

Chapter 2

Beef marketing and labelling issues

2.1 Beef labelling serves the important purpose of enabling consumers at the retail level to make an informed choice about the quality and value for money of products available for purchase. During the course of this inquiry the committee heard from a number of organisations and individuals concerned about the quality of information consumers have access to via labels on beef products. Evidence to the committee suggested that current labelling arrangements meant that information presented to consumers is inadequate or misleading, making choosing beef products something of a lottery. In most retail settings, consumers are presented with a label that simply lists the price and the part of the animal the beef comes from. Sometimes the product is good, sometimes it is indifferent or poor. Because quality variability makes accurate value for money judgments on beef difficult, consumers may lose confidence in the product to the detriment of the industry as a whole.

2.2 One element of the complaints the committee received is that some labelling of beef products is simply misleading. For example, Certified Australian Angus Beef (CAAB) suggested that there seems to be a low standard for enforcing the validity of claims about meat products:

The grocery manufacturers are tarred and feathered and rolled out of town if they make a mistake on an ingredient on a dry goods item. Yet, in a lot of fresh foods—we are talking meat today—there are statements made where I am sure that the person selling that product can never justify that statement.¹

2.3 The other more complex aspect of the beef labelling debate is whether or not consumers need to be provided with more meaningful and nuanced information about the quality of beef products. Central to this argument are competing segments of the industry that either trade in beef as a commodity or operate with a more consumer-driven focus, and whether a widespread beef grading system can exist in this context. Encapsulating the view of those advocating a new approach was butcher Mr Rod Polkinghorne, who told the committee that rather than being treated as a commodity, beef needs to be thought of as a consumer's meal and the marketing approach should work back from that point.²

2.4 Evidence to the committee on problems with beef marketing related to the following specific issues:

1 CAAB, *Committee Hansard*, 26 March 2009, Melbourne, p. 33

2 Mr Rod Polkinghorne, *Committee Hansard*, 26 March 2009, Melbourne, p. 7

- grading for quality for beef products;
- the related 'budget' beef label applying to beef from older animals; and
- the verification of breed claims.

2.5 Grading for beef quality was the issue most discussed during this second stage of the committee's inquiry into meat marketing.

Beef grading

2.6 The committee heard that the major problem for the beef industry is that consumers are unable to make informed decisions about quality against price when purchasing beef. As the quality of a piece of beef is generally unable to be determined by its appearance, other cues are required to assist consumers with making judgements about the value for money of what they are purchasing. Presently, labels attached to beef products inform the customer as to the anatomical origins of the cut. On the matter of quality, customers are presented with labels such as 'prime', 'juicy' or 'tender' on which to assess value for money. However, these claims are not underpinned by independent verification. Instead, they reflect common promotional language that may or may not accurately reflect the characteristics of the product being sold.

2.7 Evidence to this inquiry suggested that consumers are not being given meaningful cues on the quality of the beef products on offer at retail level. Mr Polkinghorne, a butcher selling at the premium end of the market, told the committee:

...beef is mostly a lottery. The description system used reflects anatomy; rump, chuck, tenderloin. The consumer is assumed to have a base knowledge of cuts and cooking that can somehow deliver a desired result. This is clearly impossible; I may know I have a rump but off which animal? How old was it? How fast has it grown? Has it had a hormone implant? What breed was it? What sex? How was it killed? How long has the rump been aged? Which of the five main muscles within the rump are we talking about? These matters are mostly not known by the butcher, let alone the consumer and they interact in a complex manner.

A consumer wants a decent meal and is delivered an unsolvable mental challenge.³

2.8 Mr Polkinghorne told the committee that consumers had resigned themselves to the fact that beef is an unreliable product, despite its known nutritional benefits:

I think we have built ourselves a terrible problem with consumers. We have advertised—I think we spent the worst \$100 million ever spent in the 1990s, promoting beef. People saw those lovely ads that won the awards and dashed out and bought meat and found out that it was variable, like last time. I think there is a bit of a consumer belief that there is nothing you can

3 Mr Rod Polkinghorne, *Submission 70*, p. 1

do about it, that beef is just like that. Sometimes it is good and sometimes it is bad.⁴

2.9 The committee heard evidence that 'inaccurate or deceptive' labelling has turned consumers away from beef:

[It has] contributed to an alarming decline in overall beef consumption as consumers have reacted to inconsistent quality by turning to other products such as poultry and pork over the past 25 years. Consumption of beef has decreased by 30 percent since 1977 when Australians consumed (on average) 70 kilograms of red meat per person per year. Over the past 10 years beef consumption has fallen from 41.3 kilograms in 1997 to 36.3 kilograms per person in 2006-07.⁵

2.10 There are two possible methods for helping consumers make informed decisions about beef quality at any given price point. Firstly, consumers are able to be guided by choosing to purchase from retailers they recognise over time to provide a consistent, reliable product. The second is including a label that provides direct information about the quality of a piece of beef via an independent and expert grading system. This section will describe how the first cue for quality has been considered ineffective, as well as exploring the issues relating to beef grading systems.

Price as a guide to quality

2.11 In theory, a uniform beef grading system should not be an essential mechanism for assisting customers to make an informed decision about beef quality. Beef retailers - the supermarkets and local butchers - would ideally seek to gain a competitive advantage over their competitors by providing a consistent product for a reasonable price, in the way that the more expensive branded beef products work to ensure return custom.

2.12 However, the committee was told that the longstanding treatment of beef as a commodity product at the mid-to-low price points had entrenched quality variability for these consumers. For instance, Mr Dan Morice of Hereford Prime contrasted the approach at different price points:

...you can buy a piece of meat as a commodity and one day it is fine, the next day it is tough and the following day it is different again. The brands are taking that variability out of it ... They have their own value propositions that they are putting forward and consumers are understanding that.⁶

2.13 Mr Polkinghorne told the committee that the major retailers had preferred to capitalise from brand differentiation, rather than selling a higher quality independently

4 Mr Rod Polkinghorne, *Committee Hansard*, 26 March 2009, Melbourne, p. 5

5 The Hon. Richard Torbay MP, *Submission 69*, p. 1

6 Hereford Prime, *Committee Hansard*, 26 March 2009, Melbourne, p. 21

graded product. He also suggested that consumers had not been assisted by this approach:

Coles and Woolies were saying: 'If we both have the same sticker in the corner, we're just competing on price. We want our brand to stand alone, so it's our brand name and reputation that stands for the quality.' In point of fact, they have not been able to deliver that. No-one thinks that the internal store branding works.⁷

2.14 The committee received no such comments in relation to butchers, though they are subject to the same market forces as supermarkets. That is, consumers make assessments about the likelihood of any given retailer offering value for money products at various price points.

2.15 The Department of Agriculture, Fisheries and Forestry (DAFF) confirmed that the beef industry has considered mandatory grading to be unnecessary due to competition in the market:

Following calls for a mandatory beef grading system, particularly for low value cuts, to be instituted in Australia, the beef industry consulted on the issue in 2003. It concluded that a legislative approach was not necessary as private company labelling initiatives would provide the necessary market incentive to maintain 'truth in labelling'.⁸

Present labelling arrangements for quality descriptors

2.16 Most beef products sold in Australia are ungraded for quality. Aside from some beef products sold at the more expensive end of the market, there is no widely used labelling system that informs customers in an accurate and independent way about the relative quality of the product for sale. As referred to earlier, descriptors relating to quality are usually limited to the use of phrases such as 'prime', 'juicy' and 'tender' by the retail outlets. These marketing claims are not verifiable against an independent grading process, but are seen in most supermarkets and butcher shops in the country. Consumers are also presented with descriptors relating to cut, for example rump, scotch fillet, t-bone or sirloin. However, one piece of rump can be of very different quality to another, so this descriptor does not necessarily assist with assessing value. Unfortunately, beef quality cannot be assessed by consumers judging its appearance either.

2.17 Systems in place to facilitate accurate labelling of beef products are described in the following section of the report.

7 Mr Rod Polkinghorne, *Committee Hansard*, 26 March 2009, Melbourne, p. 8

8 DAFF, *Submission 64*, p. 5

AUS-MEAT system

2.18 AUS-MEAT Ltd has responsibility for developing uniform specifications for beef through its AUS-MEAT Language ('the Language'), described as 'a national uniform description system based on objective carcass measurements used in the classification of Australian meat and livestock'.⁹ The Language classifies a number of carcass traits at various stages of processing. These include descriptions of dentition (age), sex, weight and fat measurement at the slaughter floor; marbling, meat colour, fat colour and rib fat at the chiller stage; and cut description, cut lines and fat depth in the boning room.¹⁰

2.19 The AUS-MEAT system ensures that accredited processors are required to provide objective purchasing specifications subject to independent verification, ensuring consistency for buyers at the wholesale level.

2.20 However, the AUS-MEAT system does not presently provide a tailored solution to the problem of consumer information as described above. Firstly, accreditation to AUS-MEAT Standards and use of the Language is voluntary for meat marketed domestically. While meat for export is required by Commonwealth legislation to come from AUS-MEAT accredited processors and conform to AUS-MEAT Language requirements, they are voluntary for domestic meat marketers. Unlike meat destined for exports, the states and territories are responsible for regulating the description of product from meat processors servicing the domestic market.¹¹ According to DAFF, many processors serving the domestic market also export and are subject to AUS-MEAT requirements.¹² In attempting to address the potential labelling deficiencies stemming from domestic-only processors, a voluntary industry agreement on labelling for old cow beef was reached in 2002. That agreement is discussed further at paragraph 2.82.

2.21 Secondly, the AUS-MEAT system is primarily designed to ensure that claims about the characteristics of the various sections of the carcass are reliable. The system is not designed to provide more comprehensible information to the ordinary consumer when purchasing meal portions at the retail level. Instead, the imperative of the system is to ensure that processors are providing what they purport to, via uniform and objective classifications.

Meat Standards Australia (MSA)

2.22 Meat Standards Australia (MSA) has implemented a grading system that has been developed to provide consumers with simpler and more meaningful information. The focus of this classification method is on eating quality for a given cooking

9 AUS-MEAT Ltd, *Submission 27*, p. 3

10 AUS-MEAT Ltd, *Submission 27*, p. 9

11 AUS-MEAT Ltd, *Submission 27*, pp. 8-13; DAFF, *Submission 64*, p. 2

12 DAFF, *Submission 64*, p. 2; see also The Hon. Richard Torbay MP, *Submission 69*, p. 2

method, rather than carcass specifications. Mr Polkinghorne is a strong advocate of the MSA grading system and demonstrated to the committee its use at retail level at his Melbourne outlet. He expressed the view that informing consumers about quality demanded the MSA approach, which is based on individual muscle grading:

...a single carcass grade cannot be remotely effective as a consumer tool. To be effective a consumer grading system must in effect grade individual muscles within a cooking method framework and describe or label a beef portion according to its' cooked performance rather than anatomical origin.¹³

2.23 Using the predictive inputs from the carcass, computer modelling based on extensive consumer taste testing generates a quality rating for each muscle cooked by any designated method. The outcome is that customers in the store will be presented with a piece of beef that has been given a three-, four- or five-star descriptor for its optimal cooking method. For example, a cut may be labelled four-star steak or three-star roast. The grade scores are a composite of 'tenderness', 'juiciness', 'flavour' and 'overall liking' as predicted by consumer taste testing data covering various combinations of carcass inputs. No anatomical descriptors such as striploin or rump are used and price is set relative to the quality rating assigned. The system provides a simple value proposition and cooking instruction to maximise the consumer's eating experience.¹⁴

2.24 Mr Polkinghorne was critical of the guesswork currently required of most consumers:

Traditional retail purchasing relies on a mix of retailer reputation, cut name, pricing and raw meat appearance. Many consumers find these parameters challenging and confusing allied with insecurities regarding their cut or cooking knowledge. Experience has shown that they achieve a variable outcome from identically described product. This is not their fault; the product does vary and the information provided cannot separate eating quality levels.¹⁵

2.25 He argued that muscle grading is critical, because grading a carcass as a single unit is an ineffective way to convey information about the quality of a meal portion of beef:

Consumers do not purchase or eat carcasses. They typically consume a 200 gm portion of beef in a meal. The description they require is the sensory result they can rely on for a specific 200gm portion. The other 200kg or so of product from the source carcass is irrelevant.¹⁶

13 Mr Rod Polkinghorne, *Submission 70*, p. 3

14 Mr Rod Polkinghorne, *Submission 70*, pp. 2-7; see also Meat and Livestock Australia, *Meat Standards Australia beef information kit*, MLA publication, 2003

15 Mr Rod Polkinghorne, *Submission 70*, p. 7

16 Mr Rod Polkinghorne, *Submission 70*, p. 2

2.26 He explained that carcass grading is misleading because the relative eating performance of individual muscles within the one carcass is not constant. Therefore, a single muscle indicator such as the striploin cannot be an accurate guide to the quality of other muscles from the carcass.

2.27 According to Mr Polkinghorne, the relative eating quality of any given muscle is dependent on the cooking method used. The research presented in his submission claims that individual muscles will be better suited to certain cooking methods over others, depending on predictive carcass-based inputs such as weight, sex, age, genetic content, hanging method, marbling, days aged, etc. Because individual muscles respond inconsistently to these factors, then sensory performance can be maximised by choosing a cooking method that suits each muscle, as dictated by appropriate weightings from the predictive inputs above.¹⁷

2.28 MSA is a voluntary grading system. To be eligible for MSA grading, certain requirements along the beef supply chain must be met. These include meeting pre-slaughter handling requirements with an emphasis on stress reduction; sending cattle to an MSA licensed abattoir; and conforming to specified rates of pH-temperature decline.¹⁸

2.29 These grading standards for eating quality have been integrated into the AUS-MEAT Language where applicable.¹⁹

2.30 Unfortunately, only a small proportion of producers have chosen to make use of this voluntary system. MSA's 2007-08 Annual Outcomes Report states that during the period, 838,840 cattle were graded through the MSA program, 16.5 per cent more than the previous year. The majority were Queensland cattle, with over 400,000 graded in that state. The report does not indicate how many of the MSA graded cattle were sold on to the export market.²⁰

2.31 According to ABARE, beef production in Australia in 2007-08 was 2.155 million tonnes in 2007-08, from 8.8 million cattle slaughtered. Out of total production, 930,000 tonnes were exported, which would suggest that around 5 million cattle were slaughtered for domestic consumption during that period.²¹

2.32 In evidence, Bindaree Beef said that 'the equivalent of' 3 million cattle are eaten in the domestic market each year' and that 65 per cent of Australian beef is

17 Mr Rod Polkinghorne, *Submission 70*, pp. 2-3

18 More information is available through Meat and Livestock Australia, *Meat Standards Australia beef information kit*, MLA publication, 2003

19 AUS-MEAT, *Submission 27*, p. 10

20 Meat Standards Australia, *Annual Outcomes Report 2007-08*, p. 2

21 ABARE, *Australian Commodities*, December Quarter, Vol 15, No 4, accessed on 21 May 2009 at http://www.abareconomics.com/interactive/ac_dec07/htm/beef.htm

exported.²² Bindaree Beef claimed that 'less than five per cent of the beef sold for the domestic market in Australia is MSA graded'. They contrast this with the take-up of quality grading in the United States:

In the United States, 96% of the steers and heifers slaughtered are graded under the voluntary USDA Grading System underpinned by legislation with 51.7% of US table consumption labelled Choice, 37% Select and 3% Prime.²³

2.33 The reasons for the low take-up of quality grading in Australia are discussed further on in this report.

Legislative restrictions on meat marketing

2.34 Processors and retailers are in theory prevented from making false claims on meat product labels in accordance with section 52 of the *Trade Practices Act 1974* (TPA), which prohibits conduct by companies in trade or commerce that is misleading or deceptive. Section 53 also prohibits companies from making false or misleading representations about goods, including:

(a) falsely represent[ing] that goods are of a particular standard, quality, value, grade, composition, style or model...

2.35 The Australian Competition and Consumer Commission (ACCC) is responsible for enforcing the provisions of the TPA.

2.36 It should be noted, though, that these provisions tend only to prevent the more blatant and objectively false and dishonest assertions about products. Given the more subjective nature of claims about beef traits such as flavour and tenderness, as well as the effect of less than ideal cooking methods, the misleading and deceptive conduct provisions of the TPA is not a useful tool in ensuring that consumers are better guided on value for money propositions.

2.37 The industry itself is best placed to lead this task.

Industry reluctance on grading

2.38 A number of witnesses informed the committee that different sections of the beef industry had different marketing imperatives, which underlie the reluctance by many to embrace a quality grading system. In particular, those selling poor quality beef have little interest in having this fact laid bare before consumers. For instance, Mr Morice of Hereford Prime told the committee:

22 Bindaree Beef, *Committee Hansard*, 26 March 2009, Melbourne, p. 45; Bindaree Beef, *Submission 56*, Exhibit 1, Tab 9

23 Bindaree Beef, *Submission 56*, p. 4. The US system is discussed later in the chapter.

The problem is that there is a very high percentage of beef product that will fail to grade under the MSA system and there are a lot of people who want to be able to sell that meat basically as a commodity.²⁴

2.39 The committee received evidence claiming that high quality producers and consumers support beef grading. However, the committee notes the apparent reluctance of other participants in the industry:

The problem of relying on a voluntary industry scheme is that it is not necessarily in the commercial interests of all relevant participants in the beef supply chain to the domestic market, to adopt a national beef grading system. Neither the hot boner nor the large exporter is reliant on a vibrant domestic market for its bottom line and neither is particularly concerned with the effect that dumping poor quality meat onto the Australian market may have on consumption levels. Processors are almost unanimous in their support for federal legislative underpinning of the AUS-Meat descriptive trading language for exports because they want to preserve its integrity. Many of the same processors, however, have been reluctant to support a trading language for domestic consumers underpinned by legislation.²⁵

2.40 Bindaree Beef also commented on the competing interests within the sector:

...the crucial part of that whole process will be getting industry agreement on the content of that grading system, because there are various sectors of the industry that have their own legitimate commercial interests and they do not always coincide. Historically, a lot of the opposition to a statutory form of beef grading has come from interests who export the majority of their product or who are primarily or wholly involved in supplying the American hamburger industry. Of course, from their perspective the ability to dump old cow primals onto the Australian market makes commercial sense. So there is not complete agreement.²⁶

2.41 The issue of labelling for old cow beef in Australia is discussed further on at paragraph 2.82.

2.42 Mr Polkinghorne indicated that the Meat Standards Australia (MSA) vision of independent certification had encountered resistance from the supermarkets, who do not want to be competing on price by having identical grading stickers on their packaging (see paragraph 2.13 above).²⁷

2.43 The key for the beef industry is to reconcile these competing interests so that consumers have more certainty about quality and value for money when purchasing beef products. Grading for quality and the associated labelling issues are an integral

24 Hereford Prime, *Committee Hansard*, 26 March 2009, Melbourne, p. 21

25 The Hon. Richard Torbay MP, *Submission 69*, p. 2

26 Bindaree Beef, *Committee Hansard*, 26 March 2009, Melbourne, p. 43

27 Mr Rod Polkinghorne, *Committee Hansard*, 26 March 2009, Melbourne, p. 8

part of providing the information consumers need to ensure this occurs. The options for reform of beef grading are discussed in the following section.

Beef labelling reform

2.44 The current system is not providing the majority of consumers with the sort of information they require to make informed choices when purchasing beef. Whether changes to rectify this are undertaken voluntarily by industry, mandated by government, or achieved through a combination of voluntary action and government regulation, was the subject of debate during the inquiry.

2.45 Mr Polkinghorne summarised the objective of any reforms:

A grading system must deliver a simple good, extremely good or fantastic guaranteed meal at a price point. This allows quality to be related to occasion with the best value likely to be different for different occasions.²⁸

2.46 Achieving simplicity will be difficult though. Mr Polkinghorne indicated that one of the greatest challenges is confusing consumers by implementing a new system along side existing marketing techniques, based on anatomical cuts:

...the problem at the moment is that you are trying to put a really sophisticated but simple system on top of a complex one that does not work. Retail description at the moment is all about anatomy. Who cares about the anatomy? Did you want a rump or did you want a good meal? But if you are going to try and say, 'Here's a good meal and it's a rump and here's an even better one that is still a rump and here's a [poor] one and it's a rump,' you have two competing systems, and one of them does not help but it is traditional.²⁹

US system

2.47 A useful source of comparison with the current Australian arrangements is the United States' regime for quality grading, which is not as rigorous as the MSA system, but has widespread coverage.

2.48 The United States has a mandatory federal inspection regime conducted in accordance with the Federal Meat Inspection Act, where the meat is inspected for 'wholesomeness' (food safety) by Food Safety Inspection Service officers. The process also includes voluntary grading for quality, performed by a licensed federal grader and paid for by the producer or processor that has requested it. Beef is graded as a whole carcass for both quality and yield (proportion of usable lean meat). Quality grades reflect the carcasses' tenderness, juiciness and flavour, based on the amount of marbling in the beef, its colour and maturity. The eight quality grades used are as follows:

28 Mr Rod Polkinghorne, *Submission 70*, p. 1

29 Mr Rod Polkinghorne, *Committee Hansard*, 26 March 2009, Melbourne, p. 5

- *Prime*: from young cattle with abundant marbling. Suitable for dry heat cooking (roasting or frying). Sold mainly in restaurants.
- *Choice*: Slightly less marbling than *Prime*. Some of the less tender anatomical cuts may still be suitable for dry heat cooking.
- *Select*: Leaner than the higher grades. Fairly tender but may lack juiciness and flavour that extra marbling gives the higher grades. Only the tenderest cuts should be cooked with dry heat.
- *Standard and Commercial*: Frequently sold as ungraded or store brand meat. The grade is therefore not carried on labels at retail level.
- *Utility, Cutter and Canner*: Rarely sold at retail level but instead used to make ground beef or processed products.³⁰

2.49 Evidence to the committee suggested that standardised quality grading under a US government-regulated scheme has broad acceptance across the beef industry there.³¹ Being a well-established system, it is understood and accepted by processors and consumers as a mechanism for communicating information about quality at a given price.

2.50 Although the US and Australia both maintain a voluntary system of beef grading, the arrangements in each jurisdiction operate very differently and for different purposes.

Adapting current Australian arrangements

2.51 The AUS-MEAT regime does not represent a consumer-focussed grading system in the way that the US system does. The physical attributes of the meat rather than its eating quality are considered. The AUS-MEAT Standards and Language prevent misrepresentations about the characteristics of the carcass from which beef products have been derived, but do not make direct claims about eating quality. The model has been primarily designed to maintain Australia's reputation in export markets.

2.52 In its submission, AUS-MEAT submitted that it was well placed to provide the basis for a co-regulatory model covering all domestic beef marketing:

In AUS-MEAT, the Australian Meat and Livestock Industry has the tools in place to facilitate the introduction of an extended co-regulatory model to underpin the integrity of domestic meat marketing. It requires the

30 United States Department of Agriculture Food Safety Inspection Service, *Fact Sheet: Production and Inspection*, 'Inspection and Grading of Meat and Poultry: What are the Differences?', accessed on 21 May at http://www.fsis.usda.gov/Fact_Sheets/Inspection_&_Grading/index.asp

31 Bindaree Beef, *Submission 56*, p. 4

agreement and will of industry stakeholders and the various levels of government to enable such a system to be put into place. The relevant state authorities have a key role in this regard.³²

2.53 The committee also notes a private members' bill recently introduced into the NSW parliament dealing with beef classification and related truth-in-labelling issues. The AUS-MEAT Language is central to the proposed legislation, which is designed to 'overcome the impasse' of competing interests in the industry.³³ The Food Amendment (Meat Grading) Bill 2008 seeks to amend section 22 of the *Food Act 2003* (NSW) to prescribe that misuse of the AUS-MEAT Language constitutes a breach of section 18 of the act, which prohibits misleading and deceptive conduct in relation to the sale of food. The following amendments are proposed:

The Food Amendment (Meat Grading) Bill 2008 aims to amend section 22 of the Food Act 2003 as follows to ensure that low grade beef cannot be substituted for high quality table meat:

a) to provide that meat is falsely described if it is described by words, letters or symbols that are used by the AUS-Meat descriptor language for the domestic market to designate or indicate the meat of a particular type or grade, but has not been assessed in accordance with requirements of that publication or does not comply with the standards set out in that publication with respect to that type or grade of meat.

b) to provide that a person carrying on a food business is taken to have engaged in conduct that is misleading or deceptive (or is likely to mislead or deceive) in relation to the advertising, packaging or labelling of meat intended for sale, or in relation to the sale of meat, if:

- i. the person advertises, packages, labels or sells meat described by means of AUS-Meat language, and
- ii. other meat advertised, packaged, labelled or sold by that person is described by any other means.³⁴

2.54 This proposal has been referred by the NSW Minister for Primary Industries to the Primary Industries Ministerial Council for possible national implementation.³⁵

2.55 It should be noted that the effect of legislating to this effect would primarily be to prevent the misrepresentation of poor quality beef as something better, rather

32 AUS-MEAT Ltd, *Submission 27*, p. 5

33 The Hon. Richard Torbay MP, *Submission 69*, p. 2

34 The Hon. Richard Torbay MP, *Submission 69*, p. 3

35 The Hon. Ian McDonald MP, *Press release*, 'NSW Government supports intent of meat labelling Bill', 16 February 2009, accessed on 21 May 2009 at <http://www.foodauthority.nsw.gov.au/aboutus/media-releases/mr-16-Feb-09-nsw-gov-supports-meat-labelling-bill/>

than establishing a comprehensive grading system describing eating quality as operates in the US. Issues relating to the sale of poor quality beef are discussed further in the context of budget beef below at paragraphs 2.82 - 2.92.

2.56 MSA grading is a more ambitious initiative that focuses on providing accurate information about eating quality through consumer testing, supply chain monitoring and individual muscle grading. Unlike the US government-backed grading system, the private MSA system does not grade by carcass and demands input along the supply chain to ensure certain standards are met. US graders grade any carcass requested as part of a broader food safety regime conducted in accordance with state and federal legislation.

2.57 While MSA grading achieves the desired goal of providing relevant information to consumers, the logistics of its application across the entire industry make the prospect of a universal system impractical. According to Bindaree Beef:

Abattoirs can only MSA grade cattle that come from an MSA accredited property. Currently only 12,500 out of over 160,000 cattle properties in Australia are MSA accredited.

The abattoir MSA grading assessment process is complex and takes approximately three times longer than normal AUS-MEAT chiller assessment. It is therefore not practical for many abattoirs to MSA grade all the cattle destined for the domestic market. To do so would increase costs and in some cases, bring the slaughter chain to a halt.³⁶

2.58 It should also be noted that MSA grading focuses on the better quality end of the market. Much of the beef sold into the domestic market in Australia would not fit into their grading categories, which would make forcing processors to go through the MSA assessment process unnecessary.

2.59 Consequently, an Australian grading system with the coverage and emphasis on eating quality of the one operating in the US would not be able to simply piggy-back on our existing quality standard systems.

A new system

2.60 Bindaree Beef suggested that a new national beef grading system broadly reflecting the US model be implemented in Australia. The main difference is that Bindaree's preferred proposal would see all cattle graded for quality.³⁷ They indicated that this would require the industry to develop consumer-oriented beef grading descriptors audited by AUS-MEAT and underpinned by legislation. Bindaree Beef's submission suggested the following reforms:

A National Beef Grading System under-pinned by legislation can be achieved by:

36 Bindaree Beef, *Submission 56A*, p. 3

37 Bindaree Beef, *Submission 56A*, p. 1

- the establishment of an industry wide working group (in association with the Australian Consumers Association) to develop consumer friendly beef grading descriptors; and
- a public education program to assist consumers to understand the adopted grading language; and
- giving Aus-Meat the power to audit a compulsory beef grading system; and
- extending compulsory Aus-Meat accreditation to all meat processing establishments (ie export and domestic establishments); and
- the introduction of beef quality standards under Section 12 of the Food Standards Australia New Zealand Act 1991; or
- State regulation underpinning a voluntary Australian beef grading system in a similar way that the USDA voluntary beef grading system is underpinned by legislation.³⁸

2.61 Bindaree Beef told the committee that proposals for a voluntary system underpinned by legislation had previously encountered difficulties in reconciling competing industry interests (see paragraphs 2.38 – 2.43 above).³⁹

2.62 These difficulties were also outlined by the department in response to a question on notice, describing the previous industry consultation process for a mandatory beef quality grading system led by the Red Meat Advisory Council (RMAC). DAFF indicated that a recommendation to form a 'voluntary beef grading language', underpinned by state and territory legislation and requiring adherence to hold a beef handling licence, was rejected by the Australian Meat Industry Council and RMAC itself. The department wrote that RMAC:

...holds the position that a national legislative approach to mandatory uptake is unnecessary, as the current voluntary system based on AUS-MEAT language encourages truth-in-labelling, while allowing some flexibility.⁴⁰

2.63 They also informed the committee that DAFF had not provided advice to industry on a mandatory beef quality grading system.⁴¹

2.64 The costs associated with a national grading system for quality were central to the committee's discussion about its merits. The argument was put to the committee that national quality grading would increase consumer confidence in beef, which

38 Bindaree Beef, *Submission 56*, pp. 7-8

39 Bindaree Beef, *Committee Hansard*, 26 March 2009, Melbourne, pp. 42-43

40 DAFF, *Response to Question on notice number 2*, p. 2

41 DAFF, *Committee Hansard*, 17 March 2009, Canberra, p. 48

would in turn increase consumption. The resulting extra revenue for the industry as a whole would outweigh the overall cost of grading. Bindaree Beef claimed that:

...in terms of a cost-benefit analysis, the benefits are overwhelming. As I have indicated, if we could get every Australian to eat one more meal of beef every three weeks, that would be \$1.2 billion a year. In terms of the cost of implementing the system, 70 to 80 per cent of the beef that is eaten in Australia is actually produced in AUS-MEAT accredited abattoirs that are already assessing quality. I heard earlier on the suggestion that USDA grading in United States costs 19c a beast. The figures that I got in 2003 was that it cost 37c. The equivalent of three million head of cattle are eaten in the domestic market in Australia each year. On that assessment, it would cost about \$1 million or \$2 million a year.⁴²

2.65 DAFF officials were not so enthusiastic. In response to a question on notice, they suggested that there is no evidence of a relationship between consumption and grading for quality:

In 2004, the department developed an informal comparative analysis of the United States (US) beef grading system in response to arguments from sections of the beef industry that Australian beef consumption had fallen due to the absence of a national beef grading scheme.

...

The department found that the decline in beef consumption was not dramatic, and that overall domestic beef consumption by value and volume had remained steady during the 1990's. The analysis concluded that there was no evidence to support the proposition that any difference between Australian and US domestic per capita beef consumption is the result of the US having a beef-grading scheme.⁴³

2.66 Meat and Livestock Australia also claimed that consumer confidence in beef quality 'has improved significantly over the last decade'.⁴⁴

2.67 Mr Polkinghorne told the committee that the cost of obtaining the data for grading is as little as 19 cents a head. He said:

It does not cost a lot to grade cattle. Most of the information is there already, and the computer does the work, so it is more in the physical management—'Okay, what do I do with the information? How do I translate it?'⁴⁵

2.68 Mr Michael Pointer from the Australian Branded Beef Association (ABBA) suggested that AUS-MEAT's existing auditing role could mitigate additional costs:

42 Bindaree Beef, *Committee Hansard*, 26 March 2009, Melbourne, p. 45

43 DAFF, *Response to Question on notice number 3*, p. 1

44 MLA, *Submission 55A*, p. 2

45 Mr Rod Polkinghorne, *Committee Hansard*, 26 March 2009, Melbourne, p. 7

I do not think it would require a great deal of funding. First of all, Aus-Meat are already performing audits in virtually all the plants in the country. At that time they can audit brands that those plants are producing. I think the other way then to deal with it at the consumer end is that Aus-Meat should be the body that a complaint in that area can go to. I am not suggesting that Aus-Meat go out and audit every butchers shop in the country, but they should be the point at which a complaint about misrepresentation can be directed and they should be able to deal with it.⁴⁶

2.69 They indicated that grading 'should be an integral part of the production system and therefore the cost of grading should accrue to the processor as part of the production process'.⁴⁷

2.70 The additional cost burden would mainly stem from the compliance and enforcement activities that would be required further along the supply chain, mainly at the retail end. This might include inspectors monitoring compliance, complaints handling and investigation and a prosecutorial process. Bindaree Beef acknowledged that a grading system utilising AUS-MEAT's existing role would require that organisation to extend the scope of its functions: '...at the abattoir level, the costs would be incremental. At the retail level it would be a new ball game for them'.⁴⁸

2.71 However, Mr Pointer suggested that a significant deterrent effect would limit the costs of such activities that fall outside AUS-MEAT's current role: '...I think that probably the 'beware of the dog sign syndrome' would pick up a lot of the problems'.⁴⁹

2.72 Bindaree Beef shared this view on the likelihood of compliance:

...the major supermarkets sell close to 70 per cent of the beef that we eat. If they were to adopt the system I suspect that they would be less likely to not comply than the smaller operators, simply because they are substantial corporations and probably more mindful of their reputations.⁵⁰

2.73 The Australian Food and Grocery Council (AFGC) warned against excessive government regulation in this area, expressing a preference for self-regulation by industry on food labelling issues. They told the committee:

When it comes to descriptors of products that is better handled by industry associations that can collectively decide how the consumer is best served, as long as those voluntary codes or even co-regulatory approaches are effective. We would be concerned with the introduction of bills that, first, introduce differences between each of the jurisdictions and, second, set up

46 ABBA, *Committee Hansard*, 26 March 2009, Melbourne, p. 25

47 ABBA, *Response to question on notice*, p. 3

48 Bindaree Beef, *Committee Hansard*, 26 March 2009, Melbourne, p. 45

49 ABBA, *Committee Hansard*, 26 March 2009, Melbourne, p. 26

50 Bindaree Beef, *Committee Hansard*, 26 March 2009, Melbourne, p. 47

the potential for different jurisdictions to bring different forms of labelling and different descriptors into meat products or any products. That just adds complexity to the industry. It certainly adds complexity for the regulators in relation to enforcement and it is difficult to demonstrate the benefits directly to consumers.⁵¹

2.74 AFGC said that an effective industry code, either voluntary or backed by a regulatory authority such as the ACCC, should meet the following criteria:

First and foremost, they must address recognised market failures. So there must be clear reasons for the codes to be in existence. It is important that there is consultation in the development of codes and clarity within the codes so that all stakeholders understand their intent. There must be formal mechanisms for code administration. There must also be transparency in the codes. For effectiveness, codes must have as wide a coverage of industry as possible. There must also be effective complaints handling procedures. Moreover, there must be mechanisms for levying sanctions for non-compliance with codes. Also, importantly, codes must be communicated to the industry and there must be appropriate reporting, monitoring and review of codes.

Importantly, there must be enforcement of codes to ensure credibility ... there must be a high level of compliance with codes. To underpin that, there must be a high level of awareness and understanding of the requirements of codes within the industry. There must also be acceptance by those being regulated by the code or signatories to the code of the value of the market failure being addressed; in other words, industry members themselves must see the advantage of complying with the code. Coupled with that, of course, there must be effective enforcement.

Effective enforcement relies upon clear communication of the reasons for the code, regular monitoring, timely and independent complaint resolution procedures and the ability to levy sanctions.⁵²

2.75 AFGC referred to the successful establishment of an industry code providing for the widely used daily intake guide labelling system as an example where an industry-driven approach has worked.⁵³

2.76 Bindaree Beef told the committee that this reflected the view taken when an industry has previously failed to deal with its deficiencies: '...voluntary codes are what industry calls for when they are faced with regulations that they are not happy with'.⁵⁴

51 AFGC, *Committee Hansard*, 17 March 2009, Canberra, p. 34

52 AFGC, *Committee Hansard*, 17 March 2009, Canberra, pp. 25-26

53 AFGC, *Committee Hansard*, 17 March 2009, Canberra, p. 26

54 Bindaree Beef, *Committee Hansard*, 26 March 2009, Melbourne, p. 43

Committee view

2.77 The committee agrees with the view expressed during this inquiry that making value for money assessments of beef products is difficult for consumers. The absence of useful information about quality on beef product labels means that consumers are relying on inferior cues such as the anatomical cut to make judgments about the value of what they are purchasing. The result is that consumers endure quality variability that cannot be identified until the product is paid for and eaten. The apparent guesswork associated with purchasing ungraded beef diminishes confidence in beef and is probably detrimental to the industry overall. Grading of all beef products for quality would give consumers greater confidence in its reliability.

2.78 However, it is not the proper role of government to mandate that the beef industry label its product in a way that delivers best practice consumer-friendly marketing information. The committee recognises that different segments of the beef industry, with different marketing imperatives, are divided on the question of a universal system of grading for quality. It is not surprising that those selling beef into the lower end of the market do not want to have to pay for a government-imposed grading system that highlights the quality of their product relative to better quality offerings. If the industry wants a widely used grading system then it needs to occur voluntarily, involving a compromise on quality grading descriptors and an agreement for the industry as a whole to fund an auditing and compliance regime, most likely through AUS-MEAT. The committee is of the opinion that a grading system with broad application and acceptance would benefit consumers and the aggregate Australian beef industry, but the committee does not espouse governments mandating specific improved marketing initiatives for commercial enterprises.

2.79 Industry advocates of quality grading need to further raise consumer awareness about its benefits so that demand for grading ultimately dictates that it is more widely adopted by other segments of the beef industry. Consumers do have the option of seeking out beef products that provide information with reliable value for money propositions. Nothing will compel the industry as a whole to reach an agreement on a voluntary system like increased consumer demand for graded beef (or branded beef). The committee notes the excellent work of MSA and butchers such as Mr Rod Polkinghorne in this regard, but more progress is needed to bring graded for quality product to the attention of the majority of consumers.

2.80 The committee is of the view that the government's proper role in regulating the labelling of beef products should be to ensure that consumers are not being given false or misleading information. In this regard, legislative reform is required to bolster the often difficult legal avenue of pursuing a claim for misleading or deceptive conduct under the TPA. Consumers should at least be guaranteed that the objective classification standards imposed on processors supplying export markets are applied domestically. Accordingly, the committee supports efforts to extend the application of current AUS-MEAT arrangements to meat marketed domestically. This would require cooperation between the commonwealth and the states to harmonise state regulation of domestic meat production. The committee therefore recommends that the

Commonwealth Government negotiates with the states and territories to have the AUS-MEAT system applying to exported meat extended to all domestic processors in Australia.

Recommendation 1

2.81 The Commonwealth Government negotiates with the states and territories to have the AUS-MEAT system applying to exported meat extended to all domestic processors in Australia.

Budget beef

2.82 The labelling arrangements for beef from old cows were widely condemned during the inquiry. In 2002 a voluntary retail beef labelling agreement between MLA and the major supermarket chains and a large number of retail butchers to label beef from cows with eight teeth 'budget' was reached.⁵⁵ Eight teeth indicate that the animal is over three years old and yields meat of poorer eating quality than cuts from younger animals. In response to the budget beef agreement, AUS-MEAT uses the descriptors 'budget cow' and 'manufacturing' for animals with more than eight teeth.⁵⁶ The purpose of the agreement and the AUS-MEAT descriptors are to prevent old cow beef being sold as higher quality product.

2.83 One criticism of this arrangement is that its scope does not extend to informing consumers about quality at the other end of the spectrum.⁵⁷ This issue was dealt with in the section above on grading for quality (beginning at paragraph 2.6).

2.84 The main criticism, though, relates to the euphemistic and uninformative nature of the term 'budget' in relation to old cow beef. The Australian Branded Beef Association (ABBA) argued that the use of the term in this way constituted a misrepresentation to consumers:

...there is a big difference between prime beef and cow beef and to assert that cow beef is budget beef is a euphemism for trying to sell something as in fact better than it is. They both have their place in the market but the consumer is entitled to know what he or she is buying and eating.⁵⁸

2.85 Bindaree Beef also questioned the euphemistic nature of the term:

Under the AusMeat code, for instance, a yearling steer has to come from a beast that is effectively no older than 18 months and young steer has to come from a beast that is no more than 30 months, but when we get an old

55 Bindaree Beef, *Submission 56*, p. 3

56 Bindaree Beef, *Submission 56*, Exhibit 1, Tab 2; AUS-MEAT, *Submission 27*, p. 13

57 See for example The Hon Richard Torbay MP, *Submission 69*, p. 2 and Bindaree Beef, *Submission 56*, p. 4

58 ABBA, *Committee Hansard*, 26 March 2009, Melbourne, p. 20

cow that is at the end of its breeding life it can be called 'budget'. I wonder why it cannot be called 'old cow beef', which is exactly what it is.⁵⁹

2.86 Their submission stated that consumers are often unaware that the 'budget' label refers to beef from older cattle, instead being attributed to claims about value rather than the age of the animal.⁶⁰ Bindaree Beef stated that identifying poor quality old cow beef more accurately would 'no longer undermine the value of the premium quality product'.⁶¹

2.87 DAFF officers indicated that use of the term 'budget' and a corresponding price ought to send appropriate signals about the relative quality of the product:

...meat labelled 'budget' generally is a lot cheaper than other meat that might be sitting on the supermarket shelf. If a consumer saw a Styrofoam pack of budget rump steak for \$10 a kilo, I expect that consumer to assume it would be of lower quality than the prime rump steak for \$25 a kilo in a Styrofoam pack right next to it. I expect the word 'budget' to send those sorts of signals. In addition, it would send signals about the age of the animal and those sorts of things. [But] I could not put myself in the mind of a consumer on that issue.⁶²

2.88 There have also been questions about whether the voluntary nature of the agreement meant that it was being flouted. In debate on the private members' bill on truth-in-labelling, it was claimed that the agreement was not even observed much of the time:

Major meat processors in Australia estimate that around 30 to 40 per cent of the beef sold domestically is from cattle with eight teeth, and much of this ends up at the butchers or supermarket as 'prime cuts' when it should be labelled 'budget' beef.⁶³

2.89 Evidence to the inquiry was critical of the voluntary nature of the arrangement and its limited application:

The difficulty with this arrangement is that it is voluntary and it only applies to the lower quality beef from older animals and gives the consumer no guide to the purchase of high quality beef. Not all retailers are signatories to the arrangement and whilst those that are signatories may pay

59 Bindaree Beef, *Committee Hansard*, 26 March 2009, Melbourne, p. 46

60 Bindaree Beef, *Submission 56*, p. 4

61 Bindaree Beef, *Submission 56A*, p. 1

62 DAFF, *Committee Hansard*, 17 March 2009, Canberra, p. 45

63 The Hon. Richard Torbay MP, *NSW Legislative Assembly Hansard Transcript*, Food Amendment (Meat Grading) Bill 2008, Second Reading Speech, 4 December 2008, accessed on 21 May 2009 at [http://www.parliament.nsw.gov.au/prod/PARLMENT/NSWBills.nsf/1d436d3c74a9e047ca256e690001d75b/7f8395eb2a437de5ca2575130013a95c/\\$FILE/LA%202R.pdf](http://www.parliament.nsw.gov.au/prod/PARLMENT/NSWBills.nsf/1d436d3c74a9e047ca256e690001d75b/7f8395eb2a437de5ca2575130013a95c/$FILE/LA%202R.pdf)

lip service to the voluntary code, without sanctions, there is little incentive for retailers to observe the scheme's requirements in practice.⁶⁴

2.90 Bindaree Beef also submitted that it is difficult to know whether the agreement is being violated:

Almost 40% of the beef retailed in Australia is sold by retailers who are not signatories to the voluntary Retail Truth-in-Labelling Agreement and there are unsubstantiated claims that beef labelled by abattoirs as "Budget" and "Manufacturing" are retailed in the domestic market under "Steer" or "Premium" labels and that cow beef is also traded at the wholesale level under "Steer Beef" labels. Without clear audit trail and compliance requirements it is impossible to verify whether these unsubstantiated claims are valid.⁶⁵

Committee comment

2.91 The committee agrees with the argument that consumers cannot be expected to know that 'budget' beef is labelled so because it comes from animals with eight teeth, meaning that they are over three and a half years old. Although the voluntary retail agreement on 'budget' beef was entered into with the good intention of preventing old cow beef from being passed off as something of better quality, the phrase is at best confusing and at worst misleading about its true meaning. Ideally, the agreement would stipulate that beef from old cows is labelled 'old cow beef'. At the very least, the phrase should be altered to 'budget quality' under the agreement to emphasise that the term is not simply being used to designate that the beef is on special, but that it has been classified as being of poorer quality than other available products.

2.92 The committee would prefer for the industry to undertake these reforms voluntarily. However, if this clearly unsatisfactory arrangement is allowed to continue then the government should investigate the most appropriate legislative pathway to ensure that beef from cows with more than eight teeth is required by law to be labelled 'old cow beef'.

Breed claims

2.93 Finally, the committee heard concerns about the potential for misleading claims about breed content in the marketing of beef. Certified Australian Angus Beef P/L (CAAB) were particularly concerned given their efforts to gain a competitive advantage at the higher end of the beef market by creating a brand that links eating quality with the Angus breed.

2.94 Mr Phil Morley of CAAB told the committee that a minimum genetic breed requirement should apply to breed claims. He indicated that this should be a 75 per

64 The Hon. Richard Torbay MP, *Submission 69*, p. 2

65 Bindaree Beef, *Submission 56*, p. 3

cent minimum genetic content, which would enable a 100 per cent bull to breed with a 50 per cent Angus cow.⁶⁶ The Australian Branded Beef Association (ABBA) also called for a minimum genetic requirement, though their suggested minimum genetic content is 50 per cent.⁶⁷

2.95 Both organisations agreed that claims of certification, for example 'certified Angus', should be subject to a more rigorous vetting process than currently applies. Australian Branded Beef Association (ABBA) told the committee that these claims should be independently verified, in accordance with consumers' expectations and understanding:

Research indicates that the word “Certified” is understood by consumers to indicate that a meat product identified using that claim has been subject to a rigorous, transparent process, subject to audit, that delivers on the claims of the “Certification”.

...

Regarding the indiscriminate use of “Certified” we believe this claim should only be allowed to be used provided:-

- The product is the result of a documented and transparent process that clearly sets out the process that guarantees delivery against the certification statements.
- A Certification statement should be publicly available setting out all the certification claims.
- The process should be overseen and audited by an independent third party approved by Aus-Meat Limited and AQIS.
- Aus-Meat Limited should be tasked with ensuring that all meat products described as being “Certified” comply with a formal, documented, transparent certification process administered by a recognised third party and that the product meets the terms of the Certification claim.⁶⁸

2.96 CAAB also argued that there needs to be a certification process that is transparent to the consumer:

...any product that carries the term ‘certified’ should actually have a certification process that is publicly available, transparent, fully documented and independently third party operated and audited.⁶⁹

2.97 They also suggested that the relevant breed society should be given the opportunity to approve the process:

66 CAAB, *Committee Hansard*, 26 March 2009, Melbourne, p. 30

67 ABBA, *Submission 40*, p. 3

68 ABBA, *Submission 40*, pp. 2-3

69 CAAB, *Committee Hansard*, 26 March 2009, Melbourne, p. 30

...a breed society must approve the breed certification process as they have the most to lose if their breed is misrepresented in the consumer marketplace.⁷⁰

Committee comment

2.98 The committee shares the view that claims of certification with respect to breed should be subject to a process of independent verification. Breed societies should set the parameters of the certification process and these should be overseen and audited by an independent third party, preferably AUS-MEAT.

2.99 However, the committee is not of the view that it is appropriate for the issues raised above to be resolved by legislative amendment. The industry should be responsible for establishing and enforcing a breed certification process that conveys consumer information about breed in a transparent and verifiable way. Such arrangements would assist the industry in identifying clear instances of the misuse of certified breed claims, which would again facilitate the enforcement of the misleading and deceptive conduct provisions of the TPA.

70 CAAB, *Committee Hansard*, 26 March 2009, Melbourne, p. 30

