

Chapter 6

6.1 At the outset of the chapter, and following its remarks in Chapter 1, the committee reiterates that this is an interim report. The decision to table an interim report was made in light of the likelihood of an imminent double dissolution of the Parliament, and the need to get some of the committee's findings, particularly those concerning the situation at Barnawartha, on the record while advocating for an opportunity to resume examination of further significant issues in the new Parliament.

6.2 The committee has more to say on a number of important matters, and intends to do so as soon as possible. These matters include:

- Price disclosure;
- Agents' conduct and collusion;
- Trimming;
- Variations in grid inspections;
- Standardisation of saleyard design and selling practices;
- Reverse consolidation markets;
- Agents' owning saleyards in which they operate;
- The adequacy of the Australian Competition and Consumer Commission's (ACCC's) powers to protect witnesses;
- Processor consolidation, including the loss of competition and creeping acquisition;
- Buying power;
- The late setting of prices for cattle booked for sale;
- Commission buyers;
- The ACCC market study; and
- The lack of a complaints mechanism for 'over the hook' grading.

6.3 The interim nature of this report's findings is reflected in the recommendations. It is the committee's intention to supplement this report's recommendations in light of further examination of the matters listed above, and in particular the findings of the ACCC's market study.

Committee view and recommendations

6.4 This inquiry brought to the fore a number of important issues and factors. First, there is a lack of transparency across the supply chain which, coupled with a lack of market tension, has contributed to a context in which producers are not guaranteed a fair return at the farm gate. Second, from the evidence provided to the inquiry, there is an overwhelming sense that the structures and systems that underpin and oversight the red meat industry have not kept pace with the rapid changes that have affected the market and those who are engaged in it.

6.5 The growing disconnections between the industry and the structures that underpin it are demonstrated by the extent to which the system has become dysfunctional, unrepresentative and uncompetitive. It is the combination of these factors which came to the fore in the Barnawartha matter and which demonstrated all that is wrong with the current industry market structure.

6.6 It is clear that the livestock and red meat industry structures are complex and convoluted with the supply chains encompassing a wide range of stakeholders including producers, contractors, processors, middlemen, retailers and consumers. These complexities are represented in the red meat Memorandum of Agreement (MOU) which is extremely difficult to navigate and comprehend. Yet, central to the challenges for the industry is producer representation in decision making processes.

6.7 While the supply chain has grown more complex over time, many of the rules and structure which govern it were designed at a time when Australia's emerging export markets were in comparative infancy and the processing sector was not heavily consolidated. It was made clear to the committee that, as a consequence, the red meat market is 'beset by market failures and plagued with a lack of integrity, transparency and accountability'.¹

6.8 Evidence to the committee suggested that market power can be revealed in a number of ways within these complex supply chains. Submitters detailed examples of non-competitive terms and prices, asymmetric information, and price discrimination. The integrity of the entire red meat system was brought into question by evidence regarding commission buyer practices, the imposition of saleyard curfews, the manner in which post-sale weighing was introduced in Barnawartha and the 'over the hook' grading system, as well as the current system of price setting.

6.9 While the committee appreciates the complexities in the supply chain, it recognises the need for transparency and consistency in selling structures and practices. The committee shares the concerns expressed about consolidation in the processing sector and a lack of transparency in the supply chain. The committee agrees 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.

6.10 In this regard, the key themes in evidence during this inquiry included:

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

6.11 As much of the evidence provided to the committee has focused on the red meat sector, the point remains that the themes of transparency, price discovery and accountability are applicable to all livestock.

1 Mr Derek Schoen, NSW Farmers' Association, *Committee Hansard*, 2 September 2015, p. 1.

Price transparency

6.12 The need for transparency throughout the supply chain was highlighted in evidence.² The point was repeatedly made that the pricing mechanism in the cattle market in Australia lacks integrity at the saleyards and in over the hook sales.

6.13 Fundamentally important to the industry is ensuring maximum efficiency through the red meat supply chain and improving competitiveness within the industry. In this regard, the provision of information throughout the supply chain is essential to ensure that producers receive the highest returns at the farm gate. Yet, under the current system, producers are unable to determine the true asset value of their stock. At the same time, retail prices have continued to rise while livestock prices have not.³

6.14 The committee holds the view that there is a culture of collusion which permeates the saleyards and must be addressed. It recognises that the ACCC market study on the cattle and beef industry will consider saleyard practices including the behaviour of commission buyers. However, it is clear to the committee that some form of price disclosure at saleyards is one mechanism which could address these challenges. There is a requirement for a public and transparent pricing mechanism at the saleyards which at a minimum should display the price in a public location for all to see. Whether this mechanism is based on the Dutch auction system or another mechanism is a matter for the industry.

6.15 The reporting of livestock sales at and beyond the saleyard is another matter of considerable concern. The committee notes the evidence provided to the inquiry which demonstrated that at best, market reports and benchmark indicators are based on a smaller and often cheaper sample of the market.

6.16 The committee recognises that the saleyard price sets, drives or influences the rest of the marketplace. However, with the use of saleyards diminishing in some states, the committee recognises that there is a growing need for a comprehensive market indicator.

6.17 It was highlighted to the committee that technology offers the opportunity to provide for an effective and real-time system which captures the full value of the carcass.

6.18 The committee acknowledges that MLA is conducting an analysis of a price transparency system, and there are decisions that industry will have to make about this process and where it may lead. The committee notes, however, that there is a strong desire amongst producers for price transparency and that some form of price mechanism must be put in place. Therefore, the committee recommends that the industry move towards establishing a national pricing disclosure and reporting mechanism which takes into account all methods of sale.

2 Cattle Council of Australia, *Submission 83*; AgForce Queensland, *Submission 85*.

3 Mr Bradley Teys, Teys Australia, *Committee Hansard*, 27 August 2015, p. 8 and Mr David Warriner, private capacity, *Committee Hansard*, 4 August 2015, p. 33.

Recommendation 1

6.19 The committee recommends that a transparent pricing mechanism be introduced at livestock saleyards and that Meat and Livestock Australia (MLA) in cooperation with the livestock and red meat industry, establish a national price disclosure and reporting system.

Best practice saleyard design

6.20 Concerns were also raised about the safety and quality of saleyard design. Physical design issues including the type of flooring used and height of the roofing have a significant impact on both the livestock and those who use the saleyard. The committee was informed that producers were not always consulted about the design of saleyards before construction.

6.21 The committee recognises the importance of best practice saleyard design for the purposes of animal health and welfare as well as the safety and comfort of saleyard users. To this end, the committee recommends that the industry and producers work together to establish best practice modelling for saleyard design in cooperation with producers and their representatives. The study should identify best practice in relation to the physical construction of a saleyard including flooring which can be used as a guide for saleyard construction in Australia into the future.

Recommendation 2

6.22 The committee recommends that industry and producers work together to establish best practice modelling for saleyard design in cooperation with producers and their representatives.

Concerted practices

6.23 The committee welcomes the establishment of an ACCC Agricultural Commissioner who will serve as an ombudsman in relation to agriculture. The committee is encouraged by the ACCC's commitment to undertake a market study on the cattle and beef industry. The committee recognises that—given the number of inquiries that have been undertaken across the industry during recent years—many producers and producer groups may be suffering from 'inquiry fatigue'. However, the committee strongly encourages producers and producer groups to engage with the ACCC market study.

6.24 The committee takes the view that a price transparency system, which reflects the true price of the cattle market, should be underpinned by the real prospect of investigation into anti-competitive behaviour. To this end, the committee strongly encourages the Australian Government to realise the recommendations of the Harper Review and to introduce legislation which would prohibit concerted practices.

6.25 Legislation in relation to concerted practices would not only bring Australia's competition laws into line with those of other jurisdictions (such as the United Kingdom) but would assist in addressing many of the concerns raised regarding saleyard practices.

Recommendation 3

6.26 The committee recommends that the Australian Government introduce legislation to prohibit concerted practices as soon as practicable.

Livestock agents

6.27 The committee acknowledges the considerable disquiet about the practices of commission buyers at the saleyards, and in particular their influence on price. In fact, the role of commission buyers was at the heart of concerns regarding collusion and coercive practices at the saleyards.

6.28 Evidence to the committee suggested that livestock agents including commission buyers are included in state and national codes of practice for saleyards. It became evident to the committee, however, that such codes are neither upheld nor enforced. Further, while livestock agents may be licensed under state government regulation in some states, the requirements vary, and some jurisdictions there are no licensing arrangements at all.⁴ The view was put by a number of producers that while livestock agents work for the vendor—the seller—in reality, they may capitulate to pressure from buyers to change the rules in a selling system. Evidence to the committee suggested that this had occurred at Barnawartha and other selling systems in Victoria where the 'code of practice was overturned in the face of pressure from meat buyers'.⁵

6.29 The committee recognises the need for a nationally consistent registration regime for livestock agents. As part of the registration arrangements, livestock agents should be trained. In addition, the registration body should be responsible to oversight livestock agents and establish a formal complaints mechanism.

Recommendation 4

6.30 The committee recommends the establishment of a registration and training system for livestock agents. In addition, the committee recommends that a system of oversight be introduced by the registration body which includes a formal complaints mechanism.

Grading systems and processes

6.31 Objective grading, coupled with transparency in relation to grading, and the provision of evidence regarding downgrading of carcasses was at the forefront of evidence provided by producers.⁶ The widely held view amongst producers is that the grid system is designed for processors: to provide for discounting and to confuse producers.⁷

4 Department of Agriculture, *Submission 74*, p. 13.

5 Mr John Buxton, *Submission 5*, p. [2].

6 Mr Derek Schoen, NSW Farmers' Federation, *Committee Hansard*, 2 September 2015, p. 6.

7 Mr Peter Kennedy, Gulf Cattleman's Association, *Committee Hansard*, 4 August 2015, p. 15.

6.32 The committee acknowledges the widely held concerns of producers and farmer groups about the grading system which not only sets prices but is the determinant indicator of quality both for the consumer and producer. While the grading system should provide a market signal to producers, evidence to the committee suggested that concerns about the independence of graders, complexity of feedback sheets, and intricate grid system remain some of the primary obstacles.

6.33 The committee appreciates that recommendations from the Australian beef language white paper will be realised over time.⁸ However, serious concerns remain about the composition of the Australian Meat Industry Language and Standards Committee which go to the question of representation. While outside the scope of this inquiry, the committee questions whether a holistic review of the red meat MOU is now required. To this end, having conducted numerous inquiries into the red meat industry over many years, the committee recognises that at the heart of the industry's challenges is the question of effective producer representation.

6.34 It is clear that the grading systems need to be subjective, scientifically-based, consistently applied and subject to truly independent oversight. There must be clarity regarding feedback sheets which should be provided to producers in a timely manner. If the feedback sheets are too complex, they must be simplified and should be used as a tool to encourage best practice. Furthermore, it is vital that an independent complaints mechanism be established.

6.35 The committee notes that the ACCC market review report is due for public release in November 2016. While this interim report contains extensive consideration of the key issues, as well as significant recommendations, the committee signals its intention to advocate for the opportunity to consider the ACCC report and other matters listed at the beginning of this chapter in due course. Therefore, the committee recommends that the Senate extend the final reporting date for the inquiry to 20 December 2016.

Recommendation 5

6.36 The committee recommends that the Senate extend the inquiry reporting date to 20 December 2016.

Senator Glenn Sterle

Chair

8 Beef Language White Paper Consortium, *Australian Beef Language White Paper—Final Draft*, January 2016.