

MEETING RECORD

Meeting between NSW Kashrut Authority and ACCC

Date: 19 August 2005
Time: 9 - 11.45
Venue: ACCC office, Canberra

Attendees:

Mr Baron Revelman	President, NSW Kashrut Authority
Rabbi Moshe Gutnick	Rabbinic Administrator, NSW Kashrut Authority
Michael Frankel	Honorary solicitor, NSW Kashrut Authority
Mr Scott Gregson	A/g General Manager, Adjudication Branch
Ms Isabelle Arnaud	Director, Adjudication Branch
Ms Bronwyn Davis	Assistant Director, Adjudication Branch

Issues discussed

Mr Gregson made some introductory comments. He outlined the ACCC's role in assessing third line forcing notifications, noting that the process is a public one. He also indicated that the decision as to whether or not to revoke the notification would be made by the Commission sitting as a body, not by staff members.

Mr Frankel stated that the NSW Kashrut Authority (the KA) had been surprised by the curious nature of some of the response to the notification. He noted that there have been a number of disagreements within the Jewish community that are unrelated to the KA's meat for public community consumption policy, and that these may have affected the views expressed in some of the submissions received by the ACCC.

Mr Frankel stated that the KA lodged the notification in order to obtain immunity from legal action under the *Trade Practices Act 1974*, and to prevent the community becoming divided over the issue. It considers that the community will benefit from the proposed policy, as it will enable the KA to guarantee a cohesive community where meat products it has certified are of the highest kosher standard.

He further commented that the NSW Jewish community has had a single certifying body for a number of years. This has led to all members being able to eat together in restaurants and at functions, something the KA considers would not be possible without its meat policy.

He submitted that the only issue before the ACCC is the proposed policy on the provision of meat for Public consumption within the community. All the other issues including those relating to private meat consumption, purchase of other food stuffs, and other functions of the KA are entirely irrelevant to the notification.

He referred to academic studies which confirmed the problems of multiple Kashrut bodies leading to a disunited community and that the establishment in the 1990's of one body was warmly welcomed with great relief by the community.

Rabbi Gutnick confirmed the academic reference with his own experience that when he came to Sydney in the early 1980s, there were more than one certifying body which had resulted in considerable disruption within the community. However, by working together, the different Kashrut bodies had eventually reached agreement and managed to raise kosher certification standards to the highest common denominator. The KA considers that it would be detrimental to the community if this cohesion were to break down.

Rabbi Gutnick commented that it is relatively unusual for a Jewish community to only have one certifying body, and means that the NSW KA is held in high regard throughout the world. Despite the current disagreement, the KA believes (particularly based on the NSW Jewish Board of Deputies submission), that the community still wishes to only have one certifying body for NSW.

The KA stated that it would provide a detailed response to the submissions received by the ACCC in writing, but made the following general comments:

- The KA acknowledges that kosher meat is generally more expensive in Sydney than in Melbourne, (although this is subject to seasonal variations). However, it stated that this is not surprising, as most goods are generally more expensive in Sydney. Further it was noted that the kosher consuming population in Melbourne was considerably larger than in Sydney thus allowing for economies of scale there.
- It disputes that its meat policy results in significantly increased prices for functions and restaurants. For example, it noted that even if there was a difference of \$8 per kilogram of the meat used, this was unlikely to equate to more than 1-2 per cent of the total cost of a function.¹ Given that this is such a small percentage, the KA considers it is unlikely these cost increases would force any businesses to close, or to have a significant impact on consumers, as most would only organise three or four functions in a lifetime.
- It also considers that it is unlikely that caterers would pass on any cost savings received through buying Melbourne meat to consumers.
- The KA estimates that around half of the kosher consuming public purchase their meat from the single kosher butcher operating in NSW, while the other half purchase from Coles and other supermarkets. Most kosher consumers will buy from either, and their demand is relatively price elastic.
- The KA considers that a public benefit arising from the meat policy would be to ensure the viability of a kosher butcher for NSW. It is not the KA's policy to only have one kosher butcher operating in NSW. However, while it would encourage another kosher butcher to commence operations, the KA is of the view based on

¹ The KA calculated this proportion based on a function of 200 people each served 200 grams of meat, and a total function cost of \$20 000.

prior failed attempts that the NSW community is presently too small to sustain more than one, especially with the competition from the supermarkets. However, the policy is designed to allow a butcher to operate in NSW, not to protect the butcher who is currently operating.

- If there was no kosher butcher operating in NSW, the KA considers that it would be very difficult for families to keep kosher. This has been the experience for cities that do not have a kosher butcher, such as Brisbane and Adelaide. It would also disadvantage consumers who have shown a preference of buying from a butcher store rather than a supermarket.
- It notes that caterers are a significant proportion of the butcher's business. Any reduction in this side of the business will increase the price of meat sold directly to consumers, as the butcher's fixed costs will remain the same.
- There is nothing compelling businesses operating in NSW to use the services of the KA. While the KA considers that it is in the community's interest to have a single certifying body for NSW, and most communal organisations and private consumers concur, there are currently two establishments that operate outside the supervision of the Kashrut Authority. They are Montefiore Home and Carmel Bakery. As such the only compelling factor is the community's own desire for unity and cohesion to have one universally accepted kosher authority.
- The KA emphasised that its membership does not have a financial interest in the notified conduct. Other than Rabbi Gutnick none of its members draw remuneration of any sort from the Kashrut Authority. While it noted that Rabbi Gutnick receives a salary as Rabbinic Administrator, that salary did not draw from charges in relation to the notified conduct. It further stated that the charges imposed on businesses for certification are designed purely to recover costs.

The slaughter process

Rabbi Gutnick outlined the basic process involved in slaughtering an animal, noting that there is a complex body of law about how this should be done. He also emphasised that maintaining supervision of the meat at all times is of key importance, to the extent that *mashgichim* hold the keys to a butcher's premises, rather than them being held by the butcher him/herself.

One of the key requirements is that the *shochet* must be highly trained and have a very high level of integrity. It is unusual that a local rabbinate will approve a *shochet* that they do not personally know and hold in very high regard.

Animals are slaughtered by using a knife. The knife used must be absolutely free of any notches or nicks. If the cut is not clean, the animal is not kosher. After the animal is dead, the *shochet* must check around the animal's lungs. If there are any adhesions on the lungs that require force to remove, the animal is not kosher. Provided the animal meets this test, it is de-veined, soaked and salted. The meat is then sealed to prove that it has been kept kosher.

Kosher slaughtering is a much slower process, and due to the high standards required a significant number of animals are rejected. Both of these factors plus the lack of economies of scale for a small industry mean that kosher meat is more expensive than non-kosher meat.

The KA expressed the view that the only way it could adequately and properly discharge its religious responsibilities to the community and particularly for public events, in relation to the certification of kosher meat, was to use only meat slaughtered and prepared under its own supervision and control in accordance with its own standards.

Certification of meat from outside NSW

Mr Gregson queried whether meat could undergo a 'two stage' certification process, where it was slaughtered and then prepared under the supervision of one authority and then served under the supervision of the KA. The KA stated that this was not ideal; as ultimately, if meat is served at a function under the KA's supervision, it must be able to guarantee that meat and this can not be adequately done unless the meat has been under its supervision throughout the entire process.

It made the analogy between the Australian Therapeutic Goods Administration and the US Food and Drug Administration. Each must be satisfied on its own accord, and cannot just accept the other's certification as proof that the product meets its own standards.

For example, it noted that in Melbourne, there are three butchers and three certifying authorities, but that these authorities do not automatically accept one another's certification.

Rabbi Gutnick expressed the view that different certifying authorities may not necessarily apply the same standards, and therefore it would not automatically be possible, in good faith, to accept the certification of another authority.

The assertions made in some submissions as to the personal eating habits of Rabbi Gutnick and other rabbis were both untrue and not relevant to the establishment of public meat policy.

**EXCLUDED FROM
PUBLIC REGISTER**

**EXCLUDED FROM
PUBLIC REGISTER**

Next steps

Mr Gregson explained that should the Commission decide to revoke the notification, there were a number of stages it had to go through before immunity would be removed. After completing its consultations with interested parties and forming the view that the conduct was not in the public interest, it would then have to issue a draft notice proposing to revoke the notification; hold a public conference should one be requested; and issue a final notice.

Alternatively, if the Commission formed the view that it was not going to take any further action, the KA and interested parties would be advised accordingly.

The KA undertook to provide a supplementary written submission expanding on issues raised in the meeting and responding to the submissions from interested parties that had been placed on the public register.