

## Chapter 3

### Harmonisation of national standards

3.1 This chapter examines the feasibility of harmonising lamb branding and marketing standards throughout Australia, and ensuring effective supervision of such standards. It canvasses options for achieving consistency and makes relevant recommendations.

#### Achieving national standards

3.2 The vast majority of submissions received and evidence heard by the committee strongly supported the need for consistent lamb branding standards, and application of these standards, across the country. As pointed out in chapter 2, there is a range of different regulatory and compliance practices across federal and state jurisdictions that underpin, to varying degrees, the practice of lamb branding.

3.3 There have been attempts over the past few years to examine and, if feasible, achieve national consistency of standards. AUS-MEAT advised the inquiry that:

The matter of uniform domestic regulation for truth in labelling meat description has been raised on several occasions in the past particularly in relation to Lamb branding and retail labelling of beef products. The options available for underpinning various elements of domestic meat marketing have been investigated by industry stakeholders and peak bodies from time to time.<sup>1</sup>

3.4 AUS-MEAT advised further that the options for uniform statutory underpinning of domestic meat description have been identified as:

- Enacting uniform licensing standards individually by each state;
- Incorporating trade description requirements into AS 4696:2007 – *Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption* to which each of the states currently subscribes;
- Incorporating trade description requirements into the Food Standards Code; or
- Establishment of a Voluntary or Mandatory Prescribed Code under the *Trade Practices Act 1974*.<sup>2</sup>

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1 Submission 27, page 4

2 Submission 27, page 4

3.5 Each of these statutory options requires the full agreement of all industry stakeholders and the various state and Commonwealth authorities. This has not been achieved to date.<sup>3</sup>

## **Industry perspective**

### *A nationally commercially driven self-regulated program*

3.6 In 2002 the Sheepmeat Council of Australia and the National Meat Association commissioned AUS-MEAT Limited to prepare a comprehensive report entitled *Harmonisation of Lamb Meat Description in Australia*. The report was updated and revised in April 2008.<sup>4</sup> The report was aimed at investigating the likely impacts of state deregulation, and what the range of co-regulatory, legislative or other options were available to the industry should deregulation occur.<sup>5</sup> The report noted that:

When considering the options available and the past government position with regard to self-regulation it would appear that a commercially driven National Industry self-regulated program may be the only avenue to pursue. A similar framework has recently been successfully implemented within the processor sector through agreement between the retail sector and processors with respect to the processing and retail marketing of "Budget Beef". The key factor for success in that program was the agreement reached between the retail and processing sectors culminating in a binding code or agreement on both parties. Within the processing sector the standards were progressed through the Peak Councils to the Australian Meat Industry Language and Standards Committee who endorsed the program's inclusion within the AUS-MEAT National Accreditation Standards.<sup>6</sup>

3.7 The updated (April 2008) report noted that the 'prior to the establishment of a national program for Lamb branding there are a number of critical success factors' to be addressed. These included:

- an industry-agreed definition of 'Lamb';
- a national standard for assessing carcasses at slaughter;
- an effective Company quality Management System for the application of the Lamb roller brand;
- a third party auditing program;
- sanctions such as removal of brands and/or accreditation;
- sufficient resources to maintain the program;

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3 Submission 27, page 4

4 Submission 27, pages 25-45

5 Submission 61, page 11

6 Submission 27, page 41

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- an education program targeted at all sectors, including wholesalers and retailers; and
  - ideally, support for the program from state and territory governments.<sup>7</sup>

3.8 It was noted that 'an impediment to the market driven approach was the significant number of lambs being processed for the domestic market by non-AUS-MEAT accredited establishments (around 50% of lambs in NSW)'.<sup>8</sup> A key question was how AUS-MEAT, as administering the national standard, would be able to protect the integrity of lamb, when not all processing establishments were AUS-MEAT accredited. Those domestic AUS-MEAT accredited establishments would be financially disadvantaged if a lack of market forces meant that some establishments chose not to participate.<sup>9</sup>

### ***Industry collaboration***

3.9 The Sheepmeat Council and the Australian Meat Industry Council are currently working closely to investigate the regulatory systems underpinning the lamb brand and the options for the development of an affective national compliance scheme. This united producer and processor stance is significant. The two organisations established a lamb definition working group and terms of reference in late 2007 and supported a detailed lamb definition work plan in March 2008.<sup>10</sup>

3.10 Mr Christian Mulders of the Australian Meat Industry Council advised the committee that:

The purpose of our review is to deliver an objective and scientifically and economically sound analysis of the relevant issues, which will enable peak councils to make informed policy recommendations and decisions, in the hope of improving the current systems supporting the Australian lamb category.<sup>11</sup>

3.11 The combined Sheepmeat Council/Australian Meat Industry Council's Lamb Brand Control and Verification Review, co-funded by Meat and Livestock Australia, contains the following elements:

- Element 1.1 is investigating the extent of misdescription within the current lamb standard;
- Element 1.2 will investigate the range of state and federal systems regulating the standard; and

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7 Submission 27, pages 41-42

8 Submission 61, page 12

9 Submission 61, page 12

10 Committee Hansard, 10 June 2008, page 4

11 Committee Hansard, 10 June 2008, page 4

- Element 1.3 will investigate the options for an effective compliance scheme that can be consistently applied across the entire Australian lamb industry.<sup>12</sup>

3.12 Mr Christopher Groves, President of the Sheepmeat Council of Australia, told the committee that:

The results of the Sheepmeat Council and Meat Industry Council lamb definition work plan are expected from mid-2008 and are directly relevant to the deliberations of this Senate inquiry into meat marketing. The information delivered under the work plan will assist both the Sheepmeat Council and AMIC to recommend policy positions that will improve and harmonise the current systems underpinning the integrity of the lamb category. Sheepmeat Council trusts the information delivered under this definition work plan can be directly fed into the Senate committee's discussions later this year prior to the committee's inquiry being finalised.<sup>13</sup>

3.13 Mr Mulders advised that:

AMIC requests that the standing committee take into consideration the following during its current inquiry: that the relevant peak councils have taken a collaborative approach to investigate the lamb truth-in-labelling issue; that the industry is currently conducting a very comprehensive analysis of the issues surrounding the lamb truth-in-labelling issue, including formulating potential solutions; and that the relevant peak councils have agreed that, once this information becomes available and has been considered, we will be making informed policy recommendations and decisions aimed at improving the current systems supporting the Australian lamb category. Throughout this process, we will be more than happy to provide the committee with progress reports.<sup>14</sup>

3.14 The committee notes the view of the Commonwealth Department of Agriculture, Fisheries and Forestry (DAFF) that:

The basis for maintaining accurate trade description is to ensure consumer confidence in their integrity of the product. Through the industry-owned standards body, AUS-MEAT Ltd, arrangements for product description are in place. It is important for industry to adopt a leadership role and develop an appropriate response on this issue.<sup>15</sup>

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12 Submission 50, pages 8-9

13 Committee Hansard, 10 June 2008, page 4

14 Committee Hansard, 10 June 2008, page 5

15 Submission 64, page 5

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## The role of government

### *The Commonwealth*

3.15 As noted in chapter 2, there is a range of regulatory systems at the Commonwealth and state level in relation to the practice of lamb branding. The regulation of meat processing establishments in Australia servicing only the domestic market is the responsibility of the states and territories.

3.16 Within DAFF, the Australian Quarantine and Inspection Service (AQIS) Export Division facilitates the export of Australian agriculture and food products by providing information, inspection and certification to meet import requirements of overseas countries.<sup>16</sup>

3.17 The Australian Competition and Consumer Commission (ACCC), through its administration of the *Trade Practices Act 1974* (TPA), also has a role. Mr Nigel Ridgway, General Manager, Compliance Strategies Branch, ACCC, stated that:

To the extent that I am familiar with the issues being considered by the committee, the Trade Practices Act obviously already has provisions that prohibit misleading or deceptive conduct. To the extent that there are concerns about products being wrongly labelled and therefore arguably misrepresentations being made about the nature of that product, the ACCC already has a role that complements the work of the state licensing authorities and so forth.<sup>17</sup>

3.18 The Primary Industries Ministerial Council (PIMC) provides a forum for Commonwealth-state co-operation. PIMC consists of Commonwealth and state and territory ministers responsible for agriculture, food, forestry and fisheries. It is the peak government forum for consultation, co-ordination and, where appropriate, policy implementation by governments on primary industries issues.<sup>18</sup>

3.19 The committee examined the extent to which the Commonwealth is able to compel the states to legislate with respect to product description or labelling. The committee was advised that as the power to regulate food is not listed in Section 51 of the Constitution, the power to regulate food rests with the states. The Department of Agriculture, Fisheries and Forestry told the Committee that:

The commonwealth cannot compel the States to legislate in a particular way or at all. However, any valid Commonwealth legislation can override inconsistent State legislation. The Commonwealth has the constitutional power to regulate product description in relation to interstate and overseas trade, in the territories and in relation to products offered for sale by trading corporations. It cannot regulate product description generally. Therefore,

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16 Submission 64, page 1

17 Committee Hansard, 9 July 2008, page 6

18 [http://www.mincos.gov.au/about\\_pimc](http://www.mincos.gov.au/about_pimc)

without a referral of power from the States, it cannot regulate product description by individuals or partnership in relation to trade within the States that has no interstate element.<sup>19</sup>

### *The states*

3.20 As noted in chapter 2, 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.

3.21 The committee noted that New South Wales and Western Australian meat authorities appear to police lamb branding standards relatively rigorously. These state government representatives outlined the scope of their operations. The NSW Food Authority noted that:

Generally in New South Wales...we audit the plants. We do not utilise commercial auditors, as other states do, so all of our officers do the audits of the plants for the authorised government officers. All of our audits are unannounced. We do a full audit not only on their operations from inspection practices, hygiene, structural, but also lamb identification procedures inside that works as well. That includes a full review of their records going back to the pre-abattoir sales, to saleyards, to farms... Generally, where we find issues, we will take action on the spot and also launch any sort of prosecution if the evidence permits us to do that. We will actively investigate any allegations the authority receives, in terms of New South Wales plants... We do effectively regulate that industry in New South Wales.<sup>20</sup>

3.22 The Western Australian Meat Industry Authority stated that:

The [WA] legislation specifies that it is a function of the authority to implement schemes and practices for the branding of any carcass or meat. The definition of 'lamb' is actually a prescribed product...in this state and the authority is responsible for ensuring or more regulating the lamb branding in this state to ensure that all product produced in this state defined as lamb must be proved to be lamb and branded accordingly...unless the animal is lamb and determined as lamb at the point of slaughter, you cannot sell it as anything else. So mutton and hogget cannot be sold as lamb here.<sup>21</sup>

3.23 In Queensland, Safe Food Production Queensland indicated that they would consider adoption of the Western Australian approach:

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19 Answers to Questions on Notice, 29 August 2008

20 Committee Hansard, 10 June 2008, page 97

21 Committee Hansard, 9 July 2008, page 16

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We would certainly have a look...we are very much in favour of national consistency in food regulation and we have worked tirelessly at the CEO level and at the senior policy people level in Safe Food Queensland to contribute to the national policy development arrangements. So if something like that were suggested by the committee and went through that process within the standing committee level and then at the ministerial council level, we would certainly consider it. It would be a matter for the government.<sup>22</sup>

3.24 The Victorian Department of Primary Industries indicated that they would consider any recommendations of this inquiry to ensure food safety objectives are achieved and those that provide a 'consistent approach to the management of product quality'.<sup>23</sup>

3.25 When asked if industry would use, say, the New South Wales standards or legislation to be the template to be considered nationally, Mr Groves of the Sheepmeat Council of Australia advised:

That is one thing that will come out of the work that has been done between the Sheepmeat Council and AMIC because there are a number of national bodies that are involved in the meat industry. I mentioned a couple: AQIS; AUS-MEAT. To avoid a lot of duplication we have to see if this will fit in somewhere there—if there is a need to start a completely new set of regulations or if we can fit this particular role into one of those organisations as well. The New South Wales Food Authority consider it to be very important that the lamb definition is enforced. They do various raids on abattoirs around the country, quite regularly, quite unknown. That is why it is upheld fairly well in New South Wales.<sup>24</sup>

3.26 The committee notes the view expressed by Mr Scott Hansen of Meat and Livestock Australia that:

I do not think any industry likes the concept of adding to its regulatory burden if there is an alternative approach available. I guess that is one thing that we will be looking for—whether there is. If there is not, however, I think that we welcome the fact that, as the senator raised before, it took a trigger from this inquiry to raise this issue to the fore again. In fact, we will be needing government support, because obviously the answers in this may well lie in a government agreement from state and federal governments.<sup>25</sup>

### ***Industry codes of conduct***

3.27 A number of options are available should the industry wish to develop a code of conduct to establish standards for labelling of sheepmeat products. Such a code

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22 Committee Hansard, 9 July 2008, page 32

23 Submission 58, page 1

24 Committee Hansard, 10 June 2008, page 10

25 Committee Hansard, 10 June 2008, page 16

could be a non-prescribed voluntary industry code of conduct, a prescribed voluntary code of conduct or a mandatory code of conduct.

3.28 A non-prescribed voluntary industry code of conduct is administered by the industry itself and sets standards that are voluntarily administered by the industry. The Commonwealth Government does not have a role in enforcing non-prescribed voluntary industry codes of conduct.

3.29 A prescribed voluntary code of conduct is a code that is binding on signatories and is enforced by the ACCC under the TPA. A breach of a prescribed voluntary code of conduct is also a breach of the TPA. A mandatory code would be administered and enforced by the ACCC and is binding on the industry it covers.<sup>26</sup>

3.30 The ACCC provided details of the operation of voluntary and mandatory codes of conduct:

Distinguishing between prescribed voluntary codes and mandatory codes, mandatory codes apply across an entire sector and industry, as described by the government as it brings the code into being. For example, the franchising code applies to all franchise traders in Australia and the horticulture code applies to all wholesalers and growers in the supply chain. With a prescribed voluntary code, the framework provides that certain traders within an industry may be subject to a code once they subscribe, but it would not be intended to apply to all traders in that particular sector. So, using the franchising sector as an example, if there were a prescribed voluntary code, it would apply to only those franchisors that sign up to the code and agree to be bound by it. There is of course a question of what incentive traders would have to sign up to a prescribed voluntary code. I think that has been explored once or twice, but that is probably a question that would need to be considered.<sup>27</sup>

3.31 Irrespective of whether state systems are retained or a uniform national system is developed the NSW Food Authority argued that the development of a mobile organoleptic test to detect the age of sheepmeat, as discussed in chapter 2, and the institution of more un-announced audits by relevant agencies would be beneficial in reducing sheepmeat substitution.<sup>28</sup>

### **Committee view**

3.32 The committee notes the fact that rules relating to 'mouthing' and branding differ from state to state, and that evidence brought before the committee indicates that authorities in New South Wales and Western Australia take a relatively strict approach in terms of auditing, compliance and applying sanctions. These models may

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26 Submission 64, page 3

27 Committee Hansard, 9 July 2008, page 11

28 Submission 65, page 3.



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provide useful benchmarks for the study currently being undertaken by the Sheepmeat Council and AMIC. The committee accepts that, in practice, there may be difficulties in ensuring that all states have identical levels of compliance, but notes that there may be scope to better align basic standards pertaining (for example) to 'mouthing' requirements.

3.33 The committee notes the possibility of introducing a successful national commercially driven self regulating program and supports exploring the development of an appropriate industry code of conduct with the assistance of the ACCC.

3.34 The committee notes the role of AUS-MEAT in ensuring compliance within those domestic enterprises that chose to be AUS-MEAT accredited. The committee understands that when AUS-MEAT was established in 1987 a decision was taken to allow voluntary accreditation for domestic-only meat slaughtering and processing establishments. The committee recognises that there are costs involved to the establishment in becoming accredited, in that the plant needs to have trained and competent personnel to carry out certain functions. Staff must be trained to meet the AUS-MEAT standards and AUS-MEAT inspections involve a charge. However, the costs associated with inspections decrease as establishments meet mandatory quality standards, at which stage they are visited once a year. The committee understands that some large supermarket chains prefer their meat to be sourced from AUS-MEAT accredited establishments.

3.35 The committee's view is that AUS-MEAT accreditation for all domestic processors, apart from perhaps the very smallest, may be seen as an investment in the particular enterprise's own commercial standing as well as contributing to the overall integrity of the industry.

3.36 The committee recognises that the vast majority of evidence received during the inquiry supports the need for consistent lamb and labelling standards to be mandatory across Australia. The committee recognises also opposing views that lamb is unique amongst food groups in Australia to be 'forced into regulation' and 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>29</sup> The committee's view is that, given the comprehensive and collaborative industry-led exercise currently underway, the findings of the review should be considered by all stakeholders before taking decisions as to the way forward.

3.37 The committee commends the collaborative approach by the Sheepmeat Council of Australia, the Australian Meat Industry Council, Meat and Livestock Australia and AUS-MEAT limited to examine concerns about maintaining the integrity of the lamb brand and to find innovative ways to address the situation. This is particularly relevant in the light of different approaches by state governments and the separation in some cases of regulations relating to meat slaughtering and

processing and those related to truth-in-labelling, consumer rights and fair trading practices. The committee received advice from SCA and AMIC that this work is expected to be completed by 19 December 2008.<sup>30</sup>

### **Recommendation 1**

**3.37 The committee recommends that the Minister for Agriculture, Fisheries and Forestry, through the forum of the Primary Industries Ministerial Council, seek the support of state and territory primary industries ministers to harmonise national standards for all domestic meat slaughtering and processing establishments. The committee further recommends that, regardless of the model adopted, the harmonised national standard must include maintenance of dentition as the standard for classifying an animal as lamb and must require that 100 per cent of animals classified as lamb are mouthed at slaughter.**

### **Recommendation 2**

**3.38 The committee recommends that the Minister for Agriculture, Fisheries and Forestry, through the forum of the Primary Industries Ministerial Council, consider the costs and benefits of applying the West Australian standard as the model for national harmonisation including examination of compliance and enforcement issues.**

### **Recommendation 3**

**3.39 The committee recommends that the Minister for Agriculture, Fisheries and Forestry and the Minister for Competition Policy and Consumer Affairs consider, when available, the findings of the Sheepmeat Council of Australia and the Australian Meat Industry Council's review of Lamb Brand Control and Verification. The committee recommends that, where appropriate and feasible, the relevant Commonwealth agencies assist the sheepmeat industry to implement recommendations arising from the review.**

**Senator Glenn Sterle  
Chair**

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30 Correspondence from Sheepmeat Council of Australia and Australian Meat Industry Council, 29 August 2008