

## Chapter 2

### Lamb branding and marketing

2.1 This chapter focuses on key issues raised during the inquiry, in particular, concerns about the substitution of hogget or mutton for lamb; maintaining the integrity of the lamb brand; and differences in national branding and marketing standards. It examines the various regulatory frameworks underpinning sheepmeat production and processing in Australia.

#### Lamb substitution

2.2 The issue of substitution, or misdescription, of hogget or mutton for lamb is set in the context of the Australian sheepmeat industry's agreement in 2002, reinforced in 2008, to strive to maintain national 'truth in labelling' for the lamb category. The Sheepmeat Council of Australia stated that:

"Truth in labelling" of the lamb category was sought primarily because "Lamb" was a well-established brand; the "Lamb" category was valued by end users and consumers; and there had been a considerable industry investment over a number of years to promote the category to consumers.<sup>1</sup>

2.3 In the broader economic context, Meat and Livestock Australia noted that:

The Australian sheepmeat industry is one of the outstanding success stories of Australian agriculture...It has doubled its contribution to the Australian economy over the last decade...and it is lamb that has been the driving force behind this growth.<sup>2</sup>

2.4 The Commonwealth Department of Agriculture, Fisheries and Forestry advised that:

One identifiable risk to the current success of the lamb industry is the temptation to misdescribe other sheepmeat as lamb. The description of lamb is a product quality issue. Hogget is traded at a price discount in comparison with lamb, which attracts premium retail prices. Mislabelling hogget as lamb would provide those engaging in the practice with an unfair competitive advantage. Additionally, if hogget is labelled as lamb it could negatively affect eating quality and undermine consumer confidence in lamb products.<sup>3</sup>

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1 Submission 27, page 26

2 Submission 62, page 3

3 Submission 64, page 4

2.5 The committee heard that concerns about the substitution of hogget and young sheep for lamb have been noted for many years by individual producers, processors and industry bodies.<sup>4</sup> Mr Christopher Groves, President, Sheepmeat Council of Australia advised that:

There is no doubt that misdescription of hogget and mutton for lamb occurs. This must be addressed and addressed comprehensively. This misdescription risks reducing consumer confidence in lamb. It jeopardises the investment of millions of dollars of producer levy funds spent annually to promote lamb. It has the potential to place downward pressure on overall lamb prices and places the vast majority of genuine meat processors at a significant disadvantage, threatening their continued existence.<sup>5</sup>

2.6 The commercial advantages in substitution are significant. The committee heard from NSW processors that, at the saleyard level, an unscrupulous buyer may purchase pens of lambs and hoggets and onsell all as lamb.

He might have paid \$4.00 [per kilo] for the lambs; he might have paid \$3.00 [per kilo] for the hoggets. So you can see the advantage he has on someone who is selling the correct article.<sup>6</sup>

There is a lot of growers' money that is going in – the levies are virtually \$1.30 to \$1.50 a head on lambs and 20 cents on mutton, which is correct because there is no promotion of it. But if these hoggets can go through into the lamb trade, they are saving themselves \$1.30 a head or so. I do not think this is quite fair on the decent lamb grower who is trying to grow good lambs.<sup>7</sup>

2.7 At the processing stage, one submission noted that the commercial advantage that would accrue to a wholesale processor 'if he substituted say 20 percent out of a 2000 kill or even 10 percent out of a 2000 kill with the weight and skin value of the mixed categories being equal' would be \$60,000 or \$30,000 per week respectively. These figures are based on carcass values of \$50 for hoggets and \$80 for lambs.<sup>8</sup>

2.8 When asked why it has taken until now to focus on concerns from a national perspective, Mr Groves stated that:

I think the changing demographics of the sheep industry have had a bit to do with it. Sheepmeat is now being produced by a large range of producers, not just in the traditional prime lamb areas. There are a lot of people using meat sheep over merinos – traditionally a wool breed. They are producing sheepmeat as well. Some of these animals are harder to finish, harder to get

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4 Submission 1, page 1; Submission 53, page 1; Committee Hansard, 10 June 2008, pages 3, 14, 51

5 Committee Hansard, 10 June 2008, page 3

6 Committee Hansard, 10 June 2008, page 51

7 Committee Hansard, 10 June 2008, page 51

8 Submission 1, pages 1-2

to a saleable state than the traditional meat sheep. So the changing demographic of the industry has brought the thing to a head – as well as the fact that we have all had a go: the Sheepmeat Council of Australia and AMIC on their own. It got to the stage where it was getting very serious and we all had to sit down together and make sure we had a united voice, a united front.<sup>9</sup>

### *The extent of substitution*

2.9 The committee sought information about the extent of substitution or misdescription. While industry witnesses were unable to provide definitive data, Mr David Thomason, General Manager, Marketing, Meat and Livestock Australia, noted that:

According to our data...it suggests that it is not massively widespread. But that should not be interpreted as saying that it does not have a significant impact, particularly on producers and processors who are doing the right thing. Where that is concentrated into particular saleyards, the prices for the producers who are supplying those saleyards would be lower ...because there can be a significant holding-off by buyers till the hoggets come through rather than lambs. It can also have a significant impact in...the wholesale sector supplying butcher shops or food service outlets...So it may not be high in terms of quantity, but it is certainly significant in terms of financial impact on processors and producers.<sup>10</sup>

2.10 Mr Scott Hansen, General Manager, Corporate Communications, Meat and Livestock Australia noted that:

What we are talking about here today is not fixing up a rampant problem and the erosion of consumer confidence; it is about providing a platform for further strengthening that demand and strengthening consumer confidence in the product.<sup>11</sup>

2.11 AUS-MEAT, the national industry-owned standards organisation responsible for the uniform description of Australian meat and livestock and for conducting audits of all AUS-MEAT accredited abattoirs, advised that 'in over 12 years of records, we have had nine instances of what I would call major non-compliance, as far as branding is concerned'. These occurred in Victoria, New South Wales and Queensland and covered both export and domestic-only AUS-MEAT accredited establishments.<sup>12</sup>

2.12 On a state-by-state basis, the committee heard from three state authorities that reports and provable incidents of substitution in recent times have been relatively uncommon. The Western Australian Meat Authority noted that 'in the past, there were

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9 Committee Hansard, 10 June 2008, page 14

10 Committee Hansard, 10 June 2008, page 21

11 Committee Hansard, 10 June 2008, page 8

12 Committee Hansard, 10 June 2008, page 58

some fairly big [cases of misdescription]. With the powers of our regulations we were able to detect those offences and take appropriate action against the offenders'.<sup>13</sup> The NSW Food Authority advised it was currently investigating one case of misdescription relating to a New South Wales processor, but had received a further six complaints concerning sheepmeat sourced from Victoria.<sup>14</sup> SafeFood Production Queensland advised it was aware of two cases of misdescription since the authority's establishment in 2002.<sup>15</sup>

2.13 The Department of Primary Industries and Resources South Australia did not provide a formal submission to the inquiry but Mr Geoff Raven, Manager, Food and Plant Standards advised that:

In terms of reports, of mis-branding product as lamb there is often conjecture and it's hard to say when the last report was received by this office, not for quite some time. Where a report is received it is fully investigated, but unfortunately the allegation is not usually supported by any specific evidence.<sup>16</sup>

2.14 Similarly, the Tasmanian Department of Primary Industries and Water did not make a formal submission but Mr Chris Lyall, Manager (Food Safety), advised that 'the matter of lamb branding has not emerged as a major concern in Tasmania'.<sup>17</sup>

2.15 The Victorian Department of Primary Industries advised that:

PrimeSafe is the Victorian Statutory Authority that continues to actively implement agreed national standards for meat processing and meat branding. I am advised that PrimeSafe is not aware of any evidence of a breach to labelling conditions.<sup>18</sup>

2.16 Mr Nigel Ridgway, General Manager, Compliance Strategies Branch, Australian Competition and Consumer Commission noted that:

We have had only one complaint in the last two years that I know of relating to this sort of issue. Although we pursued it to some degree, there was just a lack of evidence to substantiate it.<sup>19</sup>

2.17 While the evidence available to the committee indicated that, on an Australia-wide basis, proven incidents of substitution would appear to be relatively infrequent, witness and submission perceptions remained strong that the practice is most

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13 Committee Hansard, 9 July 2008, page 18

14 Committee Hansard, 10 June 2008, pages 97 and 99

15 Committee Hansard, 9 July 2008, page 29

16 Email from Mr Geoff Raven to the Committee chair, 1 July 2008

17 Email from Mr Chris Lyall to the Committee chair, 4 July 2008

18 Submission 58, page 1

19 Committee Hansard, 9 July 2008, page 6

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prevalent in Victoria. The committee heard from the Sheepmeat Council of Australia that:

We are very concerned about the way the lamb brand is regulated in Victoria. We believe there is a lot of misdescribed product coming out of Victoria....In New South Wales, we have the NSW Food Authority, which does a fairly good job of making sure that the product that comes out of New South Wales plants is actually what it is branded as. We believe the relevant organisation in Victoria, PrimeSafe, does not have the resources and does not put the effort into enforcement that the body in New South Wales does.<sup>20</sup>

2.18 In relation to the Victorian allegations, Dr Brett of AUS-MEAT noted that:

I can only provide information on the AUS-MEAT accredited plants. The number of instances that we find is small in comparison to the volumes of stocks that are traded through those plants. We are not present on plants that are not AUS-MEAT accredited, so we have no more information than anyone else does about those plants.<sup>21</sup>

2.19 The committee made several unsuccessful attempts to obtain PrimeSafe Victoria's direct input into the inquiry.

2.20 According to the Sheepmeat Council of Australia, a proportion of the allegations of misdescription can tend to be seasonal in nature, appearing more at times when older lambs are being phased out as new lambs come on to the market.<sup>22</sup>

2.21 Mr Thomason advised that Meat and Livestock Australia, together with the Sheepmeat Council of Australia and the Australian Meat Industry Council, is currently carrying out a study into lamb branding which is designed to find out 'whether [substitution] is very isolated or regularly occurring in some particular area'.<sup>23</sup>

### ***How substitution occurs***

2.22 The committee sought clarification as to how and when substitution or misdescription occurs. It would appear that it is most likely to take place at the saleyard and/or the abattoir or slaughterhouse. According to one NSW processor:

We have seen evidence of it in the saleyards...you can see a buyer come in there, he buys pens of lambs, he buys pens of hogget, he shandies them up, as we call it, and then they...come back into the....market as lambs.<sup>24</sup>

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20 Committee Hansard, 10 June 2008, page 5

21 Committee Hansard, 10 June 2008, page 71

22 Submission 61, page 9

23 Committee Hansard, 10 June 2008, page 21

24 Committee Hansard, 10 June 2008, page 51

2.23 The committee heard that it can be difficult to establish the status of animals bought at saleyards and on-sold to abattoirs. A farmer may sell his sheep as hoggets at the saleyard. The buyer (new owner) must complete a National Vendor Declaration (NVD) which accompanies the stock to the abattoir. If the animals are classified as 'lamb' on the new NVD, the abattoir has no jurisdiction to trace previous ownership. Dr Brett noted that, in the case of AUS-MEAT inspection:

...the animals come onto the plant with an NVD. That is the piece of paper that is on the plant so that I can see where the animals come from. To go back further on the paper trail would need the previous owners, who are not involved in the accreditation with us – they are a third party outside of the system.<sup>25</sup>

2.24 The committee noted AUS-MEAT's concerns of apparent failure in the system whereby inspectors are, in certain cases, unable to identify the source of sheep, lambs or hoggets presented for slaughter. The committee noted also AUS-MEAT's desire for a system which provides for reliable tracing of stock.<sup>26</sup>

2.25 At the slaughtering and processing stage, the committee heard that the decision to mark an animal as a lamb (or hogget/mutton) is made at the very beginning of the chain, that is, misdescription occurs at the time of the first 'tagging'. This is at the point immediately after the animal has been 'mouthed' (for identification as lamb or mutton), the head has been removed, and the tag attached. This identification tag remains with the carcass on the same shackle right to the end of the processing chain where there is a weighed-label grading person who will put another formal ticket on it.<sup>27</sup>

2.26 Dr Denis Brett, General Manager, AUS-MEAT Standards and Technical Operations advised that, in the case of AUS-MEAT accredited establishments:

We have no authority past the abattoir gate. The company have bought the animals in, and they have an obligation in the yards to determine whether they are putting them up as hoggets or lamb. On an AUS-MEAT accredited plant, every animal has to be mouthed by trained personnel on the chain. Those that are identified in that group that may not be lamb – they might be hoggets that have cut their teeth in transfer or have been missed – need to be labelled as hoggets on the chain. That is part of the normal process. You are not going to get 100 per cent of every mob that is sold as a lamb from the saleyard without some animals cutting their teeth along the way.<sup>28</sup>

2.27 Hogget may inadvertently be branded as lamb, for example, where abattoir staff are inadequately trained, or skilled personnel are absent from work or difficult to

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25 Committee Hansard, 10 June 2008, page 70

26 Committee Hansard, 10 June 2008, pages 70-71

27 Committee Hansard, 10 June 2008, page 18

28 Committee Hansard, 10 June 2008, page 69

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recruit (particularly in regional areas). Where AUS-MEAT detects such breaches, 'and there is no evidence for prosecution in a court of law where you can show intent of misdescription', inspectors increase the frequency of audits to verify that the company has addressed the matter.<sup>29</sup>

### ***Processing lamb for the export market***

2.28 The Australian Quarantine and Inspection Service (AQIS) regulates export meat processing works and has primary responsibility for the accurate description of the 'basic categories', being Lamb, Mutton and Ram. Under a Memorandum of Understanding between AQIS and AUS-MEAT, AQIS meets its obligations to verify accuracy of trade description through AUS-MEAT taking day-to-day operational responsibility. AQIS remains responsible for taking any legal sanctions under the legislation where required. Licensed meat exporters must be AUS-MEAT accredited.<sup>30</sup>

2.29 Export lambs are branded with the approved AQIS 'Australian Inspected – Lamb (A1) brand'; roller or strip brands used for the domestic market must not be applied.

2.30 The committee understands that the current concerns about lamb substitution are limited to the domestic rather than the export market.<sup>31</sup>

### ***Processing lamb for the domestic market***

2.31 Individual state food or meat authorities are responsible, to varying degrees, under state legislation for the maintenance of the lamb definition within their state. Licensed establishments generally must apply in a prescribed way an approved lamb brand to all lambs, and it is an offence under state legislation to apply a lamb brand to product that does not meet the lamb definition.<sup>32</sup>

2.32 AUS-MEAT accredited export establishments which also supply lamb to the domestic market require independently audited and approved quality management systems to ensure the integrity of product description. These establishments use AUS-MEAT Roller Brands only when supplying lamb to the domestic market. The brand is applied in a prescribed way to each side of the carcass.<sup>33</sup>

2.33 AUS-MEAT accreditation for domestic-only establishments is entirely voluntary.<sup>34</sup> While domestic market enterprises that are AUS-MEAT accredited are

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29 Committee Hansard, 10 June 2008, page 62

30 Submission 27, page 3; Submission 61, page 8

31 Additional Estimates Hansard, 18 February 2008, page 78

32 Submission 61, page 8

33 Submission 61, page 8

34 Committee Hansard, 10 June 2008, pages 57-58

therefore subject to a level of scrutiny which may be considered nationally consistent, the oversight of those which choose not to be accredited will vary according to the state regulations and standards operating in their particular jurisdiction.

2.34 The committee noted that there is 'a significant number of lambs being processed for the domestic market by non-AUS-MEAT accredited establishments (around 50% of lambs in NSW)'.<sup>35</sup> AUS-MEAT advised that 83 sheep slaughtering or boning enterprises are accredited Australia-wide, while 95 enterprises slaughtering sheep for the domestic market are not.<sup>36</sup>

### **The Lamb Brand**

2.35 The committee heard from a number of witnesses and submissions of the significance of the lamb brand.

Australian lamb is renowned as a high value, high quality product. The lamb brand is one of the key brands that underpins the marketing strategies in Australia's export and domestic markets.<sup>37</sup>

2.36 The committee noted the significant financial investment by individual producers and the industry in promoting and maintaining the lamb brand. The Department of Agriculture, Fisheries and Forestry noted that:

The sheepmeat industry has worked to improve the consistency of lamb eating quality and actively promotes consumption in both domestic and export markets. The 2007-08 MLA annual operating plan identifies overall marketing expenditure of \$7.5 million for domestic sheepmeat promotion and a further \$1.6 million in sheepmeat export trade and consumer promotion. This is a significant recurring investment that is predominantly funded by statutory levies imposed on sheepmeat producers.<sup>38</sup>

### ***Defining lamb***

2.37 There is a standard Australian definition of lamb for both export and domestic markets. This is set down under AQIS Export Meat Orders, and is reflected in the AUS-MEAT Language:

a lamb carcass shall be derived from a female, castrated male or entire ovine animal that shows no evidence of eruption of permanent incisor teeth.<sup>39</sup>

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35 Submission 61, page 12

36 AUS-MEAT, answer to Question on Notice, 7 July 2008

37 Submission 50, page 4

38 Submission 64, page 4

39 Submission 61, page 6

2.38 Australia's definition mirrors that of the International Standards Organisation, publication ISO 3974-1997, which defines lamb as 'an ovine animal, presented for slaughter, of which none of the permanent incisor teeth have erupted'.<sup>40</sup> This definition aligns also with the United Nations Economic Commission for Europe Standards, which cover fifty-five member countries. Australia, through AUS-MEAT, played a significant role in developing these standards.<sup>41</sup>

2.39 New Zealand, Australia's key global competitor in lamb and sheepmeat products, defines lamb slightly more flexibly as:

a young sheep under 12 months of age or one which does not have any permanent incisors in wear (that is, the incisors have not reached the height of the remaining immature teeth).

2.40 The New Zealand system 'offers a slight advantage to producers in that animals dispatched from a property satisfying the dentition criteria for lamb which subsequently cut a permanent incisor prior to slaughter can still be described as lamb if the incisor is not in wear'.<sup>42</sup>

2.41 The United States of America, Australia's largest lamb export destination, uses the degree of ossification of the break joint in the fore leg – the 'break joint' method – to classify an animal as lamb. This method measures the animal's physiological maturity, as distinct from chronological age (dentition). The Sheepmeat Council of Australia notes that this measure has 'advantages and disadvantages. Recent science has been indicating that it is quite variable as well. It may be actually not as accurate as the dentition measure that we use'.<sup>43</sup>

### ***Definitional issues***

2.42 The committee heard that the use of dentition as the sole determinant for classifying an animal as lamb can facilitate or exacerbate the incidence of substitution or misdescription.

As dentition is the method for determining the lamb definition, the removal and disposal of the animal's head at slaughter creates challenges for follow-up auditing of compliance.<sup>44</sup>

2.43 This issue is recognised by industry and has been incorporated into the Lamb Definition Working Group project plan set up by the Sheepmeat Council of Australia and the Australian Meat Industry Council. Element 1.4 of the plan focuses on 'the

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40 Submission 27, page 29

41 Submission 27, page 4

42 Submission 27, page 33

43 Committee Hansard, 10 June 2008, page 7

44 Submission 61, page 9

degree to which extending the lamb standard addresses the current mis-description issues' by examining:

- how AMIC's proposal (moving the current standard of lamb from no permanent incisors to a two-tooth standard) could assist addressing the issue of mis-description;
- what degree the AMIC proposal will affect the incidence of mutton being substituted as lamb, as distinct to only hogget; and
- whether extending the standard created other mis-description issues.<sup>45</sup>

2.44 In addition to shortcomings in the use of dentition for lamb identification, a number of submissions expressed the view that dentition alone is not a reliable indicator of eating quality.<sup>46</sup> Eversons Food Processors believe that 'dentition has nothing to do with eating quality'.<sup>47</sup> This view was supported by MC Herd Pty Ltd and Normanville Meats, who stated that 'the current definition of lamb is too arbitrary...the science is there to back up the expansion of the lamb definition'.<sup>48</sup>

2.45 The committee acknowledged concerns with the current definition of lamb, but noted the practicalities involved in making any changes at this point. Meat and Livestock Australia advised that:

It is important that we have a definition that differentiates high-quality product from perhaps more variable product – not necessarily lower quality. When it comes to what sort of rules we need around that, it has got to be pragmatic. We can be very theoretical, based on all our learnings from our work on sheepmeat eating quality, but how do you apply that in a saleyard where real prices are being paid for different quality animals?...The best system that we have at this point is the current dentition approach. This does not mean that we should be closed to further developments in being able to identify higher quality animals and higher quality meat from lesser quality animals and lesser quality meat, but we do not have that system yet.<sup>49</sup>

2.46 Mr Peter Day, Manager, Audit and Compliance, NSW Food Authority, advised the committee that:

The authority acknowledges criticism of identification of lambs by dentition and is of the opinion, as is NSW DPI, that it is currently the most accurate and practical method of determination available. Any changes of

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45 Submission 50, page 10

46 Submission 33, page 1; Submission 49, page 1; Submission 49(a), page 1; Submission 53, pages 1-3

47 Submission 49, page 1

48 Submission 53, page 2

49 Committee Hansard, 10 June 2008, page 19

lamb category will be unlikely to deter those in industry who are conducting substitution operations.<sup>50</sup>

2.47 This view is supported by AUS-MEAT Ltd, which concluded that:

Currently there is not available a system that offers a more objective assessment of a carcass's eligibility to be described as Lamb than that which is at present being used within the Australian Meat Industry.<sup>51</sup>

### ***Research and technology***

2.48 The committee heard that the industry is proactive in investigating more effective ways of classifying lamb and improving eating quality.

2.49 The NSW Food Authority 'supports research into...technology such as a mobile organoleptic test to determine age and put some science behind lamb identification'.<sup>52</sup> Such a test 'would be useful in reducing sheepmeat substitution'.<sup>53</sup> An organoleptic test measures sensory qualities such as appearance, aroma, taste, and texture. The Authority envisages the:

development of a mobile organoleptic test to detect the age of sheepmeat within one or two months, that could be used on both carcass and denuded cuts at any location. Combined with the retention of the strip brand (on carcass meat) this would allow detection of misdescription and of the abattoir where the carcass was processed. For denuded cuts, carton labelling would allow tracing to processing location.<sup>54</sup>

2.50 Meat scientists at the Victorian Department of Primary Industries have developed a new improved objective method for differentiating lamb from hogget and mutton using Near Infrared Spectroscopy (NIR). Interim results indicate that it achieves an accuracy of 99 per cent with regard to correctly classifying carcasses to their correct age class.<sup>55</sup> NIR is used in the food industry to measure and importantly pay suppliers on the quality attributes of their products. Grain growers and sugarcane farmers are paid on NIR estimates of protein and sugar content respectively.

2.51 AUS-MEAT notes that:

With advances in technology there...exists the potential to provide an exact age on an animal through individual identification. This is still in its infancy

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50 Committee Hansard, 10 June 2008, page 96

51 Submission 27, page 33

52 Committee Hansard, 10 June 2008, page 96

53 Submission 65, page 3

54 Submission 65, page 3

55 <http://www.dpi.vic.gov.au/DPI/nrensr.nsf/childdocs/-BA211CA6E23454E6CA256ECC0022E283-5931264674E94402CA256ECC0005620C-F47F09019F6D6A3ACA256F620003ADBF-8BB8BD40352E8339CA256F5E00805FED?open>

in the sheepmeat industry and the infrastructure could be developed both on farm and in abattoirs which in the long term would provide an objective means of determining an animal's exact age.<sup>56</sup>

2.52 Since 1998, Meat and Livestock Australia, research partners and industry have been undertaking research and development into better understanding the factors influencing lamb and sheepmeat eating quality.<sup>57</sup> This research has been funded by lamb and sheepmeat producer levies. The Sheepmeat Eating Quality (SMEQ) research has identified the key factors affecting eating quality from 'paddock to plate':

The sheepmeat eating quality research, and commercialisation through the MSA [Meat Standards Australia] Sheepmeat program, will increasingly complement and reduce "failure" rates in the lamb and sheepmeat categories, as currently described in dentition.<sup>58</sup>

### ***Deregulation***

2.53 The vast majority of submissions received and evidence taken by the committee supported maintaining the integrity of the lamb brand through strict, nation-wide enforcement of dentition identification. There were, however, a number of submissions supporting alternative approaches, including deregulation of the industry. The submission from MC Herd Pty Ltd stated that:

It is our view that the lamb brand is an outdated legacy system that has previously used the rough guide of dentition to describe lamb and differentiate sheepmeats sourced from older sheep. Perpetuation of the lamb brand has more to do with industry politics than any reference to lamb quality attribute. It is also our view that regulated branding should not be a government matter but rather a commercial matter for companies to brand product as they see fit within the parameters of truth in labelling.<sup>59</sup>

2.54 MC Herd Pty Ltd notes also that:

No other food group in Australia is forced into regulation in the same way as the lamb brand. These other food groups, including competitor meats or horticultural products or processed foods, have varietal and or quality descriptors or specific brands to guarantee quality. Quality cannot be guaranteed with the lamb brand. Equally, the lamb brand regulation is not uniformly applied across the various State jurisdictions in Australia, making a mockery of the perceived need to perpetuate this dated and outmoded product descriptor...By deregulating the system, people are rewarded for producing an above average product and inferior product is discounted accordingly.<sup>60</sup>

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56 Submission 27, page 33

57 Submission 62, page 8

58 Submission 61, page 15

59 Submission 33, page 1

60 Submission 33, page 2

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2.55 Dardanup Butchering Company states that Western Australian meat processors are regulated by 13 different rules or authorities: 'The only regulator our industry does not have is the Keystone Kops and they cannot be too far away. Processors are tired of regulation and the resources required to satisfy it. They are bewildered as to how competing industries get to operate in a much deregulated system'.<sup>61</sup>

2.56 State authorities have increasingly indicated their desire to deregulate lamb branding provisions, viewing them as a quality standard for industry to manage, and not in line with their perceived primary role of food safety and hygiene.<sup>62</sup> State authorities responsible for meat processing in Queensland and Tasmania, in particular, focus primarily on food safety issues. AUS-MEAT advised that:

In 2002, the NSW Parliament passed legislation supporting the deregulation of lamb branding: this was scheduled to come into effect on or before August 2003...As a result both Victoria and Queensland also indicated that they intended to follow suit. This deregulation [in NSW] did not proceed.<sup>63</sup>

2.57 Mr Groves told the committee:

In the past, the Sheepmeat Council, in conjunction with its state farmer organisations and industry colleagues, has strongly resisted pressure from state meat authorities to deregulate lamb branding. Of significant concern is the fact that the Victorian lamb branding provisions under the state government's meat regulations sunset in 2010, after which time there will be no regulatory oversight in Victoria. The solution: there needs to be one set of rules across the country that all regulatory bodies would follow.<sup>64</sup>

## **Regulatory frameworks**

2.58 The regulation of meat processing establishments in Australia servicing only the domestic market, including the accurate description of product from them, is the responsibility of states and territories. The Australian Quarantine and Inspection Service has no authority to regulate trade descriptions in these establishments. Although it is not a requirement under state/territory law, many domestic meat processing establishments are AUS-MEAT accredited and use the AUS-MEAT Language.<sup>65</sup>

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61 Submission 44, page 2. See also Submission 33, pages 1-2; Submission 49, page 1; Submission 53, page 2

62 Submission 61, page 11

63 Submission 27, page 34

64 Committee Hansard, 10 June 2008, page 3

65 Submission 64, page 2

2.59 The committee heard evidence that differences in state regulations and standards applying to the meat industry can facilitate or exacerbate substitution of hogget and mutton for lamb.

2.60 The Sheepmeat Council of Australia notes:

There is currently a range of different regulatory and compliance systems across federal and state jurisdictions that underpin, to varying degrees, the practice of lamb branding. Each federal and state authority

- operates under different legislation, with varying standards;
- requires different approval systems for their licensed establishments;
- has different branding/stamping provisions;
- has varying inspection and compliance schemes;
- has varying degrees of success in exposing operators who are mis-describing product; and
- has different penalties in place.<sup>66</sup>

2.61 The Council notes also that:

It is currently very difficult to compare the robustness of various jurisdictional approaches to enforcing the accurate description of lamb. This in turn encourages accusations being levelled at one jurisdictional approach over another.<sup>67</sup>

2.62 There are a number of checks in place to monitor the trail of livestock from the producer through to the processor, retailer and consumer.

### ***From the farm gate to saleyard and/or the abattoir***

#### *National Livestock Identification System (NLIS)*

2.63 Stock holdings and movements in Australia are recorded under the National Livestock Identification System, which is the national system for the identification and tracing of livestock. It is a permanent, whole of life identification system that enables animals to be tracked from property of birth to slaughter for food safety, product integrity and market access purposes. The NLIS database is developed and administered by Meat and Livestock Australia.

2.64 Sheep and goats are recorded under the NLIS (Sheep and Goats), a flock-based system which identifies and traces sheep, lambs and farmed goats. The committee noted the difficulties in tracing individual animals under a flock based system. Mr Groves stated that:

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66 Submission 61, page 10

67 Submission 61, page 10

You are correct. The industry nationally has accepted a flock based scheme for the national livestock identification scheme. Any producer has the option of individual identification of their animals, if they so wish, for management purposes, but the big problem is with collating that data. NLIS would not be much assistance...because it is to do with the translation of data from when the animal is actually born through to when the tag is put in. It would be a huge problem to use NLIS as a tool to manage the data.

I would just add to that. If there are operators doing the wrong thing at the moment with a flock based system, they still have every opportunity to potentially do that with an electronic tag in the ear, For instance, as we heard before, if that ticket does not go on the carcass when it should, it will not matter whether there has been a 30c plastic tag or a \$2.50 electronic ear tag in the ear.<sup>68</sup>

### *National Vendor Declaration and Waybill (NVD/Waybill)*

2.65 The NVD is a voluntary food safety declaration completed by the person responsible for the husbandry of the stock. A waybill (or Travelling Stock Statement) is required in most states to accompany stock movements. It relates to ownership, description, source and destination of stock. The NVD/Waybill is managed by SAFEMEAT, an industry and government partnership.

2.66 As indicated previously, the NVD presented with the stock to the abattoir or meat processing works may relate to the current owner of the stock rather than the producer.<sup>69</sup>

### *At the abattoir and processor*

2.67 Every abattoir has a licence issued by the state regulator. If they are export regulated, they will also have a registration issued by AQIS. Therefore, the state authority is fully responsible for any action against the abattoir that could lead to a suspension or cancellation of licence.<sup>70</sup>

2.68 Processors prepare meat for domestic markets under standards and regulations set down by the relevant state government authorities.

### *State authorities*

#### *New South Wales*

2.69 The NSW Food Authority issues all brands and controls the application through state legislation. The Authority is Australia's first completely integrated food regulation agency, with responsibility across the entire food industry from production

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68 Committee Hansard, 10 June, pages 25-26

69 Committee Hansard, 10 June, pages 69-70

70 Committee Hansard, 10 June 2008, page 97

to sale. Under the *Food Regulation 2004* (NSW), all domestic abattoirs are also required to have an approved system within their Food Safety Program outlining their lamb identification procedures and how they will ensure that carcasses are accurately identified.<sup>71</sup>

2.70 The NSW Food Authority also stated that:

The authority has specific legislation relating to misleading conduct in the sale of food which includes misleading or deceptive labelling and advertising. Lamb branding in New South Wales is regulated under our *Food Regulation 2004*...All unannounced audits are conducted by authorised officers from the authority. The authority maintains that, for effective auditing of the lamb branding system to occur, the audits must include examination of records, going back to farm saleyard, through the abattoir, post abattoir and to wholesalers as well.<sup>72</sup>

### *Victoria*

2.71 The committee understands that PrimeSafe Victoria issues licences to domestic processors and controls the application of the lamb brand. PrimeSafe does not issue its brands to export establishments, which use AUS-MEAT brands when supplying the domestic market. As indicated previously, PrimeSafe declined a number of invitations to provide firsthand information to the inquiry.

### *Queensland*

2.72 Safe Food Production Queensland deals only with food safety issues. Stamping requirements are limited to identification of the processing establishment for product traceability purposes. Fraudulent mis-description may be referred under consumer affairs and fair trading processes.<sup>73</sup>

2.73 Mr Geoff Gorrie, Chair of Safe Food Production stated that:

Food Production Queensland operates under the *Food Production (Safety) Act 2000* and its associated regulation. As the legislation's key objective is the production of safe food and it has been drafted with a focus on outcomes, definitions such as lamb and quality aspects are not included in our legislation, although an accreditation holder may include such definitions in their own food safety program. The legislation does not include any requirements relating to misleading conduct or misrepresentation.<sup>74</sup>

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71 Submission 65, pages 2-3

72 Committee Hansard, 10 June 2008, page 96

73 Submission 27, page 35

74 Committee Hansard, 9 July 2008, page 25

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*Western Australia*

2.74 The Western Australia Meat Industry Authority (WAMIA) is responsible for regulating lamb and hogget branding in the state, under the *Western Australian Meat Industry Authority Act 1976* and the *Western Australian Meat Industry Regulations 1985*. The authority is responsible for regulating lamb branding to ensure that all product produced in the state and defined as lamb must be proved to be lamb and branded accordingly.<sup>75</sup>

2.75 The committee heard from WAMIA that:

In WA the regulations require that every sheep be mouthed and that is done under the supervision of an inspector and only the carcasses that correspond with the requirements for lamb can have the brand applied.<sup>76</sup>

2.76 In order to ensure that carcasses continue to be correctly identified throughout the processing chain, they are marked:

...before the head is taken from the body. Most works have a system of identifying the carcasses. If you had a mutton carcass they might put two cuts on the back leg or on a hogget one cut. So, generally speaking, the lambs will be anything that has not been marked. The system differs from works to works, but it is quite a rigorous system.<sup>77</sup>

2.77 On the issue of enforcement of lamb branding legislation in Western Australia, WAMIA advised:

We are also helped over here in that, because all lambs have to be branded, that brand is also recognised as the health brand. If you start to tinker around with that, it actually becomes the criminal offence of fraud and we have quite close working relationships with the police department that enable us to bring another regulator in. But, essentially, we believe that at Western Australian works now there are very few problems. You might get the odd problem at a retail level of someone trying to sell a leg of mutton as lamb, but essentially we do not believe that there are any significant issues out there. In the past, there were some fairly big ones. With the powers of our regulations we were able to detect those offences and take appropriate action against the offenders.<sup>78</sup>

*South Australia*

2.78 The South Australian Meat Hygiene Unit issues and controls the application of marks and brands. The authority issues a stamp which designates the carcass is fit

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75 Committee Hansard, 9 July 2008, page 16

76 Committee Hansard, 9 July 2008, page 17

77 Committee Hansard, 9 July 2008, page 17

78 Committee Hansard, 9 July 2008, page 18

for human consumption and a roller brand which identifies the category. A company may also apply to the authority to use a company brand.<sup>79</sup>

2.79 Primary Industries and Resources SA (PIRSA) advised the committee that:

The SA *Primary Produce (Food Safety Schemes) Act 2004* and *Primary Produce (Food Safety Schemes)(Meat Industry) Regulations 2006*, specify a requirement for branding (or "Marking") of meat to identify the product as being "safe and suitable". Meat is only to be taken to have been marked as safe and suitable if it is marked in accordance with the accreditation and the specifications for the marking of meat, including lamb, are contained in conditions of accreditation. The maximum penalty for non-compliance in this instance is \$5K or an expiation of \$315.<sup>80</sup>

2.80 PIRSA advised further that:

The "Lamb" status is verified by the company (abattoir) at ante-mortem through the checking and mousing of livestock in the yards, and again at post-mortem by checking and mousing all carcasses on the slaughterfloor (with heads still attached). Previous assessments undertaken at abattoirs in response to allegations of substitution of hogget for lamb have not identified any abnormalities, however, this is not to say it is not occurring. As a result of the issues being raised PIRSA will focus on identification, labelling and traceability of lamb during the next round of audits of abattoirs.<sup>81</sup>

### *Tasmania*

2.81 Tasmania currently has no legislation in place pertaining to the branding of lambs. AUS-MEAT accredited enterprises wishing to brand lamb may apply and be issued with AUS-MEAT roller brands<sup>82</sup>.

2.82 The Tasmanian Department of Primary Industries and Water advised the committee that:

Whilst there are false trade description provisions in our *Meat Hygiene Act 1985* which could conceivably be used to prosecute any person or company offering hogget for sale as lamb, the Tasmanian Government prefers the application of this Act to maintain a food safety focus. Hence, such breaches are considered to be more appropriately dealt with under the *Tasmanian Fair Trading Act 1990*...Consequently, the Department of Primary Industries and water will continue to collaborate on enforcement

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79 Submission 27, page 36

80 Email from Mr Geoff Raven to the Committee chair, 1 July 2008

81 Email from Mr Geoff Raven to the Committee chair, 1 July 2008

82 Submission 27, page 35

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issues in Tasmania with the Department of Justice's Consumer Affairs and Fair Trading Division.<sup>83</sup>

### **Committee view**

2.83 The committee found that substitution, while not widespread throughout Australia, is a legitimate cause of concern to the industry. The industry is currently attempting to address these concerns. Claims of a higher incidence of substitution emanating from buyers or processors based in Victoria were noted, but were unable to be explored satisfactorily due to PrimeSafe Victoria's decision not to participate in the inquiry.

2.84 The committee recognises that substitution or misdescription is difficult to prove. First, there may be difficulties in tracing individual animals under the NLIS (Sheep and Goats) flock based identification system. Second, there may be scope within the National Vendor Declaration system for discrepancies to occur and remain undetected. Third, given the sole reliance on dentition to classify animals as lamb, the disposal of the head after slaughter makes it difficult to prove deliberate misdescription. Substitution or misdescription may be facilitated or exacerbated by different 'mouthing' standards and/or different regulations applying in the various states.

2.85 The committee notes that as AUS-MEAT accreditation is voluntary for domestic-only abattoirs, it is difficult to ensure that AUS-MEAT Language standards are applied consistently to all sheepmeat destined for the domestic market. While the majority of evidence supported the need for harmonisation of standards and regulations throughout Australia, there were also individual processors and state authorities who supported deregulation of the sheepmeat industry.

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83 Email from Mr Chris Lyall to the Committee chair, 4 July 2008