



Australian  
Competition &  
Consumer  
Commission

# Cattle and beef market study —Interim report

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Australian Competition and Consumer Commission  
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# Glossary

**Agent (livestock agent):** Acts as an agent for the producer/vendor to secure a sale and earns commissions. Agents are active in a variety of sales channels (e.g. direct sales including over the hooks), not just at auctions.

**AUS-MEAT:** Industry organisation which manages a number of industry product standards and also accredits and audits meat processing plants.

**Carcase weight:** Weight of the carcass after slaughter, with **standard trim** and offal removed. Used to determine payment based on grids for **over the hooks** sales.

**Co-products (also known as by-products):** Products other than meat sourced from a carcass, including hide, offal, foetal blood products (used in medical research and pharmaceutical industries), gall stones and fat.

**Cold boning (quality cuts):** A form of beef processing which involves chilling the carcass after slaughter, allowing the meat to 'set' before the carcass is processed into certain cuts. This process allows for high quality cuts of beef, in contrast to **hot boning**.

**Commission buyer:** Acts on behalf of a third party to procure cattle. Major acquirers of cattle generally employ their own 'corporate' salaried buyers and rarely use commission buyers.

**Dollars per head (\$/hd):** A pricing method. Cattle ready for slaughter are generally priced according to weight, and not dollars per head.

**Eastern Young Cattle Indicator:** The indicator is a seven-day rolling average produced daily by MLA's National Livestock Reporting Service. The EYCI includes vealer and yearling heifers and steers, 200kg+ liveweight from saleyards in NSW, QLD and VIC. The results include cattle purchased for slaughter, restocking or lotfeeding and are expressed in cents per kilogram.

**Feeder cattle:** Cattle which are suitable to be placed into a feedlot to be fattened on a high protein grain-based diet to reach market weight.

**Feedlot:** Farms where cattle are fed a high protein grain-based diet to reach market weight.

**Finished:** Cattle that have reached market specifications and are ready for slaughter/processing.

**Hot boning (low quality meat):** A form of beef processing which involves removing the bones from the beef carcass shortly after slaughter without refrigeration. The beef is then used to produce mincemeat or in the manufacture of processed food.

**Grading:** Process by which processors assess quality aspects of cattle carcasses. Involves a general assessment of the carcass, by a trained assessor, who classifies the carcass based on qualities such as fat depth and colour, muscle shape and size, and any detrimental characteristics such as injury or brushing.

**Grassfed:** Cattle which have been fed exclusively on pasture to reach market weight.

**Grainfed:** Cattle which have been fed a high protein grain-based diet on a feedlot to reach market weight.

**Over the hooks (OTH):** Where cattle are sold direct to the processing plant and the producer is paid based on a price grid. The weight of the processed carcass along with the carcass grade is used to determine price.

**Liveweight ('over the scales') (pre and post-sale weighing):** Where cattle are sold based on their live weight of the cattle, usually in cents per kilogram. Also referred to as 'over the scales'. Pre-sale weighing is favoured by producers, whilst post-sale weighing is generally favoured by buyers (although some processors say prices are not affected by the method).

**Meat & Livestock Australia (MLA)** delivers research, development and marketing services to Australia's cattle, sheep and goat producers. MLA is funded by industry levies.

**Paddock sales:** Cattle are inspected on the vendor's property by the buyer and are sold straight out of the paddock. Price is generally negotiated on a dollars per head (\$/hd) or cents per kilogram liveweight (c/kg) basis.

**Prime cattle (fat or slaughter cattle):** Cattle which are ready for slaughter. Saleyards tend to have a 'prime' cattle sale and a 'store' cattle sale. Store cattle are not ready for slaughter.

**Saleyard:** A physical auction market where buyers and sellers trade livestock. There are separate sales for store and prime cattle.

**Standard carcass trim ('trim'):** Trimming refers to the removal of certain fat and other layers from a carcass, prior to it being weighed and graded. AUS-MEAT Limited specifies standard requirements for trim.

**Store cattle:** Cattle suitable for breeding or finishing, but not for slaughtering.

**Transport:** For saleyard sales, the producer pays the cost of transport to the saleyard and the buyer bears the cost from the saleyard. For OTH or direct sales, the producer pays the cost of transport to the processing plant.

**Turn-off:** The rate at which cattle are finished on a property and sold for processing or export.

# Summary

## Context

It is important that Australia's cattle and beef sector is competitive and efficient. The industry is the single largest contributor to Australian agricultural production: more than half of Australian farms produce beef cattle, representing \$11 billion (or approximately 21 per cent) of agricultural production value in 2014–15. The profitability of cattle farms varies greatly, with independent research showing that the size and productivity of cattle farms are important factors that determine profitability.

In recent years industry participants have voiced concerns about anti-competitive conduct and market structures. These include complaints and allegations about collusion at saleyards, buyer power, and an unfair distribution of profits in the supply chain. Concerns about consolidation in the processing sector were also raised with the Australian Competition and Consumer Commission (ACCC) during its review of JBS Australia's acquisition of Primo Foods, which began in November 2014 and concluded in February 2015.

Following a detailed review involving consultation with a range of interested parties including beef producers, the ACCC concluded that the JBS-Primo transaction would be unlikely to substantially lessen competition. This review took into account the limited degree of competition between Primo's Scone processing facilities and JBS's nearest abattoirs in Queensland, as well as the presence of other competitors.

Separately, the ACCC conducted a detailed investigation into an alleged collective boycott by cattle buyers at the Barnawartha saleyard on a day in February 2015. The evidence obtained from the investigation did not demonstrate that any of the processors entered an arrangement or reached an understanding not to attend the sale, which is required to establish that the behaviour of buyers amounted to anti-competitive agreements pursuant to the *Competition and Consumer Act 2010*.

However, these matters prompted the ACCC to examine the dynamics of the industry in depth and in a context broader than the specific provisions of the Act.

Analysis for this market study has revealed a number of issues which risk damaging transparency, competition and efficiency in the cattle and beef industry. Specifically, there are shortcomings in the transparency of price reporting and carcase grading, and concerns about conduct affecting the competitiveness of saleyard auctions, including collusion among buyers.

## The relative bargaining positions of producers and buyers vary

Concerns about industry practices, and the impact of these on farm profitability, tend to vary between small-scale and large-scale producers. For instance, small-scale producers have a greater reliance on saleyards than large-scale producers, who often sell direct to abattoirs.

There is also a cyclical element to many of the concerns about the competitiveness of market structures in the Australian industry. For instance, there were particularly strong concerns about market concentration and buyer power during the peak of the recent drought in 2013 and 2014. In 2014 the industry was characterised by high rates of cattle turn-off, strong overseas demand for Australian beef in export markets. These conditions would have been favourable to the profitability of cattle buyers, especially export processors and placed them in a stronger than usual bargaining position relative to producers. During this period, producers' profits suffered due to high costs of supplementary cattle feed and the low cattle prices.

The high cattle turn-off is also said to have resulted in abattoirs operating at or near full capacity and producers reported delays consigning cattle for slaughter. Some producers reported especially difficult trading conditions and relationships with processors during this time and alleged behaviours by processors ranging from apathy toward negotiating with producers, to frequent and arbitrary discounting of carcase prices.

Since 2015 and the end of drought conditions in a number of areas, the supply of cattle to processing plants has altered dramatically. Favourable seasonal conditions have encouraged many producers to begin herd rebuilding, which has led to a significant reduction in turn-off. In addition, producers have entered markets to purchase re-stocker cattle, resulting in greater numbers of buyers in cattle acquisition markets and upward pressure on prices. The reduction in the supply of cattle is also reflected in the under-utilisation of processing facilities, with processors reporting significant excess capacity this year.

### **Competition for the acquisition of prime cattle typically takes place within a 400km radius of a point of sale**

The distance over which producers transport prime cattle from point of sale to a buyer is typically less than 400km. Competition for the acquisition of prime cattle generally takes place within this range. On this basis, in most regions of Australia, producers have a range of different buyers potentially competing for their cattle. These buyers can include the major supermarket chains, restockers, processors and live exporters.

However, the presence of buyers in particular regional markets and the degree of competition between them for prime cattle will vary according to a range of seasonal and commercial factors. As such, there are circumstances where further consolidation in the processing sector through mergers or acquisitions, or other conduct, could substantially lessen competition and the ACCC, as it has previously, will carefully scrutinise proposed future aggregation.

### **There are practices and issues in the industry that risk harming competition and efficiency**

First, the ACCC considers that cattle prices are not usefully transparent, particularly prices for prime cattle. There are significant gaps in reporting: the prices for paddock sales and OTH and saleyard transactions are inconsistently reported and in some cases incomplete in terms of the cattle types and geographic locations. This makes it difficult for producers to compare historical prices between channels on a like-for-like basis. This lack of transparency distorts pricing signals intended to guide production decisions and may create information asymmetries between industry participants.

In addition, direct sales prices are rarely reported, and reported prices for OTH transactions only reflect the prices offered to producers, rather than the prices actually paid. Further, the ACCC has found that pricing grids are difficult to interpret and are sometimes difficult to access. These issues appear to shift a significant amount of risk onto producers when selling prime cattle OTH. As cattle are transacted OTH in very large numbers, this is a significant concern.

Second, the ACCC has concerns about aspects of the grading system. Primarily, there is a lack of independence and transparency in the process of grading carcasses at abattoirs. We are also concerned that existing audit systems do not ensure integrity of the grading process. Integrity and trust in the grading system are essential, given its role in determining prices received by producers.

Third, the ACCC has found that conflicts of interests regularly arise in saleyard transactions when buyers bid for livestock on behalf of multiple clients, and when agents represent both a cattle seller and a cattle buyer in the same transaction. Cattle producers are usually unaware of these arrangements, which can reduce competition for their cattle.

Finally, the ACCC shares the concerns of many in the industry about collusion in saleyard auctions. The ACCC has heard serious allegations about bid-rigging among buyers in particular saleyards. Allegations of anti-competitive agreements between livestock agency businesses have also emerged during the market study. Cartel conduct has a serious impact on competition; accordingly the ACCC is presently investigating these allegations separately from the market study.

The ACCC also considers that conflicts of interests between individuals who bid for livestock on behalf of multiple clients or cattle vendors and buyers are likely to be common.

## **Insufficient information to analyse margins and profits**

As this was a self-initiated market study, the ACCC's assessment of these matters is based on information provided by industry participants on a voluntary basis. The ACCC received positive engagement from the industry in general and a number of firms provided useful information and data. However, we did not receive sufficient data showing the prices paid for cattle purchases, prices received for the wholesale supply of beef, or margins for the retailing of beef. More detailed information of this nature would be necessary to identify how profits are distributed throughout the industry, and to identify the existence or exercise of market power with greater certainty.

## **Interim conclusions**

The diversity of cattle, production regions, and producers is a key feature of the industry which means that commercial outcomes for producers will vary and are not necessarily an indication of market failure. However, certain long-standing and accepted practices, when combined with other industry features such as intersecting personal and professional relationships, are characteristics which risk damaging transparency, competition and efficiency in the industry.

Significant gains could be achieved through improvements to information flows and transparency. This requires greater engagement between parties at each stage of the value chain. Buyers, agents and representative organisations all have a role to play in ensuring that producers have clear signals that allow them to match production to market demands.

The ACCC's findings and recommendations reflect these views.

The ACCC now invites comments on this interim report.

# Findings

## The Industry

- With a national herd of almost 25 million head and a gross value of production of \$11 billion in 2014–15, the beef cattle industry is the largest contributor to Australian agriculture. More than half of the total 123 000 farms in Australia are engaged in cattle production, with those farms managing more than 75 per cent of Australia's agricultural land.
- The cattle and beef industry is diverse, complex, and fragmented. There are multiple activities and a variety of channels through which cattle may be grown-out, sold, processed and reach an end market. Production and sales decisions are influenced by a number of factors, including location, climate and size of operation.

## Production

- The location of a beef cattle farm has a significant bearing on the production system, size of the operation and end market. Broadly speaking, the industry can be separated into two production regions, northern and southern Australia, reflecting differences in climate, pasture, industry infrastructure and proximity to markets.
- Average herd size differs significantly between farms in northern and southern Australia. In northern Australia average herd size is 1 576 head per farm, with the majority of cattle held on a relatively small number of very large properties. For southern Australia, a large number of relatively small-scale farms results in average herd size of 412 head per farm.
- Herd size is also linked to profitability, with larger herds generally associated with greater profit. Small-scale farms, with a herd of between 100 and 200 head, had an average annual rate of return (excluding capital appreciation) of -0.5 per cent per annum in the 15 years to 2014–15, compared with an average of 3.6 per cent per annum for farms with more than 5 400 head. On average, farms with more than 400 head of cattle had a positive return on capital over the last 15 years.
- There are various degrees of vertical integration in cattle and beef production. For example, some processors are active in both cattle production and/or feedlot operations. Vertical integration will influence competitive dynamics, as a substantially vertically integrated processor will be less active in markets for the acquisition of prime cattle. Notwithstanding this, vertical integration does not appear to be a dominant characteristic of the industry at present.

## Sales channels

- Beef cattle producers have a range of options for selling cattle, and their decisions will be influenced by individual circumstances. However, small-scale producers have a greater reliance on saleyards in general, particularly in southern Australia, where saleyard auctions account for almost two-thirds of beef cattle sales.
- The preferences for certain sales channels of cattle buyers, including processors, live exporters and major supermarket chains, are shaped by operational efficiencies and market requirements. For example, live exporters primarily source cattle through paddock sales, whereas major processors tend to purchase over the hooks (OTH), and major supermarkets predominantly use paddock sales and forward contracts.

## Processing

- Australian cattle processors slaughtered a record high 10 million cattle in 2014–15, producing around 2.7 million tonnes of beef and veal. Queensland is the largest processing state, contributing 43 per cent of total slaughter, followed by Victoria, New South Wales, South Australia, Western Australia and Tasmania.
- The Australian beef processing sector is characterised by two large firms, JBS Australia and Teys Australia, which operate multiple processing facilities across the eastern states. Following these two large firms are several medium scale operators, including NH Foods, Northern Cooperative Meat Company, Thomas Foods International, Bindaree Beef and Australian Country Choice, and a range of smaller processors. The ACCC estimates that Australia's five largest processors account for around 54 per cent of total slaughter capacity, making the sector relatively concentrated (albeit less so than the United States).

## Factors which influence production dynamics and profitability

- 70 per cent of total Australian beef production is exported. As a result, export markets, exchange rates and international competitors have a significant effect on prices paid for the majority of Australian cattle and hence producer returns.
- Australian beef exporters are generally considered to be 'price takers' on international markets. Only around 16 per cent of global production is traded internationally, with Australian exporters facing strong competition from India, the United States, Brazil and other parts of South America.
- Information available to the ACCC suggests that high processing and regulatory costs reduce the competitiveness of Australian beef in international markets. Australia's high cost of processing compared with major competitors such as the United States and Brazil, is mostly attributed to high labour costs.
- The domestic beef market, although only accounting for 30 per cent of total beef production, is still important for a sub-set of producers, including those supplying major supermarket chains and specialty retailers. Producers supplying the domestic market are largely located in the southern producing region and southern parts of Queensland.
- The beef industry is, on average, less profitable than Australian cropping and sheep industries. Available research suggests that this is at least partly due to the relatively low productivity of the beef industry.
- The research suggests that the beef industry's relatively low average productivity reflects the existence of a large number of unprofitable farms. These farms are commonly small-scale, located near population centres in the southern producing region and the owners have a greater reliance on off farm employment for income. When unprofitable farms are removed from the analysis, however, overall industry productivity and profitability is higher.

## Selling options and market structures

- A number of factors influence competitive dynamics and the existence of buyer power. In particular:
  - transport costs
  - the size of cattle farms
  - the ability to switch to produce different breeds and weight ranges of cattle
  - the extent of excess processing capacity within geographic markets
  - factors which constrain a processor's ability to transact or process different types of cattle, including long-term service-kill contracts; and
  - the likelihood and scale of entry by new buyers.
- Many producers of prime cattle have range of options available for selling their cattle. Sources of competition for purchasing lighter-weight cattle include supermarkets, processors, restockers and live exporters. In contrast, the heaviest cattle are most likely to be acquired by export-accredited processors.
- Close competition for the acquisition of prime cattle typically takes place within regional areas of approximately 400km from a point of sale. The ACCC found approximately 80 per cent of cattle acquired for processing travelled less than 400km to reach an abattoir after purchase.
- Most producers of prime cattle in Australia will have access to various buyers within the regional market where they sell their cattle. These buyers are generally processors, but may also include supermarkets, restockers and live exporters. The number of buyers in any one regional market will depend on a range of factors including, location, season and commercial incentives of the buyers. In some instances producers may only have the option of selling to a limited number of buyers. Producers may be able to adopt short-term strategies (for example selling at a lighter or heavier weight) to access a wider range of buyers in their region, but factors such as climate and infrastructure will be relevant. Accessing new or different buyers by making significant changes to production methods (for example introducing new genetics) is a longer term strategy for producers.
- There are regions where the ACCC has found producers are likely to have fewer buyers competing to purchase their prime cattle:
  - Northern Queensland: Beef processing in the area surrounding Rockhampton appears to be highly concentrated. JBS and Teys are the only two processors at Rockhampton. The nearest alternative, at Biloela, is also owned by Teys. NH Foods has a processing facility at Mackay, approximately 300 km from Rockhampton. Depending on their locations relative to Rockhampton, producers may need to incur significant transport costs to sell to alternative buyers, particularly for OTH or paddock sales of prime cattle. Producers do not consider live exporters to be a close substitute to these processors, and competition from the major supermarkets also appears to be minimal.
  - Tasmania: there are only two processing firms operating in Tasmania. While supermarkets are active buyers, they are focused on purchasing lighter weight cattle. This market structure may be a reflection of the size of the Tasmanian cattle market.
- Barriers to entry and expansion into processing in most regions of Australia are high. Seasonal and cyclical fluctuations in the supply of cattle can affect processors' capacity utilisation and profitability. These conditions can reduce the incentive for new entry and dampen competition among incumbents.
- In light of the above factors, there are circumstances where further consolidation in the processing sector through mergers or acquisitions, or other conduct, could substantially lessen competition.

## Price transparency in cattle markets

- A range of cattle price data for OTH, saleyards and online auctions is published on a regular basis by MLA and other sources, such as AuctionsPlus. However, gaps and inconsistencies means that not all of the reported data is easy to interpret and/or compare, reducing its usefulness to the industry.
- There are key gaps in price reporting, specifically:
  - Direct sales prices are only partly reported and rely on a small number of contributors
  - Reported OTH prices are aggregated to the state level and reflect the average offered price for each cattle category and weight, not the actual prices paid
  - Only 41 saleyards have prices regularly reported by MLA, leaving approximately 120 saleyards unreported
  - Time series of saleyard data is only available upon request. Saleyard price data is reported weekly in .pdf files, making comparison through time difficult.
- Cattle prices are inconsistently reported between sales channels, particularly with respect to cattle types and geography. It is difficult for producers to compare historical prices between channels on a like-for-like basis.
- There are information asymmetries between producers, who are reliant on publicly available information, and buyers who have access to their own corporate pricing information. Buyers are also more likely to have wider market knowledge, and systems and staff to interpret public and corporate data.
- Pricing grids can be complex, which can limit their usefulness as a decision-making tool for producers.
- Some producers have difficulty accessing price grids which limits their ability to make informed decisions about selling cattle.
- Although individual co-product prices are reported, there is a lack of transparency about how the value of co-products is reflected in cattle prices.
- ACCC analysis suggests that the value of co-products appears to be adequately reflected in prices for cattle. Offal values represent a relatively small part of the value of an animal and do not diverge from cattle prices for sustained periods.
- Mandatory price reporting in the United States has provided increased information being available to cattle producers in a timelier manner. However, the effect of mandatory price reporting on competition in the US cattle market is less certain.
- The complexity of beef and cattle markets in Australia may make mandatory price reporting difficult to implement, and reduce its potential benefits.

## Over the hooks transactions and grading

- Processors submitted to the ACCC that a vast majority (approximately 90 per cent) of cattle sent to abattoirs for slaughter are acquired directly from the producer, rather than through saleyards. The price of most of these cattle is determined post slaughter via a carcase grading process. This is an important mechanism to provide the market with price information and feedback on the preferred characteristics and specifications of cattle.
- There is a lack of transparency and consistency in the grading process undertaken to price carcasses. In particular, producers consider that price grids are hard to acquire and compare and carcase trimming varies across processors. This makes it hard for producers, particularly smaller ones with less experience or fewer resources to interpret pricing offers from competing processors.
- Conflicts of interest may occur in the grading process as company employees, rather than independent parties like those used in the US, conduct the grading. Many producers lack of faith in the grading system and the dispute resolution mechanisms available to challenge grading results. Accordingly, producers are more likely to consider that negative grading results are due to procedural unfairness, as opposed to product not meeting the requisite grade or specification.
- Producers have little control once their cattle leave the farm gate, but they bear the majority of the risks inherent in cattle processing (i.e. variability in animal quality). The lack of trust in the grading system as a reliable feedback mechanism reduces the clarity of market signals to producers that might encourage production changes to better meet market requirements.

## Conduct in cattle markets

- There are concerns among many producers that there is collusion among buyers in some saleyards (including commission buyers, salaried buyers and livestock agents).
- Saleyard auctions can be an efficient way to sell cattle. However, this potential is removed if buyers are able to coordinate bids.
- There are several characteristics of saleyard auctions which make them susceptible to cartel conduct. For example, repeated interactions between regular buyers provide the opportunity to develop strategies to influence the outcome of an auction, and to quickly 'punish' those who break away from these strategies.
- Weak saleyard competition will have a broad impact on the industry, as auction prices act as an important benchmark across other saleyards and alternative sales channels.
- Conflicts of interest are common in saleyards. Livestock agents may represent both buyer and seller, and commission buyers commonly represent multiple customers. The extent to which a conflict of interest exists is often not transparent to producers. However, commission buyers can also increase competition in saleyards where it would otherwise not be cost-effective for every individual buyers to attend in person.
- There is significant concern in the industry, mainly from cattle producers, about pre-sale versus post-sale weighing for saleyard auctions and how this affects commercial outcomes.
  - Due to a shortage of suitable data the ACCC could not analyse whether either method has a material effect on saleyard prices. However, at a broad level, the ACCC considers saleyards should clearly state and enforce their weighing and curfew protocols, so that market participants can select where they prefer to market their cattle.
  - The ACCC also remains concerned about collective behaviour by buyers, in particular boycotts, which aims to change selling practices, and which may unfairly favour certain market participants. Behaviour of this kind may breach laws which prohibit anti-competitive agreements or the proposed concerted practices legislation.
- The ACCC has heard several allegations of bid-rigging and other anti-competitive conduct which we are continuing to investigate outside of this study

# Recommendations for industry

The ACCC's market study provides an opportunity for meaningful improvements in the cattle and beef supply chain. The following recommendations are made with the aim of bringing about those improvements.

Noting the complex and fragmented nature of the industry, in particular the diversity of market participants and stakeholder groups, appetite for certain recommendations will of course vary. Different interests mean incentives may not align, even where a change is ultimately for the benefit of the entire supply chain.

Certain recommendations are aimed at improving the work of specific organisations, while others are more general and will require industry leadership and agreement by multiple stakeholders in order to be implemented.

## Transparency in cattle markets

### **Recommendation 1: Availability of price grids**

All processors and major cattle purchasers should routinely make price grids publicly available in a timely manner to increase market transparency.

### **Recommendation 2: Price grids**

- a. All buyers should consider whether their price grids can be improved to make it easier for the industry to understand and compare grids.
- b. Buyers, agents and producer representative bodies (led by the Cattle Council) should improve their engagement with producers to enhance industry understanding of price grids and their interpretation.

### **Recommendation 3: Improvements to existing market reporting**

The ACCC encourages Meat and Livestock Australia (MLA) to make changes to the way existing cattle sale prices are collected and published to improve transparency and usability, including specifically:

- a. standardising cattle types for reporting across channels
- b. publishing time series data of saleyard prices in a format which allows for easy interpretation (prices are currently only reported weekly in .pdf files, making comparison through time difficult)
- c. producing a co-products index for comparison with cattle prices, and
- d. improvements to the domestic retail beef price series.

### **Recommendation 4: Additional market reporting**

The ACCC encourages MLA, ALPA and ALMA to work together to expand data collection and reporting of prices, including specifically:

- a. direct (paddock) sales prices
- b. actual prices paid for OTH sales
- c. saleyard prices for additional saleyards of regional market importance which are not currently reported, and
- d. actual prices paid for cattle sold to the live export market.

### **Recommendation 5: Mandatory reporting of non-saleyard transactions and prices**

The ACCC considers the arguments for and against mandatory reporting of all non-saleyard cattle sales are finely balanced, and does not recommend its implementation at this time.

If market participants do not take steps to improve market reporting in line with recommendations 3 and 4, the arguments in favour of mandatory reporting will become more compelling over time.

## **Over the hooks transactions and grading**

### **Recommendation 6: Objective carcass grading**

The industry, led by the processing sector, should allocate a high priority to the adoption of technology to enable objective carcass grading to be introduced as soon as possible. This will, of necessity, include the development of appropriate auditing and verification systems that instil confidence in the integrity of such systems.

### **Recommendation 7: Dispute resolution for OTH sales**

- Processors and buyers should review, and in many cases improve, their internal processes for responding to inquiries and complaints about OTH sales.
- Cattle processors should develop a uniform and independent complaints and dispute resolution process, with AUS-MEAT filling the role of an independent and binding arbitrator.

### **Recommendation 8: Auditing of carcass grading**

The industry should implement a more robust auditing system for carcass grading, with AUS-MEAT implementing random and unannounced audits in addition to the current audit regime. The result of these audits should be made publicly available on a regular and timely basis.

### **Recommendation 9: Carcass feedback and producer education**

- a. All buyers and agents should consider whether carcass grading feedback can be improved.
- b. Buyers, agents, and producer representative bodies (led by the Cattle Council) should increase their communication and education surrounding the current grading and feedback system to ensure that producers better understand cattle market trends and why some cattle attract a premium compared to others.

## **Conduct in cattle markets**

### **Recommendation 10: Saleyard buyer register**

The ACCC encourages the introduction of a mandatory Buyers Register to be publicly available prior to the commencement of all physical livestock auctions. This register should include details of commission buyers and livestock agents intending to bid at the sale and the principals that those commission buyers will be acting for.

ALPA should work with its members to have this requirement incorporated into auction terms and conditions at saleyards.

**Recommendation 11: Terms of sales at auctions**

Selling agents should display the terms of auction in a conspicuous position at all saleyards. This should include a notice about the penalties for collusive practices under the CCA, in addition to any notices required by state and territory legislation. The ACCC notes that many saleyards and agents are already demonstrating industry leadership by doing this.

**Recommendation 12: Reporting of saleyard buyers**

The ACCC encourages ALPA to provide information to MLA to enable the introduction of regular standardised market reports for each reported saleyard which include information about the identity of buyers, and the proportion of stock purchased by each buyer. This report should include the identity of the purchasing principal, as well as the identity of the successful bidder.

**Recommendation 13: Livestock agent licensing**

Legislation should be introduced requiring standardised national licensing of livestock agents and professional buyers (applying to commission and salaried buyers), in order to raise the levels of CCA compliance and general professionalism within the industry.

**Recommendation 14: Implementation of recommendations**

The ACCC encourages the Agriculture Ministers meeting (AGMIN) to consider the above recommendations, particularly with a view to monitoring their implementation. This will be especially important to ensure that recommendations are progressed, given the diverse industry interests. Ministers may wish to consider alternative approaches if progress is not made.

# Future ACCC work

## Future assessments of competition

When assessing future mergers and acquisitions in cattle and beef markets, the ACCC will continue to take into account factors which this market study has found to influence competitive dynamics and the existence of buyer power. In particular:

- transport costs
- the size of cattle farms, and their ability to switch to produce different breeds and weight ranges of cattle
- the extent of excess processing capacity within geographic markets
- factors which constrain a processor's ability to transact or process different types of cattle, including long-term service-kill contracts.

The above factors would also be relevant to investigations of anti-competitive conduct allegations, including the misuse of market power or agreements which may have the effect of substantially lessening competition.

## Investigations of alleged anti-competitive conduct

Various allegations have been raised with the ACCC through the course of the market study. The ACCC is presently assessing specific allegations of:

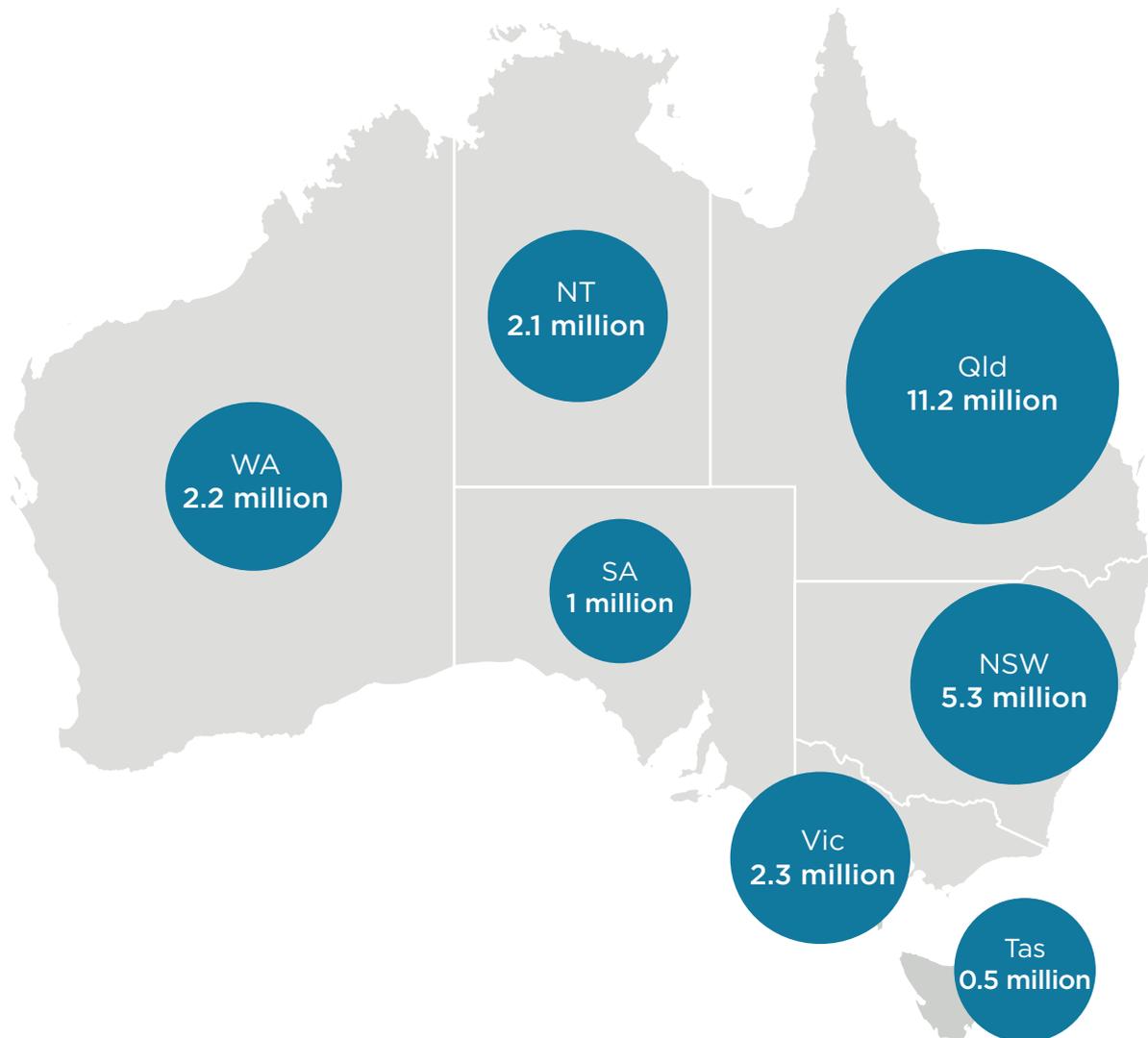
- An agreement between vertically integrated livestock agency and saleyard business which is alleged to have the purpose and/or the effect of foreclosing rival livestock agents from a saleyard
- Bid-rigging in saleyard auctions at an east coast saleyard.

The ACCC will continue to monitor concerns about collective behaviour by cattle buyers, including cattle purchasing boycotts designed to alter industry practices, and concerted practices in cattle acquisition markets.

# 1 Industry Background

The beef cattle industry, including slaughter and live exports, is the single largest contributor to Australian agriculture, with a gross value of production of \$11 billion in 2014–15.<sup>1</sup> The national herd, estimated at around 25 million head in 2014–15, is largely concentrated in the eastern states, as shown in figure 1.1.<sup>2</sup>

**Figure 1.1: Australian cattle numbers by state**



Source: Australian Bureau of Statistics, *Agricultural commodities, Australia, 2014–15*, cat. no. 7121.0, ABS, Canberra 2016.

## 1.1 The cattle supply chain and activities

The Australian Competition and Consumer Commission (ACCC) understands that the majority of Australian beef cattle producers are cow-calf operators, maintaining a herd of breeding cows and a relatively small number of bulls for the production of calves for later sale. Australian cattle are predominantly raised on pasture, with some animals entering feedlots for relatively brief periods to be finished to slaughter weight on grain.

1 Australian Bureau of Agricultural and Resource Economics and Sciences, *Agricultural commodities, September quarter 2016*, vol. 6 no. 3, ABARES, Canberra, 2016.

2 Australian Bureau of Statistics, *Agricultural commodities, Australia, 2014–15*, cat. no. 7121.0, ABS, Canberra 2016.

Individual circumstances, such as location, climate, farm size, production system and access to sales channels and industry infrastructure have a significant influence on farmers' production and sales decisions. However, the progression of an animal through the supply chain is broadly outlined in Figure 1.2, with some common production and selling options for calves and cattle listed below.

### 1.1.1 There are multiple production and sales options for cattle

Vealers and weaners (calves that have been weaned from milk to grass or grain) can be sold to processors for the production of veal, and to restockers (other cattle producers) for growing out to higher weights for later sale, or herd expansion and replacement. Alternatively calves can be retained by producers for breeding purposes, whether to expand the breeding herd or replace older animals, or for growing out to higher weights.

### 1.1.2 Production and sales options for grown out cattle vary with weight

Cattle can be grown to various weights before sale to lot feeders, restockers, major supermarket chains, live exporters and processors, with sale weight determined by target market and seasonal conditions. However, in general, the number of potential selling options available to producers declines as animal weight increases.

- Lot feeders: generally purchase relatively lightweight young cattle, to meet customer needs and maximise the margin captured from feeding cattle to slaughter ready weight (see Box 4.1 for more information on the lot feeding industry).
- Restockers: purchase cattle of various weights to meet different needs. If intending to feed cattle to slaughter weight, restockers are likely to purchase relatively light animals. However, unlike lot feeders, they may purchase heavier cattle if seasonal and market conditions allow. This reflects the relatively low input costs of pasture feeding compared with grain, and reduced reliance on the long-term supply arrangements commonly used in the feedlot sector. Restockers may also purchase grown out cattle of various weights for herd expansion or replacement purposes.
- Major supermarket chains: purchase relatively lightweight young cattle of specific weight and quality characteristics, largely from feedlot operators. Cattle are slaughtered by accessing service kills from major processors (see Chapters 2 and 3 for more information on major supermarket chains).
- Live exporters: operators supplying Australia's largest market, Indonesia, are restricted by a 350kg live weight imposed by the importing government. However, smaller volumes of heavier cattle are purchased for export to markets without weight restrictions, such as Vietnam, the Philippines and Malaysia (see Box 1.2 for more information on the Australian live cattle industry).
- Processors: purchase cattle of various weights, in addition to other carcass characteristics (see Chapter 3 for more information on the variation of cattle specifications by market), to meet customer needs. Abattoirs operated by major processors are able to slaughter cattle of all weights; this flexibility allows processors to adapt to changes in market demand and cattle supply. Processors sell beef to wholesalers and exporters and also market products directly into both domestic and export markets.
- Producers may also retain ownership of finished cattle, accessing service kills offered by some processors, before selling beef to wholesalers and exporters or directly into domestic or export markets.

### 1.1.3 Seedstock operations (cattle breeders) produce purebred cattle with superior genetics

Seedstock producers breed cattle to improve physical and behavioural characteristics, such as such as meat quality, yield, muscling, feed conversion, and temperament. Operators may sell bulls, cows or calves, offer stud services, or sell genetic material (including embryos and semen) for use in artificial insemination. Customers of breeding operators include cattle producers seeking to improve herd performance, other cattle breeders and export markets (including shipments of live cattle and genetic material).

### 1.1.4 Vertical integration is not a significant feature of the cattle and beef industry

A number of firms are engaged in multiple parts of the beef supply chain, with varying degrees of vertical integration. Vertical integration can lead to efficiencies but it may also raise competition concerns, if a firm has the ability and incentive to anti-competitively exclude rivals from accessing a market.

Larger firms are more likely to operate at multiple points of the supply chain than smaller ones, reflecting significant capital requirements and an ability to achieve greater efficiency gains. The ACCC is not aware of any enterprises that operate a fully integrated supply chain.

Australia's two largest processors, JBS and Teys, have partially integrated supply chains, with feedlot (and in the case of Teys, breeding) operations in addition to processing facilities. However, the ACCC understands that these operations account for a relatively small proportion of cattle slaughter, with both companies reliant on other cattle producers for throughput. This is in contrast to the United States, where major processors source significant volumes of cattle from company-owned feedlots (see Chapter 4 for more information on the US cattle production system).

Mid-tier processors and large cattle producers often have some degree of vertical integration, whether to supply beef for all markets, or particular lines of branded products. Some examples of these operations include:

- Australian Country Choice (ACC): a major supplier of shelf-ready cuts to Coles. The company operates a number of properties across Queensland for breeding, backgrounding and lot feeding cattle to Coles' specifications. Finished cattle are processed to shelf-ready beef at ACC's facilities in Brisbane.<sup>3</sup> ACC is not fully vertically integrated, making significant purchases of both restocker and feeder cattle.
- Stanbroke Pastoral: produces cattle for branded beef product lines, serving international and domestic markets. Cattle are bred on company-owned properties, primarily in northern Queensland, before being transferred to the south of the state for backgrounding, grain finishing and processing at Stanbroke Pastoral facilities.<sup>4 5</sup> Stanbroke Pastoral is not a closed supply chain, purchasing restocker and feeder cattle from other sources.
- NH Foods: operates a vertically integrated supply chain for long-fed Angus and Wagyu cattle. Cattle are bred on a company-owned property on King Island before being shipped to southern Queensland for grain finishing and processing at NH Foods' facilities. In addition to this branded product line, NH Foods purchases cattle from producers to service a range of export and domestic markets and provides service kills.<sup>6</sup>
- AACo: produces cattle for a number of branded product lines, including Westholme Wagyu. The Westholme Wagyu program breeds and backgrounds cattle on AACo properties in Queensland and the Northern Territory before transferring animals to company-owned feedlots in Queensland. Cattle are then processed in south-east Queensland through service kills provided by major processors.<sup>7</sup>

3 Condon J, *Beef Central profiles Australia's 25 largest lotfeeders*, Beef Central, 20 February 2015, viewed on 14 October 2016, [www.beefcentral.com/features/top-25/lot-feeders/beef-central-profiles-australias-25-largest-lotfeeders/](http://www.beefcentral.com/features/top-25/lot-feeders/beef-central-profiles-australias-25-largest-lotfeeders/)

4 Stanbroke, *The Stanbroke story*, Stanbroke, 2016, viewed on 14 October 2016, [stanbroke.com/the-stanbroke-story/](http://stanbroke.com/the-stanbroke-story/)

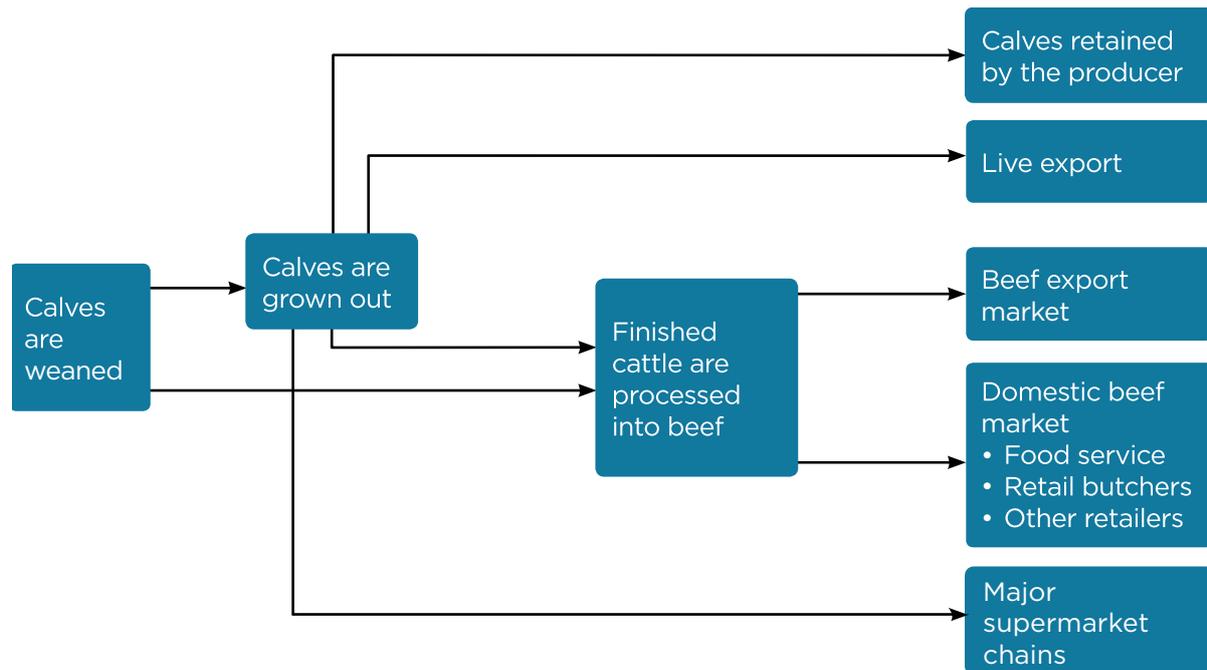
5 Condon J, *Beef Central profiles Australia's 25 largest lotfeeders*, Beef Central, 20 February 2015, viewed on 14 October 2016, [www.beefcentral.com/features/top-25/lot-feeders/beef-central-profiles-australias-25-largest-lotfeeders/](http://www.beefcentral.com/features/top-25/lot-feeders/beef-central-profiles-australias-25-largest-lotfeeders/)

6 NH Foods, *Whyalla Beef*, NH Foods, 2016, viewed on 14 October 2016, [www.nh-foods.com.au/whyalla-beef/](http://www.nh-foods.com.au/whyalla-beef/)

7 Australian Agricultural Company, *From the Station*, AACo, 2016, viewed on 14 October 2016, [westholme.com.au/from-the-station/](http://westholme.com.au/from-the-station/)

Concerns have been raised during the Cattle and Beef Market Study about the effect on competition (and hence prices) of processors vertically integrating through feedlot operation. According to the Australian Lot Feeders' Association processors operate a small number of large scale feedlots, accounting for around 22 per cent of Australian feedlot capacity.<sup>8</sup> In addition, information provided to the ACCC demonstrates that Australia's largest processors source a relatively small share of total slaughter from company owned feedlots. This suggests that the operation of feedlots by processors does not have a significant effect on competition, and hence prices for livestock in slaughter ready markets. However, processor involvement in grain finishing may provide some additional competition in the market for feeder cattle.

**Figure 1.2: Australian cattle and beef supply chain**



**Box 1.1: The Australian cattle lot feeding industry has expanded significantly over the past 25 years**

In 2014-15, around 2.8 million cattle were finished to slaughter weight in Australian feedlots. Queensland is the largest producer of grain finished cattle, accounting for almost 57 per cent of turnoff in 2015, with feedlots largely located in the south-east of the state. This reflects the region's proximity to inputs, such as grain, water and feeder cattle, and processing facilities. New South Wales is the second largest producer, accounting for around 30 per cent of turn off, followed by Victoria (7 per cent), South Australia (4 per cent) and Western Australia (3 per cent).<sup>9</sup>

Cattle entering a feedlot are fed a grain based ration for between 50 and 120 days on average, with some long fed cattle destined for the Japanese market fed up to 650 days.<sup>10,11</sup> The ACCC understands that feedlot operators typically source young cattle for feeding through paddock sales, saleyards, price grids and from company-owned breeding properties. In addition to buying young cattle for finishing, operators may also offer fee-for-service feeding to producers and processors, known as custom feeding.

8 Australian Lot Feeders' Association, 'Submission in response to the Senate inquiry into the "Effect of market consolidation on the red meat processing sector"', submission 46 to Senate Inquiry *Effect of market consolidation on the red meat processing sector*, ALFA, Sydney, 2015.

9 Meat and Livestock Australia, *Lot Feeding Brief, June Quarter 2016*, MLA, Sydney, 2016.

10 Australian Lot Feeders' Association, *What happens on a feedlot*, ALFA, Sydney, 2014.

11 Australian Wagyu Association, *Marbling*, AWA, Armidale, viewed 12 October 2016, [www.wagyu.org.au/marbling/](http://www.wagyu.org.au/marbling/)

The feedlot sector has developed rapidly over the last two decades. Between 1992 and 2015 the share of Australian cattle slaughter sourced from feedlots rose from 8 per cent to 30 per cent.<sup>12</sup><sup>13</sup><sup>14</sup> This increase has been driven by strong demand growth from both the domestic and export markets, particularly Japan.

Japan is the major international market for Australian grain fed beef, accounting for more than half of the 264 000 tonnes exported in 2015 (shipped weight).<sup>15</sup> Demand from Japan largely reflects consumer preferences for the high levels of marbling and fat colour that are produced through grain finishing.<sup>16</sup> Other export markets include the Republic of Korea, China and United States, although these destinations are considerably smaller than Japan. Domestic demand for grain fed beef is largely driven by the major supermarket chains, sourcing around 80 per cent of their cattle from the feedlot sector.<sup>17</sup> The consistent quality, cut size and volume provided by grain finishing allow major supermarkets to make a consistent product offering to consumers (see Chapter 2 and 3 for more information on the domestic market and major supermarket chains).

## 1.2 Property location influences cattle production systems and target markets

The location of a beef cattle farm has a significant bearing on the production system, size of operation and end market. Broadly speaking the industry can be separated into two production regions, northern and southern, reflecting differences in climate, pasture, industry infrastructure and proximity to markets. The northern region includes Queensland, the Northern Territory and the northern half of Western Australia, with the southern region including the remaining states and the southern half of Western Australia.<sup>18</sup>

Farms in northern Australia are characterised by tropical climates with pasture reliant on monsoon rainfall that can be highly variable within and between seasons (see Chapter 2 for more information on the effect of climatic conditions on production and prices). Farms in this region are generally larger than in the southern region, with significantly lower stocking rates to accommodate lower quality pasture while maintaining sufficient scale to be profitable. The need for large scale operations and a lack of production alternatives also means that producers in the northern region tend to be beef cattle specialists.<sup>19</sup>

The tropical climate also affects the type of cattle produced in the region, with farmers favouring cattle with traits derived from *Bos Indicus* breeds such as Brahman. These traits are valued by northern producers largely because these cattle perform better in the higher temperatures associated with the tropical climate, lose less condition when transported long distances, and possess greater tick resistance.<sup>20</sup> However, beef from cattle with a high *Bos Indicus* content is generally considered to be of lower eating quality.<sup>21</sup>

12 Department of Agriculture and Water Resources, 'Meat consolidation and the red meat processing sector', submission 74 to Senate Inquiry *Effect of market consolidation on the red meat processing sector*, DAWR, Canberra, 2015.

13 Australian Bureau of Statistics, *Livestock and Meat, Australia, Aug 2016*, cat. no. 7218.0.55.001, ABS, Canberra, 2016.

14 Australian Lot Feeders' Association, *Quarterly Feedlot Survey Results, October - December 2015*, ALFA, Sydney, 2015

15 Meat and Livestock Australia, *Grainfed beef exports trump previous record*, 19 January 2016, viewed on 14 October 2016, [www.mla.com.au/Prices-markets/Market-news/Grainfed-beef-exports-trump-previous-record](http://www.mla.com.au/Prices-markets/Market-news/Grainfed-beef-exports-trump-previous-record)

16 Obara k, McConnell M & Dyck J, *Japan's Beef Market*, USDA ERS, Washington D.C., 2010.

17 Australian Lot Feeders' Association, 'Submission in response to the Senate inquiry into the "Effect of market consolidation on the red meat processing sector"', submission 46 to Senate Inquiry *Effect of market consolidation on the red meat processing sector*, ALFA, Sydney, 2015.

18 Gleeson T, Martin P & Mifsud C, *Northern Australian beef industry, Assessment of risks and opportunities*, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra, 2012.

19 Martin P, *Australian beef, Financial performance of beef cattle producing farms, 2012-13 to 2014-15*, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra, 2015.

20 Gleeson T, Martin P & Mifsud C, *Northern Australian beef industry, Assessment of risks and opportunities*, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra, 2012.

21 Meat and Livestock Australia, *The effect of tropical breeds on beef eating quality*, MLA, Sydney, 2011.

The northern cattle industry is significantly more export oriented than southern producers, largely reflecting the lower eating quality of Bos Indicus cattle. Around 85 per cent of beef produced in the region is exported, with the US manufacturing market a major outlet.<sup>22</sup> High quality beef is also produced in the region, largely in south-eastern Queensland, where producers have access to higher quality pastures and feedlots (see Box 1.1 for more information on the Australian lot feeding industry), supplying high-end markets, such as Japan, the United States and the domestic market.<sup>23</sup> In addition to beef production, the northern cattle region accounts for the majority of live cattle exports (see Box 1.1 for more information on the live cattle industry). In 2014–15, more than 1 million head of cattle were exported from northern ports.<sup>24</sup>

In the southern cattle region, farms are generally of smaller size with higher stocking rates, reflecting more consistent rainfall, the introduction of improved pastures and access to fodder for supplementary feeding.<sup>25</sup> Beef cattle producers in the southern region are also more likely to be engaged in other agricultural activities, such as grain or sheep production.<sup>26</sup> Bos Taurus breeds, such as Hereford and Angus, are preferred by southern producers, largely because of superior eating quality. As a result, beef produced in the southern region is directed to the domestic and higher value export markets (see Chapter 3 for more information on domestic and export markets).<sup>27</sup>

### **Box 1.2: Live cattle exports provide an important outlet for producers in northern Australia**

Australia's live cattle trade can be separated into two streams: animals exported for breeding purposes, and those that are slaughter ready or require further feeding before slaughter. In 2014–15, around 1.3 million head of feeder/slaughter cattle were exported, valued at \$1.2 billion. In comparison, trade in breeder cattle is relatively small, with around 83 000 head valued at \$192 million shipped in 2014–15.<sup>28</sup> Victoria accounts for around 80 per cent of breeder cattle exports, largely reflecting a significant trade in dairy cows and heifers to China.<sup>29</sup> For the purposes of this market study, the ACCC has focussed on the feeder/slaughter market because of the importance of the trade to producer returns in northern Australia (Figure 4.2).

Producers in northern Australia, particularly those in the northern parts of Western Australia and the Northern Territory, account for the majority of live feeder/slaughter cattle exports. This reflects the region's proximity to major markets and ability to profitably produce relatively lower value cattle demanded by importers. The ACCC understands that live exporters source cattle largely through paddock sales, aggregating purchases in yards located close to ports for a pre-shipment quarantine period.

22 Gleeson T, Martin P & Mifsud C, *Northern Australian beef industry, Assessment of risks and opportunities*, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra, 2012.

23 Meat and Livestock Australia, *Production of Australian Beef*, MLA, Sydney, 2012, viewed on 18 October 2016, [www.australian-meat.com/Foodservice/Proteins/Beef/Production\\_of\\_Australian\\_Beef/](http://www.australian-meat.com/Foodservice/Proteins/Beef/Production_of_Australian_Beef/)

24 Meat and Livestock Australia, *LiveLink, Live export statistics, August 2015*, MLA, Sydney, 2015.

25 Martin P, *Australian beef, Financial performance of beef cattle producing farms, 2012–13 to 2014–15*, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra, 2015.

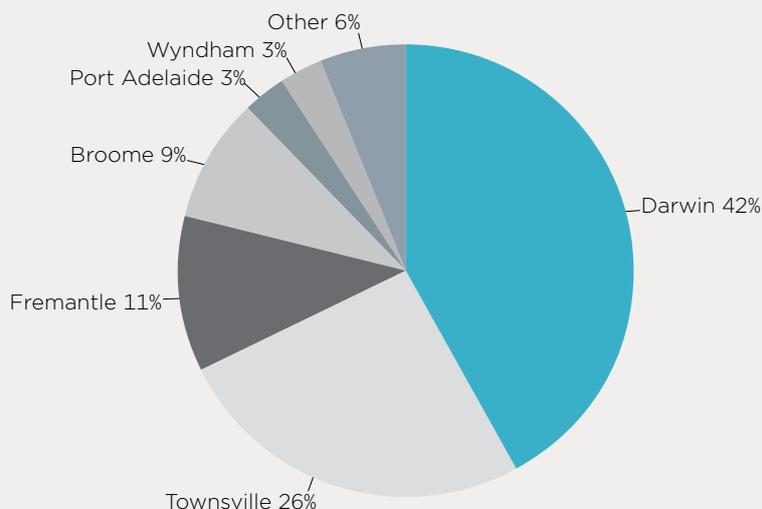
26 Ashton D, Oliver M & Valle H, *Australian beef, Financial performance of beef cattle producing farms, 2013–14 to 2015–16*, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra, 2016.

27 Meat and Livestock Australia, *Production of Australian Beef*, MLA, Sydney, 2012, viewed on 18 October 2016, [www.australian-meat.com/Foodservice/Proteins/Beef/Production\\_of\\_Australian\\_Beef/](http://www.australian-meat.com/Foodservice/Proteins/Beef/Production_of_Australian_Beef/)

28 Australian Bureau of Agricultural and Resource Economics and Sciences, *Agricultural commodities, September quarter 2016*, vol. 6 no. 3, ABARES, Canberra, 2016.

29 Department of Agriculture and Water Resources, *Livestock Exports by Market*, DAWR, Canberra, viewed on 12 October 2016, [www.agriculture.gov.au/export/controlled-goods/live-animals/live-animal-export-statistics/livestock-exports-by-market](http://www.agriculture.gov.au/export/controlled-goods/live-animals/live-animal-export-statistics/livestock-exports-by-market)

**Figure 1.3: Live feeder/slaughter cattle exports by port, 2015**



Note: Shares exclude feeder/slaughter cattle exports in October 2015; ABS did not publish exports by port for that month  
 Source: Meat and Livestock Australia, *LiveLink, Live export statistics, July 2016*, MLA, Sydney, 2015.

Australia's largest market for live feeder/slaughter cattle exports is Indonesia, accounting for around 60 per cent of shipments in 2014–15. Other major markets in 2014–15 included Vietnam (24 per cent), Israel (5 per cent) and Malaysia (4 per cent).<sup>30</sup> The development of the live cattle trade largely reflects the emergence of South-East Asian economies in the 1980s. Strong income growth in these countries supported improved living standards and increased consumer spending on discretionary items, such as protein. Reflecting this increase in demand for protein, live cattle exports to Indonesia rose from less than 8 000 head in 1990–91, when trade began, to around 740 000 head in 2014–15.<sup>31,32</sup> Despite the increase in regional demand for protein, there has not been a significant increase in demand for processed beef. This reflects cultural and religious traditions, a lack of refrigerated infrastructure and distribution and, in the case of Indonesia, government policy.<sup>33</sup>

The Indonesian Government restricts live imports to lightweight cattle that require finishing to slaughter weight in domestic feedlots while controlling volumes through a permit system. These measures aim to support the profitability of domestic beef producers as part of wider government efforts to improve self-sufficiency in food production.<sup>34</sup> In response to these restrictions, producers in northern Australia have developed alternative outlets for cattle that fall outside Indonesian specifications. These include other live export markets, most notably Vietnam, and the construction of processing facilities near Darwin and Broome, primarily supplying markets in South-East Asia and manufacturing beef to the United States.<sup>35,36</sup>

30 Australian Bureau of Agricultural and Resource Economics and Sciences, *Agricultural commodity statistics*, ABARES, Canberra, 2015.  
 31 Gleeson T, Martin P & Mifsud C, *Northern Australian beef industry, Assessment of risks and opportunities*, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra, 2012.  
 32 Australian Bureau of Agricultural and Resource Economics and Sciences, *Agricultural commodity statistics*, ABARES, Canberra, 2015.  
 33 Gleeson T, Martin P & Mifsud C, *Northern Australian beef industry, Assessment of risks and opportunities*, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra, 2012.  
 34 Australian Bureau of Agricultural and Resource Economics and Sciences, *Agricultural commodities, September quarter 2015*, vol. 5 no. 3, ABARES, Canberra 2015.  
 35 Condon J, *New Broome abattoir blazes a trail for northern Australian beef processing*, Beef Central, 9 September 2016, viewed on 18 October 2016, [www.beefcentral.com/processing/new-broome-abattoir-blazes-a-trail-for-northern-australian-beef-processing-pictures/](http://www.beefcentral.com/processing/new-broome-abattoir-blazes-a-trail-for-northern-australian-beef-processing-pictures/)  
 36 Brann M, *Beef from AACo's new abattoir in the Northern Territory exported to Hong Kong*, ABC Rural, 23 February 2015, viewed on 18 October 2016, [www.abc.net.au/news/2015-02-23/aaco-livingstone-beef-exported-to-hong-kong/6177312](http://www.abc.net.au/news/2015-02-23/aaco-livingstone-beef-exported-to-hong-kong/6177312)

### 1.3 Differences between small and large scale producers

Beef cattle production is the most common agricultural activity undertaken by Australian farmers, with more than half of a total 123 000 farms engaged in the industry.<sup>37</sup> Farms engaged in beef cattle production manage more than 75 per cent of Australia's agricultural land.<sup>38</sup>

For the purposes of this market study, the ACCC will use the definitions of industry activity used by ABARES for the analysis of farm performance. ABARES considers broadacre farms (including livestock and cropping) with an estimated value of agricultural output of more than \$40 000 to be 'commercial enterprises'. Of the almost 54 000 broadacre farms considered to be commercial enterprises in 2014–15, around half (or 26 670 farms) had at least 100 cattle on hand and were defined as beef producers.<sup>39</sup> Although classified as beef producers, farms with more than 100 head of cattle may also be engaged in other agricultural activities such as cropping or sheep production. As a result, ABARES makes a further distinction between specialist and non-specialist beef producers, with specialist producers earning more than half of total farm receipts from cattle sales. Around two-thirds of beef cattle producing farms are defined by ABARES as specialists.<sup>40</sup>

#### 1.3.1 Location, farm and herd size vary

As described above, average herd size differs significantly between northern and southern Australia (Table 1.1). The southern producing region is characterised by a large number of relatively small-scale farms. In the three years ending 2014–15, farms in southern Australia had an average herd size of 412 head and an average area of almost 6 000 hectares. In addition, more than 90 per cent of the region's farms had a herd of between 100 and 800 head on average, with these farms accounting for almost two thirds of the region's cattle population.

In contrast, the majority of cattle in the northern region are held on a relatively small number of very large properties. In the three years ending 2014–15, around 40 per cent of farms had herds of more than 800 head, accounting for around 85 per cent of the region's cattle population. Over the same period, average herd size in northern Australia was 1 576 head with an average farm size of almost 23 500 hectares.<sup>41</sup>

**Table 1.1: Beef cattle farms by herd size, 3-year average 2012–13 to 2014–15**

Beef heard size	Northern Australia		Southern Australia	
	Number of farms	Share of beef cattle	Number of farms	Share of beef cattle
100 to 200 head	1 206	1%	6 500	12%
200 to 400 head	1 765	4%	7 279	26%
400 to 800 head	2 073	9%	3 657	26%
800 to 1 600 head	1 378	12%	1 081	14%
1 600 to 5 400 head	1 606	32%	476	17%
More than 5 400 head	389	42%	42	4%
Total	8 417	100%	19 035	100%

Note: Figures may not add due to rounding

Source: Australian Bureau of Agricultural and Resource Economics and Sciences, *Farm survey data for the beef, slaughter lambs and sheep industries*, ABARES, Canberra, viewed on 14 October 2016, apps.daff.gov.au/mla/

<sup>37</sup> Australian Bureau of Statistics, *Agricultural commodities, Australia, 2014–15*, cat. no. 7121.0, ABS, Canberra 2016.

<sup>38</sup> Martin P, *Australian beef, Financial performance of beef cattle producing farms, 2012–13 to 2014–15*, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra, 2015.

<sup>39</sup> Ashton D, Oliver M & Valle H, *Australian beef, Financial performance of beef cattle producing farms, 2013–14 to 2015–16*, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra, 2016.

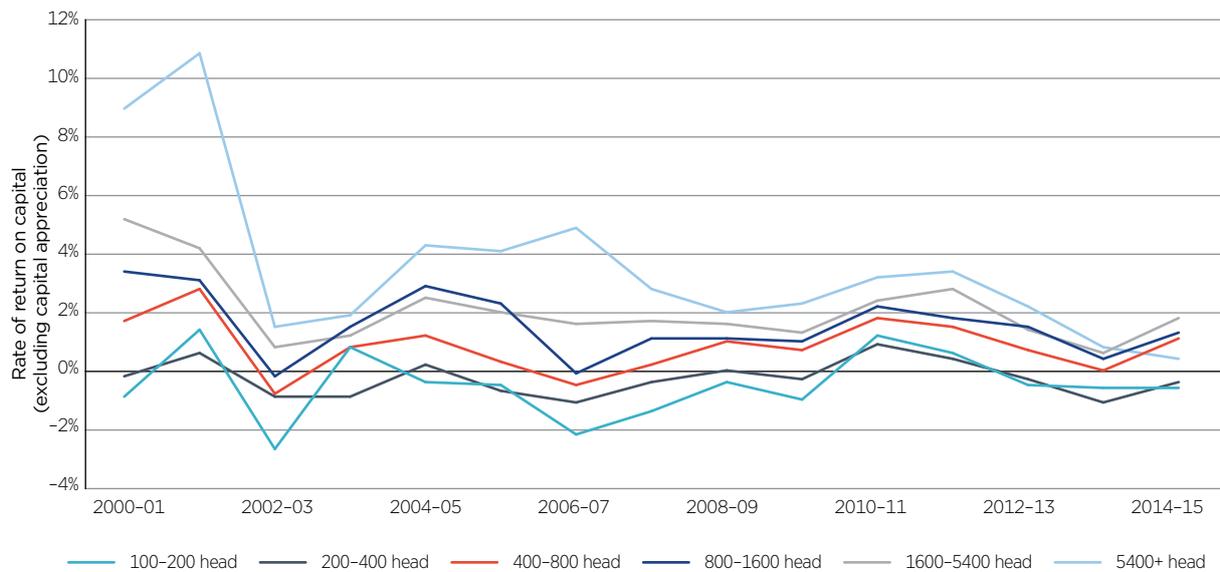
<sup>40</sup> Martin P, *Australian beef, Financial performance of beef cattle producing farms, 2012–13 to 2014–15*, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra, 2015.

<sup>41</sup> Australian Bureau of Agricultural and Resource Economics and Sciences, *Farm survey data for the beef, slaughter lambs and sheep industries*, ABARES, Canberra, viewed on 14 October 2016, apps.daff.gov.au/mla/

### 1.3.2 Farm profitability increases with scale

Generally, farm profitability is greater for producers with larger herds (Figure 1.4). Measured as the rate of return on capital excluding capital appreciation, farm profitability for beef producers with a herd of between 100 and 200 head averaged -0.5 per cent per annum in the 15 years to 2014–15. This compares with an average of 3.6 per cent per annum for farms with more than 5 400 head of cattle over the same period. On average, farms with a herd in excess of 400 head produced a positive return over the last 15 years (see Chapter 2 for more information on farm profitability).<sup>42</sup>

Figure 1.4: Rate of return on capital (excluding capital appreciation), by herd size



Source: Australian Bureau of Agricultural and Resource Economics and Sciences, Farm survey data for the beef, slaughter lambs and sheep industries, ABARES, Canberra, viewed on 14 October 2016, [apps.daff.gov.au/mla/](https://apps.daff.gov.au/mla/)

Reflecting the greater numbers of small-scale producers, the average rate of return on capital for the southern beef region was 0.8 per cent per annum in the 15 years to 2014–15. This compares with an average of 1.2 per cent per annum for northern beef producers over the same period.<sup>43</sup>

## 1.4 Buyers, sellers and the sales channels they use

### 1.4.1 There are several major cattle sales channels

Producers sell beef cattle through a number of channels, including saleyard and online auctions, and through direct arrangements with purchasers. Major sales channels include:

- **Saleyard auctions:** at its most basic, producers transport cattle to the saleyard for sale to the highest bidder on any given day, with change of ownership occurring at the conclusion of bidding on each pen of cattle. Although the basic process is the same, there are features of the selling system that can vary between saleyards. These include cattle weighing, curfews, the sale of prime (slaughter ready) and store cattle (used for further feeding and restocking) and bidding (cents per kilogram or dollars per head).
- **Paddock sales:** livestock are inspected on the producer's property by a buyer or agent and sold from the paddock. The change of ownership occurs as per the agreement made by seller and buyer, with cattle generally purchased on a dollars per head basis.
- **Over the hooks (OTH):** livestock are delivered by producers directly to processors, with change of ownership occurring when carcasses are weighed shortly after slaughter and trimming. The price the seller receives largely depends on carcass grade, which is undertaken

<sup>42</sup> Australian Bureau of Agricultural and Resource Economics and Sciences, *Farm survey data for the beef, slaughter lambs and sheep industries*, ABARES, Canberra, viewed on 14 October 2016, [apps.daff.gov.au/mla/](https://apps.daff.gov.au/mla/)

<sup>43</sup> Australian Bureau of Agricultural and Resource Economics and Sciences, *Farm survey data for the beef, slaughter lambs and sheep industries*, ABARES, Canberra, viewed on 14 October 2016, [apps.daff.gov.au/mla/](https://apps.daff.gov.au/mla/)

by processor employees against a price grid on a cents per kilogram basis (see Chapter 5 for more information on grading and price grids). Arrangements for OTH sales are made in advance of delivery, with sellers and buyers agreeing to lot size, delivery and price conditions.

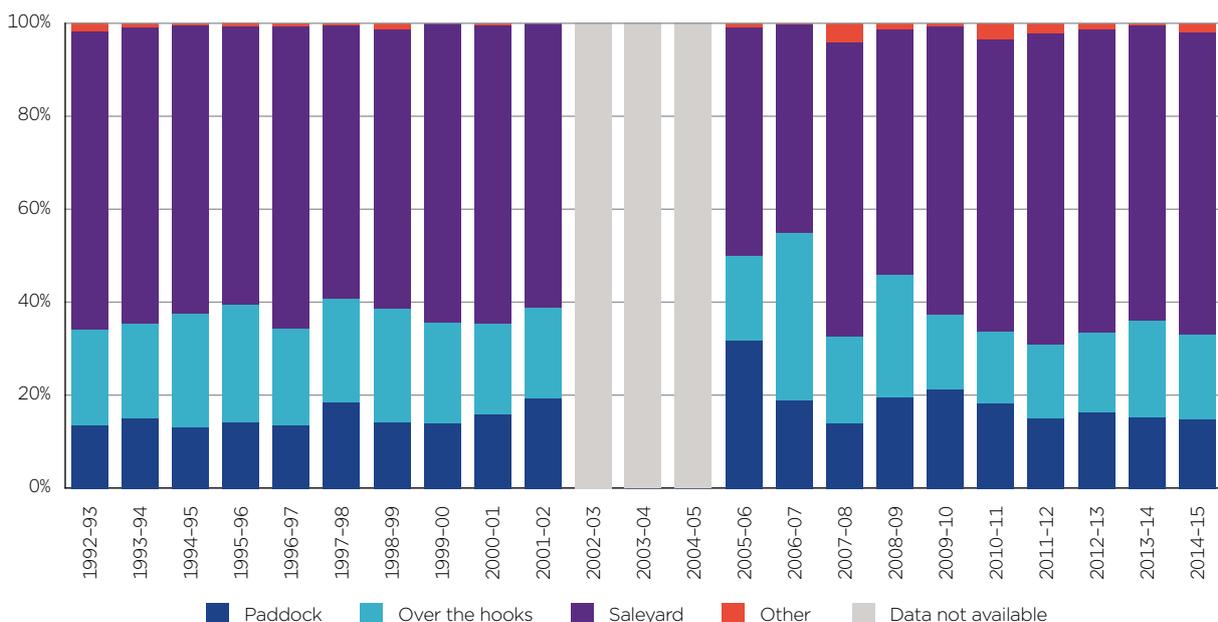
- In addition to processors, a number of lot feeders use a grid system for the purchase of feeder cattle, albeit significantly less complex than those used by processors.
- Online sales: livestock can be sold through an online auction platform, such as AuctionsPlus, livestreaming of physical saleyard auctions or direct purchases from producers, primarily stud sales. Direct purchases from producers and livestreamed saleyard auctions are extensions of the saleyard auction and paddock sales processes outlined above. However, AuctionsPlus differs from these two methods because cattle are assessed prior to sale by accredited personnel who provide a description and photographs of livestock for display online. The seller outlines sale terms, including bidding and collection conditions, prior to the auction, with results posted online immediately after completion.
- Forward contracts: arrangements to supply cattle of a particular quality and number to a buyer at a given time for an agreed price. Forward contracts can include various terms on delivery, change of ownership and pricing mechanisms, such as a pre-agreed price or price grid.

### 1.4.2 Preferred sales channels vary

In general, producers use the sales channel they believe will maximise the return on their livestock. However, their ability to do this is influenced by access to the selling method, the sale process, market specifications and buyer preferences.

In southern Australia, saleyard auctions account for almost two-thirds of total beef cattle sales (Figure 1.5), reflecting the relatively large numbers of small farms. However, the ACCC notes that Figure 1.5 includes sales of both store cattle and prime cattle, therefore it overstates the significance of saleyards in the sale of cattle to purchasers of prime cattle, the same is also true for Figure 1.6. Small farms are more likely to use auctions because they are generally located close to saleyards, (minimising freight costs) and produce and trade a relatively small number of multiple cattle types for store and prime markets.<sup>44</sup>

**Figure 1.5: Method of selling cattle, southern Australia**



Source: Australian Bureau of Agricultural and Resource Economics and Sciences, Farm survey data for the beef, slaughter lambs and sheep industries, ABARES, Canberra, viewed on 14 October 2016, [apps.daff.gov.au/mla/](http://apps.daff.gov.au/mla/)

44 Martin P, *Australian beef, Financial performance of beef cattle producing farms, 2012-13 to 2014-15*, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra, 2015.

In contrast, a much higher proportion of sales in northern Australia occur through OTH and paddock sales (Figure 1.6). This reflects the greater cattle numbers of similar quality that can be generated with larger herds, and the ability to reduce carcass damage and loss of meat quality by avoiding handling in saleyards.<sup>45</sup> In addition, a lack of infrastructure and distance reduces the ability of some producers, particularly in more remote areas, to access markets more commonly used in southern Australia, including saleyards and online sales.

**Figure 1.6: Method of selling cattle, northern Australia**



Source: Australian Bureau of Agricultural and Resource Economics and Sciences, *Farm survey data for the beef, slaughter lambs and sheep industries*, ABARES, Canberra, viewed on 14 October 2016, [apps.daff.gov.au/mla/](http://apps.daff.gov.au/mla/)

## 1.5 The Australian cattle processing sector has two major national processors and a large number of smaller operators

Buyer preferences also play a significant role in the use of sales channels for cattle.

Examples include:

- Live exporters: primarily source cattle through paddock sales, particularly in the northern parts of Western Australia and the Northern Territory, largely reflecting the need to secure large numbers of cattle in advance of shipment.
- Major processors: prefer to purchase cattle OTH because it allows for greater efficiency in operations by providing increased certainty over the type, number and delivery time of cattle. In addition, the use of price grids allows processors to send signals to the market about desired cattle characteristics to meet customer needs.
- Major supermarket chains: prefer forward contracts because they provide certainty of supply and allow supermarkets to make a consistent product offering to retail customers.

The Australian cattle processing sector has two major national processors and a large number of smaller operators. Australian cattle processors slaughtered just over 10 million cattle and calves in 2014-15, producing around 2.7 million tonnes of beef and veal.<sup>46</sup> Record cattle slaughter largely reflected increased turn off by drought affected producers and strong demand from export markets, particularly the United States. Queensland is the largest processing state, accounting for 43 per cent of total slaughter in 2014-15, followed by Victoria (23 per cent), New South Wales (22 per cent), South Australia (5 per cent), Western Australia (4 per cent) and Tasmania (3 per cent).<sup>47</sup>

<sup>45</sup> Ibid

<sup>46</sup> Australian Bureau of Statistics, *Livestock and Meat, Australia, Aug 2016*, cat. no. 7218.0.55.001, ABS, Canberra, 2016.

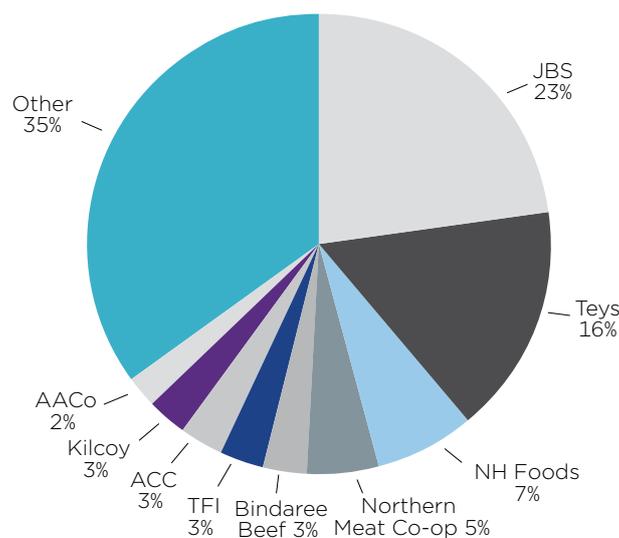
<sup>47</sup> Ibid

Australia's two largest processing firms, JBS Australia and Teys Australia, operate a number of sites across the eastern states, with abattoir and other processing infrastructure, such as boning rooms, cold storage and rendering plants (see Chapter 3 for more information on abattoir location). The ACCC estimates that JBS and Teys account for around 23 per cent and 16 per cent of total slaughter capacity, respectively (figure 1.7).

Following these two large operators are NH Foods, operating 3 abattoirs with a 7 per cent share of capacity, Northern Co-operative (1 abattoir, 5 per cent of total capacity) and Thomas Foods International (1 abattoir, 3 per cent of total capacity).<sup>48</sup>

Combined, the top five processing firms account for around 57 per cent of Australian slaughter, compared with 80 per cent for the largest five firms in the United States.<sup>49,50</sup>

**Figure 1.7: Shares of processor capacity, Australia**



Source: ACCC estimate

The number of processing plants and firms has declined significantly over the past 35 years. According to data published by the Australian Meat Industry Council (AMIC), around 90 abattoirs closed between 1980 and 2003, reflecting increased competition resulting from trade liberalisation, the withdrawal of state and local governments from abattoir operation, and consolidation of firms through acquisition and mergers.<sup>51</sup> A summary of major processor acquisitions and mergers over the past 30 years is included below (Table 1.2). Although the number of operators has reduced, the ACCC understands that overall capacity has increased as processors have sought to improve efficiency through scale.

48 ACCC estimates using data from Aus-Meat, Department of Agriculture and Water Resources, Meat and Livestock Australia and processor websites.

49 Department of Agriculture and Water Resources, 'Meat consolidation and the red meat processing sector', submission 74 to Senate Inquiry *Effect of market consolidation on the red meat processing sector*, DAWR, Canberra, 2015.

50 Rock A, *How safe is your ground beef?*, Consumer Reports, 21 December 2015, viewed on 14 October 2016, [www.consumerreports.org/cro/food/how-safe-is-your-ground-beef](http://www.consumerreports.org/cro/food/how-safe-is-your-ground-beef)

51 Australian Meat Industry Council, pers. Comms, 2016.

**Table 1.2: Major processor acquisitions and joint ventures**

<b>Year</b>	<b>Transaction</b>	<b>Beef and cattle assets involved</b>
1987	NH Foods acquires Oakey Abattoir	Processing plant at Oakey, Qld.
1990	NH Foods acquires Bothwicks	Processing plants at Bowen and Mackay, Qld.
1991	Cargill acquires Wagga Wagga abattoir	Processing plant at Wagga Wagga, NSW
1994	NH Foods acquires Wingham	Processing plant at Wingham, NSW
1998	Cargill acquires Tamworth	Processing plant at Tamworth, NSW
2002	Teys Bros. and Consolidated Meat Group enter joint venture	Processing plants at Naracoorte, SA, and Beenleigh, Biloela and Innisfail, Qld.
2007	JBS acquires Swift (Australian Meat Holdings)	Processing plants at Townsville, Rockhampton, Dinmore and Beef City, Qld Feedlots at Toowoomba and Mungindi, Qld, and Caroona, Griffith and Burraboi, NSW.
2008	JBS acquires Tasman Group	Processing plants at Devonport, Longford and King Island, Tas. and Yarrawonga, Cobram and Brooklyn, Vic. Feedlot at Yambinya, NSW
2010	JBS acquire Rockdale Beef	Co-located beef feedlot and processing plant at Yanco, NSW
2011	Teys Bros. and Cargill Beef Australia enter joint venture	Teys Bros: Processing plants at Rockhampton, Beenleigh and Biloela, Qld and Naracoorte, SA. Feedlot near Condamine, Qld. Cargill: Processing plants at Tamworth and Wagga Wagga, NSW. Feedlot at Stockinbingal, NSW.
2015	JBS acquires Primo Group	Processing plant at Scone, NSW

Note: A number of the facilities listed above are no longer operating or are now owned by another party.

The ACCC is aware of concerns that consolidation in the processing sector has reduced competition in cattle acquisition, resulting in lower prices for producers. Chapter 3 provides the ACCC's assessment of the current competitive environment among cattle buyers.

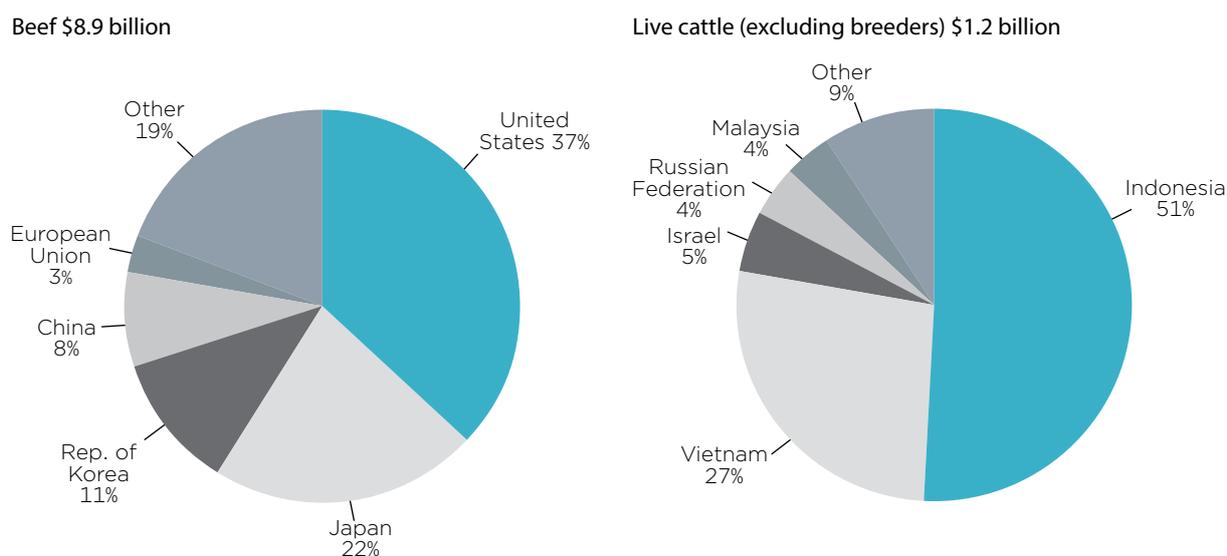
## 2 There are certain features of the cattle and beef industry that strongly influence competitive dynamics and prices

### 2.1 Australia's cattle and beef industry is export oriented, affecting producer and processor options and behaviours

The Australian beef cattle industry is significantly exposed to international markets. Around 70 per cent of total beef production is shipped to more than 100 destinations. In addition, more than 1 million head of live cattle (excluding breeding animals) are exported annually.<sup>52</sup> As a result, international markets are a major factor in determining prices for cattle, and hence producer returns.

In 2014–15 the United States was the largest market for Australian beef and veal exports, valued at \$3.2 billion, followed by Japan (\$1.9 billion) and the Republic of Korea (\$1 billion). For live cattle, shipments to Australia's largest markets, Indonesia and Vietnam, were valued at \$595 million and \$319 million respectively in 2014–15 (Figure 2.1).<sup>53</sup>

**Figure 2.1: Australia's major beef and live cattle export markets, 2014–15**



Source: Australian Bureau of Agricultural and Resource Economics and Sciences, *Agricultural commodity statistics*, ABARES, Canberra, 2015.

The quality, cut and slaughter method demanded can vary significantly between beef export markets, reflecting consumer preferences, income, cultural and regulatory factors. Significant exposure to fluctuations in demand from international markets, combined with varied customer requirements, mean that processors need to maintain operational flexibility. Some examples of international market variations include:

- United States: around two-thirds of Australian exports to the United States are of relatively low value manufacturing beef for use in the food service industry, particularly hamburger chains.<sup>54</sup> Processors supplying this market source cattle with a focus on price rather than quality, while producers often use this market to dispose of animals that are no longer desirable (e.g. because of age or herd structure).

<sup>52</sup> Australian Bureau of Agricultural and Resource Economics and Sciences, *Agricultural commodities*, September quarter 2016, ABARES, Canberra, 2016.

<sup>53</sup> Australian Bureau of Agricultural and Resource Economics and Sciences, *Agricultural commodity statistics*, ABARES, Canberra, 2015.

<sup>54</sup> Meat and Livestock Australia, *Market snapshot, United States*, MLA, Sydney, 2016.

- Japan: around half of Australian exports to Japan are of grain fed beef.<sup>55</sup> This reflects the relative efficiency of grain feeding in the development of high levels of intramuscular fat (marbling), which is preferred by Japanese consumers. Australian feedlot operators feed Wagyu, Wagyu crossbreeds and quality European cattle for around 115 days on average and up to 650 days for full blood Wagyu, supplying a range of beef markets including high end food service, retail outlets and quick service restaurants.<sup>56,57,58</sup>
- European Union: exports are largely high quality products servicing the high end food service sector and premium supermarket brands.<sup>59</sup> The need to meet quality and import requirements (most notably HGP-free status of cattle and lifetime traceability), results in processors sourcing cattle against stringent specifications, commonly through in-house quality assurance programs. These import and quality requirements also mean that cattle producers specialise in preparing animals for the EU market to a certain extent.
- Malaysia: exports to Malaysia must be slaughtered in accordance with Islamic law, commonly known as halal slaughter.<sup>60</sup> Processors supplying this market need to ensure that procedures are followed in accordance with Malaysian Government regulations, sourcing cattle based on client needs. The Malaysian market does not have unique quality and cut requirements for producers to target.

Although international markets are of major importance to Australian cattle producers, global trade in beef is relatively small compared with world production. In 2015, global trade accounted for around 16 per cent of world beef production, in carcase weight equivalent terms.<sup>61</sup> As a result, beef exporters are generally considered to be price takers because they do not control sufficient market share to influence prices. In addition, strong competition from major producing countries, including India, the United States, Brazil and other parts of South America (see Box 2.1 for more information on Australia's major competitors in world markets), together with fluctuations in exchange rates significantly affect prices received by exporters.

### Box 2.1: International competitiveness of Australian beef

Australian beef exporters face strong competition in international markets from major producing countries, particularly the United States and Brazil. Although Australia has a comparative advantage in the production of cattle, high processing and regulatory costs reduce the competitiveness of Australian beef on world markets.

Australia's comparative advantage in cattle production is largely due to a pasture based production system, which requires low input costs relative to the lot feeding system used extensively in the United States. Reflecting higher input costs, US steer prices averaged 40 per cent higher than equivalent Australian cattle over the last ten years in real terms (Figure 2.2). In contrast, Brazilian cattle prices were around 15 per cent lower than equivalent Australian prices over the same period.<sup>62</sup> Although Brazil also operates a pasture based production system, cattle prices are lower than Australia for a number of reasons.

55 Meat and Livestock Australia, *Market snapshot, Japan*, MLA, Sydney, 2016.

56 Australian Lot Feeders' Association, *Grass fed versus Grain fed beef*, ALFA, Sydney, 2013

57 Australian Wagyu Association, *Marbling*, AWA, Armidale, viewed 12 October 2016, [www.wagyu.org.au/marbling/](http://www.wagyu.org.au/marbling/)

58 Obara k, McConnell M & Dyck J, *Japan's Beef Market*, USDA ERS, Washington D.C., 2010.

59 Meat and Livestock Australia, *Market snapshot, European Union*, MLA, Sydney, 2016.

60 Halal Malaysia, *Recognition Procedure, Procedures for Appointment of Foreign Halal Certification Bodies*, Halal Malaysia, Putrajaya, viewed 12 October 2016, [www.halal.gov.my/v4/index.php/en/approve-international-bodies/accreditation-procedure](http://www.halal.gov.my/v4/index.php/en/approve-international-bodies/accreditation-procedure)

61 United States Department of Agriculture, *Production, Supply and Distribution database*, USDA, Washington D.C., viewed 12 October 2016, [apps.fas.usda.gov/psdonline/psdQuery.aspx](http://apps.fas.usda.gov/psdonline/psdQuery.aspx)

62 Meat and Livestock Australia, *Market information statistics database*, MLA, Sydney, viewed 13 October 2016, [statistics.mla.com.au/Report/List](http://statistics.mla.com.au/Report/List)

These include: the relatively low incomes of Brazilian consumers; the inferior eating quality of cattle raised (predominantly Bos Indicus breeds), and reduced export market access because of disease (particularly foot and mouth).<sup>63</sup>

**Figure 2.2: International cattle prices, real terms (2015 dollars)**



Notes: US steer, choice fed; Australian trade steer, average saleyard price; Brazilian steer, average saleyard price.

Sources: Australian Bureau of Statistics, *Consumer Price Index*, Australia, Jun 2016, cat. no. 6401.0, ABS, Canberra; Meat and Livestock Australia, *Market information statistics database*, MLA, Sydney, viewed 13 October 2016, [statistics.mla.com.au/Report/List](http://statistics.mla.com.au/Report/List).

Although Australia can produce cattle relatively cheaply, processing and regulatory costs erode this advantage. Processing costs in Australia are around \$300 a head, compared with \$150 in the United States and \$110 in Brazil.<sup>64</sup> Labour is the most significant component of Australian costs, accounting for 70 per cent of the total, followed by packaging and consumables, repairs, maintenance and energy.<sup>65</sup>

Hourly compensation costs for manufacturing workers in 2012 (the latest year data is available) were US\$47.68 for Australia, US\$35.67 in the United States and US\$11.20 in Brazil.<sup>66</sup> In addition, the relative standardisation of animals produced in the US feedlot sector and large domestic market means that processing is more efficient in the United States, reducing unit costs. The ACCC understands that large US abattoirs have throughput of around 400 head an hour, significantly faster than Australian operations.<sup>67,68</sup>

63 Oldfield J, *The Brazilian beef industry's slow climb could be a nightmare for Australia*, The Weekly Times, Melbourne, 29 March 2016, viewed on 13 October 2016, [www.weeklytimesnow.com.au/agribusiness/decisionag/the-brazilian-beef-industrys-slow-climb-could-be-a-nightmare-for-australia/news-story/89557e992a11ff036ca0812fa4b6a8be?nk=fc09259d99a56baf64e194e43ba95085-1476334178](http://www.weeklytimesnow.com.au/agribusiness/decisionag/the-brazilian-beef-industrys-slow-climb-could-be-a-nightmare-for-australia/news-story/89557e992a11ff036ca0812fa4b6a8be?nk=fc09259d99a56baf64e194e43ba95085-1476334178)

64 Beef Central, *Teys holds talks with AMIEU, as workers call for close to dispute*, Beef Central, 12 June 2013, viewed on 13 October 2016, [www.beefcentral.com/processing/teys-holds-talks-with-amie-u-as-workers-call-for-close-to-dispute/](http://www.beefcentral.com/processing/teys-holds-talks-with-amie-u-as-workers-call-for-close-to-dispute/)

65 Department of Agriculture and Water Resources, 'Meat consolidation and the red meat processing sector', submission 74 to Senate Inquiry *Effect of market consolidation on the red meat processing sector*, DAWR, Canberra, 2015

66 Bureau of Labor Statistics, *International comparisons of hourly compensation costs in manufacturing*, BLS, Washington D.C., 2012

67 Fitzgerald A, 'A Social History of the Slaughterhouse: From Inception to Contemporary Implications', *Human Ecology Review*, vol. 17, No.1 pp. 58-69, University of Windsor, Windsor 2010

68 Condon J, *Producers get a unique glimpse inside Macca's beef supply chain*, Beef Central, 14 August 2013, viewed on 13 October 2016, [www.beefcentral.com/news/producers-get-a-unique-glimpse-inside-maccas-beef-supply-chain/](http://www.beefcentral.com/news/producers-get-a-unique-glimpse-inside-maccas-beef-supply-chain/)

Feedback during this market study also suggested that government regulation is a significant cost to Australian processors, and the beef cattle industry more broadly. In particular, processors identified levies used to support industry research and development, employment and training of graders and costs associated with meat inspectors. These costs are borne by industry in Australia but substantial government support for the US and Brazilian industries significantly reduces this burden. The effect of government support on processor costs is reflected in a study by ProAnd Associates that found regulatory costs accounted for 3.8 per cent and 5.9 per cent of large and medium-scale processor revenue in Australia, compared with 2.3 per cent and 2.8 per cent of equivalent sized processors in the United States.<sup>69</sup>

## 2.2 Australia's domestic market is relatively small compared with other major beef producing countries

Unlike other major beef producing countries, the Australian domestic market is relatively small. In 2015, around 30 per cent of beef production was consumed domestically, compared with 90 per cent in the United States and 82 per cent in Brazil.<sup>70</sup> Australian consumers purchase beef through two broad sales channels; retailers, including supermarkets and butchers, and the food service sector, including restaurants, hotels and caterers (Figure 2.3).

Around 40 per cent of domestic beef sales occur in the food service sector.<sup>72</sup> This sector sources primal cuts (such as a striploin or rump that require further butchering before sale or use), ready to cook cuts (such as steaks) and other meat products (such as hamburger patties) for further preparation.

The remaining 60 per cent of domestic beef sales occur in the retail sector.<sup>73</sup> Major supermarket chains, butchers and other retailers source beef through a variety of means, including:

- Major supermarket chains source cattle directly from a relatively small number of specialised producers and access service kills from major processors. Further processing for shelf-ready cuts occurs at in-store butchers or company-owned boning rooms (see Box 2.1 for more information on the role of supermarkets in the beef supply chain).
- Butchers source beef directly from processors and wholesalers, in the form of carcasses or primal cuts, or access service kills from processors for the slaughter of cattle purchased in saleyards or directly from producers. Further processing for shelf-ready cuts, including manufactured products and ready meals, generally occurs onsite.
- Other retailers, such as smaller supermarket chains and independents, generally source shelf-ready cuts from wholesalers and processors. These retailers tend to focus less on further processing in-house or at company owned facilities, largely reflecting sales strategy and an absence of scale economies.

69 ProAnd Associates Australia, *Regulatory costs in the red meat and livestock industry*, ProAnd Associates, Sydney, 2016

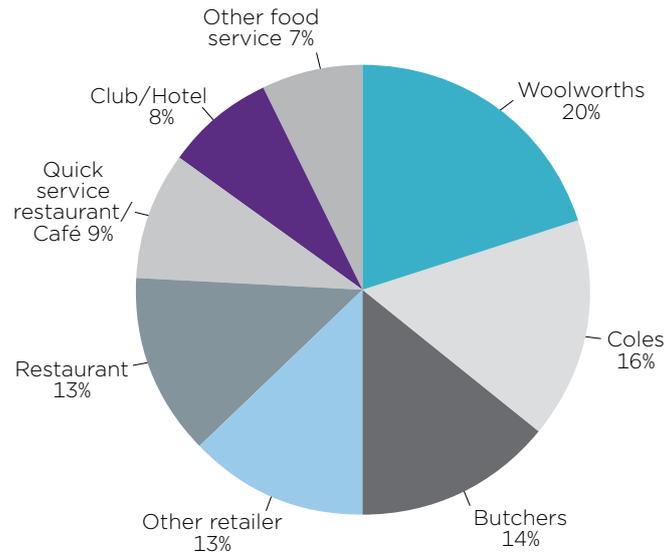
70 Australian Bureau of Agricultural and Resource Economics and Sciences, *Agricultural commodity statistics*, ABARES, Canberra, 2015.

71 United States Department of Agriculture, *Production, Supply and Distribution database*, USDA, Washington D.C., viewed 12 October 2016, [apps.fas.usda.gov/psdonline/psdQuery.aspx](https://apps.fas.usda.gov/psdonline/psdQuery.aspx)

72 Meat and Livestock Australia, *Market snapshot, Australia*, MLA, Sydney, 2016.

73 Ibid.

**Figure 2.3: Estimated share of domestic beef sales**



Notes: Other retailer includes Aldi, IGA, Costco and independent supermarkets; other food service includes aged care and catering.  
Source: ACCC estimate

The relatively small volume of domestic beef consumption suggests that the competitive dynamics of this market will have less impact on the prices and returns for the majority of Australian cattle producers than will international markets. Noting this, the ACCC recognises that the domestic beef market is important for some producers, including those supplying major supermarket chains and other customers, such as high end restaurants and specialty retailers.

### **Box 2.2: The role of the major supermarkets in domestic beef sales**

#### **Cattle acquisition**

Both major supermarket chains run buying programs that purchase cattle from producers through contract arrangements, paddock sales and saleyards. The majority of cattle are acquired under contract with long-term suppliers, reflecting the need to secure a steady supply of cattle to provide consistent products for sale. The need for consistency in the retailed product is also reflected in the specifications that Coles and Woolworths set for cattle they buy. In general, these cattle are relatively lightweight yearling steers and heifers, with limited Bos Indicus genetics, that have been finished for a minimum period on grain.

These requirements reflect consumer preferences for eating quality and cut size while ensuring that a consistent product is available to consumers over time and location. When contracted suppliers cannot meet demand, supermarket buyers purchase cattle through paddock sales and saleyards to make up any shortfall. Limited volumes of primal cuts and shelf-ready cuts are sourced direct from processors during shortages and periods of high demand or for specialty lines, such as organic beef.

#### **Cattle slaughter and beef processing**

Cattle purchased by the major supermarket chains are slaughtered through service kill arrangements with a number of processors across Australia. The resulting carcasses and primal cuts are sent to boning rooms or direct to in-store butchers for further processing into products such as shelf-ready cuts, ready meals and other value added products.

Access to service kills is generally secured through long-term contracts with processors, with agreed prices and guaranteed volumes. Supermarkets tend to engage large processors to provide these services because they have the capacity to process large volumes of cattle on a consistent basis. The ACCC is aware of two abattoirs, Teys Australia in Tamworth and

Australian Country Choice in Brisbane, where contracted volumes are sufficient for the plant to be dedicated to supermarket service kill customers.

### **Beef retailing**

Major supermarket chains retail a range of beef products, including shelf-ready cuts, ready meals and other value added products such as sausages and marinated cuts. The ACCC understands that the major supermarket chains prefer to offer a relatively consistent range of products over time and across locations to secure consumer loyalty

#### **2.2.1 Beef retailing**

The ACCC is aware of general concerns in the industry about the gap between the retail beef price and the prices producers receive for their cattle.

The ACCC has previously examined the relationship between prices paid to livestock producers and retail prices for red meat.<sup>74</sup> At the time, Coles provided information indicating that livestock acquisition accounted for 53 per cent of the end retail price, with processing and retailing costs accounting for a further 14 per cent and 30 per cent, respectively. This suggests that the margin achieved on retail beef sales was approximately 3 per cent in 2007.

In the current market study, the ACCC requested data to re-examine retailers' costs and revenues. The ACCC received some information, but this was not detailed enough to robustly analyse profit margins (noting that the ACCC does not have compulsory information gathering powers for this study).

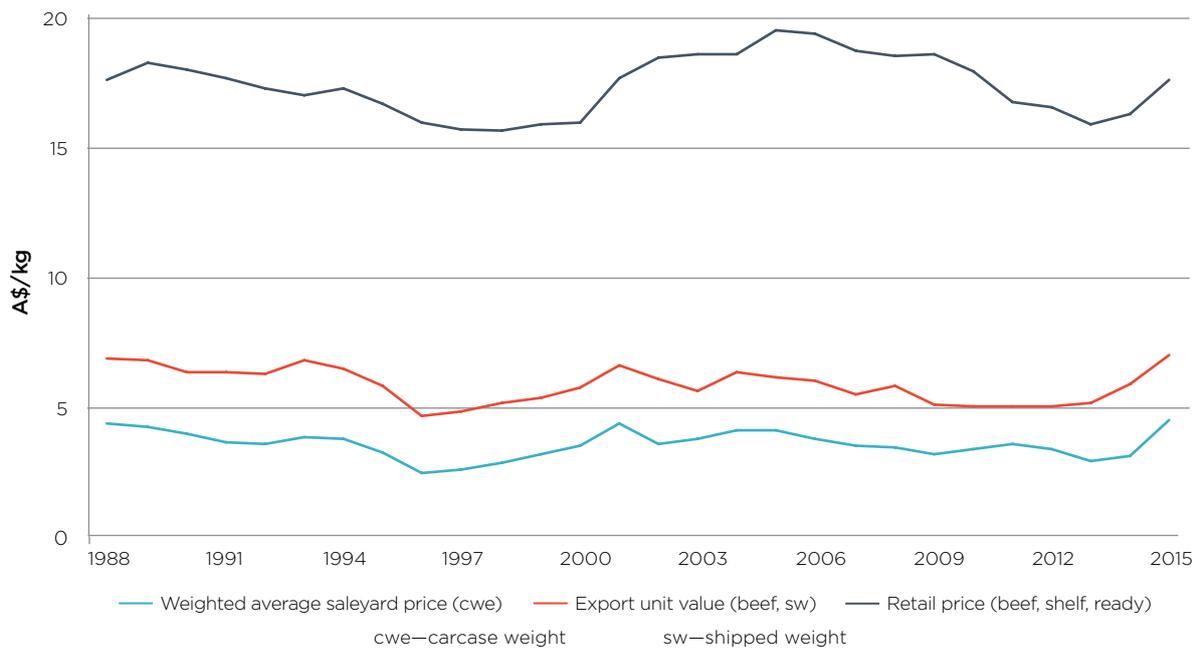
The ACCC has instead looked at the following publicly available information from ABARES and ABS:

- Weighted average saleyard prices per kg
- Export value per kg
- Retail price per kg

The movement of these indicators since 1988 is depicted in Figure 2.4 in real terms. The figure shows significant correlation between the weighted average saleyard price and the export unit value. It also shows a gap between the retail price and the export and retail price.

<sup>74</sup> Australian Competition and Consumer Commission, *Examination of the prices paid to farmers for livestock and the prices paid by Australian consumers for red meat; A report to the Minister for Agriculture Fisheries and Forestry*, Canberra, 2007

Figure 2.4: Saleyard, export and retail prices, real terms (2015 dollars)



Source: ABARES

However, it is difficult to draw meaningful conclusions from this information for a number of reasons:

- The weighted average saleyard price may not accurately represent prices offered by major supermarket chains. The ACCC understands that prices offered by major supermarket chains are largely based on prices for feeder cattle and feed grains, within a specification grid. The higher cost structure for producing grain fed cattle, the high quality standards required by supermarkets and the need to secure significant volumes suggests that supermarkets offer prices above the saleyard average to attract suppliers. In addition, saleyard prices may include cattle purchased for purposes other than slaughter and over the hooks prices are excluded from the weighted saleyard price.
- The retail price of beef is not representative of the profits achieved by supermarkets, largely because of the costs associated with processing from animal to shelf ready product. These costs include sourcing cattle, accessing service kills, further processing, warehousing, distribution and retailing costs, such as labour, utilities and marketing. The ACCC was not provided with detailed information on these costs, so has no means of analysing the difference between the retail price and the export unit and saleyard price.
- There is a significant difference in the average quality of cuts sold for export versus domestically sold cuts. The export markets require many cheaper carcass components and cuts than the domestic market. Hence if the mix of cuts sold for export was the same as that sold domestically, the export unit value would be much higher than is shown in Figure 2.4.
- The different price measures have different cost exclusions and inclusions factored into their calculation. For example, export unit values include the value added from processing plus freight on board costs (the cost of getting the meat from abattoir onto the ship), whereas retail prices include various value adding activities and other costs of retailing and transport. The different price measures also have vastly different composition of bone in and out meat cuts. As noted above, the ACCC has not been given access to this information and cannot accurately adjust the reported prices to take account of these differences and make them comparable.

## 2.3 Climate strongly influences production and pricing

Long-term temperature and rainfall patterns are key factors in determining the production system employed by producers. For example, the cattle production system in northern Australia is characterised by stocking densities that are much lower than southern states. This reflects the lower nutritive value of pastures, which is the result of the combined effects of a monsoon rainfall pattern and soils with relatively low fertility (see Chapter 2 for more information). In addition, the wet season affects the ability of northern producers to access cattle markets because of road inundation and a lack of opportunities to muster.<sup>75</sup>

Seasonal variations in rainfall and temperature can cause significant volatility in the supply of cattle. These can include fluctuations in rainfall volume and temperature ranges or the timing of rainfall and temperature events. Extreme examples include droughts and floods but even modest temperature variations or the timeliness of rainfall can have a significant effect on pastures and crops used to feed cattle. In response to changes in feed availability, producers will increase or decrease stocking rates, resulting in fluctuations in cattle supply.

In extreme events, fluctuations in supply can have a significant effect on prices. The recent drought in Queensland, the Northern Territory and parts of New South Wales and Victoria resulted in a significant increase in cattle supply as producers rapidly destocked properties throughout 2013 and 2014. The drought also negatively affected the condition of cattle offered for sale and reduced the numbers of buyers participating in the market, reflecting a lack of feed to support purchases. The combination of these factors led to a significant decline in cattle prices. Despite the sharp decline in prices, producers in drought affected areas were unable to respond by reducing supply because pastures could not support existing stocking levels.

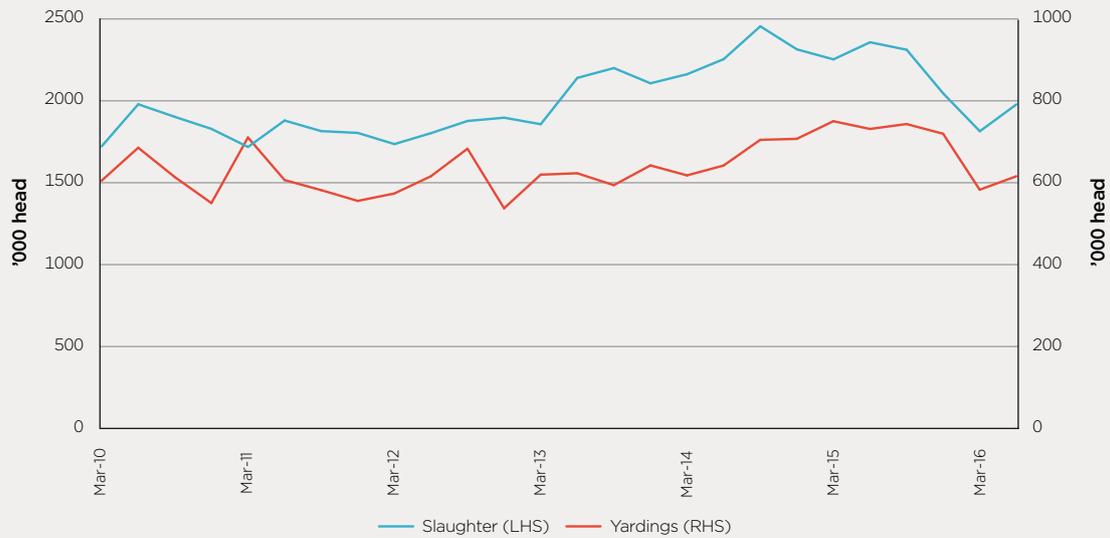
Climate can also have a significant effect on the operations of other supply chain participants. For example, the northern wet season reduces access to cattle for live exporters and processors in northern Australia. The reduced supply of cattle means that live exporters concentrate activity in the dry season while processors in northern regions have extended shutdown periods over summer. Seasonal variations that affect cattle supply can also have important implications for processors in meeting customer commitments and maintaining plant efficiency. For example, the ACCC understands that some processors will transport cattle significantly further than normal during periods of localised shortage so as to maintain throughput and retain skilled staff (see Chapter 3 for more information on distances cattle are transported to reach processors).

### Box 2.3: Recent movement in cattle prices

International markets and seasonal conditions have had a significant effect on saleyard prices in recent years. Consecutive failures of the northern wet season in 2012–13 and 2013–14 and dry conditions across large parts of New South Wales and Victoria over the same period led to a significant increase in cattle sold at saleyards (yardings) and slaughter from early 2013, as producers destocked their properties (Figure 2.5).

<sup>75</sup> Gleeson T, Martin P & Mifsud C, *Northern Australian beef industry, Assessment of risks and opportunities*, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra, 2012.

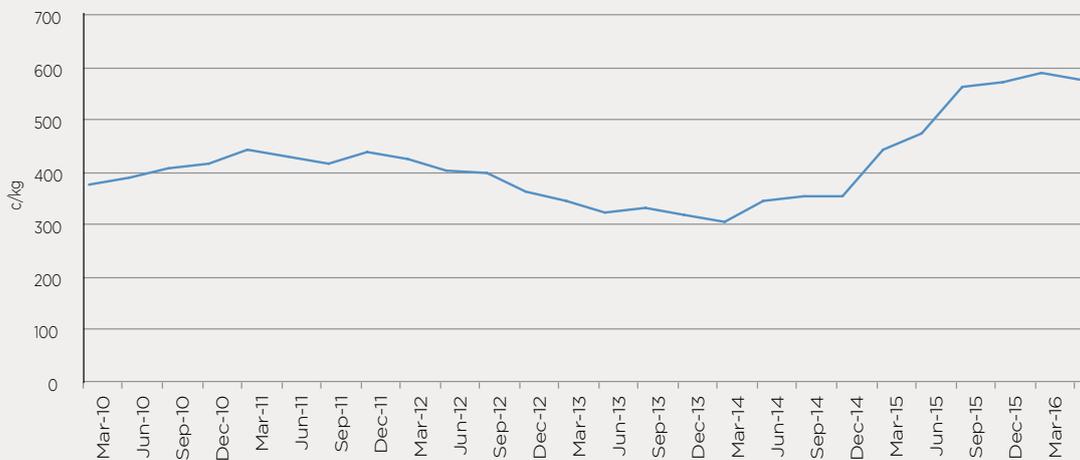
**Figure 2.5: Australian cattle slaughter and yardings, quarterly**



Sources: Australian Bureau of Statistics, Livestock and Meat, Australia, Aug 2016, cat. no. 7218.0.55.001, ABS, Canberra, 2016; Meat and Livestock Australia, Market information statistics database, MLA, Sydney, viewed 12 October 2016, [statistics.mla.com.au/Report/List](http://statistics.mla.com.au/Report/List).

In response to the increase in cattle supply and reduced demand from drought affected restockers, saleyard prices fell significantly. For example, the Eastern Young Cattle Indicator (EYCI) declined by 25 per cent from an average 382 cents a kilogram in June 2012 to a low of 286 cents a kilogram in January 2014.<sup>76</sup> From the low in early 2014, saleyard prices rose in response to strong demand from export markets, despite continued high turnoff (Figure 2.6).

**Figure 2.6: Eastern Young Cattle Indicator, real terms (2015 dollars)**



Note: carcase weight equivalent price

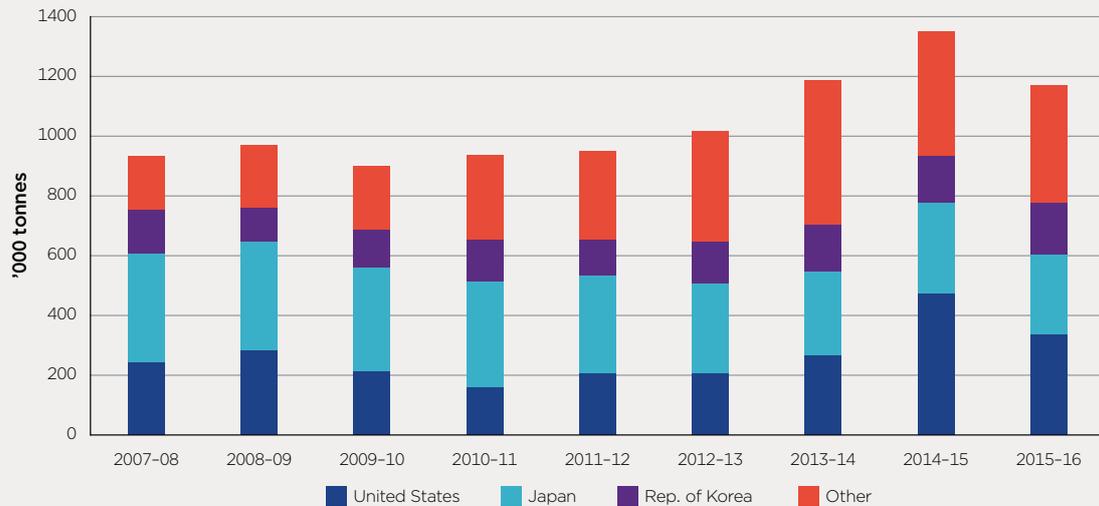
Sources: Australian Bureau of Statistics, Consumer Price Index, Australia, Jun 2016, cat. no. 6401.0, ABS, Canberra; Meat and Livestock Australia, Market information statistics database, MLA, Sydney, viewed 12 October 2016, [statistics.mla.com.au/Report/List](http://statistics.mla.com.au/Report/List).

The increase in demand from export markets largely reflected a shortage of domestically produced beef in the United States and a depreciation of the Australian dollar against the US dollar, making Australian beef relatively cheaper for importers. In 2014–15, the volume of Australian beef exports rose by around 14 per cent to a record 1.35 million tonnes (shipped weight), with shipments to the United States increasing by almost 80 per cent to just over 470 000 tonnes (Figure 2.7).<sup>77</sup>

76 Meat and Livestock Australia, Market information statistics database, MLA, Sydney, viewed 12 October 2016, [statistics.mla.com.au/Report/List](http://statistics.mla.com.au/Report/List)

77 Department of Agriculture and Water Resources, Red meat export statistics, DAWR, Canberra, viewed 12 October 2016, [www.agriculture.gov.au/export/from-australia/quota/red-meat/statistics](http://www.agriculture.gov.au/export/from-australia/quota/red-meat/statistics)

**Figure 2.7: Australian beef exports to major markets, shipped weight**



Source: Department of Agriculture and Water Resources, Red meat export statistics, DAWR, Canberra, viewed 12 October 2016, [www.agriculture.gov.au/export/from-australia/quota/red-meat/statistics](http://www.agriculture.gov.au/export/from-australia/quota/red-meat/statistics)

Although Australian exports to the United States began to slow from mid-2015 as US domestic production recovered, saleyard cattle prices remained relatively high. This reflected favourable outlooks for the 2015-16 northern wet season and summer rainfall across eastern states, which encouraged producers to reduce cattle turnoff in anticipation of improved conditions. Average to above average rainfall across the majority of previously drought affected regions resulted in producers not only reducing turnoff but re-entering cattle markets to rebuild herds. This increase in demand for restocker cattle resulted in the EYCI rising from an average 587 cents a kilogram in September 2015 (prior to the northern wet season) to a current high of 713 cents a kilogram in September 2016.<sup>78</sup>

## 2.4 Cattle prices are only one factor determining farm profitability

A number of market study participants suggested that a downward trend in cattle prices and rising input costs have resulted in low profitability for beef farms. The rate of return on total capital, excluding capital appreciation, for beef specialist farms averaged 0.3 per cent per annum over the period 1977-78 to 2012-13.

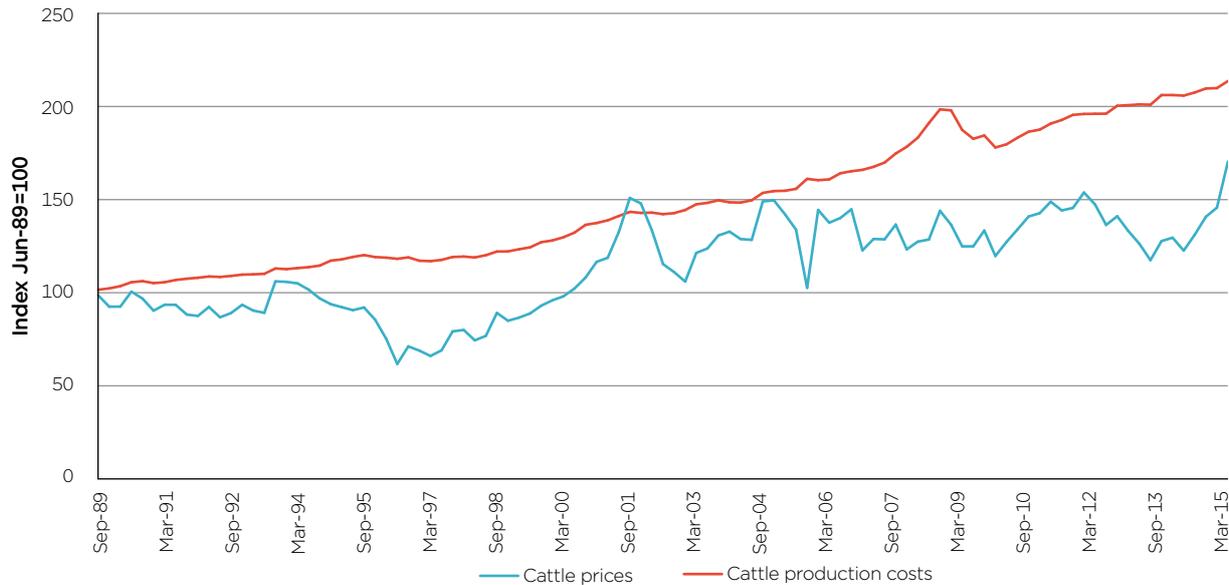
This compares with rates of return for specialist crop and sheep producers over the same period of 3.2 per cent and 0.6 per cent per annum, respectively.<sup>79</sup>

Data from ABARES shows that beef producer costs (excluding interest) have consistently increased over the last 25 years (largely in line with inflation), while cattle prices have remained relatively flat since the 2000s (Figure 2.8). Specialist crop and sheep producers, however, also faced stagnant commodity prices and increases in input costs over the same period, suggesting that the relatively poor performance of beef specialists reflects additional factors.

78 Meat and Livestock Australia, *Market information statistics database*, MLA, Sydney, viewed 12 October 2016, [statistics.mla.com.au/Report/List](http://statistics.mla.com.au/Report/List)

79 Jackson T & Valle H, 'Profitability and productivity in Australia's beef industry', *Agricultural commodities*, March quarter 2015, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra, 2015, pp. 226-235.

Figure 2.8: Australian cattle prices and production costs, nominal terms



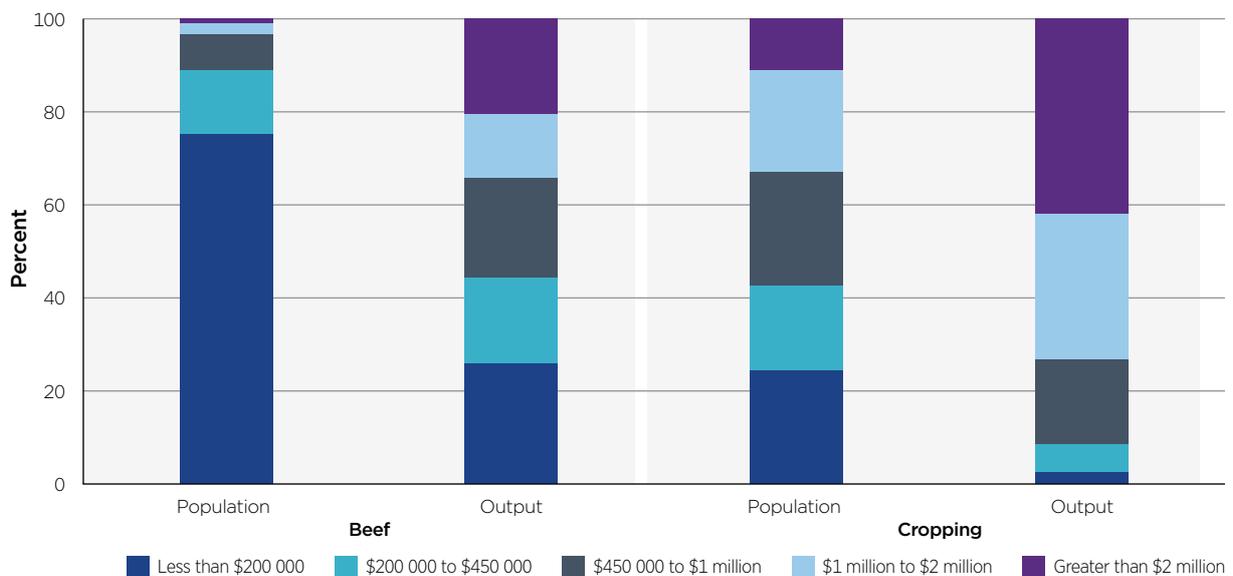
Notes: production costs are represented by the southern Beef Producers Input Price Index (BPIPI), the northern BPIPI largely tracks movements in the southern index; cattle prices are represented by national average saleyard price for medium steers.

Sources: ABARES pers comms; Meat and Livestock Australia, Market information statistics database, MLA, Sydney, viewed 12 October 2016, [statistics.mla.com.au/Report/List](http://statistics.mla.com.au/Report/List)

Several factors negatively affect the productivity growth and hence profitability of specialist beef producers. These include the availability and adoption of new technologies to improve production efficiency, reduced returns to scale compared with other agricultural activities, and industry structure.<sup>80</sup>

Further, as discussed in Chapter 1, the Australian cattle and beef industry is characterised by a large number of small-scale producers (Figure 2.9). These small-scale producers have lower productivity and profitability on average, compared with larger farms, and a greater reliance on off-farm income to meet living requirements. The large numbers of small-scale producers with relatively low profitability significantly reduces the productivity and profitability of the industry as a whole.

Figure 2.9: Proportion of farm population and output, measured as total receipts, by industry, 2012-13



Source: Jackson T & Valle H, 'Profitability and productivity in Australia's beef industry', *Agricultural commodities*, March quarter 2015, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra, 2015, pp. 226-235.

80 Ibid

When small-scale farms, defined as those with total farm receipts of less than \$200 000 are excluded from the analysis, Jackson and Valle show that the average annual rate of return for the remaining specialist beef farms increases from 0.3 per cent to 2.9 per cent. When a similar exercise is undertaken for cropping specialists the increase in the rate of return is less dramatic, rising from 3.2 per cent to 5.2 per cent per annum. This reflects the relatively smaller proportion of small-scale farms involved in crop production.<sup>81</sup> Two major reasons for the continued operation of large numbers of unprofitable small-scale beef producers include:

- Relatively low labour requirements: this allows for part-time operation by people with off-farm employment or in semi-retirement
- Significant capital gains: when increases in land values are included, rates of return for beef specialists are similar to those for cropping. This reflects the tendency for small farms to be located in high rainfall areas or close to population centres.<sup>82</sup>

The ACCC understands that small-scale producers tend to sell cattle in relatively small lots at local saleyards, with the type and specification varying more significantly in these lots than those generated by larger producers. Small lot sizes can reduce the efficiency of transport, selling and processing infrastructure and thus increase costs along the supply chain.

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81 Ibid

82 Martin P, *Australian beef, Financial performance of beef cattle producing farms, 2012-13 to 2014-15*, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra, 2015.

## 3 Selling prime cattle: options and market structures

### 3.1 Introduction

Concerns were raised in submissions about the options available to producers for selling prime cattle, but not for selling store cattle. As this was the area of greatest concern the ACCC has focused its competition assessment in this Chapter on prime cattle. As discussed in Chapter 1, producers options for selling prime cattle include restockers, feedlots, acquirers of cattle for the purpose of service kills (including supermarkets), processors, and live exporters (predominantly in some parts of northern Australia). When prime cattle are lighter in weight, then producers are more likely to have a great number of options available to them. Once prime cattle reach heavier weights producers' options tend to be more limited.

### 3.2 Competition between processors takes place within regional markets

To assess the geographic scope of cattle transactions, the ACCC analysed the following information, obtained from large and medium sized processors, major supermarkets and an online auction site:

- the proportions of cattle movements between a point of sale to a processing plant, within different distance ranges
- the costs of transporting cattle by road and rail
- the projected cost impact that additional transport would have on the overall quality of the processed beef (and consequently the return paid to producers).

The data we received on cattle movements is replicated in Table 3.1 below. It shows the distances cattle were transported to abattoirs by various buyers of prime cattle. It demonstrates that approximately 80 per cent of the cattle processed at these abattoirs were acquired from within 400km of the abattoir.<sup>83</sup> The buyers in this list have been de-identified to protect confidentiality, but they include a range of processors and retailers in different regions of Australia.

The data also showed that there is no absolute maximum distance that producers can transport cattle for slaughter. Instead, a range of factors including road conditions, access to rest/spell stops, weather and location affect the feasible travel distance. The ACCC found that in some circumstances cattle are transported thousands of kilometres.

The information we received shows that transport costs are significant, at between 5 to 10 per cent of the value of the animal<sup>84</sup>. As mentioned above, travel poses a risk to the weight and condition of the animal, which increases with distance. This increases the likelihood that the eating quality of the animal will be lower, impacting on a processor's ability to fulfil its supply contracts with certainty and increasing the risk of a lower payout to producers.

<sup>83</sup> The ACCC requested data reflecting transactions which took place in the previous year; however, buyers also indicated that the data provided was typical of most years.

<sup>84</sup> Dependent on distance and prevailing cattle prices at the time.

**Table 3.1: Percentage of cattle acquired from within defined distances**

Acquirer	<100km (%)	100km-200km (%)	200km-400km (%)	>400km (%)	Total <400km (%)
Buyer A	5	12	25	58 <sup>84</sup>	42
Buyer B	5	15	70	10	90
Buyer C	20	66	6	8	92
Buyer D	21	23	36	21	79
Buyer E	50	20	20	10	90
Buyer F			-80	-20	-80
Buyer G			-100		-100
Buyer H	70	10	10	10	90
Buyer I			70		70
Buyer J	56	15	5	24	76

The clear exception to the data provided in Table 3.1 is for cattle producers located in remote regions. In particular, producers located in central and northern Queensland and northern Western Australia may not have abattoirs that are within 400km of their properties. A description of their behaviour, as the ACCC currently understands, is contained in Box 3.1.

### 3.2.1 Competition still occurs outside of the 400km radius in some circumstances

The 400km concept outlined above is not a rigid market boundary. At times, processors located more than 400km away will compete to buy cattle from producers. However, this competition is likely to be transitory and a reaction to market conditions in the region at a particular point in time. For example, a shortage in supply of specific cattle in a region (e.g. to fill specific customer orders such as EU cattle or MSA grade cattle) or fluctuations in supply due to climate or other factors, may cause buyers to incur the additional costs of purchasing and transporting cattle over atypical distances. This may reflect the need to maximise processing throughput to maintain staff or fill customer orders.

For example, during the recent drought, buyers from Victoria were observed in saleyards in Queensland. Similarly, from time to time, competition from south east Queensland processors can influence the price of cattle in southern NSW and Victoria, if the supply of cattle in Queensland is low or the supply of cattle in southern NSW/Victoria is high.

Notwithstanding this, these instances are small relative to overall prime cattle acquisition volumes indicating that competition from distant buyers is relatively inconsistent and weaker than local buyers in the region.

#### **Box 3.1: central Australia, northern Queensland and northern Western Australia**

Given the remoteness of cattle located in central Australia, northern Queensland and northern Western Australia, cattle are likely to travel far greater distances than those in southern Australia. The relevant area of competition for these producers is therefore likely to be greater than 400km. However, this is due to the fact that there are no processing plants in close proximity to these areas.

The ACCC understands that cattle producers in central Australia are most likely to send their cattle to processing plants in Brisbane, North Queensland and Darwin and at times to South Australia. The ACCC has not had submissions from cattle producers from northern Western Australia. Cattle producers in the Northern Territory have in the past sent cattle to south west Western Australia and Queensland; however, they are now able to send cattle to recently opened abattoirs in Darwin and the Kimberley.

<sup>85</sup> Note that a large proportion of the cattle in this bracket are acquired from 500km away from the processing site. Slightly outside of the ACCC's posited 400km radius.

In the course of this market study, the ACCC has not received significant feedback from producers in these areas and would welcome further information on these issues

### 3.3 Producers face restrictions in switching production to meet different customer specifications

The ACCC has considered the production of cattle and the ability for producers to sell prime cattle to buyers other than processors.

The ACCC understands that cattle with varying characteristics are grown to different weights and specifications for different end purposes. Table 3.2 contains a brief outline of the more significant market specifications of cattle that the ACCC is aware of. Different target market specifications can limit the ability of some producers to switch between sales channels in response to more favourable prices.

**Table 3.2: Target customer specifications for cattle destined for slaughter**

Destination	Carcase Weight Range (kg)	Fat Depth (mm P8)	Dentition	Sex	HGP allowed
Butcher	150-210	3-8	0-2	Steer/Heifer	
MSA graded beef <sup>86</sup>	200-340 <sup>87</sup>	5-22	Varied <sup>88</sup>	Varied <sup>89</sup>	
Supermarket	200-320	4-17	0-2	Steer/Heifer	Yes <sup>90</sup>
Feeder steer (short fed)	280-400	-	0-2	Steer	
Feeder steer (mid fed) <sup>91</sup>	300-400	-	-	Steer	
Feeder steer (long fed) <sup>92</sup>	420-470	-	0-2	Steer	
Jap Ox / Export Steer	300-440	7-22	0-4 <sup>93</sup>	-	No
European Union <sup>94</sup>	260-420	5-22	0-4	-	No

As discussed in Chapter 2, the characteristics of cattle (their weight, fat depth, marbling and eating quality traits) farmed by producers are largely driven and constrained by natural endowments and the demands of customers in the region. To maximise their return, producers will adopt a production system that balances return with the constraints imposed on them by location. In some cases this will lead to a production system that focuses on producing one type of cattle to supply a single end market, while others will participate in multiple end markets. As discussed in Chapter 1, one of the larger distinctions is the divide between the north and south of Australia and the production of Bos Indicus cattle as opposed to Bos Taurus.

Depending on the location of the producer, the prevailing climatic conditions and the infrastructure available to them, producers may be able to grow cattle to different weight ranges in order to take advantage of high market prices or to avoid unfavourable prices.

Generally, it appears that producers are likely to have more options for selling cattle when they are at a lighter weight. Potential buyers of these cattle can include supermarkets, processors, live exporters (depending on location) or other producers looking to restock their herd (depending on demand). As cattle become heavier, demand from restockers will decrease. This is also true for supermarkets as the meat cuts will no longer be the right size for retail sale. The ACCC understands that cattle at the heaviest end of the scale are most likely to be limited for sale to a processor with export capability.

In the short term, producers may be able to take advantage of changes in price by selling cattle at a lighter or heavier weight, depending on seasonal conditions. However, this will not always be feasible. For instance, different breeds of cattle develop muscle and fat tissue at varying rates, which are timed to coincide with the required eating qualities desired in the meat at the time of

slaughter. Cattle that develop earlier will often be bred for slaughter at a lighter weight, whereas cattle that take longer to develop will often be bred for slaughter at a heavier weight, so that too much fat is not built up before slaughter. Slaughtering these cattle at times that do not line up with their maturity may adversely impact eating quality and consequent grading scores and returns to the producer.

As an example of this, cattle processed for Jap Ox export are generally bred to grow to a larger weight and develop muscle and fat at a rate which achieves the desired level of fat marbling in the muscle tissue. Conversely, cattle destined for domestic supermarkets are likely to be bred to be grown to a lighter weight with marbling and meat characteristics that are more suitable to the Australian domestic market. Accordingly, slaughtering cattle bred for the domestic market at an older age or a Jap Ox export bred animal at a younger age is likely to lead to lower quality grades of processed beef and reduce the likelihood that producers will switch production methods<sup>86</sup>.

In the long term, producers may be able change their production system in order to meet changes in demand and reduce their exposure to buyer power in particular sales channels. This could include changes to breed structure or farm infrastructure. However these can be expensive and time consuming to complete. For example, the introduction of new genetics could take several years. A producer would also need to be confident that changes in market conditions, especially prices, were likely to be sustained rather than short term fluctuations. Accordingly, producers require clear price signals so that they can judge whether altering their production systems is likely to be profitable. As is discussed later in this report, the ACCC considers there are shortcomings in this regard and that producers have little confidence in the price signals that they are receiving.

### **3.4 The number of processors does not always determine the level of competition**

As discussed above, depending on the weight and specifications of the prime cattle in question, producers may have a number of buyers willing to purchase their cattle. However, the ACCC has determined that some weights and specifications of cattle will likely be restricted to selling their cattle to processors. Considering this is the most likely area in which competitive harm could be found, the ACCC has looked at the dynamics in this segment closely and the factors which might limit competition between processors.

The ACCC has found that 80 per cent of cattle that are sent to slaughter are acquired from within 400km of the abattoir at which they are processed. The ACCC mapped the locations of all AUS-MEAT listed abattoirs in Australia and found there are a number of processors in most of these areas. However, the capacity of these processors to purchase cattle of all specifications can be restricted by the physical features of each processing facility and other circumstances, including commitments to certain customers. Further, there are some areas where there are fewer than three processors.

Even if producers have access to only a small number of buyers, competition may be sufficient to ensure that returns to producers are adequate. However, some producers submitted that despite having a number of processing plants located within 400km of their property, they still face limited competition for slaughter weight cattle. In particular, producers have submitted they have difficulties gaining access to:

- Processors with EU-accredited programs in the north of Australia
- Buyers of bulls and other large cattle for slaughter in some areas of Australia
- A lack of buyers for cattle to be processed into ground beef (minced meat).

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86 NSW Department of Primary Industries, *Market specifications for cattle*, August 2015, Primefact 621, second edition

In assessing these concerns the ACCC has considered the extent to which processors within an area compete with one another. This will depend on a number of factors including the ability of processors to process cattle with varying specifications and characteristics and other limitations on processing capacity such as contractual supply obligations with particular buyers or sellers.

### 3.4.1 Processing plants may focus on certain types of cattle

Processors have submitted that all processors compete with each other strongly, regardless of the beef markets they supply, as they all have the capacity to process a wide range of cattle, and the vast majority can supply both the domestic and export markets. Some abattoirs have also submitted that they could alternate between processing different types of cattle from shift to shift and even within shifts. Consequently, processors submit, they can easily switch between processing cattle of varying weights and characteristics to serve end customers that offer higher returns. Processors submit that even if they do not actually alter their operations at a given point in time, their ability to do so acts as a discipline on other processors to maintain competitive pricing across cattle types.

#### Processing facilities

However, processors have also submitted that their ability to switch between buying and processing different types of cattle can be limited by the characteristics and capacity of the kill floor and the capacity of chilling and storage facilities. Processing plants optimise their facilities to take account of the cattle available in particular areas and the markets which they intend to service. The ACCC was told that if a processor's facilities are strongly oriented toward a particular end customer (i.e. a supermarket or grinding meat for export), they may not be in a position to compete strongly for purchasing cattle which are more suited to alternative end customers. At least one processor indicated that if, for example, facilities are designed to export frozen manufacturing meat to the US, a lack of appropriate storage can limit their ability to compete in the market for the acquisition of higher quality cattle.<sup>87</sup>

The ACCC understands that, depending on the size of the processing plant, the cost and time for planning and constructing additional storage capacity can be significant. Accordingly, identifying the flexibility of a processing plant to expand or alter its purchases will involve a case-by-case assessment.

The exception to this general analysis on the processing of prime cattle is the processing of vealers, described in Box 3.2.

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<sup>87</sup> Storage capacity can influence the flexibility of processors to expand the volume or alter the cattle that they can acquire at certain points in time. Processors generally appear to have frozen and/or chilled storage facilities. Frozen beef is generally lower quality beef and is destined for export to the United States. Chilled beef is generally higher quality beef and is destined either for the domestic market or for export into higher value markets.

### **Box 3.2: Veal processing**

While veal is produced across many regional areas in Australia there are particular centres around Australia known for selling vealers or veal processing, including Casino in New South Wales, Emerald in Queensland and Mount Barker in South Australia. The ACCC understands veal processing requires substantially different processing equipment to that used in the processing of larger prime cattle.

Export demand for Australian veal is low, as Australia produces predominantly pink veal, which is not valued by the export market, and domestic demand for veal is low compared to prime beef. This means that the market is small compared to prime beef.

The ACCC understands that two distinct types of cattle are processed for veal in Australia. First, some of Australia's veal is sourced as a by-product of the dairy industry. These animals are unwanted dairy calves, and are unsuitable to grow out into prime cattle. These animals are slaughtered at a very young age and may weigh between 30-50kgs.

Second, the ACCC also understands that a small number of producers raise cattle for no more than twelve months, selling them before they are weaned, specifically while they are still receiving 50 per cent of their nutrition from milk. These animals are heavier than those referred to above.

### **Supply contracts**

Longer term contractual supply agreements can impact the capacity that processors have available to purchase different cattle types from other producers, and therefore the extent of competition between processors. A number of processors have supply agreements with export and domestic customers of varying duration. Longer-term supply agreements can impact the available capacity that processors have to purchase different cattle types.

Some processing plants are entirely contracted to supply beef to supermarkets. For instance, Tey's processing plant at Tamworth and Australian Country Choice's processing plant at Cannon Hill are dedicated to processing cattle for the major supermarket chains. In some instances these plants are optimised to process the smaller cattle sizes preferred by the major supermarket chains.

The agreements to supply processing capacity are not uniform—in some instances supermarket chains have entered into strategic partnerships which help to fund processing operations, while other arrangements take the form of volume-based off-take commitments. The ACCC understands that substantial capacity is dedicated to supply single customers at processing plants in New South Wales, South Australia, Tasmania, Victoria and Western Australia.

Arrangements such as these provide processors with some certainty of processing throughput, which helps manage the risk of operating a high value asset for what processors submit is often a low margin product. However, they can also restrict the ability of processing plants to alter their cattle acquisition profile to take advantage of changes in price in the short term, as well as restrict the availability of some processors to some producers.

Theoretically, processors will divert capacity to acquire cattle of alternative characteristics and weights, if returns available from an alternative end customer are higher than an existing customer. However, a combination of long-term contracts and the restrictions in chilling capacity may reduce the flexibility of processors to respond to profitable opportunities to switch the mix of production. This could at times weaken competition between buyers of cattle with particular characteristics and within certain weight ranges. Producers' limited flexibility for altering cattle production in the short run could result in producers having fewer selling options and potentially lower prices.

### 3.5 Barriers to entry limit competition among buyers

Barriers to entry are an important consideration in the overall assessment of competition between processors identified above. A processor's ability to exercise market power will depend on the extent to which they are constrained by the threat of a new rival entering the market, or an existing competitor expanding to increase competition.

The ACCC takes the view that market power will only be constrained by the threat of entry or expansion if it is likely to be timely and of sufficient scope and nature to affect the behaviour of incumbents. The timeliness of entry and expansion depends on the dynamics of a particular market, but the ACCC generally considers that entry will only be an effective constraint if it occurs within 1-2 years of the exercise of market power such as the suppression of cattle prices.<sup>88</sup>

There are a number of barriers to entry in the processing sector:

- Economies of scale
- High capital and sunk costs
- Uncertain and fluctuating cattle supply
- Regulatory requirements and costs

Economies of scale in cattle processing mean that for the most part, large scale entry is required for cost competitiveness against incumbents. Economies of scale can increase the riskiness of entry if a correspondingly large share of the market must also be won from incumbents. Studies suggest that a new abattoir would need to be able to process a minimum of 400 head of cattle per day to achieve economies of scale.<sup>89</sup>

A new plant of this scale would cost between \$33 million and \$49 million.<sup>90</sup> These figures are also consistent with the reported estimated costs of recommissioning a beef processing plant in Innisfail to process 300-400 head of cattle per day.<sup>91</sup> High capital costs are not necessarily a barrier to entry. However, the proportion of the capital and other costs which are sunk costs, and uncertainty about cash flows (arising from fluctuations in market conditions) can increase the cost and riskiness of entry.

Additional costs such as meeting occupational health, export accreditation and food safety standards are also largely fixed. Consequently, larger facilities are also able to lower their unit costs by spreading these fixed costs over higher production volumes.

There are recent examples of abattoirs being constructed or reopened:

- In 2014, the Australian Agricultural Company ('AACo') opened a new beef processing facility in the Livingstone Valley near Darwin in the Northern Territory. The plant has daily processing capacity of up to 1000 head of cattle and cost \$91 million over two years to construct.<sup>92</sup>
- A new beef processing plant, the Kimberley Meat Company abattoir, was opened in September 2016 near Broome in Western Australia. The plant has the capacity to process up to 300 head of cattle a day. In December 2015, it was reported that the cost was over \$40 million, noting some difficulties in getting finance<sup>93</sup>.
- A mothballed plant was also reopened in Young in 2014 at a cost of \$10 million by Hilltop Meats.

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88 ACCC Merger Guidelines, 2008.

89 Rural Industries Research and Development Corporation, 2010, *Feasibility of establishing a northern Western Australian beef abattoir*, November 2010, p. 47.

90 Rural Industries Research and Development Corporation, 2010, *Feasibility of establishing a northern Western Australian beef abattoir*, November 2010, p. 48.  
Meateng, Felix Domus and Tom Hoffman Advisory, 2012, *Evaluating the commercial viability of a northern outback Queensland meat processing facility*, February 2012, p. 63.

91 Maddocks and Associates Pty Ltd, 2016, *Innisfail Meatworks - Recommissioning*, October 2016.

92 Australian Agricultural Company, *Livingstone Beef* [website], 2015, <http://aaco.com.au/operations/>  
Australian Agricultural Company, 2014, *AACo's northern beef processing facility begins full commercial operations*, 31 October.

93 ABC Rural, 'First Kimberley abattoir since 1993 set to open in April, 16 December 2015.

The ACCC notes that the facilities developed by AACo and Kimberley Meat Company were opened in areas where there was little or no existing processing capacity, compared to areas of the east coast of Australia, where there is significant existing capacity.

At present the ACCC's understanding is that the capital costs involving in re-establishing the mothballed plant at Young were significantly lower than establishing an entirely new plant which made re-entry viable despite existing capacity in the market. Accordingly, the viability of entry will come down to a case by case analysis and the presence of existing unused infrastructure or a lack of existing capacity will have a significant impact on this.

### **Supply constraints**

As noted above, processors need to be able to process at least 300 head of cattle per day to exploit economies of scale. However, fluctuations in the availability of cattle can increase the risk that such production levels will not be sustainable on a regular basis. There are two sources of risk that the supply of cattle will be insufficient to support profitable production:

- Volatility in the supply of cattle due to the seasonal and cyclical factors discussed elsewhere.
- Potential responses of incumbent processors who may be able to use excess capacity to expand production and make it harder for entrants to acquire the minimum volume of cattle needed for successful entry. Such strategic behaviour by incumbents could also reduce the profitability of entry by increasing the prices of cattle acquired and lowering prices received for processed meat.

### **Regulatory barriers**

There are a broad range of regulations facing beef processors including an export inspection system, labour regulations, customer audits and food safety requirements. Other regulatory costs include fuel excise charges and worker health and safety provisions, as well as environmental management plans. The level of regulation and compliance imposed in the food processing sector as a whole has increased in recent years.<sup>94</sup>

The ACCC is aware that beef processors often attain domestic and export accreditation from AUS-MEAT to operate their facility, this accreditation is compulsory for processors wishing to export and in some cases practically a requirement if they wish to supply supermarkets. The accreditation process is a stringent and rigorous set of steps which includes the accreditation application, inspections to assess compliance with National Accreditation Standards (NAS), development of a Quality Management System and AUS-MEAT training courses for staff.

During a period of provisional accreditation, the business is audited to assess compliance with the NAS before full accreditation is awarded.

### **Timeliness of entry**

The timeliness of potential new entry and expansion is an important factor in terms of the constraint on incumbents' behaviour. If incumbent firms are in a position to exert market power, the timeliness of entry will determine how long this can persist.

The ACCC understands that acquiring the appropriate accreditation to export to countries such as China can take up to one year for an established facility. Therefore, the ACCC considers it is likely that from planning to the eventual opening of a new abattoir could take two years or more.

However, the ACCC requires more detailed information about how long it would take to complete the steps needed to open an abattoir with significant scale. The ACCC will be engaging further with recent new entrants on this issue and welcomes further submissions from industry participants.

#### **3.5.1 Small-scale entry into the beef processing market**

Barriers to entry and expansion to the processing sector vary according to abattoir size. The meat processing sector is characterised both by large vertically integrated businesses operating

<sup>94</sup> ProAnd Associates, 2016, *Regulatory costs in the red meat and livestock industry*, 3 June 2016, p. 64.

across the supply chain and smaller processors with more targeted operations, such as servicing a limited geographic region or specific sections of the market (like smaller domestic butchers).

As discussed above, the ACCC considers that barriers to large scale entry into the processing sector are high. However, there appears to be greater scope for new entry on a smaller scale targeting niche markets.

Niche entry is unlikely to have the same imperative for scale economies, as the end beef product is differentiated and could therefore command higher prices. Niche entry would also likely require lower capital costs and is less likely to provoke retaliation by incumbents.

Small-scale entry is unlikely to be sufficient to constrain a larger processor's market power in the short term. However, it could provide an additional sales channel for some producers. Niche entry may also provide a pathway for expansion in the longer term either through organic growth or in response to an exercise of market power by an incumbent.

### 3.5.2 Barriers to expansion

The ACCC's consultation for the market study has indicated that there are some barriers to expansion in the meat processing industry. The ability of an existing processor to profitably expand production depends on, among other things;

- the cost of expanding production or capacity relative to prevailing beef prices
- the ability to source an increased supply of cattle and to distribute the increased output to its customers (supermarkets, export markets etc.)
- the level of excess capacity held by existing firms that could be deployed to prevent rivals from expanding.<sup>95</sup>

Recent examples of processing plant upgrades and expansion give an indication of the costs of expansion. Before JBS USA Holdings Inc (JBS) acquired Australian Consolidated Food Holdings Pty Ltd (Primo), Primo had announced a planned upgrade of its Scone processing facility costing \$40 million. In addition, JBS Australia's Churchill abattoir expansion was costed at approximately \$35 million to increase throughput from 600 to 1200 cattle per day.<sup>96</sup>

Capacity expansion could also be achieved through managing the number of shifts as a variable cost, rather than upgrading the existing plant. However, processors in Australia have submitted that there are at least two practical limitations on their ability to do this:

- Firstly, skilled labour is difficult to acquire on a short term basis when they would like to increase production. This is particularly a problem in regional areas.
- Secondly, Australian labour costs restrict processors' ability to operate their plants on a 24 hour basis, as the extra overtime payments would negate the profitability of expanding.

Similarly to firms entering the market, volatility of cattle supply will impact on the ability of processors to commit capital to plant expansions at a given time.

## 3.6 In some regional areas there may be limited options for selling prime cattle

The ACCC defines markets to analyse competitive harm, resulting from mergers and acquisitions, cases of misuse of market power and other anti-competitive conduct.

It is difficult to generalise the nature and scope of cattle and beef markets. As discussed above, the geographic dimensions of a market are not rigid and will ultimately depend on the circumstances of the transaction or issue that is being considered. For example, when assessing competition in northern Australia, where processing plants and saleyards are more dispersed and cattle may travel further for sale, the ACCC will consider whether larger geographic areas of competition are relevant. In contrast, in southern Australia the relevant areas of competition may be narrower in scope, reflecting the closer proximity of saleyards and processing plants.

<sup>95</sup> Merger Guidelines, November 2008

<sup>96</sup> Condon J, *Chinese investors in joint venture with Qld's Churchill Abattoir*, Beef Central, 11 December 2014, viewed on 5 September 2016, <http://www.beefcentral.com/processing/chinese-investors-in-joint-venture-with-qlds-churchill-abattoir/>

For the purposes of this market study, the ACCC has found that competition for purchasing producers' prime cattle typically takes place within a 400km radius of a producers' property or local saleyard. The ACCC acknowledges that there are a number of producers in Australia who will not have a processing plant or cattle purchaser within 400km of their property and that these producers must sell to more distantly located purchasers of prime cattle.

As described earlier in this section, many producers have the option of selling prime cattle to a range of different buyers. However, there are some regions where the available buyers appear to be limited to a smaller number of processors:

- North Queensland—the Rockhampton area
- Tasmania.

The following sections consider the numbers of processors in these regions. Competition for cattle purchases in South Australia and Western Australia is also considered.

### **3.6.1 Rockhampton and north Queensland**

There are two processors in Rockhampton: JBS and Teys Australia. In the near vicinity there is a Teys plant at Biloela (144km away) and NH Foods at Mackay (336km). JBS is also located in Townsville, however this is over 700km to the north and would likely only be seen as a substitute to producers bringing cattle from the north of Rockhampton. JBS and NH Foods have similar levels of capacity in this area. Teys' two plants have significantly more processing capacity than both JBS and NH Foods combined.



present as buyers of prime cattle to a significant degree in this area because it is a significant distance from the bulk of the supermarkets' retail outlets and cattle located further south are much more cost efficient for their supply chain. . Meanwhile, although some cattle may be produced to the appropriate specifications for live export, there is currently no live export port in close-enough proximity to make this an economic option.

Therefore, the ACCC considers, based on its current analysis, that producers in this particular area, with prime cattle for sale are likely to rely heavily on sales to three processors.

### **3.6.2 Tasmania**

There are two export-accredited processing businesses operating in Tasmania: JBS and Greenham. JBS has processing plants in Devonport and Longford and Greenham has a plant in Smithton. JBS and Greenham account for approximately 90 of the red meat processed in Tasmania, there are smaller processors present, but their limited processing capacity will inhibit their ability to constrain JBS and Greenham.

The ACCC notes that supermarkets do acquire cattle in Tasmania, so they will provide additional competition for cattle that are lighter weight. However, they are unlikely to provide an alternative buyer for export focused producers. In addition, supermarkets are unlikely to acquire more cattle than are required for servicing the domestic Tasmanian market.

While the ACCC did not receive any specific concerns from producers, we received a submission that a lack of options available for the disposal of livestock such as cattle makes it difficult for Tasmanian farmers to remain competitive in a global market. Further, the absence of a large meat processor on either King Island or Flinders Island means that producers in these areas face high transport costs.

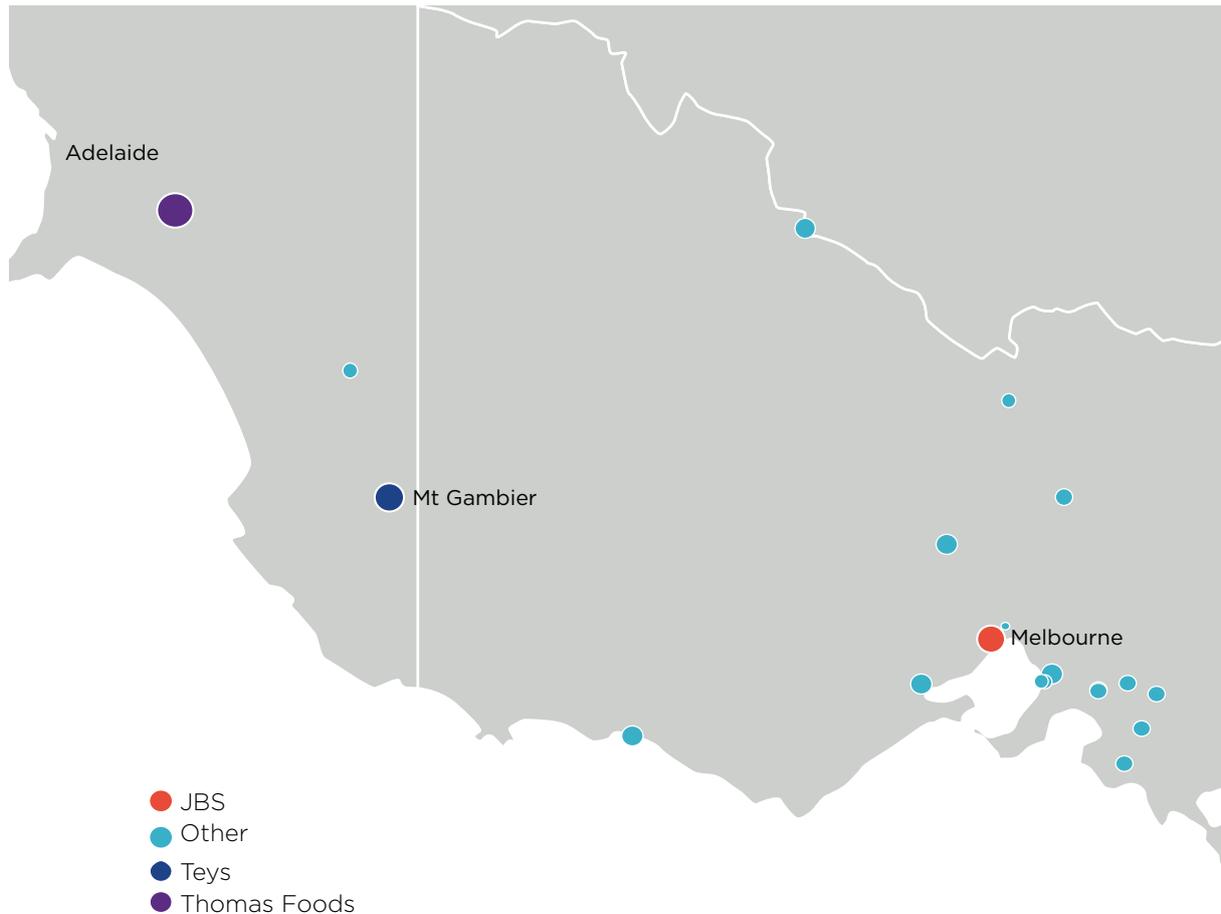
The ACCC is aware that there is a proposal to construct a multi-species abattoir on King Island. This abattoir will greatly reduce producers' transport costs and may enhance their returns, as their cattle will have a less stressful journey to the processing facility, improving the quality of carcasses.

As in the Rockhampton area, the ACCC would review any future proposed consolidation in this area closely.

### **3.6.3 South Australia and Western Victoria**

In South Australia there are two significant processors, Teys at Naracoorte and Thomas Foods at Murray Bridge. On the face, this level of concentration is similar to the above examples. However, the ACCC considers it is likely that producers in the area would have a range of selling options across cattle of different weights and with different characteristics. There are several processing plants in neighbouring Victoria (figure 3.2) and the ACCC is aware that supermarkets also purchase prime cattle in this area. However, as noted earlier in this chapter, supermarkets only purchase cattle within a specific weight range and with particular characteristics, which limits the constraint that they may pose on other purchasers of prime cattle. When the ACCC held its forum in Mount Gambier, the general view from participants at that forum was that they were happy with the number of options present in the market for them to sell cattle. The ACCC considers that further information is needed to confirm the interim assessment given above, and would welcome further submissions on this issue.

Figure 3.2: Victoria and South Australia



### 3.6.4 Western Australia

The ACCC is aware that there has been a reduction in the number of processing plants in WA over the past few decades.

The largest cattle processing businesses are Harvey Beef in Harvey, Western Meat Packers' (Western Meat Processors) in Cowaramup and V & V Walsh in Bunbury.

There are a number of smaller meat processors including Dardanup Butchering Co. in Picton, Goodchild in Australind, Hagan Brothers in Greenough, Shark Lake Group in Esperance and Witan Holdings in Gingin. There is also a processing facility is the Kimberley Meat Company abattoir which was recently opened in the northern region of WA.

Although there are a number of processing plants in the state, the ACCC notes that they are not all located in close proximity to each, as in some areas of the east coast. Therefore, it is still not clear to the ACCC to what extent they compete with each other.

The ACCC also notes that live export is a significant part of the cattle industry in Western Australia, acquiring approximately 54 per cent of the cattle produced in the northern region of WA. The major supermarket chains are also active buyers of cattle in the southern part of the state, however, as mentioned in previous sections of this chapter, they only purchase cattle with certain characteristics within a specific weight range.

Producers in WA did not raise any specific concerns about access to buyers of their prime cattle.

The ACCC notes that similar to Rockhampton and Tasmania, the options for selling heavier prime cattle are likely to be limited to the three large processors—Harvey Beef, Western Meat Packers and V & V Walsh. However, competition for the acquisition of cattle may yet be strong despite this level of concentration.

### 3.6.5 Other regions with a small number of processors

#### Darwin and the north of Australia

During the course of the market study the ACCC travelled to the Northern Territory to meet with industry representatives and discuss the dynamics of the region. Our understanding is that the region is split into two main production areas:

- the Central Australia region; and
- the Darwin & Katherine production areas

#### Central Australia

Producers in this region raise cattle with both Bos Taurus and Bos Indicus content, therefore they have access to both the live export market and the domestic processing market. Cattle can be sent to processors in the south or shipped north to the live export ports. In addition, many cattle from this area are shipped to store sales, as the properties may not have the capacity to finish cattle to a slaughter weight.

#### Darwin and Katherine

Until the recent introduction of the AACo processing plant, producers' only option in this region was to sell cattle into the live export market. When the live export ban occurred, producers had to ship cattle to Townsville to be processed for grinding meat. The feedback that the ACCC has received is that this did not provide any significant return to producers and should not be considered as a genuine substitution option.

So far, concerns have not been raised with the ACCC about competition in this region. The ACCC is interested to know whether producers consider that they have sufficient options for selling cattle, whether to live exporters in the region or domestic processors; and whether they have observed any issues which cause concerns about competition in this market.

#### **Box 3.3: The ACCC's review of the acquisition of Primo by JBS (November 2014–February 2015)**

When the ACCC reviewed the proposed acquisition of Primo by JBS in 2014–15 the focus was on Primo's Scone abattoir and the likely effect on competition for the purchase/acquisition of prime cattle, taking into account:

- The distance over which it is viable to transport cattle
- The area(s) over which buyers compete to acquire cattle
- The ability of producers to switch between producing different types of cattle and
- The ability of different processors to process different types of cattle

The Primo abattoir at Scone and the JBS abattoir at Dinmore were approximately 650km to 700km apart.

The ACCC considered the effects of the acquisition in a regional market for the acquisition of prime cattle which included northern NSW and southern Queensland. JBS and Primo were active in many other markets but this was the only market in which their activities overlapped to a sufficient degree to raise potential competition concerns. If the ACCC had adopted a narrower catchment area in the review, it would have indicated minimal overlap between the two abattoirs.

Information available to the ACCC at the time indicated that cattle were being transported up to 600km from farm to abattoir. The ACCC focused on the potential reduction in competition between the processors, particularly for producers located between Dinmore and Scone. The ACCC found that a number of competing abattoirs would continue to provide strong competition to JBS, noting that several of these abattoirs have a greater processing capacity than the Scone plant.

The ACCC also took account of market feedback that Primo made price and non-price offers that were particularly attractive to some producers. Concerns were raised that Primo's offer would no longer be available after the proposed acquisition; particularly their willingness to purchase prime cattle on a live-weight basis, rather than OTH. However, the ACCC did not find evidence that Primo systematically constrained the price or non-price offer of JBS. The ACCC considered that if there were a market need for the offers Primo made, then there were sufficient competitors left in the market capable of meeting that need.

The ACCC has improved its understanding of the industry during this market study, which has been far reaching when compared with the review of a specific acquisition. This depth of knowledge has not changed the ACCC's decision that the acquisition of the Scone abattoir by JBS will not substantially lessen competition in any market. The ACCC did not receive any information to suggest information available to us at the time was incorrect and it remains the case that there are a number of competitors present in the relevant market.

We note that the Treasurer placed conditions on his approval of the JBS—Primo acquisition which relate to the provision of service kill at Scone. These conditions are monitored by the Foreign Investment Review Board (FIRB).

### **3.7 Mergers or acquisitions in the processing sector will continue to be carefully scrutinised**

This chapter has discussed a number of issues that suggest that any further aggregation of cattle buyers should be closely scrutinised by the ACCC to ensure that it does not substantially lessen competition in a relevant market.

Cattle producers typically sell their cattle to buyers within a 400km radius of their property or local saleyards. Producers are also limited in their ability to alter the breed and weight range of the cattle that they produce, which limits their ability to access the maximum number of potential buyers in a timely way. Further, while there appear to be a number of processors available in most geographic areas, producer feedback and our analysis indicates that not all of these processors acquire all types of cattle. Producer feedback has also identified that alternative buyers of cattle such as supermarkets, restockers and live exporters may only be in the market for cattle of specific weight ranges, and in specific regions, and so may only constrain processors to a limited degree.

A range of the factors can inhibit processors' ability to readily expand their operations to constrain a decrease in cattle prices in response to a lessening of competition. For instance, firms that are highly vertically integrated, committed to long term supply relationships or who are otherwise unlikely to expand their capacities may be limited in their flexibility to purchase more cattle and restore prices to competitive levels.

The ACCC also notes that cattle producers are restricted in the type of cattle that they sell, and they cannot easily alter their production processes in the short term. This affects their ability to make changes which may be necessary to avoid the exercise of buyer power.

Finally, barriers to entry and expansion in the processing sector may be high at times, especially when there is excess capacity in the market. The height of entry barriers will differ between regions and at different points in time. This means that in most cases, producers' options for selling cattle are likely to be limited to existing processors rather than potential new competitors.

## 4 The Australian cattle and beef industry lacks transparency in many areas

### 4.1 Clear price signals are essential for the operation of competitive markets

Competitive markets ensure that resources are allocated to their most valuable use by sending price signals to buyers and sellers. If price signals are distorted, buyers and sellers are hindered in their ability to make choices that best meet their needs, resulting in inefficient production and higher costs for consumers.

The ACCC has received submissions that determining prices accurately can involve significant time and effort for cattle producers. In particular, producers expressed concerns over the difficulty in comparing historical and offered prices across sales channels. This reduces transparency in the market and can lead to:

- A producer using a sales channel or supplier that does not best meet their needs, including maximising their returns
- Reduced competition between and within sales channels, which may create and protect local market power. This could result in the prices received by producers being lower than those that would be achieved in a competitive market
- The use of price discrimination by buyers, for example where a buyer offers a lower price to a producer because they are unable to compare prices effectively
- Producers being unable to efficiently respond to changing customer preferences. A lack of clear price signals will distort production and investment decision making processes.

### 4.2 Cattle prices are inconsistently reported leading to information asymmetries between producers and buyers

A lack of robust forward pricing mechanisms in the Australian cattle acquisition market mean that producers use historical prices to assess expected future prices and returns. Access to historical cattle prices in a format that can be compared across sales channels can have a significant influence on the production and investment decisions of producers. In light of this, it is concerning that producer feedback from the market study suggests that prices are difficult to compare across sales channels, negatively affecting their decision-making ability. The ACCC attempted to make its own comparison of available price data, finding that differences in price reporting made it difficult to draw meaningful comparisons across sales channels.

#### 4.2.1 Saleyards reporting lacks breadth and depth

MLA reports prices for saleyards of industry importance (41 reports in total) on a weekly basis. MLA saleyard reporters record prices and the number of cattle for each lot sold and provide a description of the major attributes of cattle in each pen. These include the type of animal (yearling steer, grown steer, medium cow etc.), weight, the intended use by the buyer (feeder, restocker or slaughter) and muscle and fat scores. These attributes are assessed during a brief visual inspection and relate to the average condition of the cattle sold in each pen.

MLA does not publish the results of each pen but groups cattle with similar attributes together (e.g. Yearling Heifer, 330-400kg, for slaughter, muscle score C, fat score 3), reporting low, high and weighted average prices on a liveweight cents per kilogram basis for each group. In addition, MLA estimates per head prices for all cattle sales and a carcass weight equivalent price for cattle bought for immediate slaughter. The grouping of cattle sales with similar attributes allows MLA to produce data series that are consistent over time and across the reported saleyards.

MLA further aggregates prices for cattle groups to create state, regional and national indicators, such as the Eastern Young Cattle Indicator (EYCI). The EYCI is a seven calendar day rolling weighted average of 24 young cattle types from 26 saleyards in Queensland, New South Wales

and Victoria. Cattle included are vealer and yearling heifers and steers, with muscle and fat scores C2 or C3, and liveweight greater than 200kg.<sup>97</sup> The EYCI includes prices paid for cattle for slaughter, restocking or lot feeding. These indicators provide a snap shot of the prevailing prices for the industry or sections of the industry, which can be used to benchmark individual farm performance. They may also form the basis of futures and hedge trades, as is the case with the EYCI.

### Issues relating to the reporting of saleyard prices

The ACCC has identified a number of issues relating to the reporting of prices in saleyards that could result in producers making inaccurate assessments of expected future prices. These include:

- MLA reports do not cover all saleyards: producers selling to non-reported yards are unlikely to have access to historical prices to compare with those offered in other sales channels, such as OTH
- MLA coverage of a reported saleyard may not be complete: although around 90 per cent of sold lots are covered on average, underreporting of cattle with specific characteristics could influence decision making for some producers<sup>98</sup>
- The reporting of prices in aggregate: reduces the ability of producers to compare historical sales of cattle with specific condition and quality characteristics to cattle ready for sale
- Accuracy of lot assessments: although highly skilled and regularly tested for accuracy (see section 4.3.4 for more information), MLA market reporters could make assessments that lead to the misreporting of prices if carcasses do not grade as expected.

### 4.2.2 Over the hooks reporting does not reflect prices achieved

MLA reports OTH prices by state on a weekly basis, using grids supplied by major processors to derive weighted average prices on a cents per kilogram basis (see section 7.3 for more information on price grids). Prices are grouped by cattle type, weight range, dentition, muscle score and fat depth, allowing for comparison over time and across states.

### Issues relating to the reporting of over the hooks prices

Like saleyards, there are a number of issues with the collection and publication of OTH prices that could negatively affect the ability of producers to make effective decisions. These include:

- Collection of offered prices: prices published by MLA reflect those offered by processors, not the actual prices achieved after grading. If producers do not have a good understanding of how grids operate, they could make inaccurate comparisons between individual offers/results, and state averages
- State-wide reporting of prices may not reflect regional variation: the state-wide basis for reporting prices is unlikely to reflect the prices available to a producer in a certain location. This could be particularly relevant to producers in New South Wales, where processing operations are spread across a wide area
- The reporting of prices is not comparable to other sales channels: the grouping of cattle by type, weight range, dentition, muscle score and fat depth is different from the format used for the reporting of saleyard prices. As a result it can be difficult for producers to make meaningful comparisons between sales channels (see section 4.2.5 for a summary of the ACCC's efforts to compare OTH and saleyard prices).

### 4.2.3 Reporting of paddock sales and forward contracts is not robust

Direct sales arrangements, including paddock sales and forward contracts, are important sales channels for a range of producers, particularly those supplying live export markets in northern Australia and major supermarket chains. However, reporting of these prices appears to be less

<sup>97</sup> Meat and Livestock Australia, *Interpreting the Eastern Young Cattle Indicator (EYCI) daily summary report*, MLA, Sydney, n.d.

<sup>98</sup> Meat and Livestock Australia, *NLRS cattle assessing*, MLA, Sydney, 2005

robust compared with other sales channels, because coverage of sales is limited and relies on relatively few sources for information.

The lack of reporting on direct sales prices reduces transparency, which may result in less competitive outcomes in cattle acquisition markets and affect the ability of producers to effectively respond to changes in market demand.

#### **4.2.4 Realised prices for online sales are readily available in the short term**

AuctionsPlus makes results available online shortly after the conclusion of a sale, with prices added to the description and photos of cattle provided in the pre-sale catalogue. Results are currently displayed online for the most recent two months, with older data available on request. The ACCC understands that AuctionsPlus is developing a tool to query historical sales results by cattle characteristics (for example, breed) and location of seller.

#### **4.2.5 Saleyard and over the hooks prices are not easily comparable**

Given the concerns raised by producers throughout this market study about comparability of prices across sales channels, ACCC staff attempted to make a comparison between publicly available saleyard and OTH price data. However, a valid comparison was unable to be made, reflecting differences in the major saleyard and OTH price series reported by MLA.

As mentioned above, MLA collect saleyard price data on a liveweight basis which is converted to a carcase weight equivalent price. However, the carcase weight equivalent prices for major saleyard cattle types (e.g. heavy steer, medium steer, trade steer and medium cow) do not match the major OTH prices reported for these cattle types. For example, saleyard prices for Queensland heavy steer are converted to carcase weight equivalent by applying a dressing percentage of around 54 per cent to liveweight (500-600kg), implying a carcase weight of between 290 and 350kg. This compares with a carcase weight of between 300 and 400kg used for the equivalent OTH indicator (grown steer).

In addition, it is unclear on which basis carcase weight equivalent prices are reported by MLA. The ACCC understands that the majority of price grids are offered on a hot standard carcase weight basis, while the dressing percentage above suggests that MLA saleyard prices are reported on a cold carcase weight (see Figure 4.1 for ACCC estimate of carcase breakdown).

Although other factors, such as cattle quality, transport arrangements, selling fees and number of potential buyers, will affect producer returns from each sales channel, being able to make comparisons of prices on the same basis is important for producer decision making. Without the ability to easily compare prices across sales channels, the effectiveness of producers' decision making is likely to be reduced and could result in lower returns from cattle sales.

### **4.3 Understanding how price grids are set, and selling against them, is not straightforward**

#### **4.3.1 Price grids are generally complex, reflecting the wide variety of customer requirements**

Cattle buyers, primarily processors, use price grids to indicate the type of cattle and carcase attributes needed to meet customer requirements. In general, a processor will offer the highest price, or 'sweet spot', for carcasses that meet customer requirements for attributes including age, weight, meat colour, and fat coverage and colour, with discounts applied to carcasses that have fewer of these attributes or are damaged (for example, bruising) (see Chapter 5 for more information on the grading process). Under certain market conditions processors will offer prices over and above those in their published grids. Price grids are offered as dollars or cents per kilogram on a carcase weight basis.

Although the basic principle behind the formulation of price grids is common across processors, the format and complexity of grids can vary significantly. This largely reflects the number and variety of markets a processor supplies and the cut and quality attributes of beef demanded by each market. For example, a price grid made available to the ACCC by a major processor

contained more than 200 individual prices, with additional discounts outlined for bruising, fat and meat colour and fat coverage and premiums for pasture certified cattle. In addition, price grids are regularly updated to reflect changes in the supply of cattle and end market demand. The ACCC understands that grids are generally reviewed and updated by processors on a weekly basis, but this can occur more or less frequently as required.

#### 4.3.2 The method used for determining price grids varies across the industry

The ACCC requested information from processors about the methods used to determine price grids. Although feedback from processors suggested that methods for developing price grids varied, there are a number of common factors considered, including:

- Pricing models: models are used by processors to analyse the prices that can be achieved for various cuts of beef and co-products on export and domestic markets, which is combined with processing costs to calculate a break even figure per animal
- Competitor prices: are obtained for comparison
- Order book: processors consider existing and expected orders and adjust prices to ensure the acquisition of required cattle
- Prevailing cattle prices: are obtained to compare the prices offered for cattle with similar characteristics in alternative sales channels, particularly saleyards
- Historical cattle prices and other data: processors consider the prices they paid in the recent past to assess expected future prices for similar cattle. The ACCC understands that some processors maintain records detailing price offers that were accepted and rejected.

#### 4.3.3 Some producers have difficulty accessing price grids

The ACCC is aware of concerns that producers can have difficulty accessing price grids in a timely way. Producers submitted that these difficulties can relate to the different means through which grids are made available, and the size of the consignment being offered for sale. Several producers also suggested that they were reluctant to pressure buyers to make grids available in case they damaged ongoing business relationships.

The ACCC understands that price grids are made available to prospective cattle suppliers through a number of different channels, including:

- the publication of grids on a company website
- contacting the cattle buyer directly, usually by phone, to discuss pricing, consignment and delivery arrangements
- completing an online request form
- pre-registering as a supplier to a company.

Where price grids are not publicly available on a company website, a buyer maintains discretion over whom prices are released to. This can reduce competition in cattle acquisition markets and may limit the bargaining power of cattle producers if they cannot easily access price grids for alternative buyers.

Small-scale producers submitted that their requests for grids are often ignored because the consignments they propose to send are too small. Although buyers are not obliged to purchase cattle from any supplier, information on expected future prices will influence the production and investment decisions of producers. For example, if a small-scale producer finds that higher returns could be achieved by increasing turn off to supply cattle OTH then they may purchase additional restocker cattle for finishing or invest in feedlot infrastructure to intensify their operation.

The ability of producers to make appropriate production and investment decisions is significantly affected by the availability of accurate and timely pricing information. As a result, limited access to price grids reduces the ability of producers to respond to market signals efficiently. In addition, a lack of transparency in prices offered by processors may lead to less competitive outcomes in cattle acquisition markets.

To improve transparency and industry efficiency cattle buyers using price grids should make them publicly available in a timely manner. Grids would preferably be published in a prominent position on the buyer's website and also be made available through a non-conditional phone request as soon as practicable after prices are updated.

#### **4.3.4 Producers may not have the skills required to accurately assess a live animal to determine the carcass grade**

The ACCC has received feedback during this market study that producers may not have the appropriate skills to accurately assess the grade their cattle will likely achieve when processed. This could result in producers forming price expectations that do not accurately reflect the actual outcomes that can be achieved, with implications for production and investment decision making.

Feedback from industry suggests that assessing live cattle for carcass grade is difficult, requiring significant skill and regular benchmarking for accuracy. Reflecting this, MLA saleyard market reporters are regularly assessed to maintain their accreditation as livestock assessors, with testing to ensure that they meet a consistent standard of accuracy in the assessment of liveweight, dressing percentage, fat scoring and muscle scoring.<sup>99</sup> AuctionsPlus also operates a similar system of assessor accreditation and review for agents listing animals for sale through its website.

Given the level of skill needed to achieve accurate assessments of cattle and the ongoing training and review of assessors required to stay current it is unlikely that many cattle producers will be able or find it profitable to maintain similar capability. This is likely to be particularly relevant to small-scale producers because they sell cattle in relatively small lots with wider variation in condition on a few occasions throughout the year.

Alternatively, producers can access services of accredited assessors to provide advice on the selling option for cattle that maximises return. Although costs will be associated with these services, producers may yield higher returns by having a better understanding of potential outcomes. Processors also have a role in improving producer understanding of grids and the assessment of expected returns. If producers are better informed, processors are less likely to receive cattle that are outside specifications, increasing processor efficiency, while creating greater trust between buyer and seller.

#### **4.3.5 There are contradictory claims about how the value of co-products is reflected in price grids**

The ACCC is aware of concerns raised by producers that the value of co-products is not considered in the formulation of price grids offered by processors. During this market study, producers submitted that processors offer prices on a carcass weight basis, which excludes the weight of co-products, and suggested that this was evidence that processors are capturing additional margin. In contrast, processors claimed that grids offered prices that represented the value of the whole animal, not just the beef fit for human consumption. These contradictory assertions indicate a lack of transparency about the value of co-products and how they are reflected in prices paid for cattle.

Co-products are the edible and non-edible parts of an animal, such as offal, blood, fat, hide and bones, derived from the cattle slaughter process. Co-products are used in a range of consumer and industrial applications, including offal exported for human consumption, hides used for the production of leather goods, and blood and bones used in the production of fertilisers.

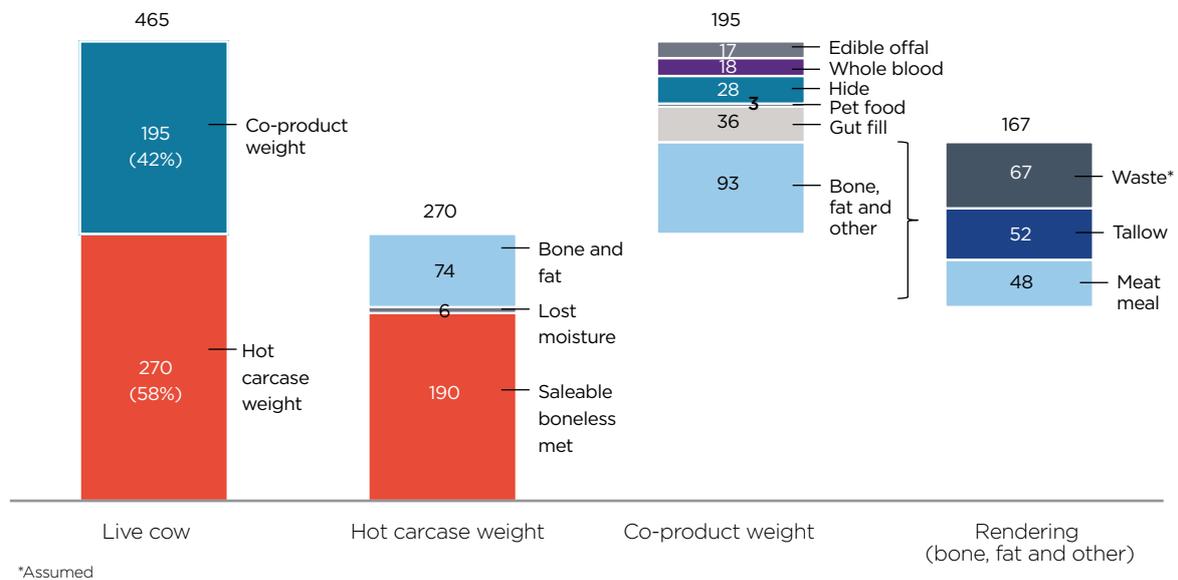
The ACCC undertook analysis of co-product values to assess the relationship between co-product price movements and cattle prices using publicly available data from MLA. Although MLA publishes prices for individual co-products, information is not readily available on the total value of co-products derived from an entire animal.<sup>100</sup> In order to assess the relationship between

<sup>99</sup> Meat and Livestock Australia, *NLRS cattle assessing*, MLA, Sydney, 2005

<sup>100</sup> Meat and Livestock Australia, *Co-products Report*, available at [www.mla.com.au/prices-markets/Trends-analysis/](http://www.mla.com.au/prices-markets/Trends-analysis/)

changes in the value of total co-products and cattle prices, edible and non-edible offal price indices were created based on the co-product yields from a 465kg grass fed steer (Figure 4.1).

**Figure 4.1: Accounting for the whole animal: 465kg grass fed steer example**



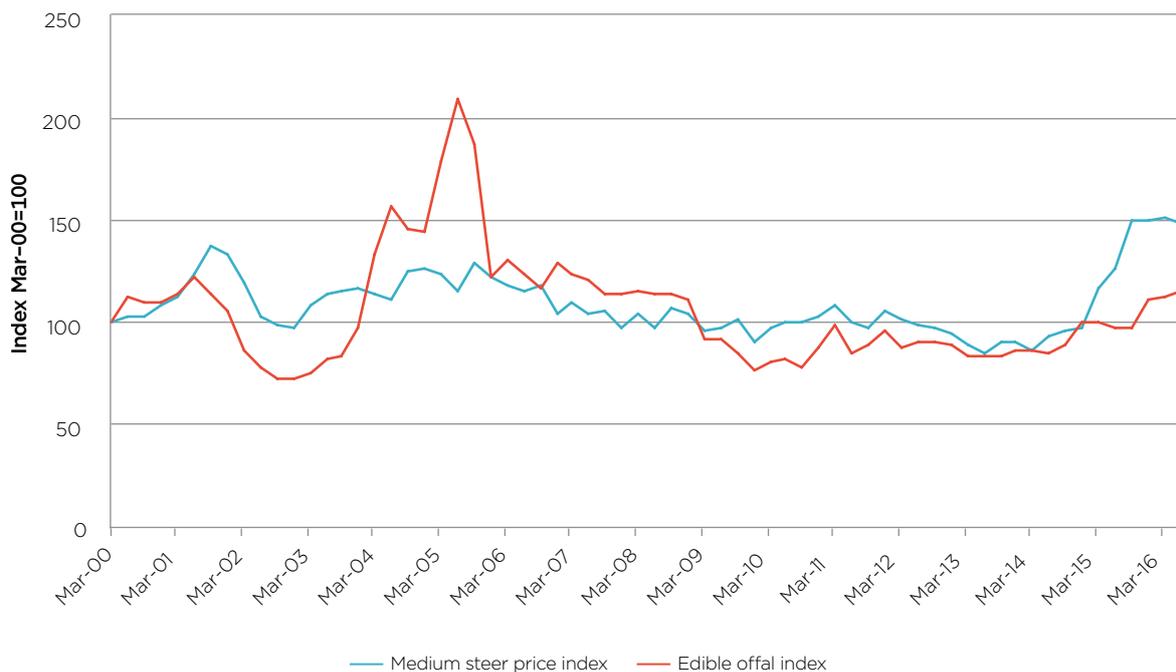
Sources: MLA Co-products compendium, 2009; ACCC analysis

### Co-product price movements have a limited effect on total animal value

Over the past 16 years the ACCC edible offal price index has not diverged significantly from an index of the Australian average saleyard price for medium steers (Figure 4.2). This suggests that cattle prices reflect movements in offal prices in general. In periods where prices have diverged, the rise in total offal values largely reflected short-term increases in demand from export markets. The most notable example of this was in the period between March 2004 and October 2005 when prices for rumen pillars, tongue SW and thick and thin skirt rose significantly in response to the outbreak of bovine spongiform encephalopathy (BSE) in the United States and the subsequent banning of US beef and co-product imports by key Asian markets, particularly Japan.<sup>101</sup>

101 Giamalva J & McConnell M, *Japan Allows Expanded Access for U.S. Beef*, Executive Briefing on Trade, July 2013, United States International Trade Commission, Washington D.C, 2013.

Figure 4.2: Medium steer and edible offal price indices, real terms (2015 dollars)



Note: Medium steer prices are considered to be representative of all saleyard prices for the purposes of this analysis because prices for major cattle types largely track each other.

Sources: ACCC analysis; Australian Bureau of Statistics, Consumer Price Index, Australia, Jun 2016, cat. no. 6401.0, ABS, Canberra; Meat and Livestock Australia, Market information statistics database, MLA, Sydney, viewed 12 October 2016, statistics.mla.com.au/Report/List

For non-edible offal, prices were relatively more volatile compared with cattle prices over the past 16 years. For example, ACCC analysis shows the price of bone meal has grown faster than cattle prices since late 2007. However, the relatively low value of bone meal and the associated costs of processing mean that these fluctuations in value did not have a significant effect on cattle prices. In addition, hide prices have decreased significantly relative to cattle prices since 2003. This suggests that the value of hides and other non-edible offal are not major drivers of cattle prices.

#### Box 4.1: Foetal blood is very valuable and prices have varied greatly

The ACCC is aware of concerns about the effect of price movements for bovine foetal blood on cattle prices. In particular, producers raised concerns that the relatively high prices for foetal blood achieved in 2014 were not adequately reflected in cattle prices.

Bovine foetal blood is obtained from cattle foetuses during the slaughter of pregnant cows. Products derived from this blood used in the pharmaceutical industry, as a growth medium for tissue and cell cultures, in vaccines and other products.<sup>102</sup>

The price of foetal blood has varied significantly since 2000, at times reaching up to \$600 per litre. Periods of particularly high prices were 2003–04 and late 2013 to mid 2015, when prices peaked at around \$520 per litre and around \$600 per litre (in 2015 dollars), respectively.<sup>103</sup>

Between 500mL and 1.5L of blood can be harvested from each animal, which means that at times up to \$900 of foetal blood value per animal may have been available to processors (before processing costs). The ACCC understands, however, that relatively few animals yield foetal blood, so the value of foetal blood may not be reflected in the average cow price series.

102 Kelly J, Foetal calf blood the latest hot item from cattle co-products, Weekly Times, 18 September 2014, viewed on 20 October 2016, [www.weeklytimesnow.com.au/agribusiness/cattle/foetal-calf-blood-the-latest-hot-item-from-cattle-coproducts/news-story/3f9a822fb1b5097c0138e127d83cea4c?nk=7da09f7d9af7388a194155536baaa6b-1476937693](http://www.weeklytimesnow.com.au/agribusiness/cattle/foetal-calf-blood-the-latest-hot-item-from-cattle-coproducts/news-story/3f9a822fb1b5097c0138e127d83cea4c?nk=7da09f7d9af7388a194155536baaa6b-1476937693)

103 Meat and Livestock Australia, Market information statistics database, MLA, Sydney, viewed 12 October 2016, statistics.mla.com.au/Report/List

While the price of foetal blood appears to be readily available, it remains unclear whether processors do consistently offer premiums for pregnant cows, reflecting the expected value of the foetal blood. On the one hand, media articles during the price spike of 2004 report that premiums of up to 70 cents a kilogram (or around \$280 a head) were offered for PTIC cows.<sup>104</sup> On the other hand, the ACCC has also been told that pregnant cows may not be specifically targeted by processors.

The spike in 2004 largely reflected a significant reduction in trade because of the outbreak of BSE in the United States and Europe in the early 2000s.<sup>105</sup> In 2014, prices for foetal blood peaked because of strong demand and a significant shortage in pregnant cow slaughter in the United States, resulting from strong herd rebuilding after an extended period of drought.<sup>106</sup>

#### 4.4 Mandatory price reporting can improve transparency, but moves towards a US-style system need to be carefully assessed

A number of industry stakeholders have suggested, including through this market study, that Australia should implement mandatory price reporting modelled on the US system. Producer concerns regarding transparency in pricing were considered as part of the senate inquiry Industry structures and systems governing levies on grass-fed cattle held in 2014. The Inquiry recommended that the Department of Agriculture, in consultation with industry, conduct an assessment of the pros, cons and costs of introducing a US-style mandatory reporting system.<sup>107</sup> As a result of this recommendation, the Cattle Council of Australia requested MLA to undertake such an assessment, the conclusions of which are detailed below.<sup>108</sup>

##### 4.4.1 Mandatory price reporting in the United States: How it works and its effect on the market

###### Operation of the US Livestock Mandatory Reporting Act

The United States Department of Agriculture (USDA), on behalf of the US Government, operates a mandatory reporting system for livestock transactions. The system is fully-funded by the US Government. The Livestock Mandatory Reporting Act, requires meat packers (i.e. processors) with annual slaughter of at least 125 000 head of cattle to report on cattle purchases and beef sales.<sup>109</sup>

On the buy-side, processors must report details twice daily on cattle purchases, including volume, quality and price; and weekly on the volume of cattle slaughtered by method of acquisition (saleyard, forward contract, price grids etc.) and intended discounts and premiums applying to grids. On the sell-side, processors report twice daily on the price, volume, quality, cut, trim and delivery specifications for each boxed beef transaction.<sup>110</sup> This data is published online by the Agricultural Marketing Service of the USDA in an aggregated form shortly after receipt.

104 O'Toole K, *Foetal Blood in Demand*, NSW Country Hour Summary 20 September 2004, viewed on 20 October 2016, [www.abc.net.au/site-archive/rural/nsw/stories/s1203015.htm](http://www.abc.net.au/site-archive/rural/nsw/stories/s1203015.htm)

105 United States Animal Health Association, Report of the Committee on Import-Export, USAHA, 25 October 2004, viewed on 20 October 2016, [www.usaha.org/Portals/6/Reports/2004/report-ie-2004.pdf](http://www.usaha.org/Portals/6/Reports/2004/report-ie-2004.pdf)

106 MbioserviceS, *FBS Production—What Can We Expect?*, MbioserviceS, 22 September 2014, viewed on 20 October 2016, [www.mbioservices.com/fbs-production---what-can-we-expect/](http://www.mbioservices.com/fbs-production---what-can-we-expect/)

107 Senate Standing Committee on Rural and Regional Affairs and Transport, *Industry structures and systems governing levies on grass-fed cattle*, Department of the Senate, Canberra, 2014.

108 Todd B & Barnard P, *Beef Transparency, Options to address cattle and beef price transparency, Milestone 5*, MLA, Sydney, 2016

109 Mathews K et al, *Mandatory Price Reporting, Market Efficiency, and Price Discovery in Livestock Markets*, United States Department of Agriculture Economic Research Service, Washington D.C, 2015, viewed on 20 October 2016, [www.ers.usda.gov/media/1896210/ldpm-254-01.pdf](http://www.ers.usda.gov/media/1896210/ldpm-254-01.pdf)

110 U.S. Government Publishing Office, 'Livestock Mandatory Reporting', *Electronic Code of Federal Regulations*, GPO, Washington D.C, viewed on 20 October 2016, [www.ecfr.gov/cgi-bin/text-idx?SID=776d5666e8abcdaf592b8aa682bd18a0&node=pt7.3.59&rgn=div5](http://www.ecfr.gov/cgi-bin/text-idx?SID=776d5666e8abcdaf592b8aa682bd18a0&node=pt7.3.59&rgn=div5)

## The effect of price reporting on US cattle and beef markets

The direct effect of mandatory price reporting has been to improve the accessibility and amount of information available to all market participants, including cattle producers. However, several government reviews and independent studies, conducted since price reporting became mandatory in 2001, have offered various conclusions on the broader effect of the system on competition in the market and producer-buyer interactions.

A study by Ward, found that mandatory price reporting increased the amount, type and timeliness of data available to market participants that allowed for comparison of prices across purchase methods. The study also found that although prices did not vary significantly by purchase method, transparency was enhanced.<sup>111</sup>

A study by Njoroge et al. concluded that while increased information reduced the uncertainty faced by processors, creating social benefits, it also had the potential to foster collusive behaviour by enhancing the policing efficiency of a cartel.<sup>112</sup> Although in other studies the potential for mandatory reporting to facilitate collusion was dismissed, it was found that the effect of mandatory reporting was small compared with other factors driving prices, suggesting that it is difficult to determine instances of processors exercising market power.<sup>113</sup>

The attitudes of US feedlot operators to price reporting were assessed in a survey conducted shortly after the introduction of mandatory reporting system. This study found that the majority of operators did not think the system benefitted the industry. When asked if mandatory price reports enhanced their ability to negotiate prices, nearly three-quarters disagreed to some extent while only 10 per cent agreed. In both cases, feedlot operators that gave positive responses tended to be small-scale producers.<sup>114</sup>

Modelling of the US fed cattle market suggested that increased reporting on forward contracts encouraged greater use of this sales method. The increase in the use of forward contracts, that tend to offer lower prices than spot markets because they reduce production risk, resulted in downward pressure on prices in saleyards. However, these lower prices were more than offset by a reduction in price risk, an improvement in production efficiency and less divergence in price expectations, which increase producer profitability.<sup>115</sup>

### 4.4.2 The complexity of the Australian industry would make the implementation of a US-style mandatory reporting system difficult

Although US research has shown that mandatory price reporting has provided some benefit to the US cattle industry, there are several characteristics of the US cattle and beef supply chain that lends the industry to this type of detailed and timely reporting of prices.

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111 Koontz S & Ward C, 'Livestock Mandatory Price Reporting: A Literature Review and Synthesis of Related Market Information Research', *Journal of Agricultural & Food Industrial Organization*, vol. 9 Iss. 1, article 9, Berkeley Electronic Press, Berkeley, 2011.

112 Njoroge K et al, 'Market and Welfare Effects of the U.S. Livestock Mandatory Reporting Act', *Southern Economic Journal*, vol. 74 no.1 pp. 290-311, Southern Economic Association, Chattanooga, 2007.

113 Mathews K et al, *Mandatory Price Reporting, Market Efficiency, and Price Discovery in Livestock Markets*, United States Department of Agriculture Economic Research Service, Washington D.C, 2015, viewed on 20 October 2016, [www.ers.usda.gov/media/1896210/ldpm-254-01.pdf](http://www.ers.usda.gov/media/1896210/ldpm-254-01.pdf)

114 Koontz S & Ward C, 'Livestock Mandatory Price Reporting: A Literature Review and Synthesis of Related Market Information Research', *Journal of Agricultural & Food Industrial Organization*, vol. 9 Iss. 1, article 9, Berkeley Electronic Press, Berkeley, 2011.

115 Ibid.

The first relates to the cattle processed in the United States. Around 90 per cent of US cattle are grain fed for an extended period before slaughter, reducing variability in animal quality and size.<sup>116</sup><sup>117</sup> In addition, the requirement for processors to only report on cattle and beef used to service the US domestic market and a relatively simple grading system means that processors report a small number of prices.<sup>118</sup>

In contrast, a similar system employed in Australia would require processors to report a significantly broader range of prices that may not be easily comparable across regions and time. This reflects the need to include prices for export sales, which would require processors to report prices by cut and quality for more than 100 markets, and the variability in animal quality and size resulting from a pasture-based production system.

The second issue relates to the concentration and scale of the US processing sector. Based on 2012 data (the latest year data is available), 24 processing plants exceeded the 125 000 head qualification to participate in mandatory price reporting, accounting for almost 95 per cent of US cattle slaughter.<sup>119</sup> Of these, four firms, Tyson Foods, Cargill, JBS, and National Beef Packing Co., accounted for around 80 per cent of total US cattle slaughter.<sup>120</sup>

To achieve similar coverage, an Australian collection system would require significantly more processors to report on their operations. This reflects the relatively less concentrated processing sector in Australia and the greater number of smaller operators. In contrast to the United States, the top five Australian processors account for around 57 per cent of total cattle slaughter, with JBS (23 per cent) and Teys (16 per cent) accounting for the largest shares of national capacity (see Chapter 3 for more information).<sup>121</sup><sup>122</sup>

The third issue relates to government intervention. The US mandatory reporting system is underpinned by federal legislation, with funding for the collection and publication of prices provided by the US Government. In contrast, government intervention in Australian agriculture, particularly in regard to regulation, has declined significantly over the last three decades. While a matter for Government, it is likely that legislation for mandatory price reporting would only be introduced if significant positive benefits are identified.

#### 4.4.3 Aspects of US-style reporting system would improve market transparency in Australia but must be balanced against costs

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.

However, the ACCC notes that the collection and publication of pricing data should strike the right balance between promoting market transparency that aids competition, such as robust historical price reporting, and a level of transparency that facilitates coordination or concerted practices between competitors. An example of the latter may be price information which assists competitors to coordinate their future price offers. As a result a price reporting system must be carefully designed to facilitate and not hinder competition.

116 Australian Lot Feeders' Association, *Grass fed versus Grain fed beef*, ALFA, 2013, viewed on 20 October 2016, [www.feedlots.com.au/wp-content/uploads/2014/07/grassvgrain.pdf](http://www.feedlots.com.au/wp-content/uploads/2014/07/grassvgrain.pdf)

117 Beef USA, *Fact Sheet: Feedlot Finishing Cattle*, National Cattlemen's Beef Association, n.d, viewed on 20 October 2016, [www.beefusa.org/uDocs/Feedlot%20finishing%20fact%20sheet%20FINAL\\_4%2026%2006.pdf](http://www.beefusa.org/uDocs/Feedlot%20finishing%20fact%20sheet%20FINAL_4%2026%2006.pdf)

118 Tatum D, *Beef Grading*, Department of Animal Sciences, Colorado State University, Fort Collins, 2007, viewed on 20 October 2016, [www.beefresearch.org/cmdocs/beefresearch/beef%20grading.pdf](http://www.beefresearch.org/cmdocs/beefresearch/beef%20grading.pdf)

119 Cattle Buyer's Weekly, *Top 30 Beef Packers 2013*, CBW, viewed on 20 October 2016, [www.themarketworks.org/sites/default/files/uploads/charts/Top-30-Beef-Packers-2013.pdf](http://www.themarketworks.org/sites/default/files/uploads/charts/Top-30-Beef-Packers-2013.pdf)

120 Rock A, *How safe is your ground beef?*, Consumer Reports, 21 December 2015, viewed on 14 October 2016, [www.consumerreports.org/cro/food/how-safe-is-your-ground-beef](http://www.consumerreports.org/cro/food/how-safe-is-your-ground-beef)

121 Department of Agriculture and Water Resources, 'Meat consolidation and the red meat processing sector', submission 74 to Senate Inquiry *Effect of market consolidation on the red meat processing sector*, DAWR, Canberra, 2015.

122 ACCC estimates using data from Aus-Meat, Department of Agriculture and Water Resources, Meat and Livestock Australia and processor websites.

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 final milestone report into improving price transparency in the beef supply chain, commissioned by MLA, suggests that there are a number of areas where additional market information could improve market transparency. These include, wholesale beef prices, export beef prices and beef production by processor. However, the report concludes that alternative methods to collect this information are likely to be more cost effective than mandatory reporting and will not rely on government legislation for implementation.<sup>123</sup>

The ACCC supports the pursuit of additional data collection and publication by MLA through voluntary participation of the industry. This is likely to improve market transparency and system integrity at the least cost to the industry as a whole. If market participants are unwilling to fully participate in this initiative, industry and government may need to re-consider possible legislative change.

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123 Todd B & Barnard P, *Beef Transparency, Options to address cattle and beef price transparency, Milestone 5*, MLA, Sydney, 2016

## 5 Over the hooks sales leave discretion to processors, with varying accounts of how it is exercised

### 5.1 There are concerns about the integrity of the grading system for over the hooks sales

Major beef processors and supermarkets in Australia have submitted that they acquire approximately 90 per cent of cattle directly from producers. A large percentage of these cattle are acquired on an OTH basis, which makes this the most important channel for information to flow between processors and producers about prices, and the specific quality requirements of end customers.

The ACCC received complaints from producers about the independence and transparency of the OTH grading system. Of particular concern for producers was the integrity of the system.

Producers have submitted that the OTH process:

- is not transparent, in particular they have noted difficulty in accessing, interpreting and comparing grids and feedback sheets they receive
- raises conflicts of interest, because the grader is an employee of the plant and is not independent, and
- shifts some of the risks inherent in cattle production (i.e. variability in animal quality at the point of slaughter) onto producers.

In addition, producers have submitted that it is difficult to understand and compare price grids between different processors. Producers have also claimed that they are subject to inconsistent trimming of carcasses, which further clouds their ability to confidently compare prices between processors.

This chapter explores the Australian grading system in detail, focusing on the implications for market transparency and efficiency. The chapter concludes with a discussion of areas where there may be an opportunity to improve the system.

### 5.2 Processors have great discretion over grading outcomes

In the OTH system, beef producers deliver livestock to a particular processor for slaughter based on a grid of prices offered by that processor. The grids typically detail the premiums or discounts that will be applied for different carcass attributes.

Processors use price grids to indicate to cattle producers the characteristics of the beef desired by customers. Accordingly, the highest price on the grid is allocated to the specifications that the processor desires the most, which is known in the industry as the 'sweet spot'.

Premiums and discounts typically apply for attributes such as fat depth, muscle cover, carcass shape, meat colour, dentition (age) and breed type. These attributes, and hence the final prices paid for the animal, can only be determined post slaughter, when the carcass is inspected by a grader.<sup>124</sup>

Grading specifications fit into one of three categories:

1. Specifications based on the AUS-MEAT language
2. MSA-defined specifications or
3. Processor-defined specifications.

In theory, processors are able to determine the parameters they will use to grade carcasses. However, processors have submitted that in practice, the parameters that they use are dictated

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<sup>124</sup> See Chapter 4 for more information on the price grids.

by their end customers. Where these customers require the use of the AUS-MEAT language (e.g. export customers and some large retail outlets), processing plants must adhere to the AUS-MEAT language standards.<sup>125</sup>

### 5.2.1 There are inherent conflicts of interest in the trimming and grading process

Carcase grading typically relates to attributes including meat colour, fat coverage and shape of the carcass, dentition, and weight. In addition to awarding grades for achieving certain specifications, processors will also penalise producers for undesirable features such as bruising or injuries. Processors will also provide premiums for desirable features, such as breed or pasture fed certification.

However, there is minimal independent scrutiny of the steps in the process which directly impact the final prices paid to producers. In particular:

- Carcasses are trimmed and graded by a grader who is a processor employee.
- Carcasses are graded without direct oversight by AUS-MEAT
  - AUS-MEAT's audit processes involve checks of each processor's quality assurance procedures, including whether grading is carried out by appropriately trained and accredited personnel
  - AUS-MEAT does not audit individual grading outcomes.

The process of trimming the carcass also damages the transparency of the post-slaughter price determination. Before carcasses are weighed, they are trimmed of some fat and flesh which is considered excess.

AUS-MEAT defines a standard trim which determines the maximum amount of material that can be trimmed from a carcass, at AUS-MEAT accredited processors. However, the producers have submitted that processors frequently deviate from this standard. Producers have submitted that it is not clear to them what the trim levels are at each processing plant and this can lead to difficulties in comparing price grids from different plants. For example, if the level of trim is lower at one particular plant, then the final weight of a producer's carcass and thus return will be higher, all else being equal.

In the absence of independent oversight, beef processors theoretically have the ability to favour their own commercial interests by trimming and grading carcasses so that the processor acquires the carcass at a price below competitive levels. The frequency with which this occurs in practice will depend on a number of factors, including the presence of close competition in the cattle market, the availability of cattle suitable for slaughter, the significance of the beef producer as a repeat customer, and the nature of orders that processor is seeking to supply.

### 5.2.2 Existing oversight systems are insufficient to address conflicts of interest

AUS-MEAT is the industry organisation which manages a number of industry product standards, and also accredits and audits meat processing plants. AUS-MEAT endeavours to promote proper grading practices through its training and accreditation role and by following these up with audits.

The ACCC considers that neither oversight by AUS-Meat nor the processors' own dispute resolution methods are adequate to overcome the inherent conflicts of interest in the grading and trimming process.

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<sup>125</sup> Producers also raised concerns regarding additional specifications that processors add on top of the AUS-MEAT requirements. Producers have no oversight when processors decide to add these additional criteria and they have submitted that they do not know whether these additional specifications are really driven by the end customer. Some producers allege that processors use these additional specifications in order to downgrade carcasses but still sell beef at premium prices. Processors submit that they take this process very seriously, as for many of them, audit costs and their AUS-MEAT accreditation depend on compliance with regulations. Processors also submit that they have no incentive to downgrade the quality of meat during the grading process, as they would then not be able to sell it as premium grade meat to clients.

## The AUS-MEAT process

AUS-MEAT accredited graders are trained to grade carcasses and to use the AUS-MEAT standard description language and/or the Meat Standards Australia (MSA) language (where appropriate) to describe the grading allocated to each carcass.

The AUS-MEAT accredited language is used to describe meat products and ensure consistency of supply for customers of processors. AUS-MEAT language must be used in the description of meat that is to be exported. MSA grading is separate to the AUS-MEAT language and focuses on determining the eating quality of the meat being graded. It is not a requirement to complete MSA grading on carcasses, however some customers may require that processors do this. Beyond these two types of grading, processors may also have additional attributes for carcasses which are not connected to MSA or AUS-MEAT language requirements. Grading involves the assessment of a number of carcass attributes and can include: meat colour, tropical breed content, ossification, fat depth, meat pH and marbling content.

Audits of accredited facilities are conducted regularly by AUS-MEAT and vary based on previous audit performances to ensure that the procedures undertaken at the plant are correct and the grading is consistent and accurate. As part of this, AUS-MEAT audits the performance of the processor-employed graders, to ensure that they are accurately grading and labelling carcasses. To do this, AUS-MEAT auditors will grade a sample of carcasses with the plant's head grader, comparing their results with assessments by plant graders to determine accuracy.

Producers have noted that a major concern with the AUS-MEAT audit process is that processors are notified up to four days in advance that the audit will be conducted. AUS-MEAT has submitted that this is necessary to ensure that the correct employees are on site in order for the audit to occur. However, it does give processors and its employees advanced warning to ensure that employees are up to standard on the particular day. Irrespective of the practical issues associated with this arrangement, it serves to reinforce the distrust some beef producers have in the grading system as it currently operates.

### **Box 5.1: The development of the current system and the role of AUS-MEAT**

In 1982 a Royal Commission was conducted into the Australian red meat industry. The Royal Commission was set up to investigate allegations that poor arrangements and procedures for the export of meat had resulted in horse meat being labelled as beef and exported.

The Royal Commission concluded that:

- the incentives to adhere to export regulations were not significant; the maximum fine per breach was \$100 and the Commonwealth Department of Agriculture had a limited ability to address breaches
- the oversight system was not comprehensive and did not adequately communicate information on previous breaches
- the Department of Agriculture inspection service was focussed more on animal welfare outcomes than on ensuring labelling was accurate.

Following the Royal Commission a national standard for grading and labelling was developed and records of export certification and information about breaches of grading standards were recorded electronically. The Department of Agriculture was also given powers to investigate and audit businesses involved in the beef supply chain to ensure compliance.

In response, the Department of Agriculture developed:

- quality assurance frameworks for supply chain participants, and
- industry standards and inspection verification procedures.

The Department then devolved responsibility for these functions to industry, which led to the establishment of AUS-MEAT.

AUS-MEAT is an industry body which is jointly owned by Meat and Livestock Australia (MLA) and the Australian Meat Processor Corporation (AMPC) and has been operating since 1987. A Memorandum of Understanding sets out the arrangement between the Department of Agriculture and AUS-MEAT regarding AUS-MEAT's role as an accreditation and auditing body.

AUS-MEAT provides accreditation for all export abattoirs in Australia, to ensure that processors are:

- compliant with the Australian meat language standards when they describing the cut and quality of the meat they sell, as this language forms the basis of the AUS-MEAT grading specifications; and
- upholding the National Accreditation Standards—this includes ensuring that the plant can consistently meet customer requirements and maintain appropriate food safety systems.

In order to become AUS-MEAT accredited, processing plants must implement an AUS-MEAT approved quality management system which is designed to ensure these standards are met. AUS-MEAT estimates that they accredit approximately 90 per cent of beef abattoirs in Australia.<sup>126</sup>

To ensure processing plants are meeting their requirements, AUS-MEAT trains, accredits and audits meat graders working at AUS-MEAT accredited facilities. Meat graders are plant employees, and their role, as far as AUS-MEAT is involved, is to grade carcasses in line with the AUS-MEAT language. This may also include grading against eating quality standards (Meat Standards Australia (MSA) grading) in cases where the carcasses are eligible for such grading. These same graders may also assess additional attributes of a carcass that are not required under AUS-MEAT regulations, but are specific to a particular company.

Audits are carried out on an annual basis by AUS-MEAT on both the graders and the processes undertaken at the processing plant (discussed further below).

### **Processors' dispute resolution systems**

Processors have submitted that the dispute resolution processes they offer are designed to allow producers to raise any issues that they have in response to grading results. The ACCC has reviewed a number of dispute resolution systems offered by processors during this market study. Some of these appear to be quite robust, as they allow producers to make anonymous complaints to an independent adjudicator and remain anonymous throughout the investigation. The independent adjudicator is an expert in meat grading and is able to oversee mediation or deliver a decision which will bind the processor and the producer.

The consistent feedback that the ACCC received from processors is that these dispute resolution processes were not enacted regularly. This is in contrast to the response that the ACCC received during its engagement with producers who noted issues with grading results on a regular basis, and an inability to dispute these results with processors.

Further, the ACCC's discussions at the public forums indicated either a lack of awareness of these dispute resolution processes or a lack of trust in their effectiveness. In particular, producers noted that by the time they receive feedback sheets their cattle have been processed, the beef shipped away and there is no evidence for them to fall back on in any dispute about the grading results of their animals.

AUS-MEAT does not operate a dispute resolution process for producers. However, AUS-MEAT can be requested to provide technical information that may assist in clarifying disputes relating to carcass grading when it is undertaken at an AUS-MEAT accredited processing facility. In such a circumstance AUS-MEAT will focus on ensuring that the technical meat language, grading procedures and national standards required by AUS-MEAT were adhered to.

<sup>126</sup> Processors can choose whether or not they wish to have their processing plant AUS-MEAT accredited. However, if processors wish to export their product then, under the Australian Meat and Live-Stock Industry Act 1997, they must gain AUS-MEAT accreditation. Some end customers of processing plants may also require the processing plant to be AUS-MEAT accredited as part of their ongoing supply contracts. This is common practice by some major domestic retailers in Australia. In practice this means that most of the abattoirs in Australia are AUS-MEAT accredited in some way.

AUS-MEAT's website states that it does not get involved in commercial disputes between producers and processors, and encourages producers to first contact the processor if they have a problem.

The ACCC has received mixed feedback from producers regarding the AUS-MEAT process of providing technical feedback. Some producers were aware that it existed and some were not. Many were confused about its operation and accordingly there was not a great degree of confidence in it.

### **5.3 Grading technology has potential to improve outcomes in the near future**

The ACCC considers that the general lack of trust in the integrity of the OTH system is a serious issue as this method of sale is arguably the most important price determination process in the industry. If producers do not have confidence in the information available to make decisions in response to competing price offers and market demands, then the overall efficiency of the cattle market is reduced, and an economic cost is imposed on the entire industry.

Exacerbating these concerns is the lack of control that producers have over some critical stages of the supply chain that can have a significant impact on carcass grades. Producers note that they have no control over what happens to their cattle on receipt into the processors' lairage, and that mistreatment or poor management of cattle during the period they are held in lairage can have a significant impact on carcass grades.

However, the ACCC does note that damage to cattle whilst under the processors control will lead to lower quality beef products, is likely to have a negative effect on the ability of processors to fill customer orders. The ACCC is aware that some processors have been involved in extensive research to minimise damage and stress on cattle whilst within their control.

It is recognised that this is a difficult issue and that processors are currently working closely with a number of producers to develop improvements. It is also recognised that there are always likely to be cattle which perform poorly when graded, and that producers are likely to blame the grading system, rather than question their skill in producing cattle that meet customer requirements. However, if the grading system is accurate and trusted, then producers will have the information they require to remedy these poor results. In this regard we also note that larger-scale beef producers raised fewer concerns about the grading and price grid system. Some claim to have established good working relationships with processors and that they alter their practices to improve their performance on the price grid.

The ACCC considers that the more positive experiences of large volume producers is due in part to the transport and handling efficiencies that both parties derive from dealing in large-volume consignments. Large-scale producers are also likely to be more able to profitably invest in resources necessary to clarify unclear price information and to follow-up concerns about grading results.

The ACCC is aware that some work is currently being undertaken to introduce new objective carcass appraisal technology into the industry. Some processors have indicated that these technologies are close to being launched and may be operational in plants within the next one to two years. The technologies that are currently being explored are:

- Colour sensing and hyper-spectral imaging to determine attributes like meat colour, fat colour and marbling—image analysis systems are in practical operation for carcass yield appraisal in the European Union and the United States of America. A sophisticated image analysis system capable of measuring marbling, rib fat, eye muscle area, meat colour and fat colour is currently being developed in Japan and is due for field evaluation in early 2017. Based on current information, this system will be able to provide a full image analysis of a carcass within 10 seconds. Developers of this technology claim that hyper-spectral imaging can deliver a useful tool, with key questions around their ability to identify new dimensions that could help predict eating quality.

- Dual Band X-ray to produce three dimensional images of carcasses and meat, showing fat depth and bone composition—this is currently used for lamb carcasses and is being further developed so as to be able to penetrate the greater mass of a beef carcass.
- RGB-D (Wii) cameras to produce detailed images and depth measurements of carcasses and meat—these systems are low cost due to their use in gaming and, while development has been slow, they show great potential in their ability to measure live animal conformation and carcasses.
- CT Scanning for an accurate yield assessment of carcass composition—this technology is capable of assessing any portion that can fit through the machine's chamber and could be a useful beef grading tool, particularly if developed to allow large beef carcasses to be scanned rather than being limited to scanning beef cuts or carcass portions. The costs of this technology may hinder its development.

The ACCC understands that X-ray scanning is likely to be implemented by at least one major processor within the next one to two years, and that once implemented, the information arising from this technology will greatly enhance both the objectivity and the scope of carcass feedback provided to producers.

The ACCC believes that the use of more objective carcass appraisal systems should be a high priority for all processors, and should also be strongly supported by industry leaders and relevant policymakers. However, the ACCC notes that technology is not a panacea. During the market study, producers have raised concerns with the ACCC about the calibration of the grading technology and worries about who would oversee this. The ACCC considers that technology should be implemented in conjunction with an independent dispute resolution system, in order to develop a trusted system.

## 6 The ACCC shares industry concerns regarding conduct in cattle markets, particularly in saleyards

### 6.1 Saleyards are an important cattle sales channel

Over the hooks is the most common sales channel for slaughter-ready cattle. However when considering the industry as a whole, saleyard auctions are a major and important sales method. Saleyards tend to be most favoured by producers who have small herds and sell in small lot sizes, although they are occasionally used by larger producers to dispose of cattle unsuitable for sale direct to processors' works. An animal may pass through the saleyards more than once during its lifetime as it changes hands from a breeder, to being fattened, to being sold for slaughter.

The mix of buyers present at any given sale will depend on the type of cattle being auctioned, as these cattle may appeal to different categories of purchasers, including processors, retailers, feedlots, or cattle producers. Hence salaried buyers working for a single customer (such as a major processor) may be present, as may commission buyers (representing one or more customers), buyers bidding on their own behalf, or stock agents bidding on animals on behalf of a client.

Information received during the course of this study has revealed issues and concerns about:

- a lack of transparency in saleyard auctions, particularly in relation to information about the buying-side of auctions
- allegations of agreements between buyers to rig the outcomes of saleyard auctions
- some businesses employing a single buyer to coordinate bidding and avoid competition.

### 6.2 Saleyard processes lead to competition risks

Saleyards establish prices by auctioning lots of cattle using open ascending bids (an 'English auction'). This entails both the identity of the bidder and the amount bid being transparent (the physical identity of the agent, not necessarily the principal).

Well-designed English auctions have the potential to be an efficient sales process. For example, English auctions generally ensure that the bidder who values an item the most will be allocated that item. However, these desirable properties are not present if buyers are able to co-ordinate bids. Ways in which this might be done include:

- agreeing in advance of an auction who will win the bid
- agreeing not to bid strongly for cattle for which a competitor is bidding or to sit out of a bidding round;
- deciding which pens each will bid on prior to the sale
- taking turns to be the low bidder

These are examples of bid-rigging. Bid-rigging is a form of cartel conduct. Like other forms of cartel conduct, that is, when competitors agree or make arrangements such that they will not compete with each other, bid-rigging is illegal and may result in criminal convictions. Cartel conduct can involve express, formal agreements between competitors, as well as arrangements where competitors deliberately co-ordinate their conduct indirectly, including through third parties.

### **Box 6.1: What is cartel conduct?**

Cartel conduct, also referred to as collusion, exists when businesses agree to act together instead of competing with each other. This agreement is designed to drive up the profits of cartel members while maintaining the illusion of competition. There are certain forms of anti-competitive conduct that are known as cartel conduct. They include:

- price fixing, when competitors agree on a pricing structure and/or level rather than setting their own prices
- sharing markets, when competitors agree to divide a market along customer or geographic lines so participants are sheltered from competition in those divisions
- rigging bids, when competitors communicate before lodging their bids and agree among themselves who will win and at what price
- controlling the output or limiting the amount of goods and services available to buyers.

The incentive for parties to engage in cartel conduct can arise if they estimate that the profits they could earn from acting collectively will be at least as much as the profits that they could earn by making these decisions independently.

It should be noted that competitors can reach independent decisions that result in similar outcomes to cartel conduct. This can occur in markets where there are a small number of participants, or prices and other information is public, and readily available. Cartel-like outcomes can arise from competitors merely observing the actions and reactions of each other and taking these into account when deciding whether and how much to bid. As long as competitors reach their bidding decisions independently, this is not illegal.

If the concerted practices laws referred to in Box 6.6 are passed, it will become illegal for competitors to engage in 'concerted practices'

Successful cartel conduct largely relies on:

- the participants having reliable information about their competitors' conduct to enable them to reach an agreement on how to collude
- market transparency to be able to monitor compliance with that agreement, and the ability to rapidly punish those who deviate
- the cartel being free from disruption, such as from new competitors. Cartel members may take action to deter new competitors from entering the markets in which they operate, by bidding aggressively against them or making explicit or implied threats.

There are several elements of the way in which saleyard auctions are conducted and buyers are represented which can meet these requirements and make the process susceptible to coordinated behaviour by competitors:

- Auctions are held frequently with the same individuals often attending a network of yards within a region. We have also heard that buyers often will share a vehicle while travelling to a sale. Repeated interactions provide opportunity for buyers to:
  - communicate private information and develop strategies for bidding in a way that maximises their joint profits
  - observe the actions of each other (allowing a cartel to see if everyone is sticking with an agreement)
  - 'punish' those who break away from any 'agreed' bidding strategies in an effective and timely way (for example, by continually outbidding them in subsequent weeks). The buyer's (and his or her family's) social networks within the local community also provide a broader range of options for 'punishment', with examples provided to the study including social isolation, physical intimidation and sometimes violence.
- Commission buyers are generally sole traders, while salaried buyers work under varying degrees of management oversight. Both have the authority to enter into transactions with

a level of autonomy. This is likely to make it easier to coordinate with others at a saleyard, as agreements can be reached without having to seek managerial approval for actions, or refer back to another party.

- The auction process is transparent in that the physical identity of bidders and their bid amounts are visible to all. Regular attendees with good networks have additional understanding and visibility of who is bidding for which buyers.
  - Transparency results in both advantages and disadvantages to the competitive process:
    - ▶ On the one hand, price transparency through the bidding process helps to stimulate competition between buyers by revealing information about valuations and therefore can be positive for competition.
    - ▶ On the other hand, transparency makes it easier to establish and enforce a coordinated arrangement, which can negatively impact on competition as detailed above.

### **Box 6.2: Did you know the maximum penalty for a criminal breach of the Australian cartel provisions is 10 years in jail?**

In 1977, when the average weekly male wage was \$212.60<sup>127</sup>, the penalty for collusion in a Victorian saleyard was not more than \$20 for a first offence, and not more than \$50 or up to a month in prison for subsequent offences<sup>128</sup>.

Today, the law takes anti-competitive conduct much more seriously, so it is of serious concern to the ACCC that there are persistent allegations of anti-competitive conduct at saleyards.

The ACCC enforces the Competition and Consumer Act 2010 (the CCA). Among other things, the CCA prohibits cartels and other forms of agreements which restrict or limit competition between rivals.

Today, substantial civil and criminal penalties may apply.

#### **Civil offences**

Under the CCA, individuals may incur penalties of up to \$500 000 per contravention:

- The maximum number of contraventions that may apply to parties engaged in a cartel could potentially be very high as the making of a cartel agreement and the giving effect to it are separately prohibited under the CCA. Even an unsuccessful bid pursuant to a cartel agreement may constitute a contravention. Various other orders can be made by the court, including disqualification from managing a corporation.

Under the CCA, corporations may incur a penalty **per contravention** of up to \$10 million or 3 times the gain obtained through the conduct (whichever is the greater). **Or** if the gain from the cartel conduct cannot be ascertained, 10% of the annual turnover of the corporation and any related corporations in the 12 months preceding the contravention.

#### **Criminal offences:**

For individuals: a maximum penalty of 10 years imprisonment and/or a fine of 2000 penalty units (which currently equates to \$360 000) in addition to a conviction per contravention.

For companies: the same maximum penalty that applies for a civil contravention.

127 Australian Bureau of Statistics

128 Final Report from the Meat Industry Committee Upon Future Operations of Lickstock Selling Centres, Victoria, 1976–77, p.8.

### **Box 6.3: Example scenarios that would constitute behaviour of concern under the Competition and Consumer Act 2010**

#### **Hypothetical scenario—Bid rigging**

You regularly buy cattle at a certain saleyard. Competition for cattle at the saleyard is strong. Six other buyers frequently attend and bid on the same pens of cattle as you.

You find yourself chatting with one of your competitors after a sale one day at the canteen. The conversation eventually moves on to the tightening of profits in recent years. You agree with your competitor that times are tough, and that things were better in the good old days.

*No problems here—you are simply exchanging views.*

Your competitor goes on to say that part of the problem is that there has been a reduction in cattle going to saleyards—farmers are trying to rebuild their herds after selling most of their stock during the drought. Your competitor says that it would be a good idea for all of the regular buyers to take turns at winning pens so that everyone's orders can be filled at the lowest possible price. You ask whether other bidders feel the same, and your competitor says that they do.

*Warning: If you agree to take turns at winning pens you will be a party to a bid rigging arrangement. This is illegal. Your competitor may have already contravened the law by attempting to get you to enter into a bid rigging arrangement.*

A couple of days later your competitor calls to ask your thoughts on the discussion you had at the canteen. You tell your competitor that you are a bit uneasy about the whole thing, and that you would rather let the market decide who wins. Your competitor reminds you that you have been friends for years, and says that they would never lead you astray. Your competitor adds that you are even set to win the first pen at next week's sale. You are non-committal and end the conversation there.

*Warning: Although you are clearly not the ringleader, giving in to the pressure would make you part of a bid rigging cartel. Also, your competitor may have again contravened the law by inducing or attempting to induce you to enter into a bid rigging arrangement.*

#### **Hypothetical scenario—Price fixing**

You are a regular buyer of cattle at a certain saleyard. At the pub one night you start chatting with one of your competitors about how the price of cattle has recently skyrocketed. Your competitor tells you that they have had to reduce the commission they charge out to clients to compensate for the price increase so they don't lose business. You say that you have had to do the same.

*No problems here—business can be rough sometimes.*

At the next sale your competitor approaches you in the car park when you are alone. Your competitor says that part of the problem is that buyers are 'cutting each other's throats'. Your competitor suggests that all buyers should agree not to buy cattle above a certain price.

*Warning—Where there is an understanding between competitors not to buy cattle above a certain price, then a price fixing arrangement has been made. Your competitor may have already contravened the law by attempting to get you to enter into a price fixing arrangement. You will be breaking the law if you agree to do this.*

Several weeks later at the pub your competitor approaches you and mutters a price. Your competitor says that no buyer will bid above this price at the next sale.

*Warning—Your competitor is clearly trying to fix, control and/or maintain prices, and such an agreement between competitors would be illegal. Even if you didn't agree to the arrangement, you may be implicated if you do nothing, because it could be inferred that you tacitly agreed.*

*You may wish to get legal advice and report the matter to the ACCC. See Box 6.7 for details of the ACCC's cartel immunity policy.*

## **6.3 Potential conflicts of interest are common and create competition risks**

### **6.3.1 Commission buyers frequently represent multiple customers**

The ACCC received several submissions stating that commission buyers reduce competition in saleyards, and reduce transparency as to the number and identity of buyers represented. Some submissions and comments at public forums called for a cap on the number of clients a single commission buyer may represent.

Conversely, the ACCC also heard that commission buyers can promote competition at saleyards by enabling buyers who would not otherwise find it worthwhile attending a particular auction to be represented (for example, small butchers or buyers located outside the geographic region).

Commission buyers act for their customers at livestock auctions and are typically paid on a \$/head basis, with the usual fee being approximately \$5. The ACCC was also advised that commission buyers will not find it worthwhile to attend a sale if they have orders for less than 100 cattle. These factors provide a strong incentive to purchase as many cattle as possible, and hence to represent multiple buyers.

A variety of parties retain commission buyers (including processors, feedlots and cattle producers): information provided to the ACCC demonstrates that in general, the larger the number of cattle purchased by a processor, the more likely they are to employ their own buying staff. The percentage of stock purchased through commission buyers on behalf of processors appears to be roughly inversely related to the number of animals purchased by a processor.

There are two key ways in which the presence of commission buyers may harm competition:

- The number of buyers is reduced.
  - The reduction in competition between buyers could mean that prices, and thus returns to producers, are lower than they would otherwise be in a more competitive marketplace (see Box 6.4).
  - A smaller number of buyers also makes it easier to reach and enforce an agreement/understanding to coordinate bids (over and above the risk identified below).
- Commission buyers may facilitate coordinated conduct or collusion between their clients through the exchange of private information, thus leading to lower saleyard prices.

Hence the potential for commission buyers who represent multiple clients to harm competition will depend on:

- The number of other buyers present at a saleyard.
- The extent to which the customers represented by the commission buyer are competing for a particular lot (s). If buyers would not otherwise be in competition with one another then the potential harm to competition is lower.
- The extent to which they are a conduit for information sharing, which depends on the type of information conveyed to commission buyers by their clients, and the extent to which this is shared with other clients. For example, if a commission buyer shares information as to whether a particular client is attending an auction, or the number and type of cattle that the client wishes to purchase this could help to facilitate cartel conduct.

The conduct of commission buyers also potentially raises conflicts of interest if the cattle they are buying for different clients are substitutable. Processors submitted that they actively seek to avoid retaining a commission buyer where this would be the case. Such a conflict would be of

concern in two ways: to the buyer due to fears that they may not get the best cattle; and to the ACCC because it would reduce competition.

Commission buyers have strenuously submitted the ACCC that they endeavour not to accept orders where a conflict of interest would occur.

However, data obtained by the ACCC demonstrates that there may be grounds for concern. The ACCC analysed invoices for 200 transactions which took place on a randomly selected day in 2016 at a large saleyard located in eastern Australia. This data included comprehensive detail for every animal transacted, including the buyer and seller, who acted for them, the breed and gender of the animal, its brand (if applicable), the sale price, and drafting information such as pen number.

There were apparent overlaps in the orders held by all commission buyers present. Table 6.1 shows that:

- there were three commission buyers present on the day, representing clients fitting into four different categories of business. These were feedlots, processors, cattle producers and livestock agents. Each 'Client Business Type' in Table 6.1 represents one of these categories, but the actual businesses have been de-identified to protect confidentiality.
- Commission buyer 1 represented two clients operating the same Business Type (and therefore with potentially overlapping requirements), and a further client with a different Business Type.
- Commission buyer 2 represented four clients all operating within the same Business Type category, in addition to one client in each of two other categories.
- Commission buyer 3 represented four clients each operating a different kind of business.

**Table 6.1. Number of clients represented**

	Client business type			
	Processor	Feedlot	Livestock Agent	Cattle producer
Commission buyer 1	2 clients	1 client	0 clients	0 clients
Commission buyer 2	0 clients	4 clients	1 client	1 client
Commission buyer 3	1 client	1 client	1 client	1 client

Although Commission buyer 3 did not buy for more than one client in any category, they split some pens of cattle. In each pen, the cattle were from one vendor, were of the same breed and gender and sold for the same price, yet were booked up to different clients. This suggests that the cattle were substitutable and that there was a conflict of interest in the commission buyer's orders.

Table 6.2 shows three pens for which this occurred.

- The animals in Pen A had a shared set of characteristics, and all sold for the same price, yet were split between two different buyers, identified in the table as J and K.
- Pen B was split between buyers L and M.
- Pen C was also split between buyers J and K.

**Table 6.2. Pens where all animals were purchased by Commission Buyer 3, but animals within the pen were purchased on behalf of more than one client.**

Pen	Characteristics shared by all animals in pen	Price	Buyer	% Of cattle in the	
				Pen	Sale
A	Lot number, vendor, breed, gender	XXX.XX c/kg	J	5.9%	< 0.1%
			K	94.1%	0.3%
B	Lot number, vendor, breed, gender	YYY.YY c/kg	L	7.1%	< 0.1%
			M	92.9%	0.2%

C	Lot number, vendor, breed, gender	ZZZ.ZZ c/kg	J	71.4%	0.1%
			K	28.6%	< 0.1%

Due to the narrow scope of the data obtained, this analysis is not necessarily representative of the entire industry. However, it does give weight to industry concerns, and demonstrate that behaviour that may reduce competition in saleyards does occur.

Furthermore, insufficient publicly available information makes the impact of commission buyers difficult to analyse at a distance. Concerns have been raised with the ACCC that it can be almost as difficult to analyse for someone physically in attendance at a saleyard, as commission buyers will seek to hide the identity of their client in order to minimise the risk of their competitors 'poaching' the business. To do so, they may identify the various clients they represent on the day as, for example, 'Smith 1' or 'Smith 2'. This reduces the transparency of the saleyard process, and the ability to detect the impact on competition from practices such as representing multiple clients with overlapping requirements. It may also lead to agents selling cattle to buyers with which they would not otherwise transact (for example, if they deem them to be at risk of not paying), if they are unaware of their true identity until after the auction concludes.

As noted above, the ACCC also received submissions that commission buyers can promote competition at saleyards by enabling buyers to be represented who would not otherwise find it worthwhile attending a particular auction. This could be the case if the commission buyer is only acting for an otherwise absent buyer. However, if the agent is also representing other buyers that would otherwise compete with the new buyer, the presence of the additional buyer will not necessarily increase competition.

The overall impact of commission buyer's presence in saleyards on competition would therefore likely vary from case to case. Their presence has the potential to positively impact competition by increasing the number of buyers and orders represented at a sale. Conversely, it may harm competition if the number of buyers present is reduced by being able to employ a commission buyer; if orders overlap; or if collusion, coordinated conduct or information sharing is facilitated.<sup>129</sup>

#### Box 6.4: Example of impact of a common buyer's agent

There are 6 buyers interested in purchasing an item at auction. Each buyer is willing to bid up to the maximum valuation of the item as shown in the table below.

Buyer	Value of item to buyer = maximum bid
1	1000
2	1100
3	1200
4	1300
5	1400
6	1500

If each prospective buyer bids independently, then it would be expected that buyer 6 would win the item and pay \$1401 for it—this is just enough to knock bidder 5, who has the second highest valuation of the item, out of the bidding contest. This is also the maximum amount that the seller could expect to receive given the bidders' valuations. The auction is efficient in that the bidder with the highest valuation has won the auction and the seller's revenue is maximised.

<sup>129</sup> A number of submissions from cattle producers identified and raised concerns about these key ways in which competition can be harmed. Some submissions alleged that businesses employ commission buyers with the specific purpose of reducing the competition they face to acquire stock. However, no evidence has been presented that supports this, and there are good commercial reasons for a business to want to retain a commission buyer.

If instead, buyers 5 and 6 are represented by a common buyer's agent, then a different result would emerge. Now, the agent will only need to bid \$1301 in order to knock bidder 4 out of the bidding contest. Although the item will be allocated to bidder 6 who has the highest valuation (and thus the auction retains some efficiency properties) the seller will receive \$100 less than would be obtained through competition between all buyers.

Repeating the process, it is evident that prices will be progressively lower the greater the number of buyers represented by the common agent.

The extent of price suppression will also depend on the rankings of the bidders' valuations of the items. For example if the agent represents buyers 1 and 2 in the example above, then there will be no impact on price. This is because the 4 remaining bidders have a higher valuation of the item and competition between them will result in bidder 6 paying \$1401 for the item (as is the case when buyers 1 and 2 bid independently).

### 6.3.2 The incentives of agents and potential conflicts of interest create competition risks

Livestock agents are engaged by sellers, and charge a commission for the service of selling their stock. The level of commission varies, but is typically 2.5-5 per cent.

The ACCC has received submissions stating that:

- It is common for a single livestock agent or agency to represent both the buyer and the seller in the same transaction, both at auction and in direct sales from the farm gate.
- Livestock agents do not always declare to the vendor who is buying the cattle, and at times purchase stock for an affiliated company or even for themselves.
- Some agents do not properly act in the interests of their client (usually, a producer) so that they maintain good relationships with buyers.

The ACCC has found that it is common for a single livestock agent or agency to represent many sellers at any one time, and may also purchase cattle for themselves. One example of this is that for data obtained from a large saleyard located in eastern Australia shows that almost one in ten pens of cattle transacted on a particular day, a single agent or agency represented both the buyer and the seller.

Livestock agents have advised the ACCC that incidences of representing the buyer and seller are not uncommon, and that they endeavour to act ethically when such situations arise. Submissions to the market study reported incidences of agents not declaring to all parties that they are acting on both sides of the transaction. While the ACCC does not believe that an agent acting for multiple sellers is always a competition concern, it can limit transparency and create conflicts of interest because:

- when acting for the seller, the agent has a duty and incentive to achieve the highest price
- when acting for the buyer (or purchasing for themselves), the incentive is to achieve the lowest price.

Similar conflicts arise in situations where agents purchase stock for a company affiliated with the agent or agency (such as a parent company or another arm of a parent company), or if the agent is in fact buying the animals for themselves.

The ACCC notes the concerns raised in some submissions that livestock agents do not properly act in the interests of their vendor clients. We also recognise that as market intermediaries, it is necessary for agents to maintain good relationships with livestock buyers in order to be effective for their clients. However, this theoretically may create a misalignment of incentives as regards achieving the best price and outcome for the buyer or seller.

### 6.3.3 Links between saleyards and agents can lead to exclusion of rival agents

Allegations have been raised during the Market Study that there are instances of livestock agencies having control of, or a preferential relationship with, a particular saleyard. It has been

alleged that the agencies use this position to prevent rival agents from competing, either by completely foreclosing access to auction sales by that agent, or providing access at a level that prevents the rival agents from competing profitably.

If an agent with control over a saleyard prevents a competing agent from selling through that yard, this might harm competition. The degree of harm will depend on factors such as the availability of other saleyards/other sale channels for agents and producers in the region. In some cases, the conduct could be illegal under the CCA.

The ACCC is presently assessing an allegation that two livestock agency businesses are engaging in anti-competitive conduct by excluding an independent stock agent and auctioneer from conducting auctions at a particular saleyard.<sup>130</sup>

### **6.3.4 Licensing requirements for livestock agents are inconsistent across states and territories, and between sellers and buyers**

Livestock agents require a licence to operate in NSW and the ACT, but no other states or territories have licensing requirements. The NSW and ACT systems are effectively two-tier, with those carrying on an agency business required to be licensed, and those in their employ as stock and station agents required to hold a certificate of registration. There are rules of conduct to be observed by holders of licences and certificates of registration, and penalties may apply if these rules are contravened. In NSW, the licence is issued by the Office of Fair Trading. To obtain such a licence, in addition to meeting a number of eligibility criteria, a Certificate IV in Property Services (Stock and Station Agency) must be successfully completed.

Requirements for professional livestock buyers (including commission buyers, professional buyers and livestock agents) also vary between states. Licensing requirements in NSW and the ACT apply to agents acting for buyers as well as sellers, and therefore a strict reading of both forms of regulation implies that commission buyers require a livestock agent's license. Buyers are not, however, required to be licensed in other states.

The regulation of livestock agents and commission buyers is inconsistent with the standards in other industries where property is transacted through agents. For example, agents who represent clients for the purchase of real estate require a minimum level of training. While the requirements vary from state to state, it is generally a short course, with successful completion entitling a person to become a "registered" buyer's agent with the local Office of Fair Trading.

## **6.4 Weak saleyard competition will have a broader impact as auction prices are important benchmarks**

Saleyard prices are published in a variety of forms, including local newspapers, NLRs reporting on the MLA website, and a variety of other market reporting or subscription services. They also form the basis of various indicators, most notably the Eastern Young Cattle Indicator (EYCI).

If saleyard prices are not established through effective competition between buyers acting independently, this will not only affect returns to particular sellers but might also impact prices across other saleyards and alternative sales channels. Farmers referring to saleyard prices or indicators as a benchmark may not be seeing prices that genuinely reflect the value of their stock.

The ACCC received submissions about this issue. Producers are concerned that buyers frequently use the EYCI as a benchmark for OTH prices, when it is not an accurate representation of the value of cattle sold, particularly for good quality processing cattle. However, it should be noted that information provided by processors states that in general, their price grids are set with reference to factors other than the EYCI. Price grids are explored in detail in Chapter 4. The reporting of saleyard prices is considered in more detail in Chapter 4.

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<sup>130</sup> The ACCC does not comment on the specifics of current investigations for operational reasons.

## 6.5 Do weighing and curfew practices influence competition at saleyards?

### 6.5.1 Various weighing and curfew practices are in use around the country

At various times before and during the consultation for this market study, the ACCC heard concerns about changes by saleyards from post-sale to pre-sale weighing. This issue was most notably highlighted by the incident concerning the Barnawartha saleyard (See Box 6.5 below).

These concerns reflect the fact that the point at which an animal's weight is determined impacts on the amount of information available to buyer and vendor at the time of sale. The options commonly used are:

- Post-sale weighing: the animal is weighed after it has been sold;
- Pre-sale weighing: the animal is weighed prior to the auction commencing;
- On-scale selling: the animal is weighed while in, or as it enters, a selling ring.

These methods offer varying levels of transparency and certainty for the buyer and seller as regards the weight of the animal at the time of sale.

Livestock auctions are conducted by agents taking bids on a cents/kilogram liveweight basis, which means that pre-sale weighing enables bidders to compete for stock of known liveweight.

In addition to varied weighing practices, curfews vary from saleyard to saleyard. A curfew regulates the time by which animals must arrive, allowing for stock to be prepared for sale and drafted into pens. It also provides a level of certainty for buyers and sellers regarding how recently before being weighed the animal is likely to have eaten (and hence the weight of feed in its digestive system, which will affect the yield of saleable meat relative to the animal's liveweight).

### 6.5.2 There are concerns that saleyard practices can be manipulated to the commercial advantage of some buyers

There is significant concern in the industry, mainly from cattle producers, about pre-sale versus post-sale weighing for saleyard auctions and how this affects commercial outcomes. Much of the debate relates to the amount of time that elapses between curfew and weighing, and perceptions of who is commercially advantaged or disadvantaged by this. Issues raised by producers in favour of pre-sale weighing centre around whether the bidding confidence of some buyers is impacted by the weight of the animal being unknown at the time of sale, and the animal having an unknown final value at the time of sale (as price per kilogram but not the total weight is known).

Submissions point to a preference for post-sale weighing among processors and some other buyers, as they wish to minimise the amount of undigested feed (known as 'gut fill') contributing to the sale weight of the animal.

Due to a lack of suitable data, the ACCC has not analysed whether either method has a material effect on saleyard prices. Mixed feedback has also been received on the matter. As such, the ACCC does not have a view as to whether pre-or-post sale weighing is optimal, or as to what constitutes an 'ideal' curfew time. We do however note that pre-sale weighing appears to have certain benefits, for example increased transparency over transactions.

Various theories could be advanced as to how and why weighing times are preferred by or affect commercial outcomes for different market participants. The ACCC observes that some new or upgrading saleyards have stated plans to pre-sale weigh, and have then decided to introduce a post-sale system. It is alleged that these changes occurred due to pressure from cattle/livestock buyers, implying that post-sale weighing favours frequent and regular buyers.

At a broad level the ACCC considers that saleyards should clearly state and enforce their weighing and curfew protocols, so that market participants can select where they prefer to transact. While the ACCC's investigation of the Barnawartha incident did not find evidence of an anti-competitive agreement between competing buyers, we remain concerned about collective

behaviour which results in changes to selling practices (such as weighing or curfew times), and which unfairly favours certain market participants. Such behaviour may be in breach of laws which prohibit anti-competitive agreements or the upcoming concerted practices legislation, and hence we remain vigilant for instances where it occurs.

#### **Box 6.5: The Barnawartha saleyard incident**

The ACCC investigated allegations that nine cattle buyers collectively boycotted the prime cattle sale at the Wodonga (Barnawartha) saleyard in Victoria on 17 February 2015. The evidence obtained by the ACCC in the Barnawartha case did not demonstrate that the processors had reached an agreement not to attend the sale.

Similar to cartels, group boycotts are another form of collective behaviour which can be illegal. A company may, acting independently, refuse to do business with another firm; but an agreement among competitors not to do business with certain individuals or businesses may be an illegal boycott.

The ACCC's investigation followed reports that buyers had agreed not to attend the sale at Barnawartha in response to the saleyard using pre-weigh selling. The investigation found that there was uncertainty before the sale about whether the saleyard would use a pre-or-post weigh selling method. It was also clear that certain buyers strongly opposed the pre-weigh method.

The ACCC used its statutory powers to request information, data and documents from all of the nine buyers involved. The ACCC followed this up by conducting a number of compulsory examinations of key individuals involved in buying cattle from the Barnawartha saleyard.

Although it was clear that buyers communicated about the sale, the evidence did not demonstrate that any of them entered an arrangement or reached an understanding not to attend the sale. To establish a breach of the Act, the ACCC would need to demonstrate that there was an agreement, and a 'meeting of the minds' between at least two of the parties not to attend the sale.

It is the view of the ACCC that there is a fine line between social discussions about industry issues on the one hand, and exchanging information in circumstances that may constitute an understanding between competitors on the other. Competitors talking about whether they will buy goods or services is a high-risk activity which may breach competition laws.

## **6.6 Options for addressing concerns around conduct at saleyards**

### **6.6.1 Transparency would be improved by a buyers register being taken and displayed at each auction**

While livestock agents and saleyard operators keep records related to the principal purchaser of any one pen (the entity that wants to take possession of the cattle), in general these cannot be easily linked to the buying agent (or person who stood beside the pen and bid) following the auction. This creates transparency problems for producers wishing to sell, as they cannot accurately determine the level of competition without knowing how many potential principal purchasers for their cattle are being represented by the same buying agent (generally commission buyers, but sometimes also livestock agents).

Furthermore, a lack of easily auditable records of which buying agents bid on behalf of which principals make it difficult to assess the impact of buying agents on competition.

In contrast, in other industries where sales are based on auction formats, such as wool auctions and real estate, buyers (in some jurisdictions) are not permitted to bid unless they register with the selling agent. In addition to identifying themselves for the Bidders Record, those who are bidding on behalf of another person or a company may need to show the auctioneer a letter authorising them to bid.

A buyers register should be publicly posted prior to the commencement of the auction to provide transparency. This record should continue to be publicly available on the saleyard website following the auction. The introduction of a mandatory Buyers Register for cattle sales would have twofold benefits:

- A traceable and auditable record of the actions of buying agents at auctions.
- Vendors and other buyers could see how many principals were being represented at any given auction, and by how many buying agents.

Greater buy-side information would enable patterns of buying practices to emerge, enabling sellers to gauge the effectiveness or strength of competition. Over time, sellers could use this information to adapt their selling practices if they wished, such as by selling cattle at different saleyards, or selling online or OTH.

### **6.6.2 A consistent licensing system for livestock agents and professional (salaried or commission) buyers should be implemented nationally**

The ACCC's consultation demonstrates a clear lack of trust that livestock agents and professional buyers will act legally and ethically.

It is also possible that buyers have an inadequate level of understanding of the types of behaviour that would be of concern under the CCA, and the severity of the potential consequences for engaging in such behaviour.

These concerns could be addressed by establishing a licensing system for both livestock agents and professional buyers. This system would involve training and registration, including learning about the CCA and their responsibilities under it, behaviour that would be of concern, and the types of penalties and risks attached.

The ACCC considers that a licensing system would raise the level of professionalism within the industry, and would also be consistent with the standards in other industries where property is transacted through agents.

### **6.6.3 The terms of auction should be clearly displayed and the auctioneer should call attention to them prior to commencement**

There should be a mandatory requirement for the terms of auction to be displayed in a conspicuous position so that they can be inspected prior to and during an auction.

This should include a notice about the penalties for collusive practices under the CCA, in addition to any notices required by state or territory legislation.

The notice of the terms and conditions should be brought to the attention of all participants by the auctioneer prior to commencement, including a statement regarding minimum acceptable bid increments.

- A concern has been raised during public consultation that while bids are generally in whole cent increments, the final bid is often knocked back to a 0.2 cent increment, despite having appeared to be for a whole cent.

This would provide all attendees with greater clarity as to their rights and responsibilities during the auction, and increase transparency.

### **6.6.4 Saleyards are consolidating but competing harder to attract buyers and sellers**

A shift toward fewer and larger saleyards is already occurring. There were approximately 190 saleyards holding regular sales (of both cattle and sheep) around Australia in 2006<sup>131</sup>; a number which fell to approximately 160 saleyards by 2016.<sup>132</sup> Of these 160, a number are completely new, or significantly renovated and modernised. In addition to a more modern design, newer saleyards tend to have a larger capacity. These design features are more attractive

131 Hassal & Associates Pty Ltd, A Review and Analysis of Saleyard Marketing in Australia, final report prepared for the Australian Government Department of Agriculture, Fisheries and Forestry.

132 The ACCC researched whether saleyards from 2006 were still operating, and identified newly opened saleyards.

to both buyers and sellers, as they offer both better animal welfare outcomes and may be safer and more comfortable for those working at or attending the sale. The ACCC has heard during the Market Study that:

- improved, modern saleyard design results in animals from the sale being more attractive to a greater range of buyers due to improved animal health outcomes.
- efficiencies of scale mean that larger yards may be able to offer lower costs per head of stock that travel through the yard, making it more attractive to buyers and sellers.
- in several areas, carriers are establishing or using “consolidation hubs” for smaller lots of stock which would be uneconomical to transport long distances. These animals can then be loaded onto a single large transport and economically taken a longer distance to a large saleyard.

Larger, consolidated yards should offer improved outcomes for competition if they attract a greater number of buyers. A greater number of stock moving through the yards, particularly ones that are attractive to a range of buyers, should make it more likely that a larger number of principals will have an interest, and can expect to acquire a larger number of stock at a single sale. This may enable the principal to employ a commission buyer on a more exclusive basis, as they can provide sufficient volume themselves to avoid the buyer also working for other clients who may represent a conflict of interest. For the reasons discussed above, a greater number of buyers in attendance may make coordinated or anti-competitive conduct more difficult if it makes it harder to reach an agreement.

### 6.6.5 Online Auctions

Some saleyards are beginning to stream auctions online and accept live bids. While streaming auctions is a concept still in its infancy, and potential for expansion may be limited by internet speeds and bandwidth in many rural areas, they appear to have the potential to increase competition for cattle sold through saleyards by:

- Enabling remotely located or smaller buyers to participate, thus reducing reliance on commission buyers and the likelihood that a commission buyer would represent more than one buyer
- Reducing potential for collusion by reducing opportunities for signalling during auction process.

#### **Box 6.6: Harper Review proposals for concerted practices law change, including possible results in cattle markets**

On 5 September 2016 the Australian Government announced that it is consulting on an exposure draft of the Competition and Consumer Amendment (Competition Policy Review) Bill. The purpose of the Bill is to implement, in part, reforms identified by the Competition Policy Review (Harper Review). One area of reform included in the exposure Bill is to amend the *Competition and Consumer Act 2010* to introduce prohibitions against concerted practices that substantially lessen competition.

Section 45 of the CCA currently prohibits corporations from making or giving effect to contracts, arrangements and understandings that have the purpose, effect or likely effect of substantially lessening competition.

If the Bill is enacted, section 45 will also prohibit corporations from engaging in a ‘concerted practice’ that has the purpose, effect or likely effect of substantially lessening competition.

A concerted practice is a form of coordination between competing businesses by which, without them having entered a contract, arrangement or understanding, practical cooperation between them is substituted for the risks of competition.

The following example is of conduct that is likely to amount to a concerted practice:

- Buyers for two of the largest beef processors in Australia regularly catch up over coffee before each auction. The buyers give each other a heads up on which lots each is more interested in, on the range of prices they are authorised to bid for the lot, but are never committed to giving the information and never agree not to bid on a lot. Neither is surprised when the bidding starts. This could amount to a concerted practice, with the buyers substituting cooperation with each other for the uncertainties and independent rivalry of competition.

It is important to emphasise, though, that the conduct will only be prohibited if it also has the purpose, effect or likely effect of substantially lessening competition.

A more detailed discussion of these concepts including examples is provided in the draft Framework for Concerted Practices Guidelines, available from the ACCC website—<https://consultation.accc.gov.au/legal-economic/draft-framework-for-concerted-practices-guidelines>

If the Bill is enacted, the ACCC will publish guidelines that will be based on this framework to explain our approach to possible breaches of these prohibitions.

### **Immunity for cartel participants**

The ACCC has established an immunity policy for both corporations and individuals who have been involved in a cartel but then report their involvement to the ACCC.

Further details can be found in the ACCC's Immunity policy for cartel conduct and Immunity policy interpretation guidelines, which are available from the ACCC website—<https://www.accc.gov.au/publications/accc-immunity-cooperation-policy-for-cartel-conduct>

The only valid way to make an immunity application or request a marker to contact the **ACCC Immunity Hotline:**

Marcus Bezzi  
Executive General Manager  
Competition Enforcement

Telephone: (02) 9230 3894 (business houses)

Email: [cartelimmunity@accc.gov.au](mailto:cartelimmunity@accc.gov.au)

If you call the hotline, it will not be adequate to leave a voicemail or other message.

If you would like to know more, or wish to report suspicious behaviour, please feel free to contact the ACCC Info Centre on 1300 302 502.