

Government Senators' Dissenting Report

1.1 With Australia's agriculture and food industry undergoing rapid change, Government Senators welcomed the establishment of the Senate Select Committee on Australia's Food Processing Sector in March 2011 to inquire into possible policy responses to the challenges confronting the sector. The Terms of Reference for the Inquiry were very broad. The Committee was tasked with inquiring into and reporting on:

- the competitiveness and future viability of Australia's food processing sector in global markets;
- the regulatory environment for Australia's food processing and manufacturing companies
- the impact of Australia's competition regime and the food retail sector, on the food processing sector, including the effectiveness of the Competition and Consumer Act 2010;
- production inputs costs, infrastructure, investment capital and human capital issues
- Trade policy effects and opportunities.

1.2 Senate Select Committees are established to consider complex issues which extend beyond the responsibilities of Senate Standing Committees. The overarching scope of the terms of reference for this inquiry has been a challenge for the Committee, particularly in relation to the regulatory issue where submissions have in many cases reflected anecdotal evidence, rather than providing detailed analysis of regulatory burdens.

1.3 Government Senators are particularly disappointed that only one State or Territory government made a submission to the Inquiry, given that the food processing sector makes a major contribution to the Australian economy and is particularly important in rural and regional Victoria, South Australia, Western Australia, Queensland and New South Wales.

1.4 Seventy submissions were received, and these were dominated by industry associations and stakeholders, including the relevant unions who were concerned to do justice to the terms of reference and to assist the Committee to understand the complexity and challenges confronting this sector.

1.5 Government Senators want to highlight that some aspects of the Terms of Reference were not widely addressed through submissions or evidence, and urge those who are reading the full report to consider the comprehensive National Food Plan Green Paper, as well as industry and other research which more fully reflect the nature of national competition policy, the regulatory environment and the infrastructure and investment issues which are critical to the future of Australia's food Processing Sector.

1.6 This report does not seek to re-visit the issues raised in the wider Committee Report and Government Senators support the general thrust of the report. However, we specifically disagree with recommendations 4, 5, 24 25 and 26.

1.7 Government Senators make the following further recommendations:

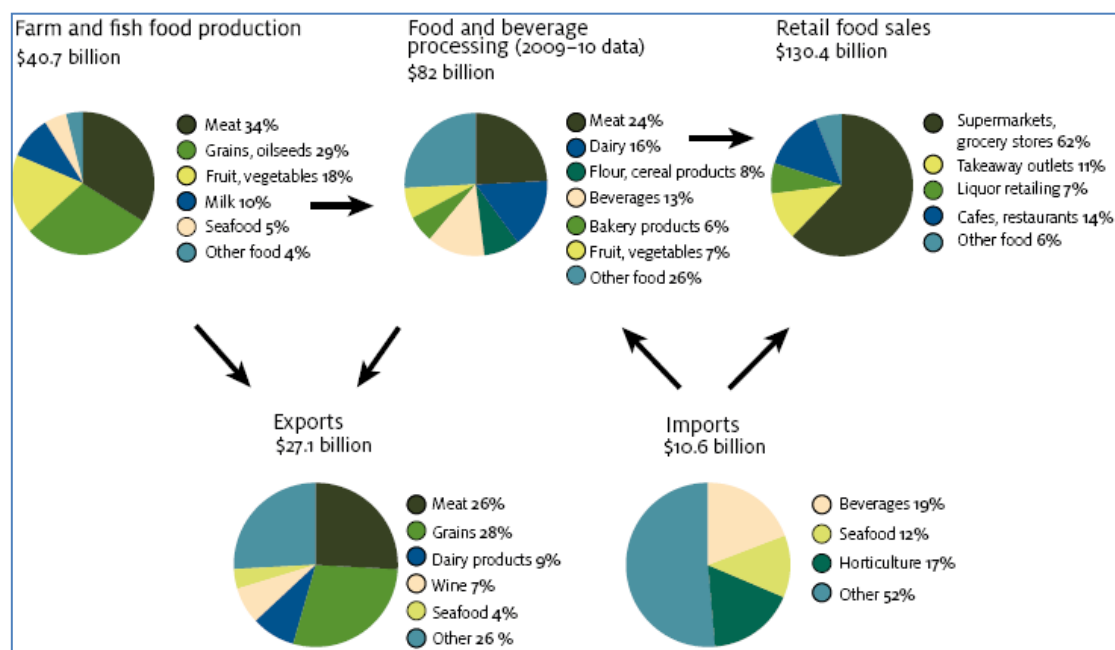
1. **Government Senators reject any call for further reviews of the Fair Work Act. A comprehensive, independent review has just been completed, which found that the legislation does provide a number of avenues for flexibility.**
2. **Government Senators encourage food processing industry employers who require greater flexibility of their workforce to utilise the existing mechanisms allowable under the Fair Work Act.**
3. **Government Senators recommend that the Federal Government increase consultation with, and education of, the food processing sector about industry opportunities and obligations in relation to the carbon pricing mechanism.**

The Food Processing Sector in Australia

1.8 Agriculture, food processing and the retail and export of Australian primary products has always been part of the Australian 'psyche'. There is a strong connection between Australian farmers and their land, and between food processing and manufacturing industries and the rural and regional communities in which they operate. The Committee visited several regional locations where value-adding to local produce was a significant part of the local economy.

1.9 The food processing sector's value chain is significant to the Australian economy.

FIGURE 1: Value chain for food in Australia, 2010–11



Source: DAFF 2012, *Australian Food Statistics 2010-11*, Department of Agriculture, Fisheries and Forestry, Canberra

1.10 Several reports have informed the Green paper on Australia's National Food Plan, released in July 2012, and issues canvassed in the Terms of Reference for the Senate Inquiry have been considered in the development of the Green Paper.

1.11 The issues include:

- The adequacy of investment in innovation and research and development;
- The cost and availability of transport and freight infrastructure
- Increasing costs for raw materials, energy, water and labour
- The extent of competition within the food industry, and particularly in the provision of retail and wholesale services;
- Concerns about rapid industry rationalisation and integration across the supply chain and the impact these developments may have on small producers and processors;
- concerns about the emergence of 'private labels' and they impact these may have on brand competition and the allocation of shelf space;
- concerns about food safety and quality;

- the potential environmental impacts of food production, processing and handling practices;
- Evolving consumer tastes and preferences for healthier and more life-style compatible meals;
- Changing labour requirements in the food processing, distribution and retailing sectors;
- Potential bio-security risks and the integrity of Australia's pest and disease status.

1.12 Government Senators acknowledge therefore that this Inquiry has not been a 'stand-alone' piece of work. In fact, the development and consultation around the National Food Plan has built upon submissions provided to the Inquiry. In the same way, the development of the Committee's report reflects issues raised in regional consultations and industry roundtable meetings which have informed the Green Paper for the National Food Plan as well as other work being undertaken by government and industry to continue to address challenges in this sector.

1.13 Australia's status as a net exporter of food products depends on market access and a liberal trade regime. The Committee received extensive evidence that those within the sector acknowledge that the Australian food industry exists within a global economic food market, and many of the recent changes evident in the industry reflect the fact that producers and processors are competing in global export markets as well as with importers in the Australian domestic market.

1.14 Many Australian food supply chains are also increasingly part of global business and supply chains. This global participation enables access to foreign technology, knowledge, capital and other business inputs.

1.15 The National Food Plan Green Paper identifies Australia's key strengths in the market as:

Its geographic location, with relative proximity to key emerging markets in Asia; resource endowments favourable to producing a broad range of agricultural products; a large pest- and disease-free bio-security status; a stable political and business environment, strong R&D and innovation; and a skilled and capable workforce. (p. 6)

1.16 The food processing sector is facing pressure from increasing international competition including on costs of the strong Australian dollar and variable seasonal outputs. To maximise opportunities, Australian businesses need to continue to change and innovate in seeking cost efficiencies and market share.

1.17 While the Committee heard evidence that parts of the food industry face difficult business conditions such as labour and skills shortages and increasing costs of some farm inputs, industry bodies including the Meat and Livestock Australia acknowledge that Australia's market advantages are allowing businesses to tap into rising food demand and food prices, particularly in commodity and niche markets.

1.18 Meat and Livestock Australia are promoting innovation as the way forward.

The global financial crisis separated the best from the rest as leaders were forced to make tough decisions fast, based on less-than-perfect information, throwing out the rule book without sacrificing growth potential. Today's operating environment is hyper-connected, volatile and fragmented. Technology is a major driver, but the changes are more profound and the implications for Australia are far-reaching. Sections of our economy might be cushioned by resource wealth and Asia's growing markets, but such advantages are selective and finite.

Developing and implementing appropriate technology solutions is critical to improving a processor's bottom line and ensuring the sustainability of the industry. MLA is committed to foster creativity and support technology providers and processors to innovate and develop new safer, sustainable and cost-efficient solutions to problems affecting the industry

1.19 Australian food producers and food businesses have significant opportunities as the demand and prices for food commodities increase, in response to both population and income growth, particularly in Asia.

Trade Policy Implications

1.20 Successive governments have supported multilateral trading systems. High-quality bilateral and regional FTAS support the multilateral system promoting a liberalised approach to trade in food and agricultural products between Australia and its trading partners.

1.21 Australia has successfully concluded FTAs with New Zealand, Singapore, the US, Thailand, Chile and the Association of Southeast Asian Nations (ASEAN). Work is also underway to conclude FTAs with Korea, Japan, China, and co-operation Agreements with India, Indonesia and the Gulf Cooperation Council. Negotiations are continuing on the Trans-Pacific Partnership Agreement with the Asia-Pacific countries of Brunei Darussalam, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, US and Vietnam.

1.22 Some submissions argued that FTAs reduce Australia's competitiveness and argued for 'fair trade' rather than 'free trade'. Government senators are concerned misunderstandings exist about the potential benefits and opportunities that come from FTAs, and the importance of these agreements for driving regional economic trade liberalisation and integration in participating countries.

1.23 Some submissions conflated several issues and argued for greater protection for Australian industry. For example: Mrs' Mac's stated:

"...the lack of willingness by governments and retailers to consider applying a level manufacturing playing field by requiring foreign manufacturers that export food products into Australia to meet the same processing standards and hence consequential costs that are imposed by government regulation here in Australia across all tiers of government." (p. 1)

1.24 Rather than a drive to the bottom, multi-lateral agreements seek to impose WTO rules and obligations on those countries.

1.25 Australia also pursues agreements with trading partners on specific commodities or commodity groups to ensure existing markets remain open and trade in Australian products takes place with minimal disruptions. These include beef, wheat, dairy, sheep, meat and sugar. To support export-ready companies to expand their business in growing and emerging markets, the industry has argued strongly for improving trade services to help identify those opportunities.

1.26 Government senators are very concerned about the level of pessimism that exists within the food processing industry, as parts of the industry continue to struggle with the impacts of the global financial crisis, our strong exchange rate and the reduced competitiveness of the industry. The answer however, is not to diminish Australian standards, rather to strive for efficiencies in regulation, minimise duplication and support innovation across the supply chain. For Australia, as a developed country with a strong, educated labour force, we are not going to compete on labour costs. Therefore, the emphasis by successive governments must be on research and development, and innovation that will increase productivity, marketability and address production challenges.

1.27 Industry bodies acknowledge this. Meat and Livestock Australia, promoting innovation in their sector argue:

Tight margins in the red meat processing sector mean limited resources have been devoted to technical innovation and the application of automation to some of the pressing human capital issues facing the sector.

New technologies such as automation offer significant opportunities to solve problems such as improving productivity, increasing yield recovery and remuneration levels, occupational health and safety (OH&S) performance and attracting people with new skills into the industry.

Developing and implementing appropriate technology solutions is critical to improving a processor's bottom line and ensuring the sustainability of the industry. MLA is committed to foster creativity and support technology providers and processors to innovate and develop new safer, sustainable and cost-efficient solutions to problems affecting the industry.¹

1.28 The Australian government has a range of programs to assist firms increase their productivity and move up the value chain by encouraging innovation. Raising the capabilities of these firms is aimed at helping them adapt to the challenges of working in a global economy, including currency fluctuations and in particular the current high Australian dollar.

1 (<http://www.redmeatinnovation.com.au/innovation-areas/new-technologies>)

1.29 The committee heard evidence that food industry firms are seeking greater assistance to commercialise new products in response to changing food consumption patterns and tastes. This may include how to manage IP issues and access investment capital to modernise plant and equipment and to fund research and development. Government incentives for SMEs with up to \$20m turnover include a 45% refundable tax offset for research and development. From 1 January 2014, these companies will be able to access credits on a quarterly basis.

1.30 Government senators believe however, that more can be done to support SMEs to access quality advice, support, technology advice and access to research , and encourages Enterprise Connect, (a government funded network that links local firms to resources in their immediate region and across the country) encouraging innovation, sustainability and entrepreneurship to better promote its Food Network throughout the industry. This is critical for boutique parts of the sector developing gourmet products, such as the Australian Barramundi Farmers Association, who need access to early research funding for pre-commercialisation activities

1.31 The Australian government also pursues agreements with trading partners on specific commodities to ensure existing markets for Australian agricultural and food exports remain open. This is done through industry bodies, working closely with government funded trade services located in overseas countries.

1.32 Industry leaders acknowledge the importance of market intelligence and support for Australian food businesses and rely on government representatives to provide country specific advice to potential exporters. However, some concerns were expressed about the lack of access to this kind of information for small and medium enterprises, which have fewer resources and capacity to understand technical market access issues.

1.33 Government senators therefore call for greater efforts to improve market intelligence and its coordination and dissemination to food export businesses to help the industry, particularly SMEs to identify potential trade opportunities.

Regulation and Competition Policy Implications

1.34 Government senators support efforts to reduce duplication in the regulatory environment and urges state and territory governments to address issues which are delaying the completion of the National Partnership on the Seamless National Economy. We particularly note concerns from industry on the importance of delivering reforms to harmonise occupational health and safety laws and urges all jurisdictions which have yet to deliver agreed outcomes for this reform to do so by the end of 2012.

1.35 Given the importance and challenges for the food processing sector of ongoing regulatory reform as highlighted by this chapter, we urge all jurisdictions to prioritise work through COAG to develop a new regulatory reform agenda for finalisation by the end of this year.

1.36 Government Senators reject Recommendations 4 and 5. We see no need at this time to review the competition provisions of the Competition and Consumer Act 2010 (CCA). Since coming into office in 2007, the Government has made a number of important amendments to the competition provisions of the CCA, including clarifying the misuse of market power provisions, criminalising hard-core cartel conduct and clarifying the mergers and acquisitions laws in relation to creeping acquisitions. We note that these recommendations closely mirror Recommendations 5 & 7 from the Senate Economics References Committee's Inquiry into The Impacts of Supermarket Pricing Decisions on the Dairy Industry. We endorse the comments by the Government Senators in relation to the Senate Economics References Committee report.

1.37 Government senators welcome the recent focus placed on the major supermarket chains by the Australian Competition and Consumer Commission (ACCC). The ACCC has stated that, during 2012, it will be giving priority to competition and consumer issues in highly concentrated sectors, particularly in the supermarket sector. The ACCC is closely examining the major supermarket chains to ensure that any negotiations of supply arrangements are not unconscionable and that they do not misuse any market power.

1.38 Given the recent changes to the CCA, Government Senators consider that the competition provisions need not be reviewed until the ACCC has had the opportunity to further test the law in the courts. It is only after the laws have been suitably tested that any weaknesses in the law can be appropriately identified.

Bio-security issues

1.39 Increased global trade and increased passenger travel has placed significant pressure on Australia's bio-security, import inspection and export certification systems. Food producers should not underestimate the advantages that come with Australia's reputation for clean, pest and disease-free status in a number of key markets.

1.40 Australia regulates the export of meat, dairy, fish, grains, horticulture and live animals through the provisions of the *Export Control Act 1982*. These provisions relate to the requirements of importing countries and are the outcome of negotiations between Australia and the importing country.

1.41 Government senators were concerned to hear evidence that some trading partners are setting unnecessary and unsubstantiated import requirements posing significant burdens on food export businesses. The live cattle export trade is one example of where this has occurred.

1.42 Imported foods, plants and animals must comply with all applicable Australian laws, including those covering labelling, environmental, food safety and biosecurity arrangements. Biosecurity restrictions are set out in the *Quarantine Act 1908* and are consistent with Australia's obligations under the WTO. Imported foods are inspected under the provisions of the *Imported Food Control Act 1992* which

provides for inspection and control of imported goods. However, the most common deficiency in meeting these standards is in food labelling.

1.43 Evidence provided to the committee highlighted the cost impost on the Australian food processing industry of the import and export system, and Government Senators are particularly keen to see the development and introduction of the new *Biosecurity Bill* to replace the *1908 Quarantine Act* with a more streamlined and cost-effective legislative framework. As well, we believe that the Imported Food Control Act should be reviewed to address the concerns of industry about controls of imported foods.

Cost recovery policy issues

1.44 In relation to issues of cost recovery mechanisms, it would appear that not all parts of the industry understand the reforms and initiatives being undertaken to bring the industry in line with the conditions of WTO agreements. New export fees and charges returning industry to full cost recovery commenced on 1 December 2009. The Australian Government provided \$25.8 million to support reforms to the meat sector., and a further \$1.92 million in transitional assistance to exporters of smallgoods and poultry products, cold stores and freight forwarders.

1.45 This measure was not contested by the Coalition at the time . It is worth noting that at the 2007 election the Coalition made no promise to extend the 40% rebate on export certification fees. They made no provision for it in the budget beyond 2008. Full cost recovery was their stated policy in Government. However, they subsidised the system which helped to entrench inefficiency and shielded export certification users.

1.46 In relation to the evidence provided to the Committee from the horticultural sector in relation to cost recovery issues, we note that even with the 40% rebate, the Horticulture export certification program was subject to chronic under-collection and was inefficient. Government senators note that the new arrangements have the potential to deliver significant efficiencies and has provided \$6.5 million in transitional assistance to horticulture exporters..

1.47 Government Senators note that the Australian Government Cost Recovery Guidelines were implemented by the Howard Government, and applaud the Government's efforts which have resulted in a reduction in the cost to exporters of export certification services in the order of \$30 million per annum.

Anti-Dumping Measures

1.48 The Committee received anecdotal evidence about this issue and Government Senators are interested to ensure that our food processing sector is not disadvantaged by this practice. Dumping occurs when goods are exported to Australia at a price below the domestic price in the country of export. While it is a problem that reaches industries far beyond primary production, the Committee considered the problem of

tinned, frozen and fresh food from across the globe flooding the Australian market at a fraction of the price.

1.49 One of the main drivers of produce dumping is the subsidies paid by foreign governments, particularly in the European Union and US, where farmers and owners of farmland receive cash subsidies depending on market prices for crops, the level of disaster payments and other factors. The US Department of Agriculture also provides subsidised crop insurance and marketing support to the country's farmers. This is not the case in Australia, where we operate on the counter argument to subsidised farming – that it props up growers who are inefficient, instead of promoting successful farming and production practices.

1.50 Other overseas producers have significantly lower costs across all categories – including cheap and sometimes even illegal labour – that allow them to produce food at a price that undercuts Australian producers. Flooding the market with imported produce, especially in the frozen food category, being may be profitable for some, but many growers would like to see some level of protection against aggressive dumping of food products at below the cost of production.

1.51 It is important to consider the conditions that Australian producers have fought for decades for to secure. More than this, if free trade is also to be fair trade, we need to consider the effect on wider Australian economy of local food producers being excluded from the market because the supermarkets are not prepared to pay them enough to survive while they can source similar products overseas.

1.52 Government senators acknowledge that in response to industry and consumer calls, the Minister for Home Affairs has announced the Brumby Review to examine the current arrangements for assessing and investigating anti-dumping matters and consider the feasibility of a commonwealth anti-dumping agency.

Transport and Freight issues

1.53 The transport industry across Australia is under pressure to plan effectively for the massive increase in the national freight task. The relationships between freight infrastructure and economic growth is one of interdependence, and in terms of the food processing sector, freight infrastructure is critical to ensuring that fresh produce gets to market quickly and efficiently.

1.54 Government Senators disagree with the claims of some witnesses that the Coastal Trading Bill 2012 will increase costs. This claim is based on modelling done by Deloitte that claimed freight costs would increase up to 16% under the Shipping Reforms. However the baseline assumptions of the Deloitte report are incorrect. The modelling is based on the assumption that all temporary licenses will be phased out in 5 years and that all coastal cargo will be carried on Australian licensed vessels, paying Part A wages. This has never been the Government's intention and the exposure drafts do not contain such a measure. The Deloitte analysis therefore is not based on the legislation currently before Parliament.

1.55 The Government has also pursued the creation of single National Transport Regulators since coming to Office in 2007. From 1 January 2013 there will finally be three National Transport Regulators (for Heavy Vehicles, Rail and Maritime). This will reduce the number of regulators from 23 to 3 and result in \$30 billion in productivity gains over the next 20 years.

Workforce issues

1.56 The Government senators reject Recommendation 24 as it stands, pending further consideration. The Australia and New Zealand Standard Classification of occupations (ANZCO) is an international standard for comparative evaluation and statistical analysis used by the ABS. Devoting resources to establishing another set of standard for the food industry would be time-consuming and contentious and would conflict with standards across other sectors, particularly in agriculture.

1.57 Government Senators also reject Recommendation 25. We do not believe that, industry specific training is likely to assist in addressing this issue, because concerns expressed by witnesses went more to the policy settings, rather than how DIAC officers apply those settings. In fact, the challenges of a two speed economy are common across a range of industries therefore specific training is unlikely to assist.

1.58 In relation to the industrial relations issues canvassed in the Inquiry, Government Senators refer the Committee to the recently completed independent Review into the Fair Work Act. The Report of the Panel reviewing the Fair Work Act found that labour costs have not increased, with overall wage growth since 2009 around its decade-long average. It noted that the legislation provides a number of avenues for flexibility, including through the use of individual flexibility agreements and enterprise bargaining.

1.59 Under the Fair Work Act, an employer and employees can negotiate an enterprise agreement on any matter that pertains to their relationship. There are no unnecessary restrictions on what can be included in an agreement. The Fair Work Act requires that such an agreement leave employees better off overall than against the applicable modern award. This provides flexibility to change award conditions, so long as employees are better off overall.

1.60 In addition, an employer and employee covered by an award or an enterprise agreement can negotiate an individual flexibility agreement that meets the employee's individual needs. Again, the employee must be better off overall against the modern award or enterprise agreement, as applicable.

1.61 The independent Panel rejected claims that flexibility is created by cutting wages and conditions. The Report did not recommend the reintroduction of AWAs or any form of individual contract. In fact, the Panel identified that AWAs were bad for many employees, especially for low-skilled and vulnerable workers. The Panel found many of these workers suffered the unilateral removal of conditions, a reduction in their take-home pay and were worse off overall compared with the relevant award.

AWAs undermined the safety net, often for those who needed protection most, and the Panel had no appetite to reintroduce this arrangement.

1.62 The Report found no convincing evidence that the Act impedes productivity growth. It also cautiously notes some recent figures indicating improvements in productivity. The Panel found that since the Act came into force, important outcomes like wages growth, industrial disputation, the responsiveness of wages to supply and demand, the rate of employment growth and the flexibility of work patterns have been favourable to Australia's continuing prosperity.

1.63 Government Senators note that Fair Work Australia is currently undertaking a review of modern awards, including in relation to penalty rates and flexibility. Interested parties are able to make submissions in relation to these matters as part of the independent Fair Work Australia process.

1.64 The AMWU, as the union representing workers in the food processing sector was not questioned about wages, conditions or flexibility let alone the impact of the Fair Work Act and modern awards on their members and their members' workplaces.

1.65 It is disappointing that the majority report reflects highly selective evidence on industrial relations matters from the Committee's public hearings, rather than including more measured responses by businesses to Committee questions about the Fair Work Act.

1.66 At the Sydney hearing of the Committee, Mr Vincent Pinneri from SPC Ardmona, a major fruit and vegetable processor, was questioned by Senator Fisher about the supposed impacts of the Fair Work Act and modern awards on his business. Mr Pinneri's evidence, not included in the Committee Report, reflects a different perspective:

Senator Fisher: Thank you. In your opening statement and your submission you talk about challenges to your business and labour costs. How have you found the Fair Work Act—good, bad or indifferent?

Mr Pinneri: I think there are some areas of improvement in the relationship with the unions and the Fair Work Act.

Senator Fisher: Such as?

Mr Pinneri: I think the arrangements need to become more flexible.

Senator Fisher: Is that because of the unions' conduct or because of the legislative provisions or both?

Mr Pinneri: Both.

Senator Fisher: Have the unions approached your business any differently since the passage of the Fair Work Act?

Mr Pinneri: The relationships that we currently have with the unions we deal with has actually been quite collaborative. We want to move the discussion into a different direction moving forward because right now, we

need to get to a very different space in the negotiations around the next EBAs. In our world, Sunday during a season is like a Friday.

Senator Fisher: You said that your needs are primarily in the area of flexibility. Do you mean agreement content or the agreement-making process?

Mr Pinneri: Agreement content.

Senator Fisher: Yes. The PM does not control when the apples ripen—none of us do.

Mr Pinneri: So during the season I think there is a different approach that we should have in terms of the agreement content versus out of season. We are going to try to do everything we can to deseasonalise our business by leveraging technology.

Senator Fisher: But you grow fruit.

Mr Pinneri: But there is processing technology that allows you to put it into bulk containers that you can manufacture out of season without losing the integrity of the product. We will do that, but our primary focus is during a five- or six-month period. So we need to have very different arrangements during that period which will help with our cost competitiveness as well in terms of taking the input costs out of the business, specifically labour ones.

Senator Fisher: So how is your modern award?

Mr Pinneri: In what regard?

Senator Fisher: There is a federal award that would govern you and underpin your agreement. Do you have any views on that or is that largely irrelevant because of your enterprise agreement?

Mr Pinneri: It is largely irrelevant because of the enterprise agreement.

Senator Fisher: You talked about productivity and how you have been able to increase it with your machinery et cetera, particularly during peak seasons. Has the Fair Work Act helped you in respect of increasing productivity?

Mr Pinneri: I think that has been driven by us making the right level of investments out of season and us working with our own people to actually get to the productivity and the union stewards that are on the floor.

Senator Fisher: Has the Fair Work Act hindered you? Could you have done better without it in that respect?

Mr Pinneri: No, it has been irrelevant.²

2 Mr Vincent Pinneri, SPC Ardmona, Food Services Division of Coca-Cola Amatil (Aust) Pty Ltd, *Committee Hansard*, 10 February 2012, p. 42–43.

1.67 Also at the Sydney hearing, in response to questions about the Fair Work Act Mr Craig Funnell of Campell Arnott's made the following observations:

Mr Funnell: In terms of Fair Work.. we probably see Fair Work Australia as being reasonably benign... We have a very close working relationship with our employees across our plants. We continue to drive productivity and they continue to drive productivity in our operations. We have had no real issue with Fair Work.

Senator Fisher: Fair Work Australia is the tribunal. Do you mean the Act as well?

Mr Funnell: We have certainly had no issues across our plants that have really required us to get into any major issues with Fair Work Australia. We have certainly worked through an EBA process across our factories. We have certainly had EBAs come up for renegotiation. They have been processed through Fair Work with no issue.³

1.68 In Adelaide, Mr John Millington, from Luv-a-Duck specifically identified no adverse impacts of the Fair Work Act:

Senator Fisher: In your experience have you found any ramifications for you in terms of labour, any changes good or bad since the implementation of the Gillard government's Fair Work legislation?

Mr Millington: In our case we have not.... we have enterprise agreements in place and we just do not have IR issues at all. So Fair Work Australia has not been a problem for us in compliance or with our staff.⁴

1.69 Government Senators note that there are the flexibilities available to employers through the Fair Work Act that enable them to negotiate with their employees an enterprise agreement on any matter that pertains to their relationship, as long as the employee is better off overall comparative to the applicable modern award. Further, an employer and employee covered by an award or an enterprise agreement can negotiate an individual flexibility agreement that meets the employee's individual needs as long as the employee is better off overall against the modern award or enterprise agreement, as applicable.

Recommendation 1

1.70 Government Senators reject any call for further reviews of the Fair Work Act. A comprehensive, independent review has just been completed, which found that the legislation does provide a number of avenues for flexibility.

3 Mr Craig Funnell, Campbell Arnott's, *Committee Hansard*, 10 February 2012, p. 61.

4 Mr John Millington, Luv-a-Duck Committee Hansard, 17 April 2012, p. 35.

Recommendation 2

1.71 Government Senators encourage food processing industry employers who require greater flexibility of their workforce to utilise the existing mechanisms allowable under the Fair Work Act.

Skills

1.72 Government Senators are concerned by the Committee Report's lack of focus on increasing the skills of Australian workers. While we support programs that seek to fill skills gaps with labour from overseas, this must not be done without due consideration or at the expense of Australian workers.

1.73 A significant initiative in workforce skills development omitted from the Committee Report is the AgriFood Skills component of the National Workforce Development Fund (NWDF). This fund provides more than \$6 million of skills and training initiatives across the industry sectors and has been actively accessed by food processing firms to ensure workers gain the specific skills required to improve their business.

1.74 For example, Haigh's Chocolates has used the NWDF to train and qualify workers in Competitive Manufacturing. Funding is also available through AgriFood Skills to help individual employers to implement workforce planning and the training of their workforce and to support industry stakeholders to implement sector wide or regional workforce initiatives.

1.75 Government Senators note that AgriFood Skills was created by the Howard Government in 2004 when it disbanded the National Food Industry Training Council. While the National Food Industry Training Council was focussed solely on the food industry, AgriFood Skills has vast responsibilities for areas such as food, beverage and pharmaceutical processing; meat; horse and greyhound racing; rural and related industries; and seafood.

Energy Costs and the Carbon Price

1.76 Government Senators fundamentally disagree with much of the evidence presented to the Committee in relation to the Carbon pricing policy. There are many examples in the food processing sector that highlight the potential for innovation and opportunities being harnessed through the Clean Energy Technology package.

1.77 Government Senators note that a significant portion of the revenue from carbon pricing is spent on industry assistance. Of particular relevance to the food processing sector is the Clean Technology Investment program for manufacturing businesses, which provides government co-investment into new capital which lowers energy costs and improves competitiveness.

1.78 In evidence to the Committee, Mrs Mac's Pty Ltd, a large scale bakehouse, expressed appreciation for the range of government grants to assist businesses

Mr Beros: "We have actually accessed, very recently, federal government funding for some energy-saving initiatives within the organisation. The benefits to us, for example, are: a 28 percent reduction in our water heating costs, a 25 percent increase in one of our line speeds using the same level of energy input, and a 30 per cent efficiency gain in some of our condensers within our operations."⁵

1.79 The Jobs and Competitiveness Program (JCP) alleviates anti-competitive impacts from the carbon price on trade exposed and directly liable businesses. By allocating up to 94.5 per cent of permits free to businesses who operate in international markets, the JCP allows these businesses to remain competitive. Businesses which provide inputs into the food processing sector are directly liable for the carbon price and are trade exposed, therefore they are not required to pass on carbon related costs, ensuring upstream clients are also shielded from anti-competitive carbon price impacts.

1.80 The Committee noted industry requests that government support be targeted 'so that the competitive balance is not tilted in favour of products with a larger carbon footprint'. Government Senators believe that this concern is addressed in the design of the Clean Technology Investment Programs (CTIP) and the JCP. JCP assistance is directly tied to carbon price liability and trade exposure in the market, while the CTIP provides co-investment based on the merit of investment proposals.

1.81 The food processing sector is quickly drawing on these programs to improve innovation and productivity. For example

- Crafty Chef – Emu Plains NSW have received nearly \$500,000 from carbon pricing revenue to install a new commercial blast freezer. This will reduce the carbon intensity of its operations by 54.1 percent, reduce energy intensity by over 56 per cent and boost turnover by 150 per cent to \$50 million.
- Across its national network, De Bortoli Wines is undertaking a range of measures across its all areas of its business from production to warehousing. The purpose is to improve energy efficiency across its operations and upgrade old equipment, supported by almost \$5 million from the Clean Energy Technology package. De Bortoli will improve energy efficiency across its operations by 36.3 per cent.

1.82 Government Senators refute the claim made by Campbell Arnott's using modelling from the AFGC, that pricing carbon will have about a 4.5 percent impact on operating profits in the industry. The AFGC modelling did not include the assistance measures outlined above and should be treated as an overestimate of the actual impacts on the sector.

5 Mr Murray Beros, Mrs Mac's Pty Ltd *Committee Hansard*, 18 April 2012, p. 18.

1.83 Lion Pty Ltd suggested significant potential administrative costs would occur as a result of the carbon pricing mechanism. As Lion Pty Ltd is not a directly liable business, there should not in fact be any additional administrative burdens. However, the evidence indicates the extent of community misunderstanding about the actual impacts of carbon pricing on Australian businesses.

1.84 Treasury modelling of the food manufacturing industry projects growth by 108 per cent by 2050, with meat processing growing by 137 per cent over the same period. It also projects that carbon pricing will result in food processing outputs 2 per cent higher in 2050 than without, and that meat processing output alone will be over 1 per cent higher in the same time period. This supports Treasury's broad conclusion that carbon pricing will drive a shift of economic activity towards non-emission intensive sectors of manufacturing, like food processing, and away from emission intensive sectors of manufacturing, like aluminium.

1.85 The food processing sector needs assistance to understand the real implications of the carbon price on the food supply chain and the mechanisms for determining those costs and how to pass them on to consumers. Government Senators are concerned that consumer information and education is a critical factor in understanding the principles and purposes of carbon pricing and its effect on the sector, and urges continued investment in community awareness and education as the mechanism comes into operation.

Recommendation 3

1.86 Government Senators recommend that the Federal Government increase consultation with, and education of, the food processing sector about industry opportunities and obligations in relation to the carbon pricing mechanism.

1.87 Government Senators note that the ACCC has a strong mandate to monitor business activity that makes misleading claims about the impact of carbon pricing to mask other price increases. Misleading claims can result in action by the ACCC and fines of up to \$1.1 million. Directors and senior officers also face fines of up to \$220,000, and disqualification as a director. The ACCC has already fined companies for misleading price gouging.

1.88 For example, in late July, 2012 the ACCC accepted an enforceable undertaking from a South Australian refrigeration contractor, Equipserve, to correct their claims that price increases were wholly due to the carbon price. Equipserve represented that the entire refrigerant price increase from \$98 to \$395/kg was wholly due to the carbon price, but this was not the case. Equipserve Solutions admitted that the conduct breached the Australian Consumer Law by wrongly attributing the entire price increase to the carbon price.

Concluding Remarks

1.89 Government senators were impressed by the depth and diversity of the food processing sector represented through this Inquiry. The evidence highlighted the

challenges of an industry sector undergoing significant change, and the opportunities for innovation that are emerging from those pressures.

1.90 Domestic and international factors impacting on the sector reflect the globalised nature of the sector, as well as more highly informed consumers seeking value for money. It is government's role to create an enabling environment for strong market participation, and this report highlights important areas of reform that will be critical for the food processing sector.

1.91 It is clear that the answer is in the sector's capacity to innovate and thrive. We were provided with inspiring examples of new and emerging products that are capable of transforming parts of the sector. We need to remember however, that the industry is best served by an innovative and adaptive business culture and a well trained and supported workforce.

Senator Ursula Stephens

Senator Glenn Sterle

Senator Anne Urquhart