Final Report

AMPC
AUSTRALIAN MEAT PROCESSOR CORPORATION

The Nature of Competition in the Red Meat Processing Industry 2024

Project code
2024-1104

Prepared by
SG Heilbron Pty Ltd

Date submitted
21/02/2025

Published by
AMPC

Date published
21/02/2025

Contents

Abstract

This report provides an update of AMPC's 2016 *Nature of Competition in Red Meat Processing Report* (SG Heilbron), providing updated information in terms of industry structure and practices, competition policy inquiries and decisions, and new economic research on the competitive nature of industry operations.

This updated report, like its original version, was based on research using public data sources augmented by a series of structured interviews with a range of red meat processors who were asked to provide their insights on the nature of competition in the industry. The conclusions reached, are solely those of the SG Heilbron consulting.

The report may be used by regulators and other interested parties to better understand the nature of competition in the red meat processing sector.

Executive summary

The nature of competition in the Australian red meat industry has been subject to a high level of scrutiny by the government for decades. In 2016 the Australian Meat Processor Corporation commissioned a report on the nature of competition in the processing industry to inform discussion of the relevant issues (Heilbron 2016). Since the original 2016 report, the industry has continued to be subject to scrutiny. The grocery industry, of which red meat processing forms a part, is subject to recent and ongoing inquiries by Federal and State Governments and other parties, namely:

- Competition Review (The Treasury 2023)
- The Senate Select Committee on Supermarket Prices (Senate 2024)
- ACCC Supermarkets Inquiry (ACCC 2024)
- Independent Review of the Food and Grocery Code of Conduct (The Treasury 2024)
- Queensland Select Committee Inquiry into Supermarket Pricing (Queensland Parliament 2024)
- ACTU Inquiry into Price Gouging and Unfair Pricing Practices (ACTU 2024).

Whilst these investigations focus predominantly on retailers, processors are also subject to scrutiny. This report updates the original analysis.

Most concerns on the part of some livestock producers and organisations about competition in the industry made a link between levels of perceived concentration in the industry and abnormally high margins. This in turn was linked to concerns about the extent to which prices paid for livestock are not transparent. In effect, the allegation has been that processors use their superior information and market power to depress prices for livestock below market levels. To date, no anti-competitive conduct has been found to support these allegations.

The conclusion of the 2016 report was that the concerns were based on a view of the nature of competition in the industry which does not reflect the reality of how processors operate and how they compete. The information available to processors in determining what prices they are able to offer for livestock is far from perfect. Processing entails considerable risks, both factors that can be quantified and uncertainties that cannot. Concentration in a market does not equate to anti-competitive conduct.

Processing by its very nature needs to be more concentrated than other parts of the supply chain. There will always tend to be tens of thousands of farmers but smaller numbers of processors because processing is capital and workforce-intensive and requires sufficient scale to be competitive in the global market. Processors require a steady supply of livestock to match plant capacity and market demand. However, turn-off from individual farms is typically seasonal and often influenced by climate. Therefore, processors must spread purchasing across many properties and broader production regions.

Since the 2016 report, there has been a significant increase in supermarket service kill arrangements in the industry, particularly amongst the two major supermarkets that predominantly procure livestock (either directly from producers or via saleyards) and pay processors a fee to have animals custom processed. The same arrangements are available to producers wanting to retain ownership and market their products. Service kill is now estimated to represent up to 30% of total beef processing throughput. This trend reduces the ability of processors to influence prices paid to livestock producers.

When not operating under service kill arrangements, processors undertake three main activities: buy (livestock), make (process/manufacture), and sell red meat and other co-products. This report describes the key features of each activity and how processors compete. At the buying stage, livestock producers have a range of options with

their livestock through the life cycle of production, and in the methods they use to sell their animals, just as there are a range of 'bidders' via each selling method and a range of activities or choices that a producer can make to improve or increase sell prices by producing animal specifications to meet particular demands. The livestock production sector involves many beef producers of different sizes, capacities, and profitability. But differences in producer profitability reflect their costs, rather than prices received for livestock.

Processors accordingly have a range of options in buying, and in determining the prices that they can affordably offer for livestock. Processors generally undertake a procedure that involves a great deal of risk and uncertainty. They have different scale and cost structures, and on the sell side, they are all price takers in a highly competitive international market. The international market drives the prices that processors can afford to pay for livestock since exports account for around three-quarters of output. Some parts of every carcase may be exported, and some remain in Australia. These carcase components are typically sent to multiple customers in multiple countries. It is that mix of global customers that creates quite different opportunities for different processors. Hence an identical carcase will be worth different amounts to different processors. This is why carcase utilisation and market access are so critical in making processors viable.

Furthermore, the ability to maximise carcase balance and create value increases with scale. The scale allows a business to service more markets/customers consistently and reliably with more unique cuts. Hence, scale creates value on the sell side, which then makes processors with scale more competitive on the buy side.

The dynamics of the industry and the supply chain are driven by supply (available livestock) and demand (internationally). There is significant competition for livestock from processors/buyers. There is no evidence of market power on the buy side, rather it is a function of what processors can afford to pay against the competition. Red meat processing is a manufacturing sector using a diverse range of inputs that vary by factors such as size, breed, and condition. Not all livestock are the same (not homogeneous); not all processors are the same, and not all sellers of finished products are the same. Not all markets are the same in terms of access, risk and the costs of servicing these markets.

Processors' estimates of how much they can afford to pay for livestock rests on many assumptions – what they might sell the products for, what their processing throughput will be, what the supply of livestock will be – and if these prove to be incorrectly calculated, processors will find themselves suddenly losing money. As noted above, a single livestock carcass is disassembled and components including meat, by-products and offal, are directed to multiple international markets. This increases complexity and the risk of losses. These losses may continue because processors need to maintain throughput otherwise unit costs will rise. If they are eventually forced to shut down plants, major financial costs are incurred and resources lost (notably skilled labour) which may not be easily regained, if at all. Moreover, at the time of purchase of the livestock, much of the purchased value is at risk, when currency, unrealised sales, logistics and geopolitical circumstances are all taken into consideration (the processor being exposed to each of these risks in combination).

When assertions about concentration and excessive margins mentioned above were made in 2013-14, figures were cited showing a sharp rise in the gap between prices received by processors for some beef exports and the prices paid to livestock producers for some cattle. However, this reflected an exceptional set of circumstances, with record sales of cattle (oversupply) during a serious drought in Australia and high prices for beef in the US market. Up-to-date figures indicated the spread between the price of cattle and beef had reversed to become sharply negative and well below the long-term trend.

This also illustrates how the domestic livestock market can behave and act independently from the global red meat market for considerable periods of time. Processors cannot remain in business indefinitely losing money whatever the short-term imperatives to maintain throughput. A continuation of negative conditions would see the less cost-efficient processors go out of business. Even more cost-efficient processors would consider alternative options

during sustained periods of negative returns.

The abovementioned concerns about concentration and the level of transparency in pricing have led to pressure for action to enhance competition. At its extreme, this has included calls for mandatory price reporting as occurs in the USA. However, concentration does not mean a lack of competition, and the level of concentration in the USA is far higher than in Australia. In 2017 the ACCC estimated that the four largest firms accounted for 51 per cent of total beef processing in Australia. This compares to the US where the top four process more than 80 per cent of animals (USDA 2024).

There are potentially unintended adverse impacts of mandatory reporting (e.g. it can facilitate anti-competitive practices such as price signalling in concentrated markets, and equally signal to meat buyers prompting a race to the bottom in pricing) which would adversely affect livestock producers as well as processors.

Concerns about some features of price reporting stem from industry-agreed practices and standards. If technological solutions can be found that enable more accurate information to be disseminated in a manner that is cost-efficient (and there are structured R&D programs underway to do this), then there is no reason why they should not be adopted.

The Australian red meat processing industry is both labour and capital-intensive. It has a higher cost of production compared to the major international competitors of the US, Brazil, and New Zealand. The foreign exchange market is the same for all processors with export sales typically made in US dollars. The seller of the end product competes and bears the risks of selling into highly competitive domestic and international markets. Importantly, once the ownership of the animal passes to the processor, the commercial and operational risks (inclusive of quality and cold chain conformance risks) are borne fully by that processor and seller who aims to maximise the return based on the price paid for each animal.

Given that processors are price takers, having the lowest cost for processing is a key means by which processors compete. Interventions that increase risks and costs therefore undermine competitiveness and reduce the capacity to afford paying prices for livestock. Unfortunately, the cost structure of the local industry is relatively high internationally and has been made worse by government-influenced taxes and charges and other policies such as industrial relations. These have been exacerbated by workforce shortages.

The red meat processing industry is an important one not only for those directly involved but also more broadly for regional, state and national economies. The red meat processing industry is estimated to have contributed just over $21 billion of value added to the Australian economy in 2021, equivalent to just over 1 per cent of Australia's national total gross industry value added including flow-on impacts. It generated over 138,000 jobs, equivalent to almost 1.3 per cent of full-time equivalent (FTE) employment when flow-on effects are considered. The current economic contribution of the industry is likely to be significantly higher given the volume of red meat production has increased by over 35% since this 2021 assessment was completed.

Accordingly, the cessation of meat processing activities would have a significant impact on regional communities and the national economy, which in turn would be expected to generate significant negative social consequences.

The economic and social impact and significance of the industry are important for policy advisers in relation to competition because their decisions can have profound impacts on a very significant industry and, through that industry, on the local, regional and national economic value and household income generated, as well as the employment and social wellbeing of hundreds of thousands of people. The unintended consequences of policies applied to one part of the industry will flow onto others. In particular, the economic fate of processors as major buyers of Australian livestock is intimately tied to that of livestock producers, and vice versa.

There are major challenges posed for policymakers by smaller producers who have difficulty in fully participating in

the development of the livestock industry and meat industries (and indeed other agricultural industries), where economic forces generate competitive advantages for those able to realise the benefits of scale.

Policy can accommodate this process or hinder it. Where competition in the industry is strong, there is no justification for using competition policy to hinder economic forces and limit the potential gains in efficiency and competitiveness of the industry.

Since the original Nature of Competition report in 2016, the major areas of concern in relation to processors have been consolidation and allegedly consequential market power, and concerns about prices not being transmitted along the supply chain. It is evident from the review of competition policy and laws in this report that the policy stance of the competition regulator has tended to discourage consolidation amongst the largest processors, although apparently not amongst smaller operators.

The competition regulator's policy approach has essentially resulted in a two-tier industry – one where mergers are allowed and one where they are discouraged. Yet there has been no substantiated evidence that would justify such an approach, and no analysis of the adverse impacts on the sustainability of an industry that depends on international competitiveness for most of its sales, through restricting the scale of its larger operators. New merger rules stated by the competition regulator are unlikely to make mergers with larger processors easier to achieve. This has implications for resource allocation and competitiveness. Scale economies are of critical importance in red meat processing, as the industry is faced with high fixed costs that need to be spread over as much volume as possible, consistent with the availability of complementary resources such as labour and availability and access to markets for products.

A problem is that competition policy in Australia focuses exclusively on competition in the domestic market, whereas export meat processors (which sell around two-thirds of production) operate in an international marketplace. Competition policy that restricts or bans mergers and acquisitions by the larger processors completely limits their ability to achieve scale through acquisition, and hence undermines their competitiveness. One of the reasons why US processors have much lower costs to operate than their Australian counterparts is that they are much bigger. Scale also helps maximize export value and service large global customers. Networks of plants also help manage/spread risk and seasonality.

Accordingly, the original study concluded that there did not appear to be an economic justification for changes to competition laws that serve to tighten regulation relating to anti-competitive conduct, market definitions and price reporting.

Developments since the original report serve to reinforce the original analysis and do not detract from it. In particular:

- The red meat processing industry continues to make a significant contribution to the national and regional economies of Australia.
- Recent research has indicated the existence of short-term market ups and downs rather than longer-term cycles in livestock markets which points to an uncertain and volatile industry facing meat processors. This is not unrelated to an increasingly volatile climate and weather patterns, which exert a strong influence on livestock supply.
- Research after the original Nature of Competition report revealed the scale and operating cost differences between Australian facilities and their much larger US counterparts. Competition policy settings need to avoid undermining industry competitiveness by restricting economies of scale through mergers and acquisitions.

- There has been a significant increase in supermarket service kill arrangements in the industry which represents a meaningful share of total processing capacity and reduces the ability of processors to influence prices paid to livestock producers.
- Research on the impact of Mandatory Price Reporting in the USA remains equivocal about its costs and benefits in relation to price transparency and competition.
- Major structural differences apply to the Australian and US processing industries which make it inappropriate to apply measures like Mandatory Price Reporting in Australia.
- Risks faced by processors in terms of market access have been heightened in recent times.
- There is a need for industry and policymakers to focus on reducing Australia's high-cost base.

Mandatory price reporting should not be introduced in Australia based on the need for regulators to have a tool to undertake some kind of 'fishing expedition' based on assertions by interested parties on competitive misconduct by meat processors that is not supported by objective, verifiable economic data, and analysis. Requiring commercial entities that have committed no offence to divulge highly sensitive commercial information to governments should only be done in the most extreme of circumstances and based on demonstrable evidence of misconduct, which has not been the case in the red meat processing industry.

Policy action is, however, economically warranted in relation to costs, given that both livestock producers and processors are price takers and operate in highly variable and risky conditions. It is in their mutual interest to ensure any unnecessary cost imposts are addressed.

There are major challenges posed for policymakers by smaller producers who have difficulty in fully participating in the development of the cattle and sheep industry (and indeed other agricultural industries), where economic forces generate competitive advantages for those able to realise the benefits of scale.

Policy can accommodate this process or hinder it. Where competition in the industry is strong, there is no justification for using competition policy to hinder economic forces and limit the potential gains in efficiency and competitiveness of the industry.

Accordingly, the recommendations of this report are as follows:

1. There is no justification for 'freezing' the structure of the industry and making scale-efficient mergers and acquisitions even more difficult.
2. Mandatory price reporting should not be introduced based on market structure in foreign countries that are different from Australia and, because of unintended consequences, will adversely affect the industry.
3. Where there are potential improvements to be made in reporting and grading systems, technological solutions should be sought through research and development and, where cost-effective, introduced in the industry.
4. Policy to advance the development of the industry should focus on minimising uneconomic regulatory cost imposts that adversely affect investment and competitiveness.
5. More broadly, policy should focus on addressing the underlying cost efficiency challenges faced by small producers in agriculture.
6. There are ample opportunities for collaborative value chain approaches on issues that impact all participants, including implications of expanded farm assurance schemes internationally, improved emissions outcomes, access to and reliability of workforce supply, and objective carcase measurement.

1 Introduction

The nature of competition in the red meat industry has been a focus of policy attention for the competition regulator - the Australian Competition and Consumer Commission (ACCC) and other arms of government (including the Parliament). Over the past 20 years when there have been various inquiries, market studies, and investigations by the regulatory authorities, and numerous decisions on commercial transactions in the industry impacted by competition regulations.

In 2016 AMPC commissioned SG Heilbron to produce a report on the nature of competition in the beef industry, summarising the commercial arrangements and competitive forces at play (Heilbron SG 2016). In 2024 AMPC again commissioned SG Heilbron to produce an updated report with information, analysis, and findings on developments in terms of industry structure, competition policy inquiries and decisions, and new economic research, including that undertaken on cattle and sheep cycles and price transmission being conducted for AMPC. This report also broadens the analysis to include sheep and lamb processing markets.

This updated report, like its original version, was based on research using public data sources augmented by a series of structured interviews with a range of beef processors who were asked to provide their insights on the nature of competition in the industry. SG Heilbron Consulting expresses its appreciation for the time taken by processors to describe the nature of competition in their industry. The conclusions reached, however, are solely those of the SG Heilbron Consulting.

The report may be used by regulators and other interested parties to better understand the nature of competition in the red meat processing sector.

Analysis in this report relates to the nature of competition within the Australian red meat processing industry. Unless specified, the analysis relates to the processing markets for cattle, sheep, and goats.

2 Project objectives

The project objectives were as follows:

- Identify relevant developments in competition policy and law in Australia since 2016, including the outcomes of the ACCC Cattle and Beef Market Study, review of significant changes in competition regulation, relevant industry transactions affected by competition regulation and academic papers.
- Update where possible statistics used in the 2016 report relating to industry structure, and economic parameters including economic impact, output, and prices.
- Update the analysis taking into account relevant reports including the current AMPC project on cattle and sheep cycles and price transmission, academic articles, news media and other sources.
- Update the conclusions and recommendations reflecting the findings of the above analysis.
- Produce an updated report suitable for reference by industry and other stakeholders.

3 Methodology

The project methodology included the following components:

- Project commissioning and establishment of Steering Committee; design confirmation with input from Steering Committee.
- Undertaking research using library and media resources to identify relevant developments in competition policy and law in Australia since 2016.
- Gathering and analysis of statistics and other sources of information from public and private sources to update where possible statistics used in the 2016 report, including structured interviews with selected informants, relating to industry structure, and economic parameters including economic impact, output, and prices, and draw upon relevant reports including the current AMPC project on cattle and sheep cycles and price transmission.
- Analysing information and statistics gathered to update the conclusions and recommendations of the 2016 report.
- Producing a final report and summary.

4 Competition policy developments

The nature of competition in the red meat industry has been a focus of policy attention for the ACCC and other parts of government for a long time, but especially so over the past 20 years. There was an ACCC report to the Senate on Prices Paid to Suppliers by Retailers in the Australian Grocery Industry in 2002 (ACCC 2002); an examination of the prices paid to farmers for livestock and the prices paid by Australian consumers for red meat, undertaken by the ACCC in 2007 (ACCC 2007); and a report of the ACCC Inquiry into the Competitiveness of Retail Prices for Standard Groceries which analysed the meat industry in 2008 (ACCC 2008a).

This focus sharpened in 2015 when both the ACCC and the Australian Senate Standing Committee on Rural and Regional Affairs and Transport closely scrutinised the industry. The Senate Committee 2016 initiated an inquiry into the effect of market consolidation on the red meat processing sector (Senate 2017). The ACCC then issued its report on the cattle and beef market study (ACCC 2017). In the meantime, some livestock industry representative bodies urged action to enhance aspects of industry competition and research was conducted on mandatory price reporting (Todd and Barnard 2015).

Since the ACCC market study, there has been a spate of inquiries by various Federal and State Governments and other parties into competition law and policy, which cover red meat and/or red meat processing to some extent.

In 2020 for example, the ACCC conducted a three-month inquiry into bargaining power imbalances in supply chains for perishable agricultural products in Australia (ACCC 2020). The subsequent post-pandemic inflationary surge and public concerns over high food prices have prompted a focus on the competition in the food and grocery industry which includes meat, in the past few years. According to the National Farmers Federation, the market power of processors and retailers remains the top priority issue of concern for farmers (National Farmers Federation 2023).

In 2024 alone, the following inquiries and reviews have been conducted:

- Competition Review (The Treasury 2023)
- The Senate Select Committee on Supermarket Prices (Senate 2024)
- ACCC Supermarkets Inquiry (ACCC 2024)
- Independent Review of the Food and Grocery Code of Conduct (The Treasury 2024)
- Queensland Select Committee Inquiry into Supermarket Pricing (Queensland Parliament 2024)

- ACTU Inquiry into Price Gouging and Unfair Pricing Practices (ACTU 2024).

These inquiries, and how they relate to the red meat processing industry, will be discussed in more detail. But first, it is necessary to update what has happened by way of industry transactions since the study.

In the period from 2002 to the ACCC market study, the ACCC reviewed several significant acquisitions in the red meat processing sector as processors sought to consolidate their operations (ACCC 2024). In that period the ACCC closely investigated and approved eight red meat processing transactions as follows:

- 2002 Merger between Consolidated Meat Group and Teys Bros.
- 2005 Elders Ltd acquisition of EG Green & Sons Pty Ltd
- 2008 JBS Southern Australia Pty Ltd acquisition of Tasman Group Services Pty Ltd
- 2009 Metcash Trading Limited acquisition of Fresh Market Meats.
- 2010 ZM Australia Pty Ltd acquisition of Tatiara Meat Company Pty Ltd
- 2010 Swift Australia Pty Ltd acquisition of Rockdale Beef Pty Ltd
- 2011 Merger of Teys Bros (Holdings) Pty Limited and Cargill Beef Australia
- 2015 JBS USA Holdings Inc. acquisition of Australian Consolidated Food Investments Pty Ltd (Primo Smallgoods).

In 2015, the ACCC also investigated claims processors collectively boycotted the Barnawartha saleyard.

Since the ACCC market study, there have been several processing transactions, some of them entailing consolidation notably:

- 2021 Kilcoy Global Foods acquisition of Hardwicks Meats in VIC
- 2023 Bindaree Food Group acquisition of the Monbeef processing plant in NSW.

In addition to substantial capital improvements and ongoing investment into operating sites, there have been several major upgrades announced for meat processing works (Condon 2023). Among them:

- 2023 Australian Meat Group's Cootamundra beef and sheepmeat plant in NSW
- 2023 Thomas Foods International's Murray Bridge plant in SA, replacing a facility destroyed by fire in 2018.
- 2023 HW Greenham's Tongala processing plant in VIC.

However, in contrast to the situation before 2016, there has not been a major merger or acquisition subject to ACCC investigation as indicated in the public register (although informal discussions may have occurred with parties interested in undertaking transactions). As will be discussed below, the pattern above is not surprising given the context of competition law and policy developments since the ACCC market study.

4.1 The ACCC Cattle and Beef Market Study

The key issues posed by the ACCC market study can essentially be interpreted as follows:

- How are prices determined (formed) in the industry?
- How transparent are those prices along the supply chain?
- What is the profitability in the industry and how has it developed over time?
- What impact has the process of consolidation had on competition and profitability?
- What are the appropriate regulatory settings for competition in the industry

The analysis of these issues in the Nature of Competition report was undertaken from the perspective of beef processors by analysing what processors do to compete – that is, they buy cattle; make (process/manufacture) them into meat products; and then sell those meat and derived products. Following a brief overview of the key features of the beef processing industry, the nature of competition in each of the above buy, make and sell activities was described in turn. The report also discussed the issues associated with some key recommendations made by the Senate Inquiry in its interim report on meat industry consolidation (Senate 2017). It addressed those relating to the introduction of legislation to prohibit 'concerted practices' and the introduction of a national price disclosure and reporting system. The structure of the original report has largely been retained for this updated version.

The ACCC market study contained several findings that are especially relevant to red meat processing (ACCC 2017).

Price transparency – the ACCC considered that cattle prices are not sufficiently transparent to provide useful signals for producers, particularly prices for prime cattle. There are significant gaps in reporting: the prices for paddock sales and over-the-hook (OTH) and saleyard transactions are inconsistently reported and, in some cases, incomplete in terms of the cattle types reported. This makes it difficult for producers to compare historical prices between channels on a like-for-like basis. This lack of transparency weakens price signals that guide production decisions and may create information asymmetries between industry participants.

The market study had several recommendations to address this, but in relation to mandatory price reporting, it concluded that the arguments for and against the introduction of mandatory reporting of all non-saleyard cattle sales in Australia were finely balanced. It argued that at present, the complexity of Australian beef and cattle markets may make mandatory price reporting difficult to implement and mitigate its potential benefits. Therefore, the ACCC did not recommend its introduction at that time. However, it indicated that if market participants did not take steps to improve market reporting in line with recommendations on price reporting made in its report, the arguments in favour of mandatory reporting would become more compelling over time.

Consolidation – the market study concluded that in most regions of Australia, producers had a range of different buyers potentially competing for their cattle. These buyers could include the major supermarket chains, processors, or live exporters. However, it argued that the presence of buyers in particular regional markets and the degree of competition between them for prime cattle could vary according to a range of seasonal and commercial factors. It then stated:

> *"As such, there are circumstances where further consolidation in the processing sector through mergers or acquisitions, or other conduct, could substantially lessen competition. The ACCC will continue to carefully scrutinise any proposed future aggregation."*

This concern about further consolidation reflected comments made by the ACCC in the decision mentioned above to allow JBS to acquire Primo Smallgoods, where it was stated that while the ACCC determined that, in that instance, the proposed acquisition would be unlikely to raise significant competition concerns, the ACCC was wary of the potential impact of further consolidation of processing plants and that it would continue to monitor this industry and any future acquisitions would face additional scrutiny.

Anti-competitive conduct - the market study report stated that the ACCC was assessing various allegations of anti-competitive conduct, raised through the course of the study. The ACCC said it would continue to monitor concerns about collective behaviour by cattle buyers, including cattle purchasing boycotts designed to alter industry practices, and other potentially anti-competitive practices in cattle acquisition markets.

The ACCC noted that the government was then proposing to introduce new concerted practices legislation. A concerted practice is a form of coordination between businesses by which, without them having entered a contract,

arrangement or understanding, practical cooperation between them is substituted for competition. The ACCC considered that this proposed legislation was likely to have an impact on some of the conduct in this industry.

4.2 ACCC Perishable Agricultural Goods Inquiry

This inquiry examined trading practices throughout agricultural supply chains, including the relationships between farmers, processors, and retailers, and the extent to which any potential bargaining power imbalances in these relationships adversely impacted the efficient operation of these markets.

The inquiry also examined the ability of current laws and regulations to address the harmful effects of bargaining power imbalances. The inquiry's report (ACCC 2020) describes the supply chain for red meats and deals with meat processing in several respects.

The inquiry report concludes that there are a number of harmful outcomes emerging from imbalances in bargaining power and market failures, including:

- One-sided contracting practice, including potentially unfair contract terms regularly being present in producer supply agreements.
- Practices that go beyond hard bargaining, because of inappropriate and inefficient allocation of risk to producers or suppliers, which can reduce confidence and investment in markets.
- A lack of price and market transparency across a number of perishable goods industries.

In relation to price transparency, the report stated that some beef and sheep producers have little transparency over the carcase grading process, which can generate a lack of trust in the prices received. It noted that the ACCC cattle and beef market study heard that carcase grading was not transparent and found this was generating a general lack of trust. Producers were also concerned that carcase grading raised a conflict of interest, as the grader is an employee of the processor, and the quality of cattle can deteriorate while they are in the processor's care prior to slaughter. Grading systems also varied between processors and could either be processor-defined or an industry standard.

The ACCC found that while theoretically, beef processors could grade carcases in a way that minimises prices paid to producers, this was unlikely to be a frequent practice, but recommended ways to increase the transparency of the process to give producers more confidence. The ACCC said it had received feedback that new objective carcase measurements technology has not improved the issues with carcase grading, as there has been a low take up of it by processors. The sheep meat industry also believed that introducing objective carcase measurement would improve transparency.

The report also contained a substantive section on the role of Australian competition law in regulating competition generally and specifically in agricultural product supply chains. This is discussed below in the section on competition regulatory developments.

It should be noted that if a grading system is processor-defined and the carcases are sold on a carcase weight basis, then the producer must formally agree with the processor's standard. Moreover, carcase grading is governed by standards against which compliance is audited (through Ausmeat and Meat Standards Australia), and that feedback is provided to producers in the form of livestock processing data feedback.

4.3 Independent Review of the Food and Grocery Code of Conduct

In January 2024, the Australian Government appointed Dr Craig Emerson to lead an independent Review of the Food and Grocery Code. Its final report was issued in June 2024.

The final report stated that the central recommendation from the Review was that the Code be made mandatory with heavy penalties for breaches. Making the Code mandatory was claimed to be essential to ensuring it is effective in addressing the heavy imbalance in market power between supermarkets and their suppliers, especially their smaller suppliers.

The penalties for breaches of the mandatory Code that were recommended were the heaviest of any industry code of conduct. Improved dispute-resolution processes were also recommended through arbitration. Although under the Constitution a mandatory code cannot impose binding arbitration on a company, the major supermarket chains had according to the report given their in-principle agreement to be bound by the outcome of the arbitration processes recommended. Strengthened protections against retribution and new protections for suppliers of fresh produce were also recommended.

The Code defines a list of product types covered under the term ‘groceries’ to comprise food including fresh produce, meat, and dairy items (other than dairy items sold for in-store consumption). Concerns were raised by some stakeholders as to whether a code of conduct should be applied further back in the supply chain, and how this might operate in practice. For example, questions were raised about whether the Code should apply to animal producers supplying a meat processor that, in turn, supplies a supermarket.

The report noted that the major supermarkets rely on wholesalers extensively for the supply of fresh produce. In these circumstances, it was considered appropriate that these wholesale suppliers have access to a grocery supply agreement. The review considered that the mandatory Code should protect all suppliers to supermarkets, including fresh produce wholesalers and meat processors.

The report describes other initiatives outside of the Code that might assist with price transparency for fresh produce for example the ACCC’s price inquiry into supermarkets. The report noted that the ACCC is required to consider the approach of suppliers, wholesalers, and retailers in setting prices for groceries, including the use of data analytics. Hence, the review expected that the ACCC’s inquiry would consider price transparency along the supply chain.

The Federal Government subsequently announced that it would adopt the report’s recommendations "in full". Making the code of conduct mandatory can be done swiftly because it is set up in regulations that can be varied by ministers. But the new penalties will require legislation to change the Competition and Consumer Act, which the government has said it will "prioritise" but does not have a specific timeline for.

4.4 The Senate Select Committee on Supermarket Prices

The Senate Select Committee on Supermarket Prices (the Senate Supermarkets Committee) was established in December 2023 and presented its final report on 7 May 2024.

The report concluded:

- There was a high degree of market concentration in the Australian supermarket sector, which contributed to a significant imbalance in market power between the major supermarkets and their smaller suppliers.
- There were challenges faced by producers of perishable goods, whose market power is further constrained by short sale windows and the limited availability of alternative buyers.
- There was supplier fear of retribution by retailers which deterred suppliers from making complaints.
- There was a lack of market transparency and inequality in terms of access to market data which disadvantages farmers in their negotiations with supermarkets.

The report made 14 recommendations, including:

- Amend section 46 of the Competition and Consumer Act 2010 to prohibit the charging of excess prices (otherwise known as price gouging). The Senate report cited the report of the ACTU inquiry into price gouging noting a range of price mechanisms used by supermarkets. It cited in the ACTU report including asymmetric pricing or 'rockets and feathers'—where the timing of price rise and falls are asymmetric, and prices rise faster than they subsequently fall. Meat, fruit, and vegetables were noted as key markets where this occurs.
- Provide the ACCC with the authority to investigate and prosecute unfair trading practices as a matter of priority, the Australian Government establish a Commission on Prices and Competition to examine prices and price-setting practices of industries across the economy and review government and other restrictions on effective competition which are leading to high prices. In relation to supermarkets, the commission should be provided with the authority to:
    - Monitor and investigate supermarket prices and price setting practices, including prices along the supply chain (including the farmgate, wholesale and retail price), mark-ups and profits.
    - Conduct market studies to review restrictions on competition in the supermarket sector.
    - Require supermarkets to publish historical pricing data that is transparent and accessible to both suppliers and consumers.
    - Access any data and information required to undertake its work, including supermarket pricing, mark-ups and profits data and price-setting policies (both historical and current)
    - Make referrals to the Australian Competition and Consumer Commission for enforcement and
    - Publish reports as required and at least on an annual basis.

However, there were divergent views among the committee on the report's recommendations. Agreement was greatest regarding recommendations to reform and strengthen the Food and Grocery Code, including the proposal to make it mandatory.

4.5 ACTU Inquiry into price gouging and unfair pricing practices

In 2023, the Australian Council of Trade Unions commissioned an Inquiry into Price Gouging and Unfair Pricing Practices (the ACTU Inquiry) to identify the scale of price gouging practices being deployed by large businesses and to understand the effects this is having on everyday Australians. The Inquiry was chaired by Professor Allan Fels AO, former Chair of the Australian Competition and Consumer Commission.

The ACTU Inquiry released its final report in February 2024 (ACCC 2024). The report made several findings and recommendations relevant to the food and grocery sector:

- There is insufficient competition in the food and grocery sector as evidenced by poor price transmission to final consumers.
- Market power is exercised over farmers and other suppliers, and the gain in profits is not passed on to consumers because of market power and a lack of competition in the product market.
- Price transparency for those down the supply chain of supermarkets is low, and this is one barrier to effective price transmission.
- Supermarkets have not been transparent with customers about the price histories of displayed items and correlated discounts.
- Communities in Far North Queensland have suffered massive price increases without oversight, partially induced by supply chain concentration.

The ACTU Inquiry made the following relevant recommendations:

- There should be a comprehensive ACCC inquiry into competition and prices in the retail food and grocery industry.

- The Food and Grocery Code should be fully mandatory.
- The Food and Grocery Code should investigate creating a price register for farmers to assist them in understanding market prices across primary industries.

Of relevance to the red meat processing industry were the report's claims regarding price transmission. It argued that the timing of price rises, and price falls is often asymmetric. That is when costs rise, prices rise faster, then they fall when costs fall. This is sometimes described as the 'rockets and feathers phenomenon.' It claimed that price increases are like rockets—they ascend with great speed. Price falls are like feathers—they float slowly to the ground.

It suggested that the rocket and feathers effect applies quite widely in the economy including to petrol prices which appear to rise more quickly in response to rises in crude oil prices than they fall in response to reductions in crude oil prices. This phenomenon appears to occur in a significant number of other markets. They include fruit and

vegetables, bank interest rates, insurance premiums and goods whose prices are affected by exchange rate changes. It stated:

> *"A recent example that drew much media attention concerned the price of meat. Lamb prices for farmers fell heavily many months before this was passed on in prices. On the other hand, there is some evidence that when lamb prices rose retail prices rose more quickly. With many recent rises and falls in input prices due to supply disruptions caused by COVID, war and other fluctuations, the impact of asymmetric pricing cannot be overstated. It is also relevant when the rate of inflation is falling. Where firms base their prices on an expected rate of inflation that is higher than is likely to occur there is a comparable rockets and feathers effect across the economy."*

It further states:

> *"Asymmetric or 'rockets and feathers' pricing is of much concern in the current environment especially as inflation is starting to come down. When costs rise prices go up quickly 'like a rocket' but when costs fall prices fall slowly 'like a feather falling to the ground.' This practice of delaying price falls when costs have fallen can be very profitable for businesses. A recent example concerned meat prices when prices paid to farmers for lamb fell but retail prices did not, at least until there was publicity including from this inquiry about the delay."*

4.6 The Queensland Parliament Select Committee on Supermarket Prices

The Supermarket Pricing Select Committee was established to examine the causes and effects of increased supermarket prices and identify opportunities to increase transparency in the supermarket sector for consumers and producers. The committee's recommendations related to five key areas:

- strengthening the Food and Grocery Code of Conduct
- supporting Queensland's growers and producers
- promoting healthy competition in Queensland's supermarket sector
- supporting Queensland's regional and remote communities
- empowering consumers in Queensland.

The Committee report (Queensland Parliament 2024) had little direct reference to red meat processing.

4.7 ACCC Supermarkets Inquiry

The ACCC has been conducting an inquiry into Australia's supermarket sector. This inquiry is examining how suppliers and wholesalers set prices along the supply chain, price transparency, and how these contribute to the difference in price received at the farmgate and the price paid by consumers for groceries. The ACCC is due to provide an interim report by 31 August 2024 and a final report no later than 28 February 2025.

In February 2024, the ACCC Supermarkets Inquiry released an Issues Paper (ACCC 2024a). It outlined several issues, some of which, such as those relating to supply chains and market concentration, are particularly relevant to the meat processing context.

The Issues Paper was concerned with grocery supply chains, which include meat processors. It noted that grocery supply chains from the farmgate or manufacturer, potentially through wholesalers and distributors, to the end retailer, are numerous and varied, depending on the product or category of products. It stated that broadly, groceries on supermarket shelves typically either come:

- directly from suppliers, such as farmers, growers, and dry goods manufacturers
- via processors, manufacturers, and wholesalers (often passing through a multiple of these).

It suggested that a lack of competition at any level of a supply chain can have flow-on effects throughout the supply chain. For example, it can result in lower prices for farmers at the farmgate, higher prices for consumers at the retail level, or both.

The ACCC welcomed views from stakeholders on the level of competition between both buyers and suppliers of products or inputs across all levels of the various grocery supply chains. It asked for feedback on:

- The nature and extent of competition at each level of the grocery supply chain(s) in which you operate (other than at the retail level, which is discussed in section 2 above).
- How vertical integration across retail and wholesale levels of the supply chain(s) by the major supermarkets affects competition.
- How these market dynamics have changed over the past 5 to 10 years (please indicate the time period your response covers).

The ACCC suggested that, in providing feedback, participants might wish to comment on several areas. These give an indication of the kinds of competition issues that the ACCC has as a focus of the inquiry:

- the major competitors at the level of the supply chain(s) in which you operate and, where relevant, at other levels of the supply chain(s).
- market share estimates at the level of the supply chain(s) in which you operate and, where relevant, at other levels of the supply chain(s) (to the extent possible). Please detail the data sources and any assumptions made in estimating the shares.
- who you supply inputs or products to and why you choose to supply (or not supply) certain buyers.
- who you buy inputs or products from and why you choose to buy (or not buy from) certain suppliers.
- recent entry, exit or expansion, including the reasons for the success or otherwise of new entry or expansion and the reasons for exit.
- the factors relevant to decisions on whether to enter or expand in Australia, including any barriers.
- the impact of imports and exports.
- the impact of vertical integration in the supply chain(s) in which you operate.
- the extent to which retailers bypass wholesalers and deal directly with suppliers, the extent to which this differs depending on the product or category range, and the impacts of this.

The ACCC released the Interim Report of the inquiry in September 2024 (ACCC 2024). In respect of relevance to the red meat processing industry, the report stated that in the Final Report, the ACCC will draw on a series of case studies of selected grocery supply chains, including across meat and livestock, fresh produce and packaged food and non-food items, selecting supply chains with varying market dynamics to compare the issues and outcomes. In preparing for the Final Report, the ACCC will examine to the extent possible prices and margins across these supply chains and the difference between the prices paid, and prices charged, by suppliers, wholesalers, and retailers for these grocery products.

The interim report notes that meat suppliers appear to have stronger export market opportunities compared to fresh producers, which could result in these suppliers being comparatively less reliant on supermarkets to distribute their goods. According to the Australian Meat Industry Council, domestic consumption of beef was 27per cent of the total produced in Australia, and 22per cent for sheep meat. However, supermarkets still account for an estimated 85per cent of domestic meat consumption and 80per cent of domestic volume.

One statement by the ACCC relating to the meat industry is worth noting: it argues that , unlike other product categories, Coles and Woolworths predominately procure livestock directly from farmers through forward contracts. The Australian Meat Industry Council submits that the 2 major supermarkets then engage an intermediary to have animals custom-processed for retail sale. The ACCC suggests that this model limits any product differentiation at the retail level. However, there is no inherent economic logic or cited evidence to support the link being made between the procurement of livestock directly from farmers and the lack of product differentiation. Supermarkets purchasing livestock and selling meat may result in products being differentiated no more or less than through other procurement methods.

More broadly, the interim report comes to a significant conclusion, namely that Australia's supermarket industry at the retail level is an oligopoly. That is, most supply in the market is from a small number of market participants. The ACCC claims that in an oligopoly, we expect market participants to maximise their profits based on expectations of how other market participants are likely to react. If dominant market participants believe that a reduction in prices will provoke an equal reduction by other dominant market participants, resulting in a lower profit margin without a change in market shares, this will tend to reduce the incentive to compete vigorously on price.

The following should be noted about this conclusion:

- It is based purely on the market share of the major supermarket chains, not on objective economic analysis and supporting data on the basis of competition or determination of prices.
- Even assuming the conclusion about oligopoly is correct, and that this will reduce the incentive for price-based competition, this does not explain the real-world market consequences of oligopolies. Oligopolies stand somewhere between pure competition and monopoly, but exactly where they stand is very significant in terms of their effects on competition and consumers. Oligopolies can reduce consumer choice, but the extent to which this takes place is dependent on their ability and willingness to collude and behave like a cartel. They can also manipulate consumer decision making but evidence that will withstand scrutiny, potentially in a court of law, is required before the conclusion on manipulation can be reached.
- Oligopolies can also adopt highly competitive strategies that generate economic outcomes approaching pure competition with high innovation, new product development and non-price competition. They may also generate price stability enabling consumers to plan and stabilize expenditure.

5 Competition law developments

There have been several developments in competition law that are highly relevant to red meat processing. These have not specifically been aimed at red meat processing, but they can have implications for the sector given the historically high degree of scrutiny and focus on the sector.

5.1 Competition Review

One development with the biggest potential impact on competition laws is the Competition Review announced by the Federal Treasurer in August 2023. The Review will last 2 years and will focus on the government's priorities for modernising the Australian economy. In announcing the review, the Treasurer said that greater competition is critical for lifting dynamism, productivity, and wage growth, putting downward pressure on prices, and delivering more choices for Australians dealing with cost-of-living pressures. He claimed that Australia's productivity growth has slowed over the past decade, and reduced competition has contributed to this – with evidence of increased market concentration, a rise in markups and a reduction in dynamism across many parts of the economy.

The review would provide advice to the government on how to improve competition across the economy and would look at competition laws, policies, and institutions to ensure they remain fit-for-purpose for the modern economy, with a focus on reforms that would increase productivity, reduce the cost of living and/or lift wages. The review team will not issue a single report but undertake rolling policy projects. The Review team would publicly consult and issue papers on specific reform topics over the following 2 years.

5.2 Restraints on consolidation

The ACCC's Perishable Agricultural Goods Inquiry Report noted that Australia's competition laws prohibit various forms of anticompetitive conduct, including conduct that has the purpose, effect, or likely effect of substantially lessening competition.

However, it is equally noted that these laws are aimed at preserving competition and were not intended to address all the harmful effects of bargaining power imbalances that have been identified in this report. The competition laws were also not aimed at restoring or improving competition in markets where, for various reasons, competition has been substantially reduced. It pointed out that mergers can have different effects on the level of competition in a market. Some mergers enable the merged business to meet customer demand in a way that facilitates more intense competition, and many mergers do not affect the level of competition at all because there are sufficient substitution possibilities to effectively constrain the merged business.

Other mergers, however, lessen competition by reducing or weakening competitive constraints or reducing the incentives for competitive rivalry. For example, if there are limited competitive constraints on a merged business for a sustained period following a merger, then it will be profitable for that business to maintain prices at a higher or lower level (depending on whether the business is buying or selling) than would otherwise be possible in a market with effective competition.

These are the kinds of changes in market structure that Australia's merger law seeks to prohibit. Section 50 of the Competition and Consumer Act prohibits acquisitions of shares or assets that would be likely to substantially lessen competition in any market. This focus on the effects of individual mergers or acquisitions requires the ACCC to compare, for each proposed merger, the future states with the merger and without the merger, and determine whether the difference amounts to a substantial lessening of competition. The law also sets out a non-exhaustive list of factors that must be considered when determining whether a merger would be likely to lessen competition.

The ACCC says that it takes the view that a lessening of competition is substantial if it confers an increase in market power on the merged firm that is significant and sustainable. In perishable agricultural goods industries, a merger at the wholesale level would be likely to lessen competition if it is likely to result in the merged firm being able to significantly and sustainably decrease prices paid to primary producers.

The ACCC noted in the report that it had recently raised concerns about the challenges it faces in successfully opposing contested mergers in the Federal Court or the Australian Competition Tribunal. These concerns relate to the difficulties inherent in the forward-looking merger test, in proving on the balance of probabilities what will happen in the future. The ACCC indicated in the report that it was considering ideas for reforms to enhance the effectiveness of the merger laws.

Regarding agricultural industries, the report noted that since the National Competition Policy agreements in 1995, there has been market consolidation and a reduction in the number of companies competing to purchase farm products in every post-farm sector including red meat. While this has enabled access to economies of scale and resulted in some other market efficiencies at times. It has also had detrimental effects at times and these industries are now typically characterised by many primary producers, but few processors or wholesalers, and even fewer major retailers. This market structure, combined with the perishable nature of the goods being considered in this inquiry, can lead to a range of market failures, including insufficient competition for the acquisition of goods and information asymmetries. In turn, these market failures can undermine the efficiency of the market, with results that can be harmful to market participants and Australian consumers more broadly.

While post-farm sectors have become more consolidated over time, the ACCC did not consider that this consolidation has resulted from anti-competitive acquisitions in contravention of Australia's merger law. This is because consolidation in these sectors has been the result of organic growth or businesses exiting the sector, either by closing their operations or by selling to a business that raises no competition concerns.

There have also been several acquisitions in perishable agricultural goods industries which the ACCC considered as part of its merger review process, including in the red meat industry.

The report claimed that where the ACCC has raised concerns about merger proposals in these industries, this was typical because the proposed merger would remove a source of close competitive constraint in markets where market concentration and barriers to entry were high. In these cases, the ACCC was concerned that the merger would result in the merged business having sufficient market power to be able to significantly and sustainably reduce the prices paid to farmers. Where the ACCC has assessed and decided not to oppose proposed mergers, the primary reason has been that it considered that the presence of existing competitors would constrain the merged business from exercising market power in this way.

Then in April 2024, major changes to Australia's merger laws were announced by the Federal Treasurer (Chalmers 2024), who indicated that most mergers have genuine economic benefits – allowing businesses to achieve greater economies of scale and scope, helping them to access new resources, technology, and expertise. However, they can cause serious economic harm when firms are solely focused on squeezing out competitors to capture a larger percentage of the market.

The reforms announced would, it was claimed, simplify, and speed up the process for mergers that are in the national interest and give the regulator stronger powers to identify and scrutinise transactions that pose a risk to competition, consumers, and the economy. These changes would make it easier for most mergers to be approved quickly, so the ACCC can focus on the minority that give rise to competition concerns.

Key elements of the reforms included:

- Mergers will be approved to proceed within 30 working days when the regulator decides they raise no competition concerns.
- Introduction of a single expert decision-making process on all mergers.
- Mergers above monetary and market share thresholds (to be determined through consultation) will be required by law to be notified to and determined by the ACCC – ensuring acquisitions most likely to impact consumers are subject to sufficient scrutiny.
- The law will specify the factors the ACCC must consider for merger applications, helping the regulator to better differentiate between benign acquisitions and those that would entrench or extend market power.
- To protect consumers from possible impacts of serial acquisitions in certain industries, the ACCC will be able to take into consideration the cumulative effect of mergers by the acquirer or target within the previous three years.
- Currently the ACCC is focusing on mergers reported to them, not necessarily the most harmful. Under these reforms, the ACCC will review mergers that pose a risk to competition, consumers, and the economy, while transactions that are in the national interest will be fast-tracked.
- The ACCC will have greater visibility of merger activity and competition issues and a public register of all mergers and acquisitions will be created to promote transparency, accountability, and competition.
- All ACCC determinations will be subject to review by the Australian Competition Tribunal, ensuring reviews are conducted by legal and economic experts.
- Judicial review of Tribunal determinations will be available in the Federal Court.

On 10 October 2024, the Treasurer announced the merger reforms. A media report (Quail 2024) indicated that the government planned to set three separate monetary thresholds to capture the approximately 1500 merger and acquisition transactions that occur each year.

First, the ACCC will be required to be notified of any deals where the merger parties have combined Australian turnover of more than $200m annually, and where the target being acquired has a domestic turnover above $50m or a global transaction value above $250m.

Second, notification will be compulsory when the acquirer has a turnover of more than $500m and a target of more than $10m.

Third, to ensure serial or so-called “creeping” mergers are reviewed, whereby large companies hoover up many small businesses, acquirers with turnover above $200m will be required to notify the ACCC when the cumulative turnover of their acquisitions “in the same or similar goods” is at least $50m over a three-year period.

The legislation also enables the federal treasurer to adjust and calibrate the thresholds to respond to evidence-based concerns from the ACCC about “high-risk mergers”.

5.3 Anti-competitive practices

Part IV of the Competition and Consumer Act was significantly amended with effect from November 2017, following recommendations in the 2015 final report from the Competition Policy Review Panel (also known as the ‘Harper Review’). Section 45 of the Act was amended to also prohibit ‘concerted practices’ that had the purpose, effect, or likely effect of substantially lessening competition. As noted above the concept of concerted practices was raised in a series of reports on competition issues in the meat industry, notably the ACCC Cattle and Beef Market Study.

According to the new provisions, a concerted practice is any form of conduct that substitutes cooperation between two or more businesses in place of the uncertainty of competition. However, parallel behaviour that arises simply because of two or more businesses independently responding to market conditions is not a concerted practice.

The ACCC subsequently issued Guidelines for the application of the concerted practices provisions in practice (ACCC 2018). This provided some clarity on how the new provisions were to be implemented. However, they still leave uncertainty as to whether, for example, a discussion between meat processors buying at a saleyard about the weather (and possible impact on price) would constitute a concerted practice.

The Guidelines state for instance that a concerted practice will often involve the exchange of strategic commercial information between independent firms. In some circumstances, this exchange can facilitate the alignment of companies' competitive behaviour and soften competition between them. Competition may be softened by disclosing commercially sensitive information or by making such information available in a new way. For example, information may be made available more quickly, in a form that can be more readily processed, or in a manner that makes the information more reliable.

But does a discussion of the weather constitute 'commercially sensitive information'? If the two parties pay similar prices for the livestock offered, does this necessarily represent a 'softening of competition'?

5.4 Market power

Finally, Section 46 of the Act was amended following concerns about its pre-2017 requirements to prove that a business was 'taking advantage of' its substantial market power for one of a set of proscribed purposes, including for the purpose of damaging a competitor.

The new section 46 of the Act focuses instead on the damage that conduct causes to the process of competition, rather than to competitors, and introduces an 'effects test', so that conduct engaged in by a business with substantial market power is now prohibited where it has the purpose, effect, or likely effect of substantially lessening competition.

6 The significance of the red meat processing industry

The red meat processing industry is estimated to have contributed just over $21 billion of value added to the Australian economy in 2021 (latest available data), equivalent to just over 1 per cent of Australia's national total gross industry value added including flow-on impacts. It generated over 138,000 jobs, equivalent to almost 1.3 per cent of full-time equivalent (FTE) employment when flow-on effects are considered (Heilbron 2022). The current economic contribution of the industry is likely to be significantly higher given the volume of red-meat production has increased by over 35% since this 2021 assessment was completed.

The top five industry sectors impacted by the red meat processing sector in terms of FTE employment were:

- Agriculture, forestry and fishing
- Professional, scientific, and technical services
- Transport, postal and warehousing
- Financial and insurance services; and
- Construction

This indicates how red meat processing underpins employment in the agriculture industry through the jobs it generates through purchasing livestock for slaughter. The red meat industry is also a contributor to Australian manufacturing activity. Red meat processing according to ABS estimates that include pork processing, accounted for 3 per cent of total manufacturing value added and 3.8 per cent of manufacturing employment (ABS 2024). Food product manufacturing is now Australia's largest manufacturing industry and meat processing is Australia's largest food product manufacturing industry (ABS 2024).

The red meat industry is a major contributor to regional economies, with its impact reaching more than five per cent of value-added and more than four per cent of full-time equivalent employment in some cases. The red meat processing industry is a significant contributor to the Australian economy and, at the regional level, may serve to support a substantial proportion of the economy, including the associated social impacts (Heilbron 2016). From a social impact perspective, analysis indicates that the cessation of the red meat processing sector's operations nationally would have major impacts. These impacts would clearly be even more profound at the local level, in regions that have a significant proportion of the population employed in the sector.

When flow-on impacts are considered, cessation of operations of the red meat processing facility at the local level would have a significant impact on the local economy which in turn would be expected to generate significant negative social consequences. The impact on local unemployment rates could be of such a magnitude that it increases four-fold when flow-on effects are included, in turn impacting stress-related mental health issues which already have a higher incidence in rural communities than in urban settings.

A major feature in the micro-level impacts is the concentration of unemployment amongst individuals with similar skills and experience which would suggest they would have trouble obtaining new employment locally and, in many cases, may have to leave the region. This can reasonably be expected to impact the number of education and healthcare professionals that can be supported locally.

Reduced levels of expenditure, whether because of the movement of employees from the industry or a decrease in household income, are also likely to impact other tertiary service sectors and business confidence generally. This in turn affects the local community overall, with a potential reduction in the ability to support a range of services. Overall, community wellbeing would decrease and there is the potential for the virtual collapse of the community altogether.

The reason for pointing out the economic and social impact and significance of the industry is this: makers of policy in relation to competition in this industry need to take into account that their decisions can have a profound impact on a very significant industry and, through that industry on the local, regional and national economic value and household income generated, as well as the employment and social wellbeing of hundreds of thousands of people. Sustainable through-cycle performance of the processing sector is a critical enabler of ongoing capital investment, which is necessary to uphold plant hygiene and efficiency to adopt new technology and reduce reliance on skilled labour in a volatile sector exposed to a global market.

The unintended consequences of policies applied to one part of the industry will flow onto others. In particular, the economic fate of processors is intimately tied to that of livestock producers, and vice versa. More efficient and reliable processing operators are more able to compete strongly for Australian livestock) which is a market in which there is strong competition), via passing on returns obtainable by selling to export customers in all market conditions. Processing costs can continue to be refined (and inflationary pressures offset) via continued investment in reliability and maintenance, capacity (throughput) and the adoption of automation.

7 Supply chain and competition

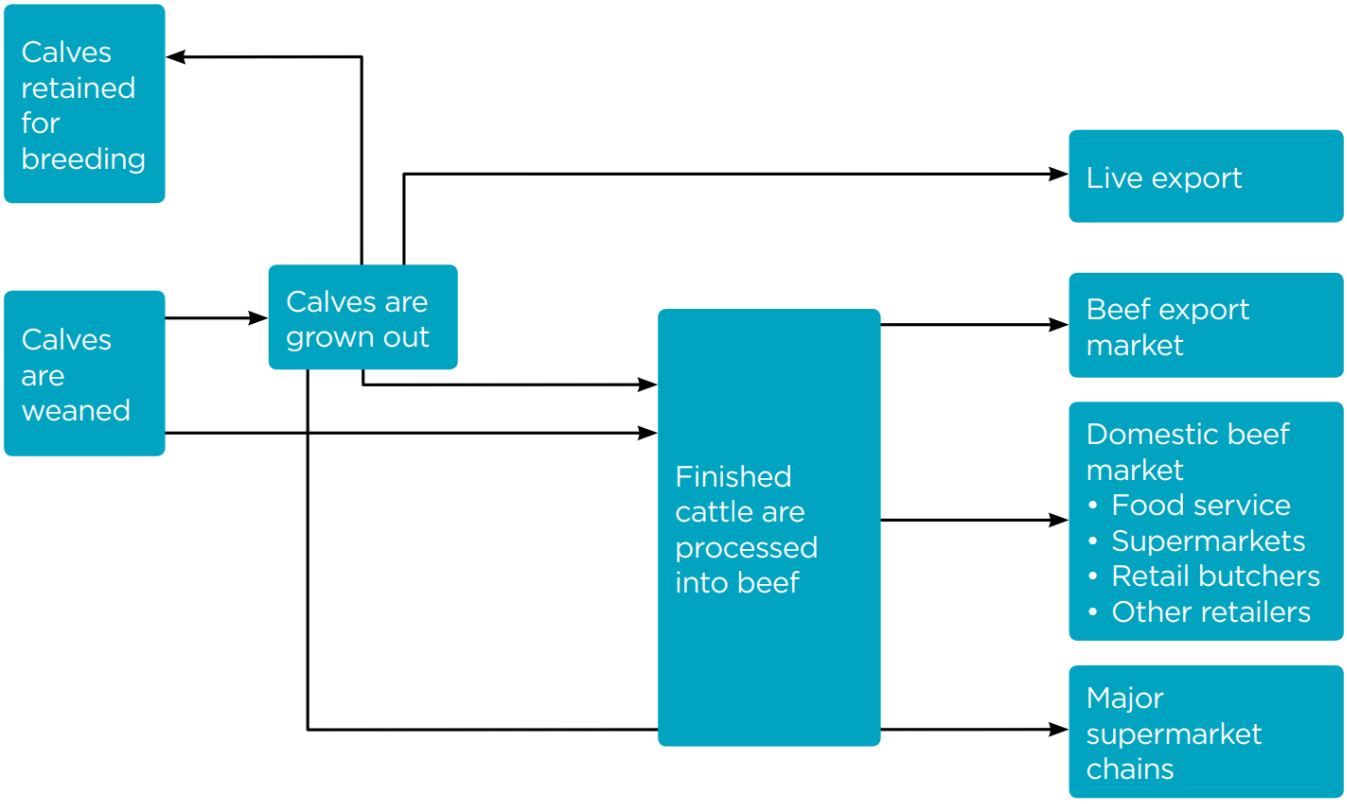
A snapshot of the red meat supply chain looks as follows:

- There are around 71,000 beef cattle and sheep producers in Australia and an estimated herd of around 24 million cattle and 68 million sheep (MLA 2023). There are 52,376 businesses that raise and/or grass finish cattle and 18,323 businesses that raise and/or finish sheep. Production systems vary considerably in nature and scale across Australia's climatic zones and environments. Primary producers sell their livestock to either other producers or feedlots for finishing, to live exporters or processors (AMIC 2024). The pathways for

raising and finishing cattle and sheep in Australia are highly dependent on seasonal conditions which change from year to year. For instance, in dry years a producer may sell their stock to a feedlot to be finished, but in wet years retain them to be finished on grass. The Australian livestock sector is prone to patterns of growth and contraction dominated by the El Niño and La Niña climate patterns. These weather patterns impact the entire supply chain and dictate livestock turnoff and production, therefore having an overwhelming influence on the price of livestock (AMIC 2024). In a future with an increasingly volatile climate, the increased incidence of weather shocks and extreme events can be expected to exert more pronounced impacts on livestock pricing. It should also be noted that consolidation is occurring rapidly in the livestock production sector. To illustrate this, in 2021-22 there were around 70,000 beef and sheep production businesses with a total turnover of around $32 billion. In 2015-16 there were around 80,000 businesses (i.e. around 13 per cent more businesses) with a turnover like that in 2021-22 (data from MLA 2023). Finally, the value of farmland in these businesses has increased markedly in recent times. The value of Australian farmland has roughly doubled since 2016 (ABARES 2024).

- There are about 383 feedlots that finish livestock (predominantly cattle) on a short, medium, or long fed grain diet. In 2022-23, 3,252,010 cattle were finished in a feedlot (representing 52per cent of total slaughter) (AMIC 2024). The feedlot sector saw growth in turnover (defined as income generated by businesses within the industry from the sales of goods and services) of 26per cent in 2021-22 (latest available). This occurred as cattle numbers on feed in Australia reached record levels due to a clear structural increase in the feedlot sector and strong export demand for Australian grainfed beef in global markets (MLA 2023 and ALFA 2024). Since 2000, feedlot capacity has grown by 32per cent (MLA 2024a). Some large beef processors have some part of their slaughter sourced from their own feedlots to gain greater control over cattle supplies, product quality and cost pressures. However, as shall be discussed further, vertically integrated supply accounts for a relatively minor proportion of their total cattle requirements.
- Finished livestock are slaughtered at approximately 759 domestic and export-accredited sites across Australia but most processing is via the approximately 90 AUS-MEAT accredited (and mostly export-registered) processing establishments (MLA 2023). Domestic plants can only sell meat for Australian consumption, while export-registered plants can sell to both Australian and overseas end-users. Some processors have facilities to process multiple species (e.g. cattle, sheep and/or goats) while others specialise in one species only. Further variation exists in the types of facilities extent of processing and further value-adding undertaken. In 2022-23, Australia processed 6.3 million cattle and 33.4 million sheep, and live exported 614,000 cattle and 639,000 sheep. In 2022-23, Australia produced 2.0 million tonnes of beef (with approximately 27per cent consumed domestically) and 778,000 tonnes of sheep meat (with approximately 22per cent consumed domestically). Australia exports red meat to over 100 overseas markets (AMIC 2024). In 2023-24, industry projections are for 8.5 million head of cattle and 38m million sheep processed. Around 24per cent of processed beef is projected to be consumed domestically for beef and sheep meat (MLA 2024b).
- In terms of distribution, domestically there are an estimated 478 wholesale businesses and 2,093 retail businesses selling red meat. Most of these retail businesses are independent retail butchers but supermarkets account for the majority of volume throughput. Of the product sold domestically, Meat & Livestock Australia estimate that 30per cent of beef and 25per cent of sheep meat is destined for food service. Of the beef and lamb (sheep meat) sold via retail, Meat & Livestock Australia estimates that the supermarkets (Coles, Woolworths, Aldi, Metcash etc) accounted for 85 per cent and 80 per cent of volume, respectively (with butchers making up the difference). The two major supermarkets predominantly procure livestock (either directly from producers or via saleyards, depending on species and region) and have animals custom processed (also known as service kill). However, the supermarkets may supplement supply via purchases from processors to fill any shortages that may arise (e.g. a popular cut sells out due to a spike in demand). Figure 1 illustrates the complexity of the red meat supply chain.

Figure 1 **Australian cattle and beef supply chain**



Source: ACCC 2017

It is important to recognise that, from a competition perspective, the relatively large number of livestock producers and the relatively smaller number of feedlots and processors is of little significance. What matters is the level of competition at each stage of the chain. In this regard, at the outset, there are some key features of livestock production that affect the nature of competition.

7.1 Livestock producers have many options

Cattle producers have many options available through the life cycle of their cattle (AMIC 2024). Younger, lighter cattle may be sold as feeder cattle for grain finishing or to the local or supermarket trade or further fattened on grass and sold to the domestic or export markets. Additionally, those cattle can be sent for live export, as an alternative to feeding and slaughter. As noted above, in 2022-23, Australia exported 614,000 cattle and 639,000 sheep live.

Further, a decision to grass feed cattle does not preclude a producer from later deciding to finish cattle on grain to target the domestic or export grain-fed markets.

The options are available to cattle producers depending on whether they have grass available on their properties (i.e. whether cattle can be further fattened on available grass on the property or whether they are turned off at an earlier age due to seasonal conditions). Producers can switch to take advantage of competition between the domestic and export markets.

A producer dissatisfied with the return achieved from one purchaser can therefore alter its practices to produce livestock that target alternative markets in a relatively short period of time, and this may be done from year to year. It is also apparent that there are multiple ‘bidders’ at each type of market through which livestock can be sold.

7.2 Prices for livestock are not the main driver of producer profitability

Whilst the focus of concern about processor competition on the part of some is the prices offered by processors for livestock, research has found that there is no evidence that superior long-term performance of producers can be attributed to a higher average livestock price received, more rainfall or better-quality land.

7.3 Benchmarking

The 2013 Northern Beef Report (MLA 2014a) comprehensively detailed the performance of the northern beef industry, by region, market, and herd size over the 12 years since the start of the century. It concluded that there was considerable variation in performance between beef businesses within the industry. The top 25 per cent performers (across all regions, herd sizes and markets) consistently outperformed the average and have businesses more likely to be economically sustainable over the long term. The superior performance of the top 25 per cent of producers could be attributed to factors such as higher income through better herd productivity and lower operating expenses, largely through better labour efficiency. Operating scale (number of adult equivalents under management) has a significant influence on business performance.

Finally, and most importantly, the research concluded that it is the high cost of production that is the main cause of low profits for most northern beef producers. Similar results regarding the drivers of profitability have been found in relation to the Southern beef industry, where it was found that the price received varies in only a minor way thus it is not a key driver of any difference in profit (MLA 2014b).

More recent investigations of profit drivers came to similar conclusions that, although there was significant variation in the performance observed between pastoral operations, regions, and years, better-performing businesses had higher productivity, more targeted herd expenditure, better labour efficiency and sufficient operating scale. Running the enterprise as a business was a key point of differentiation for the top 25per cent of producers, specifically focusing on those elements that they can control and key profit drivers. The key profit drivers of the northern beef industry are reproduction; mortality; annual weight gain; and cost of production (a function of both productivity and costs, usually in that order of importance), with the reproductive rate being twice as important as the mortality rate and turn-off weight. The cost to produce a kilogram of beef (cost of production $/kg live weight) determines the profit of a beef business. The income of a business is determined primarily by its productivity with price received being a secondary issue (MLA 2020).

Further, another benchmarking report (MLA 2022) found that beef business performance is quite variable across years, regions, companies, business units and enterprises. Seasonal and market conditions affect the whole industry. However, through the full cycle, the factors separating the top performers from the average are the same for pastoral company business units and companies as they are for non-corporate businesses. The better performers have higher income per animal unit because of better herd productivity, more targeted and lower herd expenditure, better labour efficiency, and sufficient operating scale.

Finally, a recent MLA report shows Australia has the fifth lowest cost of production and the sixth most profitable cattle producers internationally (2023). This is relevant for the issues relating to competition and the future of the red meat industry. There are major challenges posed for policymakers by smaller producers who have difficulty in participating in the development of livestock and meat, and indeed other agricultural industries where economic forces generate competitive advantages for those able to realise the benefits of scale. Policy can accommodate this process or hinder it. Where competition in the industry is strong, there is no justification for using competition policy to hinder economic forces and limit the potential gains in efficiency and competitiveness of the industry.

To illustrate the nature of competition in red meat processing, the following analysis considers each of the main buy, make and sell activities conducted by processors, and the implications for competition policy.

8 The ‘buy’ activity

It was noted above that producers have many options during the life cycle of their livestock in terms of production strategies. The same applies to the mechanism by which they sell their animals, and hence the way in which processors buy them.

8.1 Producer selling options

Cattle and sheep are bought by processors via the following methods:

- Auction sales: ownership of the animals is transferred at the point of sale and purchased by a range of buyers including producers (for re-stocking) as well as feedlots and processors. Auctions have the advantage of bringing together at one location a range of buyers, but they have disadvantages from the perspective of processors. Auction entails multiple handling of stock, which entails costs. It can also distort the relationship between the type of animal that processors need in order to sell the meat required by their customers. Some producers have expressed concern over the issue as to whether, for the purposes of determining the sale price, animals should be weighed before or after the sale. Both methods have their advantages and disadvantages. The auction market is a competitive environment and market forces reflecting the costs and benefits will ultimately determine what practices are adopted under what circumstances.
- Over the hooks: here processors pay for livestock based on a price grid and ownership is generally transferred at the point of slaughter. The price grid contains premiums and discounts for specific livestock and carcase attributes e.g. Angus, Certified grassfed, Organic, MSA - pathway. This method is generally preferred by processors because it enables the clearest means for transmitting signals about what the market is demanding from producers. Some producers have expressed concern over the extent of feedback provided.

There is a cost as well as a benefit to providing information, and one would expect that the level of information provided by processors will reflect that cost and benefit. In a competitive market, if one processor provides less information than another, and there is demand for that information that can be met economically, then the processor providing less information will be at a competitive disadvantage against one that provides more.

- Paddock sales: this is generally used when producers sell animals for others to feed or finish them to slaughter weight.
- Over the scales: excluding auction - this is generally used for animals to be exported live.
- Other: various methods are available for electronic sale by description or auction, as well as forward contracts to supply a given product at a given time for a given price.

Producers in effect have a range of selling options as outlined in Table 1 below (MLA 2024). The depth/degree of bidder competition at each of these options should be noted. There is generally strong competition amongst each of these selling options, providing another dimension to the concept of ‘selling options.’

Table 1 Livestock Selling Options

Selling method	Description
Saleyard auction	Livestock are transported to central saleyards and sold to the highest bidder, fetching prices that reflect the supply and demand of the marketplace on the day. No individual feedback.
Paddock sale	Stock is inspected on the vendor's property by the buyer or agent and sold straight out of the paddock. Feedback is sometimes on request.
Stockyard sale	Stock is weighed and graded, then priced for sale.
Over the hooks	Stock is delivered directly to the processor, with change of ownership taking place at processor scales. The terms of sale may vary between processors. Generally, good feedback is provided to producers.
AuctionsPlus	Provides electronic online auctions for the sale of livestock by description (formerly called CALM). AuctionsPlus combines the best features of the saleyard system while allowing direct consignment to the processor or buyer. Feedback by arrangement.
Forward contracts	A contractual agreement between a seller (e.g. producer) and a buyer (e.g. processor) to supply a given product at a future point in time for a given price. In some cases, the price is fixed, thereby reducing the producer's exposure to a fall in market price. Feedback by arrangement.
Producer alliances	A group of producers working together in groups to properly service marketplace requirements to the benefit of themselves, their customers, and others in the beef marketing chain. Very good feedback
Value-based	This refers to the principle of being paid for the inherent value (quality and quantity) of the product to the buyer and end user. Any selling system that provides clear signals from the retailer or consumer back to the producer and has a pricing system supporting those signals is a value-based marketing system. Best feedback.

Source: MLA 2024

Over the hooks is generally considered to be the preferred method when servicing premium clients through branded programs. Therefore, there is an incentive for the processor to provide not only good money but also detailed information about the quality of the livestock sold under this method. In practice, this is handled through grids which are a part way towards Value Based Marketing.

Historical research indicates that while the proportions of cattle sold via saleyard auctions and direct sales change over time, they were roughly similar in 2012–13 and 1994–95 (Department of Agriculture, 2015). This suggests that the cost-benefit calculus between different sale/purchase methods for cattle has been relatively stable too. There are significant differences between the preferred methods of sale for northern and southern producers.

Around half of all beef cattle sold in Australia were sold via saleyard auctions in 2012–13. In southern Australia, the saleyard auction system remained the main method of sale in 2012–13, representing 66 per cent of total beef cattle sales. Saleyard auction sales are most favoured by producers who have smaller herds and sell in small lot sizes.

These producers are generally located closer to settled areas so distances to saleyards and freight costs are relatively small.

Producers with larger herd sizes are more likely to sell over the hooks or in the paddock, as they can put together a truckload of cattle of the required specifications. Direct methods of sale, such as 'over the hooks', can reduce carcass damage and loss of meat quality caused by additional handling in saleyard and auction sales. In 2012–13, 31 per cent of cattle were sold 'over the hooks' and 27 per cent in the paddock in northern Australia. This compares with 41 per cent of cattle sold at saleyard auction. These producers tend to align their on-farm practices (breeding, feeding etc) with a processor's premium brands This presents a good opportunity for producer alliances and the more proactive agents.

More recently, it has been noted that: "There has been a long-term change in cattle transactions in Queensland saleyards. While we see the seasonal nature of the restocker and processor movements, there has been a longer-term trend of reduced processor cattle sold through saleyards" (MLA 2024b).

Whilst on average, processors purchase around two-thirds of their cattle requirements via direct (non-saleyard) methods in the northern region and around one-third in the south, the largest processors use saleyards for a much lower proportion of their requirements. These processors tend to use saleyards to purchase residual requirements for slaughter not met by their preferred method of direct relationships with producers and the saleyards are used to provide one indication of market direction.

It is also important to recognise that it is the larger-scale cattle producers who tend to sell directly to processors. This enables the realisation of scale benefits in selling as well as buying. When they do use saleyards for purchases, processors tend to use the grids developed for direct purchases as the reference point for their saleyard offers.

8.2 Vertical integration is limited

Some processors also have feedlots, and they compete with other feedlots to secure supplies of feeder cattle. In general, these processors rely on feedlots for around 10-15 per cent of their total cattle requirements for slaughter, so the degree of vertical integration in red meat processing is relatively small.

A recent investigation (ACCC 2020) has found that in relation to cattle, many producers have the option of selling prime cattle to a range of buyers. There are several medium-scale operators and a range of smaller processors. Vertical integration is not a significant feature of the beef cattle industry, although some larger firms operate at multiple supply chain stages. JBS and Teys are partially integrated, with feedlot and processing facilities. Both rely on supply from cattle producers for a substantial volume of their throughput. Mid-tier processors and large cattle producers often have some degree of vertical integration. Some processing businesses have their own vertically integrated wholesale arm, while other businesses act exclusively as wholesalers.

The ACCC found that supermarkets are the primary sales channel for the supply of beef to Australian consumers at the retail level (81per cent of combined fresh meat retail sales). Supermarkets purchase cattle from producers through contract arrangements, paddock sales and saleyards. Most cattle are acquired under contract with long-term suppliers. Cattle are slaughtered through service kill arrangements with beef processors, and the resulting carcases and primal cuts are sent to boning rooms or directly to in-store butchers for further processing into shelf-ready cuts, ready meals, and other value-added products. Supermarket price promotions for popular cuts are a major influence on domestic prices. However, domestic retail prices are not significantly influenced by export prices. Quick-service restaurants typically obtain supply under direct contracts with processors, while specialty retailers are often more reliant on wholesalers.

Some processors also have feedlots, and they compete with other feedlots to secure supplies of feeder cattle. Generally, these processors rely on feedlots for around 10-15 per cent of their total cattle requirements for slaughter, so the degree of vertical integration in beef processing is relatively small.

8.3 The pricing process

The nature of competition in the purchasing and processing of animals dictates that when processors buy livestock, they do not know in advance the prices and volumes for most of the meat or co-products that they will sell. This key characteristic of competition is not widely known. It means that processors face significant risk and uncertainty in purchasing animals.

The reality of competition is that most processors are subject to considerable risk and uncertainty when they purchase livestock. Red meat processors generally do not have the benefit of selling forward the meat they produce for set prices and volumes. Those selling grain-fed products will do everything possible to have some stable relationships with their customers and try to lock in orders for products. The risks associated with having committed to buy extremely expensive lot-fed cattle for example or having their own cattle for example on feedlots for 120-150 days, make it too risky to rely on spot sales.

Similarly, some processors may have special 'programs' to supply higher value-added products or meet other customer specifications e.g. retail pack products for supermarket chains, or products with 'credence' attributes such as grass-fed or breed-based meat products. These initiatives aim to generate higher returns from sales, the proceeds of which can then be shared by processors with livestock suppliers as an incentive to meet the specifications required. Imperative to these programs is an assured and reliable supply for which suppliers can demand a premium above commodity-style products. These programs commonly entail the development of contract growing or other non-auction means of procuring animals. The reason for this is, that whilst the returns might be higher from producing these products, so are the risks. If the processors concerned are not able to procure livestock that meets the specifications for meat they have undertaken to meet for their program customers, then they will receive lower returns.

In addition, lower throughput resulting from an inability to procure livestock will mean not only higher unit costs of slaughtering but may also mean that expensive packaging and other specialist equipment required to supply program cuts will be underutilised. Processors manage these risks in part by developing more vertically coordinated purchasing methods and strategic relationships with livestock producers to ensure the livestock produced meets the program's requirements. Such programs would tend to constitute a relatively minor percentage of total livestock purchases for most processors involved.

Smaller processors will generally sell forward offal and other by-products. When markets for products are tight (i.e. when demand is exceeding supply) the proportion forward sold may increase and vice versa. The nature of competition in the selling of red meat products will be discussed in greater detail below.

The key feature generally is that when animals are purchased and the livestock producer is paid, processors have little clarity on the prices they will achieve for the meat made from the animals. Whilst the methods that are used in determining what they will offer to livestock producers do vary between processors, in general, what they do can be described as follows:

- As indicated above, very little will be effectively pre-sold before livestock are purchased. Processors must forecast what their sales will be in terms of volumes and prices, based on historical experience and any market intelligence. Some processors provide a service kill for retail chains, in which case the capacity utilisation for the processor has some degree of certainty. Moreover, retailers typically export the non-retail components of the meat carcass. However, the retailer, not the processor, purchases the

livestock. Moreover, the terms of the sales to retailers can be subject to variation. This also excludes the processors from availing themselves when market conditions are more favourable to processors.

- Keep the plant operating. Processors try to ensure that the base capacity in their processing plants is filled. They will commonly calculate a 'break-even' or 'break square' point whereby their processing costs minus their forecast sales revenue, assuming they will fill the base capacity, giving them an indication of what they can afford to offer for livestock. The economics of this are explored below but, overall processors suffer in competing with other processors both in terms of their ability to buy livestock and sell meat if their plants are not filling this base capacity. Lower capacity utilisation means higher unit costs.

The cost to operate will consider the processing plant economics and any characteristics that will affect them – such as industrial relations arrangements which will affect the availability and cost of labour. But at this stage in the price process, the filling of base capacity is only an assumption – it assumes that livestock will be available in the marketplace to fill the capacity.

- Review what livestock price trends are occurring in the marketplace. This information comes from a variety of sources, including published data on auction and non-auction sales and from suppliers and buyers working for the processor. Seasonal conditions can have a major impact on the market for livestock and these are a major risk factor.

Based on the forecasts for customer needs, and the specifications required to meet those expected needs, the parameters will be determined for purchases. Many processors translate these parameters into a grid. The processor or seller (can also be a processor or third-party non-packer exporter) sends the market price signals to producers through the company grid. These grids are communicated to the company's buyers who will use them in direct purchases and as a base for saleyard offers. Potential sellers of livestock are also encouraged to ask for them from the processor concerned. The producer making contact to get the latest grids becomes a tool to engage with the producer and discuss and negotiate on what they have to offer, and potentially thereby avail themselves of alternative grids that may generate a better result.

Processors embody considerable knowledge and intellectual property in these grids, and they naturally want to use them to identify and develop relationships with livestock sellers. However, once the grid is communicated to a producer, there is nothing preventing the grid from being transmitted widely.

It is equally important to appreciate that while processors overwhelmingly sell cuts of meat rather than carcasses, they purchase the whole carcass. The construction of the grid and all other methods for establishing the structure of an offer for livestock (i.e. establishing a price at which a processor will bid for livestock at an auction without a gird) therefore entails significant risks associated with translating the product requirements (which are essentially forecasts) into prices for the composite animal. It is only once the animal has been processed, and the products sold, that the processor discovers if a profit has been made, well after the livestock producer has been paid. Moreover, the grid is not determined by an algorithm – it is constructed using judgment and expectations for a market that is subject to considerable uncertainty.

- Negotiate directly with the producer based on the grid or make a bid at the saleyard auction. As has been pointed out above, producers have options as to what animals they produce, and what mechanism they use to sell the animals. Processors are driven to continue buying animals, and for longer distances for their processing facilities, even beyond the point of profitably (at least in the short term), because of the imperative of maintaining capacity utilisation.

In summary, there is no evidence that superior long-term performance of producers can be attributed to a higher average live animal price received. The ability to contain costs is the main cause of low profits.

9 The ‘make’ activity

9.1 Processing economics

It was noted above that in determining what price processors can afford to offer to livestock producers for animals, the processors will commonly determine a break-even point before determining a grid or offer structure. Some key features of this are:

- At the outset it must be understood that there is no guarantee that the processor can buy animals at the prices offered. If the livestock supplies are constrained in some way, for example by seasonal conditions, the calculations will be incorrect. This is especially relevant because of the economies of size and scale (these terms are often confused) prevailing in meat processing. It is important to remember that the breakeven calculation is based on a certain base level of capacity being utilised in the plant. This needs to be elaborated on.

- Economies of size refer to what happens when the cost per unit of output falls as production increases in a cost-minimising way. Equally, unit cost can increase when production decreases. This applies in meat processing, all other things being equal because fixed overhead costs can be spread over a larger throughput. However, what appears to be the case in red meat processing is economies of size do not appear to occur as a simple linear process but are more complex.

- If animals are scarce, for example after heavy rains, production may not be able to be cut back in proportion to the reduction in livestock availability. A major reason for this is inflexibility in labour markets. In the immediate term, processors will try to manage this by reallocating labour through changes in work teams or shifts (Heilbron 2015). In some jurisdictions, daily hire practices provide some flexibility, whilst in others where weekly hire systems prevail, this flexibility can be reduced. However, they need to keep a balance between processing in different stages of the system e.g. between slaughtering and boning. With an increasing reliance on migrant labour over time (PALM scheme, skilled visa holders), the processing sector labour force is becoming more inflexible, making short operating days/week an increasingly difficult proposition.

- At some point, processors may be faced with the necessity to shut down completely. The costs of doing so, however, are prohibitive and this option is generally a last resort. Apart from the immediate costs of having expensive capital equipment idle and overheads continuing to generate costs, a major consideration is that labour may move away to other industries and will not return. Processing facilities rely on skilled labour to operate costly equipment, and such labour requires considerable training. It takes a long time to recover lost human resources when plants shut down for any meaningful length of time. Similarly, if livestock supplies are abundant, this generally allows a lower unit cost of production. However, it may not be easy to accommodate higher throughput, at least in the short term. Inflexible labour systems and the need to secure skilled labour, as well as physical limitations imposed by the layout of facilities and balance between slaughtering and boning, may be constrained. It is often the penalty rates when forced to run processing shifts in overtime to clear a backlog of low-yielding drought-affected stock, which make that process cost prohibitive.

- Economies of scale refers to how much production increases when a processor increases the use of all (both fixed and variable) inputs by a common proportion (Morrison 1997). All things being equal, larger-scale facilities have lower unit costs than smaller ones. However, in red meat processing economics, again this does not appear to be a simple linear process. Meat processing is a highly capital-intensive industry and doubling the size of a facility is very expensive. A new greenfield facility in the Northern Territory was

reported to have cost over $90 million to build in 2014, processing around 300,000 head per annum (Neales 2014). More recently, a media report indicated that a substantially dramatically upgraded Cootamundra processing plant on the NSW southwest slopes cost $200 million or more. When it reaches full production, the facility is designed to process up to 1000 heads per day in two shifts. Prior to its closure back in 2017, Cootamundra typically processed around 200-250 heads a day (Beef Central 2023). The facility is now for sale along with a number of others owned by the same company.

- The processing plant in the NT, owned by a large pastoral company, has been closed for some time i.e. it has access to livestock if it chooses to sacrifice profits from selling those livestock through other channels
- The Australian herd will only produce a certain number of slaughtered livestock consistently. If there is excess slaughter capacity due to new processors entering the market and if they are successful, other processors will have to fail. History has proven that repeatedly
- Another key feature of the nature of competition in meat processing is that processors are price takers. Around one-third of beef production is sold to domestic markets and around two-thirds is exported (MLA 2022). Almost all sheep meat production is exported.
- In the domestic market, major retailers pose a competitive constraint on any attempt by processors to exert market power in red meat sales. Further, at the time of the original Nature of Competition report, it was estimated that 600,000-700,000 cattle a year were being fed and processed with products committed to major retail chains which are under the effective control of retailers, not processors. That figure represented around 10 per cent of the total cattle kill. More recently, a media report has suggested that somewhere between a quarter and a third of all slaughter cattle in Australia are in fact being processed for service kill customers (Beef Central 2024).
- Since processors cannot control the price at which they purchase livestock, and they are takers of prices for their products, they generally must compete based on keeping their processing costs as low as possible, consistent with the quality and other requirements of their customers. Furthermore, indications are that Australian processing costs are well above those of international competitors. Average costs per head (excluding livestock purchases) incurred in processing beef in Australia in 2015-16 were 24 per cent higher than in the United States, over twice the cost of Brazil, and 75 per cent higher than in Argentina. Of the costs incurred, it was estimated that in Australia more than 54 per cent (excluding livestock purchases) were due to some form of regulation which is a significantly higher percentage than any of the comparison countries. Labour-related charges were the biggest area of disparity. In Australia labour-related costs comprise over 58 per cent of total operating costs. This figure is less than 50 per cent in the other countries examined. Utilities-related costs are also substantially lower in both the US and Argentina in absolute dollar values per head of throughput. Data collected for this comparative study was for 2015-16 and Australian energy costs have risen significantly since then, so the current comparative gap is certainly even wider. International certification-related costs, meanwhile, are almost negligible for the comparison countries when assessed against Australia's (Heilbron 2018).
- Scale economies are of critical importance in red meat processing as the industry is faced with high fixed costs which need to be spread over as much volume as possible consistent with the availability of complementary resources such as labour and availability and access to markets for products. A problem is that competition policy in Australia focuses exclusively on competition in the domestic market, whereas export meat processors (which sell around two-thirds of production) operate in an international marketplace.
- Competition policy that restricts or bans completely mergers and acquisitions by the larger processors limits their ability to achieve scale through acquisition and hence undermines their competitiveness. One of the

reasons why US processors have much lower costs to operate than their Australian counterparts is that they are much bigger. To illustrate this, a typical US grain-fed plant identified in the Cost to Operate report (Heilbron 2018) slaughtered 2200 animals per day, whereas their counterpart in Australia only slaughtered 842.

- Establishing new facilities is so costly that barriers to entry in the industry are high. Note that some of these barriers, such as environmental and other regulations, are the result of government policy. However, market-based barriers to entry can be offset by other features of processing economics. Processors need to maintain throughput in the short term, beyond breakeven points. Increased transport efficiencies in recent times have meant processors can ameliorate this situation by seeking to secure livestock supplies at increasingly longer distances from their facilities. Smaller facilities may tend to purchase the bulk of their livestock (say 80 per cent) from up to 400 km from their plants. Larger facilities may purchase a similar proportion from up to 1,600 km away. The analysis of cattle movements using National Livestock Information System (NLIS) data illustrates this (Department of Agriculture 2015). A smaller percentage may be purchased by processors from the other end of the country e.g. from Victoria for plants in Queensland, and vice versa. This widens the geographic size of the market and means producers can sell livestock to facilities very far away.

- The lower unit costs resulting from size and scale economies and transport efficiencies mean prices offered by distant processors can be competitive with those offered by nearer ones. The Department of Agriculture (2015) notes: *"The price received by farmers is affected by the distance cattle travel to abattoirs because of the associated transport cost…The NLIS data indicate that in most instances sources from a given region sent cattle to several abattoirs. This is even the case for cattle sourced from remote areas in northern Queensland."* This also means that there are numerous buyers for cattle in most regions and no one buyer dominates markets. Finally, despite the barriers to entry to processing, the Department of Agriculture cites instances of investment in new processing capacity underway or being planned.

9.2 Concentration and competition

The concentration of processing in Australia can be measured in different ways. According to the Federal Department of Agriculture, the top five cattle processing companies accounted for 57 per cent of total throughput in 2014 based on slaughter figures (Department of Agriculture 2015). However, the Department also notes that, while there are confidentiality issues in identifying specific processing plants and companies, NLIS data on cattle movements to individual processing plants indicates that the top five plants accounted for around 25 to 30 per cent of cattle sent for processing between 2008 and 2012. (The coverage of the NLIS data over this period is incomplete, although it has improved since 2013).

More recently the ACCC claimed Australia's two largest beef processing firms, JBS and Teys accounted for around 23 per cent and 16 per cent of total slaughter capacity respectively. The top four firms in its calculations accounted for 51 per cent of total beef processing capacity (ACCC 2017). However, no information was provided on the basis by which these calculations were made.

There are numerous other measures of concentration available publicly. These use different indicators and exhibit a wide range of results. It is unclear what assumptions they embody – for example, do throughput-based estimates include Saturday kills which occur in periods of very high demand for processing? Do revenue-based estimates include all revenues or just slaughtering revenues?

It should be remembered that estimates of concentration are commonly cited as a basis for inferring market power, and as the discussion above has shown, there is little objective evidence provided on how these estimates have been determined.

A high level of profits may be an indicator of market power at a specific point in time. However, it is not by any means a sole or conclusive indicator as there are many factors that can affect the level of profitability of a firm. The reality is in the red meat processing industry, margins are generally low and notably volatile as a function of weather impacts on livestock pricing and availability in a business model based on primary processing. The ACCC concluded, as far back as 2008, that low margins in processing, the need to maintain volumes of throughput, and evidence suggesting that processors have offset recent increases in costs of production with efficiency gains rather than passing on cost increases through the supply chain, suggests that competition between processors is strong (ACCC 2008).

When processors are subject to attacks regarding alleged profitability at the expense of livestock producers, the evidence is commonly provided in the form of calculations showing the difference between the price of livestock (usually based on saleyard prices) and the price of exported meat. However, there are two deficiencies with this approach:

- The prices being measured are not indicative of proficiency.
- Prices of livestock and meat are volatile and change frequently.

The difference in prices between livestock and export meat does not constitute a margin but instead is simply a price differential (sometimes referred to as a price spread). They do not consider the costs of processing animals apart from those for livestock and also do not reflect the relative value apportionment to by-products, offal, hides, and the other impacts to expenses (like commercial claims etc). Many of the concerns from producers about price differentials occur when livestock prices are low, typically when there is a drought, or prices are weak because herds are being liquidated. It has been conventional wisdom that liquidation is part of a long-term herd cycle, which raises concerns that low prices will be prevalent for a considerable period.

However, recent research has suggested that herd cycles in Australia are more of the nature of short-term markets ups and downs (Heilbron, Griffith and Malcolm 2024). Cycles of herd building and liquidation are typically 2-3 years only, nothing like the longer-term 8-10-year cycles experienced in the US cattle industry. Part of the reason for this is that the Australian and US industries are structurally different. The Australian industry is far more dependent on exports and hence its market conditions are much more subject to world market influences. The Australian industry is also more grass-fed than the US, which has a much more controlled environment production system. Finally, the US industry is much more concentrated and vertically integrated so subject to more competition concerns. The Australian industry is overall much more subject to volatility and uncertainty.

Taking this volatility into account, it is not surprising that concerns raised about low livestock prices and increased price differentials with meat export prices have tended to be short-lived. To illustrate this, when the original Nature of Competition Report was produced, there was considerable concern being voiced by producer representatives over the difference between cattle prices and export meat.

In fact, the increase in the price differential cited by producer organisations which occurred in 2014 was a result of extraordinary factors. In 2013–14, saleyard prices fell because of record slaughter because of drought in Queensland. Unusually though, export prices rose supported by strong overseas demand. However, subsequently, the price differential fell substantially - adjusted for inflation it fell from a peak of $3.50/kg in January 2015 to around $1/kg a year later, a level which was well below the linear trend for the previous 15 years. Processors faced with such volatility can be forced to operate with negative profits for some time (Beef Central 2019).

9.3 Price transparency

At the outset, it should be noted there are voluminous sources of information for producers on the price of cattle and sheep. Producers can easily determine sales prices at auction (e.g. saleyards) due to their price transparency and those wishing to sell animals OTH are able to obtain the price grids from several processors or buyers. MLA has a comprehensive database of prices which may be accessed by anyone. Other sources of prices include radio and television, print media, and newsletters prepared by producer organisations and private consultants.

An area of concern to some producers and organisations has been that producers are given insufficient (or misleading) information about the price of their animals. These concerns tend to be expressed in assertions that there are inherent systemic problems in the transparency of price information (which it is claimed reflects imbalances in bargaining power). However, when examined closely these concerns essentially focus on a few areas:

- Concerns about information on by-products. It is claimed that livestock producers receive no remuneration from by-products. This is incorrect. Returns from the sale of by-products are included in the calculation of prices that processors can offer for livestock and are embodied in the prices paid. These returns are averaged across all cattle processed so the producers who provide better offal yields subsidise those who have more disease issues. Note that a) these averaging results from the market require aggregation for commercial sales and b) the producer is unable to do anything about some disease issues (e.g. parasites carried by wild dogs).

- There are commonly a multitude of different by-product items sold. They will be assembled from literally hundreds of different animals into one order. To identify the contribution of each animal to all the hundreds of containers would be extremely difficult, to say the least. The final prices received will be known only well after the animal is slaughtered. Information has a cost as well as a benefit, and providing information for the sake of it, even if it is practically possible, will reduce returns unless the benefits exceed the costs.

- Claims that lower dressing percentages in Australia than in the US reflect a lack of integrity in processing practices are not valid. This is acknowledged by some producer organisations. A media article (Goodwin 2016) reported that the Cattle Council of Australia's David Hill said producers had noticed in the past four to five years a decline in dressing percentages. But there were distinct reasons - most plants were now Halal accredited, which created the need for more trim, and boning room yield now dominated for boxed beef production, so processors were trimming to the maximum level allowed. He said: "In Australia, dressing per centages are averaging 52 to 54pc while in the US that is 62 to 64pc." But the standard carcass differs - in the US it includes kidney, channel fat and skirts so it is not a matter of comparing apples with apples.

- A particular area of concern to some is the assessment of parameters of fat measurement, dentition and "butt shape". These practices are required to comply with AUS-MEAT standards but rely on human assessment, which occasionally can lead to errors, like all human actions. There is no evidence of large-scale errors, but better systems are being developed based on electronic/machine measurement, which could be economically beneficial to apply. There should be no reason why this improvement should not be implemented once it reaches commercial maturity.

- The claimed inflexibility of grid pricing e.g. that the prices drop 'off a cliff' at either end of the indicated ranges. The calculations required by processors to develop a grid are highly complex. These are related to the mix of customers that a processor supplies. The reason grids fall off quite quickly is that parts of that carcase lose their value as they cannot be sold to the best customer. If ranges were to be set based on sliding scales to reflect all the potential sales and offer prices stemming from those calculations, the information for livestock producers would be overwhelming. Different ranges would need to be calculated for each product.

- However, the number of products that are regularly sold by processors needs to be considered. Just for offal cuts, there might be 5 types of tongues alone that are regularly sold, 3 types of tendons, 5 types of tripes, and so on. There may be 30 types of muscle cuts typically sold. One must seriously question the value to producers of reporting such complexity. Finally, in relation to grading issues, AUS-MEAT standard carcass trim standards apply at all accredited export facilities.

9.4 Mandatory price reporting

Concerns about transparency have led some to argue for schemes that require processors to divulge prices at which products have been sold such as the Mandatory Price Reporting (MPR) system that operates in the USA. As the Department of Agriculture (2015) has pointed out:

> *"Anecdotally, Australian producers refer to the farmers' share of farm gate returns in the United States as being markedly greater than in Australia. Margins in the US industry tend to be more transparent than those in Australia where lack of appropriate data — at both sector level and firm level — makes it difficult to analyse pricing through the value chain. In contrast, in the United States, several research companies and equities analysts perform packer margin assessments on a daily or weekly basis. Additionally, the US Department of Agriculture's Packers and Stockyards Program received powers from the Packers and Stockyard Act 1921 to collect information on industry-wide margins for the meat industry."*

The relevant points about this are as follows:

- In economic terms, transparent prices play a key role in the efficient allocation of goods and services that avoid waste and hence match what suppliers make and what consumers want, which is how economists define efficiency. Financial economic researchers typically define markets as efficient when prices reflect all available information and when prices adjust swiftly as new information arrives. If buyers and sellers do not know what prices are, then some mutually agreeable trades will fail to occur, thus creating inefficiencies.

- Barriers to price transparency include both explicit restrictions on information (such as concealment by firms of prices or price-setting approaches), and costs of search by consumers or sellers. The simplest theories suggest that more information about prices should decrease prices (or increase them in the case of sellers) and bring prices closer together.

- However, price monitoring comes at a cost. Public administrations need to collect, check, store, process and publish data and analysis. Businesses incur reporting costs. Policy should try to strike a balance between the costs and the benefits of improved market transparency.

- In markets with many suppliers and customers, in which little is known about prices, greater transparency will lead to lower search costs and more transactions. The distribution of effects between chain parties however cannot be known in advance. In concentrated markets, the result may be an excess of transparency: if prices are published that are too up-to-date and company-specific, actors will be able to start coordinating prices with each other. Price transparency therefore does not offer a solution for unequal power relationships in the chain.

There are differing views on the success of Mandatory Price Reporting (MPR) in the USA in achieving its objectives. One study, reflecting the concern about unintended consequences above, points out that an area of future research that is clearly in need has to do with the ability of MPR to improve noncompetitive behaviour by the packing industry (Koontz and Ward 2005). This appears to be the largest concern found in the literature (Schroeder et al 2012, Perry et al 2005, Matthews et al 2015).

Since the Nature of Competition Report, further studies have not overcome all concerns regarding unintended consequences. Whilst one study concluded that policymakers can uphold MPR since it ensures increased and transparent market information that leads to spatial market integration (Rahman and Palash 2018), but another concluded that while the MPR has a positive impact on the vertical market integration in the beef industry, further investigations were required to verify if the MPR leads to either more or less asymmetric price adjustment. On the one hand, downstream firms could take advantage of the price information provided by the MPR to exert more market power or collusion, which could result in increased price transmission asymmetry in response to rising and falling profit margins. But, on the other hand, the MPR could lead to more symmetric price adjustment due to better price information delivery throughout the vertical linkage (Chung et al 2018).

Another study identified some efficiencies in data coverage noting that processing, pricing, and marketing of wholesale meat is evolving and the use of LMR to generate public reports needed to adjust accordingly to better inform market participants. At times, less than half of wholesale beef sold by packers is used by USDA to inform composite boxed beef price reports. Further, differentiated products not well-suited to existing USDA beef reports are typically more highly valued and growing in customer and consumer demand faster than products informing published reports. This would be the case in Australia.

Since the last report, the number of premium brands has expanded significantly. The current debate on how much Angus you need to be called Angus is a testament to the value of brands. The value of branded products is determined by a processor's customer mix. To publicly report that will provide better information to your processor competition both here and overseas than it will to Australian producers. This also would be pulling in the opposite direction to Value-Based Marketing (see above discussion on selling methods) which is being promoted by MLA and supported by many producers.

Not having public market information about the value of these differentiated products results in incomplete information regarding market signals. A particular way this could occur is that as differentiated, high-value products become more prevalent, published composite value estimates that exclude the prices of such products in their calculations may become misaligned with the actual market value of the beef cutout (Coffey et al 2023).

Finally, it should be noted that MPR in the US had traditionally been regularly re-authorised every 5 years by the US Congress but since the last re-authorisation expired in the US in 2020, it has not been reauthorised and instead has had to be extended on a year-by-year basis. This reflects differences of views among various interest groups (Fatka 2021). As noted above, there are several key differences between the structural characteristics of the livestock and beef market in the US and Australia:

- Firstly, the level of concentration in beef processing in the US is well above that in Australia. In the US, the four largest steer and heifer slaughter firms increased their share of slaughter to 85 per cent in 2020 (Anderson et al 2021). As noted above, estimates of the share accounted for by the top 5 beef processors in Australia range between 25-30 and 57 per cent.

- Secondly, a far higher proportion of cattle are sold via open market auctions in Australia than in the US. As indicated above, auctions remain a major form of livestock sale method in Australia, accounting for around half of national cattle sales. Only around 20 per cent of cattle in the US are sold via negotiated cash prices which includes (but is not comprised of) auctions – auctions would be a smaller percentage of total sales.

- Thirdly, MPR in the USA was implemented in a market where cattle were predominantly sold on a 'live on the average' basis, which provided little incentive for producers to sell and processors to buy based on the value of the animal. MPR facilitated a shift towards grid-based pricing, with premiums and discounts based on the characteristics of the animal.

- However, as noted above, grid-based pricing is a feature of the Australian livestock selling system already which reflects the fact that all animals are not the same when it comes to processing.
- Finally, not only can MPR facilitate price signalling by processors it can equally signal prices to meat buyers prompting a race to the bottom in pricing, especially for Australian beef exports. This is less of an issue in the US because it relies on exports for only around 11 per cent of its beef production.

The ACCC (2017) concluded that the introduction of a US-style livestock mandatory pricing system in Australia is likely to improve the volume and type of information available to market participants. This improvement could enhance producers' understanding of market demands and production decisions. The complexity inherent in the industry and beef end markets could also limit the usefulness of such a system to producers. In addition, it would have high collection and administration costs relative to the United States, which are likely to be borne by the Australian industry.

The ACCC therefore supported the pursuit of additional data collection and publication by MLA through voluntary participation of the industry, as this was likely to improve market transparency and system integrity at the least cost to the industry. It noted that if market participants are unwilling to fully participate in this initiative, industry and government may need to reconsider possible legislative change.

The existence of MLA's National Livestock Reporting Service, which is quite comprehensive and well-utilised by industry is worth noting here. It has data available on production, supply, prices etc. The price information from MLA is comprehensive but other data sets, notably ABS herd and flock numbers, have been reduced. If government wants more efficient markets and decision-making, there is a need to have a better understanding of supply dynamics.

9.5 Price transmission

What may be considered more significant than price transparency, in respect of concerns about competition, is how prices are transmitted along the chain. Past studies in Europe, for example, have indicated the main issues within the European food value chain are related to asymmetric price transmission (or price levelling). Prices downstream rose quickly with input prices but took much longer to fall when price pressures were relieved. In a perfect world, price changes would be instantly and evenly transmitted from one node to another.

Economic research has found that the Australian beef processing industry tends to "price level" at the wholesale stage i.e. when livestock prices increase this tends to be absorbed for a while at least by processors who do not pass all the increase on to consumers. Equally, when livestock prices fall, not all the decrease is passed on by processors.

This conduct is not consistent with the economic concept of perfect competition. But if this price levelling is temporary, there is no real problem in trade practices terms. However, if it is sustained, then processors may be said to have market power (Chung and Griffith 2009).

Critically, the research cited, evaluated real price spreads, and analysed the competitive behaviour of both selling and purchasing along the Australian meat marketing chain from the farm-gate to the retail level. The empirical evidence of increasing real marketing margins in the years examined by the researchers concluded that the existence of perfect competition in both the input and output markets for each meat industry, at the retail level, could not be rejected, using the models, techniques, and data.

In other words, as with previous studies, no evidence was found that the marketing chains for the Australian fresh meat industries are non-competitive. Moreover, as has been seen in the discussion of price differentials above, the increase in the actual price spreads in 2013-14 proved to be temporary.

More recent research undertaken for AMPC has reached the same conclusion. Long-term analysis of price transmission has confirmed the absence of long-term market power and emphasised the stability of real marketing price differentials over time. Analysis of short-term price transmission has confirmed that retail prices are more stable than farm prices due to price levelling. Changes in farm prices are partially passed on to retail prices over time, indicating a preference for stability. In the case of beef, for example, by the end of the second quarter, around three-quarters of the original farm price increase is passed on to retail prices. Further small increases will occur over a longer time period. However, as the long-term analysis indicated, the increased farm price is fully passed on over a period of a year. These findings are consistent with the conclusion reached by other analyses. Meat and Livestock Australia (MLA 2023b) in observing price transmission noted that the reduction in average retail price of red meat lags prices paid to producers by approximately eight months. Similar conclusions on price levelling have been observed by the Australian Meat Industry Council (2024)

It is worthwhile noting that price levelling indicates a preference for price stability and mitigates the impacts of farm price volatility on consumer behaviour and preferences for meat from prices rising and falling significantly on a short-term basis. To illustrate this, this research finds that both the beef and lamb farm price variables are 2-3 times more volatile than the respective retail prices or the price differentials.

10 The 'sell' activity

Selling meat on the world's markets adds another set of complexities, risks, and uncertainties for Australian red meat processors. On the sell side, processors have different capacities to maximise the value of finished red meat products. Some sell directly to end customers, sell to agents or use third parties to sell on their behalf. But Australian sellers are price takers in an international market.

To illustrate the risks associated with selling meat, consider the export markets, which account for around 70 per cent of sales of beef:

- demand is from principal purchasers: US, Japan, South Korea, and EU
- competition is from other suppliers: US, South America, New Zealand, India
- domestic returns are then determined by exchange rates.

In relation to sheep meat, production is heavily export-oriented with around three-quarters of lamb and mutton production combined being exported (MLA 2024c).

10.1 Market access

One of the key risks on the sell side relates to market access. To sell into a market, a processor's facilities must be recognised ('listed') by the authorities of Australia and the importing country. This requires investment to ensure recognition and ongoing compliance. Processors must make critical decisions as to what investment they will undertake to supply a particular market, and this entails significant capital and hence risk.

Market access rules are a major risk for red meat processors selling meat onto world markets. These market access rules can change overnight, and sales may be reduced or stopped completely for reasons that might be considered unjustified by them. From 2020 to 2022, China banned imports from 10 Australian processors on food safety grounds which Australia contested. Currently, eight processors have had these restrictions lifted but two remain affected. The nature of competition in export markets, which account for a majority of Australia's red meat production, is heavily influenced by these market access rules.

10.2 Other sell-side risks

It has been pointed out above that formal forward contracts are a rarity in selling red meat internationally. Products are predominantly sold on a spot price basis. Seasonality in production can render estimates used in calculating breakeven prices for buying livestock incorrectly. Processors aim to try and guess what sales prices will be in literally dozens of markets, each of which has its own import requirements (see above the example of China). A major processor can sell literally hundreds of different products to as many as five dozen different countries. Processors will use whatever public information is available in these markets to forecast the prices they might receive for their products and to use this information in negotiations with buyers, but essentially these forecasts remain highly uncertain.

- Even after the product has been sold, risks remain.
- The exchange rate can move against the processor. A processor can find that a change in the currency can mean the breakeven price for livestock used to purchase the animals for processing has been overestimated.
- Orders can be subject to revision, especially if the exchange rate has moved against the buyer of the red meat products overseas. Slowdowns or deferrals of shipments or reduced volumes required will result in costs to processors exporting.
- Payment risks arise in relation to customers who may be new to the processor or who may be importing into countries with under-developed banking systems.
- There are also examples where market restrictions are imposed while product is being shipped.

10.3 Regulatory costs and processing competitiveness

The significant impact of market access on the competitiveness of red meat exporters was noted above. Apart from the investment costs associated with registration, there is another aspect of market access that is worth noting.

The Australian Government charges exporters for meat inspection and certification which is required for market access purposes. Competitor industries, such as those in Brazil and the United States, either pay much less to governments for these services or do not pay for them at all.

In the year 2000, these costs amounted to approximately $50 million. Research funded by the red meat industry concluded that these charges should be reduced by 40 per cent to reflect economic marginal cost pricing principles, rather than uneconomic average cost pricing (which results in a tax on the industry), and after representations by meat exporters, the Federal Government agreed to reduce these costs by 40 per cent.

This meant the costs paid by the industry fell to approximately $30 million. But in 2011, processors entered into an agreement with the Federal Government for the delivery of the new Australian Export Meat Inspection Service (AEMIS). The original Nature of Competition report pointed out that at the federal level, the Department of Agriculture (AQIS) charges to red meat processors for export meat inspection and certification in 2016 had exceeded $80-$85 million a year. In addition, some inspection functions have been transferred slowly back to processor management and these cost processors another $35-$40m a year to run. The costs paid by industry had therefore quadrupled.

More recently, AMIC (2022) has stated that the framework of the Australian Government Cost Recovery Policy should not in effect constitute a self-imposed non-tariff barrier to Australian exporters – the current regulatory costs amount to approximately $80m per annum in fees and charges to exporters, in addition to the significant cost of compliance borne directly by industry. DAFF (2024) forecast cost recovery revenue of $79.6m in 2024-25. AMIC stated it supports the initiative by the government in past budgets to limit the impact of the Australian Government Cost Recovery policy through the freezing of fees and charges, which coupled with a reform program enabled the regulatory cost footprint to be somewhat contained. However, in 2021, the government legislated increases over

forward years which will mean year-on-year increases in fees and charges for Australian exporters to at least 2024. AMIC submitted it would like to see the year-on-year increases to be scrapped and the cost recovery to be frozen at the legislated rate for FY2020-21.

In an environment where buying, making, and selling red meat is complex and risky, where profitability is highly variable, and competition in selling internationally is heavily influenced by access to markets, uneconomic cost imposts of the kind described above undermine the competitiveness of the industry.

11 Conclusions

The red meat processing industry has been subject to considerable public policy scrutiny on competition grounds for decades. At the time of the original Nature of Competition report, there were concerns on the part of some livestock producers and organisations about competition in the industry that made a link between levels of concentration in the industry and abnormally high margins. This, in turn, was linked to concerns about the extent to which prices paid for livestock were not transparent. In effect, the allegation was that processors used their superior information and market power to depress prices for livestock below market levels. To date, no anti-competitive conduct has been found to support these allegations.

Anti-competitive conduct was also claimed to exist in the meat processing industry in terms of saleyard cattle purchases, but no offences were found. Nevertheless, concerted practices legislation was introduced but still leaves uncertainty, and may serve to increase it, in relation to whether normal commercial conduct is anti-competitive or not.

Since the original Nature of Competition report in 2016, the industry has continued to be subject to scrutiny. The grocery industry, of which red meat processing forms a part, is subject to a range of recent and ongoing inquiries by Federal and State Governments and other parties. Whilst these investigations focus predominantly on retailers, processors are also subject to concerns in some instances.

The major areas of concern in relation to processors have been consolidation and allegedly consequential market power, and concerns about prices not being transmitted along the supply chain. It is evident from the review of competition policy and laws in this report that the policy stance of the competition regulator has tended to discourage consolidation amongst the largest processors, although apparently not amongst smaller operators.

The competition regulator's policy approach has essentially resulted in a two-tier industry – one where mergers are allowed and one where they are discouraged. New merger rules, given the concerns about further consolidation in meat processing previously stated by the competition regulator, are unlikely to make mergers with larger processors easier to achieve. This has implications for resource allocation and competitiveness. Scale economies are of critical importance in red meat processing, as the industry is faced with high fixed costs that need to be spread over as much volume as possible, consistent with the availability of complementary resources such as labour and availability and access to markets for products. A problem is that competition policy in Australia focuses exclusively on competition in the domestic market, whereas export meat processors (which sell around two-thirds of production) operate in an international marketplace. Competition policy that restricts or bans completely mergers and acquisitions by the larger processors limits their ability to achieve scale through acquisition and hence undermines their competitiveness. One of the reasons why US processors have much lower costs to operate than their Australian counterparts is that they are much bigger.

The conclusion of the original report was that the concerns about competition in the industry are based on a view of the nature of competition in the industry which does not reflect the reality of what processors do and how they compete.

The information available to processors in determining what prices they can offer for livestock is far from perfect. Processing entails considerable risks (factors that can be quantified) and uncertainties (which cannot). Concentration in a market does not equate to anti-competitive conduct. The red meat processing industry buys, makes and sells beef and sheep meat. This entails a high degree of risk and uncertainty. Processors compete for livestock based on calculating what they can afford to pay relying on highly imperfect information on what they might be able to sell the red meat for, and the breakeven point for processing a certain level of throughput, which itself might not be realised.

Accordingly, the original study concluded that there did not appear to be an economic justification for changes to competition laws that serve to tighten regulation relating to anti-competitive conduct, market definitions and price reporting.

Developments since the original report serve to reinforce the original analysis and do not detract from it. In particular:

- The red meat processing industry continues to make a significant contribution to the national and regional economies of Australia.
- Recent research has indicated the existence of short-term market ups and downs rather than longer-term cycles in livestock markets which points to a more uncertain and volatile industry facing meat processors. This is not unrelated to an increasingly volatile climate and weather patterns which exert a strong influence on livestock supply.
- Research subsequent to the original Nature of Competition report has revealed the scale and operating cost differences between Australian facilities and their much larger US counterparts. Competition policy settings need to avoid undermining industry competitiveness by restricting the realisation of scale economies through mergers and acquisitions.
- There has been a significant increase in supermarket service kill in the industry which represents a meaningful share of total processing capacity and reduces the ability of processors to influence prices paid to livestock producers.
- Research on the impact of Mandatory Price Reporting in the USA remains inconclusive about its costs and benefits in relation to price transparency and competition.
- Major structural differences apply to the Australian and US processing industries which make it inappropriate to apply a measure like Mandatory Price Reporting in Australia.
- Risks faced by processors in terms of market access have been heightened in recent times.
- Thus, there is a need for industry and policymakers to focus on reducing Australia's high-cost base.

Mandatory Price Reporting should not be introduced in Australia based on the need for regulators to have a tool to undertake some kind of ‘fishing expedition’ based on assertions, not supported by objective, verifiable economic data, and analysis, by interested parties on competitive misconduct by meat processors. Requiring commercial entities that have committed no offence to divulge highly sensitive commercial information to governments should only be done in the most extreme of circumstances and based on demonstrable evidence of misconduct, which has never been the case in the red meat processing industry.

Policy action is, however, economically warranted in relation to costs, given that both livestock producers and processors are price takers and operate with highly variable and weak long-term profitability. It is in their mutual interest to ensure any unnecessary cost imposts are addressed.

There are major challenges posed for policymakers by smaller producers who have difficulty in fully participating in the development of the cattle and sheep industry (and indeed other agricultural industries), where economic forces generate competitive advantages for those able to realise the benefits of scale.

Policy can accommodate this process or hinder it. Where competition in the industry is strong, there is no justification for using competition policy to hinder economic forces and limit the potential gains in efficiency and competitiveness of the industry.

12 Recommendations

The findings within this report lead to the following recommendations:

1. There is no justification for 'freezing' the structure of the industry and making scale-efficient mergers and acquisitions even more difficult.
2. Mandatory price reporting should not be introduced based on market structures in foreign countries that are different from Australia and, because of unintended consequences, will adversely affect the industry.
3. Where there are potential improvements to be made in reporting and grading systems, technological solutions should be sought through research and development and, where cost-effective, introduced in the industry.
4. Policy to advance the development of the industry should focus on minimising uneconomic regulatory cost imposts that adversely affect investment and competitiveness.
5. More broadly, policy should focus on addressing the underlying cost efficiency challenges faced by small producers in agriculture.
6. There are ample opportunities for collaborative value chain approaches on issues that impact all participants, including implications of expanded farm assurance schemes internationally, improved emissions outcomes, access to and reliability of workforce supply, and objective carcase measurement.

13 Bibliography

AMIC, Australian Meat Industry Council (2024), *Submission to ACCC Supermarkets Inquiry 2024-25*. Retrieved from https://www.accc.gov.au/inquiries-and-consultations/supermarkets-inquiry-2024-25/issues-paper

Anderson, J.D., McKenzie, A.M. and J. L. Mitchell (2021), 'Price Determination and Price Discovery in the Fed Cattle Market: A Review of Economic Concepts and Empirical Work' in *The U.S. Beef Supply Chain: Issues and Challenges Proceedings of a Workshop on Cattle Markets,* Agricultural and Food Policy Center Texas A&M University.

Australian Competition and Consumer Commission (2002), *Report to the Senate by the ACCC on Prices Paid to Suppliers by Retailers in the Australian Grocery Industry*. Retrieved from https://www.accc.gov.au/publications/report-on-prices-paid-to-suppliers-by-retailers-in-the-australian-grocery-industry

Australian Competition and Consumer Commission (2007), *Examination of the Prices Paid to Farmers for Livestock and the Prices Paid by Australian Consumers for Red Meat.* Retrieved from https://www.accc.gov.au/publications/examination-of-the-prices-paid- to-farmers-for-livestock-and-the-prices-paid-by-australian-consumers-for-red-meat

Australian Competition and Consumer Commission (2008a), *ACCC Inquiry into the Competitiveness of Retail Prices for Standard Groceries,* Issues paper. Retrieved from https://www.accc.gov.au/system/files/Issuesper cent20paperper cent2011per cent20Febper cent2008.pdf

Australian Competition and Consumer Commission (2008b), *Merger Guidelines*, updated 2017.

Australian Competition and Consumer Commission (2016), *Cattle and beef markets –a market study by the ACCC: Issues Paper*. Retrieved from https://www.accc.gov.au/focus- areas/market-studies/cattle-and-beef-market-study

Australian Competition and Consumer Commission (2017), *Cattle and Beef Market Study – Final Report*. Retrieved from https://www.accc.gov.au/focus-areas/market-studies/cattle-and- beef-market-study

Australian Competition and Consumer Commission (2018), *Guidelines on Concerted Practices.*

Australian Competition and Consumer Commission (2020), *Perishable Agricultural Goods Inquiry*. Retrieved from https://www.accc.gov.au/about-us/publications/perishable-agricultural-goods-inquiry-report

Australian Competition and Consumer Commission (2024a), *Supermarkets Inquiry - Issues Paper.* Retrieved from https://www.accc.gov.au/inquiries-and-consultations/supermarkets-inquiry-2024-25/issues-paper

Australian Competition and Consumer Commission (2024b), Mergers Register. https://www.accc.gov.au/public-registers/mergers-registers accessed 9 July 2024.

ACTU (2024), Australian Council of Trade Unions, *Inquiry into Price Gouging and Unfair Pricing Practices Final Report*. Retrieved from https://pricegougininquiry.actu.org.au/

Beef Central (2023), *Southern processing plant expansions may pull more cattle south*. Retrieved from https://www.beefcentral.com/news/final-stages-for-amgs-200m-cootamundra-processing-plant-upgrade/

Beef Central (2024), *Service kills may represent 30pc of Australian beef processing output.* Retrieved from https://www.beefcentral.com/news/service-kills-may-represent-30pc-of-australian-beef-processing-output/

Business Council of Australia (2015), *Building Australia's Comparative Advantages: A 21st Century Agrifood Sector*.

Chalmers, The Hon. J. (2024) https://ministers.treasury.gov.au/ministers/jim-chalmers-2022/media-releases/merger-reform-more-competitive-economy

Chung, C., Rushin, J. and P. Surathkal (2018), 'Impact of the livestock mandatory reporting act on the vertical price transmission within the beef supply chain', Agribusiness 34:562–578.

Chung, K.C and Griffith, G.R. (2009), 'Another Look at Market Power in the Australian Fresh Meat Industries', Australasian Agribusiness Review, Vol.17

Coffey, B.K., Schroeder, T.C.and G.T. Tonsor (2023), 'A novel approach to boxed beef market reports', Food Policy 118 (2023) 10247

Condon, J. (2023), *Southern processing plant expansions may pull more cattle south,* Beef Central, 30 May 2023. Retrieved from https://www.beefcentral.com/news/southern-processing-plant-expansions-may-pull-more-cattle-south/

Department of Agriculture, Australian Government (2015), *Market Consolidation and the red meat processing sector,* submission to the Senate Standing Committee on Rural and Regional Affairs and Transport inquiry into the effect of market consolidation on the red meat processing sector.

Goodwin, S. (2016), *Offal claims 'off the mark'*. Retrieved from https://www.northqueenslandregister.com.au/story/3968440/offal-claims-off-the-mark/?cs=4744

Heilbron, S.G. (2015), *Benchmarking labour application in-plant*, AMPC Final Report, May 2015

Heilbron, SG (2016), *The Nature of Competition in the Beef Processing Industry*, Report for Australian Meat Processor Corporation.

Heilbron, SG (2018) Economic & Policy Consulting, *The Cost to Operate and Processing Cost Competitiveness – a Combined Report, prepared for AMPC.*

Heilbron, SG. (2022), Economic & Policy Consulting, *AMPC Final Report Evaluating the socio economic benefit of red meat processing.*

Heilbron, SG., Griffith, G.R. and B. Malcolm (2024), *AMPC Milestone 5 Report Cattle and Sheep Cycles and Price Transmission Processes*.

JBS Australia Pty Ltd (2015), *Submission to the Senate Standing Committee*, June 2015.

Koontz, S.R. and C. E. Ward (2011), 'Livestock Mandatory Price Reporting: A Literature Review and Synthesis of Related Market Information', Research Journal of Agricultural & Food Industrial Organization: Vol. 9: Issue 1.

Mathews, K.R. Jr., Brorsen W., Hahn, W.F., Arnade, C. and E. Dohlman (2015), *Mandatory Price Reporting, Market Efficiency, and Price Discovery in Livestock Markets*, Economic Research Service of USDA

MLA, Meat and Livestock Australia (2022) https://www.mla.com.au/about-mla/the-red-meat-industry/

MLA, Meat and Livestock Australia (2014a), *2013 The Northern beef report - Northern beef situation analysis*.

MLA, Meat and Livestock Australia (2014b), *2013 Southern beef situation analysis*.

MLA, Meat and Livestock Australia (2020), *Northern Breeding Business: NB2 Strategic Partnership Development.*

MLA, Meat and Livestock Australia (2023), *State of the Industry Report*. Retrieved from https://www.mla.com.au/prices-markets/Trends-analysis/state-of-the-industry-reports/

MLA, Meat and Livestock Australia (2023a), *How are global and Australian beef producers performing? Global agri-benchmark network results 2022.* https://www.mla.com.au/globalassets/mla-corporate/prices--markets/documents/trends--analysis/agri-benchmark/mla-beef_global-agri-benchmark-network-results.pdf

MLA, Meat and Livestock Australia (2023b), 'Lamb and beef surging in popularity as prices decrease' https://www.mla.com.au/news-and-events/industry-news/lamb-and-beef-surging-in-popularity-as-prices-decrease/MLA, Meat and Livestock Australia (2024*), Selling options,* Retrieved from https://mbfp.mla.com.au/meeting-market-specifications/tools/tool-7.05selling-options/

MLA, Meat and Livestock Australia (2024b*), How has saleyard throughput change.* Retrieved from https://www.mla.com.au/news-and-events/industry-news/how-has-saleyard-throughput-changed/

MLA, Meat and Livestock Australia (2024c), Industry projections Australian Sheep September 2024 Update. Retrieved from https://www.mla.com.au/globalassets/mla-corporate/prices--markets/documents/trends--analysis/sheep-projections/september-2024-update_mla-australian-sheep-industry-projections_0209242.pdf

Morrison, C. (1997), *Economic performance, cost economies and pricing behaviour in the US and Australian meat products industries,* Australian Journal of Agricultural and Resource Economics, 41:3, pp. 361-83

National Farmers Federation (2023), *National Farmers Priorities Survey*.

Neales, S. (2014), *$91m plant puts meat on AACo's new bones*. Retrieved from http://www.theaustralian.com.au/business/companies/91m-plant-puts-meat-on-aacos-new-bones/news-story/9927e746afa2eff541fb5006d2afdd4e

Perry, J., MacDonald, J., Nelson, K., Hahn, W., Arnade, C. and G. Plato (2005) Economic Research Service of USDA, *Did the Mandatory Requirement Aid the Market? Impact of the Livestock Mandatory Reporting Act*.

Queensland Parliament (2024), *Report No. 1, 57th Parliament - Inquiry into Supermarket Pricing.* Retrieved from https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=252&id=4393

Quail, J (2024), *Jim Chalmers waters down mergers overhaul following business backlash,* The Australian 10 October 2024. Retrieved from: https://www.theaustralian.com.au/nation/politics/jim-chalmers-waters-down-mergers-overhaul-following-business-backlash/news-story/f963ce4b716ce82ed7983817e74fd03a

Rahman, K.T. and M.S. Palash (2018), 'Fed Cattle Market Integration in Mandatory Price Reporting Era', Open Agriculture. 2018; 3: 348–355

Schroeder, T.C., Grunewald, S. and C. E. Ward (2002), *Mandatory Price Reporting in Fed Cattle Markets: Motivations and Implications,* Council on Food, Agricultural, and Resource Economics (C-FARE) Annual Symposium, November

Senate (2017), Rural and Regional Affairs and Transport References Committee, *Effect of market consolidation on the red meat processing sector*. Retrieved from https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Red_meat_processing/Interim_Report

Senate (2024), Select Committee on Supermarket Prices, *Supermarket Prices – Final Report*. Retrieved from https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Supermarket_Prices/SupermarketPrices/Report

Todd, B. and Barnard, P. (2015), Beef rice transparency – options to address beef price transparency, Milestone 5, MLA.

The Treasury (2023) https://treasury.gov.au/review/competition-review-2023

The Treasury (2024), *Food and Grocery Code of Conduct Review Final Report*. Retrieved from https://treasury.gov.au/publication/p2024-534717-final-report

USDA, United States Department of Agriculture 2024, *Concentration in U.S. Meatpacking Industry and How It Affects Competition and Cattle Prices.* Retrieved from https://www.ers.usda.gov/amber-waves/2024/january/concentration-in-u-s-meatpacking-industry-and-how-it-affects-competition-and-cattle-prices/