

The Senate

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Rural and Regional Affairs  
and Transport  
References Committee

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Effect of market consolidation on the red  
meat processing sector

Interim report

May 2016

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Senator Alex Gallacher (from 18 April 2016)	South Australia, ALP
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# **List of recommendations**

## **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.**

## **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.**

## **Recommendation 3**

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

## **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.**

## **Recommendation 5**

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





# 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 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. The committee was required to report by 17 March 2016. On 22 February 2016, the Senate granted the committee a further extension of time for reporting to 5 May 2016.

### Interim report

1.3 The committee agreed to table this interim report and seek a further extension on 3 May, owing to the likelihood of an imminent double dissolution of the Parliament, and the need to get some of its findings on the record while also advocating for an opportunity to resume its examination of further significant issues in the new Parliament. It is important to reiterate that 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.

1.4 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.

### **Conduct of the inquiry**

1.5 The inquiry was advertised in *The Australian* and on the committee's webpage. The committee also wrote to government departments, organisations and individuals to invite submissions. Details of the inquiry and associated documents are available on the committee's webpage.

1.6 The committee received 98 public submissions and 22 confidential submissions. The public submissions are listed at Appendix 1 and are published on the committee's webpage.

### **Acknowledgement**

1.7 The committee acknowledges the organisations and individuals that made contributions to the inquiry through submissions and appearances at the hearings.

### **Context of the inquiry**

1.8 On 17 February 2015, newspapers reported that nine processors had 'boycotted' the Northern Victoria Livestock Exchange's first prime sale at the Barnawartha saleyards. According to the reports, the processors wanted the cattle weighed after they were sold, rather than before sale, which had been standard practice at Wodonga.<sup>1</sup> The 'boycott' was blamed for a 30 cents per kilogram price plunge on that day.<sup>2</sup>

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1 Fiona Myers, 'New Wodonga saleyards boycotted by processors', *Weekly Times*, 17 February 2015, [www.weeklytimesnow.com.au/agribusiness/cattle/new-wodonga-saleyards-boycotted-by-processors/story-fnkeqfz1-1227222434455](http://www.weeklytimesnow.com.au/agribusiness/cattle/new-wodonga-saleyards-boycotted-by-processors/story-fnkeqfz1-1227222434455) (accessed 17 June 2015).

2 Fiona Myers, 2 March 2015, 'Barnawartha sellers call for senate inquiry into processor boycott', *Weekly Times*, [www.weeklytimesnow.com.au/agribusiness/cattle/barnawartha-sellers-call-for-senate-inquiry-into-processor-boycott/story-fnkeqfz1-1227245071396](http://www.weeklytimesnow.com.au/agribusiness/cattle/barnawartha-sellers-call-for-senate-inquiry-into-processor-boycott/story-fnkeqfz1-1227245071396) (accessed 17 June 2015).

1.9 Reports suggested that buyers later dropped their boycott when the saleyard operators agreed to weigh cattle after they were sold, instead of pre-sale.<sup>3</sup>

1.10 In response to the alleged boycott, the Victorian Farmers Federation and the NSW Farmers' Association called for the ACCC to investigate.<sup>4</sup> On 2 March 2015, approximately 250 Barnawartha sellers met to raise concerns about the actions of the processors. The farmers called for a Senate inquiry into consolidation in the red meat processing sector and called for the ACCC to investigate the meat processors.<sup>5</sup>

1.11 The Barnawartha matter followed a decision by the ACCC two weeks earlier to allow further concentration in the red meat processing sector; with the acquisition of Australian Consolidated Food Investments Pty Ltd (Primo) by JBS USA Holdings Inc (JBS).<sup>6</sup>

1.12 These events, which triggered the Senate inquiry, raised both the spectre of collusion by buyers at saleyards and questions regarding competition in the face of growing consolidation in the market more broadly. These two themes, as indicative of underpinning inequalities in the red meat industry and a lack of transparency in relation to pricing, were central to the evidence gathered during the committee's inquiry.<sup>7</sup>

### **Australian livestock and red meat industry**

1.13 Australia is the world's seventh largest beef producer and the third largest exporter behind the United States (US) and Brazil.<sup>8</sup> According to the Department of

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3 Warwick Long, Nikolai Beilharz and Michael Condon, 'Farming groups want ACCC to investigate meat processors after Wodonga boycott', *ABC Rural*, 20 February 2015, [www.abc.net.au/news/2015-02-19/accc-meat-industry-investigation-push/6144616](http://www.abc.net.au/news/2015-02-19/accc-meat-industry-investigation-push/6144616) (accessed 20 February 2015).

4 Victorian Farmers Federation, Victorian and NSW farmers to gather on processor boycott, 23 February 2015, [www.vff.org.au/vff/Media\\_Centre/Latest\\_News/MEDIA\\_2015/Processor\\_Boycott.aspx](http://www.vff.org.au/vff/Media_Centre/Latest_News/MEDIA_2015/Processor_Boycott.aspx) (accessed 17 June 2015) and Warwick Long, Nikolai Beilharz and Michael Condon, 'Farming groups want ACCC to investigate meat processors after Wodonga boycott', *ABC Rural*, 20 February 2015.

5 Fiona Myers, 2 March 2015, 'Barnawartha sellers call for senate inquiry into processor boycott', *Weekly Times*, [www.weeklytimesnow.com.au/agribusiness/cattle/barnawartha-sellers-call-for-senate-inquiry-into-processor-boycott/story-fnkeqfz1-1227245071396](http://www.weeklytimesnow.com.au/agribusiness/cattle/barnawartha-sellers-call-for-senate-inquiry-into-processor-boycott/story-fnkeqfz1-1227245071396) (accessed 17 June 2015).

6 Warwick Long, Nikolai Beilharz and Michael Condon, 'Farming groups want ACCC to investigate meat processors after Wodonga boycott', *ABC Rural*, 20 February 2015.

7 Mr Graham Primmer, *Submission 2*; Mr John Buxton, *Submission 5*, p. [3]; Merebene Pastoral Co, *Submission 6*; Hermit Hill Pastoral Pty Ltd, *Submission 7*; Mr John Carpenter, *Submission 9*; Bindaree Beef Australia, *Submission 11*; Mr Mark Wortmann, *Submission 14*; Mr Murray and Mrs Debbie Jones, *Submission 17*; Nanthes' Park British White Cattle Stud, *Submission 19*; Mr Shane and Mrs Maree Kennedy, *Submission 20*; Mr Frank Griffiths, *Submission 21*; Mr Rob Atkinson, *Submission 22*; Australian Beef Association, *Submission 23*; Mrs Maureen Cottam, *Submission 25*; Mr David Blum, *Submission 26*; Mr Norman Sharp, *Submission 27*; Mr Rex and Mrs Trish Forrest, *Submission 44*; Ms Jan McGuinness, *Submission 54* and Mr Pat Larkin, *Submission 60*, p. 2.

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

Agriculture (the department) more Australian farms are engaged in running beef cattle than are involved in other forms of agricultural activity, with around 55 per cent of all Australian farms carrying beef cattle.

1.14 In total, Australia has 25.7 million head of cattle managed by around 71 300 beef cattle producers.<sup>9</sup> An estimated 76 per cent of marketed cattle in Australia in 2013 were grass-fed cattle with the remainder grain-fed.<sup>10</sup>

1.15 As of 2011–12, the Australian Bureau of Statistics (ABS) revealed that there were:

- 38 752 beef cattle farming businesses, plus beef cattle feedlots;
- 11 994 sheep farming businesses;
- 11 552 grain-sheep or grain-beef cattle farming businesses; and
- 6 526 sheep-beef cattle farming businesses.<sup>11</sup>

1.16 In terms of the processing sector, there are more than 150 processing facilities in Australia which kill and process a range of species including cattle, sheep, goats, pigs and game.<sup>12</sup> According to the Australian Meat Processor Corporation (AMPC), its 105 members operate 135 meat processing facilities which account for more than 97 per cent of Australia's meat processing capacity.<sup>13</sup>

1.17 In terms of the Australian economy, livestock production and red meat processing are significant contributors:

In 2013–14, the farm level gross value of red meat livestock production (beef cattle, sheep, lambs and goats) was \$11.4 billion, 49 per cent of the gross value of all livestock production and 22 per cent of all farm production in Australia (ABARES 2015). The red meat processing industry is highly export focused, with 70 per cent of beef, and 69 per cent of lamb and mutton produced in Australia in 2013–14 being exported (by volume). Over the same period, beef, lamb, mutton and goat meat exports together were valued at \$8.7 billion (ABARES 2015).<sup>14</sup>

1.18 In 2014, more than 8.9 million cattle together with over 29.3 million sheep and lambs were slaughtered at one of the 77 processing establishments registered to export.<sup>15</sup>

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9 Department of Agriculture, *Submission 74*, p. 4 and Mr Ashley Sweeting, *Submission 1*, p. 1.

10 Mr Ashley Sweeting, *Submission 1*, p. 2.

11 Australian Bureau of Statistics, *71060.0 – Australian Farming in Brief*, 2013, Number of Businesses with Agricultural Activity, by Industry 2011–12, [www.abs.gov.au/ausstats/abs@.nsf/Lookup/7106.0Main+Features22013](http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/7106.0Main+Features22013) (accessed 22 June 2015).

12 Department of Agriculture, *Submission 74*, p. 3.

13 Australian Meat Processor Corporation, About AMPC, [www.ampc.com.au/about-ampc](http://www.ampc.com.au/about-ampc) (accessed 21 March 2016).

14 Department of Agriculture, *Submission 74*, p. 3.

15 Department of Agriculture, *Submission 74*, p. 3.

1.19 According to evidence provide to the committee, in 2013, Australian meat processing comprised the following:

- 65.7 per cent – beef and veal;
- 23.4 per cent – lamb and mutton;
- 7.9 per cent – pig meat; and
- 2.9 per cent – goat and other animal meat.<sup>16</sup>

### ***Red meat processing sector***

1.20 In terms of processors, the top five cattle processors account for 57 per cent of throughput across processing facilities. The top five sheep and lamb processors accounted for 52 per cent of throughput in 2014, based on the number of sheep and lambs slaughtered. In addition, National Livestock Identification System (NLIS) data, (which include facilities that process for domestic and/or for export markets) revealed that the top five processing plants in Australia accounted for up to 30 per cent of cattle sent to abattoirs between 2008 and 2012, while the top 50 plants accounted for more than 90 per cent of such movements.<sup>17</sup>

1.21 Due to consolidation within the industry, the market has contracted significantly in recent years. In 2011, the top five processors accounted for over 50 per cent of the market, with the four largest processors either owned or in joint ventures with multi-national companies.<sup>18</sup> Australian Meat Industry Council (AMIC) suggested that the four largest processing companies account for up to 55 per cent of livestock throughput.<sup>19</sup> In contrast, evidence suggested that in 1988, the four largest processors controlled 24 per cent of the market.<sup>20</sup> However, following its acquisition of Primo in February 2015, JBS is believed to have lifted its market share to at least 28 per cent. At the same time, evidence suggested that Cargill-Teys has a 21 per cent share and Nippon Meat enjoys a 6 per cent share.<sup>21</sup>

1.22 Some submitters made the point that consolidation in the beef industry had resulted in an industry now effectively controlled by five corporations including Woolworths, Coles, JBS Australia, Teys/Cargill and Nippon Australia.<sup>22</sup> The domination of JBS and Teys/Cargill in the processing and domestic wholesaling sector was also raised as a concern by producers as well as their ability to enjoy a profit due to reduced competition.<sup>23</sup>

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16 Mrs Jo-Anne Bloomfield, *Submission 31*, p. 5.

17 Department of Agriculture, *Submission 74*, p. 3.

18 Mr Ashley Sweeting, *Submission 1*, p. 4.

19 Australian Meat Industry Council, *Submission 93*, p. 32.

20 Victorian Farmers Federation – Wangaratta Branch, *Submission 45*, p. 7.

21 Mr John Buxton, *Submission 5*, Attachment 1, p. 2.

22 Mr John Carpenter, *Submission 9*, p. 2.

23 Mr Rob Atkinson, *Submission 22*, p. [2].

1.23 Table 1 further demonstrates the extent of this issue. The major corporations – JBS Australia, Teys/Cargill and Nippon Australia – own multiple abattoirs and feedlots around the country. The numbers of facilities owned by the corporations demonstrate their share in the market. This enables them to set industry practices by enforcing specific policies across the plants. It also provides them with power when negotiating sales with producers.

*Table 1: Ownership of abattoirs in Australia*<sup>24</sup>

<b>Company</b>	<b>Number of abattoirs</b>	<b>Number of feedlots</b>
JBS Australia <sup>25</sup>	12	5
Tey/Cargill <sup>26</sup>	6	3
Nippon Australia <sup>27</sup>	3	1

1.24 The concentration of market power varies between different regions. Depending on where a producer is situated, and the number of regional processing plants, the extent of market share in an area can vary greatly. Mr David Farley argued that the red meat processing sector was best described as an oligopoly nationally, duopoly regionally and in certain areas, a monopoly.<sup>28</sup> For producers in areas with a small number of processors, there is limited choice as to where they can send their cattle for processing and who buys them.

1.25 One of the primary characteristics of the cattle industry is that cattle production is highly diverse and fragmented, comprising thousands of family farms across the country. In direct contrast, the red meat processing sector is highly consolidated and corporatised.<sup>29</sup>

1.26 In addition, processors have increasingly focused on vertical integration. The Australian Lot Feeders' Association informed the committee that processors now own 22 per cent of the overall feedlot industry capacity.<sup>30</sup> The argument was put, therefore,

24 Mrs Jo-Anne Bloomfield, *Submission 31*, p. 5.

25 JBS Australia, *Submission 50*, p. 2.

26 Teys Australia operates six beef processing facilities along the eastern seaboard and three feedlots in Jindalee (NSW), Condamine (QLD), and Charlton (VIC). Teys Australia, Facilities, [www.teysaust.com.au/facilities/](http://www.teysaust.com.au/facilities/) (accessed 22 September 2015).

27 Sue Neales, 'Locals lose the prime cuts', *The Australian*, 12 March 2015, [www.theaustralian.com.au/news/inquirer/locals-lose-the-prime-cuts/story-e6frg6z6-1227259061022](http://www.theaustralian.com.au/news/inquirer/locals-lose-the-prime-cuts/story-e6frg6z6-1227259061022) (accessed 22 September 2015).

28 Mr David Farley, *Submission 35*.

29 Mr John Carpenter, *Submission 9*, p. 2 and World Animal Protection, *Submission 18*, p. 1.

30 Australian Lot Feeders' Association, *Submission 46*, p. 2.

that competition is highly asymmetrical in favour of the large processing and retail corporations.<sup>31</sup>

1.27 Competitors for livestock in Australia include meat processors, live exporters, livestock producers (re-stockers, feed-lotters and backgrounders), brand owners and livestock agents and supermarkets.<sup>32</sup> There are approximately 400 accredited feedlots in Australia which are located within close proximity to cattle, grain, water and beef processing facilities. Most of these feedlots are located in Queensland, followed by NSW, WA, Victoria and then South Australia.<sup>33</sup>

1.28 According to evidence, consolidation has occurred vertically through the chain. The percentage of beef exports by non-packer exporters has declined significantly while the domestic wholesale business has seen both horizontal and vertical integration, and the retail sector has consolidated toward the major supermarkets.<sup>34</sup>

1.29 The dominance of the supermarkets, the demise of butchers who used to provide more competition in the saleyards, and the consolidation in the domestic processing sector (coupled with consolidation of international beef processors) has led to a 'reduction in competition for stock' which has impacted price.<sup>35</sup>

### ***The live export market***

1.30 Processors purchase for the domestic and export market. The export market accounts for 67 per cent of Australian beef production and consists of over 150 Australian beef exporters, 'all with their own brands and competing against each other as well as other international suppliers according to MLA'.<sup>36</sup>

1.31 According to Fletcher International Exports Pty Ltd, competition is strong in the lamb and sheep meat sector with up to eight meat export companies competing for livestock in most regional markets on any given day.<sup>37</sup>

1.32 The Gulf Cattleman's Association made the point that live export provides the only independent market competition for grazing enterprises in north and north-west Queensland.<sup>38</sup>

### ***Wholesaling and retailing***

1.33 In terms of the domestic market, the two major supermarkets, Coles and Woolworths dominate the retail trade in Australia. They manage their own supply

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31 Mr John Carpenter, *Submission 9*, p. 2.

32 JBS Australia, *Submission 50*, p. 5.

33 Australian Lot Feeders' Association, *Submission 46*, p. 2.

34 Mr Blair and Mrs Josie Angus, *Submission 80*, p. [3].

35 Mrs Linda Hewitt, Australian Beef Association, *Committee Hansard*, 27 August 2015, p. 64.

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

37 Fletcher International Exports Pty Ltd, *Submission 4*, p. [4].

38 Gulf Cattleman's Association, *Submission 41*, p. 2.

chains from forward contracted farm gate supply to retail shelf via contracted independent processing.<sup>39</sup> They have vertically integrated supply and service agreements throughout the supply chain with farmers, feedlots and processors.

1.34 The ACCC estimated that in 2005–06, Woolworths and Coles bought 6.4 per cent and 5.6 per cent respectively of total beef production and 13.2 per cent and 11.5 per cent respectively of lamb production. Together, Woolworths and Coles purchased 12 per cent of total beef production and 24.7 per cent of total lamb production.<sup>40</sup>

1.35 Beef is also sold through butchers, other supermarkets, grocery stores and wholesalers as well as restaurants and cafes.<sup>41</sup>

1.36 A number of submitters made the point that the dominance of the two supermarkets in the rural sector generally, and the beef industry more specifically, has been 'ruthless' with producers 'cut to the bone'.<sup>42</sup> The views of Merebene Pastoral Co. Pty. Ltd were typical in this regard:

Coles and Woolworths (etc) have been untouchable and unrestrainable for too many years and the rural community needs to see the Government repair some of the inequities and imbalances in relation to production cost versus retail profit before we lose more farms and farmers.<sup>43</sup>

### **Impact of processor consolidation on producers**

1.37 The Shire of Campaspe noted in its submission that the industry had been adversely impacted by:

- decreased competition due to less processors, resulting in higher risk of collusion and misuse of market power;
- potential of misidentifying or distorting the value of a product during various stages of the supply chain;
- less industry accountability for consumers; and
- resulting changes in consumer behaviour and confidence in the industry.<sup>44</sup>

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39 Mr David Farley, *Submission 35*, p. 2.

40 Competition and Consumer Commission, *Examination of the prices paid to farmers for livestock and the prices paid by Australian consumers for red meat*. A report to the Minister for Agriculture, Fisheries and Forestry, February 2007, p. 6, <https://www.accc.gov.au/system/files/Examination%20of%20livestock.pdf> (accessed 24 November 2015).

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

42 Merebene Pastoral Co. Pty. Ltd, *Submission 6*.

43 Merebene Pastoral Co. Pty. Ltd, *Submission 6*.

44 Shire of Campaspe, *Submission 53*, p. 2.



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**Travel burden and associated costs**

1.38 Producers raised concerns about the practical difficulties, and the costs associated with transporting stock to processing locations and sales. For livestock producers in Western Australia, the Northern Territory and Far North Queensland, long distance travel of their stock for slaughter is a central component of their farming operations.<sup>45</sup> As a consequence of processor consolidation, producers have to transport their cattle increasingly long distances. These distances continue to grow as plants are decommissioned and the industry is rationalised.

1.39 In most cases, beef producers pay the freight costs for 'direct to works' consignments. Mr Rob Atkinson summarised the impact:

Freight costs have a major effect on profitability, and long distance transport has an effect on beef quality, animal welfare, carcass shrink and eligibility for some premium markets. This has all come at a cost to producers.<sup>46</sup>

1.40 Producers argued that the lack of competition in remote or heavily dominated regions has negatively affected producers, leaving them with limited options in relation to how they sell and process their animals. Older processors and retailers are closed or have merged into a larger corporation, and many regions are now serviced by large-scale processing plants owned by the major processing companies. Submitters suggested that methods of sale and processing by these plants have had a negative impact on their income and their stock. This is particularly prevalent in regional areas where the market is significantly more contracted than in densely populated areas.

1.41 Mr Rob Atkinson provided an example of the impact consolidation of the market or 'regional monopolies' is having – specifically to JBS in Townsville. Mr Atkinson indicated that:

Every year, since Teys closed their plant in Innisfail (2006), the queue for booking a kill date in Townsville has been ridiculously long. Right now, that plant is booked out for 4 months. This has been the case for the last 3 years. It is part of the reason many producers have been unable to destock as quickly as they would like during this drought.

...

Most northern producers wait for months for a kill date, but they only know the grid price days before the point of sale. If we don't like the price, we lose the booking. If you don't like it, too bad. The joys of being a price taker.<sup>47</sup>

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45 World Animal Protection, *Submission 18*, p. 2.

46 Mr Rob Atkinson, *Submission 22*, p. [2].

47 Mr Rob Atkinson, *Submission 22*, p. [2].

1.42 Notwithstanding this evidence, other submitters made the point that single plant processors such as Bindaree at Inverell and the Northern Co-operative at Casino face an uncertain future with the resultant effect explained by Mr John Carpenter:

Every time a processor or retailer is amalgamated, it knocks out yet another bidder from the market for cattle. For cattle producers this process is lethal.<sup>48</sup>

***Limitations on where to sell livestock***

1.43 Markets with limited competition restrict producers' choices in how they sell their livestock. Submissions to the committee highlighted that this problem was a significant issue for producers.<sup>49</sup> As Mr Julian Carroll noted, while it would appear that there are a healthy number of processors nationwide:

...the geographical distribution of the processors mean that in reality, many beef producers have only one option before the cost of freight makes it uneconomical to look further afield.<sup>50</sup>

1.44 The Gulf Cattleman's Association suggested that the northern beef cattle market lacked fair competition, fair practice and transparency. It further argued that the consolidation of large processing facilities, reduction in service kill facilities (butchers), monopolisation of markets and changed market practices did not provide for a fair trade environment.<sup>51</sup> Some submitters suggested that where bigger processors were vertically integrated with feedlot business, they are able to regulate supply and therefore price.<sup>52</sup>

1.45 The Gulf Cattleman's Association described the consequences for enterprises in north west Queensland as follows:

The overall result is that as of the beginning of 2015 that the only processing facility in north Queensland available for the majority of the grass-fed herd is in Townsville or a further 7–800km to Rockhampton. Brazilian processing giant JBS and the joint venture between US agri-giant Cargill & Teys have control of 49% of the market and practically 100% of the processing control of the large commercial herds of north Queensland.<sup>53</sup>

1.46 However, some submissions argued that there were still multiple avenues for producers wanting to sell their stock. According to Mayor Pisasale from the City of Ipswich, as there are at least 40 'well-resourced' buyers on the east coast, producers and suppliers still have an opportunity to continue with traditional sales methods and

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48 Mr John Carpenter, *Submission 9*, p. 3.

49 World Animal Protection, *Submission 18*, p. 2.

50 Mr Julian Carroll, *Submission 48*, p. 3.

51 Gulf Cattleman's Association, *Submission 41*, p. 1.

52 Mr Neil Paulet, *Submission 42*.

53 Gulf Cattleman's Association, *Submission 41*, p. 1.

compete for livestock.<sup>54</sup> Processing, however, remains challenging for producers with limited abilities to move their stock elsewhere.

### Supply chain and price

1.47 The supply of red meat to consumers involves a long and complex supply chain. In its 2007 report on the relationship between livestock and retail prices, the ACCC noted that, in light of this reality, it should not be assumed that there will 'necessarily be a direct and immediate relationship between the price of the raw product (livestock) and the final good (packaged meat)'.<sup>55</sup>

1.48 The point was made that price discovery is becoming increasingly more difficult, while producers enjoy only marginal increases in terms of farm gate prices despite an increase in input costs by over 48 per cent since 1997–1998.<sup>56</sup>

1.49 Evidence to the committee highlighted this factor with some submitters arguing that there needed to be some relativity between production and retail prices; today beef is about \$2.40 per kilogram (lwt) and consumers are paying \$20 plus for a similar amount.<sup>57</sup> For producers, the real rate of return has steadily declined over the past 30 years<sup>58</sup> while the price of beef has risen, particularly over the last few years, from \$10 a kilogram to \$16 a kilogram.<sup>59</sup> Further the point was made that Australian beef producers receive only 26.5 to 32.8 per cent on average retail price of beef. In comparison, US cattle producers receive 48.9 to 55 per cent of the retail price.<sup>60</sup>

1.50 The Managing Director of Meat and Livestock Australia (MLA), Mr Richard Norton made it very clear how complex price discovery had become:

...industry's associations with price transparency are complex. They not only involve horizontal line of sight, knowledge of the actual prices at which cattle are being transacted, but also vertical lines of sight – beef prices, margins at each stage along the value chain and confidence in payment systems. These suggest that potentially a range of solutions are needed to address the issue rather than relying on a single solution.<sup>61</sup>

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54 Mayor Paul Pisasale, *Submission 29*, p. 2.

55 Australian Competition and Consumer Commission, *Examination of the prices paid to farmers for livestock and the prices paid by Australian consumers for red meat*. A report to the Minister for Agriculture, Fisheries and Forestry, February 2007, p. 18, [www.accc.gov.au/system/files/Examination%20of%20livestock.pdf](http://www.accc.gov.au/system/files/Examination%20of%20livestock.pdf) (accessed 21 January 2016).

56 National Farmers' Federation cited in Victorian Farmers Federation, *Submission 87*, p. 5.

57 Merebene Pastoral Co. Pty. Ltd, *Submission 6*,

58 Nanthes' Park British White Cattle Stud, *Submission 19*, p. [1].

59 Mr Shane and Mrs Maree Kennedy, *Submission 20*.

60 Mr John Carpenter, *Submission 9*, pp 5–6 and Australian Beef Association, *Submission 23*, p. 18.

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

1.51 One of the issues raised in relation to red meat processing in Australia, which is central to the inquiry, is that retail prices have risen while livestock prices have not.<sup>62</sup> Yet the red meat supply chain is said to be one of supply and demand, further influenced by seasonal conditions and the dollar. According to AMIC, the main factors influencing livestock prices include the effects of drought, domestic market shifts, overseas meat demand, and exchange rate fluctuations. In relation to the latter, AMIC suggested that with up to 70 per cent of red meat exported, a stronger Australian dollar makes its exports more expensive overseas and reduces the quality of Australian meat demanded and purchased by those markets.<sup>63</sup> It argued that:

The two overarching and major price drivers are (i) domestic and overseas consumer demand shifts in response to meat price itself and competitor supply and (ii) seasonal impacts on need to sell livestock and the quality of livestock sold.<sup>64</sup>

1.52 While a number of submitters argued the point that there is a correlation between global price, domestic slaughter levels and domestic pricing, a number of producers challenged this argument. Mr Blair and Josie Angus suggested that:

Cattle slaughter rates have shown consistent steady increase, global prices have accelerated and cattle prices have not followed. The only consistent...is the widening gap between cattle prices and beef prices or increasing processor margin.

The rapid price increases seen in 2015 have occurred without a significant lessening of cattle slaughter or a significant change in slaughter capacity and in fact against a background of a reduction in global beef prices.<sup>65</sup>

1.53 These views were also echoed in other submissions to the inquiry.

### **Committee's previous seven recommendations**

1.54 On 9 September 2014, this committee tabled its inquiry report into *Industry Structures and systems governing levies on grass-fed cattle*. The committee produced seven recommendations directed at providing for greater producer representation, transparency and accountability within the grass-fed cattle levy system.

1.55 Many submitters to the current inquiry voiced their support for the implementation of all seven of the committee's 2014 recommendations.<sup>66</sup> It was suggested that implementation of the recommendations would provide greater

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62 Mr Bradley Teys, Teys Australia, *Committee Hansard*, 27 August 2015, p. 8.

63 Australian Meat Industry Council, *Submission 93*, p. 13.

64 Australian Meat Industry Council, *Submission 93*, p. 13.

65 Mr Blair and Mrs Josie Angus, *Submission 80*, p. [2].

66 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.

producer representation as well as address the 'unchecked power the processing sector has amassed'.<sup>67</sup>

### **Structure of the report**

1.56 Chapter 2 of this report considers selling practices at saleyards. It considers the events at Barnawartha and focuses on the potential for misuse of market power through buyer collusion and concerted practices.

1.57 Chapter 3 considers the saleyards as a selling system including pre- and post-weighing at saleyards. It also examines the evidence in relation saleyards and price discovery.

1.58 Chapter 4 focuses on other selling structures including 'over the hook', direct sales and online sales.

1.59 Chapter 5 considers the regulatory environment and the grading system.

1.60 In the final chapter, the committee outlines its view and recommendations which aim to create a fair market with focus on concerted practices, commission buyers, price transparency, accountability and saleyard design.

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67 Mr Julian Carroll, *Submission 48*, p. 2.



## Chapter 2

### Selling practices at saleyards

2.1 This chapter focuses on selling practices at livestock saleyards. It considers the events at Barnawartha which, for many producers, served as a significant example of the potential for the misuse of market power in the red meat industry. The chapter also examines the perception that there is a culture of collusion at saleyards, and what may amount to concerted practices.

#### Issues arising from events at Barnawartha

2.2 A number of submitters drew on the events at Barnawartha to highlight serious concerns with the selling system at saleyards. They suggested that the processors 'boycotted' the prime cattle sale in an effort to change the selling practice from pre-sale weighing to post-sale weighing.<sup>1</sup> The Alpine Shire, where the Barnawartha saleyards is located, argued that the 'boycott' demonstrated the power of buyers 'potentially colluding to gain a direct benefit'.<sup>2</sup> For producers, the events were seen as 'a timely reminder that the buyers and the processors have excessive market power in our industry'.<sup>3</sup>

2.3 The Barnawartha saleyards, trading as the Northern Victoria Livestock Exchange (NVLX) are located on the southern outskirts of Wodonga, Victoria.

2.4 According to evidence before the committee, the events unfolded as follows:

- On 30 January 2015, Regional Infrastructure Pty Ltd (RIPL), the manager and operator of the Northern Victoria Livestock Exchange (NVLX) Wodonga facility, sent correspondence to NVLX buyers stating that it would operate on a pre-weigh basis.<sup>4</sup>
- On 12 February 2015, Teys Australia informed Regional Infrastructure Pty Ltd (RIPL) that it would not attend NVLX sales if operations were conducted on a pre-weigh basis.<sup>5</sup>

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1 Mr Norman Sharp, *Submission 27* and Ms Loretta Carroll, *Submission 63*, p. 1.

2 Alpine Shire, *Submission 33*.

3 Mrs Maureen Cottam, *Submission 25*, p. 1. See also Mr David and Ms Anne Wortmann, *Submission 76*.

4 Regional Infrastructure Pty Limited, Answer to question on notice from 17 November 2015 hearing, received 15 December 2015.

5 According to RIPL, Teys Australia had notified the Australian Livestock and Property Agents Association (ALPA) in June 2014 that Teys would not have a buyer attend the new NVLX site if it were to conduct sales on a pre-weigh basis. ALPA then notified Regional Infrastructure Pty Ltd (RIPL) and a number of livestock selling agents of this communication. Regional Infrastructure Pty Limited, Answer to question on notice from 17 November 2015 hearing, received 15 December 2015.

- On 17 February 2015, up to ten commission buyers (nominally accounting for 45 per cent of normal purchases on a sale day) failed to attend the sale, without warning.<sup>6</sup> The same day, the agents agreed to a post-weigh system of selling without 'consultation with producers who pay all the sale yard fees'.<sup>7</sup>
- On 2 March 2015, a public meeting was held at the Barnawartha Public Hall. The meeting was attended by over 250 farmers and ultimately led to demands for a parliamentary inquiry.<sup>8</sup>

2.5 One of the country's largest processors, JBS Australia, advised the committee that it did not participate in any alleged boycott at Barnawartha, and had no communications with other processors in regard to its attendance at the saleyard.<sup>9</sup> According to RIPL, JBS had informed NVLX management on 17 February 2015 that their Dinmore plant had broken down and that it would not be attending the sale that day.<sup>10</sup>

2.6 Mr Bradley Teys from Teys Australia explained the timeline of his company's decision not to attend the sale:

The decision we heard was that it was going to be post sale and then when the sale started a week or two before we heard it was going to be presale weighing, so that is when the decision was made.<sup>11</sup>

2.7 When asked about the Barnawartha matter, Mr David Larkin from the Australian Meat Industry Council (AMIC), the peak industry council representing the meat processing sector, informed the committee that:

It is our understanding that a number of players, over several months and a couple of years, indicated to the livestock sale yard operator that if they changed that method of selling, they would not commercially participate. So I do not believe that there was any collusion or any decision made on that particular day other than the fact that a sale yard operator potentially tried to force a change of which commercial operators had indicated, in public and in writing, their view on that change.<sup>12</sup>

2.8 However, along with the suggestion of an organised boycott, the events at Barnawartha brought to the fore broader concerns regarding market competition and

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6 Victorian Farmers Federation – Wangaratta Branch, *Submission 45*, p. 4.

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

8 Victorian Farmers Federation – Wangaratta Branch, *Submission 45*, Appendix 1 and 2 provide a summary of the ideas, comments and a summary transcript of the meeting which was moderated by the VFF and NSW Farmers.

9 JBS Australia, *Submission 50*, p. 18.

10 Regional Infrastructure Pty Limited, Answer to question on notice from 17 November 2015 hearing, received 15 December 2015.

11 Mr Bradley Teys, Teys Australia, *Committee Hansard*, 27 August 2015, p. 3.

12 Mr David Larkin, Australian Meat Industry Council, *Committee Hansard*, 17 November 2015, p. 2.



the reporting of livestock sales. With consolidation and rationalisation of the processing sector, fewer buyers are attending cattle markets. Under such circumstances, and particularly in relation to smaller saleyards, the non-attendance of processors at markets can have a significant impact on the market price.<sup>13</sup> This factor was explained by the Australian Livestock and Property Agents Association (ALPAA):

We believe that the misuse of market power could be as simple as some buyers (not only processors) attending some saleyards and not attending others, leaving it to their competitors to operate without their competition. This may well be seen as collusive behaviour; however it could simply be coincidental and have happened without either buyer talking to another buyer about their attendance or non-attendance.<sup>14</sup>

2.9 However, the statements by processors that there was no intentionally organised boycott were questioned by many producers and producer groups. The NSW Farmers' Association noted its scepticism and pointed to a number of factors: including the number of processors who did not attend the sale, the timing of the incident and its connection with the takeover of Primo.<sup>15</sup>

2.10 In terms of the immediate impact of the Barnawartha events, producers who sent their livestock to the saleyard on 17 February 2015 provided evidence to the committee. Their contention was that the change from what was 'accepted practice' regarding weighing saw \$50 to \$100 taken from beef producers on every grown beast sold, with a price drop of between 20 to 30 cents per kilogram for cattle on the day.<sup>16</sup>

2.11 Given the significant transportation costs involved in trucking livestock to the saleyard, coupled with the adverse impact of any additional transport and handling on their stock, some producers were unable to withdraw cattle from the sale on that day. They had no alternative but to accept a price below previous markets. One affected producer, Mr Mark Wortmann expressed the view that the situation highlighted the fact that:

...the farmer has very little influence on the system that he is forced to sell his cattle under and is left at the mercy of the buyers and the operators of the selling facility.<sup>17</sup>

2.12 Mr Laurie Horne was offended by the behaviour of buyers at Barnawartha:

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13 Ms Loretta Carroll, *Submission 63*, p. 2 and Mr Derek Schoen, NSW Farmers' Association, *Committee Hansard*, 2 September 2015, p. 3.

14 Australian Livestock and Property Agents Association, *Submission 79*, p. 4.

15 Mr Derek Schoen, New South Wales Farmers' Association, *Committee Hansard*, 2 September 2015, p. 4.

16 Merebene Pastoral Co. Pty. Ltd, *Submission 6*; Mr Norman Sharp, *Submission 27* and Victorian Farmers Federation – Ovens Valley Branch, *Submission 62*, p. 1.

17 Mr Mark Wortmann, *Submission 14*.

I could not believe that some processors could treat producers with so little respect...Can you imagine a year's product sold at a dramatic discount because of the buyers' wish to have their own way?<sup>18</sup>

2.13 The Barnawartha matter highlighted the intricate three-way relationship between producers, stock agents and buyers and the 'wider complicated web that is the ownership, management and operation of saleyards'.<sup>19</sup> Mr Vin O'Neill argued that, whereas agents serve as the intermediary between the buyer and seller, in the Barnawartha case, they opted to side with the buyers to 'protect their financial position as agents of supply to the large retail operators'.<sup>20</sup>

### **Livestock agents and buyers**

2.14 The Barnawartha matter raised serious concerns regarding the selling systems at saleyards. This section considers the selling system with particular focus on the role of commission buyers.

2.15 The 'middlemen' in most cattle transactions are either:

- stock agents such as TopX, Grant Daniel Long (GDL), Landmark, Elders, Brodie and Co. When a sale is transacted, they receive commission from the seller, based on a percentage of the sale prices; or
- commission buyers who buy on a commission or per head basis, remunerated by the buyer; or
- meatworks buyers who buy cattle on property, over the phone, via email or out of the saleyard. Their remuneration is paid for by the meatworks.<sup>21</sup>

2.16 Livestock agents typically sell livestock on behalf of the producer/vendor on a commission basis. Livestock agents are licenced under state government regulations with requirements varying between jurisdictions.<sup>22</sup>

2.17 While buyers are usually engaged directly by a meat processor or retailer on a salaried basis or engaged as a commission buyer, according to the department, there is no public information describing the operations of livestock buyers.<sup>23</sup> However, according to Mr Wayne Osborne, Chief Executive Officer of NVLX, buyers are included in state and national codes of practice for saleyards.<sup>24</sup>

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18 Mr Laurie Horne, private capacity, *Committee Hansard*, 17 November 2015, p. 40.

19 Mrs Suzanne Ryder, *Submission 43*, p. [1].

20 Mr Vin O'Neill, *Submission 32*.

21 Mr Rob Atkinson, *Submission 22*, p. [1].

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

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

24 Mr Wayne Osborne, Victorian Livestock Exchange Pty Ltd, *Committee Hansard*, 2 September 2015, p. 17.

2.18 Some producers argued 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. According to Mr John Buxton, this was the case at Barnawartha and other selling systems in Victoria where the 'code of practice was overturned in the face of pressure from meat buyers'.<sup>25</sup>

2.19 Evidence to the committee also went to instances whereby livestock agents have operated on both sides of the transaction by representing both vendor and buyer.<sup>26</sup> The committee was also informed of practices where individual buyers may be buying for more than one meat company, sometimes multiple companies and at the same sale.<sup>27</sup> A number of submitters noted that, where such practices arise, the auction system may be compromised and the true value of stock is not realised.<sup>28</sup>

### ***Commission buyers***

2.20 Mr Andrew Madigan, CEO of ALPAA, explained how commission buyers operate:

Some commissioned buyers will turn up with only one order. Some commissioned buyers will turn up with four orders. Some commissioned buyers will turn up with a number of orders that are totally different, so they do not create a lack of competition. For example, a commissioned buyer might have an order to buy cows for a processor and he might also have an order to buy feeder steers, so the two are not opposing one another. But it is when a commissioned buyer turns up with three orders to buy feeder steers that there is a problem.<sup>29</sup>

2.21 However, evidence to the committee indicated that it was not uncommon for commission buyers to buy for multiple clients including up to ten different processor identities, which is likely to have a repressive effect on prices for reasons including limited or even no competition.<sup>30</sup> As a case in point, Mr Stuart Morant suggested that in Wodonga in late 2014, three commission buyers were purchasing for 14 different companies, 'resulting in prices being driven down'.<sup>31</sup> In this regard, the Victorian Farmers Federation – Wangaratta Branch observed that it was not aware of any other auction system whereby one bidder represented more than one client for the same commodity.<sup>32</sup>

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

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

27 Mr Mark Wortmann, *Submission 14*; Mr Frank Griffiths, *Submission 21*;

28 Mr Mark Wortmann, *Submission 14* and Mr Shane and Mrs Maree Kennedy, *Submission 20*

29 Mr Andrew Madigan, Australian Livestock and Property Agents Association, *Committee Hansard*, 27 August 2015, p. 38.

30 Merebene Pastoral Co. Pty. Ltd, *Submission 6*; Mr Murray and Mrs Debbie Jones, *Submission 17*; Mr Norman Sharp, *Submission 27*; Victorian Farmers Federation – Wangaratta Branch, *Submission 45*, p. 6 and Mr Julian Carroll, *Submission 48*, p. 4.

31 Mr Stuart Morant, *Submission 28*.

32 Victorian Farmers Federation – Wangaratta Branch, *Submission 45*, p. 6.

2.22 Mr Derek Schoen, President of the NSW Farmers' Association explained the issue with commission buyers:

If a commission buyer takes over the role of all the processor buyers then it takes out that competition because, of course, they have a duty to the person that is hiring them to get the stock at the cheapest possible price and they will do whatever they can to achieve that.<sup>33</sup>

2.23 The committee was also informed that stock agents do nothing to report or stop buyer collusion at the fat market because they fear the buyers will boycott their run of cattle. Therefore, stock agents may comply with the commission buyers wishes as to how the cattle are booked out and to how many different processors.<sup>34</sup>

2.24 Submitters to the inquiry suggested that in some instances, buyers will decide between themselves prior to the sale as to who will bid for what pen in order that they don't compete with each other.<sup>35</sup> As a case in point, Mr David Evans indicated that during periods of oversupply, lots of cattle may attract only one bid with different commission buyers purchasing in turn. He suggested that this practice created a clear impression that they were taking it in turns to purchase and leaving the vendor with a choice of 'take it or leave it'.<sup>36</sup>

2.25 In light of these concerns, some submitters suggested that commission buyers should buy for one customer only and let other buyers participate in sales. However, others made the point that limiting buyers to one customer might exclude smaller buyers from the market such as local butchers or small-scale farmers and others who don't have the time to attend a sale to purchase a few head of cattle. Mr David Evans suggested that even excluding a single commission buyer from acting for more than one major client processor might operate to the disadvantage of competition.<sup>37</sup>

2.26 However, others argued for the need to place a limitation on the number of processors each buyer is permitted to represent.<sup>38</sup> Mr James Neary suggested that in order to ensure more competition at auction, the larger buyers/processors who buy 20 or more animals should have only one buyer.<sup>39</sup>

2.27 The NSW Farmers' Association supported a nominal limit of five per cent of stock that a single buyer may be able to purchase on behalf of a number of players. Such a limit would be set within a mandatory code of conduct which could be

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33 Mr Derek Schoen, NSW Farmers' Association, *Committee Hansard*, 2 September 2015, p. 3.

34 Mr Stuart Morant, *Submission 28*.

35 Mr David Blum, *Submission 26*.

36 Mr David Evans, *Submission 15*, p. [2].

37 Mr David Evans, *Submission 15*, p. [2].

38 Merebene Pastoral Co. Pty. Ltd, *Submission 6*; Mr Rex and Mrs Trish Forrest, *Submission 44*, p. 2 and Mr David and Ms Anne Wortmann, *Submission 76*.

39 Mr James Neary, *Submission 34*.

negotiated between all respective stakeholders.<sup>40</sup> This recommendation was supported by others, including the Indigo Shire Council.<sup>41</sup>

### **Culture of collusion**

2.28 The committee was informed of a number of buyer practices utilised to influence the purchasing price and limit market competitiveness. It became evident to the committee that there is a widespread belief amongst producers that collusive practices occur routinely and have the effect of suppressing price.<sup>42</sup> In fact, the information provided by submitters and witnesses built up a picture of practices and conduct specifically directed at influencing market price.<sup>43</sup> The evidence of Mr Vin O'Neill was typical in this regard:

Within the auction system I'm sure there is some level of buyer collusion taking place, though it is more likely to be in a falling market than in a rising market. The problem is, it's very difficult to prove and from what I'm hearing from within the industry, it's mostly the larger company's buyers working together that are accused of this type of collusion. Within an open bidding system such as in a saleyard situation there is always a danger of buyer collusion taking place within it, though it's fair to say, any auction in any industry is exposed to the dangers of buyer collusion.<sup>44</sup>

2.29 The Australian Competition and Consumer Commission (ACCC) noted that in order to prove collusion, what would have to be demonstrated is that a particular contract between a buyer and an agent led to a substantial lessening of competition as Mr Marcus Bezzi, ACCC Executive General Manager of Competition Enforcement explained:

We would need to be able to prove that there was a substantial lessening of competition in the market – not just in a particular sale, but in the market.<sup>45</sup>

2.30 Notwithstanding the fact that collusive practices are difficult to prove, it was made clear to the committee that producers were reluctant to provide evidence to the inquiry for fear of compromising their relationship with processors and thereby jeopardising their livelihoods.<sup>46</sup> This concern was highlighted in the evidence of Councillor Bernard Gaffney, Mayor of the Indigo Shire Council. In detailing his

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40 Mr John Dunn, NSW Farmers' Association, *Committee Hansard*, 2 September 2015, p. 5.

41 Councillor Bernard Gaffney, Indigo Shire Council, *Committee Hansard*, 2 September 2015, p. 12.

42 Victorian Farmers Federation – Wangaratta Branch, *Submission 45*, p. 7.

43 The committee's experience corroborates with the ACCC's investigation, which was unsuccessful in obtaining evidence of collusion.

44 Mr Vin O'Neill, *Submission 32*, p. 1.

45 Mr Marcus Bezzi, Australian Competition and Consumer Commission, *Committee Hansard*, 5 April 2016, p. 10.

46 As a case in point, Livestock SA acknowledged the evidence of Mr Tom Hunt who detailed a complaint about fat scores in his submission (*Submission 3*) despite the 'threat to his own business'. Livestock SA, *Submission 81*.

experience when in charge of the Victorian Police Criminal Investigation Branch (CIB) livestock squad in the late 1980s, Mayor Gaffney stated that:

I went to sales right across Victoria. It was obvious that there was collusion and farmers, beef producers, would complain about collusion. But, when it came to making a statement, they were very concerned about their livelihood and that they would be blackballed by the buyers.<sup>47</sup>

2.31 These concerns were corroborated in producer feedback to the Cattle Council of Australia which indicated that, while uncompetitive practices are still occurring, producers are reluctant to report them for fear of commercial retribution. This factor alone demonstrates the significant market power yielded post the farm-gate.<sup>48</sup>

2.32 The Livestock Saleyards Association of Victoria (LSAV) informed the committee that its members had occasionally reported issues related to buyer competition at their sales. It noted that these issues arose particularly in relation to smaller, less-frequented selling centres which are generally attended by fewer buyers. LSAV continued:

These issues include suspicion of collusion, the use of contract buyers purchasing on behalf of multiple end users and the number of buyers who actually attend each sale. It is difficult to provide any concrete evidence that collusion does occur but suffice to say that interest is raised when small numbers of buyers attend sales.<sup>49</sup>

2.33 Mr Rob Atkinson made the point that if collusion exists, it is because:

- some buyers mix in the same circles and know each other well – creating an impression that buyer collusion could be a factor;
- some agents or buyers will operate on behalf of multiple clients or processors which decreases competition; and furthermore
- as the number of buyers decreases, it will be easier to manipulate the system.<sup>50</sup>

2.34 The NSW Farmers' Association explained that saleyard integrity had been called into question over a variety of practices in relation to price at saleyards. It suggested that there were common examples of poor practice which undermine the integrity of the sale process.<sup>51</sup>

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47 Councillor Bernard Gaffney, Indigo Shire Council, *Committee Hansard*, 2 September 2015, p. 13.

48 Cattle Council of Australia, *Submission 83*, p. 3.

49 Livestock Saleyards Association of Victoria, *Submission 30*.

50 Mr Rob Atkinson, *Submission 22*, p. [2].

51 NSW Farmers' Association, *Submission 92*, p. 13.

2.35 The point was made to the committee that while proving collusion is one thing, the fact remains that it is open to occur.<sup>52</sup> Witnesses repeatedly emphasised the underlying problem as a lack of transparency throughout the supply chain and market tension at the saleyards. Without such transparency, the spectre of collusion, for which there is anecdotal evidence spanning a 25 year period, will remain.<sup>53</sup>

### **ACCC investigation into Barnawartha events**

2.36 In December 2015, the ACCC released the findings of its inquiry into the allegations of boycotting at Barnawartha. In a media release, the ACCC stated that:

The investigation found that there was uncertainty before the sale about whether the Barnawartha saleyard would use a pre or post weigh selling method. It was also clear that certain processors strongly opposed the pre-weigh method.<sup>54</sup>

2.37 The evidence obtained by the ACCC did not demonstrate that the processors had reached an agreement not to attend the sale. ACCC Chairman, Mr Rod Sims noted that:

Although it was clear that processors communicated about the sale, the evidence 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 a breach of the Act.<sup>55</sup>

2.38 However, the ACCC did identify some 'competition concerns in its investigation'.<sup>56</sup> It was confirmed that representatives of some of the competing nine processors communicated with each other on a regular basis. On this matter, Mr Sims made the following observation:

There is a fine line between social discussions about industry issues on the one hand, and exchanging information in circumstances that may constitute an understanding between competitors on the other.<sup>57</sup>

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52 Mr Gregory Mirabella, Victorian Farmers Federation – Wangaratta Branch, *Committee Hansard*, 2 September 2015, p. 23.

53 Mr Derek Schoen, NSW Farmers' Association, *Committee Hansard*, 2 September 2015, p. 3 and Councillor Bernard Gaffney, Indigo Shire Council, *Committee Hansard*, 2 September 2015, p. 13.

54 Australian Competition and Consumer Commission, 'Alleged Barnawartha boycott concerns investigated', *Media release*, 9 December 2015, [www.accc.gov.au/media-release/alleged-barnawartha-boycott-concerns-investigated](http://www.accc.gov.au/media-release/alleged-barnawartha-boycott-concerns-investigated) (accessed 9 December 2015).

55 Australian Competition and Consumer Commission, 'Alleged Barnawartha boycott concerns investigated', *Media release*, 9 December 2015. [www.accc.gov.au/media-release/alleged-barnawartha-boycott-concerns-investigated](http://www.accc.gov.au/media-release/alleged-barnawartha-boycott-concerns-investigated) (accessed 9 December 2015).

56 Australian Competition and Consumer Commission, 'Alleged Barnawartha boycott concerns investigated', *Media release*, 9 December 2015, [www.accc.gov.au/media-release/alleged-barnawartha-boycott-concerns-investigated](http://www.accc.gov.au/media-release/alleged-barnawartha-boycott-concerns-investigated) (accessed 9 December 2015).

57 Australian Competition and Consumer Commission, 'Alleged Barnawartha boycott concerns investigated', *Media release*, 9 December 2015. [www.accc.gov.au/media-release/alleged-barnawartha-boycott-concerns-investigated](http://www.accc.gov.au/media-release/alleged-barnawartha-boycott-concerns-investigated) (accessed 9 December 2015).

2.39 At the committee's hearing on 5 April 2016, Ms Sims noted that the ACCC did not have adequate proof of collusion under the standard required by the *Competition and Consumer Act 2010* Act (CCA Act). That is, the evidence obtained did not establish that there was some 'meeting of the minds'.<sup>58</sup>

### **Defining collusion under Australian law**

2.40 The CCA Act prohibits collusive behaviour, defining such conduct as both civil and criminal offences. The ACCC holds the statutory authority to investigate and penalise alleged conduct in breach of the CCA Act. Section 44ZZRA provides a simplified outline of collusion or 'cartel conduct'. The section states that:

A cartel provision is a provision relating to:

- (a) price-fixing; or
- (b) restricting outputs in the production and supply chain; or
- (c) allocating customers, suppliers or territories; or
- (d) bid-rigging;

by parties that are, or would otherwise be, in competition with each other.

2.41 The ACCC advised the committee that there are two types of collusive activity. 'Hard-core cartel activity' involves collusion such as price-fixing, agreements to limit supply and bid-rigging. These forms of collusion are criminal offences and can result in up to 10 years imprisonment.

2.42 In contrast, 'soft cartel activity' involves a wide range and spectrum of collusive conduct, such as concerted practices in which parties act consciously in an identical or similar way.<sup>59</sup> Soft cartel activity is not necessarily illegal, depending on the type of conduct involved. The ACCC noted that while acts of soft collusion, such as concerted practices, do not require reciprocity between colluding parties, hard-core cartel activity or collusion does require such an understanding.<sup>60</sup>

2.43 Section 46 of the CCA Act is also relevant in considering collusion under the law. It prohibits the misuse of market power by corporations for the purposes of eliminating or substantially damaging a competitor, preventing others entering the market, or deterring or preventing others from engaging in competitive conduct.<sup>61</sup>

2.44 Section 44ZZRF of the CCA Act makes it a criminal offence for a corporation to make a contract, agreement, or come to an understanding, which contains a cartel

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58 Mr Rod Sims, Australian Competition and Consumer Commission, *Committee Hansard*, 5 April 2016, p. 4.

59 Mr Marcus Bezzi, Australian Competition and Consumer Commission, *Committee Hansard*, 17 November 2015, pp 22–23.

60 Mr Marcus Bezzi, Australian Competition and Consumer Commission, *Committee Hansard*, 17 November 2015, pp 22–23.

61 *Competition and Consumer Act 2010*, section 46.



provision. It is also an indictable offence.<sup>62</sup> Section 44ZZRJ applies a civil penalty to the same conduct. Penalties for criminal offences or civil breaches for corporations will be the greater of:

- (a) \$10,000,000;
- (b) Three times the total value of the benefits obtained by one or more persons which are reasonably attributable to the commission of the offence or breach; and
- (c) If a court cannot determine the value of the benefits stated above – 10% of the corporation's annual turnover during the 12 month period ending at the end of the month when the corporation committed, or began committing, the offence.<sup>63</sup>

2.45 Individuals found to be guilty of cartel conduct could face potential criminal or civil penalties such as up to 10 years of imprisonment, fines of up to \$360,000 per criminal charge, and a pecuniary penalty of up to \$500,000 per civil contravention.

2.46 The ACCC informed the committee that for a contravention of the CCA Act to occur, an agreement between buyers, perhaps involving the agent, to essentially rig the bidding at an auction must be proven.<sup>64</sup>

#### ***Government response to Harper Review***

2.47 In late 2013, the Australian Government announced a review of competition policy. The Competition Policy Review (or Harper Review) final report which was released in March 2015, contained 56 recommendations for reform in competition policy.

2.48 In November 2015, the Australian Government released its response to the Harper Review, committing to reforming and updating the competition provisions in the CCA Act, including the introduction of a prohibition on concerted practices and simplifying cartel laws.<sup>65</sup>

2.49 In response to Harper Review Recommendation 30 concerning the misuse of market power, the Australian Government stated its intention to consult on options to reform the provision. The Harper Review had recommended a reframing of section 46 to simplify the provision by introducing an 'effects test'.<sup>66</sup>

2.50 Then on 16 March 2016, the Australian Government announced that it would amend section 46 of the CCA Act in line with the Harper Review recommendation to

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62 *Competition and Consumer Act 2010*, section 44ZZRF(4).

63 *Competition and Consumer Act 2010*, section 44ZZRF(3).

64 Ms Gabrielle Ford, Australian Competition and Consumer Commission, *Committee Hansard*, 17 November 2015, p. 22.

65 Australian Government the Treasury, *Australian Government response to the Competition Policy Review*, November 2015, p. 2.

66 Australian Government the Treasury, *Australian Government response to the Competition Policy Review*, November 2015, p. 25.

introduce changes which will penalise businesses with market power if the 'effect' or 'likely effect' of their actions is, or would be, to substantially lessen competition. The Prime Minister, the Hon. Malcolm Turnbull MP, explained that under a new section 46(1):

[A] corporation that has substantial degree of power in a market shall not engage in conduct if the conduct has the purpose or would have or be likely to have the effect, the effects test, of substantially lessening competition in that or any other market.<sup>67</sup>

2.51 Mr Bezzi noted the ACCC's support for the Harper Review recommendation which the government will now implement:

We certainly strongly support the view of the Harper committee to get rid of the take advantage element of section 46 and bring the provision into line with sections 45, 47 and 50, which focus on conduct for the purpose or with the effect of substantially lessening competition. We think that that would be a significant improvement in the law.<sup>68</sup>

2.52 In terms of impact, Mr Bezzi noted that it would require 'people who have a substantial degree of market power to think a little bit more carefully about whether what they are doing could have an anti-competitive effect or might be for an anti-competitive purpose'. He noted in this regard that they might be deterred.<sup>69</sup>

### **Concerted practices**

2.53 While the ACCC did not obtain evidence of collusion as defined under the CCA Act in relation to the Barnawartha events, Mr Sims highlighted the ACCC's concerns regarding the behaviour of processors. To this end, the ACCC did find that there were 'signals sent to the market about attitudes to pre-sale weighing'. According to Mr Bezzi:

Those signals probably gave comfort to some of the smaller processors that the bigger processors were not going to turn up.<sup>70</sup>

2.54 The ACCC informed the committee that such behaviour was much closer to that of a 'concerted practice' rather than collusive behaviour as defined by the CCA Act. Mr Bezzi explained:

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67 Prime Minister of Australia, Joint Press Conference with the Treasurer and Minister for Small Business and Assistant Treasurer, 16 March 2016, [www.pm.gov.au/media/2016-03-16/joint-press-conference-treasurer-and-minister-small-business-and-assistant](http://www.pm.gov.au/media/2016-03-16/joint-press-conference-treasurer-and-minister-small-business-and-assistant) (accessed 21 March 2016).

68 Mr Marcus Bezzi, Australian Competition and Consumer Commission, *Committee Hansard*, 17 November 2015, p. 26.

69 Mr Marcus Bezzi, Australian Competition and Consumer Commission, *Committee Hansard*, 17 November 2015, p. 26.

70 Mr Marcus Bezzi, Australian Competition and Consumer Commission, *Committee Hansard*, 5 April 2016, p. 4.

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A concerted practice is, essentially, where competitors share confidential information, with each other, without any expectation that the other party will do anything reciprocal.<sup>71</sup>

2.55 What distinguishes collusion from a concerted practice is the matter of the understanding between the parties. Collusion occurs when there is an understanding and expectation generated by the sharing of information. According to the ACCC, the Barnawartha matter did not amount to collusion because it involved the sharing of information about sensitive matters between the parties but without 'mutuality' or an understanding and expectation generated that such information would be acted upon.<sup>72</sup> Mr Sims explained a concerted practice:

The classic one is...in any market where people are exchanging information about how they are going to price. They are not asking you what you are going to do but they are, equally, letting each other know how they are going to price.<sup>73</sup>

2.56 Mr Sims informed the committee that in most other jurisdictions, there are laws regarding concerted practices whereby signals are sent which amount to a substantial lessening of competition.<sup>74</sup> Such laws are applicable to circumstances which are close to collusion but where information is given, usually privately but also potentially publicly, which has the purpose or effect of substantially lessening competition, but without the element of 'mutuality'.<sup>75</sup> However, in Australia, there are no laws regarding such practices applicable to the cattle and beef industry.

### ***Defining a concerted practice***

2.57 The Harper Review recommended that the price signalling provisions in the CCA Act should be removed and replaced, by extending section 45 governing contracts, arrangements and understandings that affect competition to also cover concerted practices that have the purpose, effect or likely effect of substantially lessening competition.<sup>76</sup> It provided the following explanation of 'concerted':

The word 'concerted' means jointly arranged or carried out or co-ordinated. Hence, a concerted practice between market participants is a practice that is

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71 Mr Marcus Bezzi, Australian Competition and Consumer Commission, *Committee Hansard*, 5 April 2016, p. 5.

72 Mr Marcus Bezzi, Australian Competition and Consumer Commission, *Committee Hansard*, 5 April 2016, p. 5.

73 Mr Rod Sims, Australian Competition and Consumer Commission, *Committee Hansard*, 5 April 2016, p. 5.

74 Mr Rod Sims, Australian Competition and Consumer Commission, *Committee Hansard*, 5 April 2016, pp 4–5.

75 Mr Rod Sims, Australian Competition and Consumer Commission, *Committee Hansard*, 5 April 2016, p. 7.

76 Professor Ian Harper, et al, *Competition Policy Review: Final Report*, March 2015, p. 9 and Recommendation 29 – Price signalling, p. 60, [http://competitionpolicyreview.gov.au/files/2015/03/Competition-policy-review-report\\_online.pdf](http://competitionpolicyreview.gov.au/files/2015/03/Competition-policy-review-report_online.pdf) (accessed 7 March 2016).

jointly arranged or carried out or co-ordinated between the participants. The expression 'concerted practice with one or more other persons' conveys that the impugned practice is neither unilateral conduct nor mere parallel conduct by market participants (e.g., suppliers selling products at the same price).<sup>77</sup>

2.58 The Harper Review made it clear that such conduct would only be prohibited if it can be shown that the concerted practice has the 'purpose, effect or likely effect of substantially lessening competition'. Further:

It would include the regular disclosure or exchange of price information between two firms, whether or not it is possible to show that the firms had reached an understanding about the disclosure or exchange.<sup>78</sup>

2.59 The CCA Act currently contains price signalling provisions which, by regulation, only apply to the banking sector. The provisions prohibit the private disclosure of pricing information to a competitor on a per se basis and the general disclosure of information where the purpose of the disclosure is to substantially lessen competition in the market. The Harper Review recommended the repeal of these provisions, while proposing the introduction of a prohibition on engaging in a concerted practice if it has, or is likely to have, the effect of substantially lessening competition.<sup>79</sup>

2.60 In its response to the Harper Review, the Australian Government noted its support for the recommendation (number 29) and committed to developing exposure draft legislation to repeal the price signalling provisions of the CCA Act and to extend section 45 of the CCA Act to capture concerted practices that substantially lessen competition.<sup>80</sup>

## **Competition in the marketplace**

2.61 It should be noted that a number of stakeholders who gave evidence to the committee (including processors and Meat and Livestock Australia (MLA)) did not share the view that collusion-type practices occur, while Teys Australia emphatically rejected the claim. Teys argued that:

There is no established basis for attributing volatile livestock prices to industry consolidation or collusion among Australian producers, processors or retailers.<sup>81</sup>

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77 Professor Ian Harper, et al, *Competition Policy Review: Final Report*, March 2015, p. 60.

78 Professor Ian Harper, et al, *Competition Policy Review: Final Report*, March 2015, p. 370.

79 Professor Ian Harper, et al, *Competition Policy Review: Final Report*, March 2015, p. 369.

80 Australian Government the Treasury, *Government response to the Competition Policy Review*, November 2015, p. 24, [www.treasury.gov.au/~media/Treasury/Publications%20and%20Media/Publications/2015/Government%20response%20to%20the%20Competition%20Policy%20Review/Downloads/PDF/Govt\\_response\\_CPR.ashx](http://www.treasury.gov.au/~media/Treasury/Publications%20and%20Media/Publications/2015/Government%20response%20to%20the%20Competition%20Policy%20Review/Downloads/PDF/Govt_response_CPR.ashx) (accessed 4 May 2016).

81 Teys Australia, *Submission 55*, p. 18.

2.62 Mr Peter Hall from the Cattle Council of Australia agreed with Teys Australia, stating that:

Sales are supply and demand situations. That is very often what creates the impression that there is collusion there when it is not the case. It is just the supply and demand situation creating that atmosphere on the day.<sup>82</sup>

2.63 However, the point was made that any reduction in the number of individual buyers reduces competition and has a negative impact on the return to the producer.<sup>83</sup> The NSW Farmers' Association explained that with the consolidation of the processing and retailing sectors, and fewer sale options available to producers, saleyard integrity had become a critical issue, as producers are increasingly dependent upon the saleyard method of sale to realise value.<sup>84</sup>

2.64 As noted by the Australian Livestock and Property Agents (ALPA), misuse of market power could be as simple as some buyers (not only processors) attending some saleyards and not others, leaving their competitors to operate without their competition. ALPA continued:

[T]hrough market consolidation in any industry there is a real possibility for misuse of market power. This can happen with or without buyer collusion. Misuse of market power has been proven in the dairy industry to have an adverse impact on producer returns and we don't see any difference in the red meat industry.<sup>85</sup>

2.65 Producers argued that this has been brought about by a power imbalance between producers and buyers whereby the producer is the 'price taker' and the buyer the 'price maker'.<sup>86</sup> This power imbalance has resulted not only in the potential to use market power at saleyards but also in relation to grading, weighing, trimming, the use of by-products and with regard to discounting practices.<sup>87</sup>

2.66 The outcome for producers is that there is no mechanism of price discovery. While the choice of where to sell livestock is ever-diminishing for many producers, in light of ongoing consolidation of the processing sector, concerns were raised that producers will consistently achieve a low price.<sup>88</sup> Ultimately, therefore, the system lacks competition and fairness.<sup>89</sup>

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82 Mr Peter Hall, Cattle Council of Australia, *Committee Hansard*, 17 November 2015, p. 35.

83 Mr Greg Chappell, *Submission 89*, p. 1.

84 NSW Farmers' Association, *Submission 92*, p. 13.

85 Australian Livestock and Property Agents Association, *Submission 79*, p. 4.

86 Ms Jane Carney, *Submission 66*

87 Cattle Council of Australia, *Submission 83*, p. 13.

88 Mr Shahriar Mofakhami, Victorian Farmers Federation, *Committee Hansard*, 2 September 2015, p. 24.

89 Ms Jane Carney, *Submission 66*.

## **ACCC market study on the cattle and beef industry**

2.67 In light of the ACCC's concerns in relation to the Barnawartha investigation and the cattle and beef industry more broadly, the ACCC has announced that it has initiated a market study focused on the cattle and beef industry. The key areas of focus for the ACCC in relation to the market study are expected to include competition issues and in particular, competition between buyers: including buying agents working for more than one buyer, transparency issues and market power in the supply chain.<sup>90</sup>

2.68 The ACCC made clear that the conduct of buyers and agents was one of the key issues for consideration in its market survey, particularly given that this issue has not been dealt with in any of the case law to date.<sup>91</sup>

2.69 Other issues to be covered by the study include:

- 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 carcass pricing and grading methods;
- seeking 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.<sup>92</sup>

2.70 A final report on the study is expected to be released in late November 2016.

### ***Provision of evidence to the ACCC market study***

2.71 The ACCC informed the committee that it was mindful of the need to protect the commercial interests of those who want to provide evidence to its market study. Given these concerns, the ACCC announced that it would accept anonymous and confidential submissions.<sup>93</sup>

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90 Mr Rod Sims, Australian Competition and Consumer Commission, *Committee Hansard*, 5 April 2016, p. 2.

91 Mr Marcus Bezzi, Australian Competition and Consumer Commission, *Committee Hansard*, 5 April 2016, p. 10.

92 Australian Competition and Consumer Commission, *ACCC releases issues paper for cattle and beef market study*, 7 April 2016, [www.accc.gov.au/media-release/accc-releases-issues-paper-for-cattle-and-beef-market-study](http://www.accc.gov.au/media-release/accc-releases-issues-paper-for-cattle-and-beef-market-study) (accessed 11 April 2016).

93 Mr Marcus Bezzi, Australian Competition and Consumer Commission, *Committee Hansard*, 5 April 2016, p. 3. Further information about the market study and how to make a submission is at [www.accc.gov.au/about-us/information-for/agriculture/cattle-and-beef-market-study](http://www.accc.gov.au/about-us/information-for/agriculture/cattle-and-beef-market-study).

2.72 It should also be noted that the ACCC also runs a cartel immunity hotline for members of the public who wish to report instances of collusion. Mr Bezzi explained:

We take allegations of collusion around price-fixing, bid rigging, market sharing or agreements concerning supply very seriously. They carry penalties of up to 10 years imprisonment. So they are very serious offences. Anyone who is aware or has evidence relating to collusion, we really ask them to bring that evidence to us and to our team. If you are actually involved in collusion, under our immunity policy we have a capacity to grant immunity on a conditional basis to the first person who reports the collusion to us. We encourage people to contact our cartel immunity hotline if they feel they may be in that situation. Or they can e-mail [cartelimmunity@acc.gov.au](mailto:cartelimmunity@acc.gov.au).<sup>94</sup>

### ACCC oversight

2.73 Many producers advocated for significant regulatory and industry change to prevent collusive practices and any misuse of market power. The majority of these suggestions were aimed at strengthening legislative protections against anti-competitive behaviour. Many also highlighted the need for reform to the industry to improve transparency and fairness.

2.74 A number of submitters recommended reform to both the ACCC and the CCA Act. The recent introduction of an 'effects' test and appointment of a Commissioner with specific responsibilities for agriculture was supported in evidence to the committee as a first step.<sup>95</sup>

2.75 The Sheepmeat Council of Australia advocated a series of additional measures to address the power imbalance between producers and processors, including:

- 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; and
- greater emphasis on providing a competitive market and transparency in order to protect the interests of producers.<sup>96</sup>

2.76 The NSW Farmers' Association suggested a range of measures designed to counter collusive practices starting with an ACCC investigation into the impact of commission buyers' agreements on competition. The NSW Farmers' Association also recommended that a commitment be sought from commission buyers and major buyers by way of a section 87B undertaking accepted by the ACCC not to enter into agreements that provide for multiple representations which would result in the acquisition of over five per cent of livestock at a saleyard in a day.

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94 Mr Marcus Bezzi, Australian Competition and Consumer Commission, *Committee Hansard*, 17 November 2015, p. 18.

95 Pastoralists & Graziers Association of Western Australia (Inc), *Submission 82*, pp 1– 2; Sheepmeat Council of Australia, *Submission 59*, pp 8–10.

96 Sheepmeat Council of Australia, *Submission 59*, pp 8–10.

## **Mandatory code of conduct**

2.77 The NSW Farmers' Association advocated for the introduction of a mandatory code of conduct.<sup>97</sup> It suggested that such a code provide for:

- transparency as to the stock available at a saleyard, the stock purchased and price outcomes;
- a requirement that in yards where over a certain number of head are traded at one time, commission buyers must not represent multiple buyers that would result in the acquisition of over five per cent head of livestock in any given day;
- consistent maximum curfew periods and weighing without unnecessary delay; and
- a requirement that buyers' agents disclose the buyers that they represent at a saleyard before the fall of the hammer.<sup>98</sup>

2.78 Mr John Dunn, Policy Director with NSW Farmers' Association argued that:

All these things we are talking about—whether it is curfew times, pre or post-sale weighing, or commissioned buyers acting on behalf of multiple people—go to the integrity of that system, that economic transaction. The only way we can sort that out is through a mandatory code of conduct.<sup>99</sup>

2.79 The PGA WA also supported the establishment of an industry code, which would establish methods of compensation for producers in situations regarding collusion or misuse of power. However, it differed from the NSW Farmers' proposal to the extent that it recommended that the scheme be voluntary.<sup>100</sup> As an alternative, the Indigo Shire Council suggested that a system involving registration for buyers may be a solution.<sup>101</sup>

2.80 The ACCC noted that cost-benefit should be considered when introducing rules for markets and that a cost-benefit analysis is usually easily met when considered in relation to transparency. The ACCC suggested that when people have to declare on whose behalf they are buying, such a mechanism would pass any such cost-benefit test.<sup>102</sup>

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97 New South Wales Farmers' Association, *Submission 92*, p. 14.

98 New South Wales Farmers' Association, *Submission 92*, p. 14.

99 Mr John Dunn, NSW Farmers' Association, *Committee Hansard*, 2 September 2015, p. 5.

100 Pastoralists & Graziers Association of Western Australia (Inc), *Submission 82*, p. 2.

101 Indigo Shire Council, *Submission 94*.

102 Mr Rod Sims, Australian Competition and Consumer Commission, *Committee Hansard*, 5 April 2016, p. 11.



# Chapter 3

## Saleyards and price discovery

3.1 One of the consequences of consolidation of the processor and retail sectors is the loss of operational transparency, as evidenced by the events at the Barnawartha saleyards.<sup>1</sup> This chapter explores those concerns and considers price transparency in relation to the selling systems available to producers. It focuses in particular on saleyards as the primary price discovery mechanism for livestock markets in Australia.

3.2 The extent to which producers can maximise the return on their livestock is influenced by the extent to which they can meet market specifications, as well as the method and process used. The various selling structures for cattle, sheep and lambs include:

- saleyard auctions;
- direct (paddock) sales;
- 'over the hook' sales;
- online sales such as AuctionsPlus; and
- forward price contracts.<sup>2</sup>

3.3 In the case of beef cattle, cattle are sold to other cattle farmers for fattening or backgrounding for entry into feedlots, to feedlots for grain finishing or to abattoirs for slaughter.<sup>3</sup> Producers can choose to use 'any or all formats depending on the individual circumstances including the farms geographical location, stock type and size'.<sup>4</sup>

3.4 To add to the complexity of the market, there are a number of systems available to sell livestock, with prices paid on the basis of carcass weight, live-weight or per head depending on the system used.<sup>5</sup> This chapter considers selling methods with particular focus on saleyards.

### Saleyard auctions

3.5 Traditionally, cattle were sold through auctions at saleyards. This process involves a producer transporting cattle to the saleyard and the buyer then transporting the cattle on for processing.<sup>6</sup>

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1 Nanthes' Park British White Cattle Stud, *Submission 19*, p. [2].

2 Sheepmeat Council of Australia, *Submission 59*, p. 21; Department of Agriculture, *Submission 74*, p. 8 and Mr Rob Atkinson, *Submission 22*, p. [1].

3 Department of Agriculture, *Submission 74*, p. 8.

4 Fletcher International Exports Pty Ltd, *Submission 4*, p. [4].

5 Mr Ashley Sweeting, *Submission 1*, p. 4.

6 Mr Ashley Sweeting, *Submission 1*, p. 4.

3.6 Saleyards remain the main method of sale representing 66 per cent of total beef sales in southern Australia in 2012–13. Saleyards are most commonly utilised by producers who have smaller herds and sell in small lot sizes.<sup>7</sup> In regions such as Victoria, where land holdings are smaller, farmers are not able to produce livestock in volumes that would provide bargaining power with meat buyers and are therefore often reliant on saleyards.<sup>8</sup> Australian Livestock and Property Agents Association (ALPAA), observed that the ability to handle small consignments at saleyards was particularly important, given that 50 per cent of vendors sell less than seventeen head per year.<sup>9</sup> Similarly, Mrs Jane Carney explained that while there is growing reluctance to sell at saleyards, many producers are too small for their cattle to be attractive to buyers as individual consignments.<sup>10</sup>

3.7 Sale by auction establishes the value of other forms of sale.<sup>11</sup> Therefore the saleyard provides the yardstick on prices that all vendors receive.<sup>12</sup> Evidence to the committee suggested that while producers sell direct to processors and other buyers at agreed farm gate prices, the agreed price is usually set against a benchmark of recent local auction prices.<sup>13</sup> Therefore, if anti-competitive behaviour takes place at saleyards and results in lower prices, such prices will impact the remaining 70 per cent of sales across the market.<sup>14</sup> Furthermore, the argument was put that the disparity between the prices achieved by producers compared to that taken by processors indicated that the 'current pricing mechanism is likely to be artificially repressed'.<sup>15</sup> Many producers argued, therefore, that it was fundamentally important to ensure that the process at auction is fair and legal, and operates in a manner which does not impede true competition.<sup>16</sup>

3.8 According to the Livestock Saleyards Association of Victoria (LSAV), the majority of producers in Victoria have a choice of local saleyards. It argued that most producers could choose between two or three saleyards depending on their location, as well as on-line selling and direct selling to processors. Many smaller producers also

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7 Department of Agriculture, *Submission 74*, p. 11.

8 Victorian Livestock Exchange, *Submission 49*, p. 3. VLE made the point that in parts of northern Australia, farmers produce livestock in volumes that provide them with better bargaining power with meat buyers.

9 Australian Livestock and Property Agents Association, *Submission 79*, p. 7.

10 Mrs Jane Carney, *Submission 66*, p. [3].

11 Rockhampton Regional Council, *Submission 36*.

12 Mr Robert Reid and Mr Jason Reid, *Submission 38*.

13 Victorian Farmers Federation – Wangaratta Branch, *Submission 45*, p. 6.

14 Victorian Farmers Federation – Wangaratta Branch, *Submission 45*, pp 2–3.

15 Victorian Farmers Federation – Wangaratta Branch, *Submission 45*, p. 3.

16 Mr Robert Reid and Mr Jason Reid, *Submission 38*.

sell via social media and directly to other local producers.<sup>17</sup> In terms of price discovery, LSAV argued that:

These selling systems are well supported by a wide range of publicly available, cheap market information that allows them to price their livestock before sale and make an informed choice of selling system. The bulk of this public market information is derived from saleyard reports, both the official MLA service as well as locally produced market reports from many saleyards.<sup>18</sup>

3.9 However, according to ALPAA, almost 70 per cent of southern livestock and 40 per cent of northern livestock are transacted through saleyards.<sup>19</sup> Yet, as a selling mechanism, saleyards are of diminishing value and use to modern beef industry value chains, especially for those producers geared to supplying premium quality beef to high value domestic and international markets.<sup>20</sup>

3.10 Evidence to the committee suggested that increasingly, cattle are sold directly to the processor with the producer paid on a carcass weight basis. As a case in point, the country's second largest beef processor – Teys – purchases up to 94 per cent of its cattle directly from producers, with the remainder purchased at saleyards.<sup>21</sup> According to Mr Bradley Teys, the company prefers to purchase cattle directly because there is 'less bruising and better meat quality'.<sup>22</sup>

#### ***Expenses at saleyards***

3.11 It was suggested that use of saleyards is becoming expensive for producers with an estimated total cost of up to 10 per cent incurred per head of cattle.<sup>23</sup> Such costs, which are borne by the producer, include commissions, yard fees, cattle levies and freight.<sup>24</sup> Mr Richard Wilson explained:

With 4% agents commission, \$14.50/head yard dues, extra stress and losses, unloading onto concrete, penning, selling, weighing, reloading in a strange environment, bruise and delayed kill losses and additional freight, the total costs or losses realistically are say 10% of gross value.<sup>25</sup>

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17 Livestock Saleyards Association of Victoria, *Submission 30*.

18 Livestock Saleyards Association of Victoria, *Submission 30*.

19 Australian Livestock and Property Agents Association, *Submission 79*, p. 7.

20 Teys Australia, *Submission 55*, p. 2.

21 Mr Bradley Teys, Teys Australia, *Committee Hansard*, 27 August 2015, p. 9.

22 Mr Bradley Teys, Teys Australia, *Committee Hansard*, 27 August 2015, p. 9.

23 Mayor Bill Ludwig, Livingstone Shire Council, *Submission 58*, p. [2]; Mr Newman and Mrs Shirley Patmore, *Submission 64*, p. 2. Mrs Jane Carney stated that her selling costs amount to approximately 9.5 per cent of the sale price, after the cost of production, *Submission 66*, p. [3].

24 Capricorn Enterprise, *Submission 52*, p. 2.

25 Mr Richard Wilson, *Submission 56*, p. [2].

3.12 In terms of transportation costs alone, the Sheepmeat Council of Australia (SCA) noted that the cost of transporting sheep, based on industry estimates, is \$1.2 per head per 100 kilometres.<sup>26</sup> A number of other submitters highlighted that the considerable distances often required to reach saleyards placed a significant cost impost on producers. According to AgForce Queensland, in that state, livestock freight costs can represent up to 35 per cent of market value.<sup>27</sup>

3.13 Victorian Farmers Federation (VFF) – Wangaratta Branch raised concerns that, in their quest for efficiencies, large processors may shift other costs back to producers. It argued that such costs, including transportation and the imposition of post-sale weighing, are particularly onerous on producers where cattle have to be transported greater distances as a consequence of local plant closures. According to VFF–Wangaratta, these concerns were realised in 2012 when the abattoir on King Island was closed, thereby forcing producers to bear the costs of transporting live cattle to the mainland.<sup>28</sup>

### **Pre- and post-sale weighing at saleyards**

3.14 According to the department, in NSW, Queensland and South Australia, most saleyards use a post-sale weighing system. That is, cattle are weighed after being sold.

3.15 The committee was informed that while most of NSW now operates under a post-sale weighing system, 'a lot of that has been achieved by stealth of the processing industry' as Mr Derek Schoen, President of the NSW Farmers' Association explained:

As saleyards have been redeveloped, the processors have put the pressure on—just like what happened at Barnawartha—to get it changed over.<sup>29</sup>

3.16 Traditionally in Victoria, saleyard operators used the pre-sale weighing system. However, in 1999, when it opened its first facility in Pakenham, the Victorian Livestock Exchange (VLE) introduced post-sale weighing to Victoria.<sup>30</sup> In recent years, many other saleyards have moved to the post-sale weighing system.<sup>31</sup>

3.17 According to Mr John Buxton, while there was in the past a uniform Code of Practice for Live Weight Selling applied across Victoria, this is no longer the case as different systems operate in different selling centres across Victoria. He observed that export meat processors used their market power to break the code every time a new set of saleyards opens with the opening of the new Northern Victoria Livestock Exchange (NVLX) at Barnawartha the most recent example.<sup>32</sup>

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26 Sheepmeat Council of Australia, *Submission 59*, p. 28.

27 AgForce Queensland, *Submission 85*, p. 2.

28 Victorian Farmers Federation – Wangaratta Branch, *Submission 45*, p. 7.

29 Mr Derek Schoen, NSW Farmers' Association, *Committee Hansard*, 2 September 2015, p. 3.

30 Victorian Livestock Exchange, *Submission 49*, p. 1.

31 Victorian Farmers Federation – Wangaratta Branch, *Submission 45*, p. 5.

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

3.18 One of the many questions raised about the post-sale weighing system is that of why prime cattle sales are 'singled out' for post-sale weighing, given that store cattle sales, feature sales and weaner sales are still weighted pre-sale.<sup>33</sup>

3.19 For many producers, the move from pre-sale weighing cattle to a post-sale weighing system demonstrated the power that processors command.<sup>34</sup> The VFF's Ovens Valley Branch noted that, despite industry-wide efforts over years to provide objective data to enable productivity gains across all areas of production, when it came to the sale of the product, 'we are suddenly told via an ultimatum we will no longer have access to the cattle weight'.<sup>35</sup>

3.20 Furthermore, the post-sale weighing system has made purchasing difficult for producers who want to buy feeder cattle, bought within a very tight weight range for a particular grid.<sup>36</sup> In addition, without pre-sale weighing data to support purchasing decisions, it was argued that agents cannot be expected to draft correctly.<sup>37</sup>

3.21 Access to information was the key concern in relation to the shift to post-sale weighing. The VFF's support for pre-sale weighing was explained by Mr Ian Feldtmann, President of the VFF Livestock Group:

The reasoning behind that is that it gives the maximum information to all buyers and it allows the restockers or private operators, who want to buy stock to finish for a market, to know what they are buying and they can make their calculations based on that before the animals are actually put up for sale. That is an important part to bring as many players into the system for competition. That is where producers are coming from.<sup>38</sup>

3.22 However, many processors voiced a preference for post-sale weighing because of a variable dressing percentage that occurs with pre-sale weighing.<sup>39</sup> The VLE argued that post-sale weighing provides the industry with a more transparent method of selling as buyers purchase what they desire which is meat and not gut fill.<sup>40</sup> It was observed by VLE's Mr Wayne Osborne that there were methods to make animals hold onto worthless gut-fill that the buyers ultimately pay for.<sup>41</sup>

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33 Mr Norman Sharp, *Submission 27*.

34 Victorian Farmers Federation – Ovens Valley Branch, *Submission 62*, p. 3 and Mr Max and Ms Pamela McKimmie, *Submission 67*, p. 2.

35 Victorian Farmers Federation – Ovens Valley Branch, *Submission 62*, p. 3.

36 Victorian Farmers Federation – Ovens Valley Branch, *Submission 62*, p. 3.

37 Victorian Farmers Federation – Ovens Valley Branch, *Submission 62*, p. 3.

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

39 Dressing percentage refers to the carcass weight after trimming of fat as a proportion of liveweight.

40 Victorian Livestock Exchange, *Submission 49*, p. 7.

41 Mr Wayne Osborne, Victorian Livestock Exchange, *Committee Hansard*, 2 September 2015, p. 16.

3.23 Mr Bradley Teys argued the point that post-sale weighing with a curfew gave all involved 'the best and most consistent results' when purchasing cattle. He continued:

Our belief is that post-sale weighing with a curfew gives everybody the best and most consistent results when it comes to buying cattle. At the end of the day we are buying yield of saleable meat. At the moment the industry buys a carcass. Depending on your carcass yield, if you have a pre-sale weigh you will get are a lot more variability in what that carcass yield will be as against post sale. That is our belief, and the evidence that we have been able to gather over the years has pointed to that.<sup>42</sup>

3.24 Mr Teys cited a scientific study conducted by Dr Jennifer Wise in the 1980s which he argued had indicated that scientifically, post-sale weighing enabled a more consistent result. He suggested that the paper's findings had been verified by anecdotal experience.<sup>43</sup>

#### ***Accurate price signals and market competition***

3.25 A number of producers argued against post-sale weighing and in favour of pre-sale weighing.<sup>44</sup> Mr Julian Carroll, for example, suggested that post-sale weighing was an unnecessary solution to the processors' concerns about variability in dressing percentages.<sup>45</sup>

3.26 Submitters drew on their own experiences to demonstrate their concerns with post-sale weighing. Mr David Blum noted that in his experience, having weighed his cattle some months prior to sale and fed then well, the sale note revealed that the weight of his cattle had dropped by approximately 40 kilograms per head, thereby reducing his return by nearly \$100 a head.<sup>46</sup>

3.27 Some producers made the point that unlike livestock, no other product is allowed to be sold without the weight or the volume of the product displayed at the point of sale. For this reason, many submitters voiced support for pre-sale weighing on the basis that it offered greater transparency as well as better animal welfare outcomes. Mr James Neary noted that pre-sale weighing gives a buyer measurable information to be able to buy an animal to fit a carcass weight that they may require.<sup>47</sup> Otherwise, vendors have no idea of the actual per head value but rather an estimation of the value of cattle sold.<sup>48</sup> Similarly, Mr Stuart Morant argued pre-sale weighing

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

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

44 Mr David Evans, *Submission 15*, p. [3]; Mr Eddie and Mrs Jan Hooper, *Submission 16*; Mr James Neary, *Submission 34* and Gulf Cattleman's Association, *Submission 41*, p. 4.

45 Mr Julian Carroll, *Submission 48*, p. 4.

46 Mr David Blum, *Submission 26*

47 Mr James Neary, *Submission 34*.

48 Mr David Evans, *Submission 15*, p. [3]

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provided all parties with access to cattle weights prior to sale and thereby provided everyone with a clear picture of values.<sup>49</sup>

3.28 Cattle and sheep producer, Mr John Buxton, argued that post-sale weighing puts those with the least amount of market information at a disadvantage. He made the point that if a producer does not know the weight of cattle for sale, they will not be able to value it.<sup>50</sup> He argued that, for the purposes of a transparent and efficient marketplace, which can send reasonably accurate price signals and maximise competition, 'pre sale weighing is essential'.<sup>51</sup>

3.29 Similarly, Mr Eddie and Mrs Jan Hooper suggested that whereas with pre-sale weighing, everyone at the market has the information available to accurately determine whether or not to bid on a pen, with post-sale weighing, bidders remain in the dark.<sup>52</sup> They explained the consequences:

This effectively decreases competition, decreases information available to prospective buyers, decreases prices paid for cattle and finally ends with animals being left off food and water for longer when animal welfare should rightly come first. How can this be not just allowed, but actively promoted? How can agricultural producers be accountable for animal welfare standards, yet a selling system be exempt?<sup>53</sup>

3.30 Mr Eddie and Mrs Jan Hooper argued the point that:

Post weighing selling systems, whilst preferred by the processors, is regressive and more difficult for the farmer and impossible for the store cattle buyers, where margins are so fine these bidders are automatically precluded in any post weighing scales system. Thus the processor pressure has effectively reduced competition for themselves and likewise reduced returns to farmers.<sup>54</sup>

3.31 The VFF's Ovens Valley Branch recommended legislation to require all selling complexes to implement pre-sale weighing of cattle to provide objective data for all users and thereby establish a fair and reasonable system of transaction to assist all parties in their purchasing decision.<sup>55</sup>

3.32 Others raised concerns regarding the inconsistency in practices of buyers. Mr Rob Atkinson raised the question of why beef processors would purchase cattle at saleyards when they usually operate on a grid specification:

When processors purchase 'out of the yard', they do not know what dentition, fat depth or fat colour, weight, dressing percentage, butt shape,

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49 Mr Stuart Morant, *Submission 28*.

50 Mr John Buxton, *Submission 5*, p. [1].

51 Mr John Buxton, *Submission 5*, p. [1].

52 Mr Eddie and Mrs Jan Hooper, *Submission 16*.

53 Mr Eddie and Mrs Jan Hooper, *Submission 16*.

54 Mr Eddie and Mrs Jan Hooper, *Submission 16*.

55 Victorian Farmers Federation – Ovens Valley Branch, *Submission 62*, p. 4.

bruising, dark cutters etc. the carcasses will exhibit. So the question has to be asked. When cattle are purchased at a sale yard, what happens to the cattle that do not meet the grid criteria? Are those carcasses downgraded as they would be in a direct works transaction? I would suggest that there are two sets of rules.<sup>56</sup>

3.33 Another concern raised by producers was that of ownership. It was not clear whether, under the post-sale weighing system, producers still own the cattle from the time that the hammer falls until after the cattle is weighed.<sup>57</sup> There remains a lack of clarity regarding ownership as Ms Loretta Carroll observed:

In Wodonga cattle are weighed sometimes several hours after the hammer has fallen. This question was asked at the Barnawartha meeting as well as the following two questions:

- 1) At what time can a farmer 'no sale' his cattle?
- 2) Can a producer place a reserve on his cattle?

No one was able to answer these questions at the meeting.<sup>58</sup>

3.34 This question raised the matter of whether a vendor can declare a 'no sale' if the post-sale weight disclosed is not sufficient.<sup>59</sup>

#### ***Animal health and welfare concerns***

3.35 A number of submitters also raised concerns regarding animal health and welfare in relation to post-sale weighing.<sup>60</sup> The point was made that cattle are off feed and water prior to transportation and during transportation to and from the saleyards. They are then yarded, and it can be up to 24 hours or even longer before they are weighed.<sup>61</sup> In fact, according to the Gulf Cattleman's Association, the average 400 kg beast will lose ten per cent of its body weight in the first 200 kilometres of travel.<sup>62</sup>

3.36 According to the Australian Standards and Guidelines for the Welfare of Animals, at the receipt of livestock, it should be determined how long the livestock have been off feed and water from the person delivering the livestock and/or consignment records and documentation. The guidelines specify that time off water is calculated by accumulating the time that livestock are not provided with water including assembly and when in holding facilities, loading and time on the vehicle, as

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56 Mr Rob Atkinson, *Submission 22*, p. [3].

57 Mr Rod Mitchell, *Submission 57* and Mr Norman Sharp, *Submission 27*.

58 Ms Loretta Carroll, *Submission 63*, p. 2.

59 Mr Norman Sharp, *Submission 27*.

60 Mr James Neary, *Submission 34*; Mr Rex and Mrs Trish Forrest, *Submission 44*, p. 2; Ms Loretta Carroll, *Submission 63*, p. 3 and Mrs Jane Carney, *Submission 66*, p. [2].

61 Mr Eddie and Mrs Jan Hooper, *Submission 16*; Mr James Neary, *Submission 34*; Victorian Farmers Federation Wangaratta Branch, *Submission 45*, p. 5 and Victorian Farmers Federation – Ovens Valley Branch, *Submission 62*, p. 3.

62 Gulf Cattleman's Association, *Submission 41*, p. 3.



well as time during unloading into new holding areas until water is provided.<sup>63</sup> The guidelines further note that watering facilities should be provided to all animals that have been traveling for more than 12 hours or deprived of water for a total period of more than 12 hours.<sup>64</sup> It further specifies that, ideally, animals should not be without food for more than 24 hours.<sup>65</sup> However, these are maximum limits and certain classes of animals, such as pregnant or young animals, as well as cattle transported under difficult conditions, such as dry hot weather, will need regular access to water.

3.37 One of the concerns raised in relation to the Barnawartha saleyard was the curfew. Originally, the curfew was six hours prior to weighing. However with the change to post-sale weighing, a 9.00 pm mandatory cut-off was introduced which effectively increased the curfew twofold.<sup>66</sup> The logic of a 9.00 pm curfew was questioned given that at least 12 hours would expire by the time the sale opens at 9.00 am the following day and livestock are not weighed until after sale.<sup>67</sup> Many producers voiced their preference for the past practice whereby the last load could arrive by midnight.<sup>68</sup> Furthermore, the point was made that animal welfare and practical difficulties arise when unweighed cattle can remain in sale pens for some time after sale.<sup>69</sup>

3.38 VFF's Ovens Valley Branch noted that MSA accreditation requires that cattle be killed within 36 hours of despatch from the farm which suggests that it would be difficult for post-sale weighing saleyards to gain MSA accreditation.<sup>70</sup> Furthermore, concerns were raised in relation the stress levels of stock and the overall impact on the grading of the carcass. MSA documents highlight the importance of livestock handling and the effects that detaining animals for extended periods can have on carcass quality:

*"The long period of care in producing an animal with high eating quality potential is most at risk in the two weeks pre-slaughter and first few hours*

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63 Animal Health Australia, *Australian Animal Welfare Standards and Guidelines - Livestock at Saleyards and Depots*, Saleyard Welfare Standards, Edition One, Version One, 21 December 2015, p. 48.

64 Animal Health Australia, *Australian Animal Welfare Standards and Guidelines - Livestock at Saleyards and Depots*, Saleyard Welfare Standards, Edition One, Version One, 21 December 2015, p. 30.

65 Animal Health Australia, *Australian Animal Welfare Standards and Guidelines - Livestock at Saleyards and Depots*, Saleyard Welfare Standards, Edition One, Version One, 21 December 2015, p. 31.

66 Mr Derek Schoen NSW Farmers' Association, *Committee Hansard*, 2 September 2015, p. 3.

67 Mr Norman Sharp, *Submission 27* and Mr Stuart Morant, *Submission 28*.

68 Mr Don Nevin, *Submission 47*.

69 Mr David Evans, *Submission 15*, p. [3]

70 Victorian Farmers Federation – Ovens Valley Branch, *Submission 62*, p. 3.

*post slaughter*” (MSA03). The longer curfew reduces glycogen levels in the muscle affecting eating quality and causing dark cutters.<sup>71</sup>

3.39 Mr Pat Larkin suggested that if post-sale weighing is to continue, producers should be afforded a reduced curfew period so that livestock are not 'off feed' for extended periods prior to being weighed, a situation that does not occur in relation to on farm paddock purchasing. Further, he argued that if livestock are not weighed until mid to late afternoon, they should not be required at the saleyards any longer than six hours prior to that weighing.<sup>72</sup> Mr Julian Carroll suggested the establishment of a national protocol based on pre-sale weighing and National Vendor Declaration (NVD) trucking times.<sup>73</sup> NVD serves as the movement documentation required when cattle are being moved.

### **Saleyards and price discovery**

3.40 The Australian Meat Industry Council (AMIC) suggested that the range of supply arrangements in place throughout the supply chain reduced the relevance of saleyard indicator prices, including direct purchasing by various export and other processors and by major retailers.<sup>74</sup>

3.41 However, a substantial number of other submitters made the point that the saleyard system serves as the prime market indicator or reference point with the auction system providing a critical price discovery mechanism for livestock marketing throughout the country.<sup>75</sup> As the ACCC put it, the saleyard is the 'most transparent means of price discovery for buyers and sellers'.<sup>76</sup> The VLE explained:

Just as with live auctions of real estate, saleyards are the primary means of determining the monetary value of livestock. This in turn provides the value that under pins transactions of private/direct sales of livestock. Without saleyards it is difficult for farmers to assess which product (class of animal) and marketing channel (buyer) is providing the better return, as the details of direct sales remain private.<sup>77</sup>

3.42 Therefore, the saleyard price for fat cattle sets the price for the entire cattle production chain, impacting stock breeders, cow and calf producers, backgrounders, feedlots and stockers.<sup>78</sup> As the VFF noted, the present value of unfinished cattle is based, therefore, on the expected future value of fat cattle. Thus, the estimated eight

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71 Victorian Farmers Federation – Ovens Valley Branch, *Submission 62*, p. 3.

72 Mr Pat Larkin, *Submission 60*, p. 2.

73 Mr Julian Carroll, *Submission 48*, p. 7.

74 Australian Meat Industry Council, *Submission 93*, p. 30.

75 Mr Derek Schoen, NSW Farmers' Association, *Committee Hansard*, 2 September 2015, p. 3; Victorian Livestock Exchange, *Submission 49*, p. 3 and Australian Livestock and Property Agents Association, *Submission 79*, p. 7.

76 Ms Ford, ACCC, *Committee Hansard*, 5 April 2016, p. 12.

77 Victorian Livestock Exchange, *Submission 49*, p. 3.

78 Victorian Farmers Federation, *Submission 87*, p. 12.

per cent of the finished/fat cattle sales that large processors compete for at the saleyards is the means by which price is determined, not only for all fat cattle sales but also all the way up and down the cattle production chain, 'affecting every transaction from breeder to stocker to backgrounder to lot feeder'.<sup>79</sup>

3.43 Evidence to the committee suggested that, with some variation, only 30 per cent of all cattle sold domestically are sold through the saleyard auction system with the remainder sold over the hooks and by way of direct (paddock) sales.<sup>80</sup> Two of the largest processors, Teys Australia and JBS Swifts purchase only 8 per cent and 5 per cent respectively of their livestock from the saleyards.<sup>81</sup> However, saleyards remain particularly important for small-scale producers. This is particularly the case in Victoria, where up to 60 per cent of cattle are sold through the saleyards.<sup>82</sup>

3.44 Mr Eastwood from JBS Australia recognised that there was a price relationship between the saleyard price and the grid price.<sup>83</sup> ALPAA also accepted that the saleyard price sets over the hook pricing and argued that this benefited the producer:

In January this year, after rain in a lot of areas, processors were constantly changing their prices upwards for over the hooks livestock due to the increase in saleyard prices that were set by the auction system. This fact proves that the auction system is one of the most important methods of setting prices. Processors were forced to pay more over the hooks to producers due to the competition at auction. This was widely reported and commented on by all rural newspapers. The EYCI hit a record high of 530.25c kg/LW in June 2015.<sup>84</sup>

3.45 Drawing on the events at Barnawartha, Ms Loretta Carroll noted that in circumstances where Teys-Cargill doesn't attend a market, it can impact the market price. However, if Teys, as well as JBS and Nippon (who between them hold a 55 per cent share of the processing sector) don't attend a market, it can significantly affect the average price. Producers described selling livestock at saleyards for these reasons as a 'lottery',<sup>85</sup> whereby sales are unsatisfactory due to 'unreliable and erratic prices'.<sup>86</sup> In terms of control over the market, Mrs Loretta Carroll made the following observations:

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79 Victorian Farmers Federation, *Submission 87*, p. 12.

80 Gulf Cattleman's Association, *Submission 41*, p. 2; Victorian Farmers Federation – Wangaratta Branch, *Submission 45*, p. 6 and Mr Julian Carroll, *Submission 48*, p. 3.

81 Mr Bradley Teys, Teys Australia, *Committee Hansard*, 27 August 2015, p. 9 and Mr Brent Eastwood, JBS Australia, *Committee Hansard*, 27 August 2015, p. 16.

82 Mr Wayne Osborne, Victorian Livestock Exchange, *Committee Hansard*, 2 September 2015, p. 18.

83 Mr Brent Eastwood, JBS Australia, *Committee Hansard*, 27 August 2015, p. 21.

84 Australian Livestock and Property Agents Association, *Submission 79*, p. 8.

85 Mr Newman and Mrs Shirley Patmore, *Submission 64*, p. 1.

86 Mr Max and Ms Pamela McKimmie, *Submission 67*, p. 1.

When you consider the national benchmark pricing system, being the Eastern Young Cattle Indicator only collects its data from public selling centres, you can understand how easy it could be for processors to influence the market price.<sup>87</sup>

3.46 At best, market reports and benchmarking indicators including the Eastern Young Cattle Indicator (EYCI) are based on a smaller and cheaper sample of the market as these serve as the only reference point for prices.<sup>88</sup> Notwithstanding some fluctuations, the argument was put that lower prices at saleyards, resulting from lack of tension in the market, serve as a benchmark to lower over the hook prices.<sup>89</sup> This dynamic is made particularly problematic when over the hooks bookings are made as far as four months ahead.<sup>90</sup>

3.47 The VFF Wangaratta Branch described the two distinct channels for cattle sales – direct (70 per cent), and saleyard auction (30 per cent) – both of which rely on a pricing mechanism which is a closed, self-reinforcing loop, controlled by the same buyers operating in both channels. It continued:

A feature of the two-channel system however, is that the buyers in both channels are the same, and the prices being offered in the Direct channel are set at auction by the same buyers in Saleyard channel, in what is essentially a closed and self-reinforcing pricing mechanism. It therefore follows that should prices in saleyards auctions be repressed by buyer collusion, the effect is carried through to the other Direct channel.<sup>91</sup>

3.48 The Gulf Cattleman's Association explained the consequences for northern producers:

In support of this potential of uncompetitive behaviour in north Queensland there are grazing enterprises sending stock as far south as northern Victorian processors (2,500 km freight) and getting better net returns. Regardless, net returns to beef producers for commercial based herds (not MSA) has been negative to marginal since the Live Export ban in 2011, followed by drought sales.<sup>92</sup>

3.49 In Victoria, the VFF Wangaratta noted that from 2000–2013, the average per kilogram price achieved by producers at saleyard auctions grew by 20 per cent, compared to a retail price increase of 45 per cent and CPI increase of 49 per cent. Over that four year period, the margins for processors grew by 400 per cent. The VFF

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87 Ms Loretta Carroll, *Submission 63*, p. 2.

88 Mr Julian Carroll, *Submission 48*, p. 3.

89 Gulf Cattleman's Association, *Submission 41*, p. 2 and Mr David and Ms Anne Wortmann, *Submission 76*.

90 Gulf Cattleman's Association, *Submission 41*, p. 2.

91 Victorian Farmers Federation – Wangaratta Branch, *Submission 45*, p. 6.

92 Gulf Cattleman's Association, *Submission 41*, p. 2.

Wangaratta suggested that such disparity was seen by producers as a symptom of buyer collusion.<sup>93</sup>

### ***Eastern Young Cattle Indicator***

3.50 The VFF Ovens Valley Branch argued that a fundamental problem with the current selling system is that of the reporting of livestock sales. The EYCI is the general benchmark of Australian cattle prices. It is a seven-day rolling average produced daily by Meat and Livestock Australia's (MLA) National Livestock Reporting Service (NLRs). The results include cattle purchased for slaughter, restocking or lot feeding and are expressed in cents per kilogram carcass (dressed) weight (c/kg cwt). The VFF Ovens Valley Branch raised the following concerns with the EYCI:

A serious concern with the EYCI is that store cattle and poorer quality cattle are included in the calculation for the average price reducing the real value of the quality cattle especially when the EYCI does not report on the C4 cattle (being the higher quality). The fundamental problem, however with the reporting system is that only approximately 30% of livestock are sold through the sale yards leaving a staggering 70% of livestock sales unreported.<sup>94</sup>

3.51 Furthermore, processors use the EYCI as their benchmark pricing gauge. At the same time, they generally utilise cattle markets as a last resort to top up their kill. The VFF Ovens Valley Branch put the argument that using the EYCI as a benchmark is 'detrimental to producers' as the EYCI is used by processors to set their price when purchasing cattle directly from producers. Moreover, it noted that with consolidation of the processing sector, it is far easier to control the saleyard price. In this regard, JBS and Teys-Cargill have a 49 per cent share of the red meat processing sector, while Coles and Woolworths have a combined market share of the domestic retail beef market of 57 per cent.<sup>95</sup>

### **Price discovery mechanism**

3.52 CCA recommended a voluntary prescribed industry code to establish an industry standard practice for demonstrating price transparency through the supply chain.<sup>96</sup> Nanthes' Park British White Cattle Stud agreed but argued that the code should be enforceable for all participants at saleyards to ensure that the rights of the vendor are protected. It made the point that saleyard operations need to be structured in a way to ensure that the vendor has every opportunity to best present their stock for sale.<sup>97</sup>

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93 Victorian Farmers Federation – Wangaratta Branch, *Submission 45*, p. 2.

94 Victorian Farmers Federation – Ovens Valley Branch, *Submission 62*, p. 3.

95 Victorian Farmers Federation – Ovens Valley Branch, *Submission 62*, p. 3 and Department of Agriculture, *Submission 74*, p. 17.

96 Cattle Council of Australia, *Submission 83*, p. 9.

97 Nanthes' Park British White Cattle Stud, *Submission 19*, p. [2].

3.53 The point was also made that there needs to be a base price which is determined from the totality of the market.<sup>98</sup> The VFF argued that:

Price transparency and reporting that will allow for a true market rate of the beast will allow people to operate in a certain sector in a true market. In a market where collusion occurs, if you are not getting the true market value for that beast, then you know you should not be operating in that market as a producer or a buyer.<sup>99</sup>

3.54 The VFF Ovens Valley Branch made the following two recommendations to address this situation:

Recommendation: Establish a mandatory reporting system for all cattle sold through the various selling channels and to establish a transparent reporting system all along the retail chain.

Recommendation: Investigate the selling mechanisms and structures between the farm gate and the processor to better manage the negative effects of processor consolidation.<sup>100</sup>

3.55 Mr David Hill of DL & EM Hill also argued in favour of a clear value based price signal that would allow producers to achieve a price return based on the value of livestock to the supply chain.<sup>101</sup> He further argued that there is a need to focus on value-based returns.

3.56 Mr Roger McDowell advocated for a system whereby cattle are weighed before sale with the average weight per pen announced or displayed on the pen prior to bidding.<sup>102</sup> Similarly, Nanthes' Park British White Cattle Stud recommended the introduction of the Dutch auction system which, it argued, would benefit vendors, improve competition, and is used in locations such as the Sydney Fish Market where the same commodity is being sold.<sup>103</sup> Mr Craig Cross explained the process and its benefits:

The start-off price would be set at, say, \$5 a kilo, which is well and truly above what people would be expected to pay. It would then drop down and the first person to place a bid would win the lot. That way, because it would be all electronic, bidders would know it is transparent because the buyers are recorded. Currently when I sell cattle through the saleyard I do not know where the cattle were sold to. The agent gives you a list of what they

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98 Mr Shahriar Mofakhami, Victorian Farmers Federation, *Committee Hansard*, 2 September 2015, p. 30.

99 Mr David Picker, Victorian Farmers Federation, *Committee Hansard*, 2 September 2015, p. 25.

100 Victorian Farmers Federation – Ovens Valley Branch, *Submission 62*, p. 3.

101 Mr David Hill, DL & EM Hill, *Committee Hansard*, 4 August 2015, p. 18.

102 Mr Roger McDowell, *Submission 61*, p. 2.

103 Nanthes' Park British White Cattle Stud, *Submission 19*, p. [3].

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were sold for but not to whom they were sold. That information is not readily available.<sup>104</sup>

3.57 AuctionsPlus suggested that the establishment of a national price disclosure mechanism in the form of data provided by AuctionsPlus and MLA/NLRS would also allow producers to make informed decisions to determine the best marketing channels for their livestock.<sup>105</sup>

3.58 During the committee's grass-fed cattle levies inquiry, the committee received considerable evidence regarding the lack of information that producers can access regarding prices, profits and margins along the beef supply chain. In this regard, the development of a transparent pricing and trade practices system was viewed as one possible method to counter industry trends towards concentration and consolidation of the retail and processing sectors.<sup>106</sup>

3.59 The committee recommended 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 Stockyard Act 1921* and *Livestock Mandatory Price Reporting Act 1999*.<sup>107</sup>

3.60 In response to this recommendation, MLA was commissioned in December 2014 to conduct an analysis of United States (US) legislation along with agribusiness consultants, agInfo. As part of the analysis, MLA distinguished price transparency as a complete horizontal and vertical understanding of every point in the supply chain from price reporting or information on data at specific points along the chain. In regard to the latter, Mr Norton informed the committee that MLA's market reporting service had 'identified specific areas along the chain where reporting is of value to producers'.<sup>108</sup>

3.61 At a committee hearing on 17 November 2015, when providing an update on its analysis, Mr Andrew Norton, Managing Director of MLA, made the following observations:

The crux of the issue that must be confronted therefore is: will providing more information lead to better decision making or other discernible benefits? If it does not, there will be little point in investing in collecting such information. Fundamental characteristics of cattle markets that may

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104 Mr Craig Cross, private capacity, *Committee Hansard*, 2 September 2015, p. 10.

105 AuctionsPlus, *Submission 65*, p. [3].

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

107 Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, Recommendation 7, p. 86.

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

act to the disadvantage of producers will remain unaltered post the introduction of any price transparency improvements.<sup>109</sup>

3.62 Evidence to the committee, gathered over years of inquiry into the livestock and red meat industry, has strongly indicated that a mechanism of price discovery is one of many reforms required. Again, a mandatory price reporting system by means of the introduction of legislation akin to the US *Packers and Stockyards Act, 1921* was supported in evidence to this inquiry.<sup>110</sup>

3.63 Moreover, it was clear to those who gave evidence to the committee during this and other inquiries that price transparency alone can't fix what amounts to a largely dysfunctional system which is no longer fit for purpose.

3.64 Whether it be some form of price discovery, market reporting or full price transparency, is a matter for industry. However, it is abundantly clear from the evidence of producers and producer-groups that such a mechanism should be introduced as part of a suite of reforms which strengthens representation of, and service to producers, while also addressing anti-competitive behaviour, including concerted practices and the culture of collusion that permeates many of the country's saleyards today. Ultimately, it is market competition which gives producers the most direct farm-gate price.

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

110 Mr Rob Atkinson, *Submission 22*, Attachment 1; Mr David Hill, *Submission 86*, p. [5] and Mudgegonga and District Landcare Group Inc, *Submission 88*, p. 3.



## Chapter 4

### Selling structures in Australia

4.1 This chapter considers selling structures beyond the saleyard. It focuses on 'over the hook' sales and direct sales as well as the complexity of the grid system. In particular, this chapter explores price discounting methods and the challenges for producers in achieving a fair and consistent return for their cattle.

#### 'Over the hook' or direct sales

4.2 As part of the 'over the hook' system, cattle are delivered directly from producer to processor pursuant to a supply agreement, including forward contracts. Under this system, price will generally be determined according to a processor 'price grid' with penalties and discounts imposed on the basis of the quality of beef produced.<sup>1</sup>

4.3 In the case of 'from the paddock' sales from a producer directly to a buyer or agent, prices may be determined per head or by weight and stock are frequently purchased on the basis of forward contracts to secure supply.

4.4 The prices available to producers through over the hook and paddock sales may differ depending on the time between sale and processing and the extent to which agents are involved, but are generally benchmarked on traditional saleyard sales.

4.5 When selling direct, the VFF – Ovens Valley Branch informed the committee that the procedure is to weigh the cattle full and then take five per cent off or curfew cattle for six hours and weigh the animal.<sup>2</sup> To make an 'over the hook' sale, livestock are delivered from the farm directly to the abattoir with change of ownership occurring at the scales where the carcass is weighed, following a trim of the carcass.

4.6 According to the department, producers with larger herd sizes are more likely to sell over the hook or in the paddock, as they can put together a truckload of cattle of the right specifications. In 2012–13, 31 per cent of cattle were sold 'over the hook' and 27 per cent in the paddock in northern Australia. This compares with 41 per cent of cattle sold at saleyard auction.<sup>3</sup>

4.7 Direct methods of sale can reduce carcass damage and loss of meat quality caused by additional handling in saleyard and auction sales. However, the actual carcass weight measured at the abattoir can vary depending on the way that the carcass is trimmed, and whether the carcass is weighed when hot or cold. The department further noted that:

Initially, the carcass is weighed at the end of the chain while it is still 'hot'. If the abattoir trades on cold weight, around 3 per cent is deducted from the hot carcass weight to calculate the cold weight. The actual shrinkage varies

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1 Cattle Council of Australia, *Submission 83*, p. 6.

2 Victorian Farmers Federation – Ovens Valley Branch, *Submission 62*, p. 3.

3 Department of Agriculture, *Submission 74*, p. 11.

from 2–4 per cent according to the quantity of water lost during cooling in the abattoir.<sup>4</sup>

4.8 Teys Australia suggested that these direct consignment models (as opposed to the saleyards) are more beneficial to both producers and processors for various reasons, including eliminating costs associated with intermediary parties, including commission costs for using selling agents and the cost of an additional leg of transport to the selling centre.<sup>5</sup> In fact, according to Mr Rob Atkinson, the only costs for producers were that of the levy of \$5 a head and freight costs.<sup>6</sup>

4.9 Teys and others suggested that direct sales assist animal welfare largely due to reduced risk of injury and loss of meat quality caused by additional handling in saleyards and auction sales.<sup>7</sup> Saleyards have a disadvantage in terms of the quality of final product which is 'likely to be affected due to increased stress and time off feed'.<sup>8</sup>

4.10 Furthermore, Teys made the point that:

- market access to the European Union (EU) cannot, for reasons of regulation, be serviced by cattle sourced through saleyards; and
- the Pasture-fed Cattle Assurance System market, which also provides a price premium, cannot be serviced by cattle sourced through saleyards.<sup>9</sup>

4.11 Moreover, it was argued that direct marketing of cattle provides producers with more feedback on the carcass value of their cattle, thereby potentially enabling them to adjust management practices to provide a higher quality product. In comparison, saleyards provide limited feedback on the carcass traits to producers.

4.12 Serious concerns were raised with the structure and function of over the hook sales. Underpinning them was the widely-held understanding that the direct to works option lends itself to minimal competition.<sup>10</sup> Some producers argued that while direct sales are a better option given the lower costs, direct sales also give processors control of the market. Mr Newman and Mrs Shirley Patmore provided a case in point:

[I]n March, 2014 due to severe drought we sold half of our herd for what could be called salvage prices.

There were so many cattle flooding into the abattoirs that there was a six week lead time. At the same time there was and still is record demand for export beef.<sup>11</sup>

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4 Department of Agriculture, *Submission 74*, p. 10.

5 Teys Australia, *Submission 55*, pp 6 and 11.

6 Mr Rob Atkinson, *Submission 22*, p. [3].

7 Teys Australia, *Submission 55*, p. 11.

8 Mr Ashley Sweeting, *Submission 1*, p. 4.

9 Teys Australia, *Submission 55*, p. 11.

10 Mr Rob Atkinson, *Submission 22*, p. [2].

11 Mr Newman and Mrs Shirley Patmore, *Submission 64*, p. 2.

4.13 The power imbalance was further reflected in the fact that for producers, maintaining the confidence of the processors to whom cattle is supplied was of critical importance. Mr Richard Wilson suggested that the JBS direct sales over the hook grid prices are specific and that he books a place well in advance to 'aim to carefully supply our cattle to best fit the grids for higher returns to us and then obviously meeting JBS's premium requirements too'.<sup>12</sup>

4.14 The committee received substantial evidence focused on the over the hook and direct selling. The primary concerns raised by submitters went to the:

- price transparency and bargaining power of producers, particularly those with smaller herds;
- complexity of the grid system and kill sheet;
- discounting practices with particular focus on the trim;
- booking system for cattle; and
- lack of a formal complaints mechanism.

#### ***Price and bargaining power of producers***

4.15 Concerns were raised in relation to direct sales. According to the ABA, existing selling structures and saleyards are becoming increasingly irrelevant as processors and supermarkets are aware of the fact that buying over the hook gives them an advantage – a producer cannot withdraw stock for slaughter if the stock is dead on the processor's floor.<sup>13</sup> It further noted that, whereas saleyards were once the preferred means of sale, now processors and supermarkets set the price (often working from the EYCI) and producers can only accept or reject the price, terms and conditions, and the potential of meeting company specifications as there are few alternatives.<sup>14</sup>

4.16 VFF noted that direct sales in an otherwise public market serve as a form of 'partial vertical integration' whereby no information is publicly available on the price or volume of such trades.<sup>15</sup> The VFF Valley Branch continued:

The impact of consolidation and issues with the sale yard auction system has seen many farmers sell direct to the processor, however with the ongoing impact of consolidation we are becoming more aware of the increasing manipulation of pricing by the processor through discounting and tightening of killing grids eroding the end price. Different abattoirs have varying systems and kill-out procedures of trimming further affecting the end price result.<sup>16</sup>

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12 Mr Richard Wilson, *Submission 56*, p. 1.

13 Australian Beef Association, *Submission 23*, p. 3.

14 Australian Beef Association, *Submission 23*, pp 3–4.

15 Victorian Farmers Federation, *Submission 87*, p. 10.

16 Victorian Farmers Federation – Ovens Valley Branch, *Submission 62*, p. 5.

4.17 Similarly, the Mr David Farley made the point that the processing sector lacked external independent and transparent benchmarking for producers to make informed production and marketing decisions. He expressed the view that total cost and revenue transparency was also important to ensure that accurate data was analysed in order to capture all inefficiencies in the system.<sup>17</sup>

4.18 The fact that producers have no ability to monitor what happens, let alone what price they may obtain, was expressed by Mr Howard Smith, President of CCA:

We have no ability to monitor what happens from when we drop those cattle off to when they are processed. There are myriad things that can happen between dropping off and that end point, when we receive the price, that can have an effect on our bottom line.<sup>18</sup>

4.19 JBS Australia purchases 85 per cent of its livestock weight and grade on a grid.<sup>19</sup> Mr Brent Eastwood, CEO of JBS noted that with this weight and grade sales method, the farmer will not know what will be returned for an animal until it is processed.<sup>20</sup>

***Inconsistent and impenetrable grid and unchallengeable kill sheet***

4.20 The slaughter and processing stage of the beef value chain can 'greatly reduce value if not done properly'. Mr Sweeting made the following observation:

Excellent hygiene, maintenance of the cold chain and stress free handling of cattle prior to slaughter are all required to prevent contamination, spoilage and loss in meat quality. Poor boning will also lead to a lower percentage of prime cuts and a greater percentage of lower value trim. Whilst value can very easily be lost during processing it is difficult to add value during this stage.<sup>21</sup>

4.21 Mr Bradley Teys of Teys Australia described the grading process in relation to meat processing:

The grid shows weight, fat depth, age and dentition. That is graded at the slaughterhouse scales. If you are buying cattle direct from the producer, that is where ownership changes. And then, after a 20-to 24-hour chill, more grading occurs around meat colour, fat colour, marbling and whether something is MSA or not. At that point, that is the price that the producer will get.<sup>22</sup>

4.22 The VFF made the point that in theory, grid pricing is the most critical signal to encourage farmers to produce beef products demanded by consumers.<sup>23</sup> Similarly,

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17 Mr David Farley, *Submission 35*, p. 3.

18 Mr Howard Smith, Cattle Council of Australia, *Committee Hansard*, 27 August 2015, p. 48.

19 Mr Brent Eastwood, JBS Australia, *Committee Hansard*, 27 August 2015, p. 16.

20 Mr Brent Eastwood, JBS Australia, *Committee Hansard*, 27 August 2015, p. 16.

21 Mr Ashley Sweeting, *Submission 1*, p. 5.

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

23 Victorian Farmers Federation, *Submission 87*, p. 13.

according to AMIC, processors consider livestock purchased on contract to generally comply more closely, with their needs as producers work to supply in accordance with the contract specification and grid.<sup>24</sup>

4.23 However, for the pricing signal to provide appropriate signals, accurate measurement of beef quality attributes is necessary. According to the VFF, this has been the 'Achilles heel' of the processing sector given concerns as to whether processors accurately measure and properly apply grids to determine value:

The existing quality grades and grids categorise carcass based primarily on subjective visual observation and appraisal. This renders the grading system to subjectivity and manipulation, in particular in circumstances where farmers have no recourse to demand a reassessment of the carcass. Let alone the bullying tactics used by processors when farmers express their incredulity to the processor's grading assessment.<sup>25</sup>

4.24 CCA suggested that as over the hook grids vary considerably, are inconsistent and appear not to have a standard format, it has become increasingly difficult for producers to compare or interpret them.<sup>26</sup> Evidence before the committee indicated that there were different compliance rates and grid price reductions received between plants. There are also differences in dressing percentages between plants, and at different times in the same plant, and in cattle that have been consigned from the same mob at the same time.<sup>27</sup> Along with evidence of discrepancies in processing yield between different processors with some returning a consistently lower yield, it was argued that carcass feedback was difficult to explain with producers receiving variations between P8 and rib fat measurements that are not consistent with current understanding of the correlation between the two measurements.<sup>28</sup>

4.25 The concerns were reflected in the evidence of Mr Andrew Hunter who noted that with sales based on carcass weight, 'you are putting faith in the honest practice of the processor'.<sup>29</sup> Therefore, the argument was made that transparency in relation to the grid as well as the penalties applied is required.<sup>30</sup>

### ***Discounting practices***

4.26 In terms of a sale, beef processors sell whole carcasses, boxed beef and other parts of the animal. Mr James Maclean, Managing Director of Allied Beef explained that beef processing was unique in the sense that one product goes into a plant with up to 100 or more components coming out the other end:

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24 Australian Meat Industry Council, *Submission 93*, p. 17.

25 Victorian Farmers Federation, *Submission 87*, p. 13.

26 Cattle Council of Australia, *Submission 83*, pp 8–9.

27 Mr David Hill, *Submission 96*, p. [7] and Cattle Council of Australia, *Submission 83*, p. 9.

28 Mr Andrew Hunter, *Submission 75*, p. [1] and Cattle Council of Australia, *Submission 83*, p. 9.

29 Mr Andrew Hunter, *Submission 75*, p. [1].

30 Cattle Council of Australia, *Submission 83*, pp 8–9.

With value creation, the companies have to extract as much value from as many parts of that carcass as possible from a processing point of view. What areas of value-adding they do themselves may, in some cases, reflect the capital improvements they have to do. I am a strong believer that those additional bonuses that come from some animals in some cases are paid to producers. But, in most cases, it comes in a general mix of income that goes back out in a general mix of payments to producers. Again, whilst the processing sector has had an extremely profitable period for the last couple of years, I do not believe that those minor factors are contributing to that in a material way.<sup>31</sup>

4.27 Processing activities and costs include kill fees, boning, packaging and chilling. According to information provided by Coles to the ACCC's 2007 inquiry, the price it pays for a whole cow (including producer and feedlot costs) accounts for 53 per cent of the end retail price. Processing activities and costs account for an estimated 14 per cent of the end retail price while the retail activities and costs (slicing and trimming, packaging, labour, shrinkage, promotion and advertising, store costs and retail margin) account for about 30 per cent of the end retail price.<sup>32</sup>

4.28 The Australian Beef Association (ABA) challenged these figures and suggested that MLA had determined that producers get 38 per cent of the retail dollar while Coles maintained that producers got 54 per cent of the retail dollar. ABA noted that one of the critical factors in assessing who gets what share of the retail dollar was that of carcass breakdown, what is fat and bone, and of course what is saleable meat. According to ABA, while Coles had suggested 60 per cent of the carcass is retail meat and 40 per cent is fat and bone, its own sources suggested that Coles insisted on a 70 per cent saleable meat yield from a carcass when getting contract boning done. At the same time, MLA suggested that the yield of the carcass was only 55 per cent of saleable meat.<sup>33</sup>

4.29 Mrs Josie Angus informed the committee that, as a non-packer exporter, the costs of production have risen over three times in the last ten years. She explained that, for boxed beef:

At the moment we pay them [processors] roughly \$200 per animal. They retain the hides and the offals, which at current market prices are pushing the \$400 mark in terms of what we can gain as non packer exporters. Then on top of that we have seen our live-to-dead yield decrease, but we also lose an additional 25 per cent in that they retain all of the fat and bone from the carcass. Whilst we retain ownership and we are only paying a service fee, we retain about 38 per cent of a live animal weight to do a job with.<sup>34</sup>

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31 Mr James Maclean, Allied Beef, *Committee Hansard*, 4 August 2015, p. 59.

32 Competition and Consumer Commission, *Examination of the prices paid to farmers for livestock and the prices paid by Australian consumers for red meat*. A report to the Minister for Agriculture, Fisheries and Forestry, February 2007, p. 8, [www.accc.gov.au/system/files/Examination%20of%20livestock.pdf](http://www.accc.gov.au/system/files/Examination%20of%20livestock.pdf) (accessed 24 November 2015).

33 Australian Beef Association, *Submission 23*, p. 6.

34 Mrs Josie Angus, private capacity, *Committee Hansard*, 4 August 2015, p. 17.

4.30 The point was made by ABA that processors in Tasmania, as in most centres, prefer to buy over the hook because it permits them to discount what doesn't fit their specifications. These include fat cover, age and company specifications, which ABA argued, are designed to make sure even the best bodies can have some sort of discount applied.<sup>35</sup>

4.31 The Gulf Cattleman's Association raised a different question about payment:

Meat processors pay less for females than males even if the carcass specifications are exactly the same (as the heifer and steer grids from the meatworks show). The top four grades on the heifer grid TH, Y6, Y7, & Y8 have the same fat, teeth and shape requirements as the top four grades on the steers grid YO, Y1, Y2 & Y3, yet producers get payed 10 cents per kg less for the heifers. Considering the consumer cannot go to a retail outlet and buy heifer meat cheaper than steer meat it makes this discounting unfair.<sup>36</sup>

4.32 Many other submitters to the inquiry raised concerns about the price grid and associated kill sheets. The grid system was recognised as 'extraordinarily complicated' while the kill sheet is often set out in a way to confuse a client.<sup>37</sup> It was widely believed that this complexity provides the means to reduce the price.<sup>38</sup> Some of the concerns raised in this regard included that:

- Processors pay the graders who oversee Aus-Meat and MSA standards.<sup>39</sup>
- Graders grade on fat, teeth, butt shape and weight variation which allows for discounting and confusion on grid prices.<sup>40</sup>
- Use of butt shape as a grading implement can be exploited.<sup>41</sup>

4.33 Producers questioned how they could check the measurements used particularly in relation to deductions for fat, colour and butt shape. Mr Gary Warren noted that:

This grading is done in house by the processors and even if the producer goes down to watch his cattle processed, it does not mean that he can get up and measure the depth of fat on the carcass.<sup>42</sup>

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35 Australian Beef Association, *Submission 23*, p. 3.

36 Gulf Cattlemen's Association, *Submission 41*, p. 4.

37 Mr P.J. McHugh, *Submission 73*, Attachment 2, p. [2]. See also Mr Craig Cross, personal capacity, *Committee Hansard*, 2 September 2015, p. 9.

38 Mr Peter Kennedy, Gulf Cattleman's Association, *Committee Hansard*, 4 August 2015, p. 12.

39 Mr P.J. McHugh, *Submission 73*, Attachment 2, p. [2] and Mrs Maureen Cottam, *Submission 25*, p. 4.

40 Mr P.J. McHugh, *Submission 73*, Attachment 2, p. [2] and Mr Craig Cross, private capacity, *Committee Hansard*, 2 September 2015, p. 11.

41 Australian Beef Association, *Submission 23*, p. 17.

42 Mr Gary Warren, *Submission 24*, p. 3.

4.34 One of the key issues of contention raised by producers was in relation to fat. When a producer sells to a processor, they can be penalised for an animal being too fat. Under such circumstances, the fat is removed and the producer receives a discounted price. According to the evidence before the committee, however, the processor is able to render this fat for sale or use as tallow.<sup>43</sup>

4.35 The committee received considerable evidence from producers regarding fat scores and fat testing equipment.<sup>44</sup> As a case in point, Mr Atkinson raised concerns with the means by which fat depth is determined. He argued that this is the greatest 'discounting tool that has no constant reliability or integrity':

This is because when a hide puller removes the hide, fat is often torn from the carcass in varying degrees. 1mm of fat can mean the difference of up to \$1\kg carcass weight in some cases on meatworks grids. So a 320 kg carcass can be discounted by up to \$300 because it had 5mm fat at PH site instead of 6mm. If [sic] the meatworks employee moved the measuring device a few centimetres, many of these carcasses would have to be paid out without the discount.<sup>45</sup>

4.36 ABA developed its own tool to calculate the value of a carcass because of its own concerns that MLA had 'no real idea of the actuals of a carcass bone-out.'<sup>46</sup>

4.37 Mr Stephen Kelly, Chair of AMPC acknowledged that there could be improvements to the grading systems which have a 'level of interpretation'. Furthermore, he recognised that grids which animals are predominantly purchased on have become far more complex over the past 10 years.<sup>47</sup>

4.38 Questions were asked regarding the manner in which the standard trim was applied. Mr Bradley Teys informed the committee that standard carcass trim was devised in the mid-1980s to provide a uniform trim across all processors. He argued that it provided producers with a means to get the best price per kilo for their cattle.<sup>48</sup>

4.39 Mr Ian King, CEO of Aus-Meat informed the committee that the trim was 'virtually always part of the inspection process' undertaken by Aus-Meat auditors because it is a key component of the hot standard carcass weight. For this reason, he noted that the trim was regularly audited as part of the slaughter floor process.<sup>49</sup>

4.40 JBS Australia CEO, Mr Brent Eastwood explained its role in relation to trim:

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43 Mrs Jo-Anne Bloomfield, *Submission 31*, p. 7.

44 Mr Tom Hunt, *Submission 3*;

45 Mr Rob Atkinson, *Submission 22*, p. [3].

46 Australian Beef Association, *Submission 23*, p. 7.

47 Mr Stephen Kelly, Australian Meat Processor Corporation, *Committee Hansard*, 27 August 2015, p. 32.

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

49 Mr Ian King, Aus-Meat, *Committee Hansard*, 2 September 2015, p. 61.



We administer the AUS-MEAT trim according to the rules. We have our graders who are grading cattle at the scale. They have no idea what the grid price is or anything else. They have no idea. They are grading the AUS-MEAT grid. We have nine beef plants and five lamb plants, every day we go our QA department audits them three times a day by pre and post the scale. We audit our own graders, and AUS-MEAT comes as well and audits those graders. We apply the AUS-MEAT trim. We take total exception to people suggesting that we trim beyond AUS-MEAT.<sup>50</sup>

4.41 Generating value out of the trim is one of the key challenges for processors.<sup>51</sup> Trim is most often used for sausages, hamburgers and other processed meat products. According to Mr Sweeting, obtaining market premiums for the trim and non-carcass parts is a particular challenge, with premium products such as certified grass-fed and organic where processors have paid a premium for the entire animal and may lose money if they can only get a premium for the prime cuts.<sup>52</sup>

4.42 However, concerns were raised to the committee in relation to the application of the standard rather than its definition. Many producers held the view that the current standard carcass trim far exceeded the intention of the definition.<sup>53</sup> Evidence suggested that there had been discounting in relation to the trim where a millimetre of fat was missing but which could have been torn off when the hide was pulled off.<sup>54</sup> It was also suggested that grain-fed steers currently average less than 52 per cent dressed yield and that trimming of the carcass in conjunction with fat penalties amount to 'double dipping'.<sup>55</sup>

#### ***Non-meat parts and co-products***

4.43 Processors sell all parts of the animal. Indeed, according to evidence, the contribution of non-meat parts including bones, skins, offal and tallow are crucial to a processor's business.<sup>56</sup> Mr Sweeting noted that non-beef products have created value for processors but are 'frequently not directly paid for when cattle are sold on a carcass weight basis'.<sup>57</sup> He concluded that:

When producers are paid on a carcass weight basis, which is increasingly the case there is a misalignment between how processors pay growers and how processors make money.<sup>58</sup>

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50 Mr Brent Eastwood, JBS Australia, *Committee Hansard*, 27 August 2015, p. 22.

51 Mr Ashley Sweeting, *Submission 1*, p. 6.

52 Mr Ashley Sweeting, *Submission 1*, p. 6.

53 Mr Ian McCamley, *Submission 90*, p. [3].

54 Mr Robert Atkinson, private capacity, *Committee Hansard*, 4 August 2015, pp 8–9.

55 Mr Blair and Mrs Josie Angus, *Submission 80*, p. [8].

56 Mr Ashley Sweeting, *Submission 1*, p. 5.

57 Mr Ashley Sweeting, *Submission 1*, p. 13.

58 Mr Ashley Sweeting, *Submission 1*, p. 5.

4.44 Mrs Jo-Anne Bloomfield made the point that with over the hook prices, the producer is only paid the carcass weight of the meat component and not the co-products despite their significant value. It was put to the committee that in some instances, foetal blood from heavily pregnant cows could cover the cost of some animals with the meat effectively free to the processor.<sup>59</sup> According to the VFF, foetal blood can be worth \$600 per litre.<sup>60</sup>

4.45 While costs vary, according to evidence before the committee, the value derived from the non-meat parts includes that from offal, intestines and foetal blood. However, at the end of the process, producers suggest that they derive a return of only 38 per cent of the live animal weight.<sup>61</sup> The VFF noted the substantial gap between the Australian saleyard price, retail beef price and the impact of sale by processors of by-products. In this regard, at least 22 per cent of the price that processors pay to buy a steer is returned to them when selling the by-products (exclusive of foetal blood).<sup>62</sup>

4.46 According to Teys Australia, while it includes offal as part of its revenue complex along with hides, meat meal, bone meal and yield of the meat, service kills are different. Mr Bradley Teys explained:

When they service kill them, because they may be slaughtering only, say 50 cattle a week, they charge the company that they service a fee to kill their cattle and debone them. The company keeps the hides and offal because this party has no way of selling that or does not have a market for that.<sup>63</sup>

### **Booking system**

4.47 While a booking is made weeks or even months in advance, processors will usually put out a grid on a Friday night for the following week.<sup>64</sup> Sometimes, producers are given the price a week before the kill and therefore just prior to loading. A producer will have one of two choices – knock back the price and run the risk of rebooking a new kill date which may be months or weeks ahead – or to accept the price and potentially take the hit.<sup>65</sup>

4.48 An example was provided by Mr Blair and Mrs Josie Angus who explained that in 2014, kill slots were booked more than six weeks in advance without pricing indicated at the time of booking. In their view, such a practice removes a degree of

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59 Mrs Jo-Anne Bloomfield, *Submission 31*, p. 6.

60 Victorian Farmers Federation, *Submission 87*, p. 17.

61 Mrs Josie Angus, *Committee Hansard*, 4 August 2015, p. 18.

62 Victorian Farmers Federation, *Submission 87*, p. 17.

63 Mr Bradley Teys, Teys Australia, *Committee Hansard*, 27 August 2015, p. 6.

64 The committee was informed that in northern Australia, such as Townsville, bookings can be three and four months out from the kill. Mr Robert Atkinson, private capacity, *Committee Hansard*, 4 August 2015, pp 6–7.

65 Mr Gary Warren, private capacity, *Committee Hansard*, 4 August 2015, pp 6–7 and Mr Robert Atkinson, private capacity, *Committee Hansard*, 4 August 2015, pp 6–7.

competition from the over the hook market as producers are unable to compare pricing at booking.<sup>66</sup> Therefore:

[I]f a producer did not like the price offered when it was finally disclosed at a date close to the slaughter date, the only remaining option was to make another future dated kill slot booking with no price offered once again.<sup>67</sup>

4.49 Mr Gary Warren informed the committee that the price may be given weeks ahead in some instances to lock the producer in early. He provided the example of one occasion when he received the grid price 14 days ahead of the kill, because the processor knew that the market price was about to go up.<sup>68</sup>

4.50 However JBS Australia argued that livestock is often booked into more than one company with farmers able to choose to book space in a 'multitude of meat processing companies'. Mr Eastwood upheld the view that cattle were never priced against the grid a day or two out, but rather five to 15 days out. Thereafter, producers can choose to take the price or pull their cattle out of the booking, which, he noted 'happens all the time'.<sup>69</sup>

4.51 Mr John Berry, Director and Head of Corporate and Regulatory Affairs at JBS Australia suggested that producers have full information on the various modes and they may book cattle in to a number of processors at the same time to ascertain the best price.<sup>70</sup> He continued:

[L]ivestock is often booked into more than one company. Farmers may choose to book space in a multitude of meat processing companies and wait. It is never a day or two out. It is normally five, 10 or 15 days out front that the cattle get priced against the grid. They may then choose to take that price or pull them out of that booking, and that happens all the time.<sup>71</sup>

4.52 Mr Eastwood further noted that all processors have cattle priced and committed a certain amount of time out from slaughter (or more than seven days) in order to ensure continuity of supply. Once a contractual price has been agreed, the cattle are committed and the booking is locked. Prior to that point, however, it remains only a booking space.<sup>72</sup>

4.53 The contention of many producers was that, being informed of a price 48 hours in advance of a sale did not allow them time to make any informed decision about whether to sell or not. If the offered price was not acceptable, the problem for

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66 While a booking is made weeks or even months in advance, processors will usually put out a grid on a Friday night for the following week. In effect, producers are given the price a week before the kill and therefore just prior to loading.

67 Mr Blair and Mrs Josie Angus, *Submission 80*, p. [2].

68 Mr Gary Warren, personal capacity, *Committee Hansard*, 4 August 2015, p. 7.

69 Mr Brent Eastwood, JBS Australia, *Committee Hansard*, 27 August 2015, p. 17.

70 Mr John Berry, JBS Australia, *Committee Hansard*, 27 August 2015, p. 17.

71 Mr John Berry, JBS Australia, *Committee Hansard*, 27 August 2015, p. 17.

72 Mr Brent Eastwood, JBS Australia, *Committee Hansard*, 27 August 2015, p. 18.

producers would be that they may not be able to re-book the same slaughter-ready cattle, for at least three months into the future.

4.54 Mr David Evans noted that during periods of oversupply, there were long waiting times to book cattle for direct sale with up to six weeks generally quoted. As local abattoirs are unable to cope with supply during these periods, local auction prices were often severely depressed.<sup>73</sup>

***Lack of formal complaints mechanism and independent review***

4.55 Hermit Hill Pastoral Pty Ltd informed the committee that its lambs were weighed prior to dispatch, and based on quoted prices, an estimate of return was made. However, when the kill sheets were received, the final weights were less than expected. The stock agent then declined to provide an analysis of each beast to Hermit Hill which was eager to investigate the discrepancy. Hermit Hill made the following observations about its experience:

The kill sheet only shows numbers of beasts in weight range. We suspect that beasts could be "trimmed" to fit into various categories that could benefit the processor, penalise the farmer.

This lack of transparency over final kill weights for lambs makes it impossible to reconcile records kept on-farm, and the resultant lamb final dressed weight.

The processor would have this detailed information to enable running an efficient business, but the farmer can't obtain this beast by beast information.<sup>74</sup>

4.56 There is no current mechanism available for producers to contest grades.<sup>75</sup> Therefore, producers have to take their concerns directly to the processors.<sup>76</sup> When they do complain, they don't have any recourse.<sup>77</sup> Therefore, one of the concerns raised to the committee was that of a lack of a formal and independent complaints mechanism. The VFF's Mr Shahriar Mofakhami explained the context for producers:

In that type of situation you cannot even bring the misleading and deceptive conduct action in relation to false certification, because all the fat trimmings are subjective. What are you going to objectively look at and say, 'Is this really the right fat content over here?' The fact that there is no recourse means that, by the time you go with an objection to them to try and see the evidence of it, the carcass has left the abattoir. There is no dispute resolution mechanism to do that. That is why regulatory intervention is

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73 Mr David Evans, *Submission 15*, p. [3].

74 Hermit Hill Pastoral Pty Ltd, *Submission 7*.

75 Cattle Council of Australia, *Submission 83*, p. 9.

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

77 Mr Shahriar Mofakhami, Victorian Farmers Federation, *Committee Hansard*, 2 September 2015, p. 22.

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required before you can hand it to the industry for them to start regulating themselves. It is like stockbrokers and the stock market.<sup>78</sup>

4.57 While producers continue to get inconsistent results under a grading system for which carcass trimming is subjective, the graders are company employees and there remains no recourse to a third party. Moreover, producers may decline from making any complaint or raising any concerns in the first instance for fear of jeopardising their relationship with processors.<sup>79</sup>

4.58 CCA explained that while technological advances create the possibility that the results of the cattle assessment could be readily available to producers, this is not possible at present for a number of reasons, including the time delay between the assessment, meat being identifiable and the producer receiving the grading. Therefore:

Increasing the accountability and transparency of the beef supply chain is essential in ensuring that producers receive the correct market signals. The whole of the beef sector needs to examine methods to improve the transparency and accountability, to ensure that activities which detrimentally impact upon members are identified and effective corrective actions are taken.<sup>80</sup>

4.59 In response to questions regarding a complaints mechanism, Teys Australia informed the committee that it wanted to establish a third-party dispute mechanism to handle grading disputes.<sup>81</sup>

### **Online sales**

4.60 AuctionsPlus began operating in 1987 as a means of selling livestock by description. Under the system, livestock are assessed prior to sale by an accredited assessor who enters a description of the livestock into a public electronic catalogue. Potential buyers register to participate in the auction with the results displayed on the website immediately after the sale is completed. The department highlighted some of the benefits of the system:

AuctionsPlus provides some of the benefits of saleyard auctions—access to a wide range of buyers—while allowing direct consignment to the buyer. Livestock are sold on-farm on the basis of dollars per head, cents per kilogram liveweight, cents per kilogram carcass weight or according to a pricing matrix. Transport costs are paid by the purchaser.<sup>82</sup>

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78 Mr Shahriar Mofakhami, Victorian Farmers Federation, *Committee Hansard*, 2 September 2015, p. 25.

79 Mr Mark Richie, Victorian Farmers Federation, *Committee Hansard*, 2 September 2015, p. 26.

80 Cattle Council of Australia, *Submission 83*, p. 9.

81 Mr Thomas Maguire, Teys Australia, *Committee Hansard*, 27 August 2015, p. 5.

82 Department of Agriculture, *Submission 74*, p. 11.

4.61 According to AuctionsPlus, online saleyards have an additional benefit over physical saleyards of 'removing any opportunities for buyer collusion as buyers cannot see who they are purchasing against'.<sup>83</sup>

4.62 Furthermore, the advantages of purchasing 'direct' on farm through an online auction system reduces the costs involved in saleyards and limits the impact of animal welfare issues (which can occur when transporting livestock).

### **Support for change**

4.63 The VFF – Ovens Valley Branch recommended that a standardised killing process which is both fair and equitable, be investigated.<sup>84</sup>

4.64 Mr Hunter suggested that, while regulating processor practices in terms of the trim and sale of skins would not be realistic, reporting on yield results, relative to the livestock type/feeding regime would give producers a basis to assess processors. He suggested that under such a regime, when lambs are sent for processing, a standard electronic form could be completed by the submitting stock agent which could be sent to an industry website. While not a compulsory system, Mr Hunter suggested that under such a system, the results should only be made available to participating agents/producers.<sup>85</sup>

4.65 However, many producers made the point that there needs to be structural reform. That is, changes to the process by which cattle are sold in order to improve operational transparency, support the market and value add.<sup>86</sup> The VFF noted in this regard that:

The Government has achieved significant foreign investment in our agricultural sector, however this has been advanced without first establishing proper structures for the protection and guided growth of our agricultural markets. As a result, unchecked horizontal and vertical consolidation has created tight oligopolies/oligopsonies and the emergence of overly powerful players at critical stages in agricultural supply chains, creating choke points. Consolidation in the processing and retail grocery markets has led to fundamental shifts in economic power. Vertical coordination has strategically enhanced the market power of the processors and retailers within our agricultural markets without any corresponding regulatory protections at the farm gate source of these critical supply chains.<sup>87</sup>

4.66 The VFF argued in favour of a transparent market trading structure, increasing the power of farmers using market conduct and integrity rules, and empowering and

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83 AuctionsPlus, *Submission 65*, p. [1].

84 Victorian Farmers Federation – Ovens Valley Branch, *Submission 62*, p. 5.

85 Mr Andrew Hunter, *Submission 75*, pp [2–3].

86 Nanthes' Park British White Cattle Stud, *Submission 19*, p. [2].

87 Victorian Farmers Federation, *Submission 87*, p. 5.

investigation functions.<sup>88</sup> It made the point that the first step in creating an effective market for trading of livestock and red meat is transparency, which is of benefit to all stakeholders:

Transparency through revealing rapid and complete trade, order and volume information enables farmers, processors and end-users to manage risk by forecasting price movements and in so doing creates another dimension to our livestock and red meat markets, being futures prices. Futures prices in turn leads to collection and dissemination of information to improve and enhance spot market price discovery.<sup>89</sup>

4.67 The VFF also argued that the solution is not to restrict the ability of producers to use contracts or mandate a minimum amount of livestock to be purchased at saleyards, but rather processors should report all contracts as a pre- and post-trade, (whether they be spot or forward) and the data be used for the wider price discovery of the market. Furthermore:

Standardisation of the grid premium/discount factors and limiting the proportion of the base price that can be paid as premiums or discounts will assist in ensuring that processors have limited ability to deflate base prices and increase premiums to distort the base price.<sup>90</sup>

4.68 Under a transparent system, processors would be regulated to provide a live weight just before and just after the killing process. According to the VFF, such a system would provide a live weight standard in relation to every processor with a report on carcass yield against live weight.<sup>91</sup>

4.69 The point was also made that an objective rather than subjective grading system was required. The VFF noted a distinct lack of innovation on the part of processors to determine scoring measurements. Yet, given the significant impact that grid premiums have to the price discovery process, it is critical that mechanical mechanisms are used and for the 'grading system to be structured around available methods of objective assessment rather than subjective visual appraisal'.<sup>92</sup>

4.70 To this end, the Shire of Campaspe suggested greater transparency in relation to weighing mechanisms including the expanded role of electronic animal tracking systems to assist with traceability through the processing chain.<sup>93</sup> It recommended a uniform and consistent method for determining animal weight given the options available and the power differential between buyer and seller in different scenarios.<sup>94</sup>

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88 Victorian Farmers Federation, *Submission 87*, p. 6.

89 Victorian Farmers Federation, *Submission 87*, p. 8.

90 Victorian Farmers Federation, *Submission 87*, p. 10.

91 Mr Mark Ritchie, Victorian Farmers Federation, *Committee Hansard*, 2 September 2015, p. 26.

92 Victorian Farmers Federation, *Submission 87*, p. 13.

93 Shire of Campaspe, *Submission 53*, p. 2.

94 Shire of Campaspe, *Submission 53*, p. 2.

4.71 Mr John Carpenter argued that for all cattle sales made on a direct to work/over the hook basis, appointment of a single government agent to independently weigh, assess and grade carcasses should be made.<sup>95</sup> He suggested that weight should be determined after slaughter without any trimming.<sup>96</sup> Mr Carpenter further argued that processor or retailer discounts levied against the hook sale should only apply to carcasses that:

- fall outside the weight range;
- fall outside the fat coverage range; or
- fail to grade MSA.<sup>97</sup>

4.72 A number of submitters also recognised the need for greater competition in the processing sector. The point was made that producers should have opportunities to sell cattle outside the current systems by way of online auctions and direct sales to the public. Nanthes' Park British White Cattle Stud noted the 'burdensome and restrictive regulation' concerning the sale of meat to the public required reconsideration so that alternatives could be found to allow for flexible but safe operational models.<sup>98</sup>

4.73 One such option is to allow for a licenced butcher to carry out the kill and approve the meat for sale with the meat sold under contract to clients. According to Nanthes' Park British White Cattle Stud, buying under contract conditions allows for clients to be fully informed of the process and for them to agree to purchase via that process.<sup>99</sup> Whereas in the past, butchers would operate at saleyards, now they source most of their beef directly from beef packers because there are few service kill slaughter facilities left.<sup>100</sup>

4.74 The Gulf Cattleman's Association argued in favour of new abattoirs in Queensland, 'fit for purpose' regulations for smaller boutique abattoirs and an investment in the training of graziers to use the online auction tool – AuctionsPlus – to improve competition.<sup>101</sup> It also made the point that greater focus should be given to the use of electronic marketing and on-line selling which would provide for greater opportunities for on-farm sales.<sup>102</sup>

4.75 Emphasis on online auction opportunities would not only go some way to addressing producers' concerns regarding the health and welfare of cattle transported considerable distances (without water and feed) but also provide greater surety in relation to the sale price. In this regard, AuctionsPlus, the online auction system, was

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95 Mr John Carpenter, *Submission 9*, p. 8.

96 Mr John Carpenter, *Submission 9*, p. 8.

97 Mr John Carpenter, *Submission 9*, p. 8.

98 Nanthes' Park British White Cattle Stud, *Submission 19*, p. [3].

99 Nanthes' Park British White Cattle Stud, *Submission 19*, p. [3].

100 Mr Rob Atkinson, *Submission 22*, p. [3].

101 Gulf Cattleman's Association, *Submission 41*, p. 2.

102 Mr Peter Kennedy, Gulf Cattleman's Association, *Committee Hansard*, 4 August 2015, p. 16.



recognised as a success by some producers on the basis that it enables cattle to remain on the vendor's property and provides an easy option for the vendor to pass in if their value is not achieved.<sup>103</sup> Mr Rob Atkinson argued that AuctionsPlus offers the most buyer competition. However, he noted that few, if any, slaughter cattle are marketed in this way – at least in Queensland.<sup>104</sup>

4.76 Mr Peter Gregory argued in favour of small, regional abattoirs which can process local animals without transporting them to 'mega plants which pay next to production cost for the animals'.<sup>105</sup> This would assist in providing more competition in areas where producers have limited options on how their animals are processed.

4.77 The Department of Industry and Science argued that mobile slaughter units, small scale slaughter facilities in regional areas, and small scale meat processing and packaging facilities could provide the avenue for more innovation, new entries and competition within the sector.<sup>106</sup>

4.78 However, the point was made that all options should be grounded on a mechanism of pricing transparency as the Sheepmeat Council of Australia explained:

Producers need diversity in methods to sell their livestock. However, these systems need to be open, robust and allow free-market forces to work honestly. Uncontrolled consolidation in markets and prices generally reduces competition, reduces options for the producer and, ultimately, reduces farm gate returns. Currently the range of selling methods in the sheep industry include saleyard auctions, online auctions, paddock sales or property sales, over-the hook-sales and forward contract selling. All these pricing mechanisms have a place in maintaining demand, competition and can enhance transparency in the sheep industry.<sup>107</sup>

4.79 Mrs Jo-Anne Bloomfield argued in favour of greater competition as well as final product market availability and variability:

Increasing the opportunity of entry for buyers into the livestock markets overall increases the ability of a fair and competitive price for animals offered for sale through Australian meat processing and live export channels. Government regulations and cost impost in both meat processing and exporting creates barriers to entry by new businesses. There is no doubt that some regulations and service fees are necessary but consideration should be given to the duplication of some of these costs that could be lowered.<sup>108</sup>

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103 Mr Richard Wilson, *Submission 56*, p. [2].

104 Mr Rob Atkinson, *Submission 22*, p. [2].

105 Mr Peter Gregory, *Submission 10*

106 Department of Industry and Science, *Submission 39*, p. 4.

107 Mr Alexander MacLachlan, Sheepmeat Council of Australia, *Committee Hansard*, 27 August 2015, p. 74

108 Mrs Jo-Anne Bloomfield, *Submission 31*, p. 4.



# Chapter 5

## Grading systems and regulatory environment

5.1 All beef is graded according to a range of Australian and international standards as set out in the Handbook of Australian Meat published by Aus-Meat Limited. These standards grade beef according to a number of quality-related traits including the cut, age, sex and fat depth. These standards also specify:

- labelling requirements;
- country of origin;
- date processed;
- weight; and
- the company which packed the product.<sup>1</sup>

5.2 Other standards include Aus-Meat's quality standards including the Pasturefed Cattle Assurance Scheme (PCAS) and the Meat Standards Australia (MSA) certification that guarantees eating quality. In addition, a number of companies have their own certifications. The second largest processor in Australia, Teys purchases PCAS-certified cattle while the country's largest processor, JBS has its own grass-fed certification for its Great Southern brand.<sup>2</sup>

5.3 As a three-year process, organic certification is the strictest and most difficult to obtain. At the same time, there are different certifications for different markets such as the US and EU.<sup>3</sup> While these various standards and certifications add value to the beef produced through them, the point was made in evidence that:

All these different certifications makes it much more difficult for producers to supply multiple processors with certified beef as they require multiple certifications and audits.<sup>4</sup>

### Meat Standards Australia

5.4 Australia's two beef grading systems are MSA and Aus-Meat Language.<sup>5</sup> At present, MSA is only used in the Australian domestic market. MSA beef carcasses are graded on the proportion of *Bos indicus* breed, maturity, marbling, meat colour and pH and fat distribution. Producers of MSA beef are required to certify cattle are handled to minimise stress prior to slaughter as stress has a negative impact on meat eating quality.<sup>6</sup>

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

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

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

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

5 Mr John Carpenter, *Submission 9*, p. 4.

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

5.5 MSA sets the standards in relation to fat depth, fat colour, marbling and other indicators relating to eating quality. One of the concerns raised in relation to MSA is that the separate company specifications such as that of detention and P8 fat which overlay MSA. The risk for producers is that cattle may have met the MSA standards but not the company standards.<sup>7</sup> Producers suggested that when producers do not meet the company standards, they do not get paid for the MSA even if they have met the MSA standards.<sup>8</sup>

5.6 The Australian Beef Association (ABA) argued MSA grading was 'hopelessly inconsistent'.<sup>9</sup> According to CCA, MSA requires immediate and continual development as producers are currently receiving discounts based on company specifications that have no relevance to consumer requirements 'resulting in high eating quality products not receiving their full market value, as determined by consumers'.<sup>10</sup> Teys Australia argued that:

It is clear from Teys' perspective that supplier confidence in industry developed grading systems is at an all-time low. It is time these systems were made more objective, transparent and verifiable given their importance in determining producer returns.<sup>11</sup>

5.7 Submitters suggested that as measurement is subjective, disputing a grading is made more difficult, providing scope for 'the interpretation of an individual classifier or skewed for monetary gain'.<sup>12</sup> Mrs Maureen Cottam raised a concern that graders were, in many cases, internally trained and assessed as well as being paid by their employer, the processor, who does not necessarily promote the commercial transparency that would satisfy a producer. Therefore, as Mrs Cottam argued, there is risk of a conflict of interest within the current system.<sup>13</sup>

5.8 Many producers made a similar point. Processing companies provide their own graders of carcasses who are effectively company employees. This means that MSA grading can amount to a task effectively performed by abattoir owners who have a 'vested interest in downgrading carcasses'.<sup>14</sup>

5.9 Some suggested that the graders should report to government authority as a means of enhancing the integrity and transparency of the grading process.<sup>15</sup> Others argued that independent graders should be employed by a third party to grade and

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7 Mr Gary Warren, *Submission 24*, p. 3.

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

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

10 Cattle Council of Australia, *Submission 83*.

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

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

13 Mrs Maureen Cottam, *Submission 25*, p. 4.

14 Mr Neil Paulet, *Submission 42*.

15 Mr David and Ms Anne Wortmann, *Submission 76*.

supervise payment for carcasses.<sup>16</sup> Similarly, Mrs Cottam recommended the establishment of an independent beef grading system whereby the employment and registration of meat graders would operate under a statutory authority.<sup>17</sup>

5.10 Mr John Carpenter suggested that the MSA beef grading system be transferred from MLA to the department where it could be 'independently and impartially administered'.<sup>18</sup> He also made the point that MSA does not exist for the exclusive benefit of producers, processors or retailers but rather, should focus entirely on protecting consumers.<sup>19</sup>

### ***MSA carcass feedback***

5.11 Beef producer, Mrs Cottam noted that as meat will naturally change colour, the timeframe of this change and other variables that affect grading are not in the control of the producer. Therefore, the producer is not privileged to the very information which determines their monetary return for beef.<sup>20</sup> She suggested that producers of MSA beef were hampered in their efforts to deliver a high quality beef product by a lack of adequate feedback from processors.<sup>21</sup>

5.12 Mr Gary Warren noted that processors will never articulate why the cattle did not meet the company standard but simply report 'does not meet company standards'.<sup>22</sup> Further, evidence to the committee also suggested that the MSA carcass feedback sheet omits the MSA grader's registered number, thereby reflecting a lack of transparency.<sup>23</sup>

5.13 The MSA requirements for handling cattle require that cattle sold through an MSA accredited saleyard should be processed within 36 hours of dispatch from the farm.<sup>24</sup> However, according to evidence before the committee, the time of kill is not documented on feedback sheets. Mrs Cottam informed the committee that producers have suffered financial loss as a result of the down-grading of their carcasses to non-MSA status. Yet, no predisposing factor was offered such as protracted kill time.<sup>25</sup> She suggested that the feedback sheets should provide the following information which should be electronically recorded at the time that the carcass is assessed:

- MSA grader's registered number or RFID number;

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16 Mr Neil Paulet, *Submission 42*.

17 Mrs Maureen Cottam, *Submission 25*, p. 5.

18 Mr John Carpenter, *Submission 9*, p. 1.

19 Mr John Carpenter, *Submission 9*, p. 4.

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

21 Mrs Maureen Cottam, *Submission 25*, p. 1.

22 Mr Gary Warren, private capacity, *Committee Hansard*, 4 August 2015, p. 9.

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

24 Meat and Livestock Australia, MSA requirements for handling cattle, [www.mla.com.au/Marketing-beef-and-lamb/Meat-Standards-Australia/MSA-beef/Supplying](http://www.mla.com.au/Marketing-beef-and-lamb/Meat-Standards-Australia/MSA-beef/Supplying) (accessed 24 June 2015).

25 Mrs Maureen Cottam, *Submission 25*, p. 3.

- time of kill;
- live weight of individual animal at the point of kill;
- fat, meat colour/standard MSA requirement;
- HSCW;<sup>26</sup> and
- dressing out percentage of individual animals.<sup>27</sup>

## Aus-Meat

5.14 As a joint venture between Meat and Livestock Australia (MLA) and the Australian Meat Producers Corporation (AMPC), Aus-Meat is responsible for the development and use of meat language. It is mandatory for all Aus-Meat accredited abattoirs to pay on HSCW and Aus-Meat standard carcass trim. They must also provide carcass feedback.<sup>28</sup>

5.15 Questions regarding the independence of Aus-Meat were raised by many producers who suggested that it was heavily influenced, if not dominated by, processors.<sup>29</sup> It was argued that such dominance ensures that processors are able to exert a major influence over the manner in which meat is graded. In fact, some argued that through their influence over Aus-Meat, processors effectively self-regulate meat grading.<sup>30</sup>

5.16 A prime example of this influence was that of Aus-Meat assessors who are employed by processors and audited by Aus-Meat every eight weeks.<sup>31</sup> The consequences of this circular relationship which were summed up by Mr Blair and Mrs Josie Angus:

The ownership of Ausmeat by processors has also created market access issues (eg EU not recognising Ausmeat graders as independent). It is vital that we move back to having some independent oversight in plants.<sup>32</sup>

5.17 The issue of influence was particularly concerning to some submitters who noted the extensive role that Aus-Meat plays in relation to many aspects of processing.

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26 Hot standard carcass weight or HSCW often describes the weight of an animal sold over the hooks, Meat and Livestock Australia, *Glossary*, [www.mla.com.au/general/glossary](http://www.mla.com.au/general/glossary) (accessed 4 May 2016).

27 Mrs Maureen Cottam, *Submission 25*, p. 4.

28 Agriculture Victoria, Selling and Marketing, Beef Cattle, <http://agriculture.vic.gov.au/agriculture/livestock/beef/selling-and-marketing/beef-cattle> (accessed 18 April 2016).

29 Mr Ian McCamley, private capacity, *Committee Hansard*, 4 August 2015, p. 18.

30 Australian Beef Association, *Submission 23*, p. 13, Gulf Cattleman's Association, *Submission 41*, p. 4 and Mr Blair Angus, private capacity, *Committee Hansard*, 4 August 2015, p. 22.

31 Victorian Farmers Federation, *Submission 87*, p. 18.

32 Mr Blair and Mrs Josie Angus, *Submission 80*, p. [7].

As a case in point, approval from Aus-Meat has to be sought when a new processing facility is established to approve operating arrangements.<sup>33</sup>

5.18 While meat companies are subject to up to 12 Aus-Meat audits a year, including 10 unannounced audits, concerns were raised regarding the relationship between processors, meat retailers, the Aus-Meat carcass assessment process and its internal auditing program. Livestock SA, for example, suggested the need for transparency in the relationship between these groups in the processing industry given that there appear to be 'inconsistencies in the carcass grading system'.<sup>34</sup>

5.19 It was also argued that processors have 'undue influence' over MLA.<sup>35</sup> While the part ownership of Aus-Meat by MLA should provide producers with a greater voice and influence, it was argued that MLA was not producer-driven.<sup>36</sup> The ABA explained its view:

Some people believe that the Processors have undue influence over the MLA, and that this is one of the areas where they exploit that power. Others believe that MLA is run by the processors, and therefore AusMeat, and its meat language and specifications controls are controlled by the processors.

On their website, AusMeat states they are responsible for establishing and maintaining industry standards for meat production. This is a very powerful and influential role, and it is like having the goanna in charge of the henhouse.<sup>37</sup>

5.20 It should be noted that the issue of producer representation and the structure of MLA was explored in considerable depth by the committee during its inquiry into the grass-fed cattle levies and addressed by the committee's recommendations regarding greater producer representation.

### ***Australian Meat Industry Language and Standards Committee***

5.21 A number of submitters raised concerns about the influence of processors in relation to Aus-Meat. The membership of the Australian Meat Industry Language and Standards Committee (AMILSC) was used as a case in point.<sup>38</sup>

5.22 AMILSC is responsible to advise the Aus-Meat board on matters relating to the Aus-Meat National Accreditation Standards. It has the authority to block any initiatives that emerge from the white paper review process.<sup>39</sup>

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33 Mrs Josie Angus, private capacity, *Committee Hansard*, 4 August 2015, pp 24–25.

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

35 Australian Beef Association, *Submission 23*, p. 13.

36 Mrs Linda Hewitt, Australian Beef Association, *Committee Hansard*, 27 August 2015, p. 67.

37 Australian Beef Association, *Submission 23*, p. 13.

38 Mr Blair and Mrs Josie Angus, *Submission 80*, p. [3] and Mr Ian McCamley, *Submission 90*, p. [3].

39 Mr David Hill, private capacity, *Committee Hansard*, 4 August 2015, p. 24.

5.23 The CEO of Aus-Meat, Mr Ian King informed the committee that Aus-Meat was a third-party independent body which sets the standards for the industry including the sanctions process. In fact, he noted that it was the AMILSC which both drives the standards and changes in implementation.<sup>40</sup> The committee has the authority to withdraw Aus-Meat accreditation which would put a processor out of business for a period of time, given that under the licence conditions issued by the government, without Aus-Meat accreditation, a company does not have a licence to export.<sup>41</sup>

5.24 Under the red meat Memorandum of Agreement (MOU), AMILSC is chaired by a person appointed by Aus-Meat, while the CEO of Aus-Meat serves as a member of the committee. The remaining ten members from the industry include:

- Australian Meat Industry Council (AMIC) – four nominees;
- Cattle Council of Australia (CCA)– one nominee;
- Sheepmeat Council of Australia – one nominee;
- Australian Lot Feeders' Association (ALFA) – one nominee;
- Australian Supermarkets Institute – one nominee;
- Australian Pork Limited – one nominee; and
- Primary Industries Ministerial Council – one nominee.

5.25 The MOU specifies that decisions of the committee 'will be made by majority vote'.<sup>42</sup>

5.26 Reflecting on the fact that the composition of the AMILSC offered beef producers' only one representative, Mr Hill argued that:

Even if the producers get together and say, 'Okay, this is something that we think needs to be put through as language and standards', if AMIC decide they want to block it, they have the voting power. That is the big block we have at the minute. We are not able to actually get a voting influence to change anything.<sup>43</sup>

5.27 According to Mr King, any changes to AMILSC's composition (which has remained unchanged for the past 23 years) would have to be taken up by the industry or the parties to the respective MOUs with the Commonwealth.<sup>44</sup> Noting concerns regarding the level of producer representation on the committee, Mr King observed that there were no such concerns raised until about 18 months ago. Furthermore:

Why, at the beginning, were there more processors than producers? I can only answer that on the basis that I believe that the original impact of

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40 Mr Ian King, Aus-Meat, *Committee Hansard*, 2 September 2015, p. 56.

41 Mr Ian King, Aus-Meat, *Committee Hansard*, 2 September 2015, p. 62.

42 Red Meat Industry Memorandum of Agreement, Clause 4.2(d), 2009.

43 Mr David Hill, *Committee Hansard*, 4 August 2015, p. 23.

44 Mr Ian King, Aus-Meat, *Committee Hansard*, 2 September 2015, p. 61.



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AUS-MEAT, the authority for uniform specifications and what needed to be done, was impacting on the processing sector.<sup>45</sup>

5.28 Mr King recognised, however, that Aus-Meat and AMILSC activities are now far broader than they were when first established. They now incorporate on-farm processes and quality management systems on farms which has resulted in 'some discontent or some concern about a potential block in terms of standards'. Nevertheless, he continued:

In my 23 years I have not missed one committee meeting and I can only say, again, that we have only ever once had a vote. It has always been by consensus, and it has always gone back to the peak industry councils before standards have been set and approved.<sup>46</sup>

5.29 However, producers argued that reform is now required. CCA suggested that a focus on post-farm-gate operations, and an inability to keep pace with industry developments, has resulted in producers 'losing connection with their jointly owned service provider'.<sup>47</sup> The end result is that Aus-Meat has not provided a fair platform for the over the hook pricing. Furthermore, it was argued that the regulatory environment is one which offers significant barriers to entry for new players.<sup>48</sup> Mr Gregory Chappell explained some of the problems:

The problem, I think, that we face with AUS-MEAT today is the fact that it was designed as a tool to communicate consumer requirement for beef back through the processor to the producer and to provide an open channel of communication that also provided market signals as to what was happening domestically and internationally with beef. One of the problems that have happened is that that particular tool has not remained flexible. It has become a bureaucracy. It is now controlled.<sup>49</sup>

5.30 Concerns raised in relation to the Aus-Meat grading system included there currently being no existing requirements for processors to publicly release yield figures. They are, in effect, the final arbiters in all matters regarding quality and yield. Producers have no recourse or right to object or dispute processors' measurements. Therefore, the view was put by the VFF that Aus-Meat should become an independent entity tasked with introducing transparency into processing practices.<sup>50</sup> Similarly, NSW Farmers' Association argued that Aus-Meat should be industry-owned and independent of the processors to ensure appropriate transparency.<sup>51</sup>

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45 Mr Ian King, Aus-Meat, *Committee Hansard*, 2 September 2015, p. 61.

46 Mr Ian King, Aus-Meat, *Committee Hansard*, 2 September 2015, p. 61.

47 Mr Howard Smith, Cattle Council of Australia, *Committee Hansard*, 27 August 2015, p. 47.

48 Mr Blair Angus, private capacity, *Committee Hansard*, 4 August 2015, p. 17.

49 Mr Gregory Chappell, private capacity, *Committee Hansard*, 4 August 2015, p. 48.

50 Victorian Farmers Federation, *Submission 87*, p. 18.

51 Mr John Dunn, NSW Farmers' Association, *Committee Hansard*, 2 September 2015, p. 5.

5.31 Yet, when questioned about the lack of confidence in the grading system, Mr King informed the committee that Aus-Meat has not been provided with any concrete evidence. He noted that when Aus-Meat had followed up on concerns that had been brought to its attention, it was found that they were based on hearsay rather than reality. Mr King upheld the view that complaints usually related to the grid rather than the grading system. He expressed confidence that the grading system was performing well.<sup>52</sup>

### ***Independent grading and the United States model***

5.32 In the United States (US), grading language and specification controls are owned and managed by a department whereby the government provides independent graders to all meat processing works throughout the country. In contrast, the processing companies in Australia provide their own graders.<sup>53</sup>

5.33 As explored in the previous chapter, many producers argued that the current standard carcass trim exceeded the intention of the definition.<sup>54</sup> In this regard, ABA noted the distinction between the US and Australian rules. It explained that Australian processors negotiated to have it legislated that they could remove about eight per cent of 'trim' from every carcass on top of the practice of removing blood, hide, offal and bone. This was to be a basic trim around the edge of the carcass. Yet, ABA noted, this has grown to be a major trimming of all fats and 'edge' meat.

5.34 In the US by contrast, the channel and other fats are left on the carcass before the carcass goes to scale while US producers are paid an allowance for hide and offal etc.<sup>55</sup> ABA continued:

When this is all calculated out across weights (lbs. versus kilos) and across values (\$Aus v \$USA) we find that in the States, their cattlemen are receiving 55% of the total retail dollar.

If we use the same formula within the Australian cattle market, we find that our producers are only getting about 26% of the total retail dollar. That is: the money the animal makes (the producer receives) when it becomes a carcass...compared to the money the whole carcass makes when it is cut up and sold as cuts in the stores.<sup>56</sup>

5.35 Under the US system, the grading of beef carcasses is a voluntary service of its Department of Agriculture (USDA) and the packer-processor is charged for the service. The point was made that under this structure:

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52 Mr Ian King, Aus-Meat, *Committee Hansard*, 2 September 2015, p. 58.

53 Australian Beef Association, *Submission 23*, p. 13.

54 Mr Ian McCamley, *Submission 90*, p. [3].

55 Australian Beef Association, *Submission 23*, p. 13.

56 Australian Beef Association, *Submission 23*, p. 13.

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The grader works independently of both the processor and the producer. This independent grading can only add to the confidence in the product by the consumer both at domestic and global level.<sup>57</sup>

### ***Complaints mechanism***

5.36 Mr Stephen Kelly from AMIC informed the committee that if a producer believed that the standard trim was not being applied, they could complain to Aus-Meat. He told the committee that anonymity would be assured as the abattoir and the abattoir owner would not know where the complaint came from. Thereafter, Aus-Meat would perform branded audits and could attend abattoirs at short notice to inspect the trim procedure.<sup>58</sup>

5.37 To investigate a complaint, Mr King stated that Aus-Meat would require both the feedback sheet and some evidence that there is an issue before it can follow up. However, he asserted that 'quite often', complaints are not related to the grading but rather a misunderstanding about how the price grid operates. He further observed that 'producers do not understand the feedback sheets' and 'do not fully understand the grading' and would be penalised if they do not meet the specification or the standard.<sup>59</sup> Mr King concluded that when a producer submits a complaint to Aus-Meat, in nine out of ten instances, the complaint will relate to a 'misinterpretation of the feedback sheet'.<sup>60</sup>

5.38 However, Mr Ian McCamley explained that producers don't generally complain to Aus-Meat regarding 'dubious' grading results for a range of reasons:

Firstly they fear retribution from their processor if they 'dob them in'. They feel they can't afford to upset their livestock buyer and be left unable to get a booking. Secondly there is a large time lag between the grading, the producer reading their [sic] feedback, realising they have a downgrading issue, then contacting AusMeat. There is no point in AusMeat going to the plant at that stage as any evidence will be long gone. AusMeat believe that past grading problems will be solved by AusMeat making an appointment with the processor to see the producer's next mob of cattle graded. Obviously to suggest this action will resolve a producer's downgrading issues is naive at best!<sup>61</sup>

### ***Beef language review***

5.39 The Aus-Meat language was designed approximately 20 years ago, primarily for use as a trade language.

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57 Mrs Maureen Cottam, *Submission 25*, p. 5.

58 Mr Stephen Kelly, Australian Meat Processor Corporation, *Committee Hansard*, 27 August 2015, p. 35.

59 Mr Ian King, Aus-Meat, *Committee Hansard*, 2 September 2015, p. 58.

60 Mr Ian King, Aus-Meat, *Committee Hansard*, 2 September 2015, p. 59.

61 Mr Ian McCamley, *Submission 90*, p. [3].

5.40 Mr Carpenter described Aus-Meat language as 'subjective, confusing and under the iron fisted control of the processors'. He suggested that it should have been abolished with the introduction of MSA.<sup>62</sup> Similarly, ABA noted that Aus-Meat language uses 'totally inexplicable grading classifications such as Y, YP, YG, PR and A' whereby 'A' beef is harvested from animals of eight teeth and older rather than the best or number one.<sup>63</sup> While 'A grade' in the US is 9–30 months of age, in Australia 'A' means the lowest grade.<sup>64</sup>

5.41 Concerns went to the use of dentition within the beef language which is 'not based on current scientific evidence' and serves as an unreliable indicator of age and eating quality.<sup>65</sup> Mr Hill suggested that the current beef language is based more on a trade description than quality description as it is based on dentition ciphers that are used as age and quality measures but which are not supported by current scientific evidence.<sup>66</sup> These views were supported by other producers.<sup>67</sup> Mr Hill continued:

Other measures that producers see as little more than discounting tools, such as Butt Shape, P8 fat are not used in beef carcass grading anywhere else in the World. The Australian red meat industry at great cost has developed the world's leading science based eating quality system, Meat Standards Australia (MSA) allows cuts to be graded on a consumer requirement basis, although the MSA quality mark is used domestically, it has not been used in export product since the equivalent system, Eating Quality Assured (EQA) was withdrawn in 2011.<sup>68</sup>

5.42 Similar concerns were raised in relation to butt shape and meat colour. According to CCA, as an eating quality, meat colour has no relevance.<sup>69</sup> CCA continued:

The current beef language requires immediate and continual development. Producers are currently receiving discounts based on company specifications that have no relevance to consumer requirements resulting in high eating quality products not receiving their full market value, as determined by consumers. This is distorting key market indicators that need to be corrected to ensure that the whole beef supply chain is driven in a productive and progressive direction.<sup>70</sup>

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62 Mr John Carpenter, *Submission 9*, p. 5.

63 Australian Beef Association, *Submission 23*, p. 14.

64 Australian Beef Association, *Submission 23*, p. 16.

65 Cattle Council of Australia, *Submission 83*, p. 8.

66 Mr David Hill, *Submission 86*, p. [4].

67 Mr Ian McCamley, *Submission 90*, p. [2].

68 Mr David Hill, *Submission 86*, p. [5].

69 Mr Howard Smith, Cattle Council of Australia, *Committee Hansard*, 27 August 2015, p. 48.

70 Cattle Council of Australia, *Submission 83*, p. 8.

5.43 In recognition of the need for reform to beef language and transition to value-based marketing, CCA, AMIC and ALFA directed MLA and AMPC to commission a white paper. The final draft of the Australian beef language 'white paper' was released in January 2016 and contained a series of recommendations, grouped under seven themes, with an indicative timeframe. The white paper recognised the 'strong and universal support for the development and application of objective measurement tools, tempered to an extent by a perceived lack of delivery from previous technologies and concerns regarding costs, particularly for smaller operators'.<sup>71</sup>

5.44 In April 2016, MLA was awarded a \$4.8 million grant to develop new technology involving ex-rays and infrared spectroscopy, to measure meat yield and identify traits that would help predict eating quality of meat cuts.<sup>72</sup>

### **Regulations and regulatory environment**

5.45 The Australian Livestock and Property Agents Association made the point that each jurisdiction in Australia has a different regulatory environment surrounding livestock, and the implementation and interpretation of the National Livestock Identification Scheme (NLIS) varies across jurisdictions. Furthermore, regulations vary across states with regard to Property Identification Codes (PICs). Such differences across the regulatory regime were questioned on the basis that livestock cross borders.<sup>73</sup>

5.46 According to the SCA, the Australian meat and livestock industry is one of the most high regulated production, processing, retail and export chains in Australia. It noted that:

While some regulations are valuable, others are onerous, have little or no marginal benefit, are inconsistent, impose unnecessarily high compliance costs and can impair the productivity and competitiveness of enterprises, supply chains and the broader industry. Each jurisdiction in Australia has a different regulatory environment for livestock. For producers this can mean confusion, extra costs, or reduced competition for their livestock.<sup>74</sup>

5.47 The regulations placed on abattoirs were also highlighted. The Department of Industry and Science noted that parts of the red meat processing regulatory environment may actually be stifling innovation and inhibiting new entrants to the supply chain – particularly small to medium enterprises. It was submitted that:

Despite their being an Australian Standard for the production of meat and establishing meat processing facilities, there is a range of other relevant

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71 Beef Language White Paper Consortium, *Australian Beef Language White Paper – Final Draft*, January 2016, p. 28.

72 Amy McCosker, 'Meat and Livestock Australia welcomes \$4.8m to research x-ray and infrared technology measuring meat quality', *ABC Rural*, 14 April 2016, [www.abc.net.au/news/2016-04-14/nrn-barnaby-beef-research/7327194?WT.mc\\_id=newsmail](http://www.abc.net.au/news/2016-04-14/nrn-barnaby-beef-research/7327194?WT.mc_id=newsmail) (accessed 18 April 2016).

73 Australian Livestock and Property Agents Association, *Submission 79*, p. 9.

74 Sheepmeat Council of Australia, *Submission 59*, p. 7.

regulatory requirements for establishing a meat processing facility relating to:

- food safety and hazard control, and other operational hygiene requirements;
- waste disposal and management;
- access to portable water;
- necessary qualifications of slaughter staff; and
- other environmental considerations such as biodiversity protection or development activities determined to be environmentally significant.<sup>75</sup>

5.48 At the same time, however, each state and territory has its own regulations, guidelines and/or procedures and responsibilities which cross a number of portfolios such as health, environment, and agriculture as well as an agency charged with enforcement of primary production and processing regulation.

5.49 In addition, the extent of assistance and guidance provided by state and territory authorities to investors wanting to set up a processing business varies. Then there are local council planning requirements which must be met and can include a variety of measures relating to noise, odour, urban encroachment, and transport considerations.<sup>76</sup>

5.50 The Department of Industry and Science concluded that the complexities of the regulatory environment, along with the variability across jurisdictions can prove difficult to navigate and be a 'cumulative time impost'. It was argued that these types of issues could become factors in making the decision not to pursue establishing a small meat processing facility. This is particularly the case where the initiative is pursued as an additional vertical integration to the existing business of producing and managing livestock.<sup>77</sup>

5.51 Evidence to the committee from some producers also highlighted the comprehensive requirements that are placed on prospective abattoirs as well as the requirements on existing abattoirs seeking to change categories from domestic to export.<sup>78</sup>

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75 Department of Industry and Science, *Submission 39*, p. 5.

76 Department of Industry and Science, *Submission 39*, p. 5.

77 Department of Industry and Science, *Submission 39*, p. 5.

78 Mr David Evans, *Submission 15*, p. [4].

## 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'.<sup>1</sup>

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.

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



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## Price transparency

6.12 The need for transparency throughout the supply chain was highlighted in evidence.<sup>2</sup> 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.<sup>3</sup>

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.

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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.

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### 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.<sup>4</sup> 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'.<sup>5</sup>

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.<sup>6</sup> The widely held view amongst producers is that the grid system is designed for processors: to provide for discounting and to confuse producers.<sup>7</sup>

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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.<sup>8</sup> 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**

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

# Appendix 1

## Submissions received

<b>Submission Number</b>	<b>Submitter</b>
1	Mr Ashley Sweeting
2	Mr Graham Primmer
3	Mr Tom Hunt
4	Fletcher International Exports Pty Ltd
5	Mr John Buxton
6	Mr Anton Hutchinson
7	Hermit Hill Pastoral Pty Ltd
8	Mr Don Lawson OAM
9	Mr John Carpenter
10	Mr Peter Gregory
11	Bindaree Beef
12	Mr Laurie Horne
13	Mr Ron McPherson
14	Mr Mark Wortmann
15	Mr David Evans
16	Mr Eddie and Mrs Jan Hooper
17	Mr Murray and Mrs Debbie Jones
18	World Animal Protection
19	Nanthes' Park British White Cattle Stud
20	Mr Shane and Mrs Maree Kennedy
21	Mr Frank Griffiths
22	Mr Rob Atkinson
23	Australian Beef Association
24	Mr Gary Warren
25	Ms Maureen Cottam
26	Mr David Blum
27	Mr Norman Sharp
28	Mr Stuart Morant
29	Mayor Paul Pisasale
30	Livestock Saleyards Association of Victoria
31	Mrs Jo-Anne Bloomfield
32	Mr Vin O'Neill
33	Alpine Shire Council

34	Mr James Neary
35	Mr David Farley
36	Rockhampton Regional Council
37	Dr Warwick Grave
38	Mr Robert Reid and Mr Jason Reid
39	Department of Industry and Science
40	Bankstown City Council
41	Gulf Cattleman's Association
42	Mr Neil Paulet
43	Mrs Suzanne Ryder
44	Mr Rex & Mrs Trish Forrest
45	Victorian Farmers Federation - Wangaratta Branch
46	Australian Lot Feeders' Association
47	Mr Don Nevin
48	Mr Julian Carroll
49	Victorian Livestock Exchange P/L
50	JBS Australia Pty Ltd
51	Mr Max Dunlevie
52	Capricorn Enterprise
53	Shire of Campaspe
54	Ms Jan McGuinness
55	Teys Australia
56	Mr Richard Wilson
57	Mr Rod Mitchell
58	Mayor Bill Ludwig
59	Sheepmeat Council of Australia
60	Mr Pat Larkin
61	Mr Roger McDowell
62	Victorian Farmers Federation - Ovens Valley Branch
63	Ms Loretta Carroll
64	Mr Newman and Mrs Shirley Patmore
65	AuctionsPlus Pty Ltd
66	Mrs Jane Carney
67	Mr Max and Ms Pamela McKimmie
68	Mayor Paul Antonio
69	Australian Food and Grocery Council
70	Mr David Gay
71	Mr Rob Moore
72	Mr Richard Ham
73	Mr Peter McHugh

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74	Department of Agriculture
75	Mr Andrew Hunter
76	David & Anne Wortmann
77	Brisbane City Council
78	Narrandera Shire Council
79	Australian Livestock and Property Agents Association Ltd
80	Mr Blair and Ms Josie Angus
81	Livestock SA
82	Pastoralists & Graziers Association of WA (Inc)
83	Cattle Council of Australia
84	Tasmanian Farmers & Graziers Association
85	AgForce Queensland
86	Mr David Hill
87	Victorian Farmers Federation
88	Mudgegonga & District Landcare Group Inc
89	Mr Greg Chappell
90	Mr Ian McCamley
91	National Farmers' Federation
92	NSW Farmers' Association
93	Australian Meat Industry Council
94	Indigo Shire Council
95	Mr Greg Mirabella & Ms Loretta Carroll
96	RSPCA
97	Mr Adrian Harris
98	Australian Meat Processor Corporation

### **Additional information received**

- Received on 4 September 2015, from Ms Loretta Carroll. Additional information, letter to committee;
- Received on 9 September 2015, from the Australian Livestock and Property Agents Association. Answers to Questions taken on Notice on 27 August 2015;
- Received on 11 September 2015, from the Cattle Council of Australia. Answers to Questions taken on Notice on 27 August 2015;
- Received on 15 September 2015, from the Victorian Livestock Exchange. Answers to Questions taken on Notice on 27 August 2015;

- Received on 16 September 2015, from JBS Australia. Answers to Questions taken on Notice on 27 August 2015;
- Received on 23 September 2015, from the Australian Meat Processing Corporation. Answers to Questions taken on Notice on 27 August 2015;
- Received on 14 October 2015, from Teys Australia. Answers to Questions taken on Notice on 27 August 2015;
- Received on 4 December 2015, from the Australian Meat Industry Council. Answers to Questions taken on Notice on 17 November 2015;
- Received on 9 December 2015, from Meat and Livestock Australia. Answers to Questions taken on Notice on 17 November 2015;
- Received on 14 December 2015, from the Department of Agriculture and Water Resources. Answers to Questions taken on Notice on 17 November 2015;
- Received on 18 December 2015, from Regional Infrastructure Pty Ltd. Answers to Questions taken on Notice on 17 November 2015;
- Received on 18 December 2015, from JBS Australia. Answers to Questions taken on Notice on 7 December 2015;
- Received on 3 November 2015, from Mr Rod Sims, Chairman, Australian Competition & Consumer Commission. Additional information, letter to committee;
- Received on 12 January 2016, from Teys Australia. Answers to Questions taken on Notice on 7 December 2015;
- Received on 13 January 2016, from Fletcher International. Answers to Questions taken on Notice on 7 December 2015;
- Received on 5 April 2016, from the Australian Meat Processor Corporation. Additional information, 2015-16 Annual Operating Plan;
- Received on 8 April 2016, from the Australian Meat Processor Corporation. Additional information, Teys Australia presentation;
- Received on 20 April 2016, from the Department of Agriculture and Water Resources. Answers to Questions taken on Notice on 5 April 2016;
- Received on 21 April 2016, from the Australian Competition & Consumer Commission. Answers to Questions taken on Notice on 5 April 2016.

### **Tabled documents**

- Tabled by Mr Gary Warren on 4 August 2015 in Roma. Various documents;
- Tabled by Mr Peter McHugh on 4 August 2015 in Roma. Table titled *Meat Industry Structure 1998-2011*;
- Tabled by Mr Rob Moore on 4 August 2015 in Roma. Various documents;



- Tabled by Mr Anthony Struss, Cattle President/Cattle Producer Mitchell, AgForce Queensland on 27 August 2015 in Canberra. Document titled *Assessment AUSMEAT Language: Use of Teeth Does not Describe Carcase Quality*, estimated to be dated late 1980's;
- Tabled by Mr David Evans on 2 September 2015 in Albury. Document titled "Cattle Sales Comparison" for the dates 1992-2014;
- Tabled by Mr Richard Norton, Managing Director, Meat and Livestock Australia on 17 November 2015 in Canberra. Series of charts in relation to price transparency.
- Tabled by Mr Rod Sims, Chairman, Australian Competition & Consumer Commission on 5 April 2016 in Canberra. Document titled ACCC launches market study into cattle and beef industry.



## **Appendix 2**

### **Public hearings and witnesses**

#### **Tuesday, 4 August 2015, Roma QLD**

- ANGUS, Mr Blair, Private capacity
- ANGUS, Ms Josie, Private capacity
- ATKINSON, Mr Robert, Private capacity
- CHAPPELL, Mr Gregory, Private capacity
- HILL, Mr David Lindsay, Partner Manager, DL & EM Hill
- KENNEDY, Mr Peter Robert, Member, Gulf Cattleman's Association
- MACLEAN, Mr James Charles Kenneth, Managing Director, Allied Beef
- McCAMLEY, Mr Ian Keith, Private capacity
- McHUGH, Mr Peter James, Private capacity
- MOORE, Mr Robert William, Private capacity
- SHEARER-SMITH, Mr Jason Anthony, Chief Executive Officer, Smithfield Cattle Company
- WARREN, Mr Gary Frederick, Private capacity
- WARRINER, Mr David, Private capacity

#### **Thursday, 27 August 2015, Canberra, ACT**

- BERRY, Mr John Kenneth, Director and Head of Corporate and Regulatory Affairs, JBS Australia Pty Ltd
- BYARD, Mr David, Chief Executive Officer, Australian Beef Association
- CAMPBELL, Miss Anna Hay, Senior Livestock Policy Director, AgForce Queensland
- EASTWOOD, Mr Brent Hugh, Chief Executive Officer Australia, JBS Australia Pty Ltd
- FLETCHER, Mr Roger James, Managing Director, Fletcher International Exports Pty Ltd
- GILES, Dr Kathleen (Kat), Chief Executive Officer, Sheepmeat Council of Australia
- GORDON, Mr Dougal, Chief Executive Officer, Australian Lot Feeders' Association
- HARVEY-SUTTON, Mr Mark, Policy Director, Cattle Council of Australia
- HERBERT, Mrs Therese (Tess), Vice President, Australian Lot Feeders' Association
- HEWITT, Mrs Linda, Director, Australian Beef Association
- HILL, Mr David, Independent Northern Board Representative, Cattle Council of Australia
- JACKSON, Mr James, Councillor, Sheepmeat Council of Australia

- KELLY, Mr Stephen, Chair, Australian Meat Processor Corporation
- LYON, Mr Graham John, Sales Manager, Middle East, Fletcher International Exports Pty Ltd
- MacLACHLAN, Mr Alexander, Vice President, Sheepmeat Council of Australia
- MADIGAN, Mr Andrew Richard, Chief Executive Officer, Australian Livestock and Property Agents Association
- MAGUIRE, Mr Thomas, General Manager, Corporate Services, Teys Australia Pty Ltd
- MATZ, Mr Jed, Chief Executive Officer, Cattle Council of Australia
- NOBLE, Mr Peter, Chair, Australian Meat Processor Corporation Audit and Risk Committee
- SMITH, Mr Howard, President, Cattle Council of Australia
- STRUSS, Mr Anthony 'Bim', Senior Livestock Policy Director, AgForce Queensland
- TEYS, Mr Bradley, Chief Executive Officer, Teys Australia Pty Ltd
- TEYS, Mr Clifford Geoffrey (Geoff), Executive Director, Livestock, Teys Australia Pty Ltd
- WILSON, Mr William, Senior Livestock Policy Director, AgForce Queensland

### **Wednesday, 2 September 2015, Albury NSW**

- BALL, Dr Alexander James, General Manager Red Meat Innovation, Meat and Livestock Australia
- CARROLL, Mr Julian, Private capacity
- COTTAM, Mrs Maureen McLean, Private capacity, through Mr Greg Mirabella to assist with hearing
- CROSS, Mr Craig, Private capacity
- DUNN, Mr John, Policy Director, New South Wales Farmers' Association
- EVANS, the Hon. David Mylor, Private capacity
- FELDTMANN, Mr Ian Robert, President, Victorian Farmers Federation Livestock Group
- GAFFNEY, Councillor Bernard, Mayor, Indigo Shire Council
- KING, Mr Ian Cecil, Chief Executive Officer, AUS-MEAT Ltd
- LOVELL, Dr Jaimie, Policy Director, New South Wales Farmers' Association
- MIRABELLA, Mr Gregory, Branch President, Wangaratta Branch, Victorian Farmers Federation
- MOFAKHAMI, Mr Shahriar, Adviser to Victorian Farmers Federation, Arc Capital Partners
- NORTON, Mr Richard Lawrence, Managing Director, Meat and Livestock Australia
- OSBORNE, Mr Graham, Non-Executive Director, Victorian Livestock Exchange Pty Ltd
- OSBORNE, Mr Wayne, Chief Executive Officer, Victorian Livestock Exchange Pty Ltd

- PICKER, Mr David Andrew, Livestock Manager, Victorian Farmers Federation
- RITCHIE, Mr Mark, Livestock Councillor, Victorian Farmers Federation
- SCHOEN, Mr Derek, President, New South Wales Farmers' Association
- SHARP, Mr Norman Allan, Private capacity

**Tuesday, 17 November 2015, Canberra ACT**

- BEZZI, Mr Marcus, Executive General Manager, Competition Enforcement, Australian Competition and Consumer Commission
- CHESWORTH, Mr Peter, Head of Division, Sectoral Growth Policy Division, Department of Industry, Innovation and Science
- COOPER, Ms Barbara, Acting Assistant Secretary, Meat Exports Branch, Exports Division, Department of Agriculture and Water Resources
- EDWARDS, Mr Garry John, Managing Director, Regional Infrastructure Pty Limited
- FLETCHER, Mr Roger James, Deputy Chair, National Exporters Sheep, Lamb and Goat Council
- FORD, Ms Gabrielle, General Manager, Agricultural Enforcement and Engagement Unit, Australian Competition and Consumer Commission
- FREEMAN, Ms Fran, First Assistant Secretary, Agricultural Policy Division, Department of Agriculture and Water Resources
- GLYDE, Mr Phillip, Deputy Secretary, Department of Agriculture and Water Resources
- GOODAY, Mr Peter, Assistant Secretary, ABARES, Department of Agriculture and Water Resources
- GREISS, Mr Rami, Executive General Manager, Merger & Authorisation Review Division, Australian Competition and Consumer Commission
- HALL, Mr Peter, Board Member, Cattle Council of Australia
- HORNE, Mr Laurie Edward, Private capacity
- HORNE, Mr Richard, Private capacity
- LARKIN, Mr David, Chair, Australian Processor Council, Australian Meat Industry Council
- LAWRENCE, Mr David, General Manager, Sectoral Growth Policy Division, Department of Industry, Innovation and Science
- MARTYN, Mr Stephen John, National Director, Processing, Australian Meat Industry Council
- NORTON, Mr Richard, Managing Director, Meat and Livestock Australia
- PENM, Mr Jammie, Assistant Secretary, Agricultural Commodities Branch, ABARES, Department of Agriculture and Water Resources
- SECCOMBE, Mr John, Chairman of the Board, Northern Co-Operative Meat Company Ltd
- SHARP, Ms Lisa, General Manager, Central Marketing and Industry Insights, Meat and Livestock Australia

- STAHL, Mr Simon, Chief Executive Officer, Northern Co-Operative Meat Company Ltd
- STANDEN, Ms Sally, Assistant Secretary, Crops, Meat and Horticulture, Agricultural Policy Division, Department of Agriculture and Water Resources
- WARRINER, Mr David, Consultant, AgInfo

**Tuesday, 5 April 2016, Canberra ACT**

- BEZZI, Mr Marcus, Executive General Manager, Competition Enforcement, Australian Competition and Consumer Commission
- FORD, Ms Gabrielle, General Manager, Agriculture Enforcement and Engagement Unit, Australian Competition and Consumer Commission
- HARRIS, Mr Adrian Harvey John, Private capacity
- MADDEN, Mr Michael Leo, Private capacity
- NOBLE, Mr Peter, Executive Chair, Australian Meat Processor Corporation
- OSBORNE, Mr Graham, Director, Victorian Livestock Exchange Pty Ltd
- OSBORNE, Mr Wayne, Chief Executive Officer, Victorian Livestock Exchange Pty Ltd
- QUINERT, Mr Michael, Director, Victorian Livestock Exchange Pty Ltd
- SIMS, Mr Rod, Chairman, Australian Competition and Consumer Commission
- WILLIAMS, Dr Rob, Trade Director—Technical Market Access, Australian Meat Processor Corporation