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AND TRANSPORT

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**SENATE STANDING COMMITTEE ON
RURAL AND REGIONAL AFFAIRS AND TRANSPORT**

Tuesday, 10 June 2008

Members: Senator Sterle (*Chair*), Senator Siewert (*Deputy Chair*), Senators Heffernan, Hutchins, Hurley, McGauran, Nash and O'Brien

Participating members: Senators Abetz, Adams, Allison, Barnett, Bernardi, Birmingham, Mark Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, George Campbell, Chapman, Colbeck, Collins, Coonan, Cormann, Crossin, Eggleston, Ellison, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Hogg, Humphries, Johnston, Joyce, Kemp, Kirk, Lightfoot, Lundy, Ian Macdonald, Sandy Macdonald, Marshall, Mason, McEwen, McLucas, Milne, Minchin, Moore, Murray, Nettle, Parry, Patterson, Payne, Polley, Ronaldson, Scullion, Stephens, Troeth, Trood, Watson, Webber and Wortley

Senators in attendance: Senators Fisher, Heffernan, Hutchins, McGauran, Nash, O'Brien, Siewert, Sterle

Terms of reference for the inquiry:

To inquire into and report on:

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 and marketing of meat.

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Committee met at 8.59 am

CHAIR (Senator Sterle)—I declare open this public hearing of the Senate Standing Committee on Rural and Regional Affairs and Transport. The committee is hearing evidence on its inquiry into meat marketing. I welcome you all here today. This is a public hearing, and a *Hansard* transcript of the proceedings is being made. Before the committee starts taking evidence, I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee.

The committee prefers all evidence to be given in public, but under the Senate's resolutions witnesses have the right to request to be heard in private session. It is important that witnesses give the committee notice if they intend to ask to give evidence in camera. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may, of course, also be made at any other time. Finally, on behalf of the committee, I would like to thank all those who have made submissions and sent representatives here today for their cooperation in this inquiry.

[9.01 am]

BARCLAY, Mr James (Jack), Councillor, Export Sheep, Lamb and Goat Council, Australian Meat Industry Council

MULDERS, Mr Christian, Manager, Livestock and Product Integrity, Australian Meat Industry Council

HANSEN, Mr Scott, General Manager, Corporate Communications, Meat and Livestock Australia Ltd

THOMASON, Mr David, General Manager, Marketing, Meat and Livestock Australia Ltd

GROVES, Mr Christopher James, President, Sheepmeat Council of Australia

O'SULLIVAN, Mr Bernie, Executive Director, Sheepmeat Council of Australia

CHAIR—I now welcome representatives from the Sheepmeat Council of Australia, the Australian Meat Industry Council and Meat and Livestock Australia Ltd. Welcome, gentlemen. Do you have anything to say about the capacity in which you appear today?

Mr Barclay—I am the CEO of CRF, a lamb processor in Colac.

CHAIR—Thank you very much. I invite each of you to make a brief opening statement and then the committee will ask questions, but bear in mind that we are running to a time schedule today. We will hear from the witnesses here at the moment from 9 till 10.15 am and then have the tea break. Does anyone wish to make a brief opening statement?

Mr Groves—Yes. Thank you for the opportunity to present to your committee's inquiry into meat marketing. I am a prime lamb producer from Cowra, in the central west of New South Wales.

Senator HEFFERNAN—How much rain?

Mr Groves—Thirteen millimetres. I am accompanied today by Bernie O'Sullivan, the Sheepmeat Council's Executive Director. I would also like to acknowledge those alongside me today, Meat and Livestock Australia and the Australian Meat Industry Council. The Sheepmeat Council is the national body representing and promoting the national interests of lamb and sheepmeat producers in Australia. The Australian lamb and sheepmeat industry has been a major success story. It has grown from strength to strength and is now a professional, stand-alone industry that places great importance on the quality, safety and integrity of its lamb and sheepmeat products.

Australian lamb is in high demand domestically and overseas, being exported to 100 countries globally. The entire lamb and sheepmeat industry is valued at \$3.9 billion, up 100 per cent since 1994. The growth in the lamb industry is attributable to some of the following initiatives: we

deliver what our customers want; we use superior genetics evaluated by the industry's genetic measurement program, called Lambplan, now Sheep Genetics Australia; there is an improved production system which has been developed over the last few years, which is attributable to producers investing heavily in marketing and research and development; and we have a whole-of-industry focus with a teamwork approach, and I believe that is very evident here this morning.

The Sheepmeat Council understands that the origins of this Senate inquiry primarily relate to the branding of lamb and the opportunities for increased harmonisation of the regulatory approaches that underpin lamb branding across Australia. As such, the Sheepmeat Council's submission to this inquiry specifically focused on the current lamb definition, the existing regulatory schemes and opportunities for increased harmonisation. Ensuring that consumers' quality expectations are met and exceeded is one of the key drivers maintaining and increasing demand for Australian lamb.

There is currently a standard definition of lamb that is intended to be applied across the entire industry, both export and domestic. A lamb is an animal that has no permanent incisor teeth. Legally, lambs can only be branded with the strip roller brand, which is applied in a prescribed way to each side of the carcass. However, there is currently a range of different regulatory and compliance systems across federal and state jurisdictions that underpin to varying degrees the practice of lamb branding. For example, AQIS and Aus-Meat certify export meat processes, whilst individual states' food and meat authorities regulate domestic establishments.

The variability of these systems periodically produces significant allegations of misdescription. These allegations unfortunately impact on the integrity and reputation of Australia's premier lamb industry. There is no doubt that misdescription of hogget and mutton for lamb occurs. This must be addressed and addressed comprehensively. This misdescription risks reducing consumer confidence in lamb. It jeopardises the investment of millions of dollars of producer levy funds spent annually to promote lamb. It has the potential to place downward pressure on overall lamb prices and places the vast majority of genuine meat processors at a significant disadvantage, threatening their continued existence.

In the past the Sheepmeat Council, in conjunction with its state farm member organisations and industry colleagues, has strongly resisted pressure from state meat authorities to deregulate lamb branding. Of significant concern is the fact that the Victorian lamb-branding provisions under the state government's meat regulation sunset in 2010, after which time there will be no regulatory oversight in Victoria. The solution: there is a need for one set of rules across the country—

Senator HEFFERNAN—Hear, hear!

Mr Groves—which all regulatory bodies would follow. These rules need to be underpinned by strong penalties, should have integrity and be auditable, very effective and reliable. All of these rules will help provide industry confidence.

SCA strongly recommends the harmonisation of federal and state compliance schemes underpinning the description of the branding of lamb into an effective compliance system that could be consistently applied across Australia. This would promote a higher level of confidence

in that compliance system. Each jurisdiction would have some teeth and would equally detect and deal with cases of misdescription.

Sheepmeat Council and the Australian Meat Industry Council are currently working closely to investigate the regulatory system underpinning the lamb brand and the options for the development of an effective and national compliance scheme. This united producer and processor stance is significant. It is the first necessary step in tackling this issue. The two organisations established a lamb definition working group and terms of reference in late 2007 and supported a detailed lamb definition work plan in March 2008. Element 1 has been contracted to a consultant, and this element is investigating the extent of misdescription within the current lamb definition and the range of state and federal systems regulating the definition. The second element investigates options for an effective compliance system that can be consistently applied across the entire Australian lamb industry. The remaining elements of the work plan assess the current definition.

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

CHAIR—Does anyone else wish to make an opening statement?

Mr Mulders—Australian Meat Industry Council is the recognised peak council representing the commercial export and domestic processing industry, smallgoods manufacturers, wholesalers, distributors, boning rooms and independent retail butchers. AMIC strongly supports a national, consistent approach to regulation and compliance and the need to have national harmonisation of regulations applying to the branding and marketing of meat.

Our submission focuses on the sheepmeat sector and, in particular, the systems that support the lamb brand. As you have heard this morning, AMIC has partnered with the Sheepmeat Council since August 2007 to review the current lamb standard and investigate options for an effective compliance scheme that can be consistently applied across the lamb industry. The purpose of our review is to deliver an objective and scientifically and economically sound analysis of the relevant issues, which will enable peak councils to make informed policy recommendations and decisions, in the hope of improving the current systems supporting the Australian lamb category.

AMIC represents the collective voice of our members. It is natural within our membership—within any membership organisation—to have differing views. This helps put vigour into the debates that are had within member organisations. Later today you will hear a range of views presented by some of our members; however, I would like to stress that, at council level, AMIC members fully support the process and research we are jointly undertaking with the Sheepmeat Council of Australia and Meat and Livestock Australia.

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

CHAIR—We will take you up on that. Thank you. Mr Groves, you talk about misdescription. Does this happen in any states in particular, or is everyone guilty?

Mr Groves—We are very concerned about the way the lamb brand is regulated in Victoria. We believe there is a lot of misdescribed product coming out of Victoria.

CHAIR—Is that because the rules in Victoria are a lot laxer than those in other states, or are there other forces at work?

Mr Groves—I think it is more to do with the level of enforcement. In New South Wales, we have the New South Wales Food Authority, who does a fairly good job of making sure that the product that comes out of New South Wales plants is actually what it is branded as. We believe the relevant organisation in Victoria, PrimeSafe, does not have the resources and does not put the effort into enforcement that the body in New South Wales does.

CHAIR—They do not take it seriously or they do not think there is a problem—to the best of your knowledge or your members' knowledge?

Mr Groves—I would hope that it is that they are not taking it seriously. I would hope they would be aware of the issue.

CHAIR—Thanks.

Senator HEFFERNAN—I congratulate the people at the table for coming with a uniform view and a view to tidying up the industry. It is just a pity that it has taken a trigger in the Senate to get everyone focused. But there is no question that lamb branding has been abused. If you travel to an abattoir a third of the way up the Queensland coast you will find a place that brands mutton as lamb, too. I notice Mr Peter Day will be here later in the day. Would it be fair to say that we all agree that we need to tidy our act up, that there is lamb substitution branding going on?

Mr Groves—Yes.

Senator HEFFERNAN—Could it be that in Victoria some of the people on the board of their safe food authority are actually people in the business of lamb substitution?

Mr Groves—I am unaware of who is on the board of PrimeSafe. Would anybody else on the panel like to have a crack at that question?

Mr O'Sullivan—I think it is more about the systems that the state food authorities have in place or do not have in place. We know it varies a lot across state borders. So, if the systems are in place and you put good staff in there to deliver on those systems, I think you get good outcomes.

Senator HEFFERNAN—The national vendor declaration, though, is no different in Victoria to New South Wales.

Mr Groves—That is right. It is a national standard, yes.

Senator HEFFERNAN—I am sure Mr Day later in the day will take us through step by step what they do in New South Wales. If in Wagga there are 15,000 lambs and 4,000 hoggets and someone in Victoria buys 3,000 hoggets for the day and 2,000 lambs and they come out of the abattoir the other way around, it is not a very difficult task to trace the paperwork. Would you agree with that?

Mr Groves—I would agree with that.

Senator HEFFERNAN—So why do you think they don't?

Mr Groves—Lack of resources. They have done a couple of spot audits. Reading through the submissions that have been put before this committee, I believe there are various audits quoted. The auditors did not find any problem, but I believe a lot of it is a lack of resources.

Senator HEFFERNAN—Obviously, I do not want to have an argument with the industry. As you blokes know, I gave you plenty of notice of what I was about to do so you were organised. Nor do I want Sam Kekovich to come out here and punch my lights out, so let's put it on the record.

CHAIR—He would have to get in line, Senator Heffernan!

Senator O'BRIEN—That is only the Liberals!

Senator HEFFERNAN—We must protect the integrity of the lamb market. Obviously, lamb is a great product and this process today will be seen to improve lamb, not in some way diminish lamb. I would like to go to the argument within the industry of why we should bother with lamb. I have heard that in Victoria and there are others who will tell you off the record, 'Well, if this doesn't work, if we can't regulate the lamb industry, then we'll throw the gates open and we'll just go on some supposed "eating quality of meat" standard,' which becomes a vagary. We have submissions concerning allegations of misbranded beef et cetera which we will deal with at another time. Could you explain to the committee, just so everyone knows, the dentition procedure versus the ossification procedure and domestic versus export classification of lamb?

CHAIR—Before you do, Mr Groves, you are protected by parliamentary privilege. If there is something this committee needs to know, please feel free.

Mr Groves—Thank you. I might go back a step first, Senator Heffernan, and touch on your question about the need for lamb. A little bit of research that was done a few years ago revealed

that, in Australia, lamb is as well recognised as Kentucky Fried Chicken as a brand. It is nearly but not quite as well recognised as Coca-Cola. Around the world, lamb also has quite a good reputation, so there is definitely a need to have that product. We definitely need to underpin it. What we are about is making sure that, when the consumer buys a product, they can have complete confidence that what they are going to get is good. What we do not want is the housewife to go down to the supermarket, pick up a leg of lamb, take it home and think, 'Well, that was awful.' The next time she goes to the supermarket, she does not pick up a leg of lamb; she goes and gets a shoulder of pork or something else. It is all about making sure that the housewife gets what she wants.

Senator NASH—Or the househusband.

Mr Groves—That is right. Sorry.

CHAIR—I wondered how long that would take. The consumer.

Mr Groves—The consumer—that is right.

Senator HEFFERNAN—He is just a bit old-fashioned like me—an old Cowra cocky.

Mr Groves—We need to make sure that the consumer will still pick up lamb. They have to have complete confidence that they are going to get a good product. That leads on to the next part of your question, Senator Heffernan, about the difference between ossification and dentition. Dentition is very objective. Either the teeth have erupted or they have not. When the lamb's teeth fall out, once the teeth erupt, that is the point in time when that animal is no longer classed as a lamb. It can no longer be legally branded with a roller brand. Ossification is a measurement of the material inside the bone. The age is determined from an objective measurement of that material.

Mr O'Sullivan—That is one thing we indicated in our submission. The United States, for instance, use ossification at the break joint in the foreleg. That has advantages and disadvantages. Recent science has been indicating that that is quite variable as well. It may be actually not as accurate as the dentition measure that we use. Across Australia at the moment, dentition is used at an export and domestic level.

Senator HEFFERNAN—Is everyone in favour of dentition? We are all likeable rogues. I must put on the record that I have an interest. I am a lamb producer, so I know every rogue in the business and they are all likeable. A lot of the likeable rogues would like to get rid of lamb so they can have a bigger market. I could name most of them for you, but I will not.

Mr O'Sullivan—Just to answer the question, using dentition as the method of determination for a lamb is the most accurate standard that we have at this point in time.

Senator McGAURAN—Is that the standard that is used for export?

Mr O'Sullivan—That is right.

Mr Groves—Following on from that, it is the one that can be used on farm quite easily.

Senator HEFFERNAN—If I were a likeable rogue in the meat industry—and there are a few of them—I would love to do away with dentition. God knows what the rules would be when you go to the saleyards, because you could argue that is actually a lamb when I cut its foreleg joint open. You only find out when it is dead, and then there is a taste test and so on. I think the lamb thing works well as it is and I would just like to put on the record that I would seriously oppose any move away from dentition because it would open up a minefield for producers and a goldfield for processors. That is what it would do. It would absolutely be a flight of capital away from producers to processors, and you have a gold standard that is easily identified in the saleyard. Do you agree that, if we got away from that, it would be a disadvantage to lamb producers?

Mr Groves—The measurement of age by dentition, as far as the producers are concerned, is very black and white because anyone can do it—it is visible. It is there. You have only got to open his mouth and there is his age. To move away from that would, as far as the production sector is concerned, cause considerable problems.

Mr Hansen—On the point about this definition being the one that is applied to our export markets, for us to change to anything else would require agreement from our trading partners or further fragmentation of our standards in the country. I guess we are about a rationalisation and harmonisation of these standards, not further fragmentation of standards between export and domestic.

Senator HEFFERNAN—It is an opportunity downstream. If we cannot maintain the standard of lamb, we diminish the premium for being able to get a lamb under 12 months, 14 months, or preferably five months—I do not know how five months looks this year. It is a downstream effect. In much the same way as a lot of grain sellers value-add by blending their wheat, you would have sheep and lamb blending and coming out the other end as some sort of generic lamb. It is much the same as the tests for BSE. People came into the parliament and tried to say that there were BSE-free herds, but the only test for BSE is for a dead animal. The beast has to be dead, so how can you have a live herd that is BSE free? It is a similar principle here. This is a dead test.

Mr O’Sullivan—I wonder whether it is worth MLA giving an update on the sheepmeat eating quality work. You mentioned that before and that has come up. The question has been posed: can that replace dentition? I wonder whether that would be useful.

Mr Hansen—If it is okay, I might make a comment and then pass to our general manager of marketing. Picking up on your point, Senator Heffernan, this is all about strengthening the position of the lamb industry both domestically and in export markets. We know that the lamb industry is one of the great success stories in Australia. We know from the surveys that we quoted in our submission to this inquiry that consumers believe they are getting a good quality product. They enjoy the quality of the lamb they buy. That flows through into the consumer demand dollars that we are seeing come into this industry as well. So all the signals are that lamb does hold a prestige position in the hearts and minds of Australian consumers. What we are talking about here today is not fixing up a rampant problem and the erosion of consumer confidence; it is about providing a platform for further strengthening that demand and strengthening consumer confidence in the product.

CHAIR—Before you go on, Senator Heffernan, do you wish to add a comment, Mr Barclay?

Mr Barclay—I think Scott covered it, thank you.

Senator HUTCHINS—Can I just ask a question?

Senator HEFFERNAN—Away you go.

Senator HUTCHINS—Dentition is used for export and our trading partners say that is the definition of lamb.

Mr Groves—That is right

Senator HUTCHINS—From what I understand, it is still the definition of lamb for the domestic market.

Mr Groves—Yes.

Senator HUTCHINS—It is how it is policed. Is that ultimately the—

Mr Groves—It is. That is the problem.

Senator HUTCHINS—In terms of your working party, is part of their brief to come back to you with solutions—you mentioned solutions, Mr Groves and Mr O’Sullivan—so that there would be some national policing standard? Is that ultimately where we are getting to? So there is not a problem with the buyers going into the markets there. They know the difference when they are buying for Woollies or they are buying for Bush’s butcher shop chain and all that. They know the difference between lamb and sheep and so on.

Mr Groves—Yes, that part of it is black and white.

Senator HUTCHINS—It is the consumer standards that we are being sought to make sure are more rigorously policed or are standard?

Mr Groves—It is the enforcement of the standard. Wherever that standard is, it needs to be enforced. That is where we are running into problems.

Senator SIEWERT—Is it not also, as I understand it, that there are different standards in each state and that is highly confusing as well?

Mr Hansen—There is one national standard that applies across the country. The states have adopted the national standard. The story is solely about the enforcement regimes for that national standard. That does vary amongst jurisdictions both federally and across the state.

Senator HEFFERNAN—Could you enlighten the committee on what happened in the case in which a couple of blokes were jailed over there.

Mr Hansen—I am looking down the table for anyone who might have been around.

Mr Groves—Under Western Australian legislation, I believe there were a couple of processors who spent some time in the lock-up. That is hardly an issue in Western Australia now.

Senator HEFFERNAN—That straightened them up pretty quickly

CHAIR—How long ago was that?

Mr Groves—Well before my time of involvement, so more than five years ago. It would be quite a few years ago.

Mr O’Sullivan—More like 15.

Mr Groves—Probably 15-plus years ago.

Mr O’Sullivan—Can I just say too, when we are talking about one set of rules, as it was mentioned before, the variability between them makes it difficult—it is very hard to compare apples with apples. We get one authority saying, ‘Our rules are better than yours.’ But, if they are not all working off the same set of rules, it is very hard to compare which is better and where they are falling down. That is exactly what this work plan is going to do—look at the systems in each of those authorities, and at the AQIS/AUS-MEAT level, and say through the supply chain: how can we put teeth in those if they do not already have teeth? Senator Heffernan mentioned the saleyard situation. What can we do at that point with national vendor declarations, moving through to the processing sector and then beyond the processing sector at each point in the chain? How can we strengthen that to have teeth? That is exactly what we are looking at.

Senator HUTCHINS—You mentioned words to the effect that the New South Wales authorities seem to have it right, or they police it more rigorously. Would their standards or legislation be the template that one would look at nationally?

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

CHAIR—Any hits?

Mr Groves—None that I am aware of.

Senator HEFFERNAN—It is fair to say that it is not a very complicated matter. But the committee may need to know that you can have lambs that are on the verge of cutting. You might have one or two. You might send a tray of 120 lambs, from the autumn drop the year

before and it is early autumn of that year, into Wagga and they are just about to cut their teeth. There might be one or two, which is not a big deal.

This is deliberate misbranding. By the way, I should put a plug in for decent hogget. There is nothing wrong with decent hogget. In fact, good hogget is probably better than immature lamb. There are various grades of lamb and I am sure that later in the day people like Cowra abattoir and others will explain how they intervene in the market with various grades of lamb—everything from merino lamb to some of the more muscly lamb types. I will leave that to them. To give you an example, when I raised this for this committee, lambs in Wagga were making about \$3.40 hung up; hogget was making a dollar less.

Mr Groves—\$2.20 or \$2.40.

Senator HEFFERNAN—The trade knows who is doing what to who—when they lose a butcher shop or whatever. There is a dollar a kilo advantage in being able to put the brand down the lamb. I visit a lot of butchers' shops, just by way of routine.

Senator HUTCHINS—And fish shops?

Senator HEFFERNAN—I am not into pole dancing—I go to butchers' shops. There is a butcher's shop here in Canberra—I will not identify it. I asked him where he got his meat from. It comes from a long, long way interstate, and not Victoria. I asked him why and he said it was a lot cheaper delivered. I went and had a look at it—and of course it was mutton.

Senator HUTCHINS—Is one of the difficulties that, for example, the branding is under the department of agriculture in that state—for instance, the New South Wales Food Authority reports to the minister for agriculture—while another part is under consumer affairs? Is that a difficulty in this? Then you have export and so on. I am assuming that your body is going to address that.

Mr Groves—It is.

Senator HUTCHINS—I think we would be unanimous on this. We would be anxious to have something that you would come up with that we could take to a ministerial council as a national standard.

Mr O'Sullivan—It is a good point. As well as different lamb branding provisions in states, there are a heap of different departments handling different things in terms of the meat industry. The principal aim of this project is—short of setting up some additional authority—to ensure that those bodies which are supposed to be doing a good job of enforcing the lamb brand have a set of rules that they need to follow to do a good job. That is the principal aim.

CHAIR—It appears very clear that there are problems with enforcement in Victoria. But, if there are not problems in Western Australia, South Australia and New South Wales, how convinced are you that those states would see a need for harmonisation?

Senator HUTCHINS—They would bring it across the border into New South Wales.

Mr Hansen—One of the outcomes that has come from the research that has been asked for is some quantification of the extent of misdescription and how widespread it is. We are looking at providing some tangible measurements around this so as to be able to formulate some policy. The policy response that is required will depend on how widespread it is. The fundamental policy response that we are looking at at the moment is the issue of harmonising a national standard. We currently have the luxury of a national standard—a national definition. We have a national approach to the enforcement of that for our export work, so our export customers have great confidence in the integrity of the product. We are looking for nationalised standardisation across the states.

Mr O’Sullivan—I would hope that there is strong support in those other states. The red meat industry within Australia does not operate in silos. It is trading across state boundaries every day. We have AMIC members here today that can talk about that. Even though you may operate within a particular state that has good enforcement, you may still be disadvantaged by those operations happening in other states. There is a fairly wide view that, if we can get a consistent set of rules across the board, that should be strongly supported.

Senator HEFFERNAN—If I were a local rogue in the meat industry and I was tidying up lamb then I would ask: how can I get a quid out of putting mutton into hogget? Can you give what you would think is a reasonable description of what hogget is?

Mr O’Sullivan—What we use at the moment is the AUS-MEAT language, the Australian Meat Industry Classification System, which deems that it is mutton as soon as it has cut its permanent incisor teeth. We have additional AUS-MEAT specifications that break it down into hogget: two tooth, and mutton: four tooth, and there on. When it gets down to it, as soon as it has cut its permanent teeth, technically it is mutton.

Senator HEFFERNAN—Should we be doing something about that while we are at it? Should we be defining hogget as under four teeth, which I suppose is 28 months or something?

Mr Groves—I do not know that there is a big enough demand at this stage. The lamb is the big problem because people want the premium product. People want that lamb, as I mentioned, it is like a trademark. They know they are buying something good if they buy lamb. The problem may move in the future but at this stage of the game I am not sure that it is such an issue.

Mr Thomason—There is no strong market demand for hogget and therefore hogget and mutton tend to be blended without the same sort of price disadvantage of hogget against lamb.

Senator HEFFERNAN—If we tidy up the lamb job, if we take the hogget out of lamb, what will happen to the price of hogget?

Mr Thomason—Probably in some sale yards it is likely to fall because there will not be the same demand from some processors for those animals.

Senator HEFFERNAN—Which will add to the argument that to protect the global brand of lamb versus Kentucky fried or whatever, it will certainly add to the premium for lamb.

Mr Thomason—That is right. And that is why it is important that we have an effective standard and effective enforcement.

Senator HEFFERNAN—Bearing in mind the best tasting meat is probably saltbush merino. I don't want to ruin it for you. By the way, all our saltbush is dying.

Mr Thomason—One of the interesting things learnt out of the sheepmeat eating quality research was identifying that, as you say, some cuts of hogget can eat brilliantly—provided the animal is appropriately raised, appropriately handled and appropriately processed. In fact, there is one processor in Australia that has taken the results of that work and he is now developing his own brand—he is not labelling it as hogget for the consumer, nor is he labelling it as lamb—and he is promoting it as a branded product. We strongly endorse that and we would hope that we can encourage more of that.

Senator O'BRIEN—What do you call it if it is not hogget or lamb?

Mr Thomason—It has been described as sheepmeat, as a descriptor, but the appeal—

Senator O'BRIEN—To the consumer?

Mr Thomason—Yes, to the consumer. And that is entirely appropriate.

Senator HEFFERNAN—I am sure that there is a really good market out there, if you could have continuity of supply, for saltbush organic meat, but I know all my saltbush is bloody well dead now.

Senator HUTCHINS—You see a lot more lamb mince being put up for sale in shops now. I do not know about the retail chains. In New South Wales, where I come from, is that a concern now? Is that becoming an identifiable concern within the councils that there is no longer a leg of lamb or chops or whatever, but there is mince? Is that lamb mince, hogget mince, or mutton mince?

Mr Barclay—Senator, I do not see that move; I see a move more to cutting the leg down into its various primals. Relating that to our work, two years ago we would have done 80 per cent as full legs; now it would be 80 per cent as one of the four primals. It is not so much that there has been a move to mince as that the consumer is, I think, more attuned to beef mince than to lamb mince. So we have not seen it.

Senator HUTCHINS—So, with the cutting off of the leg, as I understand it, you could pass it off as lamb if you shorten up the leg of the lamb. A butcher told me that. If you cut off that end and cut off that end, it can look smaller and, therefore, it becomes lamb rather than hogget.

Mr Barclay—Personally, my perspective is that, once you have cut the head off, it is very difficult to tell whether it is hogget or lamb—almost impossible. So it does not matter about the leg.

Senator O'BRIEN—It could be a big lamb or a little sheep.

Mr Barclay—Yes.

Senator NASH—I would also like to declare my interest as a lamb producer. I know you are from different groups and organisations, but how long have you been concerned about the effect of this potential misdescription on the industry?

Mr Groves—I have been involved in agripolitics since 2001, and one of the first issues we had to deal with was to make sure that the lamb brand was underpinned by legislation. It was going on for a lot of years prior to that. Soon after that, probably early 2002, there was an incident where meat came in from Victoria and there were some complaints about that meat. So it has been going on for a lot of years.

Senator NASH—Given that it has been a concern for so long, why has it taken so long to get enough focus on this now to talk about things like the importance of national harmonisation? That would seem to be something that perhaps should have been addressed quite some time ago if these concerns have been around.

Mr Groves—I think the changing demographics of the sheep industry have had a bit to do with it. Sheepmeat is now being produced by a large range of producers, not just in the traditional prime lamb areas. There are a lot of people using meat sheep over merinos—traditionally a wool breed. They are producing sheepmeat as well. Some of these animals are harder to finish, harder to get to a saleable state than the traditional meat sheep. So the changing demographic of the industry has brought the thing to a head—as well as the fact that we have all had a go: the Sheepmeat Council of Australia and AMIC on their own. It got to the stage where it was getting very serious and we all had to sit down together and make sure we had a united voice, a united front.

Senator NASH—So at what point did you guys and girls—I presume there are some—all get together and start putting together this united voice? When did this process—and I think it is an excellent process—begin?

Mr O’Sullivan—AMIC and SCA met last August, at which time the support for this collaboration and the subsequent development of the work plan came about. Going back a step—this is not a new issue, as you know. The threat by state meat authorities to deregulate their lamb branding in the past has in some ways been a diversion for the industry. There have been two attempts by New South Wales to deregulate their lamb branding provisions. The industry has obviously put a lot of resources into making sure that does not happen. That takes time away from the real task of getting one set of rules across the country. I think the other key point is that in the past there have been different systems across the board—whether they be for export or domestic or between states. In the past, industry codes of practice and voluntary market driven codes have been proposed but, if everyone is not operating under the same system and you have the ability for some to opt in and some to opt out, it is a challenge to make any new system have teeth.

Senator NASH—If it is a voluntary code, isn’t it almost impossible to get the result you are looking for? The same people who are allegedly behaving in this manner would surely be the ones who would not sign up for a voluntary code.

Mr O'Sullivan—That was a real challenge. When the issue of having an industry driven, market driven code of practice that would be audited was discussed—around 2000, 2001, 2002—the challenge was: how do you make sure that everyone is on a level playing field. Everyone needs to be in the game and audited by the same set of rules. I suppose that is where we are today.

CHAIR—That is the problem with a voluntary scheme—that you will always have the ratbags who will flout it.

Senator NASH—Yes, that is exactly right. In terms of the power of enforcement, you were talking about one set of rules and then some sort of power to enforce, obviously, those rules. What is that? Is it the ACCC? Is it under the Trade Practices Act? What, actually, is it? Once you come up with the set of rules—which are obviously there, and it is the enforcement side of it that appears to be the issue—what is the enforcement mechanism or process that you see as being in place that would solve the problem?

Mr O'Sullivan—I will have a first crack at that. The work that SCA and AMIC are doing will provide us with some options on that. There are various thoughts: whether that sort of enforcement should stay with the current meat authorities and AQIS and AUS-MEAT or move to a body like the ACCC. So we are certainly not in a position to make an informed judgement on that one at the moment. But the set of rules is about giving those regulatory bodies a toolkit, if you like, whether they are operating and oversighting domestic works or export works, so that they know that that set of tools is going to have the best chance of catching people if they are doing the wrong thing and, obviously, of dealing with them.

Senator NASH—Surely, I suppose—to be simplistic—it comes down to the fact that, if people think they are going to get caught, they will not indulge in the malpractice. Isn't that the key to all of this—to actually find a mechanism or process that is going to be so robust that people cannot slip through the net with misdescription?

Mr O'Sullivan—The good thing about this work that we are doing is that it is going to pick the eyes out of the system that AQIS and AUS-MEAT use, pick the eyes out of the other systems that the state meat authorities use, get the best bits of those and develop that into one set of rules. A good example is that on the kill chain, for instance, some authorities require muzzling before the head comes off and others do not. That would seem to be a key issue that you would want in a set of rules.

Senator NASH—Once the head is off, the chances of them actually getting back up again are a bit tricky, aren't they?

Mr Hansen—Senator, on Mr O'Sullivan's point, the rules are there—you are quite right—and we did benefit from having a nationally applied set of rules. It is the enforcement of the rules that does vary. I guess, again, that there is no defined answer yet out of this work, but obviously when you are looking at this area there are a range of options, from having one central policing authority to ensure that there is standardisation in how those rules are enforced through to prescribed application of how those rules are enforced being agreed to by all the existing bodies that are out there.

Senator NASH—Is this something that you think is going to be solved by industry or is it going to have to come back to something, perhaps, of a legislative nature?

Mr Groves—I think it may have to come back to something of a legislative nature, because we do need a national approach. We need this legislation to be put in one basket so that it is standardised across the country.

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

Mr O’Sullivan—I think, too, that it depends a bit on the response that we get, particularly from state meat authorities, as to whether they are comfortable in accepting the final set of rules. If they are not, then that pushes us further towards getting legislative support. But I think that for the initial step it is critical to have industry in strong support to help drive those outcomes, as opposed to the other way round.

Senator NASH—When is your work due to be completed? It is fairly soon, isn’t it?

Mr O’Sullivan—From mid-2008. There are various elements to the plan, but we are happy to keep the committee up to speed with the progress on that.

Senator NASH—How long do you think it will be until you are finalised, realistically?

Mr O’Sullivan—We would probably say—

Senator NASH—How long is a piece of string!

Mr O’Sullivan—I hope that we have a lot of the information on regulation, compliance and one set of rules. That consultant has been contracted; we hope to have something from that within two months. We also have economic work that is about to start too, which will be a little bit after that. I think it is critical as we move along that we keep you abreast of the time lines.

Senator NASH—Absolutely. I think that would be very useful for the committee. I would like to take you to lamb roller branding. Can you explain to the committee how and when it is required and when it is not, if it is not? And is it the same as strip branding?

Mr Barclay—Yes, they are definitely the same. With meat for the domestic market, that is either put on immediately at the end of the process floor or after chilling. In our case, because we export we put it on prior to further processing. If it is going to be exported it is not allowed to have a lamb brand on it.

Senator NASH—Sorry, can you say that again?

Mr Barclay—In export you are not allowed to put a lamb brand on it.

Senator NASH—That is why I am confused.

Mr Barclay—I think the consumers do not like ink on their meat.

Senator NASH—So the roller branding only occurs on domestic meat, not meat for export?

Mr Barclay—No.

Senator NASH—You mean yes.

Mr Barclay—Yes, sorry—yes.

Mr O’Sullivan—It is still stamped. As I understand it, the export lambs are stamped with an ‘Australian inspected’ lamb stamp. They must be stamped with that, which uses dentition as the method of determination. As Mr Barclay said, problems arise in export markets with the pink strip brand down the side. Hence they have a different stamp but follow the same set of rules.

Mr Barclay—I would add to that that the emphasis in the export markets is around putting the establishment number on the product where it is vacuumed. So it is not on the product itself; it is on the label of the carton, so the emphasis is there about the integrity of the system that sits behind that. AQIS are auditing that system on behalf of those overseas countries. We stamp on the breast and the flap for halal, for example. As I understand it, it is not a lamb for various markets. It is specific to each particular market, and it would not be on all products; it would only be on one very small part of the product.

Senator SIEWERT—Senator Nash began the issue of when the carcass is branded. If you have already separated the head, which we use for proof to ensure that it is a lamb, how do you make sure that you have the continuity of it being a lamb when the head comes off and it still being a lamb when the stamp goes on?

Mr Barclay—In our case, everything is dentitioned on the way through, so we can see whether the product—as Senator Heffernan has referred to—that comes through has two cut teeth. At various times of the season, whilst they are bought as lamb, some will come through as hogget, and they will be marked on the chain itself. At the end of the chain, the lambs are weighed, graded and ticketed. That ticket will identify whether it is a hogget or a lamb. As in our case, if lots come through as mutton they will also be ticketed accordingly.

Senator SIEWERT—How do you guarantee that it is a lamb at the start when the head comes off? And if someone is checking the brands at the end how do they prove that it is a lamb, as rolled?

Mr Barclay—Prior to the head coming off, there is a person checking the mouth. If it has broken teeth, then he will put a ticket on top of the carcass that will follow it all the way through to the point—

Senator SIEWERT—It stays with the same carcass?

Mr Barclay—It stays on the same shackle right to the end, where there is a weighed label grading person who will put another formal ticket on it, which is what we then manage the process with going forward.

Senator SIEWERT—When we are talking about hogget rolling, it actually happens right from the start of the chain, at the start of the slaughter process, when it is marked ‘lamb’ when it is actually hogget or mutton. Where does the substitution happen?

Mr Groves—The substitution would happen through the chain. With Mr Barclay’s plant, obviously there is a person who checks the dentition of the animal as it goes down the chain. The key is in that tag that gets hung on the hook as the animal goes past.

Senator SIEWERT—If a hogget comes in then it is marked as a lamb straightaway on the chain.

Senator McGAURAN—At the first point of the chain. It is a very good point that Senator Siewert makes: the first tagging is where the substitution would occur.

Mr Groves—Yes.

Senator SIEWERT—I wanted to clear up how it happens in the chain.

Mr Groves—It would be the lack of that identification in the chain.

Senator HEFFERNAN—If you have got lambs that are dressed out, say, from 22 to 30 kilos, obviously when you get up to 30 kilos lots of hoggets are only dressed out at 22 kilos, you could actually use the ossification, couldn’t you?

Senator SIEWERT—As a check.

Mr Barclay—For the American market it is ossification. For the record, the New Zealanders have a different specification for lamb again, so there are various markets around the world. But yes, we sell a lot of product into the American market. We do not use ossification; we use the Australian standard for that market. It is quite legitimate to enter that market, use ossification and brand it as lamb in that market.

Senator HEFFERNAN—For curiosity purposes, could you tell us what New Zealand does, because we ought to perhaps raid them?

Mr Barclay—Raid them?

Senator FISHER—They are already here, colleague.

Mr Barclay—Their definition is that the two tooth can be erupted, but not allowed to be worn.

Mr Groves—They still use dentition as their determining factor. All they have done is move that line in the sand a few days.

Senator NASH—The Meat Industry Council submission states:

It is an offence under State legislation, in those States that address this issue in their legislation, to apply a lamb roller brand to product which fails to meet the lamb standard.

Which of the states do not address it in the legislation, or which ones do?

Mr O'Sullivan—I think it is Queensland and Tasmania that predominantly have export processing establishments that are required to be oversighted by AQIS and AUS-MEAT. I think that is why Queensland and Tasmania largely do not require as much domestic processing oversight. Is that—?

Senator NASH—I am happy for you to take that on notice. It would be great if you could come back with a very clear breakdown of what you actually mean by that paragraph.

Mr Mulders—I would be happy to do that.

Senator NASH—There was a submission from a Mr Herd—I do not know if any of you have had the chance to read it—and, in essence, what he was talking about is we have no need to delineate between lamb and anything else because it is all about the quality. Dentition is pretty straight down the line: you can see what it is, it is easily measurable and you have a very clear identification of what it is. If you do not need any of that and you can replace it with a quality, from your position in industry, can you see any way, in a saleyard scenario, that a buyer could come in and not bother to use dentition or anything else, and say, 'Yes, that one's going to eat beautifully. That one's not. That one is. That one's not,' and keep them separate?

Mr Groves—I think it would be appropriate if Mr Thomason was to take that question.

Mr Thomason—The quality and quality consistency is the underpinning of any successful food brand. It is crucial. That is what this lamb definition is about. When consumers go to decide what they are going to eat tonight, they do not go looking for sheep meat, hogget or mutton; they go looking for lamb because they know lamb is a standardised product that consistently delivers eating quality every time. So it is important that we have a definition that differentiates high-quality product from perhaps more variable product—not necessarily lower quality. When it comes to what sorts of standards and what sorts of rules we need around that, it has got to be pragmatic. We can be very theoretical, based on all the learnings from our work on sheepmeat eating quality, but how do you apply that in a saleyard where real prices are being paid for different quality animals? How do you provide that in a processing plant when very different prices are being paid for different quality product? It has to be pragmatic. The best system that we have at this point is the current dentition approach. That does not mean that we should be closed to further developments in being able to identify higher quality animals and higher quality meat from lesser quality animals and lesser quality meat, but we do not have that system yet.

Senator HEFFERNAN—Surely, the best test would be if Mr Herd wants to sell his as Australian good meat versus the lamb trade, let him have a crack at it.

Senator NASH—Absolutely.

Senator HEFFERNAN—I will just give an example for the committee's benefit: there is a butcher's shop in the eastern suburbs of Sydney that sells rack of lamb for \$59.99 a kilo. David Jones Foodhall on the same day was \$49.99 a kilo.

Senator O'BRIEN—Bondi Junction, isn't it?

Senator HEFFERNAN—Bondi Junction was \$39.99 a kilo. But the bloke with the \$59.99 rack of lamb—it was a particular brand which I am familiar with from an abattoir which do all lamb; obviously, they do everything from a Merino to a gold standard lamb. If you are in Burwood Road and you are selling rack of lamb for \$29.99 a kilo and it is a different lamb, the bloke who sells it for \$59.99 actually goes and selects the individual bodies from the wholesaler. He says his customers do not ask the price, they just want to know, as Mr Thomason says, if it is the right product—A-grade, triple-star standard lamb. I mean there is lamb and lamb, in other words, but if you introduce sheep into the equation, you will diminish the premium and the effort that goes into the lamb market and you will, by substitution, destroy the lamb market and enhance the bullshit that goes with the practice of saying, 'This is good and this is bad.'

Senator NASH—In your submission, you propose that moving the current standard of lamb from no permanent incisors to a two-tooth standard could assist addressing the issue of misdescription. I assume you mean instead of the breaking of the incisors to a fully grown tooth?

Mr Mulders—As part of the whole plan, it is our position that we want to try and look at the standards that are in place as part of the entire review process. We want to look at not only the compliance side of it, which we have spoken to in great depth today; but it is also a great opportunity to look at the standard itself and make sure that that is appropriate.

Senator NASH—So is that proposal just something on the table and not necessarily something you are pushing? Is it just another option to consider or is that a preferred option for you?

Mr Mulders—It is not preferred. It is part of the process which we are going through to look and review the actual standard itself. That is part and parcel of the process.

Senator NASH—Wouldn't you have the same issues surrounding that as the breaking of the incisors? If you are measuring the length of a tooth, you are still going to have that point at which there may well be some consternation, if you like, over whether it is still or is not. It would seem that, in both instances, you are still perhaps going to get dissent sometimes.

Mr Mulders—As I said, it is a proposal on the table. It is part of the submission to look at and it cannot be looked at in isolation. Obviously, you need to look at all the factors in terms of eating quality, the economics and a range of issues. That is part of the project plan that we are undertaking.

Senator NASH—It is good you are looking at it. I just wanted to make sure that it was part of a bucket of things and not just something you are pushing.

Senator O'BRIEN—I am looking at the statistics on volumes of production, sales and exports that appear in the Meat & Livestock Australia submission. Given what is generally

known about the size of the flock and the amount of the flock that is going into processing, how big do you think this substitution issue is? You seem to be able to account for a whole lot of production in your statistics. I would like to get a feel for whether this is one-tenth of one per cent or five per cent. What part of the market do you think may be being influenced by substitution?

Mr Thomason—According to our data, the number of hoggets that go slaughter—that is, hoggets defined as going through the saleyards—is about 350,000 head a year. When you then look at that as a proportion of the total lamb slaughter of around eight million head, it suggests that it is not massively widespread. But that should not be interpreted as saying that it does not have a significant impact, particularly on producers and processors who are doing the right thing. Where that is concentrated into particular saleyards, the prices for the producers who are supplying those saleyards would be lower than they would otherwise be because there may be a significant holding-off by buyers till the hoggets come through rather than lambs. It can also have a significant impact in some sectors of the market, whether that is the wholesale sector supplying butcher shops or food service outlets. If there is one operator selling low-cost lamb into that market, that tends to establish a price floor that everyone else has to meet. So it may not be high in terms of quantity, but it is certainly significant in terms of financial impact on processors and producers.

Senator O'BRIEN—That is why I wanted to get a perspective on quantity. If this is widespread and it is lowering the floor in the market, that is one thing. One presumes you cannot transfer that effect right through the market if it is happening in very isolated sets of circumstances.

Mr Thomason—Whether it is very isolated or it is regularly occurring in some particular areas is what our study is designed to find out.

Senator O'BRIEN—I think you are saying that, on the figures you just gave us, about four to 4½ per cent of the whole lamb market is hogget. That is why I am asking whether you have statistics beyond that to show how much of the production of lamb and hogget is identifiable post processing.

Mr Thomason—I am not aware that that data exists, but part of the exploration of this process is to pull all of this sort of information, if it is available, together.

Senator HEFFERNAN—It would be fair to say that for the genuine lamb marketer, it is not the number; it is the effect on the market. It absolutely undermines the market.

Mr Thomason—Exactly. That is right.

CHAIR—That has been made very clear, but we are running out of time.

Senator FISHER—Can I ask a question on this issue to drill down a little more into the important point that Senator O'Brien has raised?

CHAIR—When Senator O'Brien has finished, Senator Siewert and Senator McGauran are waiting. I am more than happy for you to do that, but we need to be mindful of the time.

Senator O'BRIEN—I am interested in the context of some of your material. Certainly exports have gone up and the variety of markets that are expanding is very pleasing, but you have only given lamb figures. Do we not export any hogget or mutton?

Mr Thomason—Yes, we do. In fact, most of our mutton production is exported to a range of markets. South Africa and the African continent generally are very important. It also goes into industrial products, such as canned meat products, that are produced and consumed in Australia.

Senator O'BRIEN—Regarding exports into what you describe as the Middle East—you said Africa—I presume that some of those mutton and hogget products are going into the North African market?

Mr Thomason—Yes, they would be.

Senator O'BRIEN—Have you got any figures on that that you can give us?

Mr Thomason—Yes, we can supply those.

Senator O'BRIEN—Thank you.

Senator SIEWERT—I just wanted to follow up on this issue around the inspection and the enforcement—

Mr Thomason—The compliance.

Senator SIEWERT—Yes, the compliance. That regime is not standard across Australia. It seems to me that you need to have the state governments on board as part of this review to actually change the compliance regime and what they are measuring. For example, some states seem to focus more on the safety of the product rather than the quality of the product. They are saying, 'Quality of the product is the industry's issue; safety is ours,' and that is what they are looking at. So how on board are the states in terms of the process that you are carrying out? What is your understanding of their willingness to change their compliance regimes?

Mr Thomason—That is a good question. The key part of this work now by the consultant is talking with each of those state authorities and AQIS and AUS-MEAT and working out exactly how they run their businesses in terms of the lamb breeding and the checks and balances throughout and also, I suppose, at the time floating with them opportunities for enhancement of that. So we are in the early days. Each of those state meat authorities will be spoken to and will be collaborated with. They will need to provide information to that consultant, and, as we progress through and start to firm up what one set of rules will be, we will be working very closely with those state meat authorities—because you are right: it will mean that they will need to adopt those and adopt them uniformly.

Senator SIEWERT—What level of cooperation are you seeing from the states at the moment in terms of those discussions that are being held? It seems to me it all falls flat if we do not get them on board.

Mr Thomason—That is right. It is early days. We are hoping that by and large we get good support but—

CHAIR—You are speaking to them, aren't you?

Mr Thomason—Sorry?

Senator SIEWERT—The review is.

CHAIR—You are currently speaking to your counterparts in all the states?

Mr Thomason—That is right. So the consultant will be talking with all those state meat authorities, impressing on them that the aim of this project is one set of rules—that you have got to get on this train. But I think over time we will find out just what their level of support is, and there may need to be some industry and government pressure if we do not get that sort of strong support.

CHAIR—If I could interrupt, Senator Siewert—and this was what I was trying to allude to before—have you actually spoken to your state counterparts? Has there been any conversation from any of the three groups represented here today?

Mr Thomason—At a state level, from a production point of view, absolutely there has. Our farmers and state farm organisations across the country fully support the process we are going through in terms of getting one set of rules. I understand AMIC has done the same. So, from our industry's point of view—absolutely. We are taking that to the next step now in terms of collaborating with those state meat authorities, AQIS and AUS-MEAT.

CHAIR—Thank you. Senator Siewert?

Senator SIEWERT—That answers my questions, thank you.

Senator FISHER—Senator O'Brien raised the point about exactly what the size of the problem is, and, Mr Thomason, you gave some views about the size of the issue. I think it is very important that if we are going to address a problem, we know not only the size of it but also who is causing it—and the 'where' might inform the 'who'. I presume you cannot answer this today, but will your work drill further down into attempting to identify where the problem is occurring, to the extent that that may be a clue as to who is not complying with the definitional issues—which sector of the market it is, and how they are doing it? Will you be doing that work?

Mr O'Sullivan—It will drill down into the exact systems that each of those authorities use, or do not use, at the moment. It will be trying to get some harder numbers on the level of hoggets throughout the industry and how widespread the issue is. It will not go to every processing works or every saleyard, for instance. But the flow-on effect from the results of the work plan—the one set of rules—will then be able to be equally applied across the board.

Senator FISHER—The extent of the problem is clearly part of the solution and, as Senator Heffernan has said, the impact is significant on consumers. But, in my view, in trying to address the problem you run foul of the solution if you try to address the effects rather than the cause of

the actual problem. I hear you say that industry self-regulation would be preferred, but it may not work. My second question is: will you also, in your work, consider the experiences of harmonisation attempts in other regulatory areas?

CHAIR—Senator Fisher, sorry to interrupt. The committee are happy to take another 15 minutes with these witnesses and go to morning tea at 10.30, so don't feel rushed.

Senator FISHER—Thank you. Then I will go back to my 'extent of' question. To some extent rogues will be rogues, and it matters not how robust an enforcement system you have. It may well be that you still cannot prevent some perpetration of a crime, and it then becomes a matter where, if you legislate, you run the risk of penalising the well-intentioned and well-doing majority in an ill-fated attempt to prevent the minority. Going back to the 'who', I do not expect an answer today, but I want a bit more reassurance that your work—to the extent that it is appropriate at this stage in the process—will drill down into the 'who'.

Mr O'Sullivan—Currently, the regulatory bodies have a responsibility to oversight the lamb brand. It will not be picking off individual processors or saleyards; that is the responsibility of those regulatory bodies, whether they are doing it properly or not. This work is about giving those regulatory bodies, whether they operate at a federal or state level, the set of tools that they can put in place through the supply chain to make sure that they have the best opportunity to catch cheats and a set of penalties to deal with them.

Mr Hansen—The figures that were provided before were the total number of hoggets through saleyards in the country, and the total number of lambs. So it gives you an upper limit; it does not give you the extent of misdescription that may be occurring. That is something that this research work will be looking into. In terms of getting down into the 'who', I think that—

Senator FISHER—When I ask about the 'who', I am not suggesting individuals but categorisations of 'who'.

Mr Hansen—I think a key part of the work will be identifying the factors that drive it, which will assist in looking at patterns. However, it is a very valid point you raise with regard to not overtaxing or overburdening the vast majority of the industry who are doing the right thing. What we do have at the moment, though, is a plethora of auditing regimes that apply across the country, and I think our goal will be to come up with a standardisation and harmonisation that benefits those who are doing the right thing as well as ensuring tougher enforcement for those who are not.

Senator FISHER—Replacing one set of regulations with another is not necessarily more regulation, but the change in itself is an impost.

Senator HEFFERNAN—Obviously, Peter Day in New South Wales knows how to do it. It works. We do know—I know—who the abattoirs are, including in Victoria. So would you think that, if there is a regulatory body which has on its board one of the perpetrators from an abattoir that is doing it, that would be a conflict of interest?

Mr Hansen—I think that that would be a question for that regulatory body.

Senator HEFFERNAN—Yes. I would have thought that, if you are going to get fair dinkum, you have to deal with that stuff.

Mr O’Sullivan—At the end of the day, too, the vast majority of genuine operators within the industry are already operating under decent rules, so it is about tidying up the whole system so that everyone operates under fair rules and on a fair playing field.

Senator FISHER—To the extent that you are contemplating harmonised legislation state by state, will you consider the experiences in other areas where there have been attempts to harmonise? Will you consider, for example, having the cooperation of all state governments and state authorities at a particular point in time so that you have, perhaps, uniform legislation state by state? What then happens if there is a change of government in one state or something that means that one state then deviates from what has become a national system? What are the consequences of that for the industry? That is one of the downsides of essentially voluntary harmonisation. Will you be considering those sorts of prospects if you are seriously contemplating a harmonised route to a national enforceability framework?

Mr O’Sullivan—Yes, we will be. If there are systems working in other industries and other environments that will help us here—fantastic.

Senator FISHER—Or not working!

Mr O’Sullivan—Yes, or not working; that is right.

Senator HEFFERNAN—Too many lawyers and too much lawyer language.

Senator FISHER—It is a team, Senator. Here is my final question. I understand that the National Livestock Identification System tracks individual livestock but that for sheep and goats you have a flock based system. I should declare that my husband, John Crosby, until about three months ago was involved in the National Livestock Identification System implementation team from South Australia. He was chairman of the group and also on the executive federally. We do not produce sheep; we produce beef. Is there an individual tracing and identification system for sheep or is it by flock? I think the answer is that it is by flock. If there were an individual, sheep-by-sheep tracing system—I understand the politics and that the industry has chosen not to go there, but I raise it for argument’s sake, thinking laterally—would that prevent this problem from arising?

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

Senator FISHER—It is done for beef, but the dynamics are different.

Mr Groves—Yes, that is right.

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

Senator FISHER—Thank you.

Senator HEFFERNAN—And the beef thing is still like dentition.

Senator McGAURAN—What penalties occur with regard to incorrectly classifying?

Mr Barclay—In Victoria?

Senator McGAURAN—It is different by state, is it?

Mr Groves—Yes. Obviously, from the conversation earlier, Western Australia has jail terms. It is correct that someone did spend a little bit of time in the lockup because of that.

Senator McGAURAN—How little?

Mr Groves—Pardon?

Senator McGAURAN—How much time?

Mr Groves—I am not sure of the details. As we said, that was 15 years ago.

Senator HEFFERNAN—But it worked.

Mr Groves—It worked. The figure that we came up with was that it was approximately 15 years ago.

Senator McGAURAN—But it is important to know—30 days or two years?

Mr Groves—I have not been in the industry long enough.

CHAIR—Why don't you take it on notice?

Mr Groves—We will take that on notice and get back to the committee.

CHAIR—It is an important question, Senator McGauran, but obviously they do not have the answer.

Senator McGAURAN—What is it in Victoria?

Mr Barclay—I cannot answer that question.

Mr Groves—I think we had better take the whole question on notice.

Mr Hansen—It varies from jurisdiction to jurisdiction and it varies according to the severity of the offence and the repeat occurrence of offence. I think that you have some of the regulatory authorities coming before you this afternoon—it might be a question to put to them. They can go through in detail with you their grading of offences and the penalties and infringements that they would incur.

Senator McGAURAN—Do you know of any whistleblowers in regard to this substitution question, other than Bill Heffernan? How have you received your information in regard to this?

Mr Groves—Various processing works around New South Wales are very concerned that they are not operating on a level playing field. I see three of the key operators in New South Wales are down for questioning by this Senate inquiry later on in the day.

Senator McGAURAN—How do they know?

Mr Hansen—That would be a question best put to them.

Senator McGAURAN—But they would have mentioned it to you.

Mr O'Sullivan—I would have to say they are fairly direct in their submissions and obviously will be this afternoon. The New South Wales processors that you will hear from later will indicate that they get some pretty strong feedback both from their livestock buyers and when they are in saleyards indicating that there is a problem and that they are being put at a competitive disadvantage. That would also happen at the other end—when they sell product they get out-bid or other operators are able to potentially put in product at a cheaper price. So what we hear from some of the key processors is that they are getting it right through the chain.

Senator McGAURAN—That is what you hear. These inspectors are employed to detect—

Mr Groves—By the New South Wales Food Authority, for example.

Senator McGAURAN—What are the detection rates, if any?

Mr Groves—We do not have access to that data. That would probably be a question for Mr Peter Day this afternoon.

Senator McGAURAN—Is he from Victoria?

Mr Groves—He is from the New South Wales Food Authority.

Senator McGAURAN—What are the rates in Victoria? They are obviously less.

Mr Groves—Obviously less, because that is where—

Senator McGAURAN—Is anyone on this table from Victoria?

Mr Barclay—Yes.

Senator McGAURAN—Mr Barclay, perhaps you can answer this: why do you think Victoria is the culprit?

Mr Barclay—It is the rumour mill working. I do not have any evidence to suggest it is any worse in Victoria.

Senator McGAURAN—Hearsay and no evidence!

Mr Barclay—Factual evidence that I could provide to you—

Senator McGAURAN—You tell us it is four per cent of the lamb market, which is minuscule, and you cannot even tell us what percentage of that is possibly being substituted. You come to the table with hearsay and no evidence!

Mr Barclay—On the four per cent figure, I would say that lamb is very seasonal in Australia and the hogget would come onto the market at a particular time in the year, so the percentage potentially could be much greater.

Mr Hansen—We should also say—and again you will have an opportunity to discuss this further—

Senator McGAURAN—Are these New South Wales people we are hearing from this afternoon in direct competition with Victorian animal growers?

CHAIR—Senator McGauran, Mr Hanson was answering a question to you, so Mr Hanson will be heard and then you can carry on.

Senator McGAURAN—Was it a follow-on from the Victorian question?

Mr Hansen—It was, and it was to do with the fact that this should not be perceived as solely a Victorian problem.

Senator McGAURAN—It has been to date.

Senator HEFFERNAN—No, it has not.

Senator McGAURAN—Do you know any abattoirs in New South Wales doing this?

Senator HEFFERNAN—Yes, and they have been pinged—and Queensland as well.

Senator McGAURAN—They tell me they have not been pinged. Where are the inspectors' reports on this? This is a serious matter. Could we put the evidence on the table!

CHAIR—Senator McGauran, I do not think these questions can be answered by the witnesses at the table now.

Senator McGAURAN—It is just a lot of hearsay at the moment.

CHAIR—Mr Hansen was halfway through answering a question and I think we should hear the end of his answer.

Mr Hansen—I was just trying to provide some direction on the fact that you will have two of the compliance bodies here this afternoon. We are aware of reports that both of those compliance bodies have found compliance issues around misdescription, but we are not aware of the details. One of them has national effect, namely AUS-MEAT, and one has a state effect in New South Wales.

CHAIR—We will direct our questions to them about this issue.

Senator McGAURAN—Are you not privy to that information?

Senator HEFFERNAN—This is not a bloody Victorian witch-hunt.

Mr Hansen—No, we are not. That is information for the regulatory authorities that conduct the auditing and the compliance checks.

Senator McGAURAN—Who do they then report to? Is it the ministers?

Mr Hansen—That would depend on which minister they report to within their state jurisdictions.

CHAIR—Senator McGauran, I think it is very clear from submissions that we have received, which we have all read, that the states are at the behest of enforcement from their own states, are reportable to their own departments and are subsequently under the appropriate minister in that state.

Mr Hansen—The national enforcement is at the behest of AQIS and that information is made available to AQIS.

CHAIR—AQIS will be in front of us at a quarter to 11, Senator McGauran. Are there any other questions?

Senator McGAURAN—No more at this point.

CHAIR—I thank the witnesses very much for their submission.

Proceedings suspended from 10.31 am to 10.48 am

HUNTER, Mr Colin, National Manager, Food Exports, Australian Quarantine and Inspection Service

READ, Mr Greg, Executive Manager, Exports, Australian Quarantine and Inspection Service

SCHIPP, Dr Mark, General Manager, Animal Products, Australian Quarantine and Inspection Service

MURNANE, Mr Simon, General Manager, Meat, Wool and Dairy Branch, Department of Agriculture, Fisheries and Forestry

SMURTHWAITE, Mr Philip, Manager, Meat and Livestock Policy, Department of Agriculture, Fisheries and Forestry

SOUNESS, Mr Richard, General Manager, Food Policy and Safety Branch, Department of Agriculture, Fisheries and Forestry

CHAIR—I welcome officers from the Department of Agriculture, Fisheries and Forestry and the Australian Quarantine and Inspection Service. I remind senators that the Senate has resolved that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matter of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matter of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted.

Officers of the department are also reminded that any claim that it would be contrary to the public interest to answer a question must be made by a minister and should be accompanied by a statement setting out the basis for the claim. Does anyone wish to make a brief opening statement before questions? None at all. We will proceed with questions.

Senator NASH—I can appreciate that you cannot give opinions. In the DAFF submission you talk about national standards and controls. You are obviously talking about the meat description standards that have been developed to ensure customers can purchase exactly what they require. Is the department aware of instances where that is not working?

Mr Murnane—We have been made aware of some examples, as we have discussed this morning. Because we as a department are not directly involved in that regulatory chain, specific instances are not reported to us.

Senator NASH—If you have not been made aware of specific instances, what have you been made aware of, and by whom?

Mr Murnane—Without being flippant about it, there have been some issues touched on in passing at recent estimates hearings. In discussions with the Sheepmeat Council, MLA, AMIC

and AUS-MEAT, we have been kept across their current thinking and their current work on harmonisation, which you heard about earlier today. We are aware of it in that form.

Senator NASH—Is the department of the view that their concerns are valid?

Mr Murnane—I do not think that is really one for us. Obviously we have a concern about maintaining the reputation and integrity of the lamb brand and, if that integrity is undermined, the knock-on effect on the industry. But we do not have a hands-on or day-to-day role in that part of the exercise.

Senator NASH—Apart from receiving that information, is there anything at all the department does with that information, in terms of AQIS or anything like that?

Mr Murnane—I will let AQIS speak for itself, but from the department's perspective our principal role is trying to work with the industry organisations to make sure that—to the extent that is practical and relevant—they have a handle on it and to help them develop an industry based solution to it, as we heard about this morning.

Senator NASH—Is AQIS aware of any of these instances?

Mr Read—I try to stay aware of what AQIS issues are, in terms of our governance and oversight of the plants that are registered under our supervision.

Senator NASH—How many do you have registered under you?

Mr Read—It is probably around 360 establishments in total, of which around 92 are AQIS registered abattoirs.

Senator NASH—I am happy for you to take this on notice. Could you break that down on a state-by-state basis for us?

Mr Read—We can do that.

Senator NASH—If you could bring that to the committee, that would be good. In the DAFF submission, you talk about the industry codes of conduct and that if mislabelled meat or meat products are presented to the public there is legislation in place to prevent false and misleading practices. What is that legislation?

Mr Souness—The legislation is state and territory fair trading law as well as provisions of the Trade Practices Act in terms of false and misleading claims.

Senator NASH—Have there been any cases that have come before the ACCC in terms of this?

Mr Souness—Not that I am aware of.

Senator NASH—Are there any concerns about the powers of the ACCC if they were to come forward?

Mr Souness—Not that I have heard. I do not believe there have been any concerns expressed about those powers.

Senator NASH—You also talk about the options of a voluntary code or a mandatory code. From the department's perspective, given that you are in receipt of information about the problem, do you believe either of those would be more useful in addressing the problem? Is there a view within the department as to whether voluntary or mandatory would be preferable if we were going to move down the line of trying to address this problem, if it indeed exists?

Mr Murnane—I am not sure we have actually got to that point yet in reaching a departmental view on this. As I said earlier, so far we have been talking with the relevant industry organisations to keep across what they are doing in—

Senator HEFFERNAN—When did the light turn on in the department?

Mr Murnane—If by that you mean when did we first become aware of it, I guess it probably would have been towards the end of last year when the industry itself started developing a response to these issues.

Senator NASH—What other voluntary codes are currently in practice in the agricultural sector?

Mr Smurthwaite—Non-prescribed ones?

Senator NASH—Yes, purely voluntary.

Mr Murnane—I am not aware of voluntary codes in the agricultural sector.

Senator NASH—But there was a voluntary code for the horticultural industry, wasn't there?

Mr Murnane—That now has mandatory status.

Senator NASH—But it was voluntary at one point, wasn't it.

Mr Smurthwaite—Individual markets also had their own codes.

Senator NASH—Why did that move to a mandatory code?

Mr Murnane—It was a policy decision of the previous government.

Senator NASH—I know one of the options on the table is some kind of voluntary code and I am trying to find a predecessor where that has worked successfully. If we are going to talk about how we are going to address this issue and if a voluntary code is put forward, I think there would have to be quite a significant amount of work to say how it could possibly succeed.

Senator HEFFERNAN—If you are interested in protecting Australia's meat standards as a department, do you think you are a bit laid-back? Do you see the solution as an industry solution

that will lob on your desk or are you supposed to go out there and ask a few questions yourself, which you obviously have not done yet?

Mr Murnane—I am not sure that we have the authority to go out there and ask questions.

Senator HEFFERNAN—That is sort of my question. What is your role? Do you process the envelope or something?

Mr Murnane—On this issue, as I said earlier, we have a policy role on behalf of the government. The way we try to manage that is to work with the industry organisations to understand what is going on in the industry and what the industry is doing about particular issues.

Senator HEFFERNAN—So would your role be one of sovereign oversight of the thing? New South Wales operates near enough with the same set of rules as Victoria and I notice the mob in New South Wales go to a bit trouble. It is not a very difficult thing to trace a bloody vendor declaration through the system. Would your role be to pull together the sovereignty of all of this—the cross-border issues—and come up with a recommendation that all the states would follow after you have been advised by the industry? The industry is speaking as one now. They have recognised there is a problem. They have recognised they want to jump the hurdle. They have recognised they want to protect the integrity of lamb, the premium in the market for lamb and all the rest of it. What is your role?

Mr Murnane—We do not actually have a role in inspecting the supply chain at the moment because that is governed under state legislation. We cannot inject ourselves into that part of it.

Senator HEFFERNAN—Should we have bothered to call the department here today if you have no input?

Mr Murnane—As I said, Senator, our input is more on the broader policy issues and getting—

Senator HEFFERNAN—What is that? What is ‘broader policy issues’ code for?

Mr Murnane—As I said at the start, if the integrity of the lamb brand is being undermined and there is a view, either from government or from industry, that there needs to be a significant intervention or response to it, then that, I guess, is where we might come in. But until that position is reached we tend to play a lower key role.

Senator HEFFERNAN—Do you think that that position has been reached? You heard the previous witnesses.

Mr Murnane—We have, as I say, been talking with the Sheepmeat Council and MLA on this. We are across their current thinking and what they might be thinking of doing about it, and we will continue to work in that way. But I am not in a position now to say that the government will or will not—

Senator HEFFERNAN—No, and I am not asking you to do that. It is just that I would have thought there should have been a light flashing in the department that there is an issue here. Is there? Do you think we are all pulling the chain?

Mr Murnane—No, I am certainly not suggesting that. As I said earlier, we have been talking with the industry about this over the last couple of months, or however long it might have been, but it is difficult for us to inject ourselves into it.

Senator HEFFERNAN—That is fair enough. Have you been briefed on what the regulations are and how they interconnect? Obviously there is a lot of trade over the border. Are you familiar with the thread that connects it all together across Australia?

Mr Murnane—Not in a huge amount of detail.

Senator HEFFERNAN—Is there anyone in the department who is? No volunteers at the table?

Mr Smurthwaite—Is there a specific question that I can—

Senator HEFFERNAN—Obviously there is something going wrong. You can tell by the look of the bloody meat. Even some of the meat here in Parliament House that is up there as lamb is not lamb. You can tell by the size of the bone. There are cross-border issues where there is less supervision in some abattoirs than in others, which seriously undermines the premium of the lamb market. Are you across those sovereign issues across the border, or has this been a sleeper up until now in the department? There is nothing wrong if it has.

Mr Smurthwaite—The main sheep-producing states do have a very similar trade description to that used by AUS-MEAT—with the exception, of course, of Queensland and Tasmania. So that covers something like 96 or 97 per cent of the—

Senator HEFFERNAN—But where do you come in? If we go back to kangaroo substitution or something, have you got a role in that?

Mr Read—Senator, to get to your question, there are three inputs that I see from the department at this stage. There is a broader policy question; that is the one that Mr Murnane has alluded to. There is a FSANZ standards-setting process and there are the implementation steering committees that sit around a cross-jurisdictional role; Mr Souness can talk more about that, but that is more in terms of actually setting the standards, and some of those standards make reference to, probably, broader classification and the accuracy of labelling.

Senator HEFFERNAN—This committee has received a lot of submissions on that, and we will deal with that at another time.

Mr Read—But equally you have the implementation of those standards through the jurisdictions. There is an ‘if’ process, as they call it, where those types of discussions come up. But, putting all that aside, then you have your market access role. The market access role picks up both AQIS’s governance nationally over export certification and anything that would be

wrapped up or concerned with inaccurate description of product that comes under the Export Control Act. That certainly falls within our jurisdiction.

Senator HEFFERNAN—But if an AUS-MEAT accredited meatworks is an exporter and also in the domestic market and—in the domestic market—is doing this hogget substitution, is that an issue for you fellows?

Mr Read—In the purest sense, it would be an issue for the plant because if you have a plant that is AUS-MEAT accredited—and, as you would appreciate, most of the export plants use the domestic market, given the size of the domestic market—and if they jeopardise their AUS-MEAT registration through practices that are not in keeping with maintaining that registration, as you have described—

Senator HEFFERNAN—Would that be a disqualifying—

Mr Read—You will have AUS-MEAT here this afternoon, but my understanding is that that would threaten, I would imagine, to a serious extent, their AUS-MEAT accreditation. If they lose AUS-MEAT accreditation, then they cannot be a registered export plant, so there is a very important link. There has to be truth in labelling, both domestically and into the export markets, out of those export registered plants.

Senator HEFFERNAN—Would the role of the Commonwealth then be to chair, as it were, a meeting of the states for—as Senator Fisher said—some sensible, workable harmonisation? Unfortunately, at this point in time, one or two of the states supervising meat safety-type people have refused the privilege of coming to the committee—and we may have a view on that in due course. Would the Commonwealth be the best body to get these people together or would the industry get them together?

Mr Read—Mr Souness might like to respond to that, but there may also be a broader group where that type of discussion should appropriately take place.

Senator HEFFERNAN—Or should we just get Sam Kekovich to get them together?

Mr Souness—That is one option. The Commonwealth is a player in the regulation of the food supply. We have a Commonwealth statutory authority, Food Standards Australia and New Zealand, which I think you are familiar with through country of origin labelling provisions in the food standards code, which we have discussed in the past. There is a system around that that supports the food regulation ministerial council that is chaired by the Commonwealth—by Senator McLucas, Parliamentary Secretary to the Minister for Health—and has representatives from all jurisdictions, including New Zealand. The food standards system that Mr Read mentioned which supports the food standards code, which is state and territory law, not Commonwealth law, is mainly designed to support food safety aspects of production of food. Up until recently, it has tended to focus on more processing and retail sale of food. It has not gone back towards the farm gate. Recent decisions by all jurisdictions mean that that food standards agency does produce primary production standards. It has produced a number covering seafood and is currently working on one covering poultry meat, and intends to develop one for red meat in the near future. Again, that is mainly to focus on food safety aspects of the production of food along the supply chain. It is a forum where issues pertaining to the production of food can be

discussed by senior officials and by relevant ministers. But, as I said, that system is currently set up more to support food safety measures.

Senator HEFFERNAN—So really at the present time the federal department is just an interested observer?

Mr Souness—No, I think we are beyond that. Minister Bourke, for example, has a seat on that ministerial council along with Senator McLucas. The department shares with the Department of Health and Ageing a policy responsibility in terms of food regulation policy, so we are more than a distant observer in the process. We participate but, as I said, the food regulatory system is principally designed to focus on food safety issues and less in terms of consumer information.

Senator HEFFERNAN—So if the representative bodies of the industry who have appeared here this morning and are speaking with one voice were to go to the Commonwealth and say, ‘This is what we would like to have happen to bring peace, goodness and harmonisation to the industry. Will the Commonwealth assist or implement this?’ are you in a position to do that?

Mr Souness—As I said, under the current arrangements, the food regulatory system tends to focus on food safety. There is a set of principles set out in the legislation establishing Food Standards Australian and New Zealand and also in the COAG agreement that set up the food regulatory system. The key principle is protection of public health and safety.

Senator HEFFERNAN—So the answer is that you are not.

Mr Souness—Not under the current arrangements, but—

Senator HEFFERNAN—I like yes or no answers. I realise you have got to fill in time bureaucratically.

Mr Souness—Sorry, I hope—

Senator HEFFERNAN—That is all right. Do not be offended. You can get up me anytime you like.

Mr Murnane—Senator, the other step in that process would be that, if the industry bodies collectively came to government and said, ‘Look, this is what we want to do,’ then that would become a decision of government. It is not something that we can sit here and tell you whether the answer would be yes or no; it would be a decision of government.

Senator HEFFERNAN—It seems to me that there are some people who are seriously fair dinkum and some people who are, as I said, just likeable rogues. Fair enough. That is life. But, if you have a system in one state where the FoodSafe equivalent has a board and on the board you have people who are in the industry—obviously you have to get advice from the industry—who are also at the same time part of the group of people who are playing the game—hogget into lamb, water into wine—wouldn’t that be a conflict? I am not saying it is true but, if it were true, wouldn’t that be a flaw in the system?

Mr Murnane—That would really be an issue that the relevant state and regulatory authority would have to deal with. It is not something that we can make a judgement on.

Senator HEFFERNAN—But if the regulatory authority was influenced by people who are playing the game, how do you overcome that? How do you get rid of them? Surely, at some stage of the game, the Commonwealth or some other body ought to be able to say, listen. Someone has got to impose some outside authority occasionally, and I would have thought maybe—

Mr Murnane—But, from a governance perspective, I would not imagine that the Commonwealth could direct a state in that way.

Senator HEFFERNAN—That is going back to where I started. Is there enough—

ACTING CHAIR (Senator Siewert)—Senator, are you asking the officer whether there is an administrative process that the department can follow, or are you asking the officer whether there is a government policy initiative that the department can follow?

Senator HEFFERNAN—No, what I am asking is, under our constitutional arrangements, is the sovereign protection of the states at the border enough to keep the Commonwealth out of supervising this market?

ACTING CHAIR—You are asking for a legal opinion?

Senator HEFFERNAN—No, I am just—

Senator NASH—I think the senator is asking if the industry wanted to go down the—

Senator HEFFERNAN—Or are we wasting our time talking to the department today, because they do not have the authority to do anything. Are you the blokes or aren't you?

Senator NASH—If the industry wanted to go down the road of a mandatory code, can the departments implement it or not?

Senator HEFFERNAN—Does the constitution bar you from that happening?

ACTING CHAIR—What administrative arrangements can the department put in place—is that what you are asking? There is an interchange going on which seems to me to be bordering on asking the officers what they would implement as a matter of policy, which I do not think they can answer.

Senator HEFFERNAN—No.

Senator NASH—No. I do not think so.

ACTING CHAIR—But, on the other hand—and that is why I asked Senator Heffernan to clarify—if you are asking what administrative arrangements are possible to put in place within the scope of the policy and constitutional constraints of the department—that is a fair question.

Senator HEFFERNAN—That is the question.

ACTING CHAIR—Is there an answer to that question, before we move on.

Senator NASH—Well, they have not answered that question.

ACTING CHAIR—I am not asking the question; I am trying to frame it in the context of what you can say.

Senator HEFFERNAN—If you do not know the answer, just say that you do not know. I do not mind. We had better find out, though. Do you think that is a vagary? You do not know the answer? It does not matter if you do not. There are lots of things that I do not know: I do not know if it is going to rain much this afternoon either.

Mr Murnane—As we discussed a few minutes ago, if the industry came to government and said: ‘Look, we think there’s a problem. It needs a national government to develop a solution.’ If the national government was to do that, and it had the support of industry, then that would be a decision that the national government would need to make. As Senator O’Brien suggested, that is a very separate question from managing the current responsibility arrangements.

Senator HEFFERNAN—No. But I am asking, from the department’s point of view, if the industry comes to the government and says: ‘We want this sorted out. Here’s how. You do it,’ and one state says: ‘No. Up yours’—do you have the authority to do it?

Mr Murnane—I am not sure that—

Senator HEFFERNAN—Because we are wasting our time if you do not.

Mr Murnane—I am not sure the Commonwealth can force the states to do something.

Senator HEFFERNAN—Can I put that on notice? It might be easier.

Mr Murnane—I am happy to get back to you on that.

Senator HEFFERNAN—I am not a lawyer.

Mr Murnane—No, neither am I.

ACTING CHAIR—Could I just raise the issue with AQIS in its export role, given the export of the product? What role does AQIS play in the accreditation of the export product in terms of product description? Do you sign off to say this shipment of lamb is lamb?

Mr Read—That is correct. We essentially have a range of certification responsibilities to import authorities across, as I said, issues ranging from animal health status through to sanitary status of the product and naming of the product, almost down to any labelling claim, which is a particular focus that the US has. So we need to have systems—proved arrangements on our export plants—from which, through our audit and verification of them, we derive sufficient levels of confidence to enable us to provide the certification with the product that is exported.

ACTING CHAIR—So does that mean that AQIS officers randomly check the production line or the records to see that that which is said to be lamb actually comes from a purchase which was identifiable as lamb at the saleyard and through the production process?

Mr Read—Just to clarify that particular point, as we mentioned before, all export plants need to be AUS-MEAT accredited. AUS-MEAT accreditation means that they must comply with the AUS-MEAT language, which is essentially an internationally accepted meat description language. That is audited regularly by AUS-MEAT and we have an MoU in place with AUS-MEAT, so if any digressions occur in terms of those audits, they are discussed with AQIS. AQIS also has meat inspectors and veterinary officers present on all our slaughter plants. We also have ATMs that visit those plants monthly. We have field operation managers that also do cross-reviews of our plants. We have ultimate responsibility for what we call primary classification, which talks about things like beef, lamb and pork, so we do carry that responsibility. We attest to that responsibility through verification of what AUS-MEAT is doing on those AQIS plants. That means auditing what AUS-MEAT is doing. Obviously, if we see some digression from acceptable practice through the presence that we have there, we will respond to that quickly.

ACTING CHAIR—How will you respond to it? Do you notify AUS-MEAT?

Mr Read—There is any range of scenarios that could be painted, but if it was clear that there was non-lamb coming through being branded as lamb, then there would clearly be a breakdown in the systems that the approved program would be premised on.

Senator HEFFERNAN—How would you know that if you are at the end of the chain?

Mr Read—There is ante-mortem inspection by our veterinary officers on plant.

Senator HEFFERNAN—Do they open up their mouth? What do they do? Do they look at the vendor dec and say, ‘This is the vendor dec for that lot that is going on the chain now’?

Mr Read—There are approved programs that operate in the companies. Correct me if I am wrong, but the approved programs that are operated by the companies that we approve need to be clear that they actually get to a particular outcome, and one of the outcomes required is the correct labelling of that product. That will certainly require some degree of reconciliation between vendor decs and product that is exiting the plant. It will also require random sampling of the teeth of the animals to ensure that what is recorded as a vendor dec is actually an accurate representation.

Senator HEFFERNAN—On every shift, is there half an hour spent opening up a few mouths as they get their bloody throats cut?

Mr Read—The approved program, and whether that is occurring hourly or daily as a sample representation to ensure confidence in the statements that are made, will vary, but the approved programs of these companies that AQIS signs on to provide clarification on what that arrangement is. AQIS, in its oversight of that approved arrangement, will from time to time ensure that the company is doing precisely what that approved arrangement describes.

Senator NASH—What is the variation in the sampling? You just said that there would be a variation in the sampling—what is it?

Mr Read—The approved arrangements are essentially the company's description of how, through their systems, they can meet the requirements of the various orders and directives of AQIS. There are always many ways to get to an end point, so there will not be consistency. For example, you will have different types of works—you might have multispecies works or you might have plants that do game products. So you will have a variety of export works out there, and those approved programs will vary depending on the types of systems that company operates. AQIS will go to that plant, look at those approved arrangements and, against the framework of the export meat orders and the other directives that are issued by AQIS, assess whether that approved arrangement meets the requirements of the legislation. They are going to vary but they are still going to meet, effectively, what that legislation prescribes. So they will not be the same.

I do not want to leave the committee with the impression that there is a mandatory sampling framework that is applied. There is not. It will be varied, but it will be done in such a way that the regulator can have confidence that the systems that those animals are put through ensure that, by the time it gets to the point of issuing a certificate, we are comfortable with that product being accurate to that description.

Senator NASH—I accept that there are different types of animals being done, but just within lamb processing, is there variation within sampling?

Mr Read—With the sampling there would be.

Senator NASH—But why is there?

Mr Read—As I described, it will vary. It depends on the systems that operate in the companies. The company may well have an arrangement that they are not doing all their buying through saleyards. It might be managed through particular buying regimes off farm. It could well be, for example, using company buyers out in the field who are actually checking the animals' teeth before the things enter the supply chain towards the plant. In other cases it might be that the company is buying out of saleyards and the buyers are sampling in the saleyards. It might be another system where farmers are turning up, dropping them off into the lairages—

Senator NASH—All right. I am very happy for you to take this on notice, but could you provide the committee with the specific arrangements—rather than just that they are 'different'—in those separate scenarios?

Mr Read—Okay. So we can just paint a few pictures of what is happening out there as to how companies attest to the—

Senator NASH—There must be a finite number of variations. We want all the variations, not just a couple of examples. We want all the variations of the lamb sampling.

Senator O'BRIEN—But that is a company by company arrangement, isn't it?

Mr Read—Again, that will be within—

Senator HEFFERNAN—But is there a regular process inside the abattoir gate? There is all sorts of jiggery-pokery. I know all these blokes that buy the lambs and they blend them and—

Mr Read—Excuse me, Senator, just going back to the taking on notice of Senator Nash's request, we need to be obviously mindful about any commercial-in-confidence arrangements if we provide that, so—

Senator NASH—Absolutely, and I understand that, but I just want a bit more than 'there are different arrangements'.

Mr Read—So we can do that but do it in a way that does not identify those companies?

Senator NASH—Yes. That is fine.

Senator O'BRIEN—In terms of the cost of this system, I am assuming that AQIS's costs are passed back to the processors. Can you give us an approximate idea of the cost that this would impose? It is hard to get a meaningful production unit without asking you to do it carcass by carcass, but perhaps you could provide a daily cost for production? It seems to me that the extrapolation of this is to ask whether the states should be doing this. I would like to have an idea of the cost of the service, and, at the end of the day, if there are recommendations that we want to make about whether this should be a uniform system, who should pay that cost.

Mr Read—It is very easy to provide you with the AQIS costs per unit. We can do that.

Senator O'BRIEN—Yes. That is what I am asking for.

Mr Read—But all that provides you with is what the regulatory cost is to maintain market access across all those issues I talked about, not just about naming standards, product classification or description. It would be very difficult to actually say out of that \$6.50 per beef carcass, for example, what component relates to the systems that we just talked about.

Dr Schipp—Is that what you are asking for, Senator?

Senator O'BRIEN—In a sense the states have some of the responsibility that AQIS has, except you are managing the export power. The states are managing human health issues for the domestic population, whereas AQIS in a way is doing that for the export market.

Mr Read—We do it for both. We manage the same responsibilities as the domestic plants in relation to meeting the Australian standard. But the majority of countries that we do export product to have requirements over and above that Australian standard. We bolt a few additional requirements on to that standard. Again, in providing that information to you, I am not sure how effectively that can be overlaid over a state regulatory regime.

Senator O'BRIEN—At least it would give us an upper level, wouldn't it?

Mr Read—It certainly would do that.

Senator O'BRIEN—In terms of the implementation of the systems that you have just discussed, presumably the international markets we trade into accept the system that AQIS uses to certify the meat as meeting their standards.

Mr Read—On that point, I think it is important to note that the AQIS certification system is audited intensely by a range of countries. We have just had the EU out here. We have got Indonesia entry interviews this Friday and we have got the US coming out in a couple of months. They will all look through those reconciliation processes in terms of traceability and description.

Senator O'BRIEN—Has that been an ongoing system?

Mr Read—Yes.

Senator O'BRIEN—Have we been found wanting through that process?

Mr Read—In terms of our export certification system, we are probably found to have one of the best certification systems globally. That does not mean that from time to time you do not find where your systems are out of alignment—you always do. Our job is about keeping that alignment as consistent as we can.

Senator O'BRIEN—So the variable systems that you use are found to meet the various standards that are required, subject to minor variations and requirements?

Mr Read—That is right.

Senator HEFFERNAN—When was the last time you were on the floor?

Mr Read—Last week.

Senator HEFFERNAN—Have you ever seen anyone pull hogget out of a lamb line?

Mr Read—No.

Senator HEFFERNAN—Do you think that is a bit funny, given that a 30 kilogram lamb is very, very close to cutting its teeth?

Mr Read—I have the same issue with live animal exports where countries prescribe a certain teeth and age requirement, which we regulate and oversight. The classification of lamb is a full set of lambs teeth. You will go through that period of transition when they lose teeth and then the two permanent incisors emerge, indicating the hogget. That period is probably somewhere around 28 days, depending on the type of animal we are talking about. Some of them break teeth at eight months; some break older than 12 months.

Senator HEFFERNAN—The ones that break teeth at eight months old would have had a hard time, mate. They would not be export lambs.

Mr Read—But they would still be classified as lambs.

Senator HEFFERNAN—They would never get the weight, mate.

Mr Read—While ever the teeth represent lambs, they are lambs. All I am saying is that we can only base it on dentition; that is the standard at the moment. That varies from animal to animal, breed to breed and region to region.

Senator HEFFERNAN—Anyhow, my question is really: do you have the authority to do anything about it? I do not know whether you took it on notice or what you did about that question. It would be pointless for the industry to come to one point, ask someone to impose the regime across Australia and for the Commonwealth to then say, ‘We have not got the authority.’ That is the question I would like you to answer.

Mr Murnane—I think we were close to that a few minutes ago. To the best of my understanding of the way Commonwealth-state responsibilities work, if something is constitutionally a state responsibility and the Commonwealth wants to do one thing and the state wants to do another, there is little that the Commonwealth can actually do. That is why we tend to work towards cooperative approaches rather than impose something nationally.

Senator HEFFERNAN—There is a multipurpose operator in South Australia that is lobbing meat into Canberra that is hogget branded as lamb. In terms of a sensible resolution to this cross-border issue, is there nothing you can do about it? Is it a matter for the states to sort that out?

Mr Murnane—To the best of my knowledge, under the current rules of the regulatory system, if the states have responsibility for part of that, then it is up to the states to monitor it, police it and enforce it.

Senator HEFFERNAN—If you were a person who had the lamb industry at heart, how would you go about harmonising it? Would you get all the states to agree individually to do the same thing?

Mr Murnane—Without wanting to go over too much old ground, you would want to talk with the industry about the way forward that would be supported by most, if not all, of the players in the industry. You would work through it that way.

CHAIR—Are you doing that now? Have you spoken to them?

Mr Murnane—Yes, that is right. You heard this morning from the Sheepmeat Council in particular about the process that they have got in train at the moment. To cut to the chase of what I think Senator Heffernan might be asking about, ultimately there can be mandatory national codes of conduct imposed but that would be a decision of government based on where the industry is at and what people may or may not want to do.

Senator NASH—Could the government make a decision to impose a national mandatory code that would override the states?

Mr Murnane—It depends on the head of power. I think it was you, Senator Nash, who touched on this earlier. The horticulture code of conduct is established and policed through the ACCC, so the Commonwealth can set up a regime to govern those sorts of arrangements. A point

that I said earlier that I would take on notice and check in a bit more detail is whether the Commonwealth could actually impose a national code of conduct in the situation that we are talking about here.

Senator NASH—What would be the differences between the horticulture industry and the lamb industry? If we could do it as a process with the horticulture industry—

Mr Murnane—As I understand it—and I will start off by saying that my knowledge of the horticulture code of conduct is not complete—in the horticulture industry that is a code governing the relationship between people who produce horticulture products and people who buy them. In the case that we are talking about here, we are talking about the actual branding or description of a product and, as I understand it, that is not something the Commonwealth has responsibility for.

Senator HEFFERNAN—But it is most definitely the relationship between the producer and the processing.

Mr Murnane—Yes, but again, my knowledge of the horticulture code is imperfect, but my understanding is that is aimed at dealing with the commercial relationship between those two.

Senator FISHER—The relationship per se.

Mr Murnane—Yes, the producers and wholesalers; it is trying to govern that commercial relationship. Whereas in this issue we are actually talking about the description of a product, and that would be a different head of power, and I am not sure the Commonwealth has the authority to legislate in that area.

Senator NASH—You did undertake to take that on notice earlier, didn't you?

Mr Murnane—Yes, I said that I would—

Senator FISHER—To the extent that the industry has talked, referring to one of the options being harmonisation of state legislation, Mr Murnane, wearing your policy hat and looking at a suite of options, in your opinion, are you aware of harmonisation in another area that has either been attempted and fallen short, or attempted and failed, and/or harmonisation in another area that is working?

Mr Souness—I talked before about the food regulatory system we have. This is probably part way to answering the earlier question from Senator Heffernan. The Commonwealth has no head of power over regulating the food supply. AQIS's powers come from the external affairs powers et cetera, and it crosses national borders. But we have worked with the states to try and harmonise food standards in Australia so that the states are all working from the same set of standards. That has been somewhat successful. We have probably got about 95 per cent there so far. We have a single set of standards; the states interpret and enforce those standards. Sometimes we get a bit hung up on the enforcement; the states enforce them in different ways. They interpret them in different ways as well at times. But generally we have harmonised the food standards arrangements, and that was to take into account the constitutional role of the states in terms of the food supply. It has been a big investment to get to that stage.

Senator FISHER—I hear the department's difficulty in the extent to which you may have a role, but I would have thought that you could have a policy parameter role. Even that information, I would have thought, is informative to industry because, in the scenario you have painted, one of the shortcomings—you said that you are 95 per cent there in food industry safety standards—is state based enforcement differences. We heard this morning from the witnesses that the major impediment, to the extent that there is a problem here that we are looking at, is lack of enforcement. So that could be a very instructive lesson. Can you provide more information about how and why the enforcement mechanisms are falling short because, for example, that otherwise may be a pitfall into which this sector contemplates walking?

Mr Souness—There is anecdotal evidence. Working in the system from a policy perspective, we hear stories from time to time in terms of why the states take different approaches at times. Some states choose not to enforce some food standards from time to time because of a view of the government at that stage or because they want to tread lightly on a certain sector. I am not suggesting that that is so in the case of lamb at all, but they do take a variable approach to enforcing food standards from time to time. They resource their food areas in different ways. For example, New South Wales—I think you are talking with the New South Wales Food Authority this afternoon—has a dedicated agency that is nearly fully cost recovered and a very active compliance assessment program. In other states, food sits across health and other agencies depending on what the food is and where it sits in the supply chain. So there is a variable approach across Australia, and it has been that way for a very long period of time. We have been working with states through a number of fora to try and harmonise their arrangements. Mr Read earlier mentioned the implementation subcommittee of the Australia and New Zealand Food Regulation Ministerial Council as one body where we sit with officials and try and work through approaches that they can use to harmonise their enforcement activities. But there are differences, for a whole range of reasons.

Senator FISHER—To the extent that there are penalties in terms of food safety, are they identical or similar or harmonised? How would you describe them state by state?

Mr Souness—They are nearly harmonised but there are variations.

Senator FISHER—Therein lies—

Mr Souness—That is part of the problem. But they use a system of penalty points to work out what fines might be, for example. But different states take different approaches from time to time.

Senator FISHER—Presumably there are different tribunals, before which any prosecutions for breach would go, state by state.

Mr Souness—They tend to go through local courts, generally, depending on the nature. I am not a legal expert, but they generally go through local courts. Occasionally, I think, they go through higher courts, depending on the nature of the offence.

Senator FISHER—Thank you.

Senator HEFFERNAN—I have a question for Dr Mark Schipp. You have been sitting there very quietly all day. You are, it says here, general manager of exports, whatever that means. In dentition versus ossification, how would you supervise ossification?

Dr Schipp—We do not. The current definition of lamb relies on dentition.

Senator HEFFERNAN—But the American market will accept ossification.

Dr Schipp—That is right.

Senator HEFFERNAN—How would you supervise that?

Dr Schipp—In a hypothetical sense?

Senator HEFFERNAN—Yes.

Dr Schipp—It is done by our palpation of the suture in the pelvic canal.

Senator HEFFERNAN—I am aware of how it is done. But how would you, in a practical sense, implement that in an abattoir?

Dr Schipp—In a practical sense, I think you would have to palpate every carcass as it came through. I believe there is also some means of scanning carcasses which would assist in identifying age. But those are the three that I am aware of.

Senator HEFFERNAN—But the more practical is dentition?

Dr Schipp—Yes.

Senator HEFFERNAN—Thanks.

CHAIR—Are there any other questions for the officers? If not, I thank officers from the Department of Agriculture, Fisheries and Forestry and the Australian Quarantine and Inspection Service.

[11.49 am]

CUMMINS, Mr Chris, Managing Director, Cowra Meat Processors, Breakout River

FLETCHER, Mr Roger, Managing Director, Fletcher International Exports

NEWTON, Mr Neville, Managing Director, Southern Meats Limited

CHAIR—I now welcome representatives from Southern Meats Limited, Fletcher International Exports, and Cowra Meat Processors. Is there anything you want to say about the capacity in which you appear here today?

Mr Newton—I am also a director of Junee abattoir.

CHAIR—Do any of you wish to make a brief opening statement before we go to questions?

Mr Newton—This inquiry has been of particular interest to our companies. One particular reason is we believe fraud has been perpetrated for a long time with the misrepresentation of lamb. It has gone on for a number of years, well known to all the regulatory bodies such as the MLA, the Sheepmeat Council of Australia and AMIC. Only recently has it fired into some area of concern from those bodies. It has to be rectified and it has to be done in a sensible manner. I would imagine that you have listened this morning—I have not been in the room—to how the industry hopes to fix it. I would have to say, as a member of AMIC and knowing the other groups, that I will wait for the second coming as I think that it will be quicker. It has gotten completely out of hand; there was evidence out there in the markets last week. Lamb is reaching very high levels and its misrepresentation is getting a little bit more prevalent, we believe. That is about all I want to say at this stage.

Mr Fletcher—I wear two hats—I am also on the Australian Wool Innovation board. Over the years, we have seen where the Woolmark Company have added a Woolmark, and all wool is the same which, unfortunately, pulls it all down to the lowest common denominator. I would not like to see it happen in the lamb industry. It is happening in our industry to a degree—more on the domestic market. MLA spends a lot of money promoting lamb. We have taken it from being a budget product over the last few years, taken it forward and this is only going to take it backwards. As tougher times come, there is more of this happening. With my other hat on, I sat in on the 2020 conference. It was my biggest thing to say ‘harmonise state laws’ and the Prime Minister said that this was the easiest one to fix because it would not cost money, we could get on with it and it was the first thing we should do. So I put it back to you people.

Mr Cummins—As a processor in the domestic industry, I have been in the industry for over 30 years and the misdescription of lamb has run rife. The longer it has gone on, the worse it has become, particularly in Victoria where there does not seem to be a regulatory body down there that wants to do anything about it. We are different in New South Wales; we are audited stringently. Anyone cheating the system tends to get audited and found out and then it is squashed. In Victoria, it is running rife and we are finding it very difficult to compete in the domestic markets of Queensland and New South Wales with the competition coming out of

Victoria. The prices coming out of Victoria are not 10c or 20c a kilo cheaper than what we are offering; they are a dollar a kilo cheaper—more in places. My reason for being here is that New South Wales is at a disadvantage and there will be no domestic works left in New South Wales if Victoria is not stopped in this practice.

CHAIR—I remind witnesses that they are protected by parliamentary privilege.

Senator HEFFERNAN—The Victorian department of agriculture—as I understand it—have notified this committee that they know of no funny business in the market at all.

Senator McGAURAN—Give us some evidence.

Senator HEFFERNAN—Mr Cummins, you might like to walk us through the practical example of how it affects a business and how it undermines the lamb market when you have people who do not go to the trouble of chasing the vendor declaration—from the point of departure from the farm, through the saleyards and to the abattoir. We have a sceptic here.

Senator McGAURAN—Before that, shouldn't we know that they can substantiate the serious allegation they have just thrown out.

CHAIR—I think, Senator McGauran, that firstly—

Senator McGAURAN—Before we get onto the ramifications—

CHAIR—Order! Senator McGauran, I just called for order, please. Senator McGauran, you will have a chance. Senator Heffernan is halfway through asking witnesses a question. I think Senator Heffernan and the witnesses should be heard.

Senator HEFFERNAN—There is a view that backs up the department in Victoria. There is nothing wrong—because there is no evidence.

Senator McGAURAN—To what extent?

Senator HEFFERNAN—Could you enlighten the committee as to some of the jiggery-pokery that is going on?

Mr Cummins—I would like to bring Senator McGauran to Cowra and go to the Coles supermarket there. You will find a Victorian plant's brand on legs of mutton sitting in the meat cabinet. I can walk in there any day of any week. I can give you two people that used to work at that particular plant. They would stand here and tell you that the practice was of rolling mutton as lamb. There is no dentition on the chain in these plants. Of course there is no problem in Victoria, because the Victorian authorities do not do anything. Today, it is so easy to walk into a plant and audit it because we have vendor declarations. We can have anyone come into our plant, go through the vendor declarations and say, 'All right, last Thursday you killed 2,000 lambs and 700 mutton. Where are your sales?' If there are 2,700 lambs go out, we have a problem.

The Victorian authorities keep saying that there is not a problem. The reason there is not a problem? They are not policing it. If you do not police something, there is no problem. If we did

not have any police arresting people for drug-taking, we would not have a problem with drugs. If we did not arrest people for break-and-enter there would be no problem with break-and-enter, because the records would show that. If we put unemployment down as zero, but we have 15 per cent of the population on unemployment benefits, of course we are going to have no unemployment. My gripe is that the Victorians keep saying they have not got a problem in Victoria. I will keep saying that they have got a problem if they look.

Senator HEFFERNAN—Maybe Mr Fletcher might want to have a chop at this. In the Department of Primary Industries PrimeSafe submission to this committee, they say, and I quote: ‘DPI submission states that PrimeSafe is not aware of any evidence of a breach of labelling conditions.’ Can you compare that PrimeSafe attitude in Victoria with that of SAFEMEAT in NSW?

Mr Fletcher—Firstly, in saying they have known of no claims, evidently they must have lost AUS-MEAT’s letters. AUS-MEAT picked up some of their plants, and I thought they reported to PrimeSafe. That covers your question. It has been picked up by AUS-MEAT, and I thought it had been reported to them. We can check with AUS-MEAT that it did happen. Surely they would have reported it to PrimeSafe. One plant had been picked up two or three times.

Senator McGAURAN—Which plant has been picked up two or three times?

Mr Fletcher—Am I covered by parliamentary privilege?

CHAIR—I think, honestly, that you might like to have a private conversation later, Senator McGauran. You might be able to follow that up with Mr Fletcher.

Senator McGAURAN—Can we have it in camera, then?

CHAIR—You may be able to follow that up with Mr Fletcher.

Senator McGAURAN—This is a plant that has been audited and reported?

Mr Fletcher—That is final and it covers your question.

Senator McGAURAN—Is that from Victoria? Now we have got something concrete, will we go in camera now?

CHAIR—No. we will continue with our line of questioning here.

Senator HUTCHINS—Mr Fletcher, on that plant in Victoria, we were told earlier that one of the things that could be held over an abattoir or a stockyard was that AUS-MEAT would withdraw their accreditation for export. Are you aware of whether that is the great bogey?

Mr Fletcher—No, it is not. The issue with a domestic plant is that, if AUS-MEAT says that they are going to pull accreditation, they say, ‘Well, get off the plant; we don’t have to have it.’ Domestic plants do not have to have AUS-MEAT accreditation.

Senator HUTCHINS—So it is not the big deal that it could be seen to be.

Mr Fletcher—Not on the domestic plants.

Senator HUTCHINS—But, if you wanted to export, you would need accreditation, and if they withdrew it—

Mr Fletcher—That is correct.

Senator HUTCHINS—If they thought that you were substituting mutton for lamb—

Mr Fletcher—That is right. So the export plants have a category. Just to make clear the difference with export plants—I think there might have been a misinterpretation by the speakers before—it is now mandatory, I understand from letters we have had, that every animal that is lamb has to be mouthed on our plant. That has been on export plants for quite a long time, so it is not guesswork or anything like that. The other issue to cover is that, if there is one hogget in a mob of 500, that one is marked and it has gone off the rail. It does not stay among the lambs—it definitely does not at my plants, and I do not allow it.

Senator HUTCHINS—Do you have separate export and domestic plants?

Mr Fletcher—No.

Senator HUTCHINS—Do other people, though?

Mr Fletcher—Yes, there would be some.

Mr Newton—We do; we have a domestic plant and an export plant. There is just one other point there that I would like to make. I would like to clarify one thing about AUS-MEAT. AUS-MEAT is a necessary thing for an exporter to have to ship meat overseas—in particular, to have an export licence. It is not a necessary thing, really, for an exporter to have. It means nothing to me in my business overseas. It means nothing to my customers. It was something that was put in, if you remember, after the beef scandals—let us call it the beef scandals—in the mid-eighties to put a bit of credibility back into the business. But do not get fooled that this is the be-all and end-all that is going to put credibility into business. It will not.

CHAIR—Gentlemen, if this committee were to take evidence in camera, would you be able to supply specific evidence as to what laws are being broken around the country?

Mr Newton—Yes.

Mr Cummins—Can you clarify what you mean by ‘specific’?

CHAIR—Yes. If the committee were to go in camera, it would be a private hearing. There have been mentions of things that you have seen happening around the country. If, rather than just hearsay, there is specific evidence that can be provided to the committee, we as a committee would be prepared to take that in camera. So it would not be a public hearing then.

Mr Newton—I think it would be better if we had it in camera.

CHAIR—All right. Does anyone have any burning questions?

Senator HEFFERNAN—There needs to be a practical side to this. I have to put it on the record again that I am a Junee Gold man. There is lamb and lamb—as you know, Mr Newton—and Junee has developed quite a good niche market, I suppose you would say. It is probably bigger than a niche these days. Could you, for the benefit of the committee, explain what happens when someone is buying hogget and substituting it for lamb and how they undermine the market? Back there, when I got this hearing on the road, I think lamb was about \$3.40 on the hook and hogget was about \$2.20 or \$2.40 on the hook. I think it was \$4.50 wholesale in Sydney, and they were delivering it wholesale from Victoria to Sydney for about \$3.40, which was the hook price at Junee. Would you like to explain how that undermines all the good work—

Mr Newton—What we have seen evidence of in the saleyards—let us take Wagga saleyards—is that you can see a buyer come in there, he buys pens of lambs, he buys pens of hoggets, he shandies them up, as we call it, and then they go back, as we say, over the river. They come back into the Sydney market as lambs. He might have paid \$4.00 for the lambs; he might have paid \$3.00 for the hoggets. So you can see the advantage he has on someone who is selling the correct article. Please understand—and I do sense some doubt from some of you—that this has been going on for 20 years. It has not just happened; it has been there for years.

Mr Fletcher—Except there is a change: lamb today is worth probably double the mutton price. Twenty years ago, mutton was worth \$10 and lambs were worth \$15 to \$20. Now, if someone can put through a thousand hoggets a week in a plant that is doing, say, 10,000, that keeps him out of jail—keeps him viable.

CHAIR—And out of jail!

Mr Fletcher—We have got an industry today that, with our packs and where we are going around the world, is far superior to what it was 20 years ago. Quite frankly, 25 years ago most of the lamb that went to America was mutton and how cheap could you pull it? We have been able to reverse that. The MLA have done a lot of work. There is a lot of growers' money that is going in—the levies are virtually \$1.30 to \$1.50 a head on lambs and 20c on mutton, which is correct because there is no promotion of it. But if those hoggets can go through into the lamb trade, they are saving themselves \$1.30 a head or so. I do not think that is quite fair on the decent lamb grower that is trying to grow good lambs.

CHAIR—If there are any other questions that senators wish to put to our witnesses before we take a short adjournment and go in camera, you can ask them now or wait until we are in camera.

Senator FISHER—Mr Newton, in your opening statement you said words to the effect that you will sit back and wait to see if the industry can resolve the situation. You have indicated that the problem has been around for a long time, for 20 years, which in part brings me to ask: why are you before us? Mr Fletcher has said some things have changed in the industry that may bring you here. Your submission talks about some things that are wrong. What are you actually saying can be done to fix the situation if you are not confident that industry itself can rectify it?

Mr Newton—I do not think the industry can look after itself. I personally think if you are going to have anything that is basically fraudulently done, there has to be a penalty that basically slows those people up and gets them back in line or puts them out of business. I recommended the ACCC in my submission because, quite frankly, I think it is about the only organisation that can do it. You have got state governments that have not even got enough power in their legislation to prosecute. We have the industry bodies—AUS-MEAT, the Sheepmeat Council and the MLA. All these people know what is going on. What has come out of it? Nothing. Suddenly, through this inquiry, it has come to a head and we are talking about it.

Some of you may remember back to the mid-eighties when the misrepresentation of beef took place in this country. There was misrepresentation of cuts of meat going on through the seventies as well. The only difference was that some people got really adventuresome and wanted to put a few horses and donkeys in the pack. I am not saying the lamb industry has got to that, but it is the same principle, and nothing is being done about it. We are a great industry for yapping about things and having meetings. Some of you here obviously know a bit about management structures. If you put all the structures of the meat industry on a board and had a look at them, you would say, 'Oh, my God!' And the farmer is paying for all that.

Senator HUTCHINS—Mr Cummins, in your submission you talk about the power to take away operating licences. Who issues those operating licences—is it the state authorities?

Mr Cummins—As they are now they are all meat industry bodies. That is what Neville Newton was just saying—the meat industry has tried to regulate itself with its own bodies and it has not worked. What we are saying is that we need another national body—out of the meat industry and preferably sitting under the ACCC—with new regulatory powers for a loss of licence and/or jailable offence. If you are caught once you might lose your licence for a fortnight. If you are caught twice you might lose it for a month. If you are caught three times you are out of business—no licence—and go to jail. The reason why people do not run around killing one another is that you go to jail; otherwise there would be a lot of murders. There is a particular plant at Swan Hill—two or three years ago he got caught one day; he was back at it the next day. I think it was an \$1,800 fine. It is worth millions and millions of dollars to that plant to cheat.

Senator HUTCHINS—Mr Fletcher and, I think, Mr Cummins were in the room while AQIS and the department were here. A number of senators were attempting to get out of them how the federal government might be involved somehow in the policing or the standardisation within that food industry. Two bodies were mentioned: AUS-MEAT and Food Standards Australia New Zealand. In your experience—and excluding the ACCC, which you have mentioned—are any other federal government bodies involved that can and do influence the quality and standard of lamb that is available, or are they the only two?

Mr Fletcher—To start with, in AUS-MEAT'S position—and unfortunately for them—on the domestic side, a domestic plant does not have to be AUS-MEAT accredited. That dilutes them, because if they put any pressure on anybody they will say, 'We'll just drop out of AUS-MEAT'—that is if they are only a domestic plant. On the export arena, I just have to clarify what AQIS said earlier—I probably can help them a little bit. They said there were different arrangements for different plants, whether they were lambs or mutton. They put their own thing out saying which we do in all our plants. Every lamb is mouthed and marked if they are a lamb or a sheep as they are coming through on the chain. So you will not get any different

arrangements there; they are all one. It is a pity that Canberra did not know a bit more about what was going on.

Mr Newton—I think it was a memorandum, by the way, that they put out to industry. It is on the record.

Senator HUTCHINS—We will seek to get a hold of it. You heard one of the officers talk about Food Standards Australia New Zealand, which looks at food safety. Is there any other body that you see the federal government being involved with in this area that could assist in raising standards or policing?

Mr Fletcher—I have to give credit to the New South Wales Food Authority—they have done a lot of work in their job and I think they have started to get their house in order. The problem you have is that, especially in the domestic plants in New South Wales, they are pushed to do the right thing but then there is no border. I also have an export plant in Western Australia. They do not seem to have much trouble over there, and there is a simple reason for it: they put a couple of guys in jail a few years ago. That sorted that out, and it has kept it under control. But if you are a toothless tiger and you want to sit in your office all day, things do happen. Unfortunately, if someone sees someone down the road that is surviving because he is doing it—this is how the roo in the stew started—they say: ‘If I don’t do that, what’s going to happen? I’ll run out of business.’ So he does it and the next one jumps the next hurdle and the next hurdle—everyone is trying to survive. It is no different to having speed cameras—if you do 105 you get booked at 100, but if you are going to just let them go then they will do 180.

Senator HUTCHINS—Thank you.

Senator NASH—Mr Fletcher, in your submission you refer to processor survival and to hoggets that were purchased for processing in Victoria and you say that, as a result, you had to cut some shifts back at your plant. Can you just run through for the committee how that works and how that affects you?

Mr Fletcher—It was very simple. If you went to a sale—seeing as how you refer to our plant—in Dubbo, which is a major sheep selling centre, up till recently you would see every hogget lined up and away they all went south, a hundred per cent.

Senator NASH—What impact did that have on your employees at the plant?

Mr Fletcher—Naturally, we are competing for all the animals there are. I never like to talk about myself in this category because of the issues but we have markets for hoggets overseas—there is no problem with that. But you are not going to compete when they have a dollar per kilo jump on you. It is a matter of looking after our customers and keeping the thing right. Across the world, we are exporting into a lot more markets. We have got a decent name. On the federal scene, we have pretty good control of lamb and mutton. It is in the domestic market that it all falls over.

Senator NASH—It is hard to quantify, I guess, but how much impact is there going to be on the lamb brand by hogget go through as lamb? What impact has it had over the years? As Mr Newton said, it has been going on for years and years.

Mr Fletcher—With some customers, if they go and buy a couple of legs of mutton and they are not happy with it, they go and buy something else next time. That is the way it is. If we go back 15 or 20 years ago, lamb was really a budget product. When you went into a butcher shop or a supermarket, there were sides of lamb and that was a budget product. Today, we are trimming them better and doing a better job and we are getting real money for lamb legs, racks, loins et cetera. But the customer wants what he wants. The lamb brand is a symbol that they are buying lamb. That is the issue.

Senator McGAURAN—Mr Cummins, just for the record, I am not naive to abattoir roguery, particularly the eighties substitution scandal, which always seems to have a focus down in Victoria. I am not naive to it at all and how vital it is for you to protect the integrity of your product. If we need to move towards greater penalties, which I think is coming out already, and a national system, that is well and good. Having said that, I refer to your statement that you see substitution in the Cowra supermarket quite often. If it has been going on for 20 years, why haven't you picked up a packet and had it tested?

Mr Cummins—Tested for what?

Senator McGAURAN—Whether it is hogget, as you claim it to be.

Mr Cummins—You give me a machine that can take a sample of bone or meat and tell me how old it is and I will go and—

Senator McGAURAN—Not you personally. Take it to the authorities.

Mr Cummins—They will give you the same answer. They know that if the bone is old, rounded and chalky, and the meat is black, to the naked eye it is mutton.

Senator McGAURAN—So once the head comes off, the testing is over.

Mr Cummins—Exactly. That is where the dentition in an abattoir comes in so that that carcass is identified as it comes around the chain.

Senator McGAURAN—As I said, I am not naive to abattoir roguery—who would be? But I am seeking evidence. To date, even from my colleague Senator Heffernan, it has been assertion after assertion. Can someone put down someone with their hand in the till, particularly in Victoria?

CHAIR—We will be going in camera soon.

Senator McGAURAN—You mention the hogget market. There is a hogget market out there, isn't there?

Mr Fletcher—Just so you get it organised, there are more hoggets at certain times of the year than at others. For MLA to come out and try to promote hogget, you have to understand that it is the failure of the lamb industry to start with. If you could have got your lambs off early enough that is where they should have gone. That is the first issue. The second issue is that we as exporters, because we can freeze it, niche market into certain areas and we carry it for a

customer for a couple of months because you cannot just produce it all year round. When a swag of them start coming on in certain seasons, at certain times of the year and in certain places, they are there. But promoting them right across Australia is a waste of MLA's money.

Mr Newton—Senator McGauran, as Roger says, at certain times of the year there is an oversupply of hogget and you might be able to find an export market for them. It is not a significant market. But one of the things about the lamb market and what has happened to it is that we ship good lamb to the United States of America, and it has to be good lamb. I can tell you that, right now, the American consumer is getting lamb cheaper in the supermarkets than the consumer in Australia. The dollar has a little bit to do with it, but that is what is happening out there. The consumer in Australia is getting an inferior product. It is getting a mixed product in a lot of cases.

Senator McGAURAN—You say in your submission there are some three million hoggets.

Mr Newton—That was an estimation, yes.

Senator McGAURAN—Didn't we get a separate figure from, I think, the MLA?

Senator O'BRIEN—We got different figures from the MLA.

Senator McGAURAN—Yes, much lower.

Mr Newton—Any figures in Australia as to the actual flock size, the number of lambs born and everything else—and we have had numerous discussions over the years—could be plus or minus 10 per cent. We would not have a—

Senator McGAURAN—Theirs was well less than a million.

Senator HEFFERNAN—Let's go to the point. Eighty million sheep. How many sheep do we have?

Mr Newton—We do not know. There could be 80 million plus or minus 10.

Senator HEFFERNAN—Say we have 30 million ewes. They will produce 30 million lambs which, if you balls up your management, will end up as hogget instead of on the chain. So it could be millions. Who is to know? It depends on the season.

Mr Newton—The other question is: how many go through as sheep and then end up as lambs?

Mr Fletcher—Yes, it is not just hogget.

Mr Cummins—It is the mutton that is going through as lamb that is the biggest problem.

Senator McGAURAN—I see your point, Bill, but you can still draw a line, at least in a particular year. You can. These are statistics.

Senator HEFFERNAN—It depends on the season, though.

Senator McGAURAN—Yes, but each season will have its statistics.

Mr Fletcher—Can I ask you a question?

Senator McGAURAN—It is a measure of the problem we have.

Senator O'BRIEN—I do not think we want precise numbers, but some sort of benchmark.

Mr Fletcher—I would like to ask MLA where they got their figures from.

Senator McGAURAN—Where did you get yours?

Mr Fletcher—I did not have any figures.

CHAIR—I think that is just wasting valuable time, to be honest.

Senator McGAURAN—It is not. It is a measure of the extent of the problem.

CHAIR—We are not here to count sheep. We are here to talk about harmonisation. Witnesses have put in submissions to us about harmonisation and enforcement across the country. So whether it is one bloody sheep or three million that are getting substituted does not make it any better.

Senator McGAURAN—It does. It is the extent of the roguery.

Senator HEFFERNAN—Mr Chairman, in response to those comments, it is the undermining of the market, the corruption of the marketplace; it is not the number, it is the corruption of the marketplace. As these gentlemen know, because they are in the business, it is very seasonal. If you are an autumn lamber and you do not have your lambs off by the following autumn they are going to be hoggets. If you are a spring lamber, the same thing follows. It is a seasonal thing, but it undermines the market.

Senator McGAURAN—This is a committee of inquiry. We are entitled to find out the extent of the problem, the evidence of the problem and the suggestions to fix it up. I think we have gone to the suggestions to fix it up before we have the evidence and the extent.

Mr Fletcher—Can I just satisfy you a little bit. You can go to Dubbo sale, Wagga sale or Forbes sale—the three biggest in New South Wales—and there are plenty of times when there are a couple of thousand hoggets in the market. By the way, the agents, in their good faith, now put the hoggets and the four-tooths all in the lamb sale. I do not know why they do it, but there must be a good reason.

CHAIR—Senator McGauran, do you have any more questions for the witnesses before we go in camera?

Senator McGAURAN—No.

CHAIR—I will call a short adjournment while we clear the room. Thank you.

Evidence was then taken in camera but later resumed in public—

[1.48 pm]

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

CHAIR—Welcome. Do you wish to make a brief opening statement?

Dr Brett—Yes. I will briefly outline for the benefit of the inquiry what AUS-MEAT is and does. AUS-MEAT was established in 1987 out of market failure, as has been mentioned at some stage today, and the meat substitution scandals in the early eighties and the subsequent Woodward royal commission. Following that, the trade description was very heavily prescribed in the then export meat orders. Over the period between 1982 and 1987, the industry and government put together a system called AUS-MEAT which was established as part of AMLC and which is the authority for the uniform specification of meat. AUS-MEAT's role was to convene the industry to determine industry standards for commercial trading but still function in a way that there was a legislative underpinning. That legislative underpinning was originally through the AMLC Act, as part of AMLC, so it was part of a statutory operation. With the industry restructure and the formation of MLA and AMPC and the winding up of AMLC, AUS-MEAT was formed as a third entity which is now partly owned by MLA and AMPC, so it is half owned by the processing industry and the production industry.

AUS-MEAT's role is to develop industry standards—or the trading language for meat. The AUS-MEAT language provides objective descriptions of attributes of meat from the basic categories that we have been discussing of lamb, beef et cetera to alternative descriptions such as things like fat classes, meat colour, fat colour and marbling in beef. These terms are all part of the AUS-MEAT language. The language is overseen by a committee, the Australian Meat Industry Language and Standards Committee, which includes representation from all sectors of industry—from the production sector, the processing and supermarkets. That forum comes together to discuss any changes to the language and adoption. The representation is by peak councils. The outcome of that is that if there was a recommendation for a change to the description for lamb per se, the recommendations would come through the peak councils to the committee and the changes would be adopted in that process. Underpinning that for export is the Export Control Act and the Australian Meat and Live-stock Industry Act. It is a model of co-regulation, where the industry sets the standards and government provides the legislative underpinning and backing in instances where sanctions need to be applied.

The basis of AUS-MEAT accreditation, as has been said a couple of times today, is that it is mandatory for export establishments to be AUS-MEAT accredited, but for the domestic industry it is entirely voluntary. Accredited plant needs to have in place a quality system which sets out that they have trained and competent personnel to carry out certain functions. For example, if we

are talking about lamb, they have to have trained people on the chain to carry out any mouching of the animals to determine the category. Then they have to have what we call standards officers who are trained to monitor and oversee that that process is in place.

That whole system is then overlaid by a system of verification, where AUS-MEAT conducts audits. Our officers audit on a frequency that varies from once a month—12 audits a year—through to twice a year, depending on history of performance and maturity of the quality system that is in place. Those audits are largely unannounced audits. For the purposes of export, if there is a breach of export legislation we pass the information on to AQIS and AQIS Compliance carry out any investigation that may result in prosecution. On the domestic market, as far as AUS-MEAT is concerned, we take action in relation to varying audit frequency and, ultimately, accreditation can be removed. We pass the information on to the state authorities for their action. As far as the domestic market is concerned, accreditation is voluntary, and so it is up to any individual whether they are in the system or not. In summary, the industry has developed and put in place over 20 years a body for setting and controlling standards. That framework is in place, but as far as the domestic market is concerned AUS-MEAT has no role past the accreditation of those individuals that want to be part of the club, as it were.

Senator HEFFERNAN—Have you ever reported an abattoir to a state authority?

Dr Brett—Yes, we have.

Senator HEFFERNAN—Have you reported in Victoria?

Dr Brett—Yes, we have.

Senator HEFFERNAN—Have you come across partially branded bodies or anything like that?

Dr Brett—We have had instances. In fact, over 12 years of records, we have had nine instances of what I would call major noncompliance, as far as branding is concerned, spread across the domestic and export industry. Three of those were in Victoria, three were in domestic abattoirs and six were in export abattoirs.

Senator NASH—Can you just run through those figures again, Dr Brett. You said there were nine cases—three in Victoria. Is that what you said?

Dr Brett—Nine cases—three in Victoria.

Senator McGAURAN—Over how many years?

Dr Brett—Over 12 years of records. In the domestic industry there was one instance in New South Wales, two instances in one domestic plant in Victoria and two other export plants in Victoria. So that is three plants and four instances.

CHAIR—Sorry, I have got the sums wrong here, Dr Brett. You have had nine cases all up?

Dr Brett—Nine cases all up.

CHAIR—You did say three from Victoria, but we will leave that aside. Then you broke it up into domestic—we have one in New South Wales domestic?

Dr Brett—One domestic in New South Wales.

CHAIR—Yes.

Dr Brett—Two instances at one plant in Victoria—which is really a continuation of the—

CHAIR—Both domestic?

Dr Brett—Yes, one domestic plant. Two others on the export—

CHAIR—From Victoria?

Dr Brett—Two other plants in Victoria. So that is three plants in Victoria, with two instances. Then there was one in Queensland at one plant and, finally, three instances at two plants in New South Wales—so the one plant had two.

Senator McGAURAN—What were the instances?

Dr Brett—The instances included anything from training of personnel—that the personnel doing the mouthing or the scales were not applying the brands properly—through to labelling issues about mistranslation for an export market.

Senator HEFFERNAN—Why would the Victorian Department of Primary Industries state something that PrimeSafe says? Do you report to PrimeSafe? Who do you report to?

Dr Brett—We report to AQIS on the export and, for anything in Victoria, we would report on the domestic market to PrimeSafe.

Senator HEFFERNAN—The Department of Primary Industries says that PrimeSafe is not aware of any evidence of a breach of labelling conditions. Haven't you reported to them along those lines?

Dr Brett—We have reported to them even over the last few years—one instance over the last couple of years, so they have been involved. Whether they believe one instance—

Senator HEFFERNAN—Why is the Department of Primary Industries telling us a lie?

Dr Brett—I would not like to comment, other than to say that one instance over that time is not unusual. We would normally expect to find something; we would not be looking otherwise.

Senator McGAURAN—Was that incident related to what this committee is inquiring into?

Dr Brett—Yes.

Senator HEFFERNAN—As a consequence of your reporting to this august body, PrimeSafe—who we are hoping will eventually turn up to this committee—what happened?

Dr Brett—They took whatever action under their legislation—

Senator HEFFERNAN—But are you aware of what that action was?

Dr Brett—Sorry?

Senator HEFFERNAN—Were you aware of what happened, or did you just leave it?

Dr Brett—My understanding is that they had an increased presence at the plants, as we did.

Senator HEFFERNAN—So you go into a plant one week and within a fortnight you are back there breaching them again.

Dr Brett—No, that is not the case. In fact in this particular instance we went into a plant on one occasion, found a problem, went back and found that the problems had been fixed and went back some time—

CHAIR—Could you tell us where that plant is?

Dr Brett—We are more than happy to assist the inquiry as much as we can, but this is a domestic establishment with which we have a commercial contract to do their auditing. So to provide individual information about a company's business—I am more than happy to deal with it outside of—

CHAIR—You can take it on notice.

Dr Brett—Yes.

Senator HEFFERNAN—But once you have reported them to PrimeSafe, doesn't that then come to be in the public interest?

Dr Brett—Again, it is for them to take that up.

Senator HEFFERNAN—Aren't the public entitled to know if someone has been dodgy?

Dr Brett—If the company has entered into a private contract with us to carry out audits on their behalf—

Senator HEFFERNAN—Doesn't that conflict you, then?

Dr Brett—I would have to take legal advice as to what I can—

Senator HEFFERNAN—I would have thought that you are conflicted if you are a supervisory body for the private contractor and you can not deal with it because you are contracted. What sort of bullshit is that?

Dr Brett—As I said, we provide information to the authority and it is then for the authority to take action.

Senator HEFFERNAN—But is it worth your while doing what you do to see if the reporting authority, which in this case is PrimeSafe, are bothered to do anything about it?

Dr Brett—My understanding is that PrimeSafe's action was to increase their presence at the plant.

Senator NASH—And that was the sum total of their sanction, just to be around a bit more?

Dr Brett—The sanction that we carried out was to increase their audit frequency. We were about in order to see that the systems were in place, and it is up to the authority—and I cannot speak on the part of the authority—to determine whether they have enough evidence to prosecute somebody or not.

Senator NASH—Do you think they did have at that point?

Dr Brett—Again, I am not at liberty to say whether I have an opinion or not as to whether they had evidence for prosecution. I am not a lawyer under their legislation.

Senator HEFFERNAN—But if you go into a plant and there is a body half branded as lamb and the other half is not branded as lamb, wouldn't that ring an alarm bell?

Dr Brett—I am saying to you that in this case it was not a matter of half of it being branded lamb or not. We found that there was evidence of some heads that had dentition that had not been branded properly. Again I say to you that from the domestic point of view at the moment it is a private contract as we stand today. Our action then is to ask the company to show cause why we should not terminate our arrangements with them.

Senator HEFFERNAN—Are you a supervising body?

Dr Brett—Not on the domestic market. As has been said a number of times today, there is no legislative backing for AUS-MEAT's role in the domestic market.

Senator HEFFERNAN—What is the point of your being a supervisory body if you are contracted to confidentiality with the person you are supervising? That is jack shit. That is a complete conflict of interest. It makes a farce of the whole process. You are contracted to confidentiality with someone you are supervising. What sort of rubbish is that?

Dr Brett—All I said today was that I would need to take legal advice. If the inquiry wanted more information about a single entity then I would not, in a public hearing, be able to give information about the entity without taking legal advice as to where I might overstep privacy legislation.

CHAIR—I think in all fairness, Dr Brett, that it would not be out of order for this committee to ask what AUS-MEAT did when you did find an anomaly.

Dr Brett—What AUS-MEAT does in these situations is to ask the company to show cause why we would not remove our accreditation—which is our final sanction. That is where we can go to. In the meantime—

Senator NASH—Dr Brett, can I just get you to clarify? You found evidence of a significant enough nature that you would then ask them to show cause why they should not be unaccredited.

Dr Brett—Correct. That is the process. We ask them to show cause.

Senator NASH—If the evidence was so serious that you should look to ask the company to show cause, why then would you think that PrimeSafe—having been given the same evidence, I would imagine—would choose to not provide any penalty whatsoever?

Dr Brett—Okay. The difference is, from our point of view, that we are accrediting not only the product but also the quality system. If we have evidence for our purposes that there is a breakdown in the quality system—that is, that their training has not been sufficient to ensure that the people that are doing the job know what they are doing—or other systems have broken down that do not amount to evidence for prosecution in a court of law where you can show intent of misdescription, that is quite a different matter from what we are looking at and asking them to show cause about—which is that the system has broken down.

If the system has broken down because trained personnel have not been made available et cetera, then we are looking to see that the holes in those systems are corrected. We do then increase the audit frequency to verify that what the company has said that they are going to do has been put in place. We keep that increased audit frequency in place for a significant amount of time. There is a huge difference between the evidence that we look at to determine whether we believe that the quality system is in place and working and evidence that may be required by a regulatory body to carry out a successful prosecution.

CHAIR—This anomaly you found in this company that shall remain nameless was not a system breakdown—you did not say it was a lack of training issue. There were certainly some other problems there. Is that correct?

Dr Brett—We found evidence that some carcasses had not been branded properly.

Senator HEFFERNAN—Let us cut to the chase. Hogget branded as lamb or bullocks branded as bloody calves? What are you talking about? Hogget as lamb?

Dr Brett—The dentition between hogget and lamb was not carried out.

Senator HEFFERNAN—Were they branded as lamb?

Dr Brett—Yes.

Senator HEFFERNAN—All right. In view of that, here is part of a letter from the Department of Primary Industries to the committee:

PrimeSafe is the Victorian statutory authority that continues to actively implement agreed national standards for meat processing and meat branding. I am advised ... that PrimeSafe is not aware of any evidence of a breach to ... labelling conditions.

That is a bloody lie, isn't it? Did you report it to PrimeSafe?

Dr Brett—Yes, we did report this incident to PrimeSafe.

Senator HEFFERNAN—Well, there you go. We have a big problem. I do not know who is playing with who, but someone certainly is. There it is in black and white. They said you did not.

Dr Brett—I do not think that it says that we did not report it to them.

Senator HEFFERNAN—It says they are not aware 'of any evidence of a breach to labelling conditions'. Did you write to them or ring them up?

Dr Brett—We rang them.

Senator HEFFERNAN—So there is no paper trail.

Senator NASH—Is there no requirement that you should do that in writing?

Senator HEFFERNAN—With great respect, is there no paper trail?

Dr Brett—No, I do not think there is.

Senator HEFFERNAN—Why would you not create a paper trail? Is this just mates over the phone stuff?

CHAIR—Especially if we are auditing.

Senator HEFFERNAN—We are talking about auditing.

Dr Brett—It is something that we report immediately when we find a problem.

Senator HEFFERNAN—Yes, but wouldn't you follow it up with a letter and the details of time, place, so that it is recorded for all time in records and so that something can be done about it? 'Oh, I forgot what he said, I was down at the pub at the time. I have got it on the mobile.' What sort of a bloody jim-jam set-up do you run? That is outrageous. Then you say that you really cannot talk about it because you are contracted to these people in a private contract.

CHAIR—With the greatest respect too, Dr Brett, if you are talking about auditing and you do not have paper trails when you find a serious breach—

Dr Brett—We have a complete paper trail for all the auditing that we carried out, the action that we have taken and everything else in relation to our action.

CHAIR—So what did AUS-MEAT do about this breach, apart from ring Primary Industries?

Dr Brett—Over the past two years we have had the particular plant on an increased audit frequency to ensure that the systems they have put in place are now effective.

Senator HEFFERNAN—What is ‘increased activity’ code for? When would you normally go there—once a month, once in a blue moon, or once in a year?

Dr Brett—As I said in my opening remarks, our audit frequency varies from once a month to twice a year depending on the history of compliance.

Senator HEFFERNAN—Jesus!

Dr Brett—The twice a year is the A-plus category which is awarded to plants that have a good history of compliance and have systems in place. Our frequency then varies from once a week when we downgrade plants, to putting somebody full-time on a plant until such time as the systems are—

Senator HEFFERNAN—How do you go about an inspection? You get up in the morning and what do you do?

Dr Brett—If an auditor is going onto a plant, it is generally an unannounced audit.

Senator HEFFERNAN—Generally. When is it not?

Senator NASH—Do you sometimes forewarn them?

Dr Brett—Once a year we have what we call a detailed audit, which is a two-day audit of the plant that requires resources to be available. That audit is announced because it requires that. Our compliance audits are all unannounced.

Senator HEFFERNAN—Can you provide to this committee the details of the audit visits—the process, the times and the dates—on this one that you say you have breached twice and reported to the Victorian mob and they say they have never received it? Can you give us the details of how many times you have audited that plant in the last couple of years?

Dr Brett—In the last couple of years that plant has been on at least—

Senator HEFFERNAN—No, I want this as a written paper trail, on notice.

Dr Brett—We can supply that on notice.

Senator NASH—Can I also ask on notice—I am assuming you will not be able to tell me now—who in AUS-MEAT made the phone call to advise PrimeSafe of this anomaly and who received the phone call in PrimeSafe?

Dr Brett—The accreditation manager's name is Andrew Little and Brian Casey is the person in PrimeSafe.

Senator NASH—What is his role in PrimeSafe?

Dr Brett—I am not too sure of his exact title, but he heads up PrimeSafe.

Senator HEFFERNAN—Are you surprised that the Victorian government is advised by PrimeSafe—a servant of the government, I presume—that there is no evidence of a breach of labelling conditions? Does that surprise you?

Dr Brett—It would surprise me if they were saying that they did not know about this particular instance.

Senator HEFFERNAN—On 5 May 2008?

Dr Brett—Yes. We certainly have advised them.

Senator HEFFERNAN—I take it this particular plant is along the Victorian border in the western regions?

Dr Brett—Again, I am happy to take it on notice and provide you with as much information as we can give you.

CHAIR—Since you found that anomaly, Dr Brett, you varied the audits.

Dr Brett—Yes.

CHAIR—Okay. You notified the state authority, although it was by a phone call, not by writing. Is that correct?

Dr Brett—Yes.

CHAIR—You did not take any action to take away their accreditation.

Dr Brett—I say to you again that at the time we downgraded them to a C category, which is our lowest category, and they were asked to show cause.

CHAIR—What does that mean?

Dr Brett—It means that they have at least weekly audits at that point. We are obliged to follow a natural justice process and give them the opportunity to show cause as to why we should not remove their accreditation. In the meantime, we had staff there carrying out training

for their personnel to assist them to get systems back in place. After a number of follow-up audits they demonstrated that they had got systems back in place. Then we put them on a long-term monthly audit program, which we have been carrying out since.

CHAIR—I am sorry, Dr Brett, but that is like being whacked around the head with a scented silk cravat. That would probably hurt even more.

Dr Brett—I make the point that because we do not have any further power to take any legislative action, we do not have anything harder to hit people with.

Senator HEFFERNAN—With great respect —

Dr Brett—What we are about is to get systems right and get the plant on track, producing properly described products.

Senator HEFFERNAN—But you are financially involved with the plant as a private auditor contracted to the plant. Right?

Dr Brett—The plant can opt into the AUS-MEAT accreditation scheme and they pay for their audits.

Senator HEFFERNAN—You have told us that you are privately contracted to this plant in a financial arrangement.

Dr Brett—They pay for the audits that we carry out.

Senator HEFFERNAN—But you say that this is a private arrangement.

Dr Brett—As opposed to being underpinned by legislation. If I was not clear before, I will make it clear now. If somebody wishes to apply for AUS-MEAT accreditation, then they apply to us and we carry out audits to see that they are complying with our standards. If they are, we will issue a certificate of accreditation to say that they are meeting those standards. The only financial arrangement is that they pay for the audit. The cost of the audit is borne by the company.

Senator HEFFERNAN—But earlier you said that you could not breach the confidentiality of a client relationship with this company. Is this mob also an exporter?

Dr Brett—No.

Senator HEFFERNAN—Just a domestic. That narrows it down, doesn't it?

Dr Brett—I really want to make clear what I am saying about the confidentiality. Under common law we have a set of rules, and those rules are the ones that apply. Those rules specifically say that we can use information for your accreditation for the purposes of the accreditation. To hand that on to a third party—if the inquiry is requesting that information—we would need to simply take legal advice that any information we were giving was not breaching privacy legislation.

Senator HEFFERNAN—Would that include handing it on to Prime-Safe? That is a third party.

Dr Brett—It is for the purpose of their accreditation.

Senator HEFFERNAN—It is a third party. Can you hand it on to them without breaching their privacy, et cetera?

Dr Brett—Yes.

Senator HEFFERNAN—You hand it on with a phone call. Don't you think that that would be the best example of deadheaded professionalism to not follow it with a written statement? That is completely amateur bullshit. Wouldn't you agree with that? I mean—a phone call that has the capacity to report an abattoir that you could take the licence off, and all you do is make a phone call with no paper work. What sort of a game is that? You could be accused of protecting the abattoir.

Dr Brett—I am sorry that you would go to that.

Senator HEFFERNAN—I am not saying that you could, but a sceptic could. Surely you would write.

Dr Brett—We would ring them within five minutes of finding out that there was a problem.

Senator HEFFERNAN—But then, for the purposes of good record-keeping, would you make a diary note and then send a letter off?

Dr Brett—What we then do is document through our processes the action that we take.

Senator HEFFERNAN—But then you have got to the stage that, because you have not got a paper trail, PrimeSafe says they have never received a complaint. They tell the department.

Dr Brett—In all seriousness, we would not be expecting to be in the situation where we are having to defend whether or not we notified somebody of an incident like this that we did not—

Senator HEFFERNAN—With great respect, Doctor, if you had written a letter, you could have said, 'Here is where we did it.' I do not know who you —

Dr Brett—I think it would be beneficial—yes, without a doubt.

Senator McGAURAN—I agree with Senator Heffernan that it would have been handy to put it in writing for the sake of having it on record. Nevertheless, in fear of making the exception the rule here—which is a favourite pastime of some people—in reading the figures, this is the one incident in 12 years that shows substitution of hogget for lamb. Please tell me if I am wrong.

Dr Brett—No, I said that there had been nine instances—two of which were at the one plant—so we would say eight—

Senator McGAURAN—Of substitution?

Dr Brett—Of which there has been misdescription of hogget as lamb in some form.

Senator McGAURAN—All nine—then that is not the exception to the rule. That is all right; we are here to get to the bottom of it. I am a greater sceptic than you, Bill. I need more proof, more evidence.

Senator HEFFERNAN—No. You are better credentialed.

Senator McGAURAN—Dr Brett, with this particular plant you are talking about, intent is everything because there are breakdowns of systems and training for such specialisation. You said you sought to seek cause from them and you had them under watch for two years. Did they give you cause? Two years is a long time to be waiting.

Dr Brett—To take the accreditation away?

Senator NASH—What was their explanation as to why it had happened?

Dr Brett—The audits that we have conducted within the last 12 months—since the last incident occurred—have showed a satisfactory outcome on each occasion.

Senator NASH—Just so we are absolutely clear on the process: when you say you asked them to show cause, exactly what did you ask and exactly what did they say?

Dr Brett—Since we had evidence that their quality systems had broken down—not that they could necessarily be prosecuted—we asked them to explain what went wrong, why the incident had occurred, the corrective action that they would take to make sure it did not happen again and the systems that they intended to put in place. In a number of those nine instances it was about whether or not there was a trained person doing the job on the day. We are not talking about half the kill being labelled wrongly; we are talking about finding a couple of heads in a head bin that showed evidence that was not picked up. The company firstly sets out what went wrong. Indeed, going back 12 years, we had an instance where the company simply said that the person involved took it on himself to roll them at load-out and had no authority to actually be on the load-out.

Senator NASH—In this particular instance, what date did you find the evidence of what you say is a couple of heads in a bin—of hogget potentially being branded as lamb?

Dr Brett—It was 2 August 2006.

Senator NASH—You still have not answered my question. I understand the process and all the things you asked them to tell you. What explanation did they give you for this particular instance? What was their specific response when you said, ‘We found a couple of heads’—or whatever—‘that we think is evidence of you branding hogget as lamb’? What did they say to you?

Dr Brett—They said that as far as they were concerned it was a training issue—that the person that was normally doing the job was not there on the day.

Senator NASH—Did you verify that the person they were saying was normally there did not work that day?

Dr Brett—Yes.

Senator HEFFERNAN—Is there a vendor deck inspection now?

Dr Brett—Yes. The vendor decks lead through to the kill sheets. The kill sheets will specify whether or not the animals—

Senator HEFFERNAN—When you are doing a full audit—you lob there, unannounced, and say, ‘Show us the vendor decks,’—do you go to the trouble of doing that?

Dr Brett—Yes, exactly.

Senator HEFFERNAN—So you get hold of the vendor deck and Bill Heffernan has sold lamb to Swan Hill, for instance. Do you check to see that Bill Heffernan is not a buyer who double-handled the lambs and put \$5 a head on before he sold them? Do you check where I got them from?

Dr Brett—No, we cannot.

Senator HEFFERNAN—Isn’t it a bit stupid if you don’t?

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

Senator HEFFERNAN—You cannot identify double handling, either.

Dr Brett—As to where they came from in the saleyards? If they have just come from Dubbo sale—

Senator HEFFERNAN—No. If I am a meat buyer who also resells—as do plenty of blokes I know; they are not just commission blokes—you cannot identify that in the trail, can you?

Dr Brett—We can identify the trail back to the NVD that they came in from the farm or sale on.

Senator HEFFERNAN—Suppose I send a load of lambs to Wagga. Roger Fletcher is a smart operator in the market up there. He is 21 years old and wants to pay his home off. If he sees an opportunity to buy these hoggets that I have sent in and resell them to Swan Hill as lamb, can you identify that trail?

Dr Brett—No. On face value, without going back to the saleyard, we can identify the last owner of the stock that is sent in. If they come in on a post-sale summary, then we can see that they came from Dubbo sale. If they come direct from the farm, then we can see whether they left your place. If you sold them on to somebody else, that would be the person who completes the NVD.

Senator HEFFERNAN—Yes, but that is a complete farce. As you know, there are four copies. I keep one, the carrier gets one, the agent gets one and the buyer gets one. When I sell my hoggets to Wagga and the buyer then reconsigns those as lambs to an abattoir, you cannot trace that back to me?

Dr Brett—If I was to go back through the saleyard records, I could.

Senator HEFFERNAN—Then why don't you?

Dr Brett—I do not have the jurisdiction to do that.

Senator HEFFERNAN—But if you are fair dinkum in auditing works, why don't you?

Dr Brett—Because I do not have the jurisdiction to do it. We are confined by law, I am afraid.

Senator HEFFERNAN—What is the jurisdiction that is the problem?

Dr Brett—Back onto the saleyard: the animals come onto the plant with an NVD. That is the piece of paper that is on the plant so that I can see where the animals come from. To go back further on the paper trail would need the previous owners, who are not involved in the accreditation with us—they are a third party outside of the system—

Senator HEFFERNAN—But if you are trying to protect food standards—

Dr Brett—I am afraid I can not run around Australia just demanding to see pieces of paper from people.

Senator HEFFERNAN—I am not asking you to do that, but if you were doing a fair dinkum audit somewhere, I would have thought a primary age schoolkid could tell you that you really want to source where the lamb has come from, not who was the last person who signed the docket.

Dr Brett—To the extent that it is available, that is exactly what we do. But we do not have the ability or the authority to go back past the abattoir.

Senator HEFFERNAN—I think the committee should note that this is a complete farce and failure in the system if you cannot actually source where the sheep, lambs or hoggets came from.

Dr Brett—We would be very pleased if the system facilitated that.

Senator McGAURAN—I have one last question. You have heard the previous witnesses. Do you think the extent is as bad as they painted it? Is there a racket going on down in Victoria?

Dr Brett—Again, I can only provide information on the AUS-MEAT accredited plants where we are. The number of instances that we find is small in comparison to the volumes of stocks that are traded through those plants. We are not present on plants that are not AUS-MEAT accredited, so we have no more information than anybody else does about those plants.

CHAIR—The committee would be happy to offer you an in camera session to talk about who those companies may be. That is an option for you if you wish to choose that.

Dr Brett—I would be happy for the committee to take on notice exactly the information that the committee would like. We would then look to see that we can mention names.

CHAIR—Are you saying that, over the last 12 years, there have been nine cases of meat misdescription? But what we have heard today, and it can be checked on the *Hansard*, is that it is rife, and that it is certainly rife in some states more than in others. What would your response to that be?

Dr Brett—It is the response I just gave: that, at AUS-MEAT accredited plants, where we are present, we are satisfied that the instances that we find are reflective of the processes on those plants. We are not involved outside of those accredited plants in the domestic industry, so we do not know whether it is rife or not. But the hearsay is that, outside of that process, there are certainly unscrupulous people.

Senator HEFFERNAN—You might take this on notice, too. Of the AUS-MEAT accredited works—and I do not doubt for a moment that you do a fantastic job, but that is a dopey paper trail you have set up—could you give us the breakdown of how many of those you would inspect? I mean, we are all likeable rogues, we rural types, right? So we would have a reasonable feel of, ‘Well, shit, I must be due to have a visit from you blokes. You have not been for six months. Boys, you had better tidy up this week.’ How many of those works would you visit just twice a year?

Dr Brett—The A+ category goes from 12 audits a year down to six, to four and to two. I do not have the figures with me just for the twos, but, over the total AUS-MEAT accredited works, 57 per cent are in a six audits a year or less category. I would have to get you the frequency.

Senator HEFFERNAN—No, take it on notice.

Senator NASH—Can I just ask how many AUS-MEAT accredited plants there are?

Dr Brett—The total number of AUS-MEAT accredited plants is 151, and 101 of those are export; 47 are domestic. As far as sheep processors are concerned, there are 31 export and 16 domestic.

Senator HEFFERNAN—And what proportion of Australia’s abattoirs does that represent?

Dr Brett—The problem is talking in terms of throughput as opposed to the number of abattoirs, because you have little slaughterhouses everywhere.

Senator NASH—So that is 151 of how many?

Dr Brett—What I was going to say to you is that we have a feel for it only by the information that we can get out of state authorities, and some state authorities actually have legislation which restricts giving information on slaughter throughput—

Senator HEFFERNAN—Ooh, very good.

Dr Brett—But our best estimates are that around 80 per cent of throughput goes through an AUS-MEAT accredited plant.

Senator HEFFERNAN—But how many other plants are there? Because it is the little plants—

Dr Brett—Again, I cannot tell you how many other little plants there are around Australia. The state authorities have that information and we have not been provided with it when we have requested it in the past from certain authorities. They have restrictions on the numbers they can give. You should ask them.

Senator NASH—Do you have a rough estimate?

Dr Brett—Of the actual numbers of little processors? No, I do not.

Senator NASH—No, of the remaining plants. If you have 151, there is obviously a finite number of plants around the country. Being AUS-MEAT, I would have thought you would have had some idea of how many there are over and above the 151. Surely you would want as many as possible if you want your voluntary arrangements to work as well as they possibly can? Surely AUS-MEAT would have some idea of how many other plants—big or little—there are?

Dr Brett—Again, the state authorities know how many little slaughterhouses there are in every little town around Australia or that are trading as butcher shops and have a licence to run their own little slaughter chain. We are not aware of those—and there are a myriad of them. I really cannot give you a figure on that.

Senator NASH—Are you aware of any other than the 151 that are accredited that are not accredited? Any at all apart from—

Dr Brett—Yes.

Senator NASH—How many?

Dr Brett—That are not? I could not give you an exact figure—

Senator NASH—No. You have just told me you are aware of plants that are not accredited. I fully take what you are saying about there being small slaughterhouses that you cannot get the

information on. Apart from your 151, how many plants are you aware of because they are obviously not accredited.

Dr Brett—Again, I will take that on notice. I could not give you a figure right now.

Senator HEFFERNAN—They do not have to be tin pot, 10 lambs-a-week jobs.

Dr Brett—But I could not give you a figure today, because there are so many variations in the way plants are run around Australia.

Senator HEFFERNAN—For the benefit of the consumer and your business plan wouldn't you try to encourage the ones that are not in the system to get in the system? And if you are doing that—

Senator NASH—Don't you go to them—

Senator HEFFERNAN—Wouldn't you have a database of who you could approach to say, 'What about it, Mr So-and-so? What about it?'

Dr Brett—The only place that we can get details of licensed slaughterhouses is from the state authorities.

Senator HEFFERNAN—You do not canvass non-members?

Dr Brett—No. If you are asking whether we go out and tout for business in the small slaughterhouses, then the answer is no.

Senator NASH—No, anywhere. Do you go and tout for business anywhere?

Senator HEFFERNAN—Do not worry about the small, there would be some medium perhaps. I do not know what small means. But you do not try to get them into the system?

Senator HUTCHINS—You said you have scrutiny of about 80 per cent of the industry. That is as I understood it.

Dr Brett—In throughput. It is a best estimate. Again, only on the figures that state authorities have been willing to give us or can give us under their legislative base.

Senator HUTCHINS—One of the things we were told by AQIS this morning was that if an organisation did not operate correctly and did do the substitution, and AUS-MEAT found out that they could possibly lose their licence.

Dr Brett—That is correct.

Senator HUTCHINS—That was one of the fears that they had to confront if they did the substitution. That would mean that 20 per cent of the industry does not have to worry about that fear—

Dr Brett—That is correct.

Senator HUTCHINS—because they do not have to get any export licence from you.

Dr Brett—That 80 per cent figure would include both export and domestic combined.

Senator HUTCHINS—But once they get your stamp, that is a stamp of quality.

Dr Brett—Yes. To be clear, that 80 per cent of throughput, which is an estimate, includes both domestic and export registered. And of the total—and this includes all species—there is 47 domestic and 100 export. A third of our accredited number are domestic operators and therefore not subject to export legislation.

Senator HUTCHINS—Fair enough. But my point is, Dr Brett, that it means very little to the 20 per cent whether they get a stamp from you or not.

Dr Brett—Yes. We would agree with you. Yes.

Senator HUTCHINS—But that was not what we were led to believe this morning by AQIS, that is all.

Senator O'BRIEN—Is that 80 per cent of throughput in the lamb, hogget, mutton sector?

Dr Brett—Yes.

Senator O'BRIEN—Could you give us those numbers? If you think you have 80 per cent, we could extrapolate what the size of the market is in terms of number of beasts in categories, could we?

Dr Brett—I am trying to be very clear that it is very much an estimated figure. Victoria in particular has legislation that restricts them providing that information, so we cannot gauge what we—

Senator HEFFERNAN—If we rang the Wagga saleyards, we could get from them for the year how many sheep, hoggets and lambs they sold through the yards, couldn't we?

Dr Brett—Yes, you could.

Senator HEFFERNAN—From marketing?

Dr Brett—Yes.

Senator HEFFERNAN—And where they went to?

Dr Brett—Yes, I suppose the information would be trackable.

Senator HEFFERNAN—That is what you would do if you were fair dinkum about auditing the thing. Can I ask you a very simple question—no need to roll your eyes. I apologise if I am offensive. You can give me a whack after; I won't mind. If you do the breach by telephone—no paper trail—what do you do about the nonbreach?

Dr Brett—Sorry, the nonbreach?

Senator HEFFERNAN—Yes. You say you have had however many that you have breached. Did you breach them all with the phone—'Hey, bud, we found another one'?

Senator NASH—Were all nine by phone call? Were they all advised—whenever you needed to advise?

Senator HEFFERNAN—How do you breach them? Do you breach them by phone call?

Dr Brett—The plants involved get show-cause letters.

Senator HEFFERNAN—But when you report it to the government—who says, 'It's never been reported'—is it by a phone call? Have you ever taken the trouble to write to PrimeSafe?

Dr Brett—We have had, as we have said, one instance that involved one plant that involved PrimeSafe.

Senator HEFFERNAN—Who do you report the rest to?

Dr Brett—Where there are export ones, AQIS.

Senator HEFFERNAN—How do you do that, with a phone call?

Senator NASH—Do you write to them?

Dr Brett—Yes, we do that by writing. In this particular instance that we are talking about, the phone call was made immediately to PrimeSafe. Our normal practice would be to write to AQIS. AQIS would also be involved in the export plants. As soon as we report to AQIS, AQIS Compliance and Investigations take over the investigation, and in fact we step aside because we do not want to interfere with their legislative processes.

Senator HEFFERNAN—But in the AQIS plants, AQIS would have a bloke on the ground all the time?

Dr Brett—They do, yes.

Senator HEFFERNAN—And you have a blow-in operation, where you blow in once every few months?

Dr Brett—Yes. Again, on an export plant where there is a problem, our officer would go immediately to the AQIS officer in charge on the plant on the day.

Senator HEFFERNAN—So in the non-breach instances, which is what they mostly are, do you give them a clearance by letter or a phone call? How do you clear them?

Dr Brett—They get an audit report. We produce an audit report on every report that we do. The plant gets a copy of the report, the plant signs off on that, and we maintain a database of those results.

Senator HEFFERNAN—Yes, I have seen them. But in this particular instance, where there were two breaches at the one plant over a given period, were both the breaches reported by phone?

Dr Brett—To PrimeSafe?

Senator HEFFERNAN—Who do you report to?

Dr Brett—In the particular plant that we are talking about, the first breach, which was put down as a training issue—

Senator HEFFERNAN—As it would—as you would.

Dr Brett—We did not treat that as an offence—that there was prosecutable evidence that was about personnel. On the second instance, when they had breached again—

Senator HEFFERNAN—There was or was not prosecutable evidence?

Dr Brett—There was not prosecutable evidence.

Senator HEFFERNAN—Yes or no?

Dr Brett—There was not. On the second instance—where there may have been—we reported it to PrimeSafe for their further action.

Senator NASH—By phone again?

Dr Brett—By phone.

Senator NASH—How much time elapsed between those two instances?

Dr Brett—A year.

Senator NASH—While we are on that, you said there was one domestic New South Wales incident.

Dr Brett—That was 12 years ago.

Senator NASH—Who did you report that to?

Dr Brett—It would have been to the New South Wales Food Authority, at the time.

Senator NASH—By phone or letter?

Dr Brett—I would have to check back on the files—it was 12 years ago.

Senator NASH—It is quite serious. Could you take that on notice and let us know, because it would be interesting to know—if indeed the breach was by a letter—why there is a different set of circumstances for Victoria.

Senator McGAURAN—On a point of clarification: given your primary role is export accreditation, why do you audit domestic plants? Is it because they invite you in?

Dr Brett—They do. The domestic accreditation is really driven by the marketplace. There can be a preference through the supply chain to source from AUS-MEAT accredited plants. Indeed, there is a major New Zealand process where we carry out the same audits for a company because it sees value in having us come and do its plants.

Senator McGAURAN—That is a critical point; thank you very much.

Senator Heffernan interjecting—

Senator McGAURAN—Bill, I have not finished.

CHAIR—We are running out of time, Senator McGauran.

Senator McGAURAN—That is a critical point just made, because the New South Wales plant undertook a voluntary audit. The Victorian plant, I believe—the one we have been talking about—was only a domestic plant too. They do not have export accreditations. Both of them have invited AUS-MEAT in to undertake an audit. If there was a racket running, you would hardly invite AUS-MEAT in.

Senator Heffernan interjecting—

Senator McGAURAN—You have made a point of making an example of this one plant that AUS-MEAT were invited into under contract to undertake an audit, and you are making the case for the substitution.

Senator HEFFERNAN—With great respect, I am not—

Senator McGAURAN—It is those that are outside, Bill—

Senator HEFFERNAN—That is in your mind, not in mine.

Senator McGAURAN—You have spent the whole time—

CHAIR—Senator McGauran, we are running out of time.

Senator McGAURAN—You have spent the whole questioning of AUS-MEAT on that particular plant, when of course, as Senator O'Brien and others said, it is those outside the system.

CHAIR—Let me add some commentary, Senator McGauran, because we have run out of time.

Senator McGAURAN—So the whole nine have just been wiped away—or those that were domestic plants—because they have undertaken the audit themselves.

Senator HEFFERNAN—Do you feel better now?

Senator McGAURAN—Well, it certainly pulls the rug from under half of your questioning—not hard to do, of course.

CHAIR—Dr Brett, winding up—but we have run out of time: clearly, Senator Hutchins and I come from an industry that was full of voluntary codes and auditing, which I have to tell you was an absolute load of rot. When it is left to an industry to self-regulate, you may as well let the wolf look after the chicken roost.

Senator McGauran interjecting—

CHAIR—No, Senator McGauran, you have had a turn. I just want to pick up—I was reading earlier on—when you said that there was a second instance. I am sorry, Dr Brett; I am a bit hazy—I was just hearing in one ear. You said there was a second instance where you saw that there was a breach that should or could have been prosecuted that you passed on to PrimeSafe by phone.

Dr Brett—No, the same plant. I was saying: where there was any evidence that would assist them, we passed on to PrimeSafe—

CHAIR—By phone?

Dr Brett—Yes. That was the contact.

CHAIR—That was the same one?

Dr Brett—Yes, the same one we were talking about.

CHAIR—So, Dr Brett, of the 80 per cent of the industry that you represent or you audit—that is correct?—you can look this committee in the eye and tell us that none of your clients or your members, whoever they may be, are breaching any meat-labelling laws?

Senator McGauran interjecting—

CHAIR—Hang on—everyone breaches, Senator McGauran? I might have missed that bit. We will come back to that.

Dr Brett—We carry out audits across the industry. We find different levels of noncompliance in areas that we rate as minor, major—

CHAIR—I just want to talk about labelling; I do not want to talk about people that are apparently off sick because they are not doing their training.

Dr Brett—We are only dealing with labelling, but we categorise nonconformances according to minor, major and critical. There is a processing place where all audit failures are taken to the committee for review and decisions. That ongoing system is in place. We certainly detect and deal with different levels of noncompliance over time. In relation to lamb, these instances are the ones that we have talked about today. Over a 12-year period, there have been nine that have come to the point of asking the establishment to show cause why their accreditation should not be removed.

Senator Heffernan interjecting—

Dr Brett—There has been a plant that has had its accreditation removed, but not for the lamb branding. So the process is one, as far as the industry is concerned, of those plants that have a good history of compliance getting the benefits from it, and, where there are nonconformances found, then those are dealt with. It is certainly the intent of AUS-MEAT, as a part of industry, to bring about continual improvement in the industry. We do not have the legislative base to go out. We are not policemen. Where there are issues that require investigation and prosecution then they are handed on to the relevant authorities. That is AQIS or—

CHAIR—By phone?

Dr Brett—In one instance that we are talking about, yes, that was by phone.

Senator FISHER—Chair, I have one very last quick question.

CHAIR—Senator Fisher is going to ask the question in 10 seconds.

Senator FISHER—And it is a one-word answer.

CHAIR—Senator Nash, you will have the second-last question.

Senator FISHER—Two questions—

CHAIR—No, I gave you one.

Senator FISHER—Dr Brett, how long have you been with AUS-MEAT?

Dr Brett—Twelve years.

Senator FISHER—That is a long time. In this role?

Dr Brett—Yes.

Senator FISHER—I ask you to estimate the number of operators not subject to AUS-MEAT accreditation. I would have thought, after 12 years, you could estimate, in your experience, but I will leave that with you on notice. Secondly, returning to Senator Heffernan's questioning about plants that comply: you write to the plant to indicate to them the results of their audit—essentially, that they have complied. Do you write to the relevant authority to let the authority know you have done an audit and the plant has complied?

Dr Brett—In relation to export, AQIS have a representative who sits on the committee and is privy to all audit reports and all the information that goes through, so they are part of the process. So, for AQIS's purposes, they are aware of all the plants that have had successful audits. In relation to the domestic, there is no role and we have no formal, legal arrangements with the state authorities. The state authorities are—

Senator FISHER—I accept that. I am asking what you do.

Dr Brett—So, no, we do not routinely notify the state authorities that we have done an audit and that we have found compliance, because in fact it is outside their system.

Senator HEFFERNAN—So why bother doing the audit?

CHAIR—Senator Nash, ask the last question please. We are well over time.

Senator NASH—I just want to ask, Dr Brett: how many domestic plants in Victoria are AUS-MEAT accredited?

Dr Brett—In Victoria, there are three domestic slaughterhouses for lamb. That is sheep only; there are seven in total, including beef and sheep.

Senator HEFFERNAN—You do not actually report this stuff to the state authorities, right? You just said that to Senator Fisher.

Dr Brett—We do not routinely report—

Senator HEFFERNAN—So why bother doing it?

CHAIR—Senator Heffernan, we are over time. Dr Brett, if you want to table that document in front of you for the benefit of the committee, we would accept that, if there is information there that would assist with the answers to questions that were put to you in the last couple of minutes. If you wish to table it, we will accept that. Dr Brett, we have gone well over time. Thank you for your submission today and your appearance.

[2.53 pm]

HERD, Mr Francis Oswald (Frank), Managing Director, MC Herd Pty Ltd

CHAIR—Welcome. Do you have any comments on the capacity which you appear before the committee?

Mr Herd—I am a managing director of MC Herd, in Geelong.

CHAIR—And what a great part of Australia, with a fantastic football team, Mr Herd!

Mr Herd—Exactly right.

CHAIR—Would you like to make a brief opening statement?

Mr Herd—It is important that I say that I am here representing my own company. I am also a director of PrimeSafe, though as a director I am only involved in policy and corporate governance issues, not on the day-to-day operation. I am also a director of HW Greenham, which is an export beef company. But today I am here as director of MC Herd in Geelong.

Senator HEFFERNAN—If that is your opening statement, who are the other directors?

Mr Herd—Of PrimeSafe? There is the chairman, Bill Bray; from the department of health, John Carnie—

Senator HEFFERNAN—I am interested in who is from the industry.

Mr Herd—From the industry you have got Vicki Hardwick and me—

Senator HEFFERNAN—Who does she represent—what works?

Mr Herd—She represents Hardwicks, a meat company in Kyneton. You have got Jillian Francis, who is an independent director; you have got the fellow from the chicken industry—

Senator HEFFERNAN—But you and Hardwicks are the only—

Mr Herd—There is a smallgoods representative as well. Clearly, I have the point of view that the lamb industry should not be any different from any other food commodity. It should be regulated through the ACCC as to truth in labelling, and having a regulated lamb branding is outdated and should be removed.

Senator O'BRIEN—If I follow the logic of what you just said, you believe that if people wish to describe their product as lamb, that it should be lamb within the definition that currently applies.

Mr Herd—I have a problem with saying that lamb is a quality mark; lamb is a commodity.

Senator O'BRIEN—No, no—

Mr Herd—We process lambs in Australia from the very worst quality—that you could barely eat—to the absolute best quality and everything in between. To put one brand on it, call it lamb and say it is all the same quality is—

Senator HEFFERNAN—But we do not call it—

Mr Herd—The analogy I use for what actually happens when you regulate a market is that lamb, to me, is the same as red wine. You have \$3 bottles of red and you have a \$1,000 bottle of Grange Hermitage.

Senator HEFFERNAN—Hang on. No-one is saying that lamb is all of the one quality. We all know that there is everything from—

Mr Herd—Well, what are we saying?

Senator O'BRIEN—The question that I asked—

Senator HEFFERNAN—Excuse me!

Senator O'BRIEN—With respect to Senator Heffernan, the question I asked was: given your statement that the ACCC should regulate food industries, if you describe a product as a certain thing, it should be that.

Mr Herd—Truth in labelling.

Senator O'BRIEN—Truth in labelling; that is right. So if a retailer or a wholesaler describes their product—in selling it—as lamb, it follows that you believe it should be lamb.

Mr Herd—Once again, it comes back to the definition of lamb. Do I believe that if it has cut one tooth, it should be described as hogget? No, I do not. I think it should be sold as lamb. I think it is ridiculous. Meat should be sold on its quality—its quality attributes, and not on how many teeth it has got.

Senator O'BRIEN—That is how you may choose to market it. For example—I am a Tasmanian senator—there are two regions in my state that are marketing lamb as a particular type of lamb: Flinders Island milk-fed lamb and lamb from the central highlands of Tasmania.

Mr Herd—I agree with that 100 per cent. I think it is the way to go.

Senator O'BRIEN—They are both marketed as lamb, but they are also marketing what they claim are other properties.

Mr Herd—What underpins that lamb is the brand name that goes with it. That is the important part. As I keep saying, the red wine is a good analogy. If you regulate the labelling of wine and you put the same label on every bottle of wine, all you do is drag the bottle of Grange Hermitage down to this amount of money and you lift up the bottle at the bottom.

Senator HEFFERNAN—Rubbish! That is complete rubbish!

Mr Herd—The reality is that as soon as you regulate a market you become an average-breaker. By actually leaving the system to market itself, the premium product will demand a premium price and the lower grade product will demand a lower price.

Senator O'BRIEN—But, you see, Grange is probably marketing a great type and a region and a label—

Mr Herd—Yes.

Senator O'BRIEN—which might equally be Flinders Island lamb—

Mr Herd—Or grain-fed as averse to grass-fed.

Senator HEFFERNAN—Hang on!

Senator O'BRIEN—But it is still lamb. That is the point.

Mr Herd—And it is still red wine.

Senator HEFFERNAN—Shiraz is shiraz, and then there are about 50 grades of it. Lamb is lamb and there are 50 grades. That is how it gets marketed. What is wrong with that?

Mr Herd—It is exactly the same. I am happy to do that.

Senator HEFFERNAN—I know what you want to do. You want to get good-bodied mutton in as bloody lamb. That is what you want.

Mr Herd—That is not where I am coming from, and I have not been—

Senator FISHER—Mr Herd is entitled to his opinion.

Mr Herd—That is definitely not where I am coming from. In fact, what I am hoping to get is a better definition in the marketplace. That is where I am heading for.

Senator HEFFERNAN—Give us a better definition.

Senator O'BRIEN—Can I continue my questioning?

CHAIR—You will be next, Senator Heffernan.

Senator O'BRIEN—If I understand what you are saying, your preference is that instead of marketing the meat as lamb because it falls within the definition—it is not two-tooth; two-tooth is hogget, and four-tooth is mutton, or something like that—it should not just be marketed as lamb. It should be marketed as a grade of meat.

Mr Herd—Or a company brand name that goes with it. You should stand by the product you sell. You live and die by the quality of the product you put on the market, not by a government brand that says it is lamb, when truly you have a whole range of qualities within that brand name.

Senator O'BRIEN—So how do you market the meat that you sell?

Mr Herd—In what way?

Senator O'BRIEN—Do you market it as lamb or do you market it as sheep?

Mr Herd—We market it as high-quality lamb, medium-quality lamb and low-quality lamb. We do all sorts.

Senator HEFFERNAN—What is wrong with that?

Mr Herd—Nothing.

Senator O'BRIEN—So you are still marketing product as lamb because it complies with a reasonable test for what is lamb?

Mr Herd—Yes.

Senator O'BRIEN—But you are saying, 'I am going to sell this batch of lamb as premium and I am going to charge a premium price. This is standard and I will charge a standard price. This is budget and I will charge a budget price.'

Mr Herd—Yes.

Senator O'BRIEN—This is, in a sense, how some of the supermarkets are marketing their beef at the moment. But you are still marketing it as lamb.

Mr Herd—I can show you a lamb that you could not eat. It would be that tough. I can show you one that has cut its teeth that would be absolutely fantastic. Lamb does not necessarily reflect quality. What I am saying is that companies should be able to sell on their quality, not on the teeth.

Senator O'BRIEN—What we are possibly missing out on, then, from what you are saying, is a class of hogget that is high-quality because you cannot market it—

Mr Herd—I would agree with that, but it needs to be marketed as lamb. If it is good enough, let it go as lamb.

Senator HEFFERNAN—Why can't you market it as prime hogget?

Mr Herd—We do.

Senator HEFFERNAN—You are a likeable rogue, in my book, in the meat industry, because you do not give a rat's about the producer. You are worried about from your end up.

Mr Herd—That is wrong. I am saying that the producer that produces the quality article will get more under my system. The producer that produces the lesser quality will get less.

Senator HEFFERNAN—You can do that now. A two-tooth hogget can be a 26- or 28-month-old hogget, and you are competing against an eight-month hogget. You have to draw some lines for us, the producers in the market—and I declare an interest. We know you are likeable rogues and want to get as much as you can, and good luck to you.

Mr Herd—I am not ashamed of having a business that is trying to make a profit.

Senator HEFFERNAN—We want to protect the integrity of the lamb market. I mean, I buy a five-dollar bottle of red wine; if you want to buy a \$500 bottle of red wine, good luck to you.

Senator O'BRIEN—Mr Herd, I think we can return to our line of questioning. In terms of the rationale of your position, what you are saying is that the general industry position is that we should have an acceptable description of lamb, being that which generally applies in Australia, and that anything beyond that should not be marketed as lamb. Do you agree with that or disagree with that?

Mr Herd—No, I disagree with that.

Senator O'BRIEN—So you believe that an animal that is beyond that age or dentition description should still be able to be marketed as lamb?

Mr Herd—For a whole range of reasons, you can put lambs on hot feed and feed-lot them and they can break their teeth early. To actually give a farmer a dollar a kilo discount because a lamb has broken a tooth is ridiculous. They should not be discounted because of that.

Senator O'BRIEN—I understand you have a fundamental disagreement. In your view, how would the industry best reward producers for the quality that they are producing? How does that system work?

Mr Herd—I am a free-market person—I always have been and always will be. At the end of the day, in the marketplace the best quality meat will always get the premium price. That has always been the way. If you have a poor-quality pen of lambs at a market and a good-quality one, the good quality will always get more money. One of the problems with this regulation, and this is where I come from, is that—let's say that every meatworks in Australia gets it right: every lamb, every two-tooth, every mutton is branded right. What are you going to do after that?

Senator O'BRIEN—That is already happening, isn't it?

Mr Herd—What is happening is that meat is selling on its merits now. The lamb brand is irrelevant. It is an impost on the industry that should not be there. What other food puts a brand on like lamb? If you go through every other food commodity that is sold in this country, there is not one other example similar to lamb brand. It is just an outdated form of marketing that does not have any relevance in the society now.

Senator O'BRIEN—What about a product like veal? Should we expect that to be an animal of a certain age and certain characteristics?

Mr Herd—Veal? The answer once again is that veal is sold on its merits as well. But veal can range from a bobby calf of a few days old—

Senator O'BRIEN—That is milk-fed, yes.

Mr Herd—Quite often what they call vealers are up to 12 or 18 months old. What are you calling a vealer? At the end of the day—that is why I keep coming back to it—the market sorts it out. There is so much confusion, there are so many things happening, that having a lamb brand is only confusing the market.

Senator HEFFERNAN—No wonder you, as a director of PrimeSafe, are not interested.

Mr Herd—If you ask me as a director—

Senator HEFFERNAN—PrimeSafe is supposed to supervise everything that you do not believe in.

Mr Herd—PrimeSafe does supervise everything I do not believe in.

Senator HEFFERNAN—Well, why are you a director? Why don't you get off because you are conflicting?

Mr Herd—It is because, as a director of PrimeSafe, I administer the policy and the rules of PrimeSafe—

Senator HEFFERNAN—A policy you do not believe in. Get off it.

Mr Herd—absolutely to the letter. Are you suggesting that I go to PrimeSafe with an ulterior motive?

Senator HEFFERNAN—No. If you are fair dinkum and PrimeSafe have a set of regulations that you do not believe in, then either you are a fraud or you ought to get off.

Mr Herd—I do not agree with that. That is just rubbish.

Senator HEFFERNAN—If you do not believe in it, get off.

ACTING CHAIR (Senator Siewert)—Senator Heffernan, Senator O’Brien is still asking questions.

Senator O’BRIEN—In terms of the approach of the industry, then, you are in total disagreement. What do you say the committee should do in relation to this inquiry? What should our findings be?

Mr Herd—I do not know from a political point of view where it is heading. I do not know the workings of the Senate committee. Certainly, from my point of view, my recommendation is deregulating the lamb brand. Bear in mind that the lamb brand is already deregulated in Queensland. It was sunsetted in New South Wales to be deregulated, but the farming body lobbied against it. It is also interesting to note that not one New South Wales meat processor lobbied against the keeping of the lamb brand in New South Wales.

Senator O’BRIEN—What about exports? What impact does that have on our export market?

Mr Herd—With exports, you have to do what the customer wants. You do not supply markets; you supply what they want, end of story. There is no argument.

Senator HEFFERNAN—The lamb brand, as we heard earlier, is so well branded, you say we should do away with the best-branded meat in Australia.

Mr Herd—No, I am saying that the lamb should be marketed—

Senator HEFFERNAN—The customer is the person that makes the determination that they want lamb.

Mr Herd—But what happens if you have got a poor quality lamb—

Senator O’BRIEN—Can we stop right here? Excuse me. Either we are going to have a hearing with order where someone who is asking questions completes them, listens to the answers and then asks some more, or we will have a shouting match across the table, which is what we are having at the moment. We also have an understanding that some buyers in the market audit their suppliers to make sure that the product they are describing meets the description. How widespread is that?

Mr Herd—Who are you talking about?

Senator O’BRIEN—Major supermarket chains and meat processors, for example.

Mr Herd—I can tell you that Coles’s and Woolworths’s—and they are not major clients of ours—compliance to quality meat is absolutely fantastic. They would not entertain any secondary quality meat going to their supermarkets.

Senator O’BRIEN—So where is the problem—or do you think there is no problem?

Mr Herd—Is there substitution? I have got absolutely no hard evidence. I work in a meat plant; I do not go to the other meat plants, so I do not know. Have I got any evidence? No, I have

not. Does it exist? It probably does. But, to my thinking, the problem is nowhere near as large as it is being made out. I have got a client in Queensland that wants to buy two toothers off me. I buy 400 a week for that order and I struggle to buy 400. I am in every market in the southern part of New South Wales, Victoria, Tasmania and South Australia, and I struggle to buy 500 good quality two toothers a week.

Senator O'BRIEN—And you are marketing those as—

Mr Herd—Two toothers.

Senator O'BRIEN—You are a regular operator in southern New South Wales. Why do you struggle? Is it because they are not available or because the demand is there for them?

Mr Herd—They are not available. There are not that many to buy. The reality of it is farmers do not want to get two toothers. What happens is that, as soon as they go to two toothers, they get discounted, so why would you want them? Farmers always want to get their lamb before they turn to two toothers. It makes common sense.

Senator HEFFERNAN—Before the next lot comes along, more likely, too.

Senator NASH—Mr Herd, you spoke about truth in labelling and proposed that any underpinning should only be through the ACCC. Is that correct?

Mr Herd—I am saying that lamb should not be any different from any other food commodity.

Senator NASH—That is what you were saying earlier. What do you then see as the labelling system? What are the labels?

Mr Herd—For lamb: just the company brand, as with all other foodstuff. You can market your lamb as Junee Gold. We could have our own brand name—Herd Gold—if we wanted to. We will set the quality parameters that we believe are right for selling our product. Think of all the other foods. What other food in the supermarket has a mark on it to say that it is a certain age?

Senator NASH—Mr Herd, you may not have been here this morning when we were talking about the 'brand' recognition of lamb. Within Australia, it is almost as high as Coca-Cola and right up there with KFC. They are not figures plucked out of the air; proper market research that has come up with that analysis. Are you discounting the lamb brand entirely and saying that it is not worth anything and we should not bother?

Mr Herd—No. It has to be called lamb. I am saying that lamb is always going to be sold as lamb. We have got some very good quality and some very poor quality lamb—we have all ranges of lamb. There is a whole different range of qualities. The reality is that, yes, lamb does have a good name and it will continue to have a good name. Deregulating the system does not change the product. You have a regulated system that does —

Senator NASH—That is exactly where I disagree with you. If you deregulate the system you are going to have an even worse problem than you have now.

Mr Herd—Why do other foodstuffs not have a problem? I think that consumers have a better compliance regime than what we have got.

Senator NASH—They do not go through saleyards.

Mr Herd—No. I have another problem with a regulated system and I keep coming back to this point. This is where the regulated system is flawed. Every abattoir does it right. Every two tooth is branded as a two tooth, every sheep is a sheep and every lamb is a lamb. No problems. There are another two or three levels before it gets to the consumer. The product does not get sold with the lamb brand on it. It is all trimmed off by the time it gets to the consumer.

Senator HEFFERNAN—So what?

Mr Herd—So what is the point of having it there in the first place?

Senator HEFFERNAN—I will give you the point. From the perspective of a grower who has the skill and pays for the right amount of country that can turn off a lamb before the next lamb from the same ewe is on the ground—in other words within the hogget limit—that is a skill he is prepared to pay for by having the premium country, with a premium ram, fertiliser and all the rest of it. You want to throw the gates open so that some bloke that is an untidy operator that has two-year-old sheep can call them lamb because they have the right body conformation. How do you test whether it is chewable or not when you kill it?

Mr Herd—Meat always sells on its quality. It does not sell on the lamb brand; it sells on its quality.

Senator HEFFERNAN—The average consumer who goes into the butcher's shop would not know much about whether it is going to be chewable or not. They find that out when they take it home and cook it. You want to throw the gates open so that there is absolutely no regulation. You want everyone driving on the opposite side of the road if they want to.

Mr Herd—It is open now. You have absolutely the worst—

Senator HEFFERNAN—No, mate. If you go to the butchers' shops out in Burwood Road and meat is labelled as Junee lamb, it will be, as a senator put it so nicely earlier, 'budget' lamb, whereas if you go to Double Bay it will be 'gold' lamb. Everyone knows that. But you want to break that down so that it is just open slather.

Mr Herd—No, I do not. Quite the opposite. I am actually saying that the lamb brand becomes an average breaker, and it goes against what you are saying.

Senator HEFFERNAN—You want to change the rules and say that a lamb is still a lamb when it is 24 months old.

Mr Herd—No. I want to sell lamb. I want to sell the meat on its quality attributes.

Senator HEFFERNAN—Hang on! If it is the right meat on the right bone and it is two years old, you want to call it lamb.

Mr Herd—If it is good enough, the answer is yes. If it is not good enough, the answer is no.

Senator HEFFERNAN—I hope you never get to be in charge. You should get off the board.

ACTING CHAIR—Senator Fisher, it is your turn.

Senator FISHER—At the risk of labouring a point, if I understand you, you are saying that you do not have an issue per se with there being a definition of lamb, but it is what the definition is that you are trying to debate.

Mr Herd—That is one way to put it, but, for me, no—I would have a free market involvement in it. You can have an 18-month-old that will eat—

Senator FISHER—Time is short. We have heard you on that.

Mr Herd—Yes; sorry.

Senator FISHER—Could it not be said, then—I hear you on the free market—that the market has decided it wants a definition and brand of lamb?

Mr Herd—I do not see the market saying that. At the moment the market are saying clearly that they want a whole lot of different grades and price points.

Senator FISHER—Is that mutually exclusive of having a definition of lamb? Does that count out having a definition of lamb? I think, by your own argument, not so.

Mr Herd—The point is that regulating the lamb brand does not achieve the outcome that you want. That is the point I am making.

Senator FISHER—Except that—

Mr Herd—It is a useless piece of legislation that does not produce the outcome you want.

Senator FISHER—It has some aberrations, which have brought us here. But it makes it measurable.

Mr Herd—Even if you get it right at the abattoirs, as I keep saying, there is a whole range of other areas where it can go wrong—so what is the point? Meat is always sold on its quality. It lives and dies on the quality that you sell. Conversely, I think most of the people in the industry and the consumers actually know what they want and know what they are buying. I have faith in the consumers. I think the survey from the MLA proved that—80 per cent of the people that bought a cheaper product knew they were buying a cheaper product. They were happy to accept the lesser quality because that was what they wanted. I believe the consumers do know what they want, so I do not have a problem with that.

Senator HEFFERNAN—So, if you had a three- or four-year-old saltbush merino wether, which would kill better than a lot of Dorset prime lambs, you would call it lamb?

Mr Herd—No.

Senator HEFFERNAN—Why not?

Mr Herd—I am talking about something—

Senator HEFFERNAN—Where do you draw the line?

Mr Herd—You draw the line with what the market says it wants.

Senator HEFFERNAN—Where is the line? When does a prime merino wether, raised on saltbush, not become a lamb?

Mr Herd—If I had a merino lamb raised on saltbush I would not eat it anyway—even if it was a lamb. The quality is not going to be good. But you can still put lamb brand on it.

Senator HEFFERNAN—Yes, but it is all right when it becomes a two-year-old. It is better eating then.

Mr Herd—No, it would be worse.

Senator HEFFERNAN—It just shows—

Senator FISHER—It is lucky we are all different!

Senator HEFFERNAN—Mate, good luck to you! That is the stupidest thing I have heard all day—bloody saltbush lamb!

ACTING CHAIR—Senator McGauran has a question.

Senator McGAURAN—I would like to get back to the core of what this Senate inquiry is about, and that is a so-called racket of substitution going on, which leads to those other questions—penalties et cetera. If you could put your PrimeSafe hat on, as the regulator in Victoria, I took it that you said that there is no rampant or systematic racket going on in regard to substitution.

Mr Herd—I do not audit the meatworks, obviously. I sit on policy and corporate governance of the board. What I can comment on is how PrimeSafe regulates the lamb brand in Victoria, because that is how they audit me. First of all, we do check purchase records, and they have the ability to check vendor decs and they do when it is needed. Say there are at our plant a lot of lambs that we bought at Ballarat—they have the ability to go and look at the purchase records to see what they were invoiced as. If there is some conflict, they also have the ability to go and look at the vendor decs. They then check the kill agenda to make sure that the numbers match up. They also do a reconciliation on the day before and the day after to make sure that, if there are 1,000 being processed, that is all that have been sold. If there are more that have been sold than have been processed then the system shows there is a nonconformance. They also have the ability to go back over previous months to check records to see if there has been any nonconformance.

Senator McGAURAN—It sounds like it is all very desktop, doesn't it?

Mr Herd—It has to be. It is the only way.

Senator HEFFERNAN—They told us earlier they do not have the resources to do any of that.

Mr Herd—They have. Who said that?

Senator HEFFERNAN—AUS-MEAT.

Mr Herd—AUS-MEAT can speak for themselves. You asked me about PrimeSafe.

Senator McGAURAN—What cases of substitution have come forward? How many?

Mr Herd—I have only been on the board for a bit over 12 or 18 months. On a day-to-day operation we would not see that information. We would only set the policy, so on a day-to-day basis they would have to answer that.

Senator NASH—How can you set the policy if you do not know what is happening out there?

Mr Herd—We do not get involved in the day-to-day operations of it. We set the policy. The policy is in place and that is what is expected of auditors when they go to the plants. We do not see the audit records of our competitors.

Senator NASH—But if you are not keeping track of what the auditors are doing—

Mr Herd—They do.

Senator NASH—They do—

Mr Herd—Absolutely.

Senator NASH—but the board does not?

Mr Herd—No. We get a report stating that there will be X number of non-conformances or whatever. We get an overview of the compliance.

Senator McGAURAN—Then you can answer: what is the overview of the—

Mr Herd—The overview at this stage is that I am not aware of any problem. But I can say categorically from the board's point of view that, if there is any evidence at all of substitution, then they would be prosecuted with every—

Senator McGAURAN—So there is no evidence of a big problem but is there any evidence of any non-compliance?

Mr Herd—I do not know. You would have to talk to PrimeSafe's operation staff. They are doing the audits at the moment; I am not. All we do is set the policy. I know what they do when they come to our plant. I know what the policy is as far as auditing goes for compliance. I do not get the results of the audits of my competitors. You have to talk to PrimeSafe.

Senator McGAURAN—As a board member, as you said, you get the overall—

Mr Herd—We get a compliance, yes.

Senator McGAURAN—You get the overall statistics or figures or numbers on non-compliance. Is there any non-compliance in regard to substitution?

Mr Herd—No, not at the moment. It is fair to say that it is not only because of this; it is ongoing. They are obviously doing some investigations, but where that goes I do not know.

Senator HEFFERNAN—When the government writes to this committee and says that PrimeSafe has—I will get the words right—no 'evidence of the substitution of hogget for lamb' when we know from AUS-MEAT that they have reported that very fact to PrimeSafe, does that say there is some sort of a fault line in the system?

Mr Herd—Sorry, who has written that letter?

Senator HEFFERNAN—The Department of Primary Industries has written to this committee saying: 'PrimeSafe is a Victorian statutory authority that continues to actively implement ...' It goes on to say: 'I am advised that PrimeSafe is not aware of any evidence of a breach to labelling conditions.' You are on the board of PrimeSafe. We have heard today that it has been reported. What sort of the dopey bloody mob is it?

Mr Herd—They are not a dopey mob; they are very efficient and—

Senator HEFFERNAN—They are because they—

Mr Herd—I have not seen that letter. I am happy to go and check what has been reported to PrimeSafe and report back to you. I am also unaware of that letter and at the moment I am unaware of any non-compliance.

Senator HEFFERNAN—I am not surprised that you are unaware, because it was such a good system—there was no paper trail; it was a phone call.

Mr Herd—That is AUS-MEAT; that is not us. Let me guarantee you that the PrimeSafe paper trail is all in place and everything is documented.

Senator NASH—Then Mr Brian Casey should have been able to let the department know that they had actually taken some information.

Mr Herd—That is something you would have to ask—

Senator NASH—Can I just ask what Mr Brian Casey's role is?

Mr Herd—Yes, he is the CEO.

Senator NASH—It is extremely curious that the letter that Senator Heffernan has from the department would say that they are advised that PrimeSafe is unaware, and yet somebody who is called the CEO of AUS-MEAT gets the phone call saying: ‘We think we have found evidence at this particular place. We are reporting it to you.’ PrimeSafe then tells the department that they are not aware of anything. That is from the CEO level. I just find that extraordinary.

Mr Herd—I do not know the ins and outs of this non-compliance. From my experience with PrimeSafe, if there is any evidence at all that could ensure a prosecution, it would happen. The only reason it would not happen is if the evidence were not suitable enough for a prosecution. Our position is that, if there is evidence supplied to the PrimeSafe board that is in any way sure of getting a conviction or even close to it, we would take it on—absolutely.

Senator HEFFERNAN—Does PrimeSafe go around to all the abattoirs?

Mr Herd—Me, personally?

Senator HEFFERNAN—No, not you. You are only interested in the big picture, not the operations. It is a funny way to be a director. Do they go around to all the smaller works?

Mr Herd—Yes.

Senator HEFFERNAN—In their travels around the smaller works, according to this letter, they have not found anything.

Mr Herd—That is correct.

Senator HEFFERNAN—God help us.

CHAIR—Senator McGauran can ask the last question.

Senator McGAURAN—It ought to be put down in *Hansard* that this one AUS-MEAT investigation was a plant that invited AUS-MEAT in. We do not know where it is; it is somewhere in Victoria. Its intent was not to run a racket, or why would you invite AUS-MEAT in? So it cannot be held up for this committee as the example of a rampant industry racket going on. That was this one particular case. It may be shown up as a process problem—the telephone call, lack of paper trail or letter—but it cannot be held up as the case example of some sort of systematic substitution going on. That ought to be made clear because they self-invited the audit in. Why would you do that?

Senator HEFFERNAN—But it can be held up as an example of why we need a new system: because the system simply does not work.

Senator McGAURAN—That is different from the original accusations, and the haranguing of the witness and previous witnesses, that this was a case of a racket. That is a long way from the initial beginnings of this committee.

ACTING CHAIR—We can have this discussion in a private meeting when we are discussing the report.

[3.26 pm]

DAY, Mr Peter, Manager, Audit and Compliance, NSW Food Authority

ACTING CHAIR—While Mr Day is coming to the table, I would like to remind senators that the Senate has resolved that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policy or factual questions about when and how policies were adopted. Officers of the department should also be reminded that any claim that it would be contrary to the public interest to answer a question must be made by a minister and should be accompanied by a statement setting out the basis for their claim. I invite you to make an opening statement.

Mr Day—We would like to thank the inquiry for asking us to submit a submission to it, and there are a couple things I will go through from that submission. The authority does agree that there is a need for effective supervision of national standards and controls, and supports national harmonisation of the regulations. The authority is Australia's first through-chain food regulatory agency, from primary production to point of sale and, as such, we take compliance with labelling provisions very seriously. In fact, we have been very proactive in enforcing legislation across all commodity groups from seafood, dairy and meat. Obviously we are here today for lamb.

The authority has specific legislation relating to misleading conduct in the sale of food which includes misleading or deceptive labelling and advertising. Lamb branding in New South Wales is regulated under our Food Regulation 2004 and requires the brands rolls to be issued by the authority and for abattoirs to have fully documented procedures in place for audit. All unannounced audits are conducted by authorised officers from the authority. The authority maintains that, for effective auditing of the lamb branding system to occur, the audits must include examination of records, going back to farm saleyard, through the abattoir, post abattoir and to wholesalers as well.

Sheep NLIS has greatly assisted in the auditing of the lamb identification system due to the increased extra paperwork that their system requires. We are of the opinion that, in New South Wales, lamb substitution has actually decreased over the last 10 years due to proactive enforcement measures that we have put in place.

The authority acknowledges criticism of identification of lambs by dentition and is of the opinion, as is New South Wales DPI, that it is currently the most accurate and practical method of determination available. Any change of the lamb category will be unlikely to deter those in industry who are conducting substitution operations; therefore, the authority supports the retention of the lamb brand and the effective regulation of the system by all jurisdictions. The authority would support the development of a national system and is willing to assist in any development in the implementation of that if it were deemed so. Furthermore, the authority supports research into any technology such as a mobile organoleptic test to determine age and put some science behind lamb identification.

Senator HEFFERNAN—Mr Day, New South Wales, and you in particular, have a good reputation through your contribution to the supervision of the quality of lamb in New South Wales. Could you take us through your experience of the past year or two, of how we arrived to where we are now in New South Wales, whereas other states have not arrived there? Could you just take us through that journey?

Mr Day—Generally in New South Wales, as I said before, we audit the plants. We do not utilise commercial auditors, as other states do, so all of our officers do the audits of the plants for the authorised government officers. All of our audits are unannounced. We do a full audit not only on their operations from inspection practices, hygiene, structural, but also lamb identification procedures inside that works as well. That includes a full review of their records going back to the pre-abattoir sales, to saleyards, to farms. Of course, with the advent of NVDs and that sort of stuff, there is a lot more paperwork there to check as well. Generally, where we find issues, we will take action on the spot and also launch any sort of prosecution if the evidence permits us to do that. We will actively investigate any allegations the authority receives, in terms of New South Wales plants; we do so and have done so. We are aware of complaints that have come in from New South Wales operators concerning interstate operations and we have passed that information on to the relevant authorities interstate. We do effectively regulate that industry in New South Wales. We have responsibility for the licences of both export and domestic plants. I will clarify some points about what senators were asking before about operational licences: in all states, every abattoir has a licence issued by the state regulator. If they are export registered, they also have a registration issued by AQIS. Therefore, the state authority is fully responsible for any action against that abattoir that could lead to a suspension or cancellation of licence.

Senator HEFFERNAN—Have you recently pinged someone up on the North Coast?

Mr Day—I would prefer not to identify the abattoir, but it is fair to say that there are investigations continuing. We are conducting a full investigation into what would appear, at this stage, to be a fair case of hoggets being branded as lambs.

Senator HEFFERNAN—So why is it, do you think, that—and we are having great difficulty in convincing Senator McGauran on this—in Victoria, there is an opportunity to brand hogget as lamb and then send it back into New South Wales?

Mr Day—I really cannot answer on behalf of another state jurisdiction. However, in New South Wales, I can say that, as some of the witnesses here today have said, there are substantial amounts of money to be made in substitution of product. I have been a regulator for a long time. Where there is money to be made, you will find substitution occurring. So we do take it seriously here in New South Wales. We do police it. It is not easy to find evidence. It is difficult to prove a case. However, where we do find evidence, we take strong action. That is what we do.

Senator HEFFERNAN—Generally, the consumer is very aware of the brand lamb and obviously there are various levels and grades of lamb. Mr Herd proposed that there are no boundaries to what might be a lamb. If you think it looks all right and you think it might eat all right, the real test occurs when you cook it. How would you supervise that? Dentition is one thing; ossification, of course, is a more complex matter. Can you imagine a process where, if it looked all right, you could call it lamb?

Mr Day—I cannot comment on the quality aspects of the market.

Senator HEFFERNAN—Well, I cannot get my head around that.

Mr Day—I am not a marketing person; I am a regulator. The regulations require certain specifications for dentition for a lamb, and a lamb is a lamb as far as that regulation is concerned. Where we find anything outside of that, we will take action. In terms of the consumer, the example was given earlier of the Grange versus other wines. Where the Food Authority would take action is where we find people putting cheaper wine into a Grange bottle and then selling that.

Senator HEFFERNAN—That is right. That is a better example of how you might frame that argument.

Mr Day—Our agency has been heavily involved. Substitution is an issue, unfortunately, because of the money issues out there. The sale of imported vannamei prawns as an Australian product is not a different issue to what we are talking about. We take all those matters very seriously.

Senator HEFFERNAN—It would be fair to say that under the dentition system you can at least be satisfied in your own mind that you can supervise something rather than the vague idea of ‘let the market decide’.

Mr Day—My advice from DPI—I respect their experts’ knowledge of these issues—is that dentition is the only current method available that would give you the most accurate version. I am fully aware of all the other characteristics—the bone ossification and so on—but they are not practical and they are not accurate. Dentition is a long tried and proven method.

Senator HEFFERNAN—You will not have an argument with me. My congratulations on the work that you have done in New South Wales. It would be useful for us, given the evidence we have received today, if the other states could adopt the same sort of process that you blokes have. It would overcome this problem overnight if they did.

Senator NASH—Can I echo Senator Heffernan’s comments. Congratulations on the job that you are doing. You mentioned before complaints that you get from New South Wales that relate to problems in Victoria, and you said that you pass them on to the relevant authorities. Do we assume that you pass them on to PrimeSafe?

Mr Day—Yes.

Senator NASH—Do you do that in writing?

Mr Day—Yes.

Senator NASH—I am happy for you to take this on notice if you do not have the figures with you. I am trying to get an understanding of how many instances there would be where somebody in New South Wales would put forward a complaint to you, say over a 12-month period. You

may not have an exact average that you can pull out of the air, but I am trying to get a sense of how often that would happen.

Mr Day—I would say that it is a seasonal issue as well. This issue does crop up on a seasonal basis. This year alone, 2008, we have probably had six complaints from large processors in New South Wales. We had a meeting with the AMIEU and all of the major domestic abattoirs about two months ago—that is an approximate date—where they all made complaints about interstate carcasses coming over. As we have always said, we would pass that information on to the regulator in Victoria or encourage them to provide direct evidence of that as well to the regulator in Victoria.

Senator NASH—Is there any way of tracking whether they do take up that complaint and follow it through? Or is it the case that once you have handed it to them there is nothing else you can do in determining whether they have followed it up or not?

Mr Day—We have had feedback from PrimeSafe that they have investigated the matters to date and that they have found no evidence of that, of any sort of wrongdoing.

Senator HEFFERNAN—Did they write back? They say here, ‘I am advised Prime Safe is not aware of any evidence of a breach’—as opposed to allegations—‘to labelling conditions.’ When you wrote to them with allegations, did they write back and say, ‘Thanks for your allegations’? Did they write back or did they just do the phone call trick?

Mr Day—No, we got emails.

Senator NASH—That would then indicate that, even though perhaps not from Victorian sources, they were certainly aware of complaints that had been made against Victorian plants.

Mr Day—I would say so, yes.

Senator O’BRIEN—I am trying to understand if you have a role where a supermarket is selling a product. Would you investigate the supermarket to see if they were properly describing their product?

Mr Day—Yes.

Senator O’BRIEN—If a supermarket is selling a product which they say is, for example, Flinders Island lamb, how do you go about checking?

Mr Herd—If they were saying it is Flinders Island lamb and it was some other lamb—

Senator O’BRIEN—The question is: how would you check to see if it was?

Mr Day—Records, invoices, that type of thing. We have wide-ranging powers to require records of that company.

Senator O’BRIEN—If ‘ABC Wholesalers’ sends an invoice for five boxes of Flinders Island lamb, that is the end of the matter?

Mr Day—No, we would then have to pass it back through to the interstate authority, because we have limitations on where we can go, being a state jurisdiction. We would pass that information back to the interstate authority for further investigation of that plant.

Senator O'BRIEN—So in every case where there is a product that is sourced from interstate, you effectively hand the investigation on?

Mr Day—I suppose it depends on what the allegation is. If it is something that we can prove up here in New South Wales, and it is a breach by the actual supermarket or retailer—and that can occur—then we would take action there and then. If our investigations indicate that it is something that we cannot close off and that it is probably more of a matter originating from the actual home state—and we have a home state rule within all jurisdictions of Australia, in terms of referral of complaints—then we would pass that information back to the relevant agency in that state.

Senator O'BRIEN—So if it was a New South Wales product and you saw the invoice, you would go to the New South Wales business that was the source of the product and check their records? That would be the next step, presumably, if you had a complaint that this supposed product was supposed to be tender and it was like old boot leather or something like that?

Mr Day—Yes. I will give you a good example, though not involving lamb. We have investigated matters of lobsters being sold within stores as coming from a local region in New South Wales and they were actually WA lobsters. We have taken action against that retailer for that. So that is an example of what we would do in a case where we could prove a matter.

Senator O'BRIEN—Do you do any general work to understand the volume of a particular product available in the state of New South Wales, to understand the state of the market?

Mr Day—No.

Senator O'BRIEN—Do you investigate the abattoirs themselves, checking on their production systems?

Mr Day—We have abattoirs in New South Wales of whom we can require full production records of purchases, slaughter rates, slaughter numbers and that type of thing. If we have to, we do do that. That forms an important part of any investigation into any allegation of lamb substitution. By checking numbers in and numbers out it is not hard to do.

Senator O'BRIEN—Sure. You would do that to know whether that establishment was selling product that did not match up to its inventory input, if I can put it that way—the number of animals they bought at the saleyards or acquired in some way, shape or form—versus how much goes out.

Mr Day—Well, I have simplified that a fair bit, but it actually requires a lot of analysis of paperwork, operator numbers and so on. Normally, we would then trace it down to a wholesaler, because the incentive to act is not generally just from the abattoir; it is also from wholesalers and so on. So, we would go through particular operator numbers as well and look at what product is

being bought and put through those service abattoirs. Often the meat is not being killed for the abattoirs; it is being done as a service kill by wholesalers.

Senator O'BRIEN—Does your organisation ever receive complaints from within the meat industry about the nature of competition and the suggestion that that is based upon meat substitution?

Mr Day—Yes.

Senator O'BRIEN—How do you go about investigating those sorts of complaints?

Mr Day—If they are an interstate operator?

Senator O'BRIEN—In whatever way, shape or form.

Mr Day—It is difficult, because our agency covers the butcher shops in New South Wales as well. So, we rely a lot on our officers seeing what is in those premises at one time or another. If it is a New South Wales plant, then really we go back to the abattoir, because that is where you are going to have to get the proof to take any action. Interstate, it is very difficult. Once the head is off, it is nearly impossible for us to do anything about it, because we would not be able to prove anything in court.

Senator O'BRIEN—I assume New South Wales is like other states—that there are wholesalers who aggregate product and sell it to the various trades.

Mr Day—Yes.

Senator O'BRIEN—How do you go about regulating that sector?

Mr Day—They are licensed with us and they have to have programs in place as well. Our officers conduct unannounced inspections and audits on those premises also.

Senator O'BRIEN—Can you tell by looking at their price levels whether there is someone who is selling below what is normally the market price and who makes you suspicious?

Mr Day—Normally, the issue is what you have been able to purchase the animal for in the first place. That is where you will make your money. But then you also have more variability in what you can discount on the wholesale markets. Therefore the commercial imperative takes over. It is very difficult for honest traders to compete against someone who is getting an inferior product for a cheaper rate.

Senator O'BRIEN—Do you look at those wholesalers and see if you can find out who is discounting and find out the basis for that discounting?

Mr Day—That would not normally be the lead of our inquiries, because the wholesale market is very competitive. In any given week of the year there is substantial discounting going on. Sometimes what they will give on one product, they will take away on others and so on. That is

now a specialisation. It is not our background to regulate that area. We deal solely with records, facts and what we can find there on the day. It is very difficult with interstate—

Senator O'BRIEN—Is that a big part of the market?

Mr Day—Yes, especially in the capital cities with the wholesalers then on to the restaurant trade as well as carton product. It is a major part of the market.

Senator O'BRIEN—It seems that is a bit of a hole in the regulation chain.

Mr Day—I would agree. A lot of focus has been put on carcasses, but the box meat sector in terms of the wholesale trade, restaurant trade and catering trade was identified in our submission as an area that is a source of concern. However, if the product is rolled properly then there should be some sort of lamb roll or brand on that product, if you go through a box of meat and so on.

Senator O'BRIEN—You just do not know if it was properly put there.

Mr Day—It is difficult to prove that. That is why it is essential to have effective policies and procedures in place to be able to go back and revamp the abattoir industry—that is the middle person in terms of where you are going to get the best results.

Senator O'BRIEN—How much does it cost New South Wales for your organisation to perform its functions on lamb?

Mr Day—I could not put a total price on it.

Senator O'BRIEN—Can you take that on notice and give us an answer? It is important, given suggestions about what we might do nationally and the suggestions of a harmonised system around the country.

Mr Day—Yes, I will.

Senator O'BRIEN—It would be good to have an idea of what the actual cost is to New South Wales.

Mr Day—Yes, I will.

Senator McGAURAN—I acknowledge it is quite a significant piece of evidence in the letter that Senator Heffernan has held up that PrimeSafe has received no complaints, and you say that you have sent them some. I acknowledge that that is a real hole in the argument and something for the committee to pursue. But, given that, I am from Victoria and I go way back to when the New South Welshmen screamed blue murder when milk crossed the border. They just wanted to protect their own markets. So forgive me for being a bit sceptical; I am entitled to be. You said that in 2008 there were six complaints. They were all from the processors?

Mr Day—Yes.

Senator McGAURAN—First of all, did you substantiate them or did you send them as said down to Victoria?

Mr Day—I would have to come back to you with that. But from memory there were two distinct emails sent to PrimeSafe about the complaints, which were a combination of complaints we received from the processors within New South Wales. The complaints named specific abattoirs in Victoria, allegations of—

Senator McGAURAN—Substitution.

Mr Day—substitution and some advice on what to look for in terms of records and so on.

Senator McGAURAN—So to some degree you substantiated the allegation before you sent them down as a wild allegation? I would think that you have a responsibility to say, ‘You’ve said that, now give me some show of evidence or some cause or something like that.’ You do not just unload it, do you? You do filter the complaints?

Mr Day—Yes, we do.

Senator McGAURAN—Okay.

Mr Day—We action all complaints; however, obviously the nature of the complaint determines our response to those complaints.

Senator McGAURAN—Six is significant.

Mr Day—They were from six processors.

Senator McGAURAN—Not six complaints?

Mr Day—As I just said, there were two emails sent to PrimeSafe which were a combination from various abattoirs within New South Wales.

Senator McGAURAN—Given the good work that we hear you have done, and that you pick up some substitution going on yourself in New South Wales, which ought to be noted, over all these years, particularly given your experience, Mr Day—and as you said to Senator O’Brien, you can pick it up in the supermarket and you can do the trace-back—have you ever come across a case or a complaint where someone has pointed to it in the supermarket or the butcher’s shop and said, ‘That is a Victorian substitution meat for lamb’? In all these years, you have not picked it up crossing the border?

Mr Day—No. The issue is that no matter what I may think, I cannot prove an offence without the head on that carcass.

Senator HEFFERNAN—That is the trick: get the head off quick!

Senator McGAURAN—But you can trace—

Mr Day—As a regulator, I just deal with what I can regulate within my relevant legislation. If someone passes on to me information about hogget being branded as lamb and coming from interstate and being sold in a supermarket or a retail shop, I would pass it on to the relevant authorities down there. My experience is that that is where you will prove that in order to take appropriate action against that person who is swapping it.

In terms of a retailer who is just doing something stupid where they might have a hogget rolled and they cut those brands off, that could occur and we would take action against that. That is another variation on this theme. However, in terms of systemic problems with product coming in, I tell all the abattoirs in New South Wales that if they have complaints about Victorian, South Australian or Queensland product then we will pass that information on to the relevant authorities, because I cannot prove the case without the dentition.

Senator McGAURAN—With all your experience, what is your view of this so-called Victorian substitution racket crossing the border?

Mr Day—As I said before, I think there is substantial money to be made out of substitution. I have been a regulator for a long time. Money tempts people. I have no evidence of it coming from Victoria. However there has been evidence of it in New South Wales and we have an active program here. I would suggest that, if you take us a sample of the population, I would not see why it would be different from anywhere else.

Senator McGAURAN—So, do you think there is a racket going on?

Mr Day—I think there is potential—opportunity—there with the current system for malpractice to occur. That is all.

Senator HEFFERNAN—Once again, I congratulate you, because obviously New South Wales is instructed by the work of the office that you represent. If you cannot comment then it does not matter, but do you see the weaknesses in Victoria and other states? There is a very simple process to follow the paper trail of the National Vendor Declaration. Why do you think other people do not get it?

Mr Day—I will not target an agency or a jurisdiction, but, as a state agency, I am fully aware of issues with inconsistent application of enforcement of regulations throughout the states of Australia. We have dealt with it ourselves as an agency in terms of other issues. It varies, and there are a number of reasons for that in terms of why different jurisdictions take different approaches.

Senator HEFFERNAN—Do you have directors in your organisation?

Mr Day—No, we have a director-general. We are a department.

Senator HEFFERNAN—PrimeSafe has directors. We heard from one of them here today who absolutely does not believe in what you are trying to instruct in New South Wales. He has the completely opposite view, yet he is a director of PrimeSafe. Wouldn't there be a better system if there was independence of the supervising body, rather than having people who are in

the industry supervising the body that it is doing the supervising whilst at the same time owning up that they do not believe in any of what they are supposed to represent?

Mr Day—I cannot comment on what happens interstate. In New South Wales, we have a strong system of consultation with industry—a consultative body—but they do not determine what we do and they do not set policy and that type of thing. I think there is a—

Senator HEFFERNAN—You would agree that an independent authority would be a necessary part of the process to supervise the meat industry?

Mr Day—I think our structure in New South Wales is a very good one.

Senator HEFFERNAN—Thank you very much for all the good work you have done.

ACTING CHAIR—Thank you very much. We will adjourn proceedings for today.

Committee adjourned at 3.55 pm