

The Senate

Standing Committee on
Rural and Regional
Affairs
and Transport

Meat marketing

Final report

June 2009

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ISBN 978-1-74229-103-1

This document was prepared by the Senate Standing Committee on Rural and Regional Affairs and Transport, and printed by the Senate Printing Unit, Department of the Senate, Parliament House, Canberra.

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Recommendations

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.

Recommendation 2

3.57 Subject to the current Australia and New Zealand Food Regulation Ministerial Council review into food labelling, the government create separate country of origin labelling regulations for food products that recognise the importance of the origin of ingredients in processed food as well as the place where production processes occurred.

Chapter 1

Introduction

1.1 On 19 March 2008, the following matter was referred to the Senate Standing Committee on Rural and Regional Affairs and Transport for inquiry and report:

Concerns in relation to meat marketing, with particular reference to the need for effective supervision of national standards and controls and the national harmonisation of regulations applying to the branding of meat.

Conduct of inquiry

1.2 On 4 September 2008 the committee tabled an interim report addressing issues relating to lamb marketing, particularly concerns that some processors are substituting hogget and young sheep for lamb. The committee recommended that the Commonwealth Government seek state and territory support for the harmonisation of national standards for domestic meat slaughtering and processing establishments. It also recommended that this standard include the requirement that all animals classified as lamb be mouthed at slaughter and that the West Australian standard be considered as the model.

1.3 The committee intends to keep a watching brief on this issue as it has not yet been resolved to the committee's satisfaction.

1.4 As indicated in the interim report, the committee's inquiry was extended to include other meat marketing issues not addressed in that report. The committee wrote to a number of organisations indicating that it would consider the following in the second phase of its inquiry:

- The labelling of beef products, particularly improvements that could be made to ensure consumers have better and more accurate information about the product they are purchasing; and
- The use of labels 'organic' and 'free range' across all meat products.

1.5 The committee received a number of new and supplementary submissions addressing these issues. The list of submitters is included at Appendix 1.

1.6 The committee held public hearings in Canberra on 17 March and Melbourne on 26 March 2009, taking evidence from the Department of Agriculture Fisheries and Forestry, various beef industry organisations, pork industry representatives and the Australian Food and Grocery Council. A complete list of witnesses at these hearings is included at Appendix 2 and responses to questions taken on notice at the hearings are included at Appendix 3.

1.7 Submissions to the inquiry and transcripts of the committee's hearings are available through the committee's website at http://www.aph.gov.au/senate/committee/rrat_ctte/meat_marketing/index.htm.

Report structure

1.8 Chapter Two discusses issues relating to the labelling of beef products. In particular the committee examines the lack of beef grading for quality in Australia and the options for providing better information to consumers; concerns about the 'budget' beef labelling agreement misleading consumers as to the nature of what they are purchasing; and perceived problems with the use of breed claims in marketing.

1.9 Chapter Three covers issues that cut across specific types of meat, including concerns about the misuse of terms such as 'organic' and 'free range', made possible by legal ambiguity as to their correct use. This chapter also addresses concerns about potentially misleading place of origination claims.

Acknowledgements

1.10 The committee reiterates its appreciation to all those who contributed to this inquiry through written or oral submissions.

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

Chapter 3

General meat labelling issues

3.1 Aside from the beef labelling issues discussed in Chapter Two, two other specific issues addressing labelling claims applying to various types of meat were raised during the inquiry. Firstly, there was concern that labelling claims about ethical animal treatment were being misused to the detriment of legitimate operators. The committee heard that the absence of enforceable definitions covering descriptors such as 'organic' and free range' allowed companies to make misleading claims about their animal welfare practices.

3.2 Secondly, some organisations expressed concern about misleading place of origination claims. These issues are addressed in the later part of this chapter.

'Free range', 'organic' and similar marketing terms

3.3 The committee heard a number of complaints about the misuse of ethical animal treatment claims in meat labelling. In evidence, RSPCA indicated that consumers are increasingly likely to consider food production systems when making consumer decisions about food. The increasing presence of labels such as 'free range' and 'organic' attached to food products reflects this interest and companies' desire to cater for consumers' ethical preferences.¹ However, according to RSPCA specific claims about superior animal welfare compared with other producers may or may not be accurate because of ambiguity and inconsistency relating to the use of these terms. Their submission stated:

Generally speaking, people tend to assume that the term “free range” indicates that animals have had some access to outdoors and are not kept in close confinement. What is meant by “access to outdoors” and “close confinement” is also often undefined and poorly understood.

In the absence of any recognised definitions for such terms as “free range”, “bred free range”, “organic”, “biodynamic”, etc. to describe welfare-oriented production methods whether it is for red meat, eggs, chicken meat or pork, the public tend to assume that these terms confer some improvement in animal welfare over other production systems. This may or may not be the case and will be greatly influenced by the standards applied and the way in which the system is managed.²

3.4 Being open to interpretation allows producers to use these terms 'as they see fit'.³

1 RSPCA, *Committee Hansard*, 17 March 2006, Canberra, p. 2

2 RSPCA, *Submission 26*, p. 1

3 RSPCA, *Committee Hansard*, 17 March 2006, Canberra, p. 3

3.5 Animals Australia argued that instances of the misleading use of descriptors such as 'free range' and 'organic' to extract a price premium means that consumers are willing to pay more for products derived from improved animal welfare practices.⁴ They were concerned that misuse of welfare-related descriptors threatens the viability of genuinely ethical producers:

The absence of nationally applicable and legally enforceable terms which define the animal welfare status of meat products impairs the ability of consumers to make these informed choices. Of course, it also leaves the genuine cruelty-free producers, the free-range producers and others open to unfair competition by people who claim that their product is welfare friendly or imply that or mislead people to believe that.⁵

3.6 The committee was told that it is important for genuine ethical producers to receive a fair return on their welfare practices, necessitating a more rigorous approach to regulating these types of descriptors:

It is only fair that producers which seek to improve animal welfare by moving away from intensive animal farming methods should be able to get a fair return for any increased costs involved in that move. Animal welfare labelling is a necessary first step. Clear labelling to indicate the housing system and husbandry methods used is required to enable consumers to make an informed choice on their product purchases and to ensure that producers of animal welfare friendly products get any price premium benefit associated with the change.

For this to work, it is necessary that the improvements in animal welfare be based on properly assessed and monitored standards (and this must be done by an independent body).⁶

3.7 Free Range Pork Farmers Association told the committee that their members' viability is threatened by the unscrupulous practices of those who mislabel their products free range:

Commonly, the free range producer is a small family affair earning a living from the land. They fill a niche market, one that is now sadly open to exploitation by some within the pork industry ready to take advantage of the lack of truth in labelling laws and no recognised definition for free range.

These family farms are now finding that they are in competition with under priced, deceptively labelled pork that has the potential to put them out of business. These currently viable free range operations are at the mercy of unscrupulous operators marketing their pork as free range when, by accepted understanding of the term, they are not.⁷

4 Animals Australia, *Submission 22*, p. 2

5 Animals Australia, *Committee Hansard*, 17 March 2006, Canberra, p. 37

6 Animals Australia, *Submission 22*, p. 2

7 Free Range Pork Farmers Association, *Submission 9A*, pp. 3-4

3.8 The food labelling requirements of the Australia New Zealand Food Standards Code do not require meat producers to specify production methods, unlike the requirement to include facts such as ingredients and nutritional information on labels.

3.9 The certification of 'organic' foods occurs via a voluntary and somewhat disparate process subject to government oversight only in the case of exports. DAFF explained the current arrangements to the committee as follows:

Currently, domestically, organic labelling is a voluntary system. It is driven by accreditation agencies within the country that essentially accredit products to be labelled as organic. There are a number of private accreditation agencies that are not subject to government regulation at all, except of course the overarching requirements of the Trade Practices Act to ensure that a product is not misleading or deceptive to consumers. Domestically, that is the current situation within Australia. However, in the context of exports, there is a standard against which AQIS certifies a product to be organic before it is exported, and that satisfies the requirements of our international markets.⁸

3.10 When queried as to why the same standards do not apply to domestic product labelling, DAFF stated: 'At this point in time we are looking at a voluntary national standard that is under development by the organic industry'.⁹

3.11 Restrictions on the use of the phrase 'free range' are currently limited to egg carton labelling. Only eggs laid by chickens with shed shelter and access to an outdoor range may be labelled free range, as defined in the Model Code of Practice for the Welfare of Animals covering domestic poultry.¹⁰

3.12 The committee received evidence that a more comprehensive approach is required to regulating the use of terms such as 'free range' that relate to animal treatment. Lawyers for Animals claimed that enforcing laws prohibiting misleading and deceptive conduct in relation to the sale of meat is too difficult without laws defining the use of these terms.¹¹ They suggested the mandatory labelling of meat products with a simple phrase best describing their means of production, broadly reflecting the current approach to eggs. These proposed descriptors cover a range of farmed animals and include 'free range', 'feedlot confined', 'intensively confined' and

8 DAFF, *Committee Hansard*, 17 March 2006, Canberra, p. 49

9 DAFF, *Committee Hansard*, 17 March 2006, Canberra, p. 50; see also DAFF, *Committee Hansard*, Budget Estimates, 26 May 2009, pp. 69-70

10 Primary Industries Standing Committee, *Model Code of Practice for the Welfare of Animals: Domestic Poultry 4th Edition*, CSIRO Publishing, p. 2, accessed on 26 May 2009 at <http://www.publish.csiro.au/books/download.cfm?ID=3451>; RSPCA, *Submission 26*, p. 1

11 Lawyers for Animals, *Submission 55A*, p. 3

'cage confined'.¹² Lawyers for Animals submitted that 'free range' claims should also be subject to accreditation by an independent oversight body.¹³

3.13 Animals Australia called for a comprehensive but unspecified labelling system on animal treatment:

...establishment of a uniform nationwide labelling system identifying methods of production for all meat products—not just free range but all meat products—so that people have an idea of the husbandry, handling and housing of the animals that was involved.¹⁴

3.14 They made the following recommendations:

Animals Australia submits that the Committee should consider recommending:

1. the establishment of a uniform nation-wide system of “cruelty-free” or “animal welfare friendly” labelling for meat products;
2. the labelling system be based on quantifiable standards;
3. the labelling system be established and administered by a body which is independent of industry;
4. the labelling body be established and empowered by statute, and
5. meat producers seeking to use the labelling system would be able to apply for accreditation and be audited regularly by an independent body.¹⁵

3.15 RSPCA recommended nationally consistent definitions covering animal welfare:

What is required are definitions that plainly and unambiguously describe the housing system provided and the range of conditions under which the animals have lived. Definitions should provide clear directions to producers and give consumers the confidence that certain minimum standards have been met.¹⁶

3.16 However, they did not provide the committee with suggested definitions of the terms it expressed concern about:

...rather than coming up with a final solution, we consider it important that these definitions include information about the facilities that are part of the production process, the production process itself and whether that should include aspects such as humane slaughtering of the animals, and also

12 Lawyers for Animals, *Submission 55A*, p. 9

13 Lawyers for Animals, *Submission 55A*, p. 9

14 Animals Australia, *Committee Hansard*, 17 March 2006, Canberra, p. 37

15 Animals Australia, *Submission 22*, p. 3

16 RSPCA, *Submission 26A*, p. 2

aspects that relate to the condition of the animals themselves, including aspects relating to the welfare of those animals, for example, stress levels.¹⁷

3.17 RSPCA argued that well defined standards applying to welfare-related descriptors would provide the basis for a food labelling scheme conveying accurate information about a producer's animal welfare standards. The system would need to be underpinned by audits from birth to slaughter. RSPCA did not express preference for a voluntary or mandatory scheme, though did note that 'consumers will conclude that unlabelled products are from conventional production systems'.¹⁸

3.18 Humane Society International also called for limits to be placed on the welfare related labelling terms that may be used and under what circumstances, to be applied consistently across the country and underpinned by legislation. They did not explicitly spell out the terms they would like, but suggested:

Definitions of terms must include criteria on the source of the product, the type of housing provided and the specific standards of husbandry, transport and slaughter.¹⁹

3.19 Lawyers for Animals insisted that their proposed scheme be mandatory, stating that the objective of informing consumer choices would be undermined:

When a product label is silent as to its means of production, we submit that Australian consumers are likely to expect that optimal production methods have been used.²⁰

3.20 Australian Pork Limited (APL) informed the committee that they had developed a descriptor for 'free range pork'. They stated:

Free Range Pork is pork derived from animals raised in Australia with adherence to humane animal practices as prescribed by the Model Code of Practice for the Welfare of Animals (Pigs). Throughout their lives the pigs are provided continuous free access to the outdoors and shelter from the elements furnished with bedding. This term may only be used when both the growing pigs and the sows from which they have been bred have been kept under these conditions.²¹

3.21 However, they suggested that a prescriptive approach to labelling is not required, given the role of the ACCC in enforcing the TPA and the availability of the RSPCA's accreditation standards for labelling.²² APL told the committee:

17 RSPCA, *Committee Hansard*, 17 March 2006, Canberra, p. 3

18 RSPCA, *Submission 26A*, p. 2

19 Humane Society International, *Submission 73*, pp. 11-12

20 Lawyers for Animals, *Submission 55A*, p. 10

21 APL, *Submission 42A*, pp. 3-4

22 APL, *Submission 42A*, p. 4

...the further development of production descriptors into standards (with associated verification systems) is essentially a matter for the markets. To date APL has not developed specific standards for any form of pig production system and will continue to be non-discriminatory in this matter ... there is no obstacle to producer groups or associations from developing these standards or systems themselves as a step to marketing their product based on its animal welfare criteria.²³

3.22 Free Range Pork Farmers Association criticised this approach, characterising it as preferring to 'leave it up to the consumer to do their homework'.²⁴ They called for the committee to 'make recommendations on the development of nationally recognised standard definitions of animal welfare-oriented meat production methods'.²⁵

3.23 With regard to labelling organic products, Organic Food Chain P/L, one of Australia's certifying bodies, suggested that the ACCC and are reluctant to prosecute for misuse of the organic label. They said:

...products sold domestically can use the term "organic" without any verification, nor justification, and with no fear of prosecution.²⁶

3.24 As well as arguing that consumers should not be misled about their food purchases, they also highlighted potential health concerns that may eventuate:

Consumers actively seek out organic produce for very real health reasons – people with allergies and those on doctor's instructions. Fraudulent organic labelling places these people at risk of medical complications.²⁷

3.25 Australian Branded Beef Association (ABBA) called for a more consistent system of organic certification:

...we strongly support the requirement for a national organic symbol to be applied only to products certified by AQIS approved certification agencies. A successful example of this is the USDA Organic Seal. Australia lags behind most of our high value export markets in this regard.²⁸

3.26 Lawyers for Animals also suggested that 'organic' claims be subject to accreditation by an independent oversight body.²⁹

23 APL, *Submission 42A*, p. 5

24 Free Range Pork Farmers Association, *Submission 9A*, p. 2

25 Free Range Pork Farmers Association, *Submission 9A*, p. 4

26 Organic Food Chain P/L, *Submission 72*, p. 1

27 Organic Food Chain P/L, *Submission 72*, p. 2

28 ABBA, *Submission 40*, p. 2

29 Lawyers for Animals, *Submission 55A*, p. 9

Committee comment

3.27 The committee agrees that it is currently too easy for food producers to make dubious claims about their animal welfare practices on the labels seen at retail level. This is because it is too difficult for the ACCC to prosecute misleading and deceptive conduct in this area when the meaning of these descriptors are broadly understood but not clearly defined. Any misuse of animal welfare descriptors such as 'free range' threatens the competitiveness of genuine producers bearing the increased costs associated with meeting high animal welfare standards.

3.28 Animal welfare-related labelling should be subject to tighter controls to protect both consumers and genuine producers. The committee notes that the Australia and New Zealand Food Regulation Ministerial Council is due to start a comprehensive review of food labelling law and policy in 2009. Defined standards for welfare-related descriptors will be included in this review if animal welfare groups bring the issue to the Council's attention.

3.29 The committee is also of the view that the certification processes applying to 'organic' labelled products for export should also apply to those sold domestically. DAFF informed the committee that the organic industry is developing a voluntary national standard to apply to all the private accreditation agencies that accredit products to be sold domestically as 'organic'. If this endeavour does not succeed in ensuring a consistent approach to organic certification, the government should negotiate with the states and territories to have a national standard, resembling the AQIS standard for exports, apply to all organic certified products for domestic consumption.

Place of origination claims

3.30 The committee also heard concerns about producers and retailers making potentially misleading claims about the place of origination of meat products. During the inquiry producers claimed that existing legislative deficiencies legitimised tenuous marketing claims and misled consumers about the true origin of products.

King Island

3.31 The King Island Brand Management Group (KIBMG) suggested that companies were misusing the King Island brand name to the detriment of legitimate King Island producers. The basis of their complaint is that cattle from King Island are being processed off the island and labelled as King Island beef. Consequently, beef that has failed to meet their brand's specification and sold elsewhere as a commodity product is appearing at retail level as King Island beef and diminishing their reputation.³⁰

30 KIBMG, *Committee Hansard*, 26 March 2009, Melbourne, pp. 10-11

3.32 They also highlighted misuse of the King Island brand to sell rabbits and chickens, neither of which are produced on a commercial scale on the island.³¹

3.33 KIBMG claimed that the quality of beef processed off the island is also affected by transportation:

We believe that the King Island beef brand product must be processed on King Island as live shipment off King Island compromises the brand in terms of quality and being the genuine article. ... Live shipments have the potential for stress, bruising—which compromises the meat quality, as with dark cutting—and toughness of meat.³²

3.34 They suggested that consumers purchasing King Island beef would assume it was grown, fed and processed on the island, adding that '...the brand integrity is damaged enormously when that beef is processed somewhere else'.³³

3.35 KIBMG emphasised the need for protecting the brand for the sake of local farmers:

A brand is more than just a trade name. A brand is a promise and is a reflection of the reputation of a product. If that brand is not protected and guarded jealously, then the value of that brand diminishes. The other very important thing is that a brand has to be of value to the people who grow the product. When that brand is diminished the value to those farmers diminishes accordingly.³⁴

3.36 The committee was informed that the viability of operating on an island with high energy and labour costs was threatened when the brand premium is undermined:

The perception in the marketplace of the King Island brand name is a major reason for our major employers ... to operate processing plants on the island. Companies that have invested significantly to maintain operations on the island need to command a premium price to offset the high operating costs to maintain viability. However, by the continual misrepresentation of the King Island brand, legitimate King Island brands are being undermined and will eventually be seen as commodity goods due to the flooding of the market by fakes.

In regards to beef, it is already an industry joke that King Island must be larger than mainland Australia due to the amount of King Island Beef in the marketplace!³⁵

31 KIBMG, *Committee Hansard*, 26 March 2009, Melbourne, p. 10

32 KIBMG, *Committee Hansard*, 26 March 2009, Melbourne, p. 10

33 KIBMG, *Committee Hansard*, 26 March 2009, Melbourne, p. 11

34 KIBMG, *Committee Hansard*, 26 March 2009, Melbourne, p. 10

35 KIBMG, *Submission 67*, p. 2; see also KIBMG, *Committee Hansard*, 26 March 2009, Melbourne, p. 12 and 15

3.37 The committee notes that in March 2009 the island's main processor, Swift Australia, announced the closure of its King Island abattoir while it reviewed the viability of its operations on the island. Shortly after, the plant re-opened after the Tasmanian agreed to offer financial support to the company during the business review. The future of the plant is still uncertain.³⁶

3.38 A major problem for King Island's beef producers is that the Trade Practices Act does not clearly prohibit the sale of beef grown on the island and processed elsewhere as being sold as King Island Beef. Section 53(eb) prohibits corporations from making false and misleading representations concerning the place origin of goods. Section 65AB provides the test for country of origin representations and allows a representation as to the country of origin where:

- b) the goods have been substantially transformed in that country; and
- c) 50% or more of the cost of producing or manufacturing the goods (as the case may be) is attributable to production or manufacturing processes that occurred in that country...

3.39 The provision does not explicitly apply to regional claims.

3.40 Blatant misuse of the King Island brand to sell products that had very little or tenuous association with the island fall within the scope of section 52 of the TPA prohibiting misleading and deceptive conduct.

3.41 Appearing before the committee, KIBMG said that during discussions with the ACCC the regulator had indicated that as long as the beef is grown on the island it can be labelled King Island beef.³⁷ To overcome this situation KIBMG recommended that legislation be passed that mirrors the 'geographical indication' (GI) provisions in the *Australian Wine and Brandy Corporation Act 1980*. This act defines GI as follows:

geographical indication, in relation to wine, means:

- (a) a word or expression used in the description and presentation of the wine to indicate the country, region or locality in which the wine originated; or
- (b) a word or expression used in the description and presentation of the wine to suggest that a particular quality, reputation or characteristic of the wine is attributable to the wine having originated in the country, region or locality indicated by the word or expression.³⁸

36 'Future of King Island abattoir remains uncertain', *ABC News website*, 20 May 2009, accessed on 4 June at <http://www.abc.net.au/news/stories/2009/05/20/2576434.htm>

37 KIBMG, *Committee Hansard*, 26 March 2009, Melbourne, p. 11

38 Section 4, *Australian Wine and Brandy Corporation Act 1980*

3.42 The Geographical Indications Committee, a statutory committee of the Australian Wine and Brandy Corporation, makes determinations about GIs.³⁹

3.43 KIBMG also called on the ACCC, along with industry bodies such as AUS-MEAT and MLA, to take greater efforts to police the way red meat is marketed to consumers.⁴⁰

Australian Pork

3.44 Australian Pork Limited (APL) raised the issue of imported pork products being labelled as Australian, either through deception or confusing labelling laws. Their first concern is the possibility of imported pork being substituted for domestic pork due to poor systems for preventing such activities. They suggested that 'more robust structures and systems' are required to ensure labelling laws are complied with:

A significant weakness and failure of the current system lies in the fact that authority to ensure and enforce compliance is vested with the state food authorities which are usually too poorly resourced to carry out effective routine inspections and audits.

Another key weakness in effecting compliance with labelling laws lies in the limited resources and authority of AQIS. There are significant gaps in the ability of AQIS to enforce import protocols. APL is seriously concerned with the weaknesses and flaws in the current audit and compliance system which is used to provide confidence that the quarantine conditions required for imported pigmeat are being effectively complied with. We believe that it is open to misuse and deception, either intentionally or indirectly. Significant areas of concern relate to the post border use of quarantine material (i.e. imported pigmeat) following receipt of this material at the registered warehouse and within the manufacturing plant itself, in particular the possible substitution of imported pork for domestic pork post border within the manufacturing system.

In the absence of mass balance reconciliation of imports and their intended use, as well as a robust audit process, there is the potential for substitution of imported pork with domestic post border within the manufacturing process.⁴¹

3.45 APL suggested that AQIS carry out reconciliations of the volumes imported and domestic pork entering and leaving pork manufacturing establishments.⁴²

3.46 The second issue of concern relates to current legislative provisions on country of origin labelling in the TPA. In particular, APL highlighted confusion and anomalies arising out of the current definitions of 'Made in Australia' and 'Product of

39 Section 40P, *Australian Wine and Brandy Corporation Act 1980*

40 KIBMG, *Submission 67*, p. 4

41 APL, *Submission 42*, pp. 9-10

42 APL, *Submission 42*, p. 10

Australia' applying to processed pork products. Under the TPA a product must meet the following criteria for it to be labelled 'Product of Australia':

- Each significant ingredient or component of the goods must be from the claimed country of origin; and
- All, or virtually all, processes involved in the production or manufacture happened in that country.⁴³

3.47 However, APL pointed out that 'smallgoods processed in Australia from 100 per cent Australian pork are currently unable to use this label as brine, an essential ingredient in curing pork, is not produced locally and must be imported'.⁴⁴ According to APL this restriction is predominantly a theoretical one:

Despite the use of imported brine in all hams and bacons, "Product of Australia" claims are used in packaged and bulk pork products which use 100 per cent Australian sourced pig meat, and the industry/APL feels no motivation to correct this, as it is at least one mechanism for enabling consumers to choose Australian product if they so desire.⁴⁵

3.48 The definition of 'Made in Australia' provides for a lower threshold for producers to use this label. The following criteria must be met:

- The goods must have been substantially transformed in the claimed country of origin; and
- 50 per cent or more of the cost of production must be attributable to processes that occurred in that country.

3.49 The TPA stipulates that:

...goods are substantially transformed in a country if they undergo a fundamental change in that country in form, appearance or nature such that the goods existing after the change are new and different goods from those existing before the change.⁴⁶

3.50 APL strongly criticised the operation of these categories when applied to imported food products, including processed pork. They argued that the 'Made in Australia' label is misleading for consumers because it does not necessarily relate to the source of the meat in the final processed product:

If a ham or bacon product has had more than 50 per cent of its value added in Australia, and has been substantially transformed in Australia, it may qualify to claim to be 'Made in Australia'. Ham or bacon made in Australia from imported fresh pork may have been substantially transformed and

43 Section 65AC, *Trade Practices Act 1974*

44 APL, *Submission 42*, p. 11

45 APL, *Submission 42*, p. 12

46 Section 65AE, *Trade Practices Act 1974*

more than 50 per cent of the value of manufacturing process may have been added in Australia.⁴⁷

3.51 They told the committee that, when applied to food, consumers do not understand the meaning the labels are actually conveying. Recognising that the current labelling system may be appropriate for other non-food products, APL suggested that a separate set of arrangements be established for food.⁴⁸

3.52 DAFF informed the committee that in November 2008 COAG agreed that 'a comprehensive review of labelling should be undertaken'. They added that:

The Australia and New Zealand Food Regulation Ministerial Council will be undertaking that review. That independent review will be conducted over the next year or so.⁴⁹

Committee comment

3.53 The committee understands the difficulties faced by King Island beef producers competing against beef raised on the island, processed offshore and labelled under the same name. However, adopting the geographical indication system applying to the wine industry would not be appropriate for the beef industry. Geography is significant in the wine industry because of the unique drinking characteristics special growing regions furnish their wines. Growers and winemakers in these regions are entitled to be protected from having the integrity of their product undermined by producers elsewhere claiming the same style without geographical basis. Beef products cannot be said to have characteristics so inherently attributable to the region in which the animals are raised. Regional claims in the beef industry are a marketing ploy. King Island beef processed on the island may be a very good product, but this will be due to quality breeding, cattle raising and supply chain practices, rather than the fact that the entire process occurs on King Island as opposed to anywhere else.

3.54 The ACCC should pursue clear misuse of the King Island name in accordance with section 52 of the TPA prohibiting misleading and deceptive conduct. Indeed, the committee suggests that the ACCC take a particular interest in the misuse of the King Island name to relieve the island's producers from the burden of identifying and reporting such cases. However, the committee is unable to recommend legislative change prohibiting beef raised on the island from being identified as King Island beef. King Island producers will ultimately need to solve this particular marketing problem with a marketing solution.

47 APL, *Submission 42*, p. 12; APL noted in evidence that unpackaged processed goods must stipulate country of origin using 'product of' labelling, with the stricter threshold that applies to that label.

48 APL, *Committee Hansard*, 17 March 2009, Canberra, pp. 23-24

49 DAFF, *Committee Hansard*, 17 March 2009, Canberra, p. 42

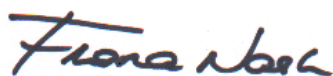
3.55 On the matter of country of origin, the committee agrees with APL that the current TPA definitions regulating the use of 'Product of Australia' and 'Made in Australia' are not suitable for food products. The 'Made in Australia' label may provide useful information on manufactured goods but is not suitable for processed food. Consumers would be surprised that processed meat products using imported meats could be sold under the same label as those using Australian meat.

3.56 The committee notes DAFF's evidence that food labelling laws are currently the subject of a review by the Australia and New Zealand Food Regulation Ministerial Council. The committee is of the view that one outcome of this review should be for the government to create separate country of origin regulations for food products that recognise the importance of the origin of ingredients in processed food as well as the place where production processes occurred.

Recommendation 2

3.57 Subject to the current Australia and New Zealand Food Regulation Ministerial Council review into food labelling, the government create separate country of origin labelling regulations for food products that recognise the importance of the origin of ingredients in processed food as well as the place where production processes occurred.

3.58 Without evidence of imported pork being substituted for domestic pork during the manufacturing process, the committee is unable to recommend reconciliations of the volumes of imported and domestic pork entering and leaving pork manufacturing plants.



Senator Fiona Nash

Committee Chair

Appendix 1

List of Submissions

1. Junee Abattoir NSW
2. Ms Barbara Jacobsen NSW
3. Ms Verna Simpson Humane Society International NSW
4. Ms Roberta Dixon
5. Southern Meats Pty Ltd NSW
6. Voiceless NSW
7. Ms Lisa Burns NSW
8. Confidential
9. Free Range Pork Farmers Association Inc. NSW
10. Gioia Ross
11. Ms Amanda Enright VIC
12. Ms Christine Palmer
13. Ms Lucy Morgan
14. Ms Mary Binks
15. Ms Joan Hall
16. Ms Wanda Grabowski
17. Ms Elizabeth Vinters VIC
18. Ms Dianne McCance
19. Fiona & Tim Brady
20. Hunter Animal Watch Inc. NSW
21. Hunter Koala Preservation Society
22. Animals Australia VIC
23. Mrs Audrey Lehey VIC
24. Brian and Gisela Heibner
25. Mr Harry Johnson QLD
26. RSPCA Australia ACT
27. Aus-Meat Limited QLD
28. Mrs Jennifer Whittington NSW

29. Ms Ann Deller TAS
30. Hereford Prime NSW
31. Ms Elizabeth Gleeson
32. Ms Janet Hole
33. M.C. Herd Pty Ltd
34. Australian Beef Association QLD
35. Miriam and Ray Holliday SA
36. Ms Toula Nikolaou VIC
37. Mrs J Wilkinson QLD
38. Ms Tania Shik-Salih NSW
39. Ms Karyne Gough NSW
40. Australian Branded Beef Association VIC
41. Moo-ers Steakhouse NSW
42. Australian Pork Limited ACT
43. Ms Carolyn Cooper
44. Dardanup Butchering Company WA
45. Mr Hermann Gfeller NSW
46. Dr Margaret Lorang NSW
47. Professor Emeritus Peter Bayliss NSW
48. Ms Carol Harrigan SA
49. Eversons Food Processors NSW
- 49a. Eversons Food Processors NSW
50. Australian Meat Industry Council NSW
51. Fletcher International Exports Pty Ltd NSW
52. Ms Naomi Oliver NT
53. Normanville Meatworks Pty Ltd
54. Cowra Meat Processors Pty Ltd & Breakout River Pty Ltd
55. Lawyers for Animals
56. Hunt Partners Solicitors on behalf of Bindaree Beef Pty Ltd
57. Western Australian Meat Industry Authority
58. Department of Primary Industries Victoria
59. Ms Helen Kemp NSW
60. Ms Janet Burke

61. Mr Bernie O'Sullivan Sheepmeat Council of Australia ACT
62. Meat & Livestock Australia NSW
63. Highlands Heritage Pork NSW
64. Department of Agriculture, Fisheries and Forestry
65. NSW Food Authority NSW
66. Confidential
67. King Island Brand Management Group
68. Ms Carolyn Cooper
69. RSPCA Australia
70. Polkinghorne
71. The Organic Food Chain Pty Ltd
72. Australian Food and Grocery Council
73. Humane Society International

Appendix 2

Witnesses who appeared before the Committee at the public hearings

Tuesday, 10 June 2008
Parliament House
CANBERRA

Sheepmeat Council of Australia

Mr Christopher Groves, President
Mr Bernie O'Sullivan, Executive Director

Australian Meat Industry Council

Mr Christian Mulders, Manager, Livestock and Product Integrity
Mr Jack Barclay, Councillor, Export Sheep, Lamb and Goat Council

Meat and Livestock Australia Limited

Mr Scott Hansen, General Manager, Corporate Communications
Mr David Thomason, General Manger, Marketing

Department of Agriculture, Fisheries and Forestry

Mr Simon Murnane, General Manager, Meat, Wool and Dairy Branch
Mr Richard Souness, General Manager, Food Policy and Safety Branch
Mr Philip Smurthwaite, Manager, Meat and Livestock Policy

Australian Quarantine and Inspection Service

Mr Greg Read, Executive Manager, Exports
Mr Colin Hunter, National Manager, Food Exports
Dr Mark Schipp, General Manager, Animal Products

Southern Meats Limited

Mr Neville Newton, Managing Director

Fletcher International Exports

Mr Roger Fletcher, Managing Director

Cowra Meat Processors, Breakout River

Mr Chris Cummins, Managing Director

Aus-Meat Limited

Dr Denis Brett, General Manager, AUS-MEAT Standards and Technical Operations

M.C. Herd Pty Ltd

Mr Francis Herd (Frank), Managing Director

NSW Food Authority

Mr Peter Day, Manager, Audit and Compliance

Wednesday, 9 July 2008

Parliament House

CANBERRA

Australian Competition and Consumer Commission

Mr Nigel Ridgway, General Manager, Compliance Strategies Branch

Western Australian Meat Industry Authority

Ms Renata Paliskis-Bessell, Chief Executive Officer and Managing Director

Mr David Saunders, Projects and Operations Manager

Mr John Donaldson, Compliance Officer

Safe Food Production Queensland

Mr Geoff Gorrie, Chair

Tuesday, 17 March 2009

Parliament House

Canberra

RSPCA

Ms Heather Neil, CEO

Ms Melina Tensen, Scientific Officer Farm Animals

Australian Pork Ltd

Ms Kathleen Plowman, General Manager Policy

Australian Food and Grocery Council

Dr Geoffrey Annison, Deputy CEO

Mr Kim Leighton, Director, Food Policy and Regulation

Department of Agriculture, Fisheries and Forestry

Mr Simon Murnane, General Manager, Livestock Industries

Mr Greg Williamson, General Manager, Food Branch

Mr Kieran Macdonell, Manager, Meat and Livestock Policy

Ms Usha Sriram-Prasad, Manager, Food Regulation and Safety

Mr Ryan Wilson, Policy Officer, Food Policy

Australian Beef Association

Mr John Carter

Thursday, 26 March 2009
Cliftons Conference Centre
Melbourne

Polkinghorne

Mr Rod Polkinghorne

King Island Brand Management Group

Ms Jenny Thorn, Economic Development Officer King Island Council

Ms Lydia Horsburgh, Chairperson King Island Brand Group

Mr Roger Clemons, Member King Island Brand Group

Australian Branded Beef Association

Mr Michael Pointer, President

Hereford Prime

Mr Dan Morice, Director

Certified Australian Angus Beef

Mr Phil Morley, CEO

Animals Australia

Ms Glenys Oogjes, Executive Director

Appendix 3

Questions on Notice

Australian Branded Beef Association

Michael Pointer, President

1 April 2009

We refer to the Committee's hearings in Melbourne on 26th March, and would like to respond to various matters raised by the Committee that were unable to be addressed because of time constraints.

However before addressing those issues we would like to acknowledge that the Committee has extended its Inquiry into Meat Marketing beyond the original focus on Lamb and Hogget to cover issues that are pertinent to the Beef Industry, and we thank the Committee for dealing with these matters.

We also thank the Committee for the detailed discussions on the three main points in our original submission:-

- Misrepresentation
- Use of Breed Names in describing beef products
- Certification Statements/

The additional items raised with us by the Committee were:-

1. Regional Claims
2. Budget Beef Descriptor
3. Labelling
4. Use of Regulations.

We would like to respond to each of these items as follows.

1. Regional Claims.

We assert that regional claims should refer to the origin of the cattle whose product is being ascribed a regional name.

However we have considerable sympathy with the King Island position that the regional name should apply to both the origin of the cattle and place of production of the product. However King Island is unique in that it is an island and has an abattoir on the island. Consequently in the case of King Island we would support their position.

Unfortunately on the mainland there is not always a processing plant in a region that produces cattle for a branded beef product that ascribes the region to its brand.

An example is OBE Beef's "Channel Country" beef. The cattle are bred and raised in the Channel Country of Queensland; however there is no abattoir in the Channel Country to process the product.

Therefore we would assert that for a branded beef product to make a Regional Claim the cattle being used to produce that product should be bred and raised in the region. It is not difficult to verify regional claims because every animal is now identified with a National Livestock Identification System (NLIS) electronic tag that identifies the origin of the cattle, and therefore the region of origin is readily determined.

It would not be difficult for King Island to be treated as an exception.

2. Budget Beef Descriptor

Various contributors commented on the use of the term "Budget Beef" to describe either old cow beef or beef derived from bulls.

In our original submission we asserted that there is nothing intrinsically wrong with either cow or bull beef; however it is not the same as prime eating quality beef, and consumers are entitled to know exactly what they are buying.

Therefore we think that these products should be described as "Old Cow Beef" or "Bull Beef" as the case may be and not have product hiding behind euphemisms.

3. Labelling

In our original submission we stated:-

Quote

Australia is a producer of healthy, safe, disease free meat and consumers are entitled to be unequivocally fully informed about the content of meat and meat products they are buying.

There should not be any room to avoid the facts by using terms such as "Made from Australian and Imported etc etc.....".

If products are made from a mixture of Australian and imported raw materials the consumer is entitled to know the facts and it should be mandatory for labelling to state the relevant percentages of domestic and imported raw material and country or countries of origin of imported raw material.

Unquote

We continue to strongly support that position.

Furthermore labelling claims such as "Tender" should not be allowed unless there is

scientific evidence to back up the claim. The MSA grading technology specifically identifies beef for tenderness, and therefore only beef that has passed the MSA grading process should be allowed to be labelled with the word “Tender”.

Non MSA graded beef may be tender, and certainly some will not be tender; however there is no technical or scientific basis on which to support a claim for tenderness.

4. Use of Regulations.

Having stated that the implementation of the Raising Claims in our submission was possible by regulation, Senator O’Brien asked us if this was available in writing.

We understand that it is included in regulations for Approved Arrangement Guidelines in respect of raising claims and that AQIS is responsible for these trade arrangements.

General

In addition to the forgoing issues, a National Beef Grading System was raised by Mr. Norman Hunt representing Bindaree Beef.

We assert that in Australia we have the world’s leading grading system in Meat Standards Australia (MSA); however nothing is perfect and MSA only describes the product that meets its requirements. We believe that we need a system that accounts for and describes the entire product.

It is also important to reinforce the fact that MSA is NOT a Brand. It is the grading system that ascribes a tenderness/ eating quality grade that underpins brands like Certified Australian Angus Beef, Hereford Prime, Coorong Angus Beef, Riverine Prime Beef etc.

Therefore we would support the Bindaree position on a National Grading System provided that it incorporated the current MSA system/ technology for the product that meets the MSA specifications and then ascribed grades/ descriptions to the product that does not meet MSA requirements.

The cost of grading was raised during discussion. Grading is, or 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.

*Department of Agriculture, Fisheries and Forestry
Division/Agency: Food and Product Safety and Integrity
Public hearing Hansard 17 March 2009 (p.43)*

Senator Nash asked:

Senator NASH - Have the people been appointed yet? Will it be an independent panel, or who will do that?

Ms Sriram-Prasad - No, not as yet.

Senator NASH - Do you know when they will be appointed?

Ms Sriram-Prasad - The Food Regulation Ministerial Council will be considering the terms of reference for the review at its meeting in May.

Senator NASH - At that stage would you mind coming back to the committee and providing us with a timeline, if there is one, and would you inform us whether a decision has been made about who will be appointed to the independent panel? It might be quite useful for the committee to have that information at that point in time.

Ms Sriram-Prasad - Yes.

Answer:

At 22 April 2009, no appointments have been made to the independent panel for the Review of Food Labelling Law and Policy. The Australia New Zealand Food Regulation Ministerial Council (ANZFRMC) will be considering the terms of reference for the review at its May 2009 meeting. ANZFRMC is required to provide a progress report to the Council of Australian Governments (COAG) by July 2009. The final report on the review findings is due to COAG by July 2010.

Department of Agriculture, Fisheries and Forestry
Division/Agency: Livestock Industries
Public hearing Hansard 17 March 2009 (p.46)

Senator Sterle (Chair) asked:

CHAIR—I have a couple of questions. I refer to page 5 of your submission on which you talk about AUS-MEAT developed language and you refer to how Meat Standards Australia provides a non-mandatory grading system. The committee will be visiting a butcher in Melbourne who applies the Meat Standards Australia system. I would like to pursue this issue a bit further. Your submission talks about calls from the mandatory beef quality grading system, in particular, for low-value cuts to be instituted in Australia. You also state that the beef industry was consulted on the issue in 2003. I take it that you have consulted with the beef industry. Is that right?

Mr Murnane—This was before my time. My understanding is that the beef industry led consultations within the industry about what might be appropriate standards, descriptors and those sorts of things.

CHAIR—I would appreciate your assistance. If it was before your time—

Mr Murnane—I am happy to take the question on notice.

CHAIR—Take that question on notice. I would rather be able to talk about it now if we could, but I understand that. You state in your submission that the industry concluded that a legislative approach was not necessary as private company labelling initiatives would provide the necessary market incentive to maintain truth in labelling. Would you be able to inform this committee whether the industry is still the same now?

Mr Murnane—It might be easier for me to get back to you with details of that consultation process, who led it, and who was consulted.

Answer:

The previous consultation process for a mandatory beef quality grading system was led by the Red Meat Advisory Council (RMAC). Industry groups consulted in the process include supermarkets, butchers, processors, producers, consumer organisations and peak industry bodies.

The consultation was instigated following concerns from sections of the beef industry that retailers were not adhering to appropriate truth in labelling laws, particularly lower quality beef from older animals.

The Hon. Warren Truss MP, then Minister for Agriculture, Fisheries and Forestry, wrote to RMAC in May 2001 seeking its advice on truth in labelling for beef and associated product descriptions.

In May 2003, RMAC responded by convening a beef industry roundtable forum in Sydney to consider the issue. The forum identified the major issues as being at the pre-retail and retail sections of the beef supply chain. The roundtable resulted in the formation of three taskforces in June 2003 investigating beef language, legislation and research and development.

From July 2003 to February 2004, members of the legislation taskforce met with all state ministers and Food Standards Australia and New Zealand.

In November 2003, RMAC advised Minister Truss of the three taskforces and their progress. In its letter, RMAC suggested that any scheme related to meat labelling should cover all areas of the meat supply chain with an element of compulsion.

In March 2004, RMAC forwarded the findings of the taskforces to the peak industry bodies for their consideration. The findings recommended the formation of voluntary beef grading language and that state and territory governments underpin this scheme with legislation requiring adherence to the language to hold a beef handling licence.

The Australian Meat Industry Council replied to RMAC stating that it did not support the recommendation.

RMAC itself did not accept the recommendations of the taskforces, and 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.

*Department of Agriculture, Fisheries and Forestry
Division/Agency: Livestock Industries
Public hearing Hansard 17 March 2009 (p.48)*

Senator Milne asked:

Have you looked at the effectiveness of the United States meat grading system?

Answer:

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 US beef grading scheme is voluntary. After meat undergoes a compulsory food safety inspection, producers and processors may request to have the products graded for quality by a licensed federal grader. Those who request grading must pay for the service. Grades are based on nationally uniform federal standards of quality.

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.

*Department of Agriculture, Fisheries and Forestry
Division/Agency: Food
Public hearing Hansard 17 March 2009 (p.51)*

Senator Nash asked:

Mr Williamson, could you find out for the committee whether or not drenched sheep can still be classed as organic?

Answer:

The National Standard for Organic and Biodynamic Produce applies to organic exports and does not allow organic certification of sheep drenched in conventional pest and disease control substances. However, livestock treated with permitted pest and disease control materials as specified in the standard (refer attached) are permitted to be certified as organic for export purposes.

The proposed new Australian Standard for Organic and Biodynamic Produce, expected to be released by Standards Australia in mid-2009, is broadly based on the National Standard for Organic and Biodynamic Produce.

Permitted materials for livestock pest and disease control

Where wetting agents are required, caution needs to be exercised with commercial formulations as these may contain substances prohibited under this Standard. Acceptable wetting agents include some seaweed products, plant products (including oils) and natural soaps.

Livestock pest control

Substances	Specific conditions/restrictions
Ayurvedic preparations	None
Biological controls	Naturally occurring organisms and cultured organisms
Boric Acid	None
Clay	None
Diatomaceous earth	None
Essential oils, plant oils and extracts	None
Garlic oil, garlic extract or crushed garlic	None
Homeopathic preparations	None
Hydrogen Peroxide	None
Natural plant extracts obtained by infusion	Excluding tobacco
Magnesium Sulphate (Epsom salts)	None
Methylated spirits	None
Monosodium fluorosilicate	None
Potassium permanganate	None