodian of the MOU.

5.26 As far back as 2002, the Rural and Regional Affairs and Transport (RRAT) legislation committee found that the existing RMAC structure inhibited its capacity to effectively represent the whole of industry. At that time, the committee recommended that the Minister for Agriculture [and Water Resources] engage the industry in open consultation on options for a reformed advisory structure.²³ However, it was the events surrounding the 2011 suspension of the live cattle export trade to Indonesia, which demonstrated the extent to which the current bodies and structures do not work. As the conflicting interests of different industry sectors came to the fore, RMAC was incapable of establishing a consensus position, and therefore unable to fulfil its advisory role to government. The committee concluded that:

The event brought to light not only the volatility of the trading environment but also raised serious questions about industry representation, preparedness and capacity to defend and promote the industry's interests in

20 Beef Central article, *Processors reject MLA's objective carcass measurement proposal – in its current form*, 23 February 2017, [pp 3-4].

21 Beef Central article, *Processors reject MLA's objective carcass measurement proposal – in its current form*, 23 February 2017, [p. 4].

22 Ernst and Young, *Independent Review of the proposed installation of DEXA in AUS-MEAT registered processing facilities, Final Report*, 9 June 2017, p. 13.

23 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 60.

an effective and coordinated manner. The need to respond to the ban brought with it confusion regarding the roles and responsibilities of MLA, CCA and RMAC. CCA argued that the ban revealed the extent of scope creep by MLA which had overreached into a 'strategic policy void' largely because CCA had been unable to effectively develop and manage strategic policy.²⁴

5.27 The committee's views were recently confirmed by RMAC's response to the ACCC's recommendation that it take on the leadership role in implementing industry reform as detailed in Chapter 2.

5.28 An ACIL Allen review of MLA which was completed in 2016, noted that MLA was operating under the framework of an outdated industry agreement. It also made the following observations regarding MLA's performance under the MOU:

The current red meat industry MOU is nearing two decades old and is a reflection of industry needs at that time. Stakeholders consulted for this review have identified a lack of underlying clarity in the MOU which drives industry behaviour and often unfair criticism of the organisation. The most telling example of this criticism came during the ban on live exports (during 2011) when MLA became the spokesman for industry and potentially extended its remit (which is unclear under the MOU) beyond an industry services body into the realm of an industry spokesman. While ACIL Allen agrees with this reading of the MOU (i.e. it does not clearly articulate who is responsible for what under the agreement), there is limited evidence to suggest that MLA has not met its performance/accountability obligations under the MOU and acted as a professional services body for the industry since 2010.²⁵

5.29 These events and dynamics demonstrate the extent to which the current industry structures and roles are not functioning as originally envisaged. As it would appear that the MOU is no longer the means through which cooperation with regard to the overall interests of the red meat industry can be achieved, it must be reviewed. As a first step, the roles and responsibilities of the PICs must be assessed. At the very least, these roles should be strengthened, particularly in relation to the service companies including MLA.

5.30 Following its years of inquiring into the red meat industry, the committee has come to the firm view that current arrangements no longer reflect the realities of the industry. In no way is this better exemplified than in relation to the grass-fed cattle sector. As the committee noted in its 2014 report:

Reform to the levy system and industry structures must be predicated on a commitment to enhance value for producers and not the interests of intermediary bodies that service the industry. Each step in the supply chain must be optimised to deliver a competitive advantage. However,

24 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 53.

25 ACIL Allen Consulting, *Performance Review of Meat and Livestock Australia and the MLA Donor Company*, April 2016, p. 97.

considerable evidence before the committee highlighted that the current cattle industry structures are not effective in meeting the collective needs of the industry, or enabling the grass-fed sector to maximise its ability to respond to market challenges and capture opportunities in R&D.²⁶

Grass-fed cattle industry restructure and funding quandary

5.31 The industry has, over some years, seen an increased concentration of market power in the processing and retail sectors. This contrasts sharply with the diversity of the producer sector – in terms of its geographical spread, size, and target markets – and the relative weakness of producer advocacy groups (and their unequal bargaining power).

5.32 In its 2014 report into the grass-fed sector of the cattle industry, the committee outlined its concerns about the fact that producers have limited ability to directly influence, or engage with, levy investment decisions. The inquiry found that the possibility of producers being able to gain greater control over their levy expenditure through engagement at MLA Annual General Meetings (AGMs) – or through industry representative bodies – is virtually non-existent. As previously noted, the committee found that the CCA is both under-funded and under-resourced, and is therefore hamstrung in its ability to undertake its roles and responsibilities, and meet its obligations under the MOU. The committee made recommendations which supported the establishment of a producer-owned body which "would address problems of representation and strengthen producer accountability by establishing a direct relationship between producers and the body".²⁷

5.33 The committee argued that a producer-owned body could be achieved through legislative means, "by combining PIC policy development responsibilities with the statutory marketing and separate statutory R&D corporation authority".²⁸ In recommending the establishment of a producer-owned body, the committee argued that reforming the CCA to achieve the required outcomes "should be examined as part of this process".²⁹

Structure for a new representative body

5.34 Following the release of the committee's 2014 report, a range of grower groups, including the CCA, came together to discuss the formation of a new,

26 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 80.

27 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 82.

28 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 82.

29 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 83.

democratic, representative industry organisation – which would come to be known as Cattle Australia.³⁰

5.35 In December 2014, grass-fed producer representatives – and other red meat industry stakeholders – met with the Minister for Agriculture and Water Resources in Brisbane. The agreed outcome taken from this this meeting was that:

...the grass-fed producer groups would go away and return in February [2015] with a new model for national grassfed producer representation that they could all agree upon, while the minister and his staff would explore whether the new body could receive statutory levy funding – either through taking over control of all grassfed levy revenue as recommended by the Senate, or by receiving some direct levy revenue to help fund its operations.³¹

5.36 In February 2015, in what was described by one commentator as a "rare and perhaps unprecedented display of unity" from grass-fed producer groups, a new restructure model was presented to the Minister for Agriculture and Water Resources. The model presented to the Minister proposed:

- replacing the CCA with a fully directly-elected board of grass-fed levy payers who would represent 15 cattle-producing regions across Australia;
- that every grass-fed levy payer would have the right – whether or not they chose to exercise it – to vote to elect their grass-fed industry representatives, stand for election themselves, and contribute to policy development;
- that the new body would primarily be funded through the statutory grass-fed levy.³²

5.37 It was envisioned that the proposed new body would provide all grass-fed levy payers with a vote. It was argued, therefore, that once established, the new body would be able to legitimately claim to be more representative than existing bodies. Further, it was reported that:

The new body would not stifle diversity of opinion but should encourage it. Producer sub-groups would still have the opportunity to use their own networks and resources to attempt to have their own representatives elected to the board and to stand on the merit of their arguments.³³

30 The united position was developed through consultation with all state farming organisations, the Northern Pastoral Group, the Australian Meat Producers Group (AMPC), the Australian Beef Association, the Concerned Cattle Producers (CCP) and other red meat peak industry councils.

31 Beef Central article, *Grassfed restructure: Where is it at? Where to from here?*, 30 July 2015.

32 Beef Central article, *Grassfed restructure: Where is it at? Where to from here?*, 30 July 2015, and Queensland Country Life article, *Agriculture Minister Barnaby Joyce makes gradual changes to grass-fed cattle industry*, 4 February 2016.

33 Beef Central article, *Grassfed restructure: Where is it at? Where to from here?*, 30 July 2015.

Funding a new representative body

5.38 Having reached agreement on the structure of the new representative body and presenting it to the Minister for Agriculture and Water Resources, the grass-fed cattle sector turned its attention to the question of how the new body would be funded. To assist with this next phase of the process an 'Implementation Committee' was formed.

5.39 The Implementation Committee – which includes representatives from the CCA, the Northern Pastoral Group (NPG), the Northern Territory Cattlemen's Association (NTCA), the ABA, and the Australian Meat Producers Group (AMPG) – was given the task of raising an appropriate level of seed funding to establish the 'Cattle Australia' representative body. The Implementation Committee was also requested to:

- suggest options for securing long-term funding;
- develop an Implementation Process Plan; and
- lobby the Commonwealth to implement a 'workable funding model' for the new grass-fed cattle representative body.³⁴

5.40 The Implementation Committee's preferred funding option was that the new representative body be primarily funded through the \$5 per head statutory grass-fed cattle industry levy. It was argued that the body would be providing representation for grass-fed levy payers and, as such, it should be given full control of the levy (as per the committee's recommendation) or at the very least, receive a redirected portion of the levy.³⁵

5.41 Those in support of this argument suggested that the body should receive approximately seven percent of annual grass-fed levy revenue – which amounts to approximately \$4 million of funding. In 2016, the CCA also estimated that \$4 million was the minimum amount required to set up the new national producer organisation (and develop sustainable funding streams).³⁶

5.42 Those who opposed this funding option argued that the grass-fed sector does not have sufficient control over grass-fed levy funds through the MOU, which – amongst other things – defines MLA's responsibilities to each PIC. Further, it was argued that it is the CCA's responsibility to scrutinise MLA's grass-fed levy

34 Hunt Blog Newsletter, *Cattle Producers need a strong representative body to counteract supermarket and processor power, Part 2, Conclusions and Solutions*, 26 April 2016, p. 3, <http://www.huntpartners.com.au/Shared/Sites/huntpartners/Assets/Your%20Files/HuntBlog%20Newsletter%20-%20Cattle%20Producer%20Representative%20Bodies%20-%20Part%202.pdf> (accessed 17 May 2017) and Beef Central article, *Grassfed cattle industry restructure a priority for new Cattle Council CEO*, 18 January 2017.

35 Beef Central article, *Grassfed restructure: Where is it at? Where to from here?*, 30 July 2015.

36 Beef Central article, *Grassfed cattle restructure group meets*, 1 March 2017, [p. 2].

expenditure and, if necessary, provide direction to MLA on how investments can be improved.³⁷

5.43 However, recent reports indicate that the original proposal – which would see a portion of the funds generated from the \$5 per head levy re-directed to pay for the restructure and the ongoing activities of the new representative body – still has strong support amongst grower groups.³⁸

5.44 In terms of possible funding avenues, prior to the June 2016 federal election, the Coalition announced a proposal to set up a \$5 million 'Leadership in Agricultural Industries' (LIA) fund. It was stated that the purpose of the funding – which would be available to all representative organisations across the agricultural sector – was to assist agricultural representative groups (including PICs) develop leadership skills and transition through structural adjustments. At the time, the CCA welcomed the Coalition's announcement and suggested that the LIA funding would enable organisations such as the CCA to continue their advocacy roles.³⁹

5.45 At the same time, the CCA re-stated its commitment to fostering leadership within the beef industry through its own initiatives and argued that the announcement regarding LIA showed "there is strong support for these programs in industry". Given the more recent announcement, however, that individual grants are expected to be between \$100,000 and \$500,000, the LIA fund is unlikely to meet CCA's predicted funding requirement of \$4 million.⁴⁰

5.46 Given the proposed new model can only proceed if, and when, a viable and sustainable funding model can be identified, stakeholder groups such as the CCA argued that the first matter that must be dealt with before a new structure can be implemented is that of sustainable funding:

Provision of funds from the Cattle Transaction Levy must be assured. The structural transition can only commence with a sustainable funding source.⁴¹

Minister's response to committee's report and recommendation for a new representative organisation

5.47 The Government tabled its response to the committee's 2014 report into the grass-fed cattle sector in July 2015. At the time, the Minister for Agriculture and Water Resources, the Hon Barnaby Joyce MP, stated that the grass-fed cattle industry

37 Beef Central article, *Grassfed restructure: Where is it at? Where to from here?*, 30 July 2015, [p. 4].

38 Beef Central article, *Grassfed cattle restructure group meets*, 1 March 2017, [p. 2].

39 Beef Central article, *Coalition fund may boost Cattle Council restructure plans*, 28 June 2016, [p. 2].

40 Beef Central article, *Grassfed cattle restructure group meets*, 1 March 2017, [p. 2] and Department of Agriculture and Water Resources, *Leadership in Agricultural Industries Fund*, <http://www.agriculture.gov.au/ag-farm-food/leadership-ag-fund> (accessed 25 July 2017).

41 Cattle Council of Australia, *Proposed New Structure and Budget*, 2015, p. 5.

"would now have increased stability moving forward", and announced that his goal in initiating the process had been:

...to see the creation of a viable representative organisation that, without fear or favour, can advocate on behalf of grass-fed beef producers, can oversee levy investment that delivers real and beneficial outcomes to producers and deliver more transparency in how levy dollars are spent.⁴²

5.48 In responding to the committee's report, Minister Joyce advised that the Government would ensure the terms of reference for the 2015 performance review of MLA would examine options to improve transparency, accountability and engagement with levy-payers. Minister Joyce also acknowledged that research and development corporations within the red meat sector needed "to vastly improve the manner in which the benefits of projects invested in are communicated to levy payers".⁴³

5.49 However, the Government's response to the committee's grass-fed beef levy inquiry also made it clear that the R&D and marketing component of the levy would not be redirected to a new organisation on the basis that the full redirection of the levy would "fundamentally destabilise" MLA, to the "detriment of other components of the red meat industry".⁴⁴

5.50 Interestingly, in a July 2015 opinion piece, Minister Joyce gave an assurance that any new industry organisation when established would have greater oversight over how the levy is invested "by seeking to update the industry Memorandum of Understanding to strengthen the rights and responsibilities of the peak industry council".⁴⁵ At the same time, however, the Minister argued that funding the new organisation through compulsory acquired levies (which are collected by the Government) would make the new organisation beholden to the Government and unable to freely express its views.⁴⁶ As an alternative, the Minister asserted that strengthening the MOU (between the new cattle representative organisation and MLA) would be adequate, and give grass-fed producers the control that they desire over their levies.⁴⁷

42 Minister for Agriculture, Media Release, *Strengthening the future of grass-fed cattle industry*, 15 July 2015, [p. 1].

43 Minister for Agriculture, Media Release, *Strengthening the future of grass-fed cattle industry*, 15 July 2015, [p. 1].

44 Australian Government, *Australian Government Response to the Senate Rural and Regional Affairs and Transport References Committee report: Inquiry on industry structures and systems governing levies on grass-fed cattle*, July 2015, p. 3.

45 Beef Central article, The Hon Barnaby Joyce MP, Minister for Agriculture, *Opinion piece: Strengthening the future of the grassfed cattle industry*, *Beef Central*, 15 July 2015.

46 Beef Central article, *Grassfed cattle restructure group meets*, 1 March 2017.

47 Beef Central article, *Barnaby responds to grassfed inquiry: backs grower restructure, but funding unresolved*, 15 July 2015.

Australian Farm Institute (AFI) review

5.51 In January 2016, RMAC announced that the Australian Farm Institute (AFI) would lead a review; to identify possible new operating models to support the industry's peak advocacy and policy bodies. RMAC announced that the review would identify practical options for future funding models from the various red meat PICs. It was also proposed that the review would consider new and innovative revenue streams, as well as the cost and business structures for red meat PICs.⁴⁸

5.52 The AFI's inquiry was set to commence in February 2016, with a final report due in mid-2016. According to RMAC Chairman, Mr Ross Keane, the project would provide the industry's representative bodies with options to assist them to establish sustainable operating models for their respective organisations.⁴⁹ Paid for by the Red Meat Industry Fund, it was also proposed that the research assess the status of all PICs, several of which are struggling with declining membership bases.⁵⁰ It was confirmed during the inquiry that the report was finalised in 2016 and provided to the RMAC board. The AFI's report has, however, yet to be made public.⁵¹

Alternative operating model – Sheepmeat Council of Australia

5.53 The cattle transaction levy system was the subject of the committee's 2014 report into the grass-fed sector of the cattle industry. In that report, the committee argued that it is essential that peak industry bodies are both robust and sustainable, and that it is vital that levy funds are used effectively. To this end, the committee reaffirms the recommendation it made in its 2014 report, that the ANAO conduct an audit of the cattle transaction levy system and that it trace the levy from its inception and focus on the revenue from, and expenditure of, the respective components of the levy.

5.54 The committee is aware that the issue of peak body sustainability has recently been the central focus for the sheepmeat industry. The Sheepmeat Council of Australia (SCA) recently enlisted independent, external consultants to undertake a comprehensive review of its organisational structures and governance, which took the emotive and potentially divisive decisions out of the hands of industry stakeholders. Following the completion of the review, the recommended changes were voted upon and ultimately adopted by the SCA Board.

5.55 It is noted that the SCA's restructure was carried out at minimal cost, and without any money from the public sector. The results of the SCA reforms include the appointment of a skills-based, remunerated board, more opportunities for producers to

48 Seedstock Central article, *Effective industry representation in red meat sector welcomed*, 11 February 2016.

49 Beef Central article, *Business analyst chosen to review peak industry council operations*, 29 January 2016.

50 Beef Central article, *Life still in grassfed cattle restructure*, 21 January 2016.

51 Beef Central article, *Grassfed cattle restructure group meets*, 1 March 2017 and Mr Don Mackay, Independent Chair, Red Meat Advisory Council, *Committee Hansard*, 16 August 2017, p. 7.

join as independent members, and an organisation that still represents state farming organisations. The overall outcome of the process is a more open, democratic and participatory organisation. It is proposed that the changes to the SCA will come into effect from November 2017.

Review of the MOU

5.56 As far back as 1997, then Minister for Primary Industries and Energy, the Hon John Anderson, MP noted that industry itself had recognised that proposed new representative arrangements offered a necessary opportunity to bring about a fundamental cultural change.⁵² The industry has once again recognised the need for change.

5.57 The industry has become fragmented. This is reflected by the fact that approximately 77,000 cattle properties in Australia supply to around 100 processors, of which four companies dominate the market.⁵³ Amongst other things, the disparity between producers and processors has contributed to a belief that processors have a competitive advantage, which has in turn fuelled a general lack of trust between the various sectors of the red meat industry.

5.58 Strengthening the role of the new producer representative body in relation to MLA is viewed by many as a necessary reform. It has also been argued, however, that this initiative will not change the underpinning structures and relationships as set out in the MOU – which no longer reflect the current realities of the red meat industry.

5.59 Stakeholders have long acknowledged the need to strengthen the governance and representation arrangements for the red meat industry. A growing number of stakeholders are also recognising that if the red meat industry is to remain competitive and sustainable, a thorough review and reform of the MOU is required.

5.60 As part of its policy document regarding a new structure, the CCA recognised the need for changes or additions to the MOU to "ensure adequate control over MLA programs and activities".⁵⁴

5.61 Mr David Byard, CEO of the Australian Beef Association (ABA), also noted that:

It is common ground amongst all rural industry groups and institutions that the current organisational representative structures have outlived their time

52 The Hon John Anderson MP, Minister for Primary Industries and Energy, *House of Representatives Hansard*, 1 October 1997, p. 8851.

53 Australian Meat Processor Corporation, *Strategic Risks Facing the Australian Red Meat Industry*, August 2016, p. 32, http://www.ampc.com.au/uploads/cgblog/id65/42161_AMPC_RiskDocumentvLR.pdf (accessed 11 May 2017).

54 Cattle Council of Australia, *Proposed New Structure and Budget*, 2015, p. 6. <http://unitedstockowners.com.au/wp-content/uploads/2015/02/New-CCA-Structure-Detail.pdf> (accessed 16 May 2017).

and are no longer sustainable either from a funding or operational perspective in the long term.⁵⁵

5.62 The point was also acknowledged by the Government in its response to the committee's 2014 grass-fed levies report, when it indicated that a 'revision' of the MOU was necessary to:

...more clearly define the roles and responsibilities of each entity around consultation requirements and agreement on forward work plans and levy expenditure.⁵⁶

5.63 Following its years of inquiring into the red meat industry, the committee has also come to the firm view that current statutory arrangements no longer reflect the realities of the industry. This is no better exemplified than in relation to the grass-fed cattle sector. As the committee noted in its 2014 report:

Reform to the levy system and industry structures must be predicated on a commitment to enhance value for producers and not the interests of intermediary bodies that service the industry. Each step in the supply chain must be optimised to deliver a competitive advantage. However, considerable evidence before the committee highlighted that the current cattle industry structures are not effective in meeting the collective needs of the industry, or enabling the grass-fed sector to maximise its ability to respond to market challenges and capture opportunities in R&D.⁵⁷

5.64 ACIL Allen's performance review of MLA examined the role of MLA, the representative structure of the red meat industry and the need for reform. The 2016 report concluded that there were a number of issues currently facing the red meat industry, which could only be addressed:

...if the red meat industry revisits the MOU. The fact that the PICs are assessing their current positions, along with this report and last year's AMPC performance review, means that by mid-year the industry will have a strong understanding of the strengths and weaknesses of most organisations involved in the MOU. At that stage the industry needs to make a decision on whether clarification/re-confirmation of the MOU and introduction of more effective conflict resolution will suffice or more fundamental reform is required.⁵⁸

5.65 The committee has made the point previously that the legislative landscape has not kept up with industry changes. This is evident with regard to the MLA Donor

55 Beef Central article, David Byard, Australian Beef Association, Opinion: Get on with Senate recommendations for grassfed reform, 1 February 2016.

56 Australian Government, *Australian Government response to the Senate Rural and Regional Affairs and Transport References Committee report: Inquiry on industry structures and systems governing levies on grass-fed cattle*, July 2015, p. 3.

57 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 80.

58 ACIL Allen Consulting, *Performance Review of Meat and Livestock Australia and the MLA Donor Company*, April 2016, p. 20.

Company (MDC). The *Australian Meat and Live-stock Industry Act 1997* provides MLA with the legislative authority to establish a donor company for the purposes of distributing Commonwealth funding to facilitate voluntary investment in R&D innovations across the red meat supply chain. The Australian government matches voluntary partner contributions (of up to 50 per cent) through the MDC where eligible projects deliver outcomes that address broader industry and/or government priorities and benefit the entire industry.

5.66 The MLA remains the only industry body eligible to receive matching Commonwealth funds for research from industry levies and funds received from the three declared approved donors. The committee recognises, therefore, that a review of the MOU must encompass the role of the MDC.

Committee view

5.67 It is indisputably clear that following the implementation of the 1997-98 reforms, the red meat industry (and the structures that underpin it) has undergone significant change. The committee is firmly of the view that these structures no longer serve the purpose for which they were originally intended.

5.68 The committee recognises that enhancing value and representation for producers are central to any reform agenda, at the expense of the interests of intermediary bodies that service the industry.

5.69 The committee recognises the initiatives undertaken by industry stakeholders to advance an agreement regarding the structure for a new grass-fed cattle producer body as evidence that the industry is able to initiate reform. The committee also acknowledges that strengthening the role of a new producer representative body (particularly in regard to its relationship with MLA) should be the first step towards greater structural reform of the industry. To that end, the industry's unity in relation to the need for a new representative body, and its current appetite for reform, provide the perfect environment to undertake a wider and more comprehensive review.

5.70 The committee acknowledges the work currently being undertaken by members of the Implementation Committee of Cattle Australia and others within the grass-fed cattle sector as they work toward structural change and identify a sustainable funding model for a new representative body which will deliver the services the grass-fed sector needs.

5.71 The committee does, however, question whether any new producer representative body will be able to operate effectively under the systems and structures that are currently in place. The committee is of the view that the existing structures, roles and responsibilities – particularly that of PICs in relation to MLA – require urgent reform.

5.72 It would be a tremendous disservice to levy-paying producers if the new representative body has to contend with the same resourcing issues, and face the same obstacles as the current PIC. However, the committee is also acutely aware that any reform effort will face resistance from those in the industry who have a vested interest in the status quo. To avoid at least some of these difficulties, the committee is firmly

of the view that the funding source for the new body needs to be independent of both CCA and MLA.

5.73 It is the view of the committee that the proposed new representational body – called Cattle Australia for the purposes of this report – should be given the opportunity to work as intended. For the body to take on the role of a properly representative body, it needs to be properly funded and have the structure necessary to be truly representative and consultative. To this end, the committee recommends that Cattle Australia be provided with adequate independent funding as soon as practical. With decisions currently being made about the use of substantial amounts of levy-payers funds including on technology such as DEXA, the committee recognises that there is some urgency for a well-resourced Cattle Australia to effectively represent the interests of grass-fed cattle producers. Moreover, once operational, Cattle Australia will be able to make appropriate, informed decisions on behalf of their levy payers about price transparency across the supply chain. It will be in a position to effectively guide and assess MLA's performance in the expenditure of grass-fed cattle levy funds and to ensure greater transparency with regard to the use of levy-payers funds.

5.74 The committee recommends that the Australian Government support the grass-fed cattle sector in its efforts to establish Cattle Australia as the sector's new PIC. To that end, the government should provide appropriate funding support to assist Cattle Australia in its establishment and to support transitional arrangements with CCA.

5.75 As part of the transitional arrangements, Cattle Australia should develop an organisational and representative structure which is democratic and fully accountable to grass-fed cattle levy payers. Under the leadership and guidance of a remunerated skills-based board, this can be achieved by establishing:

- a membership and voting structure to enable levy payers a direct say in the utilisation and investment of their levies;
- a leadership body of elected members that reflects the unique geographic, demographic and economic makeup of this sector; and
- a transparent reporting system to enable levy-payers to trace the utilisation and investment of their levies.

5.76 Once Cattle Australia is established, with a membership structure in place, it should be officially recognised as the sector's PIC under the *Australian Meat and Live-stock Industry Act 1997*, and Red Meat MOU.

Recommendation 4

5.77 The committee recommends that the Australian Government provide immediate support, including appropriate financial assistance, to the grass-fed cattle sector in its efforts to replace Cattle Council of Australia with a transparent and accountable producer-owned body as the sector's Peak Industry Council.

Recommendation 5

5.78 The committee recommends that the Australian Government officially recognise Cattle Australia as the grass-fed cattle sector's Peak Industry Council under the *Australian Meat and Live-Stock Industry Act 1997* and Red Meat Memorandum of Understanding once it is operational and has a membership structure in place.

5.79 As previously noted, the committee has concerns in relation to the complexity, and lack of clarity that exists in the relationships between industry stakeholders – particularly MLA and CCA as well as AMIC and AMPC – and their respective levy payers. While the committee recognises that the accountability arrangements under the MOU have proven to be complex and unclear, it is obvious that the lack of a coordinated, industry-wide approach continues to add to the confusion about corporate and financial responsibilities, including the ownership of technologies.

5.80 In addition to the lack of clarity between these organisations, the committee also has concerns about the way in which these organisations make decisions in relation to the expenditure of levy-payer funds. The committee notes, for example, that it would appear that the views of levy-payers have not been given primary consideration, even though the proposed expenditure on the development and implementation of OCM technology is substantial.

5.81 Under the MOU, in circumstances where services cover the whole supply chain (and unless otherwise agreed) MLA is nominated as the lead organisation. The purpose of allocating this leadership role to MLA is "to avoid duplication and improve operational efficiency".⁵⁹ However, the committee recognises that the issue of OCM technology is a perfect example of where a lack of coordination and unity across representative groups results in confusion (and a lack of trust) on the part of stakeholders – particularly levy payers. It would seem to the committee, therefore, that the lack of clarity and coordination that currently surrounds the OCM technology initiative lends weight to the argument for review and reform of the MOU.

5.82 The committee questions whether organisations such as MLA, AMPC, AMIC and the CCA are actually collaborating, and working toward the good of the entire industry, or whether this has become another example whereby vested interests have overridden the important principles of transparency and consultation. The committee also upholds the concerns that it has raised in the past with regard to the matter in which the MDC operates, particularly given the substantial tax payer contributions involved by way of matching government funding.

5.83 The committee notes that stakeholders have long acknowledged the need for a strengthening of governance and representation arrangements for the red meat industry sector. Given the diversity of the industry, the committee recognises that full consensus may never be reached; what is abundantly clear, however, is that the

59 ACIL Allen Consulting, *Performance Review of Meat and Livestock Australia and the MLA Donor Company*, April 2016, p. 7.

current structures – as set out in the MOU – are not effective in meeting the 'collective' needs of the industry. What a growing number of stakeholders are also recognising, however, is that for the whole of the red meat industry sector to remain competitive, sustainable and prepared to take advantage of positive commercial outcomes, a thorough review of the MOU is required.

5.84 It is vital that a broad consultative process be undertaken to review the MOU and the structural and representational relationships contained within it. The review should not contain itself to the views of the parties to the MOU and the review body should consult widely across the industry to establish a comprehensive understanding of the complexity of the structures, relationships and arrangements that shape the industry.

5.85 To this end, the committee recommends a root and branch review of the MOU. The review should include an examination of all aspects of the MOU; including all parties to the agreement as well as funding, planning and service delivery agreements, industry reserves and R&D. It should also examine the structural arrangements, financial management and operational effectiveness of the bodies that are current signatories.

5.86 The committee recognises that such a review will be complex and that it will have to consider the respective legislation and service agreements. At the same time, the review cannot be led by one sector of the industry. The committee has previously raised serious concerns about the role and representation of RMAC. Given that RMAC would be one of the organisations under review, the committee does not believe it would be the appropriate body to undertake such a review.

5.87 Instead, the committee recommends that the review of current institutional arrangements should be undertaken by a joint industry and government body. This representative body or task force should review the structural arrangements, financial management and operational effectiveness of the statutory bodies and the structures that underpin them.

Recommendation 6

5.88 The committee recommends that a joint industry and government meat and livestock task force be established to conduct a comprehensive review of all aspects of the Red Meat Memorandum of Understanding (MOU).

Recommendation 7

5.89 As part of the Red Meat MOU review, the joint industry and government meat and livestock task force should consult widely across the industry and consider options for reform.

5.90 The task force should present a report to the Minister for Agriculture and Water Resources within two years of its establishment. The report and its recommendations should be made public.

5.91 To ensure full transparency and encourage industry ownership over the reform process, the task force should endeavour to publish its preliminary findings during the review period as well as bi-annually.

Senator Glenn Sterle
Chair

Appendix 1

Additional information received

- Correspondence from Mr Mick Keogh, Commissioner, Australian Competition & Consumer Commission, to the Committee. Received on 28 August 2017;
- Received on 28 August 2017, from the Sheepmeat Council of Australia. Answers to Questions taken on Notice on 10 August 2017;
- Received on 29 August 2017, from the Australian Meat Processor Corporation. Answers to Questions taken on Notice on 8 August 2017;
- Received on 30 August 2017, from the Australian Meat Industry Council. Answers to Questions taken on Notice on 8 August 2017;
- Received on 31 August 2017, from the Australian Livestock and Property Agents Association. Answers to Questions taken on Notice on 28 August 2017;
- Received on 4 September 2017, from the Red Meat Advisory Council. Answers to Questions taken on Notice on 16 August 2017;
- Received on 5 September 2017, from the Australian Competition & Consumer Commission. Answers to Questions taken on Notice on 10 August 2017;
- Received on 5 September 2017, from the Australian Competition & Consumer Commission. Answers to Questions taken on Notice on 21 August 2017;
- Received on 5 September 2017, from the Australian Competition & Consumer Commission. Answers to Questions taken on Notice on 28 August 2017.

Appendix 2

Public hearings and witnesses

8 August 2017, Canberra, ACT

- FORD, Ms Gabrielle, General Manager, Agriculture Unit, Australian Competition and Consumer Commission

8 August 2017, Canberra, ACT

- HUTCHINSON, Mr Patrick, Chief Executive Officer, Australian Meat Industry Council
- LEE, Ms Stella, Manager, Industry and Government Relations, Australian Meat Processor Corporation
- NOLAN, Mr Terrence, Director, Australian Meat Industry Council
- RIZZO, Mr Peter, Chief Executive Officer, Australian Meat Processor Corporation

10 August 2017, Canberra, ACT

- NORTON, Mr Richard, Managing Director, Meat and Livestock Australia Ltd
- STARLING, Mr Sean, General Manager, Research, Development and Innovation, Meat and Livestock Australia Ltd

16 August 2017, Canberra, ACT

- CAMPBELL, Ms Anna, Chief Executive Officer, Red Meat Advisory Council
- MACKAY, Mr Donald (Don), Independent Chair, Red Meat Advisory Council