Public hearing – Bunbury
23 April 2008

Time: 1.00pm – 5.00pm

Address: **The Quality Hotel Lord Forrest**
20 Symmons Street, Bunbury

Room: **Hearing –** East Ballroom – Ground Level

Witness	Submission	Summons
Western Australia Farmers (Dairy Focus) **Mr Mike Norton** President **Mr Tony Pratico** Federation Member **Mr Robert Biddulph** Federation Member	106	No
Western Australia Chamber of Commerce and Industry & Retail Traders' Association of Western Australia (joint appearance) **Mr Trevor Lovelle** Director of Industry Policy (Chamber of Commerce) **Mr Wayne Spencer** Executive Director (Retail Traders' Association)	65	No
Red Meat Action Group **Mr Gary Buller** Chairman **Ms Barbara Dunnet** Local Nannup Shire President	N/a	No
V & V Walsh Pty Limited **Mr Greg Walsh**	N/a	Summonsed & compelled to appear by ACCC
CA & CC Scott **Mr Mark Scott**	N/a	No

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TRANSCRIPT OF PROCEEDINGS

AUSTRALIAN COMPETITION

AND CONSUMER COMMISSION

MR GRAEME SAMUEL, Chairman
DR STEPHEN KING, Commissioner
MR JOHN MARTIN, Commissioner

GROCERY PRICE INQUIRY HEARING

CONDUCTED AT: LORD FORREST HOTEL, BUNBURY

DATE: 1.00 PM, WEDNESDAY, 23 APRIL, 2008

COMMISSIONER KING: Good afternoon, my name is Stephen King, I'm a commissioner of the Australian Competition and Consumer Commission and one of the presiding members of this public inquiry into the competitiveness of retail prices for standard groceries. I welcome you all and declare this hearing open. This hearing is convened under part 7A of the Trade Practices Act, 1974 and is held pursuant to a request from the assistant treasurer and minister for Competition, Policy and Consumer Affairs received by the ACCC on 22 January 2008. Matters to be taken into a consideration by the inquiry shall include but not be restricted to the current structure of the grocery industry at the supply, wholesale, retail levels including mergers and acquisitions by national retailers; the nature of competition at the supply, wholesale and retail levels of the grocery industry; the competitive condition of small independent retailers; the pricing practices of the financial grocery retailers and the representation of grocery prices to consumers; factors influencing the pricing of inputs along the supply chain for standard grocery items; any impediments to efficient pricing of inputs along the supply chain and the effectiveness of the Horticultural Code of Conduct; and whether the inclusion of other major buyers, such as retailers, would improve the effectiveness of the code. Now, I note that the ACCC has so far received over 180 public submissions to the inquiry as well as confidential submissions.

The ACCC will endeavour to take into account all the information that has been provided to it and thanks industry participants for the contributions that have been made. We understand the competitiveness of the retail grocery prices is of significant concern to all Australians. The purpose of these hearings is to give the ACCC an opportunity to investigate in detail the issues raised as part of the inquiry with industry participants. The ACCC is organising hearings throughout Australia during April with several hearings occurring in Melbourne in May. Now, I wish to emphasise that many witnesses at these hearings are not attending voluntarily and have been summonsed to appear under section 95S of the Trade Practices Act, 1974.

In particular, I note that in general the ACCC has summonsed all supplier companies. Therefore, no conclusion can be drawn regarding a company's willingness or otherwise to participate in the inquiry from the fact that the company is appearing at the inquiry. Some of the material covered in hearing sessions will be confidential and commercially sensitive and therefore parts of the hearings will not be open to the public. Questioning will start in public but sessions will move into confidential phase when the questioning moves into confidential material relating to the witness. The ACCC has to be able to investigate issues that are commercially sensitive to witnesses without damaging the witness's competitive position and commercial relationships.

The ACCC will be questioning organisations about their commercial relationships and about confidential documents the ACCC has obtained through its information gathering powers. This cannot occur in public. In particular, where a witness has not made any submissions to the inquiry and has been summonsed by the ACCC to attend these hearings, the ACCC must be able to hear certain evidence in confidence.

Transcripts of the public parts of the hearings are placed on the ACCC website. The ACCC may disclose some aspects of the confidential components of the transcript a while after the hearing if it considers that some of the material should be in the public domain but the ACCC will consult with the relevant witness before doing this.

Where there are industry associations or representative organisations who are attending voluntarily, it is much more likely that most of the hearing session will be in public. Now, in terms of procedural issues, all witnesses have received a document that outlines how we intend to approach these hearings. So we will not go through the procedural points in detail. I just wish to emphasise that although we are not taking evidence under oath at this hearing, it is a serious offence to give false or misleading evidence to the ACCC. A transcript of the proceedings, as I have noted above, except for any proceedings held in private will be made available on the ACCC website.

The ACCC recognises that some witnesses will be asked to give evidence that, if disclosed, would damage their competitive positions or which may, for other reasons, be confidential. If a witness believes that a particular question or series of questions are likely to require him or her to disclose such information, then if the witness could kindly indicate an objection to answering the question on the basis of confidentiality. I will then consider whether the inquiry should take the evidence in private from that witness. Now, I note that although the ACCC is not utilising external counsel at this hearing, witnesses will be questioned by ACCCs internal lawyers. We have Damien O'Donovan and Catherine Freeman assisting us today.

That concludes my preliminary remarks. I wish to thank all those witnesses who will be attending the hearings today and particularly those of you who have been summonsed to attend. We realise that you are busy people and that attending these hearings can be a significant imposition on you and your organisation. The first witness is the Western Australian Farmers Federation. I notice again that it is an offence under the Criminal Code to give evidence at this inquiry that a witness knows is false or misleading or omits any matter or thing without which the evidence is misleading. Now, gentlemen, do you understand that? Thank you. Now, Mr O'Donovan, perhaps if I turn over to you to ask the witnesses to identify themselves and give the opening remarks.

MR O'DONOVAN: Thank you. All right, can you just state for the record, each of you, your name, the organisation you represent and the position you hold in relation to that organisation.

MR M. NORTON: My name is Michael Norton, I am representing Western Australian Farmers Federation and I am the current president of the Western Australian Farmers Federation.

MR T. PRACTICO: Tony Practico, I'm with the Farmers Federation, I'm a western zone board member and a lower south-west zone president and immediate past president of dairy section.

MR B. BIDDULPH: Bob Biddulph, dairy farmer from Margaret River. I'm also the junior vice-president of the dairy section.

MR O'DONOVAN: Okay. All my initial questions are really going to be about the structure of the dairy industry. So I will direct them to the dairy farmers. Firstly, if you could just start by telling us how many milk processors there are operating in Western Australia?

MR BIDDULPH: There's four major processors and a few, sort of, minor cheese factories operating as well. Do you want me to name those?

MR O'DONOVAN: Yes, please.

MR BIDDULPH: Fontera, National Foods, Harvey Fresh and Challenge Dairy Cooperative. They are the main four.

MR O'DONOVAN: Okay, and from a dairy farmers perspective, can each one of those be sold milk to or are there geographic restrictions that prevent you from selling other to a single processor?

MR BIDDULPH: No, it is quite possible, theoretically, to supply each of those main companies. Harvey Fresh was originally set up around the town of Harvey which is in the northern, sort of, area of the dairy producing areas and traditionally their farmers just came from a local area but they have, in the last 12 months or so, gone further a field. So they don't go all the way down south to Albany as yet but there is nothing to stop them if the suppliers there wish to supply them. There are - once you sign up with the bigger two, which are National Foods and Fontera, National Foods have a contract system in place so you sign up for that for 12 months – well, it's actually two years in total. So you sign for 12 months and then you pledge it for the 12 months after that.

At the end of the 12 months you agree prices again for another two years. So if you wish to exit from National Foods, you have to see out the terms of that contract. With Fontera, also, they have a three-month contract in place before you can leave stipulation, yes.

MR O'DONOVAN: Right, okay. So are they obliged to take particular volumes or do they just offer a particular price? On what terms do you agree to supply? We'll start with National Foods. What do they require?

MR BIDDULPH: Well, National Foods do have a contract on volume in place and that is agreed to when you sign up on the contracts and surplus milk from there is directed to Challenge Dairy Co-operative for manufacturing purposes. The other companies will take all the milk and use all of that milk.

MR O'DONOVAN: So if you produce it, they will buy it. Is that effectively the arrangement?

MR BIDDULPH: Yes, although, as I say, with National Foods they are basically just targeting – they have got x amount they want to pick up, so they contract that amount of milk throughout their suppliers. Anything in excess of that goes through to Challenge for manufacturing. So you now have farmers who are actually supplying both of those companies. A National Foods truck will come and pick them up and they might have, say, a contract for three million litres throughout the course of the year and they might produce three point five million litres, so 500,000 litres of milk will be directed to Challenge from there. With the other companies they will pick up all the milk and use all that milk, yes.

MR O'DONOVAN: Okay. So then if we start then with Fontera, you enter into a three month contract with them for the supply of milk to them?

MR BIDDULPH: You had better answer that one, Tony.

MR PRACTICO: Fontera also has an 18-month contract out there with farmers and the three months exit was in the old supply agreement. The contracts for some farmers is 18 months and you can't exit for the 18 months and there's a variable in – those contracts are available to bigger producers and not available to the majority of smaller producers.

MR O'DONOVAN: Right.

MR PRACTICO: In the past, all producers had a supply agreement, not a contract and their supply agreement was what has been referred to as a three months exit from Fontera.

MR O'DONOVAN: So you would agree to supply but give them three months notice if you were going to cease supply?

MR PRACTICO: That's right.

MR O'DONOVAN: Right. Okay. Then in relation to then the question of price, how is that negotiated by the individual farmer with the processor?

MR BIDDULPH: On a take it or leave it basis.

MR PRACTICO: Yeah. At present it's really difficult to say that there is negotiation.

MR O'DONOVAN: Right. So if we take a circumstance where you're getting to the end of an 18-month agreement with National Foods, what prevents a dairy farmer from saying, "I'm not happy with those terms. I'm going to switch my supplier to Fontera." Is that a possibility?

MR PRACTICO: Yes, providing there's another processor looking for supply, which is the situation that we are in immediately where there is a shortage to supply but in the past it was okay to say, we're not going to supply you but if no one else wanted your milk, there was the opportunity – there was no opportunities. Whilst there was the opportunity to supply the Challenge Co-op in the past, Challenge has improved their price significantly in recent times but in the past the price difference was a disincentive.

MR O'DONOVAN: Right. Now if you could just give us a bit of background on the Challenge operation. How did it emerge?

MR BIDDULPH: You know, Challenge was formed at deregulation in 1999 and it arose from the – George Weston Foods had a factory at Capel, which they took over the operation of and also there was a factory belonged to National Foods at Boyanup which was also incorporated into – under Challenge Dairy so farmers purchased membership of the co-op. Now all those producers that supplied the Capel factory prior to that date became members, plus National Foods members, National Foods introduced a contact at that point so any surplus milk they didn't require, they sent to Challenge. So National Foods suppliers also became members of the co-op in that way. The goal of the co-op is to move farmers up the supply chain a little bit more to give them a little bit more control over their destiny.

We were always being told to value-add milk so that was an opportunity for farmers to get involved and move up the supply chain and that's how they came into being. They certainly struggled initially because the products being made there were low value commodities and they've sort of turned that around now and they're adding value to different products, retail brands and into export milk. Yes, all of a sudden now you've got a – there's been a large exit of farmers across the board, across all four processers in the last seven or eight years and it's reached a point where supply is – you know, demand is far outstripping supply and there is plenty of very good markets, lucrative markets emerging in South East Asia and other parts of the world that are creating a great demand for milk so all of a sudden Challenge has also changed its manufacturing base so it's producing products which have got more intrinsic value so prices are generally starting to go upwards in that way.

Being a cooperative, they probably have been at the bottom of the pay scale for farmers and those larger corporations, in order to ensure supply, can always just add one or two cents on top of the price to ensure their milk supply, yes.

MR O'DONOVAN: Okay. So when you say Challenge is producing low value products, what sort of products would it - - -

MR BIDDULPH: Powders, butter, yes.

MR O'DONOVAN: Any drinking - - -

MR BIDDULPH: Bulk cheese. No they didn't, they've never produced milk for consumption but they have in the last 12 months gone into the retail market with milk as well.

MR O'DONOVAN: Right. Okay. So going back say two or more years, do I understand you correctly that you're saying the Challenge Dairy would offer a lower price for fresh milk then?

MR BIDDULPH: It wasn't significantly lower. We've been Challenge suppliers. We actually swapped from National Foods to Challenge because we believed in the cooperative principles and the fact that we were getting a stake in the market, moving up the supply chain and we realised it was going to be a long haul to get parity with other companies but you know, we certainly believed in the direction that the company is pursuing. People, you know, people would just look at prices and sort of say, well you get, you know, one or two cents more or three cents more, whatever, from Nationals or Fontera but then you're also locked into a certain supply pattern with that. They like to streamline their supply so that they can fill up their drinking milk cartons for 12 months of the year. So you've got to produce a certain amount over the summer months when it's, you know, it costs you a lot more as a producer to do that.

So for us, moving across to Challenge, we could produce the milk when it suited us, when it was cheapest for us to produce. Okay, our overall price at the end of the year wasn't as high but our margin was greater so – and we actually found it's to our benefit. We certainly haven't felt disadvantaged by the fact that overall the price is one or two cents lower. It hasn't been a bar to us expanding our operation but you know, that's again that's our personal situation from our part. Yes.

MR O'DONOVAN: Right. So in terms of when you were facing that oversupply period when it seemed there was milk, an oversupply of milk, would that be fair to say? You were still able to choose to switch between processes? Like Challenge remained an option?

MR BIDDULPH: Well no. Challenge is always an option because being a corporate, they will take everybody's, everybody that chooses to supply them but certainly the bigger two companies are putting milk into specific markets. You know, if they've got their allocation, they're really not chasing milk. Only when they start to lose a few suppliers and supply starts to drop, all of a sudden they'll come round and sort of say, well, you know, would you like supplies? So you know, I guess your initial question, are you able to swap between suppliers, processors, the answer is yes but you know, depending on the economic climate at the time, they may or may not want you, the bigger ones. Right now, everyone wants to know you but you know, a couple of years ago that certainly wasn't the case.

MR O'DONOVAN: Right. Okay.

MR PRACTICO: Excuse me? Can I make the point that the three of us, our general president is a dairy farmer too. He supplies Harvey Fresh. I'm a dairy farmer and supply Fontera and Bob supplies the Challenge Co-op and was a National Food supplier.

MR O'DONOVAN: Sure. Okay. So at least in the current environment, so as we sit here today, would it be fair to say that if a dairy farmer wished to swap between processes, the dairy farmer has that opportunity and can play one processor off against the other?

MR PRACTICO: There's still areas in the dairy industry which are only serviced by one company so whilst there is demand, it isn't total that you can just pick and choose who you supply but the demand has improved the situation for all dairy farmers. But to name the company you want to supply, there has to be a service there because in the dairy industry, the nature of the process is that the milk must leave the farm on a daily or bi-daily basis. Consequently, if there isn't a service in your area by the particular company, the company will not come and pick up your milk if it's out of the way. There has been some sharing between National Foods and Challenge as Bob mentioned, that you could supply both companies but if you're a Fontera or a Harvey Fresh supplier or if you wished to supply those two companies and they didn't have a service in your area, you couldn't automatically presume that they were going to come pick your milk up.

MR O'DONOVAN: Now I understand from your submission that the farm gate price of milk has risen substantially in the last year and it is expected to go higher and it will probably end up up to 20 cents higher than it was three or four years ago? Am I correct in that understanding?

MR BIDDULPH: Maybe not quite that high but that would be nice. Actually you're probably not too far off. I have got some figures here from the last eight years on our place. Average price of milk received on our farm and this will vary between farms according to processers supplied plus components of the milk but the average price we received back in 1999 was 30.6 cents. It fell to 23.5 cents in 2003. In 2006/2007 it averaged 27.2 cents and we're expecting for '06/07 to average about 39 cents, yes. And again, that will vary depending on the time of year you produce the milk as well. I mean, I could probably get a higher price over 12 months but I will be producing a lot of that in the summer where it's not as economic for me to do so. I think that will be higher, above 40 cents, certainly for some other suppliers as well supplying other companies, so.

COMMISSIONER KING: I think you mentioned '06/07 twice in that run-through. So it was 27.2 cents. Is that the '06/07 year?

MR BIDDULPH: That's right, yes.

MR O'DONOVAN: 39 cents '07, '08, is that - - -

MR BIDDULPH: I'm sorry, that's right.

MR O'DONOVAN: All right. Presumably the prices had to be renegotiated at various points in the last 12 months with that to obtain those increases.

MR BIDDULPH: Yes, it's been a moving target over the last several months actually, just because there's been, you know, quite a shortage over the summer, and - - -

MR NORTON: If I might, Mr O'Donovan. I started off as a George Weston supplier which Challenge Dairy took over, and I had the opportunity to go to Fontera at deregulation and didn't, I stopped with the co-op, and I left the co-op last April and went to Fontera, and this April we've gone to Harvey Fresh. Now, the differentials between the companies is a little bit higher than what Bob's alluded to, and certainly we were in the same category as Bob in the lead up with Challenge to moving to Fontera, and last year, Bob, you got 29 cents, we averaged about 33 cents, so it's a bit more than just a couple of cents, there's quite a differential, and similarly where they've got 39 cents this year, there's a two-price tier thing with Fontera, that I've outlined with Mr King, we want to talk in camera in relation to that issue, there's some differentials being floated around by some of the companies and some of those companies will get – Tony, this year, on a non contracted basis, around 44 cents, and the contracted blokes will be higher than that, and Harvey Fresh is the same, we will get substantially more than what Challenge is getting, and it could be somewhere between the difference between eight and 10 cents a litre.

MR O'DONOVAN: Right.

MR NORTON: So it's quite a differential unfortunately.

MR O'DONOVAN: I mean, these kinds of price movements suggest that there is now substantial shortage of supply, but the processors are now chasing supply competitively between themselves, is that fair to say?

MR NORTON: Yes, that's one area, and I would have dearly loved to have stopped with Challenge, but we've – under deregulation, we have been forced in a position where we're going to have to trade our milk to the highest bidder, and farmers don't like doing that as we discussed yesterday with meat, we like to try and build up a relationship with one company. But in the current environment, the only way that we are going to extract some more money out of the processing sector is to trade our milk from one to the other, it's not a – it's not the outcome we want, but that's what we've been forced to do.

MR PRACTICO: Can I comment on the demand, the – some of the demand has come from growth, and the mining boom in Western Australia has attracted more people to Western Australia. 12 months ago, the milk sales, liquid milk sales in Western Australia were approximately 230 million, at the end of this financial year, figures look like will be – at the moment, in a 12 months period, rolling 12 months period, we're at about 236. We should hit 240 million litres with a production of between 300 to 330. Two years ago – so we're getting an increase of about three per cent a year on milk sales, and we've had between seven and nine per cent decrease in production because of farmer's exiting. So that's what caused some of the increase. The other that's caused the increase is a big advertising campaign for Harvey Fresh, Harvey Fresh have been out there selling milk and they have been looking for a significant amount of milk, and consequently have been out attracting new suppliers. So that's the reaction, and Fontera had to make some short term decisions to secure their supply because Harvey Fresh was out there to poach some big suppliers or small suppliers and generated some competition.

MR O'DONOVAN: Are farmers currently locking these prices in with long term contracts with most of the processors?

MR PRACTICO: The processors are very keen to lock in with these prices because they believe that the movement in demand will continue for some time until the production tries to correct itself for – to increase production in Western Australia.

MR O'DONOVAN: All right.

MR BIDDULPH: Just with regard to that, National Foods on a nation wide basis do have contracts with their farmers, and I believe, you know, people sign up to that contract because then it makes their business more manageable. But I believe over in the eastern states, some of those farmers that have signed contracts in the last 12 months or so have suddenly found that their neighbours who didn't sign any contracts are now receiving more fruits, I mean, that's causing some ruptures there, so I mean that's – you know, it's an unusual environment that we're in, not a typical one at the moment.

MR O'DONOVAN: Sure. Now, is milk also being shipped in from other states to meet the shortage, and can all of the local demand be met by WA dairy farmers?

MR BIDDULPH: There has been over this summer, there was some last summer as well, and I think, yes, a bit more of a shortage this year as well, so, yes.

MR PRACTICO: There's two processors been bringing milk in, I'm not sure of the figures, they were hoping that this year they would have to bring in less milk than last year, but I believe that as the seasons progress – and the reason they were hoping to have to bring in less milk is because there's been a significant increase in the price, but on a month by month basis we are continually producing eight to nine per cent reduction in – on last years, so they will need as much milk as they had imported last year. Challenge is importing milk because they've got commitments into the liquid milk market into Asia, and the buyers are prepared to pay the extra price to truck milk across the Nullarbor to fill those contracts.

MR O'DONOVAN: Right, and presumably it's more expensive to get milk in from the eastern states than it is to grow it here? All right.

MR PRACTICO: On a per litre basis, the – and it's probably only rumour, that the milk costs 40 cents to bring on a single load, on a back loaded basis it could be half of that.

MR O'DONOVAN: 40 cents per litre?

MR PRACTICO: Per litre.

MR O'DONOVAN: So they're effectively doubling the cost of the milk?

MR PRACTICO: That's transport alone, 40 cents, yes.

MR O'DONOVAN: Right, okay. Now, of the processors operating in Western Australia, do you know, or are you aware, which have contracts with the major supermarkets and which do not?

MR PRACTICO: Only two processors, National Foods have the national contract with the home brand in supermarkets, and Fontera being the supplier for the Coles, and I believe National has got the contract – I'm not sure, Bob, can you help me, with the - - -

MR BIDDULPH: IGA.

MR PRACTICO: IGA.

MR O'DONOVAN: Yes, okay. Sorry, Harvey Fresh, did you say?

MR PRACTICO: No, Fontera, sorry, National Foods.

MR O'DONOVAN: Okay. So Challenge Dairy and Harvey Fresh don't have a contract with any supermarket providing house brand milk, is that correct?

MR PRACTICO: No, that's right.

MR O'DONOVAN: Okay, all right. Now, I understand from your submission that you believe that the cause of depressed milk prices in the past few years was because of generic milk, the same of generic milk in supermarkets, you thought that was pushing prices down, right down the supply chain, is that - - -

MR BIDDULPH: I think at deregulation, one of the big factors in transferring a lot of wealth from the dairy farm sector to the supermarket sector was the national tendering process that Woolworths undertook to get a national house brand milk. It was such a big contract that a lot of processors, you know, went to great lengths to make sure they got it, National Foods got it, you know, certainly that drove down the price of liquid – the farm gate price at deregulation. So I mean it's – you know, to our way of thinking, having such massive big contracts, such a big part of processors business means that it places us in an invidious position because, you know, they can't afford to lose that contract, and therefore they'll go to great lengths to get it, obtain it, and, you know, that's sort of our livelihood that's being bargained away, if you like, to some extent.

MR O'DONOVAN: Sure, but just to look at that theory for a minute, in that market where a processor had committed to the – where two processors had committed to supply the supermarkets, there were two other processors that had not made those commitments and yet they were unable to give dairy farmers a better price. Now, that would suggest, would it not, that it had more to do with the supply of milk than with what was occurring at the retail level.

MR PRACTICO: During the period of those tenders, there was only three processors in Western Australia. Challenge at that time wasn't processing for the liquid milk market and they are now.

MR O'DONOVAN: Sure, but Harvey Fresh presumably continued to sell branded milk at branded milk prices during that period.

MR PRACTICO: In the last 18 months, Harvey Fresh at one period was excluded from the supermarket shelf and only due to consumer pressure was – 12 months ago, Harvey Fresh was invited to put product back on the supermarket shelf because there was a period there were Harvey Fresh wasn't represented on the supermarket shelf through the policy of the supermarkets.

MR O'DONOVAN: Sure.

MR PRACTICO: But whilst they are invited back in to the supermarket shelf, the shelf space allocated to Harvey Fresh is very minimal and the shelf space dedicated to the home brands is significantly more than all the branded products.

MR O'DONOVAN: Sure, but in that time when Harvey Fresh wasn't supplying a generic product and therefore wasn't subject to that downward pressure on its retail price, it didn't offer anything other than the market price for milk, did it, to dairy farmers?

MR PRACTICO: Harvey Fresh paid better than the other processors during that period and still continues to.

MR NORTON: Mr O'Donovan, during the collective bargaining process of which I'm a chairman of the WA Collective Bargaining Group, and Tony and myself, we went to all the processors asking that very question. You know, why couldn't you pay more? Why is there just such a difference? Why is Harvey Fresh still maintaining, say, two cents a litre above Fontera when you're being locked out and D'sorgiovanni's answer is that we're a family run company, we don't have the overheads that these other companies have. If a bloke doesn't turn up for work, you know, we jump in and drive the truck to Perth ourselves. So their overall cost structure is a lot, lot lower that the other corporate processors.

MR O'DONOVAN: Sure, but I suppose that suggests that again, the reason for any differential in milk pricing was not the presence of a generic contract with a supermarket, but was related to the costs of the processor and the efficiency of the processor. Would you agree with that?

MR NORTON: But also, Harvey Fresh has paid the highest price since deregulation. They've come out and told their farmers and expanded their farmer base and continually paid two cents a litre more than any other processor and hence – and they've actually expanded their business. So it sort of knocked some of these dry, economic theories that some of the supermarkets run: that you can grow your business if you get consumer loyalty, produce a good Western Australian product, totally Western Australian milk and have got the loyalty, and even the big supermarkets and brand names have had to capitulate to the pressure of the consumer. So that's the value of brand name marketing and loyalty from consumers, and Harvey Fresh run a very clever campaign through the television.

MR BIDDULPH: Just further to that question, Dave, the price that is actually paid by processors and the price that consumers are paying, you know, don't seem to be linked in any particular way. You know, I think if you look at National Foods, you know, it appears they do very little exporting of any sort and the growth in value of milk products has come from, you know, the commodities and so forth which are traded, the export prices. National Foods, you know, were paying just the market rate for milk back then when milk was plentiful and now milk's a little bit scarcer. Their product mix doesn't, you know, hasn't changed at all, but you know, they're still prepared to match other prices paid to processors just to ensure supply. So I mean, you know, I don't think you can draw a direct line between where the product goes and the price paid at the farm gate. You know, I guess that's probably what farmers do find a little bit grating is that, you know, all of a sudden they can find the money now when milk's short, but where was it, you know, three or four years ago when everyone was struggling and people were exiting? Basically, you know, it was a sort of indifference in a way that they didn't, sort of, weren't prepared to pay a good price then to keep people in the industry.

MR O'DONOVAN: Now, just moving on from that, in the dramatic price increase that we've seen at the farm gate, has that been reflected in the price of milk on the shelves or are the processors now, because they have long term contracts with the supermarkets, having to absorb the increased cost of obtaining the milk, but delivering it at relatively cheap price to consumers?

MR PRACTICO: There has been three increases: August, November and March to the retailers. I don't have and I don't know, it's not available to us, of any increases to the home brands. That would be something that only a processor would know. So the route trade has had three increases and I believe by June there'll be a fourth one in this period. So the price increase to the farmers isn't reflected by the price increase at the retailers because there isn't an example of where milk has been put up to the consumer and that whole amount go back to the producer. So the value that the consumers pay has increased significantly over the period and whilst there has been – and I really can't accept the fact that the milk price has increased significantly because the milk price has increased, but the main reason that, or where all that money's gone at the producer level has been in increased costs: fertiliser, fuel and feed. So I believe that the increase that farmers have received in the short term now will be exceeded by the increase in costs that farmers are going to have to endure over this next 12 months.

MR O'DONOVAN: Sure, but just in terms of how the pricing from the farm gate has worked, when presumably some of the generic, the cheap pricing of generics was as a result of the major supermarkets being able to access an over ..... milk market to deliver much cheaper milk from the processors, would you agree with that proposition?

MR NORTON: No, look, there's absolutely no correlation between what the consumer pays and what the farmer gets. The processors buy it as cheap as they possibly can in the environment that they're marketing in. It's got nothing to do with drought, price or grain, anything. They get it as cheap as they can by whatever means they can.

MR O'DONOVAN: Sure.

MR NORTON: In the corporate sense.

MR O'DONOVAN: Sure.

MR NORTON: It's pretty elementary.

MR O'DONOVAN: But in the current environment where the price has now gone up dramatically, presumably against the wishes of the processors.

MR NORTON: The boot's on our foot at the moment, but there's still no correlation between the cost of production and what they can buy it for. They try and source milk wherever they can by whatever means they can. We want to talk about some of those issues in Canberra - - -

MR O'DONOVAN: Sure.

MR NORTON: - - - afterwards as to how they try and manipulate one farmer against another, big against small, and how they're trying to position themselves for the long haul through this difficult period.

MR O'DONOVAN: Sure, but it would appear that market conditions are such now that they're forced to pay more for their milk and the question is have they been able to pass through all of that cost increase to consumers. So the first question is have you been aware of retail price increases in generic milk?

MR PRACTICO: I did mention that there has been increases to the consumer, but we don't know whether there is the ability to change the generic contracts. They probably will be tendered again in July, August. There's a period whether it's their second year or their first year because some of them are two and three year contracts now. So we don't have, and I don't know whether it's available to you, to ask the question of the supermarkets whether they have increased. There has been some small step-ups and in some cases, the supermarkets have called on drought relief, so that if the situation improved, they could remove those increases.

MR O'DONOVAN: All right, but are those increases just in the brand milk that they sell or just in the generic milk that they sell or divided between both, or is that something you don't know?

MR PRACTICO: We don't know. The increases have been across the board. The generic milk and the branded milk has increased to the consumer but we don't know whether there is any correlation between what the consumer pays and what the home brands source their milk at within their contract.

MR BIDDULPH: All right. Now, am I reading your submission correctly in that you in essence you claim that generics are the source of the previously depressed price of milk, is that your view?

MR PRACTICO: They're probably a contributing factor.

MR BIDDULPH: Yes, right.

MR PRACTICO: I don't know if you could say that was totally the case.

MR BIDDULPH: Right. But is it possible to explain that in the presence of generic milk you've seen in the last year a 25 per cent jump in your returns, despite the continuing presence of generic milk?

MR PRACTICO: The returns have increased and I'll go back to my statement that Harvey Fresh had some increase, Western Australia's had some increase in sales and there's been a 10 per cent decrease in supply, so it's a market place that has delivered that. I accept the fact that there is home brands in that period but we don't have the ability or the information to say how much, what abetting has been carried out between the two prices at the processor level.

MR BIDDULPH: Sure.

MR PRACTICO: That would be a question for the processes.

MR BIDDULPH: Sure, but putting aside things at the processor level, there does seem to be a market, an efficient market operating with supply and demand forces at work where there's an excess of supply, the price is low. Where there is insufficient supply the price goes up quite dramatically and there doesn't seem to be a lack of competition at the processor level that prevents that operating for the benefit of farmers.

MR NORTON: Can we answer that question in camera, Mr King?

COMMISSIONER KING: Well, is there some confidential element to that?

MR NORTON: We think there is.

COMMISSIONER KING: All right.

MR NORTON: I think it's probably best if we have the discussion about the actual processes - - -

COMMISSIONER KING: Sure.

MR PRACTICO: Right. Well, I think that was – I suppose there were just a couple of other matters I wanted to confirm. It's suggested in the submission that milk is used as a loss leader. Do you have specific evidence that it is sold at a loss by any retailer?

MR BIDDULPH: I believe that the reason it's been portrayed as a loss leader isn't to the processor, it's at the supermarket level.

MR PRACTICO: Sure, so do you think supermarkets are selling milk at a loss to them and if you think that, what's the evidence of that – to support that proposition.

MR NORTON: In talking with the supermarkets as we do, that they tend to blame one another and for example, John Cummings from IGA, he continuously criticises the two majors as being the source of all evil insofar as through their tendering processes in their ..... (1.48.18) can buy cheaper through their home brands and their tendering process from the processes cheaper than what he can and quite a bit cheaper which means they can have the $0.99 specials and still make a margin of a profit where his argument is he can't even buy it for that. So obviously if you can believe what they tell you, there's a quite different sales cost to each of the retailers which puts the smaller retailers at a disadvantage to the big fellows and hence there's always a loss leader. But he may not be a loss leader, he may still have a margin because he's got a lower buy-in price. So this is the non transparency of the whole processes and this is what we're saying, that one way of fixing that is there's some changes to the Trade Practices Act that gives you more transparency where people like yourselves can look inside the tent and just identify where all these costs and all these so called accusations are coming from. IF there are loss leaders, who is it and what does he buy in for and what does he sell out at because at the moment nobody knows, its confidential information.

MR O'DONOVAN: Sure, and if we were to find that it is being sold at a loss by Coles or Woolworths, would you – what action would you see as following from that - - -

MR NORTON: Consumers are funny people, they're very loyal to certain brand names. They've been extremely loyal to Harvey Fresh and I think if they thought a very large company like one or two of the majors is stitching them up or getting an unfair marketing advantage against some of the smaller ones, I think they may well go out and buy the other product just to spite the other people, and that's a marketing thing but I think the smaller retailers need to have and out of some of your previous work on pricing and price watching on petrol, you know, there were some changes there that made the whole process more transparent. I think this needs to happen further down the change and with some of the other commodities as well.

MR PRACTICO: All right.

MR BIDDULPH: Can I just add to that, I think from a farmer's point of view and I did hear it spoken some years ago, that milk is the most represented item in the supermarket sopping trolleys, its represented in nine out of 10 baskets and the second most represented in five out of 10 is Coca Cola. So whether those figures still hold true I don't have – whether they're probably still close to the mark but obviously milk is a very important part of a supermarket's business and from a dairy farmer's perspective, we sort of – we would like to be rewarded for that factor that we are in a supermarket business and yes, the transparency perhaps isn't there on where the margin goes on a litre of milk.

MR PRACTICO: Right. Okay. All right well I think that's probably all I can ask.

COMMISSIONER KING: Just one question before we move into a confidential session and apologies for the people who have just walked in, we're about to go into a confidential session so I'll get you to walk out again in a few minutes, if we look over say the '03 to '08 period on the prices that you put to us, Mr Biddulph, you're looking at about a 60 per cent increase in the Farm Gate price of milk, now I realise that's different but with the challenged co op and there's differences with the other processes but just if perhaps Mr Practico or Mr Norton could confirm that over that five year period there's a 60 per cent increase in the Farm Gate price of milk, has that been a fairly general sort of increase that dairy farmers have seen?

MR BIDDULPH: Yes, its fairly general I think, you know, the prices they go up in their directly ..... [1.52.19] each processor. You know, there's only a little difference each time they all move up together or down together. I mean, and obviously that's going from you know, a very low base - - -

MR PRACTICO: Very low base, yes.

COMMISSIONER KING: Have you got - and I know you're not retailers but I know you keep an eye on the retail price of milk, have you got any feel for what's happened to the retail price of milk in percentage terms over that period of time? Have we – has it gone up by about 50 per cent you know, has the price of say a two litre carton of milk gone up by 50 percent, has it gone up more than that, has it gone up by about 60 or is ti double? Can you give me any feel of that?

MR BIDDULPH: I think 50 per cent would be close to the mark.

COMMISSIONER KING: Yes, what's a – two litre carton of milk is about $3 now, I don't tend to buy milk very often so - - -

MR PRACTICO: Closer to $4.

COMMISSIONER KING: Right.

MR PRACTICO: - - - for the branded. I'm a retailer as well - - -

COMMISSIONER KING: Okay

MR PRACTICO: - - - personally and our buying prices increase significantly at our level and yes, a two litre of milk, you know one litre retails for $2 now and so its closer to $4 for two litres. That's where what happened was in '03 was there was surplus milk around and National Foods and Harvey Fresh and to some extent Fontera dumped milk or took milk from Challenge which because of the process, Challenge was unable to, because they didn't have security of that milk, to capitalise on that milk which watered down the price that challenge could pay and the processes had a ready source of milk to pick up whenever they wanted.

Now, Challenge has improved their product mix and is not ready to trade milk at the drop of a hat at a cheap price or at a next best price and consequently that's what has changed some of the farm gate price. At the retail level, because of the sales, I believe that the $1.99 milk hung around for probably two or three years too long. I believe that the amount of milk sold at $1.99 continually reduced.

COMMISSIONER KING: I mean, I guess what I am wondering about here though is that, you know, five years is a reasonably – you know, a reasonable period of time. I am not going to say it is a long period of time. It is a reasonable period of time. You know, I can see the point that you have been making that, you know, if the price of milk goes up by 10 cents a litre at the farm gate, it seems to go up by a lot more than 10 cents a litre at the retail level. I am wondering if in percentage terms, you know, over, say, that five year period, if there has been a big deviation there.

So whilst the farm gate price has gone up by about 50 per cent, has the retail price also gone up by 50 per cent? So are what we are seeing here is that the same sort of cost pressures that you had with fertiliser, labour and so on, if we go down to the processor level, do we then see, well, they say, well, we have got labour, interest rates have gone up. We have got our cost pressures. I am wondering if it is, in a sense, everybody has got their cost pressures. Everybody has seen their costs push up. So in a sense, you know, it is not a cent for cent that you are seeing with a litre of milk going through the retail price but it may be one cent at the farm gate may mean five cents to the customer because the prices are going up all along that chain until it gets into the customer's trolley. So I am wondering if you have got any thoughts on that or any comments you would like to give me on that.

MR NORTON: Mr King, you have coloured the situation a little bit. You have to bear in mind that in 2000 $25 million was shifted from production to retail. That was the price drop. So we probably went – we went backwards.

COMMISSIONER KING: That is from deregulation through to about 03 or - - -

MR NORTON: No, it happened virtually overnight. In 2000. The price come back to producers virtually overnight. It depended how much quota you had in relation to – how little bit of quota you had. So there was no constant percentage across all farmers. You know? We only had about 30 per cent quota. So we didn't think we would very much damaged. Our price pre-deregulation was an average between 27 and 28 cents and we went – we didn't – we were told it wouldn't go down much below 26 cents. Well, it went – as Bob said, it went down to 23 cents a litre. So we went backwards overnight.

It took about three or four years to get back to that period where you are talking about where it started to leap frog ahead at a fairly rapid rate. The reason it leap frogged ahead was because the attrition of farmer started to accelerate. In some of the survey work that we did from the collective bargaining group, it clearly said that if we weren't paid any more money, then we are out of here. We are going. We will take our package and walk. That is what happened. Now, we have gone from 410 farmers down to under 200. That is – it is – the pipeline from production to retail is a long pipeline. Sometimes it takes three or four years for a decision made on the farm to run out the other end of the pipe. That is what we are seeing now. These are decisions that were made on farm back in 03/04, are just starting to run out the other end now. It is a long, convoluted process that happens once you play around with pricing through deregulation or regulation for that matter.

MR BIDDULPH: You are talking about a 50 per cent increase over – sorry.

MR GUIMELLI: Sorry. Look, I'm sorry to talk from the back of the room but I think - - -

COMMISSIONER KING: If you want to talk, could you please state your name and also are you a dairy farmer or - - -

MR GUIMELLI: Yes, I am a third generation dairy farmer. My name is John Guimelli.

COMMISSIONER KING: In that case – also, if you could please come back because otherwise our transcript person will get horrified. So just come up and take a seat.

MR GUIMELLI: Look, it was only a short comment but I thought - - -

COMMISSIONER KING: Sorry, just your name and – again, this is - - -

MR GUIMELLI: All right, okay.

COMMISSIONER KING: Remember, it is all on public transcript so – otherwise someone will look at this and - - -

MR GUIMELLI: John Guimelli, a struggling dairy farmer from Dardanup.

COMMISSIONER KING: Thank you very much.

MR GUIMELLI: I thought the figure that perhaps you were looking for may have been the percentage of the consumer dollar that the producer has received. Prior to deregulation that was in the vicinity of 35 to 40 cents. 35 to 40 per cent. It is now less than 20 per cent or 20 cents in the dollar.

COMMISSIONER KING: Has that changed? I know deregulation is, like, you know - - -

MR GUIMELLI: Like an axe.

COMMISSIONER KING: It is a big price drop. Yes, an axe is a good way of putting it. Has that 20 cents in the dollar though changed substantially since that? Has it gone up? Has it stayed about 20 cents in the dollar?

MR GUIMELLI: It certainly hasn't gone up. The thing that does infuriate me, which you touched on, was when the five cent a litre price rise to the farmers was announced, the – Cummings, it was. In response to a journalist question, would the price of milk go up in the shops? He said, yes, it would go up by 30 cents a litre. My question, my furious question, was why does five cents to cover farm costs suddenly translate to 30 cents? I believe the retailers have used every excuse in the book to jack their price up and drought has been a big one. Thanks.

COMMISSIONER KING: Thanks for that, John. Sorry, Mr Biddulph.

MR BIDDULPH: I was just going to make the point, are you talking about a 50 per cent increase over the last five years or would you say 90 per cent of that has occurred in the last 12 months really and for the four years prior to that everything else was going up? Costs of production and so forth but actual price received at the farm gate remained the same and that has caused a big attrition rate.

COMMISSIONER KING: Mr O'Donovan, did you have anything else before we go into confidential session?

MR O'DONOVAN: No.

COMMISSIONER KING: All right. In that case we will move into confidential session now. If I could just ask anyone who is not connected with either the ACCC or with the Western Australian Farmers Federation, if they could please leave for about 10 or 15 minutes, Mr O'Donovan?

MR O'DONOVAN: Yes.

COMMISSIONER KING: Probably about 15 minutes. Just wait until the door is shut. There are three ACCC staff members out there. One of them will remember to shut the door in a minute. It did sort of just seem to be the obvious thing to do was to shut door. Okay, Mr O'Donovan.

CONTINUED IN TRANSCRIPT-IN-CONFIDENCE

CONTINUED FROM TRANSCRIPT-IN-CONFIDENCE

RESUMED **[2.25 pm]**

EQUIPMENT MALFUNCTION

MR O'DONOVAN: ………. just, Mr Spencer, can you just indicate who the membership of the Retail Traders Association is?

MR SPENCER: It's a diversified number of retailers from small retailers through to large retailers.

MR O'DONOVAN: Okay. Could you just – are there any prominent members of it that we should know whose interests you're representing?

MR SPENCER: We represent most probably about three to three and a half thousand shop fronts through Western Australia. If you're looking for large retailers, yes, Coles and Woolworths are members, but they have one vote just like everybody else.

MR O'DONOVAN: Okay, thank you. All right, now, I see you've got some sheets there, did either of you have a presentation to the commissioner that you wish to give?

MR LOVELLE: Yes, we do, look, I would like to just make a few introductory comments, if I may.

MR O'DONOVAN: Yes.

MR LOVELLE: Perhaps just by way of explanation, the Chamber of Commerce and Industry is the leading business organisation in Western Australia.

MR O'DONOVAN: I'm sorry, I'll stop you there, there's one more formality which I need to do. I just need to remind you that it is an offence under the Criminal Code to give evidence at this inquiry that the witness knows is false or misleading or omits any matter or thing about which the evidence is misleading, do you understand that?

MR LOVELLE: Yes, I do.

MR O'DONOVAN: Thank you. Now, proceed.

MR LOVELLE: It's okay, thank you. Yes, the Chamber of Commerce and Industry of WA is the leading business organisation in Western Australia, we represent nearly five and a half thousand members across all sectors of business.

About 80 per cent of our membership is in fact small business, and we welcome this opportunity to really draw the commission's attention to the anti competitive effects of the Retail Trading Act 1987 which we maintain has quite an effect on the retail grocery pricing situation in Western Australia. The Act, as we see it, is discriminatory, in that it doesn't apply equally to all shops or regions across Western Australia, and chairman, if I may, there is a presentation I would like to walk through, just to demonstrate the effects of this particular legislation on retail pricing.

MR O'DONOVAN: Thank you.

MR LOVELLE: If I could just draw your attention to the first page headed WA's retail trading hours, laws. The Retail Trading Act 1987 does not apply north of the 26th parallel in Western Australia. It applies to a select – in fact, also does not apply to the likes of restaurants, cafes, take away food shops, veterinary clinics, passenger terminals, etcetera. There are different rules, depending on the shop, category and location. Just over the page is the categories that I've listed there, there are four shop categories within the Act or covered by the Act.

They are small retail shops, special retail shops, filling stations, those three categories require certificates, issued by DOCEP, that is the Department of Consumer Employment Protection, and then there are all those that don't require a certification, they are known as general retail stores or shops. Then there are locations including the metropolitan tourist precincts, which is the Perth CBD and Fremantle, and there are also non metropolitan local government areas as well. The criteria for small retail shops, as I've listed there, on the page of that heading, currently it's – there's a maximum three shops per owner, six or less owners per shop, they're operated for the benefit of those owners, the owners must be personally and actively engaged in the shop, and employ 13 or less employees at any one time, including the owners.

I might add that this has in fact increased since 1987 when originally it was two owners per shop and I think two staff per shop as well. There was an increase during the '90s where that was taken up to 10 employees per store, and it's currently now at 13. So while there's been an increase in the number of employees and owners per store, there's been no other entrance into that particular market. It includes the smallest retail stores up to the largest independent supermarkets, with sales of up to $10 million per year, and there's around 6100 of these stores. There is another category called special retail shops, and I've just listed the categories there, gentlemen, I won't go through those in detail, I think they're pretty well there for you to see.

They can only sell, however, products that are listed in the regulations, and you have a copy of those regulations as well, at the back of the Act, there is the Retail Trading Act as well as the regulations. It sets out the particular products that can be sold within these stores. There's approximately 2200 of those particular shops in WA. Filling stations are also noted there, and in the regulations, regulation 11 sets out what products can and can't be sold through filling stations. Interestingly, they can sell food but not canned fruit and vegetables or canned meat and seafood, and they can sell candles, pantyhose etcetera. There are some filling stations that can sell other products, and there's approximately 160 of those across the state.

Then all those that aren't in those three categories that I've just spoken about are known as general stores, and they are limited to trading between eight and six, Monday, Tuesday, Wednesday and Friday, 8am to 9pm on Thursday, and eight till 5pm on a Saturday, and they are closed on Sunday. The tourism precincts within WA, I mentioned Perth and Fremantle, their trading hours are Sundays, 11am to 5pm, weekdays until seven, Fridays until 9pm, Fremantle their Sunday trading 12 noon to six, weekdays until seven, Fridays until nine, and there are no public holiday openings. There is a list there of local – non metropolitan local government areas where deregulated shopping hours in fact are in existence, and again, I won't list those, chair, they are there for you to see.

Then the next section is those that have partially deregulated shopping hours, and that's quite extensive as well. There was a referendum in 2005, and that was couched in the public interest, and I've set out the questions there, there is also the responses. The referendum found that those in favour of deregulated trading hours, or at least extended trading hours, I beg your pardon, there was a 40 per cent response in favour and 57 per cent response negative. However, the National Competition Council found that, in its review in 2005, said that the referendum did not absolve the government from its obligations to determine the public interest, and that WA had not met its national competition policy commitments in regard to regulation of retail trading hours.

I mean, this actually costs the state around $20 million through not complying with the NCC requirements. Now, the net effect, as we see it, of these restrictive legislative arrangements are that the Perth and metro area chain stores such as Woolworths and Coles can only open during standard hours, so therefore there's limited competition to force grocery prices down, however, the independent stores, such as small retail shops, can trade seven days, and these would include the IGA stores that we're all familiar with.

The interesting part about that is that ABS data and Choice surveys show that, in fact, those stores and some of the smaller independent stores, in fact, have the highest prices, highest retail prices, and there was a survey recently by the ABS which sets that out clearly, that Perth has, in fact, the highest retail grocery prices in any mainland state, and in particular, I refer you to our – which was part of our submission, our retail trading paper. There was a survey by Choice in March 2007 that shows clearly that two of the most expensive retail stores in Perth were in fact those that had protected trading hours, on page 28.

MR SPENCER: I guess, in a nutshell, what you have is a retail market in Western Australia which is highly regulated and, therefore, effectively very uncompetitive. That is the main point that needs to be understood when you are considering WA as totally different to the rest of Australia which is, in principle, deregulated. The lack of competition can affect pricing quite dramatically.

COMMISSIONER KING: Mr O'Donovan.

MR O'DONOVAN: Now, you have given us absolute figures for grocery prices in Perth relative to other cities. Would you accept that there are some unique features of Perth in terms of its geographical location which might contribute to that?

MR SPENCER: Well, you do have a transport factor in the sense that a lot of the goods come from the Eastern states and therefore there is a cost anomaly in that. That is one element that has to be looked at but, there again, we do have a market here ourselves for natural produce and also a direct import situation via Fremantle that comes in from, especially, Asia.

MR O'DONOVAN: In terms of the – do you think there is an inflationary effect caused by the regulation of trading hours? So that not only are prices higher but they increase faster here than they do elsewhere or is there sufficient competition to maintain it?

MR SPENCER: I think you have got to look at it as an overall factor. If you are running a business over five to six days as opposed to seven days, then you can't spread your fixed costs across those seven days. You also have the anomaly of competition in the fact that some of your opposition in the grocery lines can trade on the Sunday and, therefore, they have proven, with some of the work that we have done, to be higher priced because of that advantage. Therefore, there is an uneven playing field. It really has resulted in a mishmash of situations and that depends on from which aspect you want to look at it but if you look at it from the grocery aspect, you really have an unfair advantage with, for instance, Metcash dealing through its independents trading on Sunday.

MR O'DONOVAN: Nos, it has been put to this inquiry that one of the benefits of regulated trading hours is that it has allowed the independent sector of Western Australia to flourish and, as a consequence, the major supermarkets don't have the market dominance that they have in the eastern states and, as a consequence, inflation is in fact lower in Western Australia or in Perth than it is in the eastern cities and this is a consequence of the more diverse competitive environment which Perth has as a consequence of this regulation. Do you have view about that or a comment about that proposition?

MR SPENCER: I don't believe that to be true.

MR O'DONOVAN: Sorry, are you saying as a factual matter you don't believe it's true that Perth does have lower food inflation than other cities?

MR LOVELLE: The statistics certainly show that Perth, in fact, doesn't enjoy lower prices. The ABS data clearly points out that Perth, in fact, has the highest mainland capital city prices in the country.

MR O'DONOVAN: Yes, I understand that but in relation to just the basic fact of inflation. Do you accept that Perth does have lower food inflation than the other cities like Melbourne and Brisbane and Sydney?

MR LOVELLE: It's not a line of investigation that we follow. We are more concerned about the competitive forces that might exist to drive prices down. We don't have specific information on that. That may be the case but we don't really look at that sort of – this submission that we are making is not concerned about that particular issue. It is more about the restrictive nature of the legislation that limits competition, therefore, limits the ability for competitive forces to drive grocery prices down.

MR O'DONOVAN: Sure, well, then just moving on beyond the basic factual issue. What is your response to the proposition that the more diverse – I suppose, the larger independent sector in Perth exists as a consequence of the regulation and that has been a good thing for competition in retail in Perth?

MR LOVELLE: It's difficult to understand how it could be more competition when there is a regulated market that denies the entry of other market players. So I'm not quite sure how that proposition could really be sustained.

MR O'DONOVAN: Just looking at basic numbers. There are more independent stores so I guess I'm just asking: do you think that it is a good thing that there are more independent stores competing against - - -

MR LOVELLE: We favour competition and if there are more stores competing, then that's good for the market but the point that we are making is that that competition is limited by the regulation that exists in this state. In fact, the Prime Minister overnight announced moves to introduce more competition into the grocery sector by allowing other market entrants and this is on the east coast. We would support that move, however the legislation as it stand at the moment in Western Australia would probably not encourage these particular organisations to move to this jurisdiction.

MR O'DONOVAN: Sure, now, if the effect of the regulation – and I accept that we are speculating. If one of the effects of the removal of regulation was to increase the market share of Coles and Woolworths, do you see that as a bad thing or a good thing?

MR LOVELLE: One point that I guess those that operate in a regulated market and therefore a privileged position perhaps don't recognise, is that it is about the consumer benefit as well. The consumer must benefit from lower prices. I think that is a fact that everyone would appreciate. Those that, again, are most strident in their defence of regulated hours are the ones, in fact, derive a benefit but it really doesn't confer through to the community lower prices. That's clearly demonstrated on the east coast where we see lower prices as a result of competition. We see a flourishing of small businesses as a result of competition, more opportunities for those businesses to exist. We don't see that in this particular market.

MR SPENCER: You see more investment in the eastern to retail than what you do in this state.

MR O'DONOVAN: So, I suppose, in endorsing the market structure in the east. Would it be fair to say that you don't see a problem with the sizeable market shares that the major supermarkets have been able to acquire in the deregulated environment?

MR SPENCER: Well, I think if you watch what's happening in the eastern states and you look at the growth of small food operators as opposed to the majors, that there is actually increased significant – at a significantly higher rate than what Coles and Woolworths has. I think in Western Australia even that trend is happening but it's more shown in employment figures. The latest employment figures show a significant growth in the number of people employed in specialty food as opposed to the supermarkets and grocery area. So I think that competition reigns but the competition here is restricted and that growth that we should have had has not been achieved.

You know, if you look at even total retail figures, Western Australia has always been summarised as the 10 per cent state. Yet, despite the growth in population that we have had here and the economic growth that this state has experienced and, in fact, leading Australia, perhaps with Queensland behind it, the reality is that we are still battling to be a 10 per cent state. So retail as a total has not grown significantly in comparison to what has happened in the eastern states.

MR O'DONOVAN: That's all I had.

COMMISSIONER KING: It's always dangerous to give an economist a pile of statistics and then to ask about them. First off, given the referendum numbers that you've given me, it certainly seems like the Western Australian community doesn't agree that there'd be a benefit from the repeal of the Act and an increase in trading hours. I think the numbers here, well, the yes vote got less than the Liberal Party in the last federal election which is saying something.

MR SPENCER: That's true and that was 2005. I believe that the mix of the population and one population growth and the mix of the population, there's been a large influx of people into this state. I also believe that the questions asked were slightly off the mark and not really relating to the act of deregulation. Since then we have supported polls that have been done over the years asking exactly the same question and that has reflected an increasing growth in the yes vote to as high as, I think it's about 60, 62 per cent. The fact is that the age group under 35 is as high as seven per cent and I think that's a relevant factor.

I think also that the question of deregulation has, to a certain degree, been grossly misunderstood. It's really a case of freedom of choice. Not everyone is going to be forced to open. It's up to them, it's up to them to meet their customers' needs. Also the poll that was done with the referendum was for the whole of the state saying their thoughts on deregulation when deregulation will be brought to the Perth metropolitan area, whereas the regional areas will be free to choose what they wish to do as well. So it's a different aspect of what you've got to look at here.

COMMISSIONER KING: Do you know if these figures would be likely to be different though, in the Perth metro area? Is there a higher support for deregulation of shopping hours among citizens who live in Perth and its surrounds?

MR SPENCER: Yes, there are.

MR LOVELLE: We believe there is, certainly, and really underpinning that is Perth or Western Australia, at least, has enjoyed around or over two per cent population growth in the last couple of years. It's well documented we're in the midst of a fairly buoyant economic cycle right now and most of those people that come into Perth would enjoy, from other jurisdiction from where they've came, deregulated shopping hours. They would be used to those sorts of opportunities and that really is why we're saying that things have changed since 2005 and we firmly believe that there is a stronger case now for deregulated shopping in Western Australia.

COMMISSIONER KING: Why – I mean, if your numbers are correct and it's supported by over 60 per cent of the population, I would have thought the State Government would have been saying, "Well, this is a no-brainer. We'll go to the election".

MR LOVELLE: They are.

COMMISSIONER KING: "This is one of our policies" and - - -

MR SPENCER: The State Government, Labour Government has made that promise and they will be going to the next election with this as one of their policies.

MR LOVELLE: They have undertaken to respect the 2005 referendum, but only until the next election and in fact, both sides of politics are heading down that line as well.

COMMISSIONER KING: So both sides of politics have basically made commitments to deregulate the - - -

MR LOVELLE: They're both still formulating their policies, but the premier has certainly come out in firm support of deregulated shopping hours as has the treasurer.

The leader of the opposition is also, as I understand, a supporter of deregulated shopping hours as well.

COMMISSIONER KING: Okay. If we look at the numbers, the ABS numbers that you've given us, I mean, I really do wonder exactly what's captured here. I mean, obviously you're drawing the inference that the higher price for the basket in Perth which is, just to give a feel for people who don't have the numbers in front of them, I'll do the comparison to Melbourne simply because that's where I live. So this is the first column I looked at. We're looking at perhaps a nine or so, perhaps a two or three cent price difference there between Perth and Melbourne. Now, your claim is that that two per cent difference is driven by the shopping hours?

MR LOVELLE: Well, it's certainly a contributing factor. I think that it would be hard to escape the conclusion that without the same competitive forces in this market that we shouldn't have prices similar to others in the rest of the country.

COMMISSIONER KING: I'm just wondering because, I mean, the prices are, of course, all over the shop. If we look at toilet tissue, which I have no idea if it's produced here or transported across the Nullarbor, if it's transported, it would be a fairly expensive thing. I'm looking at the eight 190 sheet rolls. It's cheaper in Perth than in Melbourne. Facial tissues are cheaper in Perth than in Melbourne. Laundry detergent, one kilo, is cheaper in Perth than in Melbourne. What have we got? Instant coffee, a 150 gram jar is cheaper in Perth than in Melbourne as are teabags. Strawberry jam's the same. Chocolate milk's cheaper in Perth than in Melbourne.

MR LOVELLE: Yeah, and - - -

COMMISSIONER KING: I just wonder - - -

MR LOVELLE: - - - locally produced - - -

COMMISSIONER KING: - - - you're trying to draw a long bow here by saying - - -

MR LOVELLE: Well, we're trying to demonstrate that it impacts on groceries, our pricing. Just to use some more of your examples, locally produced lamb is more expensive here than the east coast, so I'm not quite sure that there's an argument that you can mount there. What we're saying is that grocery prices in Perth are higher than the east coast and one of the reasons for that, we believe, is that there is not the competitive forces or influences in this market to drive those prices down.

COMMISSIONER KING: Have you got, I guess, more – have you undertaken a more detailed study? I guess the thing that worries me about this is that it's very similar to the debate I've just been involved in relating to Fuel Watch at the national level where people seem to believe that you can make a spot comparison between petrol price in Perth and petrol price on the east coast and say, "My gosh, that tells you something", and I think the commission has been fairly vocal in the media of saying, "Well, that doesn't tell you absolutely anything whatsoever".

MR LOVELLE: Sure.

COMMISSIONER KING: I'm just wondering if in some ways you're trying to take some raw numbers here and draw a conclusion from it, but really what we would need is a more definitive study to try and take into account transport costs and other factors that are likely to affect these prices. So I'm wondering, have you done a more detailed study or are you aware of anyone who has done that study?

MR LOVELLE: No, I'm not, but again, we draw on – I keep going back to the same point. We draw on the experiences in the eastern states markets where there are deregulated shopping hours, trading hours, and they seem to be able to provide cheaper grocery prices than in the west coast. There has to be reasons for that. I'm sure the ones you've mentioned are certainly part of that as is the limited opportunity for competition in this market, as well. Again, I think that's a fairly clear case there.

MR SPENCER: I think you also need to - - -

COMMISSIONER KING: I get worried about running inferences from prices. According to these numbers, prices are cheaper in Melbourne than in Perth. Melbourne had more successful over time AFL teams than Perth, so am I meant to draw that that's got an effect on price. Sorry for any West Coast supporters in the room.

MR LOVELLE: That's okay.

COMMISSIONER KING: I just – you're drawing a causality there and I guess my point is quite simple. There could be numerous reasons behind this. Unless there's actually been a study done to say, well, here are the 20 things that could be causing this, we can actually show that the one that is important is the shopping hours or they all have a little effect and here's the shopping hours effect. I'm just not sure I can draw anything from this other than to say, well, on a snapshot, yes, the ABS has said prices are higher in Perth than in Melbourne and there are numerous differences between Perth than in Melbourne. I live in one, not the other. I mean, I'm sure you're not saying that if I moved to Perth, that shopping, that grocery prices in Perth would drop, but, you know, I just can't see how you can draw an inference without actually, you know, in a sense knocking out all the other possible things that could cause this difference.

MR LOVELLE: Perhaps an example closer to home then would be the Choice survey, March 2007, as you have that in your submissions here. That does, in fact, compare local grocery stores with local grocery stores and what it shows there, I think we have to agree, is that those that do or can operate seven days, in fact, for some reason have higher prices. So, you know, where's the competition aspect there? If Coles and Woolies, and in fact Coles and Woolies aside, if there was a deregulated market with competition, you would expect that there would be lower prices from those stores that open on weekends or have a privileged position of opening on Sundays when no one else can. There's no competition in that particular market.

COMMISSIONER KING: All right. Mr O'Donovan, did you have any follow-up questions on that?

MR O'DONOVAN: No, nothing else.

COMMISSIONER KING: Okay. In that case, thank you very much, Mr Spencer and Mr Lovelle, for coming in.

MR SPENCER: Thank you.

MR LOVELLE: Thank you.

COMMISSIONER KING: All right. Let's get started again and our next witnesses are from the Red Meat Action Group.

MR HEWSON: Correct.

COMMISSIONER KING: And Mr O'Donovan, I will pass over to you to ask the representatives to introduce themselves and also if you would give them the warning.

MR O'DONOVAN: Okay. So could you just state briefly your name, the organisation you represent and your position within the organisation?

MR HEWSON: My name is John Hewson. I am a member of the Red Meat Action Group Committee and I'm a beef producer from Kojonup in Western Australia.

MR INTROVIGNE: Mike Introvigne, beef producer, Western Australia, Bridgetown. Stud and commercial breeder and a committee member of the Red Meat Action Group.

MS DUNNET: My name is Barbara Dunnet and we are beef producers from Scott River and I am a member of the Red Meat Action Group.

MR O'DONOVAN: Now, have you been advised that it's a criminal offence to give misleading evidence to this inquiry?

MR INTROVIGNE: Yes.

MR O'DONOVAN: Yes. All right. Thank you. Could you just briefly describe firstly what the Red Meat Action Group is, who its members are and how it came to be formed?

MS DUNNET: The beef industry got to such a low point where producers were receiving such poor returns that in November last year, farmers, WAFF, PGA and a range of other people had a public meeting and that was held in Bunbury. 400 producers turned up. There were nine resolutions that came out of that meeting. The Red Meat Action Group have been trying to work through all of the actions and trying to get a better return to producers in Western Australia and try and halt them leaving the industry because of poor returns.

MR O'DONOVAN: Right. So you're a representative body of beef producers in this state?

MS DUNNET: Probably south-west beef producers but we've got PGA and WAFF. PGA represent the northern portion of the state.

MR O'DONOVAN: Okay. But it's distinct from the West Australian Farmers Federation?

MS DUNNET: Yes. It's a non-political organisation. Sort of it's just farmers.

MR O'DONOVAN: Right.

MR INTROVIGNE: And if I could add, yes, WAFF are members of the Red Meat Action Group.

MR O'DONOVAN: Right. Okay. Now, I mean, what I'd like to do is just follow, I guess, beef through the supply chain to the retail store and as you're producers, I hope you'll be able to help us with that.

MR HEWSON: Sure.

MR O'DONOVAN: All right. What I'd like to do is try and understand, I suppose, three meat products. One is premium Scotch fillet, one is mince and one is budget rump steak and if we could just follow the chain from the live cow all the way through. Okay. So starting with the beef producers, at what point do you start to engage with a buyer?

MR INTROVIGNE: Okay. Generally, look, some suppliers do supply milk-fed vealers which are generally eight to 10-month-old calves, sold to slaughter direct off the mother. You may negotiate six months before to start looking at where you're going to supply those calves. A lot of people, look, use agents like Landmark and Elders to sell their product and that's generally very close to the time of slaughter. So there's a lot of different aspects to it. Producers have been in alliances with processors for many years basically have their production pencilled in in the processor's sheets, ready for the coming season and it's a case of two months out, phoning up the processor's desk, the buyer's desk and confirming when you plan to deliver the cattle.

When it comes to grain-fed cattle, which they – feedlotters source weaner calves, put them on feedlots, turn them off anywhere from 60 to 100-plus days depending on the market. That's for domestic. Those are generally done by contract nowadays with processors or in the case of Woolworths, they do their own sourcing and that's generally done before you purchase cattle to put on feed. So it could be anywhere from three, four, five, six months ahead of when you plan to supply that finished product.

MR O'DONOVAN: Right. So starting with - so a cow at as little as two months, you will make a decision about whether or not you're going to make a sale for it?

MR INTROVIGNE: You'll generally - you'll have an idea. You might not sign a contract. Well, there's no contracts for young cattle at that age but you'll start thinking about it and possibly even before the calf is born, you've got an idea of where you're marketing that product, which it'll be nine months after its birth generally. So it gives you an idea of the type of animal you're producing. There is a difference between a milk-fed vealer direct to slaughter to a weaner. You've got carcass specifications that you need to direct that animal to so it's the way you manage that animal through its life to get to that slaughter point, whereas with a weaner calf, there are different specifications. You haven't got the tight carcass specifications because it's going to a feedlot for that to be done.

MR O'DONOVAN: Okay. Now at the point that it goes, if it's going down the feedlot route, is that where most of the premium cuts that you would see in the supermarket would have gone through a feedlot? Is that right?

MR INTROVIGNE: Not always. There is premium grass-fed cattle, there's premium milk-fed vealers and, look, increasingly there is primal cuts, which are the top cuts, from older cattle that have been either specifically fed on grass or grain that will suit certain markets. So in Western Australia the feedlot sector is not as strong as in east coast. It is growing, although this year it's taken a big hit because of the fact that grain prices were so high and they couldn't justify with the low contracts that were being offered.

MR O'DONOVAN: Right. Okay. So it's possible that if you went into a supermarket in Perth to buy a Scotch fillet, that the fillet that you're eating there is from a cow that's only been grass-fed? It's never been to a feedlot?

MR INTROVIGNE: That's true. Could possibly, yes.

MR O'DONOVAN: Okay. Will there be some price reflection on the fact that it hasn't been to a feedlot?

MR INTROVIGNE: No.

MR O'DONOVAN: Or is the quality the same? Or can be the same?

MR INTROVIGNE: It can be the same, yes, but, look, there's no differentiation. You can't go to a shop and ask, like, "I want a grass-fed Scotch fillet, I want a grain-fed Scotch fillet." Yes, it's just marketed the same and particularly with MSA grading, that's used to identify what grade it meets and so that's how it's marketed.

MR O'DONOVAN: Right. Okay. So from your point of view, when do you decide whether you're going to sell to a meat processor, who I assume owns the abattoir, would own the abattoir as well?

MR INTROVIGNE: Generally but not always.

MR O'DONOVAN: Okay. So a meat processor or deal direct with the major supermarket or choose to pay the abattoir to slaughter the cow and then sell the carcass. Are they roughly the three options that you have?

MR INTROVIGNE: No. No. Generally it's a decision you probably made before of the type of production system you run, whether you sell directly to an abattoir when it's taken from its mother or whether you sell to a feedlotter or a grass fattener at that point. I know of very few cases where processors will take ownership of the carcass through the processing sector.

MR O'DONOVAN: Right. Okay. So when you make a decision, I guess, to sell either to a grass finisher or a lot finisher or I suppose the processor is the other option direct?

MR INTROVIGNE: Yes, the processor. Yes.

MR O'DONOVAN: How do you go about negotiating a price for the animal?

MR INTROVIGNE: Well, there basically is no negotiation unless you choose to sell through the saleyard system, through a weaner sale where then competition from several potential purchasers will bid on those cattle. As far as going to a processor, it's more or less ring the stock desk and they'll tell you what they're going to pay for them and if you're not happy with that, you might try another one. Generally the majority of farmers will have pre-organised a delivery to a certain processor, as they've had previous arrangements with them. Some decide to just sort of take a chance and try and market them via Elders or Landmark or themselves and try and find the best price. Also you've got the situation is while you may be able to get a better price somewhere, they might not be able to slaughter those cattle for some weeks or months so that's another problem. So it's always we're at the mercy of whatever's happening at the time. There's no real negotiation.

MR O'DONOVAN: Right.

MS DUNNET: Unless you've signed a contract, which generally only happens in the lot feeding industry, you're governed by the price of the day. So if you decide to sell tomorrow, that's the price you have to take. You can't sort of negotiate and sort of lock in a price next month.

MR O'DONOVAN: Right. Now, we spoke to a farmer yesterday who said that part of his herd was contracted, and I'm pretty sure he confirmed that part of it was contracted to a supermarket. Is that option available to you earlier in the season to opt to contract – make a long term contract with a major supermarket or a lot feeder?

MR INTROVIGNE: I don't know of any situation where grass fed or possibly – sorry, possibly grass fed, maybe, definitely not milk fed vealers, that's just on the price governing on the day. There has been instances where you're under the impression that you were to receive, for instance, $3.40 for delivery next Wednesday, Tuesday they will phone you and say, sorry, it's $3.20. So that does happen. There is instances of people contracting forward for grass-fed cattle. Generally not in the spring, though it could be from the irrigation in autumn. But grain-fed cattle, definitely, the majority are contracted.

MR O'DONOVAN: Okay. Contracted to the major supermarkets or contracted to some other – to a processor?

MR INTROVIGNE: Well, Western Australia has only the one active retailer, Woolworths, that are in – actively source their cattle from producers direct. They do all that themselves, and the rest of them we would be dealing with processors.

MR O'DONOVAN: Okay, and in terms of proportion of market share, if you had to estimate, how much does Woolworths occupy as compared to the other meat processors?

MR INTROVIGNE: Well, I'm led to believe probably around the 30, 35 per cent mark of the retail in WA.

MR O'DONOVAN: Okay, but in terms of – because I understand processors also export.

MR INTROVIGNE: Yes.

MR O'DONOVAN: Do they represent a much smaller share of the total acquisition of cattle?

MR INTROVIGNE: No, they would represent a greater proportion of the domestic cattle, because they also supply small retailers, the independents, and Coles, of late.

MR O'DONOVAN: Sorry, the rest of the processors?

MR INTROVIGNE: Yes.

MR O'DONOVAN: Yes, but, no, if you were to include the export market as a possible ultimate destination for your cattle, what share would Woolworths occupy of the market for cattle or small good – yes, I think cattle direct from beef producers, are they a big proportion or are they less than 10 per cent?

MR INTROVIGNE: A significant proportion, yes. Look, I don't have the figures with me, and I don't want to speculate, but it is a significant proportion, yes.

MR O'DONOVAN: Right, okay. So at the point at which you make a decision to sell, you can ring a meat processor and the meat processor will give you the price on the day, is that how it works?

MS DUNNET: Generally producers that are trying to produce for supply for 12 months of the year, if you know that that's going to be your market, you need to phone up in December and make bookings through to June or July, otherwise you can't get your cattle in to be killed.

MR O'DONOVAN: Right. Do you have any understanding of how they set the price, how it is that the price is what the price is on the day?

MR INTROVIGNE: That's the bewildering question. We have some views, I spoke to the – to Harvey Beef yesterday, and they gave me information as to what's happening at the moment. For instance, $3.80 a kilogram is what's being paid for carcass weight, for grain-fed cattle.

MR O'DONOVAN: Now, when you say carcass weight, that's the animal after it's been - - -

MR INTROVIGNE: After slaughter, it's been gutted and hide taken off.

MR O'DONOVAN: Is that different to dressed weight?

MR INTROVIGNE: No, that is dressed weight.

MR O'DONOVAN: That's dressed weight.

MR INTROVIGNE: It's called hot standard carcass weight, which is dressed weight, yes.

MR O'DONOVAN: Yes. So sorry, what was that number?

MR INTROVIGNE: $3.80. The retail carcass yield, which is meat off the bone, that would be a 250 kilogram carcass we're looking at, 74 per cent is the figure they work on, which would produce 80 kilogram – 185 kilograms of recovered saleable meat, except for bone, hide and offal, which equates to – the $3.80 then becomes $5.13 per kilo for that saleable meat. The processors at Harvey Beef are currently selling that, grain-fed product for an average, overall cuts, packed in a carton, at $6 a kilogram.

MR O'DONOVAN: So that sounds like quite a small mark-up for the processor?

MR INTROVIGNE: Well, when you consider – yes, because the hide, offal and bone is classed as the fifth quarter, so that's – that's a different marketing situation, you don't just send offal cuts to the – to the retailers and they sell it, they specialise in marketing, and of course those prices are dictated to – quite a bit, by the export. So they focus – there's not a huge margin on that actual carcass that they buy, and they've got, you know, a lot of cost. Now, I don't begrudge anybody making a decent profit from anything, it's when it impedes on my bottom line and I have no way of addressing it that it starts to be a concern.

MR O'DONOVAN: Sure. Is the hide and offal owned by the processor and whatever they get for it, they get – it goes to them?

MR INTROVIGNE: Yes, that's correct.

MR O'DONOVAN: Right. So in terms of the – so it's the $3.80 per kilo is - - -

MR INTROVIGNE: Well, the 250 kilos average that you receive as a producer of grain-fed cattle, correct.

MR O'DONOVAN: Right, okay. Now, have there been – presumably there have been periods when the price has been significantly higher than it is at present?

MR INTROVIGNE: Look, it was – in 2001, it reached high levels for milk fed vealers, some grain-fed cattle I think was that year went over $4 a kilo. Since then, you know, $3.80 is probably at the higher end of what it's been in the last couple of years. That was simply due to the fact that they did recognise there was some additional cost to feeding, or considerable additional cost to feeding, so feed lotters extracted probably only 15 cents a kilogram at the most at this time of year.

MS DUNNET: Yes, and the $4 a kilo was only for a – just a small window, eight weeks at the most.

MR INTROVIGNE: Also, this $3.80 doesn't reflect the grass-fed cattle, which currently Barbara, you've probably got - - -

MS DUNNET: Yes, currently, sort of they're retailing at $3.40 a kilo, and it goes in the same carton at the grain-fed stuff.

MR O'DONOVAN: Right. No differentiation at the retail level?

MR INTROVIGNE: No.

MR O'DONOVAN: Right.

MR HEWSON: On the box of meat, because of the MSA grading, you – it doesn't say whether it's grass fed, age or whatever, you just get an MSA grading. So the consumer is not aware exactly of, you know, the age or what the animal has done, and that is a problem with meat brought in from the eastern states, and it can be bos indicus cattle which is as not as good eating, but it will have MSA grading. If the consumer eats that and doesn't enjoy it, well, they'll keep away from the meat market, so the grading system is – has a problem.

MR INTROVIGNE: It potentially is the best grading system in the world, but there are anomalies in it that are allowing for inferior product, under the MSA grade, to come in to compete with Western Australian premium yearling production system.

MR O'DONOVAN: Right, so the MSA grading is – what does the MSA stand for?

MR INTROVIGNE: Meat Standards Australia.

MR O'DONOVAN: Okay, so this applies Australiawide?

MR INTROVIGNE: Yes.

MS DUNNET: Yes.

MR INTROVIGNE: For domestic production.

MR O'DONOVAN: Right. So how is it that meat is able to come to Western Australia that hasn't been graded in that way?

MR INTROVIGNE: Yes, it has been graded, but under - the majority of supermarket, meat is MSA grade 3. There is quite a wide range of points which – you look at meat colour, meat fat colour and the likes, that go into forming that score. That was lowered some time ago by MLA to be able to get more bos indicus cattle into the MSA grade 3. So as a consequence, the Western Australian production system, particularly in the south-west, and I'll stick to the south-west, that's what I know, is geared around yearling type production, whether it's milk fed vealers, grain fed or grass fed. This meat coming in is competing with ours at a cheaper rate, because it's a different production system, and they're able to get it under this MSA three-star grade, and be offered at the same – but it's not the same product.

When people eat it, it's not the same product. There is – it would be – potentially if the labelling was adhered to, that this meat not to be consumed by this date, which is the aging process that will allow it to reach that grade, unfortunately that's ignored, and so it's MSA, just put on the shelf and that's fine. So at the moment, Harvey Beef has rump from its grain-fed product at $8.80 a kilo, they're offering it to retail and traders. They're competing with Queensland rump coming from Teys Brothers at $6.60 a kilo. That's as of yesterday.

MR O'DONOVAN: Right. Now, does that suggest that east coast graziers are getting even lower amounts for their cattle?

MR HEWSON: No. In fact, they are getting more.

MR O'DONOVAN: Right.

MR HEWSON: This is a concern, because they are getting this large volume of meat off a bigger, older animal. So they have that volume, you see, whereas with a smaller grain-fed animal, with less meat on but then you – a big yield off an aged animal.

MR O'DONOVAN: Right. Is that option not available to you as graziers?

MR HEWSON: Well, it has been – yes, I think there is also – there is a different focus on export in the east. So some of the primals – a lot of the Asian markets prefer the forequarter cuts. So a lot of - - -

MR O'DONOVAN: When you say primals, are these the - - -

MR HEWSON: Primals – no, the primals, are the high quality cuts; your Scotch fillet and rumps and whatever. So they are able to sell them cheaper because they are getting more for their forequarter product to export. It is off a different animal. It does grade NSA. It is competing against a different production system of a superior quality product. It is recognised in many sectors that West Australian south-west beef is some of the best in the world. We have to work at trying to market that better. When the grading system doesn't identify that clearly, then we have got a – we haven't got any potential to do that.

MR O'DONOVAN: Sure. All right. Well, then just moving away from the grading system. If you were unhappy with the price on the day, you could then attempt to sell through a saleyard. Is that right?

MR INTROVIGNE: Correct.

MR O'DONOVAN: Why would you accept a poor price and opt not to sell through a saleyard? Is there a problem with the saleyard system?

MR INTROVIGNE: You would probably get less.

MR O'DONOVAN: Right. Why is that? Who operates within the saleyard? Who are the buyers in the saleyards?

MR INTROVIGNE: Similar to what is available, all the processors. There are cases where graziers or grass fatteners and feed lotters will compete on certain types of cattle. If your cattle – look, you may get a reasonable price which is competitive to going to the processor but there are associated costs. Because a saleyard who have to sell an agent. So you are looking at 5 per cent commission and all the fees that go with selling in a saleyard. So there is additional costs associated. A lot of the times the cattle that are prime cattle, that were ideal for slaughter, may not attract the premium they would have done if they went to a processor.

MR O'DONOVAN: Okay. How do either of those routes compare to selling direct to Woolworths? Do they have any additional power in the market or do they just pay the market price that the other processors are - - -

MR INTROVIGNE: They pay similar to others, in our experience.

MR O'DONOVAN: Yes.

MR INTROVIGNE: They do have strategic suppliers, whether it be milk fed vealers or grass fed yearlings or grain fed. So there is not a huge option. There is occasionally some chance of getting cattle into Woolworths but because they plan ahead for their requirements – look, it is a great model to work on. I mean, all the other processors wish they could do it. They do influence the overall domestic market in Western Australia to a great extent.

MR O'DONOVAN: Right. In the sense that do they generally pay more than a processor?

MR INTROVIGNE: No, they pay similar. Their specifications are, you know, sometimes tighter than others but – or generally similar. Because they own the product from the time it is slaughtered, right through, in some cases with grain-fed cattle they can pay, you know, a 10 cent, 15 cent premium.

MR O'DONOVAN: Right. So would it be fair say that Woolworths at least is not responsible for depressing the price in Western Australia?

MR INTROVIGNE: No, I wouldn't agree with that. In the Spring in November the market for cattle was at \$3.50 generally for milk fed vealers. The wiener market was reflecting that price while there were concerns that the high grain price was going to mean that feed lotters weren't able to pay the previous year's prices for wieners because the processors and Woolworths weren't prepared to increase what they were offering for grain-fed cattle on the previous year to reflect the increase in feeding, which was between 100 and \$150 per head.

So it is – I would probably rather do this in camera, if we could.

MR O'DONOVAN: Sure.

MR INTROVIGNE: The rest of that comment because I think it is pretty delicate and we – while we have no concrete evidence, we have people that have come to us and said this is what has happened. It is – put two and two together, it does make four but I would rather, yes, go public.

MR O'DONOVAN: No, that is fine. All right. So the cuts that are leaving the processors in Western Australia, if we take the $8.80 a kilo for rump, is there additional processing that then has to happen to it between that point and the point at which it enters the supermarket shelf?

MR INTROVIGNE: Basically it is the just the – if a trader gets it or a wholesaler wants to on-sell it, obviously he wants to make his margin, they go straight to a retailer. Then it has got to be, you know, cut up into its relevant portions as they want to sell it and packaged and re-packaged in the small, you know, portions that they sell it. You know, when you consider that to get it to that point we have had a calf that has taken nine months to produce under its months; anywhere from three to nine months to go through the feed lotting process; and then go through the expensive process of processing; and it comes out at that point in a carton at $6 a kilo. Then on average, it is retailing at 16. I don't think it is fair that very time that is taken to produce it and to process it receives only between 30 and 37 per cent of the retail dollar.

MR O'DONOVAN: All right. Now, those figures that you are using for the retail price, where do you get them from?

MR INTROVIGNE: In a way I have – you probably have them presented. There is MLA figures that we have had from last year. We - $16 is a figure that was given to us by MLA.

MS DUNNET: The retail prices presented on that sheet were yesterday's prices in the butcher shops here in Bunbury and Busselton.

MR O'DONOVAN: Right, okay. So all of the feed lot to retail represent prices that - - -

MR INTROVIGNE: Yes, this sheet here. This sheet represents retail prices that we researched in the last few days. Yesterday, sorry. This other one is just the indication of what goes from the feedlot to the retail for the same product.

MR O'DONOVAN: Okay.

MR INTROVIGNE: Obviously if it is grass feed, you only have to change that $3.80 at the top to 3.40 which was probably the top end of the vealer market in the Spring and that is currently the grass fed price.

MR O'DONOVAN: Okay.

MS DUNNET: Yes, that was right down to $3.

MR INTROVIGNE: Well, it was, yes.

MR O'DONOVAN: All right. In terms of understanding a product like mince, does that have a completely different supply chain in terms of the kind of beef that starts the process?

MS DUNNET: If you look at that figure where ti is talking about the 185 kilos in the carton, which is on the feedlot to retail, that includes the whole beef. Sort of, whether it be the mince or the fillet steak. So that is an average price of the meat in the carton.

MR O'DONOVAN: Right, okay. Do we know in yield terms what the rough break-up between the – I suppose this. I mean, of the 185 kilos, how much would be something like rump and how much would be mince?

MS DUNNET: Primal.

MR INTROVIGNE: No. Look, sorry – look, I don't think we would get into that. It is a process of – it is not our field.

MR O'DONOVAN: Sure.

MR INTROVIGNE: So I wouldn't want to comment on that.

MR O'DONOVAN: All right.

MR INTROVIGNE: It is very difficult to say – we quote our price we receive to the price of Scotch fillet because the product we produce and provide it to the processor contain mince, sausages, rump, blade, Scotch fillet. So I think a processor would be best – he would be the best one to talk to about that one.

MR O'DONOVAN: Sure, okay. Now, in terms of the retail market itself, our understanding is that at least half of the retail market still is independent butchers?

MR INTROVIGNE: Correct.

MR O'DONOVAN: That the supermarkets – like, the supermarkets, Woolworths and Coles, are, you know, 22 or 3 per cent market shares at the retail level?

MR INTROVIGNE: I thought it was a little higher than that in WA.

MR O'DONOVAN: All right.

COMMISSIONER KING: Sorry, Mr O'Donovan, when you are saying 22 or 23, you mean - - -

MR O'DONOVAN: 22 per cent.

MS DUNNET: Each.

MR INTROVIGNE: Each. Yes. That would probably be at a minimum, I would say, too.

MR DONALDSON: Sure, okay. Now, do you have a view or any understanding of to what degree the independent butchers place a constraint on the prices that the major supermarkets charge?

MR INTROVIGNE: I think it's probably underestimating how much power the supermarkets have when it comes to pricing. You talk small retailers and they're doing – look, I looked at our local butcher in Bridgetown and he told me of several other butchers that he talks to, small country butchers, they're doing very well, because they market their products, they use all the cuts, they market it differently to extract the maximum amount from each cut. With Woolworths and Coles I consider them to be lazy marketers. They would rather just buy the product, put it on the shelf and sell it for as much as they can.

When they controlled, as you say, 50 per cent of the market, I actually thought it was more than that, they have this ability to – everyone just follows what they do, because as long as you come in close to what Woolworths and Coles sell it for, your service and what you do with your customers gives you that edge to keep selling more and we had actually seen the small butchers and the small retailers increasing market share over the last year or two, because people are becoming aware of the service. You know, you go to a Coles and Woolworths, meat is at the back wall of the shop, it's there to draw people in past everything else that's sold.

So if it was important to them – now, if it's important so far as making profits – if it was important from a marketing perspective it would be just behind the counter as you walk in. But, no, they want to sell everything like your coke and cereals and everything on the way through and it's right at the back and these are perceptions – and it's very difficult to ascertain exactly what's happening and we're hoping that you gentlemen and ladies will be able to help us do that, but, yes, perception is nine tenths of the law and that's what produces the particular scene and they just can't understand – and if you look at the graphs that show the increase in retail and there's another chart, an NOA chart, which shows how – this one here which shows the increase from 1998 to 2007 of beef and that's Australian retail meat prices.

When you go to look at the West Australian – over the page, the West Australian trade steer, which is probably a reasonable indicator of prices, you can see there's been no real increase if we go to this year and the 2008 figure of $1.63 I'd probably dispute as well, I'm not sure how they came up with that one, because it would be lower.

MR O'DONOVAN: Sorry, which figure's that?

MR INTROVIGNE: The trade steer, if you look at live weight, trade steer light, third from the right on the second page, yes, I've highlighted it for you there, if you look at the increase that has made in comparison to the previous page with the retail price, you'll see that we just have not kept up with the increase in retail dollars.

MR O'DONOVAN: Now, just looking at the processor meeting, my understanding is that Coles, at least in Western Australia, acquires direct from a processor?

MR INTROVIGNE: Correct.

MR O'DONOVAN: It's only Woolworths that has that longer - - -

MR INTROVIGNE: Woolworths have their own integrated process.

MR O'DONOVAN: Supply chain.

MR INTROVIGNE: From supplier, which is the producer or feedlotter through to their retail, yes.

MR O'DONOVAN: Okay, now this may be a question you want to answer in private session, but it would appear from the outside that it's at this processor level at which there are a number of players other than the major supermarkets.

MR INTROVIGNE: Yes.

MR O'DONOVAN: In fact only one supermarket participates at that processor level, that's the level that sets the price that's there for the producer?

MR INTROVIGNE: No Woolworths have a role and Woolworths play a strong role and Woolworths, in the spring, when it comes to milk fed veal, they probably dictate as to how – if Woolworths drop their price by 10 cents to the producer, everyone else follows. Some will drop it lower and to be fair to them, but they tend – that's sort of the benchmark, when it comes to grain-fed prices, we're not sure of the true extent of their – they had some preferred suppliers, and you'll never know – or we'll never know what they actually get, but generally there are other suppliers who supply grain-fed product.

Everyone just looks at – okay, Woolworths is paying $3.90, well to be able to compete through the chain because you've got to understand they don't need to make the margins on the way through that chain like what the individual or the processors do, to sell it to retailers, because they can pick it up at retail. So they're spreading their margin over different areas. So the rest come out and say, well, look, to be able to compete we'll pay $3.80. When you're a feedlotter and you've got millions of dollars tied up in a feedlot infrastructure that needs to generate a return, many of them are – look, saying, we'll forego making any profit at all this year to maintain our preferred supplier status.

Now, one feedlotter who – turning off 465 head per week currently to Western Meatpackers, Harvey and Woolworths is making nil profit and when asked why does he do it, he said – and asked would it be because you want to maintain preferred supplier status, he said, yes, that's one of the reasons. How long he could sustain that is, I would say, not very long. This is why we need to look at ensuring that each sector of the production chain, from producer through to retail, all makes an effort or share of a consumer – or gets an equitable share of the consumer dollar.

MR O'DONOVAN: Now, looking at the broad – the beef industry broadly, the export side of the business is very substantial, it's more than 50 per cent of beef produced in this country would end up in export, is that right?

MR INTROVIGNE: Australia wide, yes, probably more so in Western Australia.

MR O'DONOVAN: Sure, so then that suggests that the export market remains a realistic alternative to selling into the domestic market, is that true?

MS DUNNET: Well, most of the export cattle are northern cattle and not European breeds which is generally in the southern portion where it's cooler.

MR O'DONOVAN: Okay.

MR INTROVIGNE: During the ..... it gets colder.

MR O'DONOVAN: And they're live export, right.

MS DUNNET: So not many from this area are live exported.

MR O'DONOVAN: Okay, so what proportion of the southern production is sold into the domestic market?

MR INTROVIGNE: Well, I wouldn't have those figures with me.

MS DUNNET: Most of it.

MR INTROVIGNE: Yes, a considerable amount. You've got to look at the fact that there are options. If the processors can do it - and Harvey Beef is one of the ones that are working at that and West Meatpackers have in the past - is to divert some of this south-west production, that generally just is only available to domestic because of a lack of export, developing these export markets all compete. Now, that may in the long term help us improve our returns, but there's a certain point where the processors won't go and pay more because, you know, export is pretty competitive, so it's while there is an impact from export, the domestic market also has a – probably an equal impact on the domestic price – the local price.

MR O'DONOVAN: Well, we heard from a beef producer yesterday, that the high Australian dollar is obviously making it more difficult to sell beef into the export market - - -

MR INTROVIGNE: That's correct.

MS DUNNET: Yes.

MR O'DONOVAN: - - - which is perhaps pushing up the supply into the domestic market. Do you see that as an effect that's occurring and if so isn't that – would not that explain the depressed pricing that we're seeing at the moment?

MR INTROVIGNE: No, it wouldn't, because the product – there hasn't been that amount of product going – the most export is culled cows and bulls and heavier types of steers, stuff that doesn't – product that doesn't fit into the domestic market and that's always been going to export, predominantly the US. There are other markets now taking other product, but the east coast is probably the biggest focus on an export into the likes of Japan and Korea. We probably haven't had the critical mass in some areas to be able to tackle some of those and while it was done by Elders International some years ago, the rising dollar and other factors meant that they stopped doing that.

MR O'DONOVAN: By stopping doing that, has that meant that there is now too much beef produced in WA?

MR INTROVIGNE: It has had a small impact, yes. There wasn't a huge number going to this market, but obviously when there is product there, I wouldn't say that's probably the main factor. The main factor is the imported product from the east coast that's coming in under the scenario I painted before, where we've got, you know, from these Asia export markets who prefer most of the cuts from the forequarters, then the primals, which are the high priced cuts are just dumped on our market over here, competing with us and of course when you've got Coles and Woolworths and other retailers looking at that and saying, well, gee I can buy rump for $6.60 instead of $8.80, that's where they go, if they can get away with it then they'll do it. So they're driving – rather than saying – looking to maintain an industry.

They are prepared to just forego what's happening.

MS DUNNET: That's probably our biggest concern in Western Australia at the moment, sort of, because the producers are not receiving adequate returns, they're just making other choices and moving away from the industry and instead of that land being there to sort of build up the beef industry once, if there was ever a change in the price, it's being planted to blue gums and, sort of, it's being taken out of production altogether. So it's a serious concern, not only to beef but to other industries here.

MR O'DONOVAN: Right, so just so I can understand correctly what's coming, what do you think is happening in terms of why the east coast meat is so price competitive is that expensive expansive cuts are being taken to export with the large returns that they earn off those cuts - - -

MR INTROVIGNE: They off-set it.

MR O'DONOVAN: They then cross-subsidise the cheaper cuts into the Australian domestic market.

MR INTROVIGNE: That product that's bought, on rump $2 a kilo wholesale less, is not reflected in the price on the supermarket shelf. It's still being sold side by side with the West Australian product and no-one's the wiser until they happen to get the wrong piece to eat or they pay the same for it. So that's the problem. Someone in the meantime is choosing to buy the cheaper product but retail it at the same price.

MR O'DONOVAN: Right. So in terms of the supply prices to retailers, has there actually been any increase in the last five years?

MR INTROVIGNE: Very negligible. When you consider the escalation in fertilizer prices, fuel prices, government compliance, industry compliance as far as - - -

MS DUNNET: Industry.

MR INTROVIGNE: - - - quality assurance and the likes.

MS DUNNET: Interest rates.

MR INTROVIGNE: Interest rates, labour. As farmers we're competing with the mining industry for labour. Our costs have just gone through the roof and yet we are receiving less for our product and it's come to a point where telling producers to become more efficient, as someone said, you know, you only make small gains for every dollar invested in increasing productivity. You're only making a very small percentage of that back as an increased return because we've got to such a tight situation where, you know, we've got the best genetics in the world, we've got the best production systems, where else do you go?

MS DUNNET: At a time when West Australians are paying the highest price in history for beef, so where's the - - -

MR INTROVIGNE: There's no equity there.

MS DUNNET: This is – yes.

MR O'DONOVAN: All right. Now, you're aware that the ACCC did a report on red meat last year?

MR INTROVIGNE: Yes.

MR O'DONOVAN: At least some of the broad analysis - and this is Australia-wide, this is not specific to WA, but it suggested that saleyard prices were increasing faster than retail prices so that, in fact, the gap between saleyard prices and retail prices was closing.

MS DUNNET: In the east.

MR INTROVIGNE: Not in the east coast, no. Look, you say prices aren't dear in the east coast compared to WA. WA – I think if we had a massive water body between WA and the rest of Australia, rather than the desert, I think then it would be seen as a separate issue but we come under the umbrella of Australia – according to MLA, for instance. I've had discussions with them. They're not interested in coming over here. They don't see it as a problem. How they can see it as not a problem, I don't know, but, you know, they're our company that we pay levies to and they don't seem to be taking an interest. That's obviously because the cattle numbers here compared to the rest of Australia are obviously less but they still like our money.

MR HEWSON: If I can just add a bit regarding the MLA. I mean, cattle producers are business people, there's nothing short of – nothing more honest than they are actually business people. We tend to be – and perhaps an aging group but we're no different to the dairy guys that you listened to earlier. The reason we're leaving the industry is not because we don't like it; it's because it's not profitable. I mean, you can look through what you're getting here and what Coles retail at or whatever. The fact is it's not profitable enough to make us stay there.

Now, one of the issues that we have, and you have MLAs data and sheets there, I mean, they're well aware of the price – what it was in 2000 and what it is now and they'll print this data out to you ad lib but they don't appear to be doing very much for Western Australia. Every time I sell a beast I pay $5 levy. It was $3.50. Outside of an annual general meeting, they managed to push the levy up to $5. Since then, what have our beef prices done, they've gone down.

Now, I'm not having a go at the individuals in MLA but the structure that MLA is able to operate under means that it isn't a competitive organisation and we're talking about competition here today. Every year, at their AGMs, three or four candidates come up for –retire or they leave the board. There's always just the right number of candidates to fill those vacancies and those people are hand-picked by a selection committee controlled by MLA. So if we're not happy in WA, forget about trying to get a candidate on to get something done, it just will not happen. They have an absolute monopoly on policy.

So with MSA grading, the West Australian member on the board has said it's a problem and he's battling very hard to change it but he can't because no-one is under threat of being thrown off the board. It's is a sort of a watertight old boys club, in my view, you know. They have a thing called livestock production assurance. Now, it's probably a good thing on the face of it but they control the rules completely and if I don't abide by those rules, my cattle will be boycotted in the saleyards. I can't use, for example, an abattoir's own production assurance certificate, I have to use theirs. There is no competition. I have to pay the $5 per beast to them and if I'm not getting value for my money – I sell a couple of thousand cattle a year, there's 10,000 bucks – I've got no say or go to another person to promote my product. They take that money no matter what.

So if you want competition and people to be out there working for you, they need to feel there's a bit of heat on them and those guys, they have no need to feel that way. I'm not saying it's the individual's fault but it is the way it is and, you know, short of the government looking at it, it's very hard to alter.

COMMISSIONER KING: All right.

MS DUNNET: Well, there's a suggestion that, sort of, the government should investigate a system of parity pricing, whereas there's a ration of profit sharing, sort of, across the whole chain. Something like that needs to happen because minimum wage doesn't apply to farmers, Trade Practices Act you fall through the loop there, so something needs to happen. So parity pricing, we sort of go through a system of world oil parity pricing; maybe it's something that needs to be investigated by the government as a parity pricing across the food industries.

MR O'DONOVAN: Well, on that question, when the red meat report was compiled by the ACCC it was put to it, and that – like, the major supermarkets, that their margins on meat were small and, in fact, that their net margin was around about three and a half per cent. Do you have any reason to think that they're not telling us the truth in giving us those figures - - -

MR INTROVIGNE: Well, I think the figures - - -

MR O'DONOVAN: - - - …. that's their margin?

MR INTROVIGNE: I think the figures, if you look at it, when it leaves the processor, it's $6 a kilo and it retails for an average of 16. They're making ten – or someone, post the processor's chiller, picks up the carton and makes $10 a kilo and the rest of us have to fight over six. I think that tells a story. I mean, if that doesn't – and I'm not saying – look, whether it's supermarkets, small retailers, independents, the like, there is something wrong. I mean, if you look in the US, US producers receive 25 per cent higher returns while the US consumer pay just less than half for the meat product at the end of it. A 340 kilogram live weight weaner in the US, in Australian dollars, 745; in Australia, 560 – or in Western Australia, 560. This was in the spring.

So, I mean, that's got to tell – there's obviously something happening here post – and I don't want to, I'm not here to say that the processors are all wonderful, I mean, there's problems there as well, but that's the figures. It's very hard to relate to the $1.50 a kilogram live weight price for a 300 to 360 kilo weaner that's purchased by a feedlot. It takes a lot of data to work through to see what effect that has on the $6, what portion of it. When you consider that the feedlotter who is not making a huge margin, his $3.80 equates to, you know, probably 85 per cent of that $6 which includes what he paid to the cow/calf producer as well and then the processor picks up $1 to do all that work of processing it and then along the rest of the chain someone makes $10, it's just – they might say – and I don't – I've never seen their books to see what they do. They can tell us all they like but reality is that there's – someone's stealing $10 along the way for very little effort.

MR HEWSON: Did that previous report relate back to the farm gate price or the profitability from the producer's point of view when the animal leaves the farm? Is there any reference to that?

MR O'DONOVAN: Well, it looked from – it was comparing sale yard prices to - - -

MR HEWSON: Did it look at whether those cattle were indeed profitable for those producers to sell?

MR O'DONOVAN: It certainly didn't look at the question of input costs. It just looked at whether or not there was a function like that.

MR HEWSON: Well, you know, I mean, that is the point, that's why we're here and that's why the dairy guys are here too. It is – these reports are basically superfluous from the producer's point of view and livestock industry's point of view if you don't look at whether we're going broke producing all these cattle for supermarkets to make a buck out of. I've got no problem with supermarkets making a buck, but I'm tired of not being paid for my hard work.

MR O'DONOVAN: Sure.

MR INTROVIGNE: And passion only takes you so far and something that you're passionate about, it comes to a point where, you know, the passion doesn't relate to dollars so you need to look at other alternatives, and that's what's happening.

MR HEWSON: If I just go briefly back to MLA, and I don't want to be bashing MLA but, I mean, they spent a large amount of money on research and development but the majority of that money is on – it's like more cattle - pastures for profit. You know, it's - - -

MR INTROVIGNE: Productivity.

MR HEWSON: - - - productivity gains. Now, and basically those productivity gains are – they're there so that when the price of cattle drops, we'll produce twice as many cattle of the same amount of land and we'll stay in business but what does that do? It just puts twice as much meat out there and keeps the price of meat cheap, you know, it's not sustainable.

COMMISSIONER KING: Now, on that question I think it’s submitted in the Red Meat Action Group’s submission that there are procurement practices and that there’s manipulation and predatory procured happening. Is there – are you confident that its procurement practices and not fundamental over supply in the market that’s causing the depressed prices?

MR HEWSON: Could we discuss that in camera? Please, yes.

MR O'DONOVAN: All right. Well, that’s all I’ve got for the public session.

COMMISSIONER KING: Just before we go into confidential session, I wanted to make sure that on the record we have something clarified. So you said that Teys were selling Queensland beef in Western Australia and I think the price was $4.60 versus $8.80, was that?

MR HEWSON: Teys Brothers rump from Queensland, $6.60; rump from Queensland $6.60; Harvey Beef rump, grain-fed rump, $8.80.

COMMISSIONER KING: Okay and just to make it clear that $6.60 is delivered price in Western Australia.

MR HEWSON: Yes.

COMMISSIONER KING: Okay, I just wanted to make sure that was clear for the record.

MR HEWSON: Yes, that’s a comparative price to anyone who wants to buy it in WA.

COMMISSIONER KING: Yes, I just wanted to make sure it was clear, yes.

MR O'DONOVAN: Can I just ask a question on that?

COMMISSIONER KING: Please.

MR O'DONOVAN: How would you go about buying that product on the wholesale market? Is there an operating market for packed meat with published prices and - - -

MR INTROVIGNE: No, and that’s probably one of the problems. There used to be and I’m not fully versed on it, but there used to be a system where whatever product was imported to WA or exported from WA was recorded and that’s not anymore, and that is, I think that would be important so that there is transparency in what is happening. I don’t expect there to be no imports from the east coast because we export beef to the east coast so there’s got to be, but it’s got to be fair and it’s got to be comparing apples with apples. Now, currently the meat that’s coming in, while there’s graded MSA, if you look at it properly it’s not an apple and an apple, it’s an apple and a pear, for instance. So I think that's what the problem is at the moment with MSA grading.

MR HEWSON: It's very hard to get MLA to sort of, perhaps obviously our MLA you know, members find it very hard that they could have got it better, they don't, they're under no threat so they can say well you will just live with this system, but clearly its a system that could work better. So presumably things have moved on with the grading, it's just the other area I wanted to clarify, if the MSA grading is finer, there's three, four, five stars you can grade from one to 10 or something like that. Would that help solve part of the problem so that you'd then be able to say, "Look you know, you're not taking orders," and maybe you're not just putting it all on three star you're able to say that, you know, three style has become you know, four, five and six grade so that you'll be able to

MR INTROVIGNE: Yes.

MR O'DONOVAN: Yes.

MR INTROVIGNE: I think that's we've put to our local MLA director and he said that's something he's working, he's having to even naming the different grades, you know, choice, prime, whatever it is and there's a big – in the three-star MSA grading, there is a fair range within there. Now, at the bottom of the range, if it's aged according to the date stamped on the Cryovac pack - more than likely we're supposed to eat equal to the top end, but unfortunately that date is being ignored and they're buying the product, opening the pack, slicing it, putting it on a tray, taking it to a restaurant and cooking it the next day without any experience and say and that's not coming through.

MS DUNNET: I think you're sort of removing the choice for consumers that do want to buy Western Australian products as well, if they're not sort of given that advice when they're sort of purchasing meat from the supermarkets.

COMMISSIONER KING: Yes, that was the other thing that I was actually coming to – because you mentioned that Western Australia, sorry a finer choiced MSA grading won't necessarily distinguish Western Australian beef from Queensland beef, for example. Has the industry over here looked at ways –and, you know, perhaps ..... in milk for example, Harvey Fresh can push - - -

MR INTROVIGNE: Yes.

COMMISSIONER KING: - - - that it's WA but then it's got a brand and it's not just a pack of beef put in the - you know, it's not just a rump of steak put on the supermarket shelves. Is there any possibility of doing it like a Harvey Fresh in beef where you're able to actually get a brand, a WA brand that then the consumer can recognise or is that just impossible because essentially it just all ends up on the supermarket shelf.

MS DUNNET: Well, Woolworths actually use – the government have released to industry is a "Buy West Eat Best" logo. It can only be put on 100 per cent produced Western Australian products. Now, that was supposed to have been launched to the public in February, it's now the next date of release is May so that's being held up in the system but Woolworths have taken that on board and they are using it in their catalogues to identify some West Australian beef. So when you look at the catalogues, it's certainly not all West Australian beef.

COMMISSIONER KING: Okay, but - - -

MS DUNNET: But the other's are, so until that becomes part of the system from food marketing, consumers are only able to discern the difference between the two.

COMMISSIONER KING: What the Buy West Eat Best campaign may in a sense partly solve it.

MS DUNNET: Yes.

MR INTROVIGNE: Yes, and because it's been delayed, Red Meat Action Group has been discussing this with the processors, particularly Harvey Beef and they came to us with the idea that they were going to launch their own beef watch, like a Harvey Beef Watch so that - and they would identify in full page adverts, identify retailers using all their product. We have convinced them now, we're still in final discussions about how it could happen, to bring in other processes as well in Western Australia, to make it a West Australian issue, so the industry is trying to help itself but there is underlying problems that need to be addressed and that's why we're here.

MR HEWSON: Sorry, can I just - - -

COMMISSIONER KING: Please, sorry.

MR HEWSON: I mean, I guess it's easy for people like you and perhaps you haven't been involved in farming and can look at it from a purely economic point of view and you sort of look at us all and say you're all a lot of whingers but I mean, the reality is that we're not. We're running business and you know - - -

MS DUNNET: We're going broke.

MR HEWSON: - - - I think its not, and despite our best efforts, we're not getting enough of the dollar as the public, the consumer pays for our products. We're just not and we won't merely allow - that may be irrelevant in the school of economics but, I mean, if you want to have an industry and you want to have a rural community and you want to keep those skills for our foods security, and the mining boom won't last forever, it may well look back at us and need us but we might be gone.

COMMISSIONER KING: Mr O'Donovan, did you have any more questions just to put in open session, or?

MR O'DONOVAN: No.

COMMISSIONER KING: Okay, in that case we'll move to a confidential session, so if everyone who is not connected with either the actual ..... or Red Meat Action Group, could you please leave. Please step outside. We'll be about 15 minutes.

CONTINUED IN TRANSCRIPT-IN-CONFIDENCE

CONTINUED FROM TRANSCRIPT-IN-CONFIDENCE

COMMISSIONER KING: All right. We'll get started again. The next witness today is from V&V Walsh Proprietary Limited, so Mr O'Donovan, I'll pass over to you to welcome Mr Walsh and just to remind him of the requirements of representing evidence here.

MR O'DONOVAN: Okay. Could you just state for the record your name, the company you work for and your position within the company?

MR G. WALSH: Yeah, Greg Walsh and I'm a director in V&V Walsh.

MR O'DONOVAN: Okay. Have you been summonsed to attend here today?

MR WALSH: Yes.

MR O'DONOVAN: Do you understand that it's a criminal offence under the Commonwealth Criminal Code to give misleading evidence?

MR WALSH: Yes.

MR O'DONOVAN: Okay. All right. Now just - - -

COMMISSIONER KING: Just also before we start, Mr Walsh, and you do understand that if in response to any question you believe - - -

MR WALSH: Confidential?

COMMISSIONER KING: - - - it's confidential - - -

MR WALSH: Yeah, I understand that.

COMMISSIONER KING: - - - can you please just point it out.

MR O'DONOVAN: All right. Now, can you just describe briefly the company, V&V Walsh?

MR WALSH: Family business, been in the business about 50 years, all in the family. We've got an abattoirs here in Bunbury and we process both sheep and beef, and we have Woolworths on-site who lease a boning room and do their own operation for beef only at the abattoirs.

MR O'DONOVAN: Right. So it's strictly the premises that they lease?

MR WALSH: Yeah.

MR O'DONOVAN: You don't have any service relationship with them?

MR WALSH: No, no contracts. We've just got a lease with them.

MR O'DONOVAN: Right, okay. So in terms of what you acquire direct from beef producers, can you tell us?

MR WALSH: Very little in beef. We only started processing a small number of beef ourselves about 12 months ago. We do mainly what we call a contract kill or a service kill for Woolworths and some other suppliers.

MR O'DONOVAN: Right, okay. So you don't actually operate as an acquirer of yearlings or - - -

MR WALSH: Very small portion, through a different company, through a subsidiary company. For V & V Walsh, no.

MR O'DONOVAN: Right. Okay. So in terms of the domestic market and supply to the domestic retail market, what elements of the chain do you operate in?

MR WALSH: The lamb market mainly.

MR O'DONOVAN: Right. Okay but just before we leave beef. So you provide abattoir services on a fee for service arrangement?

MR WALSH: Yes. They will acquire both Woolworth and the other wholesaler. I will just acquire the animals direct from the farmers and lob them at the abattoirs and we will slaughter them for them and deliver them.

MR O'DONOVAN: Right and you do that just on an agreed fee?

MR WALSH: Yes, just a set fee, yes.

MR O'DONOVAN: Okay. This might be confidential and I'm happy to ask it to you later but can you tell us what that fee - - -

MR WALSH: No, it's confidential.

MR O'DONOVAN: Sure. Okay. Do you do any work for Coles in the beef market?

MR WALSH: No. No.

MR O'DONOVAN: No. Okay. And for independent butchers - - -

MR WALSH: Yes.

MR O'DONOVAN: Tell us about how you interact with independent butchers.

MR WALSH: Not on the beef side of things, only on the lamb.

MR O'DONOVAN: Yes.

MR WALSH: Same thing. No small butchers would – well, there's a handful would process stock at abattoirs around the state but not at our premises.

MR O'DONOVAN: Okay. Now I understand you do export as well.

MR WALSH: Yes.

MR O'DONOVAN: Do you do export in the beef area?

MR WALSH: No. Apart from offals. Yes, just beef offals.

MR O'DONOVAN: Right and is that as a result of the services you provide to Woolworths?

MR WALSH: Yes, yes.

MR O'DONOVAN: Right. Okay and we might go into that in the confidential session as well. So in relation to lamb. So you actually acquire lamb yourself?

MR WALSH: Yes. Yes.

MR O'DONOVAN: Okay. Now how do you go about acquiring it?

MR WALSH: It varies from the different seasons throughout the year but generally we have forward contracts for suppliers to supply it at agreed price at a certain time but we still have – we always will have a mix of buying in the market on a day to day basis and also giving out the forward contracts to farmers.

MR O'DONOVAN: Okay and at what point in, I suppose, the lamb's life, do you agree a forward contract?

MR WALSH: We would be putting contracts out now for June, July, August this year, trying to fill those. We've already filled, you know, probably all May for the contracts.

MR O'DONOVAN: All right. What are the advantages to you in having forward contracts?

MR WALSH: We've found it just guarantees your quality and we sort of stick with people who can supply good quality and we try to base our business on supplying a quality market rather than be in the supply and demand market where the price is up and down and the quality goes everywhere. I would say that in the probably five or six years we were doing it, we've always been above the market with our contract price.

MR O'DONOVAN: Right. Is that why farmers are attracted to entering into the forward contract?

MR WALSH: It gives them some security too if they – if the price isn't good enough for them or they think it should be higher, then they don't have to sign the contracts. When we say contracts, a lot of that is for grain-fed lamb so as you heard from the beef producers, they had to know well ahead if they can, what they're going to – the end return is, what they're going to get. Then they can determine whether or not it's viable for them to feed the stock.

MR O'DONOVAN: Right. So the price will incorporate some assessment of how much it's going to cost to - - -

MR WALSH: Oh, it's just negotiation with the farmer and currently at the moment with the high grain prices, we've had to increase our prices and we understand that and obviously so does the producer.

MR O'DONOVAN: All right. So what proportion of your through-put would you acquire, of your lamb through-put, would you acquire on forward contracts?

MR WALSH: In the harder times of the year would be, we'd probably go for about 80 per cent of our supply on contract and that, as I say, that could drop down to zero in the summer season. We don't have supply contracts the same as the beef with the yearlings. You won't get contracts for yearlings, I don't think.

MR O'DONOVAN: Right. In terms of how the price is set, when you're negotiating a price, are both you and the farmer looking at what's happening in the saleyards?

MR WALSH: Yes. Definitely

MR O'DONOVAN: All right and that will influence where the price goes?

MR WALSH: Yes.

MR O'DONOVAN: Okay. In terms of the remainder of your stock, the 20 per cent that you get through the saleyards - - -

MR WALSH: Saleyards are all privately with, you know, direct with the farmers.

MR O'DONOVAN: Right but a price agreed on the day?

MR WALSH: Yes. Oh yes, yes.

MR O'DONOVAN: Okay and is the saleyard price effectively the price that you'll be able to agree direct?

MR WALSH: To a degree, yes. I think generally we pay above that too because we buy on a grid, what we call a grid system, you know. They have to come under specifications and all put out our grid of what price we think and that if the farmer can get them into the best parts of the grid for us, they'll probably get a premium on the market.

MR O'DONOVAN: Right. Okay. If you've decided to acquire through the saleyards and you go down there, is there a particular local saleyard that you go through?

MR WALSH: Oh, they're throughout the state. Different days.

MR O'DONOVAN: All right. In terms of the number of buyers within the saleyard, how many buyers - - -

MR WALSH: We generally keep out of the saleyards. Yes, buyers, we've only got two buyers that generally go direct to the farmers or through the agents of Wesfarmers or Elders.

MR O'DONOVAN: Right. Okay. Is there enough volume going through the saleyards to give you an indication that it's a fair market price?

MR WALSH: Yes.

MR O'DONOVAN: Right. So the saleyards are still a good indicator of how much supply is around in the market?

MR WALSH: Yes.

MR O'DONOVAN: And are the prices published?

MR WALSH: Who, our prices?

MR O'DONOVAN: No, the saleyard prices.

MR WALSH: Yes. Generally, yes.

MR O'DONOVAN: All right. So it's publicly available information?

MR WALSH: Mm.

MR O'DONOVAN: Would it be fair to say that that informs all the other decisions of people dealing direct?

MR WALSH: I think so, yes.

MR O'DONOVAN: Is that because the farmer can always say, "I think I'll do better in the saleyard" if they're negotiating direct?

MR WALSH: They've got the choice but unfortunately the farmer is a price taker, like we are in a lot of our products and I think that's been brought out before in the previous discussions that you know, a big problem is with the farmers and I think they need a lot of help too because we're in a supply and demand market and how we regulate that, I don't know.

MR O'DONOVAN: All right.   So looking at it from the farmer's perspective in terms of selling a lamb, they can obviously deal direct with someone like you.

MR WALSH: Yes.

MR O'DONOVAN: Are there a lot of people operating in the market like you who are acquiring sheep for processing?

MR WALSH: Yes. Well, there's Fletchers and there's WAMCO, which is, you know, and quite a lot of others. Western Meat Packers, Hillside Meats, yes, so there's probably going to be ten or a dozen. I think Mike Norton, he's here, he could answer that better than me.

MR O'DONOVAN: Okay and do the supermarkets operate in acquiring lambs direct from - - -

MR WALSH: Woolworths, no. No.

MR O'DONOVAN: Does Coles?

MR WALSH: They were. I'm not sure. I think they may have pulled out of that now or are about it.

MR O'DONOVAN: Right.

MR WALSH: And there's Wesfarmers taking over Coles. There's a few changes happening there.

MR O'DONOVAN: Right. Okay. So in terms of that level of the supply chain, Woolworths and Coles don't have a presence in lamb?

MR WALSH: No. No.

MR O'DONOVAN: Okay and in terms of the volume of the lamb that's produced and then processed by the dozen or so who are operating, what proportion is done for export and what proportion ends up in the domestic market?

MR WALSH: I couldn't tell you exactly. I'd only be guessing.

MR O'DONOVAN: Right. In relation to - - -

MR WALSH: We've also got live shipping where a lot of lambs go out live. I think that would probably be a bigger portion than what we kill.

MR O'DONOVAN: Right. Okay. But you would know what proportion yourselves, your own company - - -

MR WALSH: We do very little export at the moment because of the Australian dollar and you know, the prices are just too high.

MR O'DONOVAN: Okay. So say five years ago, what was the export situation?

MR WALSH: We'd be doing probably 20 per cent export. Now it's virtually zero.

MR O'DONOVAN: Right. Okay. So basically 100 per cent of the lambs that you process through your plan are sold into the domestic market?

MR WALSH: Yes.

MR O'DONOVAN: All right. How is that processed, how is it then moved out of the processor's hands into the retailers and the other - - -

MR WALSH: We have two boning rooms on site and so we, once the animal is killed and you got the carcass, we cut it up further. Some of it goes out as carcass forms to a lot of small butchers and smaller supermarkets throughout the state.

MR O'DONOVAN: So when you say – did you say carcass form?

MR WALSH: Yes. Once we've got the carcase, you know, then we might cut up that carcass into, you know, further pieces and split it up and sell it individual, as individual cuts but still, you know, quite a few go out as carcass form.

MR O'DONOVAN: Right and for the butcher then to cut up as the customer requires?

MR WALSH: Yes.

MR O'DONOVAN: Okay and how does that market operate? Do you have long term contracts with particular retailers or particular wholesalers?

MR WALSH: No. No. No. It's just purely if we can match the price or if they're happy with our service and our quality, then we can sell the product.

MR O'DONOVAN: Okay and is that a very diverse market where there's lots of customers?

MR WALSH: Yes, yes and I think out of what we wholesale that probably a third would go into Woolworths and the rest goes on diverse market. Smaller supermarket chains, food service industries, you know, throughout Australia and small butchers.

MR O'DONOVAN: Right and it is price agreed on the day?

MR WALSH: Yes.

MR O'DONOVAN: That's the arrangement with all of them?

MR WALSH: Yes.

MR O'DONOVAN: Okay.

MR WALSH: You put your price out for next week and that's about it.

MR O'DONOVAN: Yes. All right. Is there any transparency in how that price is set? Like are you able to get a feel for the market in a way other than the customers - - -

MR WALSH: I think the butchers let you know when you are too dear, you know, so you won't sell anything.

MR O'DONOVAN: So that's effectively how it operates?

MR WALSH: Yes.

MR O'DONOVAN: You put in quotes and they come back and - - -

MR WALSH: We are all buying in the same market, you know, some might pay a bit more, some might pay a bit less but it gets back to quality and service.

MR O'DONOVAN: Okay, all right, and in terms of how Woolworths buy. Do they buy carcasses or do they buy - - -

MR WALSH: No, they will buy a certain amount of lamb off us that we break up for them and then for what they call their oversupply or the extra, their surplus of what they want to buy, they can buy it anywhere they want. They don't even have to buy those carcasses off us.

MR O'DONOVAN: Do they then further process the meat once it gets to their shop?

MR WALSH: Yes.

MR O'DONOVAN: So, the putting it into trays and their various cuts. That's all done - - -

MR WALSH: Yes, all be done by them.

MR O'DONOVAN: So, in terms of the form in which is leaves you. Is it boxed up at all?

MR WALSH: Yes, boxed and it might be just in basic, what they call, it might be just a leg of lamb that might have to be further processed, you know, a loin, a forequarter. So it's only a basic cut.

MR O'DONOVAN: Okay, and again, they don't operate in the market in any way different to any other butcher?

MR WALSH: No.

MR O'DONOVAN: Or supermarket?

MR WALSH: Yes.

MR O'DONOVAN: In terms of their influence on the market. Do you feel that they have an ability to influence the price that you get for your product?

MR WALSH: On the lamb, no.

MR O'DONOVAN: Now, in terms of beef, have we – do you have any interaction at the retail level on beef?

MR WALSH: No.

MR O'DONOVAN: You don't sell into there at all?

MR WALSH: No.

MR O'DONOVAN: All right, well, I think all my other questions are about margins and specific contractual terms. So I might leave that for a confidential session.

COMMISSIONER KING: If we move into confidential session now. Sorry, again if we can just clear the room of anyone who is not connected with either the ACCC or V&V Walsh.

CONTINUED IN TRANSCRIPT-IN-CONFIDENCE

CONTINUED FROM TRANSCRIPT-IN-CONFIDENCE

COMMISSIONER KING: Now, the last witness for today is from CA & CC Scott. We'll keep chatting until Mr O'Donovan and start the formal questioning. Damien, you'll be glad to know, I didn't actually look up before I started, and I looked up, and said, Mr O'Donovan. Let me start again. Our next witness is from CA & CC Scott, so Mr O'Donovan, I'll pass over to you to ask the witness to introduce himself.

MR O'DONOVAN: All right. Can you please state your name, the company you work for and the position within that company?

MR SCOTT: Mark Scott from CA & CC Scott, owner manager.

MR O'DONOVAN: Okay. Now, were you summonsed to appear here today?

MR SCOTT: No.

MR O'DONOVAN: No? All right. But you understand that it's an offence under the Criminal Code to give evidence at this inquiry that you know is false or misleading or omits any matter or thing without which the evidence is misleading?

MR SCOTT: Yes.

MR O'DONOVAN: Okay, all right. Now, I understand you're – you run a mixed agricultural business?

MR SCOTT: Yes.

MR O'DONOVAN: Could you describe the business for us?

MR SCOTT: The business, in terms of land area, is basically a large beef farm. In terms of turnover value, we are a horticulture business that produces mixed fruit, that is the main piece of our business, most probably about 75 per cent of our turnover, 80 per cent of our turnover. From that horticulture business, we produce pome stone, citrus fruits, and other specialty fruits. With that, we market in three ways, we have a retail delivery round where we deliver boxes of mixed fruit to people's households once a fortnight direct to the door, and we have roughly 350, nearly 400 customers in peak season, peak stone fruit season in those deliveries, and that goes for roughly nine months of the year. We have a wholesale round where we deliver to 10 independent retailers for also nine to 10 months of the year, and provide them with most of their fruit needs for those 10 months of the year. We then – any excess, because we have to guarantee supply, so you always have a small excess we then put into the domestic or export market as the case may be, the best prices suitable.

MR O'DONOVAN: Okay. Well, starting with the cattle that you produce, firstly, how many head of cattle have you got?

MR SCOTT: Around 440 head of – 200 breeders, which with calves, then runs about 400 plus some ancillary dry cattle, so about 440 altogether.

MR O'DONOVAN: Right, okay. Each year you would sell about 200, is that right?

MR SCOTT: 200, yes.

MR O'DONOVAN: Okay. You – can you just tell us how you sell them onto the market?

MR SCOTT: Yes. Very badly, most probably. We are – we are one of the vealer producers that the other members today have talked about, where we produce – we have just finished calving now, so in 10 months time, in around October, November, those animals will be ready for slaughter.

MR O'DONOVAN: So that's prior to them being weaned?

MR SCOTT: Prior to them being weaned, so they will come straight off their mother from out in the paddock as a milk fed calf and go to a processor.

MR O'DONOVAN: Is that to become veal on the supermarket shelf or is there more than that from a vealer?

MR SCOTT: No, it's more than that, that's all your T-bones and your sirloins. That is the animal, that is the prime cut of animal for October, November, December, January within the - Western Australia, that is where those cuts come from, it's those animals, yes.

MR O'DONOVAN: Okay. Sorry, I interrupted.

MR SCOTT: Yes, so we'll turn them off. In the past, up until this year, we've had a situation where we tried to have a linkage with a feed lotter so that we would sell the calves that were large enough to go to the processors direct to processors, and then have a linkage where each year we would sell the remaining calves which didn't meet the processor's specifications direct to a feed lotter who would then finish them off and send them on to the processor themselves, but unfortunately, this year, the processing – the feed lotting sector has thrown any past allegiances, you could say, out the window, with the increase in costs, and they have gone – chosen to protect themselves rather than keep going with linkages that they had previously developed.

MR O'DONOVAN: So the feed lotting, the driver for the feed lotters decision is just that the price of grain has gone up?

MR SCOTT: Yes, basically, the price of grain is too high in comparison to the return that they were going to be offered from the processor at the other end.

MR O'DONOVAN: Right. Is the reason that there isn't this responsiveness to the grain price for feed lotters that there are grass fed alternatives which can fill that market demand?

MR SCOTT: Grass fed alternatives, the importation of the meat from Queensland and a basic oversupply.

MR O'DONOVAN: Yes, okay. So from a feed lotters point of view, they're choosing just not to finish?

MR SCOTT: Yes.

MR O'DONOVAN: Any cows at all now?

MR SCOTT: Yes.

MR O'DONOVAN: Because there is this problem of oversupply?

MR SCOTT: Yes, there's simply not a profit margin in it for them, so they simply choose not to carry on the business.

MR O'DONOVAN: Okay. All right, so then in terms of choosing a processor, how do you – how have you chosen a processor in the past?

MR SCOTT: We deal through an agent - - -

MR O'DONOVAN: Which agent, by the way?

MR SCOTT: Landmark.

MR O'DONOVAN: Yes.

MR SCOTT: We go and – so we choose to deal directly rather than through the saleyards, because when we deal directly with an agent we pay four per cent commission, when we go through the saleyard, you pay a minimum of five per cent commission, then yard fees. So going through the saleyards, you actually end up closer to around 10 per cent cost going through the saleyards as compared to direct through a processor. This season, in particular, the processing price was far higher than what you're able to achieve in the saleyard, there was a big disparity between the two.

Then choosing it is just basic – we tend to try and personally deal with smaller processors who we can – who we feel that we get a reasonable deal with in terms of – when you have an animal processed, and you get – you send it off to get killed, they grade it to meet standards Australia specification. There would seem to be anomaly sometimes, depending on which processor you use, as to the number of dark cutters, which is a term that is used in the industry to say when the meat is very dark in the animal. It's not – it may not be bad to eat or anything, it's just particularly dark and it doesn't look good when it goes onto the shelf, so you then get penalties on those animals coming through.

Now, that could simply be, depending on which auditor they actually have doing those measurements at the time. It depends on how many dart cutters. So, if you find a processor that may not pay as much but you don't end up with as many penalties on your animals going through the system, your average price might be better. So, that you have got to find a processor which suits your method of production and the animals you supply.

MR O'DONOVAN: Right, okay. Is it the agent's responsibility to negotiate the price?

MR SCOTT: Yes.

MR O'DONOVAN: Okay. So, will they come back to you and say, well, look, this processor is offering this amount. This processor is offering this amount.

MR SCOTT: Yes, that is right. The agent will come and say these are your options. Quite – sometimes they will offer two or three options. Sometimes it is just one option. Depending on supply, sometimes when the supply gets tight here in Western Australia, because we tend to have a very over-supply situation in October/November/December, it is simply a case of this processor can actually take your animals in the next four weeks. This is the price they are offering. If you don't want that price, then the next gap, next window, is in five or six weeks time.

MR O'DONOVAN: Right. If you make the decision not to send your animal to a processor that year, is it immediately just worth less money the following year?

MR SCOTT: Yes. The – apart from a feeding cost. So – but for instance I have stopped running – five years ago we have switched from running 120 cows and 80 steers. So, the – we are keeping the young. The steers that didn't make the specifications, we were keeping ourselves and feeding them on grass for 12 months. We have made the decision to switch away from that market to the – to solely calves and sell all of them off because we were selling the calves – the calves were worth, say, $500 a head, for example, at a time when you would sell them to the processor.

We were only getting $250 more. So, we were only getting 750 or $780 for that animal 12 months later. Our cost of – my cost of production for that animal was actually $350 for that 12 month period. So, holding the animal in as much – from that point of view wasn't worth it. It is also – if you have got your farm stocked up to a point that is comfortable so that you can take in account bad seasons and good seasons and all those sorts of thing, trying to keep – it is not physically possible to actually feed an extra 200 head of calves for the next 12 months. You simply don't have the land area or the dry matter available to actually be able to do that safely.

MR O'DONOVAN: Right, okay. So, is – in the peak season, is there under-supply of processing capacity in WA?

MR SCOTT: Definitely. In June, July and August. For example, the cow price in December or January, we sold cows to a processor and they were processed through V & V Walsh. We received $1.60 a kilo dressed weight for those animals. Whereas in the July beforehand we received $2.20 a kilo for those – for culled cows. The same specification cows, the previous July. That market is a fluctuating market that does that cycle every 12 months. You will find again in July this year the cow price will go up. Because the cow – like, it is hard to feed an animal for this dry period in April/May. It is a high cost to feed it. So, people tend to offload them so they don't have to carry them through the high cost feeding time.

MR O'DONOVAN: Right, okay. So, is – does this – times where there is over-supply, does that mean that effectively the processor dictates to you what price it is prepared to give you?

MR SCOTT: Yes.

MR O'DONOVAN: Right. Is there – why is there not more investment, I suppose, at the processor level, to improve capacity at that time of year?

MR SCOTT: I would be completely speculating if I – personally from that point of view. I can say that we actually have – we had three animals custom killed for our own consumption this year and we dealt with two different abattoirs to have those three done. Both of them charged us $80 a head to slaughter those animals and deliver them to our choice of butcher to actually have them packaged up for ourselves. The thing about – that amazed me about that was when we employ up to 12 casuals, up to 12 staff, in our horticultural business, I can't actually see they are making a reasonable profit at $80 a head.

I actually asked my stock agent at the time, because he deals with several different people. Like, the cows that we sold in January went to a sausage company that specialises in sausages. So, they were actually custom killed by Walsh's for this sausage company. I asked him, listen, is that the price that those people pay to have the animals cut up too? Thinking that as a producer you might get a special deal or something. He said, no, that is what they are being charged. Everyone gets that same – is being charged $80 a head. I wouldn't like to try and employ staff as an employer in Western Australia at the present moment and kill and animal and run a killing line for $80 a head. I would think the margins from the outside looking in, not being an expert, would be fairly tight in that – at that rate.

MR O'DONOVAN: Right, okay, but that's – obviously if you can access that sort of pricing it's not the product of some market – huge market power and further up the chain.

MR SCOTT: No, that's right.

MR O'DONOVAN: Okay, so it's just very – margins are just tight in that?

MR SCOTT: Yes.

MR O'DONOVAN: Yes. All right, and are there other times of the year where supply is short, where prices improve?

MR SCOTT: Well, as I said in July the prices in July, August, September, the prices are definitely better, but you've got to have had to have kept the animals through the tight period to feed them, so you've got to work your margins there and there are people and there are producers which target those markets, because they have the right country, the right land or whatever to be able to carry on that business and do it in that way.

MR O'DONOVAN: Right, so in terms of the margin that you can get on cattle, at the moment is it enough to make it worthwhile?

MR SCOTT: No, personally working off last years figures we made over $125,000 turnover on those 200 and something head that we sold. We made about $7000 profit at the end of the day and that doesn't include a return on land or any of those things and actually while it included a cost for employees who may have done work for us, it didn't actually include the owner's wages out of that amount at the end of the day.

MR O'DONOVAN: Right, now, looking further up the chain, knowing what you sell to a processor for and the prices that you see in retail, do you have a view about whether the – do the margins seem high to you or do you not have enough visibility through the chain to - - -

MR SCOTT: Using my experience through the fruit industry as well as the meat industry, I actually see the current model that Woolworths or the big supermarket chains, I won't particularly name one, but the big supermarket chains use, I actually see as rather inefficient, because for instance going from a beef farmer, it will go through – I have an agent, it goes through a processor, more than likely to a consolidator, then to a store and then out on the shop shelf. You've gone through so many hands through the system that there's got to be costs and margins involved all the way along through that process. So that – and a lot of those, like the consolidators are hidden.

If they use a central warehouse, which at least one of the big supermarket chains does, well that in itself has a cost and I know like each shopping centre is charged a warehousing cost for the goods before it goes through to the supermarket shelf, so you've got all these costs along the way. I don't think the margin is unreasonable, like when they add all their margins on I don't believe that they are actually making a lot of money, I just believe the system they are using to do it has that many steps in the process it is inefficient. Whereas if you look at say a small retail butcher that can go and buy his – buy the carcass direct from an abattoir, it goes farmer – abattoir – retailer, nice and simple, direct and all those sorts of things.

As beef farmers and I do it on the fruit game, but I don't do it as a beef farmer, we are very bad at marketing our product. We don't take control of that animal through the chain. We produce it, we say to someone else, here you go and do it, you pay me to do it. Whereas it's about, yes, being able to market it properly and get that supply chain right is – I don't believe the margins at the moment, I think it's an inefficient system that we have.

MR O'DONOVAN: Sure, and have you ever attempted to sell to Woolies, or been approached to buy your stock – have Woolies ever approached you to buy your stock?

MR SCOTT: No.

MR O'DONOVAN: No, do you believe they have an effect in the market?

MR SCOTT: Definitely.

MR O'DONOVAN: All right. How – tell me what that effect is and why you think, as just one player in the market, they have that effect?

MR SCOTT: Because that processing sector I believe is quite tight. They are always after an opportunity to impress their margin. So that as soon as Woolies can put pressure on supply and drop their price, well there is no real reason for anyone else to keep their price up, because they can all drop their price at the same time and make a slightly larger margin as they go through the system and whether it's them or whether they then – whether Woolies – the price is actually put on by the retail butchers back the other way saying, well, if I go and buy it and put it through such and such, we'll get it, but as soon as one person drops the price within the market it's a competitive market and so everyone drops the price to go with it and it's – but, yes, one player because – I mean, there's only – you guys most probably have better figures than I do, but I think there's like seven or eight processors in Western Australia, because that market is so small everybody knows what everyone's doing.

The agents work across the board with all of them so that – and an abattoir is going to know immediately that someone drops their price, because if you've got your animals booked in at 3.40 here and they ring you up and say, "I'm sorry, you're only getting 3.30 for those animals", well, you're going to jump on the phone to the next abattoir and say, "What are you offering?" and as soon as they get three phone calls from growers saying, "What are you offering?" they know the price has dropped and so it just cascades down the system. So one player in the market dropping the price, be it Woolies or anybody else can have a big effect.

MR O'DONOVAN: Right, so it's not peculiar – it's not because Woolies is vertically integrated, it's just because it's a small market?

MR SCOTT: Just because it’s a small market.

MR O’DONOVAN: Okay and it’s not collusion, but the prices are transparent enough that they - - -

MR SCOTT: Yes, I believe so. That one is always – no, I can’t – there is nothing to prove that it would be collusion, no.

MR O’DONOVAN: Right.

MR SCOTT: In my opinion.

MR O’DONOVAN: Right, but you might have a suspicion?

MR SCOTT: There is always – when you have – when you would say you go to the – if you went to a saleyards and you saw the four buyers all having a cup of coffee together at the café beforehand, you can presume lots of things, whether any of them are true is something else.

MR O’DONOVAN: Right, but there is literally that smaller number of buyers working in saleyards.

MR SCOTT: Yes.

MR O’DONOVAN: Right.

MR SCOTT: Like, yes, they get published in the rural papers that this is a photo of such and such buying for Western Meatpackers at the saleyard on 24 June or whatever. So everybody knows who they are.

MR O’DONOVAN: So in your view are the saleyards an efficient operating market or is there plenty of scope for tacit collusion or – not suggesting that it necessarily occurs, the question is are there enough buyers to make the market work?

MR SCOTT: Because of the small number of processors, no.

MR O’DONOVAN: Right.

MR SCOTT: And quite often there’s not enough competition for graziers and things to actually push that market along and I mean there’s a whole range of things that lead to that, but yes.

MR O’DONOVAN: Yes. Okay. All right. Well, then turning to fruit, because you’ve got a few different routes to market – firstly, was there anything else you wanted to tell us about the cattle market?

MR SCOTT: No, that’s about it.

MR O'DONOVAN: Anything else you guys wanted covered in meat? No. Okay, good, all right, well, moving on to fruit, now, firstly if we can just deal with your retail operation.

MR SCOTT: Yes.

MR O'DONOVAN: Okay, where effectively you produce – sorry, what proportion of the fruit that you produce is sold by you as a direct retailer?

MR SCOTT: 35 per cent.

MR O'DONOVAN: Right, okay and in terms of how the price is set, how do you set the price?

MR SCOTT: We take into effect our cost of production, our delivery cost and then try and set a fair margin. How we run our business, be it the retail sector or whatever, we look at consistency and an average price over the whole range of fruit, over the year, to make a profit, rather than trying to make any one big lot in one lot. So we take cost of supply or cost of delivery, cost of production, what we think are going to be our increased costs for the year. So like at the moment my wage pressure is pretty high, so that – and I'm looking that I've increased my workers wages by – it doesn't sound a lot – a dollar an hour, but it's happened each year over the past six years, well, at $16 an hour that's 6 per cent a year I've been increasing – I've increased their wages by, so we've been so – if you take that from $12 seven or eight years ago to now $18.50.

That's been a fair whack that I've had to take every year, after year, after year and once again because of the mining industry at the moment, I'm going to be looking down the barrel of at least $1, maybe $1.50 an hour, just to keep – make sure that I don't lose those permanent workers and that skill base from my – so I'll take that into account. The other thing we do take into account is I try to not be above the specials price that Coles and Woolies come out with alls the time.

MR O'DONOVAN: Right, okay, so do you look at the previous year's specials when you - - -

MR SCOTT: Yes, the previous year's specials and what I see happening in the industry as to whether I think there's going to be a decrease in supply or an increase in supply happening over time and, yes, work with that to give me an idea of where that is. So, like, at the moment the apples say are retailing – we most probably – we missed the boat last year, retail price of apples in WA this year has jumped dramatically and so – but we set our prices in August each year. We tell our customers and we let them know what they will be paying for their boxes of fruit for that next season, in the August before and so that we're averaging about $2.50 a kilogram at the moment for our apples at the retail level, which is significantly cheaper than the special price of $3.50 a kilo at the supermarket at the present moment.

MR O'DONOVAN: Right and when you set that price do you also have regard to what you could get in the wholesale market?

MR SCOTT: Yes, definitely.

MR O'DONOVAN: Right, so if the returns – if you thought you could get a better return in the wholesale market?

MR SCOTT: Yes, that's also part of it. We also take into account our base cost of production so by that I mean I try to use the retail deliveries as a way of ensuring that I can cover my costs for the year, because I've been in – this is – we've just been through 10 years within the stone fruit industry, here in Western Australia, where for the first seven the prices fell every year on the wholesale level, or stayed static or fell for those seven years. So we've gone from 270 growers in Western Australia down to about 70 or 80 presently and so covering your base cost of production and making sure you've got those costs covered, so that you actually didn't make a loss, are really important, because that way you can still run your business and come out the other end, if you cover all your costs on a year to year basis.

So that's why we set up the retail business, was to make sure we could guarantee – control that piece of the market, control our returns from that and end up out the other end and it's only now that we've now got a shortage of supply, then we can start to then – now that the market has worked and we've gone through the cycle – now we can start to make a little bit of margin on that and start to make some reasonable profits over and on top of trying to use it simply as a risk protection measure within our business.

MR O'DONOVAN: How are you able to acquire the customers?

MR SCOTT: Simply through word of mouth and in fact we have run a list, a waiting list this year. We simply cannot supply enough product and physically deliver the product to people and so we have had to have a waiting list of up to 50 people during this year.

MR O'DONOVAN: Right, okay and so they're just families you're supplying with fruit on a fortnightly - - -

MR SCOTT: Yes, families and it goes – yes.

MR O'DONOVAN: - - - basis.

MR SCOTT: Yes.

MR O'DONOVAN: Okay and in terms of the margin overall as a contributor, the retail side of the business does that contribute more to your profitability than the other two thirds of your fruit business?

MR SCOTT: No, they're about the same, yes, that usually we try and – because we've – maybe a little more, maybe, say, 40 per cent from the retail business, and 30 per cent for each of the other two sectors. We try not to – because we've got the protection of the retail business, and the wholesale business, where we directly sell to the retailers, and once again, we don't try and push the limit, so like, when the season starts for stone fruit, instead of chasing the $45 a kilo - $45 for a 10 kilo carton that we may be able to get on the Perth domestic market, we go into those retailers and supply them at $30, but then we set that price for $30 for the whole season, so that they have a guaranteed supply at a guaranteed price through the system through the year, and it lets them make a margin and lets them be particularly competitive at the start of the season and get people into the shop and work their way through. So it's not about – yes, so it's not all about chasing – yes, if that makes sense.

MR O'DONOVAN: Yes, yes. So in terms of choosing to deal direct with retailers, again, does that – is it mostly because it flattens out your risk a bit?

MR SCOTT: Yes, definitely. It flattens out the risk and it provides us with a guaranteed income. I must say that that market has been – in the past five years in Western Australia, has really taken off. The small independent grocers here in WA, and we supply in the area of Busselton, Dunsborough, Margaret River and Augusta, which is south of here, and they actually – it's quite interesting listening to the Chamber of Commerce and Industry earlier, about the deregulated trading hours, they actually all – that area is completely deregulated. They have a deregulated trading hour system, and my two biggest shops there choose not to trade on Saturday and Sunday, but they are all prospering, and the deregulation one, those shops choose not to trade on Saturday and Sunday because they find that all it does is shift the spend over seven days, but it increases your cost by an extra day per week.

MR O'DONOVAN: Okay, and are they - - -

COMMISSIONER KING: Sorry, just on those shops, are they fruit and veggie specialists, or are they grocery - - -

MR SCOTT: They – we have three specialised fruit and veggie shops, and the others are like, members of the IGA chain who are wholly independently owned.

MR O'DONOVAN: In terms of the retail pricing, do they then tend to price to the market?

MR SCOTT: Yes, yes.

MR O'DONOVAN: Okay. Notwithstanding that their input costs are probably quite different to others who are buying through the wholesale market?

MR SCOTT: That's right, they – mind you, I can – they would usually trading, because I just look at shops every week, they would usually trade in a range from somewhere between 80 to 150 per cent mark up, those particular shops. The – yes, so they may be making a little bit – but they are – but once again, it's that efficiency within the supply chain, because when you go – when I sell to Perth, to a market agent in Perth, I sell to the market agent who takes 15 per cent, who will then sell to a consolidator, who will send it to the warehouse, who will send it to the store. So between that system, you've got so many people taking a margin out, that the Coles and Woolies margin, their cost has to be high to get it there, even though these people may have a higher staffing cost and all those sorts of things.

MR O'DONOVAN: Right, okay. So and in terms of the retail price of fruit, is that primarily set by Woolworths and the independents follow, or - - -

MR SCOTT: Rather than Woolworths, I'd say it's set by the large chains as a whole, but that's very dependent on supply, and particularly – WA, in reality, is a very small market. I found, in my experience in the past, that even by myself sending, say, four tonne of peaches to Perth in one go, I can actually effect the wholesale market in Perth in one transaction. So I'm very careful not to send one lump like that in one go. So if – say, you get through to the end of the apple season in February, and there's a couple of people still have cool rooms set, controlled atmosphere cool stores full of apples, and they decide, right, we're going to quit these and make whatever we can out of them to try and cut some costs of holding these for all this time, well, that will depress the price dramatically, simply because you've had – that effect happens, so it's partly the supermarkets and partly supply.

MR O'DONOVAN: Okay. So with these retailers you supply direct, do you price – is there a relationship with the existing wholesale price or do you look back at the last season and think, well, we'll agree an average for the whole season?

MR SCOTT: Both, and the existing wholesale price. Quite often, because it's a working relationship, they will actually say, this is what I'm being offered in the price lists that come from my market agents in Perth where I buy my vegetables from, where it's worked from that, and we work – and we both understand that we both need to make a profit along the way. I mean, they have to lower costs so that they don't have to transport it all the way down from Perth back to them again, and so they – a lot of the time they are quite happy to actually match that price or even be a little bit higher because they don't have some of the costs involved to themselves as well.

MR O'DONOVAN: Okay. Then moving on to your relationship with Coles, you indirectly supply to Coles?

MR SCOTT: Yes, yes.

MR O'DONOVAN: So tell us how that supply chain works, that's Pink Lady apples?

MR SCOTT: That was Pink Lady apples. So we would pick this week, they would go into a controlled atmosphere storage, which I independently contract out to a third party who provides me the storage.

MR O'DONOVAN: Then there's just a fee for service?

MR SCOTT: Fee for service arrangement, $50 per bin. They will then go a custom pack house, and that particular pack house is also owned by the grower packer that supplies Coles, and before I send them to them, before I send that fruit to him, I actually get a bare fruit price from him, so I actually ask for a price given to me of what each size he will pack out of that – what each size fruit, box of fruit packed out of that bin will return to me net from the packing cost. I ask for that, and then he sends that off - - -

MR O'DONOVAN: So you have a guaranteed price at that point?

MR SCOTT: Yes.

MR O'DONOVAN: Okay. Has property in the apples passed?

MR SCOTT: No.

MR O'DONOVAN: Okay. So then what does he do with it?

MR SCOTT: He will pack it, hold it, and send it to Sydney when the time comes, which can be anywhere up to four weeks after packing the fruit, and then we will get paid some 60 days later for it.

MR O'DONOVAN: Right. At what point will he have agreed a price with Coles?

MR SCOTT: I would assume before he gives me the sheet of paper that he sends to me, but I do not physically know whether he has a contract with him to supply or how he does that.

MR O'DONOVAN: Right, okay. Do you ever get your apples back saying that they are out of spec?

MR SCOTT: No, because we choose a pack house who will pack to the spec to make sure that it doesn't happen.

MR O'DONOVAN: Yes.

MR SCOTT: That being said, I have visited pack houses before, and walked into the pack house, and the pack house was using – like, this pack house was in Tasmania, and the pack house was using boxes from Victoria, like, the brand of boxes was from an orchard in Victoria, and I said, "Why are you doing that?" They said, "Well, if we send in our own boxes, we get returns and if we send it in the boxes from Victoria, we don't." So the best laid plans, yes. But as yet, no, we have not had any returns.

MR O'DONOVAN: Right. Okay. Do you know why they ship to Sydney, why they're not sold locally?

MR SCOTT: Because the price is better.

MR O'DONOVAN: Right, okay. Was it reviewing wholesale prices in other cities that got you onto that idea?

MR SCOTT: Yes, well, just the wholesale prices here in Western Australia. We have a relationship with a market agent, and we simply do the two phone calls. What are you willing to pay me, or what price do you think you can get me on consignment here in Western Australia, what price can I be guaranteed from the eastern states, and when you get a net fixed price back, it does not necessarily mean that it has to be higher than the consignment price here in WA to choose a fixed price, but you know at least what you're going to get out of the bin at the other end.

MR O'DONOVAN: Right. Why isn't the market in equilibrium in the sense that it - - -

MR SCOTT: Well, it does. That brings it into equilibrium, that export of fruit out of Western Australia, but, for example, my best guess is that we actually supply about 20 per cent of the fruit to the area that we supply in the Busselton/Dunsborough area to a population of most probably about 40,000 people. So given that, and I'm only a small grower of 20 hectares, you can see that if there's 250 growers in Western Australia that have – what's that, 250 – have an average of 40 hectares, and a lot of apple growers have 40 hectares, well then the oversupply is enormous. So you're always going to have off-spec fruit and things here in the local market, which pulled the local market down, compared to the eastern states.

The other thing, as I've said in my briefing paper to you, is that we have a bit of a market failure within the processing sector within the fruit industry here in Western Australian inasmuch as we only have one processor in all of Western Australia for juice fruit and that's Harvey Fresh and Harvey Fresh pay 60 days after the end of the month. So their price is fair, it covers the cost of transport to their depot basically, but because you've got to wait three months basically because if you just deliver on the first of the month you've got to wait three months for your pay cheque, a lot of that fruit that should most probably come out of the system and go through the processing sector doesn't because people want their cheque tomorrow and they're willing to take less for it to get the money tomorrow.

MR O'DONOVAN: So do you sell anything through the Perth markets?

MR SCOTT: Yes. About – most probably about 25 per cent. Five per cent direct through the Coles, like through the third party packer, and the other 25 per cent through the Perth domestic markets, yes.

MR O'DONOVAN: Right. Okay. Do you have a particular wholesaler that you always deal with?

MR SCOTT: Yes, we try to. We have a licensed variety – or a number of licensed varieties that come under the Zee Sweet brand and under that licence agreement, we must deal with one of their licensed agents. Unfortunately, that isn't the agent that we chose to deal with for everything else so we deal with two. We try to actually only deal with one agent.

MR O'DONOVAN: Okay. In terms of the agent that you have a preference for, what is the terms of the arrangement that you have with them?

MR SCOTT: Fifteen per cent commission.

MR O'DONOVAN: Is that standard?

MR SCOTT: Perfectly standard.

MR O'DONOVAN: So any other wholesaler in the market will charge 15 per cent?

MR SCOTT: It varies a little bit. The other one with the Zee Sweet licence, I think, charges thirteen and a half per cent, but if we do happen to send the two lines of fruit to two processors, the net amount ends up to be the same at the end of the day. So it's – one works a little bit harder for the costs. So, yes, it's roughly the same amount. It doesn't vary very much.

MR O'DONOVAN: Okay. So 15 per cent. The fruits consigned?

MR SCOTT: The fruits on consignment and, yes, they take part of everything else. The Perth markets has been a little slow in working through the process of introducing the mandatory code of conduct that has come in so we are only recently been given contracts to negotiate with over the – how we want the market agents to work.

MR O'DONOVAN: Right. Okay. In terms of knowing the price that you get for your fruit and how is the price that's achieved communicated to you and how much - - -

MR SCOTT: A fax every second day.

MR O'DONOVAN: Right.

MR SCOTT: So very timely and I have the agents mobile numbers that we communicate, like any business people do, during the peak season, nearly daily, to tell them – to tell them at least what I have coming up. Like, have ready to come up so that they can tell me. They may say, “Listen, you need to hold that two days before you send it because we’ve got something we need to clear” and all those sort of things.

MR O’DONOVAN: Right. Okay. In terms of the transparency of the process, you’re satisfied that what’s remitted back to you is what your produce was sold for minus 15 per cent?

MR SCOTT: Definitely. That also comes through me having the three different arms of my business inasmuch as the shops I deal with, I can regularly check what the Perth market prices are by having that wholesale delivery system to the shops because the shops then tell me what they’re being offered fruit for from the Perth markets so I can double check through the system the other way. Guaranteeing what you’ve been told you’re getting for the fruit and what you’re getting for the fruit is a matter of choosing the right market agent. Yes, there are always stories of people who have problems with the market system.

MR O’DONOVAN: Right. You personally have - - -

MR SCOTT: Not recently. In the mid to late 80s, yes, we did have problems but we have certainly changed agents and changed the way we do things so that we no longer have those problems.

MR O’DONOVAN: Right. So do you have a view on the horticulture code? Do you think that in its current form is a good thing, or a bad thing or a good thing that needs modification?

MR SCOTT: I think it’s a good thing. It most probably needs some modification as we go along, like any process will. I think, much like the GST, I think the mandatory code of conduct is simply bringing the horticultural industry up to spec to what most business – normal business people had in the community. It simply, as farmers, back on the beef side of things – most farmers if they deal with a processor won’t have a written contract. We, through our agent, actually ask for a written contract every time we go to sell. So when the agent tells me that it’s $3.40, we actually ask for them to write out me a lamb out contract, we sign it and he sends me back the signed copy from the abattoir so that we have that piece of paper in front of us.

It’s the same. The horticulture industry is just catching up to what is good business practice and there’s a few people along the way whose feathers it’s trimming but it’s just good business practice that needs to, yes, happen.

MR O’DONOVAN: Okay. Well, now you operate really as a strict producer for part of your business, as a wholesaler for part of your business and a retailer for part of your business.

MR SCOTT: Yes.

MR O'DONOVAN: Do you, from your observation, are there any levels in the market generally that are more efficient or deliver more returns to you?

MR SCOTT: Well, the retail level, of course. That's certainly where I see the future. I mean, working out how to do it in terms of employing people and all those sorts of things is where we're at at the moment. The wholesale level gives you a good guaranteed income with a reasonable return of supply and direct to the domestic market - so to other people doing the product for you, one, is good in the good years; in fact, in the really good years it's better than you'll far ever achieve on anything else, but in the bad years it's terrible. So if you're going to do that you've got to have – be made of steel so that you can ride the waves, whereas the other systems are far more efficient in actually returning and being able to do a business plan and all those sorts of things too.

MR O'DONOVAN: Is the preference you have for retailing, is that reflective – do you think that that suggests that the retail market as it stands for fresh fruit and veg is not competitive?

MR SCOTT: No. I believe that the retail market as it is now is what is fostering competition because it allows people, the other smaller retailers, the independents and people like myself, to come in and actually offer pricing below what is available from the big supermarkets. If you were to regulate those prices or regulate margins, you take people out of that because they can't see the ability to be able to get in there and say, "Okay, I can take two or three per cent from here" or "I can take two or three per cent from there". So I think the market as it is at the moment actually works quite well and it's just that we're taking 10 years to get – we're taking 10 years to go through the supermarket cycle where we're now at a point where they have this huge market share and whatever. I think I'm starting to see from my business perspective that we're actually starting to turn the corner where we've got small independents both within the meat industry and within the fruit and veg industry that are starting to prosper and take off again and they will, over the next five years, peg back the supermarkets as they go along.

MR O'DONOVAN: Okay. That's all I have.

COMMISSIONER KING: Just on that last point though and your view on that is just that it relates to the fact that the supermarket chain to get the fruit to the customer is just a pretty inefficient chain?

MR SCOTT: It's pretty inefficient. Even, I notice one of the questions was packaging, I think, earlier on in the thing. The supermarkets have gone through this efficiency drive of one-touch packaging where you've got to provide it in a box that they can put up on the shelf. In effect, from my personal opinion and I'm no expert, once again, and I don't work in the supermarkets, but I actually see that it's actually driving their costs up because the boxes are getting dropped on the shelf, they're employing less people in the fruit and veg section to actually look after the fruit and veg section to manage it, so that the rotation of fruit and everything isn't happening as often. The fruit that gets left in the box is always a poorer quality. That gets tipped out on top of the other stuff when they take the box out and so they're actually ending up with higher and higher loss rates and it's actually not – it's actually making the system even worse as they go along, not better.

I made a comment in our briefing paper that what we've seen is that price – like, particularly with your stone fruit season here in WA, we've seen prices for nectarines at a wholesale level of five and six dollars a kilo back to the grower which relate – and I must admit, at those sorts of prices, Coles, Woolworths and the independents are actually down around the 80 per cent mark-up because they are getting to the point where at $8/$8.50 for those sort of products, people stop demand but it actually takes all the way from $3 all the way up to $8 or $8.50 for people to stop buying as long as they're getting a good product at the other end of it. It's more about people getting a good product than price. People don't seem to be that worried about the price as long as they're getting the product to go with the price at the other end of it.

COMMISSIONER KING: Thank you very much for that. That was very useful.

MR SCOTT: Thank you very much for your time.

COMMISSIONER KING: Thank you for coming in.

MR SCOTT: Thank you.

COMMISSIONER KING: Let me formally declare today's hearing finished. Ended.

MATTER ADJOURNED at 5.48 pm INDEFINITELY