

**AUSTRALIAN CHICKEN GROWERS' COUNCIL  
SUBMISSION**

**PRODUCTIVITY COMMISSION'S INQUIRY  
INTO THE  
IMPACT OF COMPETITION POLICY  
REFORMS ON RURAL  
AND REGIONAL AUSTRALIA**

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## Executive Summary

The Australian Poultry Industry is a highly vertically integrated, highly concentrated primary intensive livestock industry characterised by a processor/contract poultry grower relationship. The contract growers are required to make significant long term investment in highly specialised housing and equipment with no other use, which leaves them very vulnerable to exploitation by processors who own almost all other inputs including the livestock.

With a history of coercion, misuse of market power and contract abnormalities, all mainland states introduced countervailing power legislation which has been regularly reviewed and updated. These Acts have helped provide some counter to significant market failure including imperfect competition, externalities and imperfect information. Even with these Acts in place there has been high levels of competition demonstrable at all levels of the industry including grower. These state Acts are now under review by each state as part of the National Competition Policy Process.

The Australian Chicken Growers' Council is concerned about the effects of National Competition Policy and the process of review in a number of areas including:

1. Uncertainty for farmers and the industry, faced with moving targets and timetables, pressure from processors, contract renewal and change exhaustion.
2. Different approaches by states to the review process may lead to an inequality in countervailing powers for growers dealing with national companies on a state by state basis.
3. The tunnel analysis of only part of the value chain, resulting in retail capture of benefits and producer financial stress with the resultant effect on hygiene and management.
4. State effects based on need for NCC to release funding as promised, short timelines and shallow analyses.

The issue of cost shifting between the industry and the states (disbenefit) in situations where NCC "withholds" returns to states is also discussed.

Socio-economic effects have been identified including reduced reinvestment, reduced introduction of new technologies, bankruptcies for reasons other than efficiency, and unemployment. In addition there is some discussion of increased transaction costs, decline in food safety standards. In total for NSW (as an example, this has been quantified as \$8M per year excluding critical "unquantifiable" issues such as the cost of food safety and increased use of antibiotics in bird production.) The possibility that processors might gain

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“personal” benefit by forcing farms into bankruptcy and purchasing them at below asset value cannot be ignored.

ACGC recommends that further reviews be ceased until such time as structure, guidelines, timelines and transitional arrangements are agreed between the states and the Commonwealth, ~~and the states~~ and made clear and transparent to industries faced with these reviews.

ACGC would welcome the opportunity to appear before the Committee.

## 1.0 THE AUSTRALIAN POULTRY INDUSTRY

1.1 Poultry Meat is low fat, high quality protein with an easy digestibility profile for humans and acceptability profile across religions, cultures and health status.

1.2 The Australian poultry industry is the second most efficient livestock industry of all forms of livestock industry in the world on a performance basis after the Denmark poultry industry (Larkin 1991). The industry nationally employs about 16,000 people, not including ancillary industries such as equipment manufacture and supply, building, pharmaceuticals, packaging and road transport. The industry has no subsidies and pays the full social cost of labour, yet is virtually as efficient overall as the heavily subsidised US industry.

1.3 Poultry Meat Growing, due to the extremely high levels of capital investment in specialist equipment, exhibits different behaviour to non-intensive primary industries. There is no opportunity to "change the crop" to suit the market. Depreciation profiles of 20 years, with high maintenance levels and reinvestment in new technologies are characteristic. These attributes tend to leave poultry meat farmers at a disadvantage compared to other farming enterprises. On the other hand, they are an efficient form of production of high quality food.

1.4 More than 60% of poultry enterprises are on land areas less than 50ha (ABS Jun 1997), making the poultry industry a highly efficient utiliser of agricultural land in terms of tonnes/ha of animal protein.

1.5 The industry like others around the world, consists of "processors" (a vertically integrated type of manufacturer/wholesaler of poultry products), and in usually contracted "growers" of farmers, who are generally family farmers.

1.6 Unlike many primary industries, the poultry industry is generally situated close to major markets. Processors tend to select a geographic area to site processing plants and farms must locate within about 1 hour's transport of that plant, for animal welfare reasons. Critically, there are many regional bases for the industry including Tamworth (NSW), Byron Bay (NSW), Lower Hunter Valley (NSW), South Eastern Qld, Mareeba, (Qld), Murray Bridge (SA), Mornington Peninsula (Vic) and Geelong area (Vic). Critically, many of these areas are regionally depressed with high unemployment.

1.7 Each farm is therefore an important participant in regional economies. Sums of \$100 - \$150,000 plus may be spent by each farmer locally per year in casual labour, trades, services, disposables, bedding materials, recycling etc. and considerably more if there is capital upgrading or new shedding being constructed. A typical meat chicken shed costs \$250 - \$350,000). In addition these are usually family farms, and there is considerable "family"

employment, often for no or little wages, that tends to add to longer term "cohesion" for regional towns.

1.8 These regional areas frequently also benefit from the high level of environmental self-sufficiency of the poultry industry by recycling used bedding material as fertiliser for local horticulture and other crops.

**1.9 Unlike many primary industries, the Australian Poultry industry is extensively concentrated and almost entirely privately owned.**

Steggles, a division of Goodman Fielder, is the only public company. Ingham and Steggles control almost 60% of the entire Australian market. Some states have *effective market share* from only 2 brands (in Tas only one). Valid information flow is difficult if not impossible for industry participants and governments alike, and processors have very significant power over the market.

1.10 In addition the very highly concentrated retailing sector further "hides" price discovery and further hampers information flows to the poultry grower.

## **2.0 THE CONTRACT POULTRY MEAT GROWER**

2.1 Like most international poultry industries the Australian industry is characterised by an contract grower/processor relationship where the processor provides most of the inputs (birds, feed, veterinary services, medication, animal husbandry advice) and the outputs (processing, marketing distribution, price etc). This system is emulated in most other developed countries and is generally considered to be the most efficient form of production.

2.2 The contract grower is a small farmer who provides land and housing for the birds ("Sheds") including considerable specialised equipment for providing food and water. They provide 24 hour per day labour, bedding material ("litter") heating (gas), cooling (water foggers), forced ventilation, and day to day husbandry. Some growers also provide a cleansing and disinfection service, and recycling of waste materials. Because these materials are so specialised and land areas generally so small, growers have limited ability for flexibility of farm enterprise.

2.3 In Australia there are 822 growers producing 6.9 million birds per week accounting for 80% of the live birds grown, with the other 20% being supplied by in-house company owned operations. (ABS Jun 1997). This translates to about A\$948 million in 1995-6 (up from A\$929M in 1993/4) or about \$2.72 per bird at slaughter. These birds may then retail for up to \$5-6 in supermarkets, or A\$7.50 or greater through take-away outlets. Pieces and value added products, which are a relatively new and rapidly growing market segment, allow returns per bird to the processor to increase dramatically.

2.4 Grower investment equals about 40% of the entire capital investment of the industry. Growers invest heavily (the average farm value is over \$1M) in specialised facilities that have no other reasonable use.

2.5 Australia-wide, the estimated capital investment in contract farms is around A\$800 million (compared with company farms at around A\$200M.)

2.6 The grower's share of the consumer price of a supermarket chicken at the Australian average price of A\$0.45 per bird (2.4 kg bird) is about **8-9% of the cost of the finished product**. Given that value added chicken is sold at a premium to this, the growers "share" of the finished price is considerably less.

2.7 By comparison, the dairy farmer's "share" of the consumer price of milk is in the region of 40%.

2.8 The processor/grower structure is extremely efficient, combining the benefits of low-cost family farming (especially in terms of labour and commitment to finished product quality) and freeing up working capital for the processor

2.9 The system however, has one major drawback. It has placed growers in an exceptionally vulnerable commercial situation. The Poultry grower is required to make significant long term investment in housing and equipment with alternative use, but never owns the stock or many inputs. His specialist role has no other application; the number of potential customers for his services is usually one. The grower is in the position of an employee without the protection of industrial relations law who is also tied by both a contract and locked-in investment.

2.10 This vulnerable situation has been exploited to a various degrees by processors and the contract/processor relationship also varies by country.

2.11 In the UK, parts of Europe and Northern USA, relationships between the grower and processor are generally good with "gentleman's" agreements and clear recognition of the critical interrelationship between the two parties. In some cases growers are rewarded with profit sharing or incentive payments based on food safety and quality measurements. Growers are measured on outputs and consulted on major changes to bird management

2.12 In Southern USA, the relationship between the grower and processor had been one of mistrust, with clear exploitation of growers in both countries and little genuine legal protection for growers faced with contract irregularities, non-payment of fees, charges of "negligence" and fines accordingly, summary termination of contracts, and coercion on negotiations.

2.13 In Australia, the relationships have varied significantly both between states and within states for different processor grower groups.

2.14 In Australia these behaviours led to introduction of Poultry Meat Industry Acts (or equivalent) in all states except Tasmania in the 1970's. In some states these Acts were further strengthened in the 1980's as processors found new ways to exploit growers. The Acts were similar from state to state with some variance as to the level of countervailing power granted to growers by state.

2.15 Critically, it is possible to broadly demonstrate a relationship between the "strength" of the countervailing power provided by the Act (by state) and the level of industry efficiency in that state. (ACGC understands that there is a similar relationship between technological and marketing development related to legislation in the dairy industry providing some stability for dairy farmers).

In summary then across Australia:

2.16 Tasmania - no countervailing power legislation, single "major" processor. At present the processor is rationalising farms and ACGC understands that some growers are still operating without a legally binding contract.

2.17 NSW - Chicken Meat Industry Act was superseded by the Poultry Meat Industry Act (1976). This Act allows for Poultry Meat Industry Committee including grower, processor and independent representatives. Allows price discovery, collective bargaining and some dispute mediation but no arbitration other than price. This has been a significant weakness in disputes relating to allegations of grower negligence and has not stopped improper retribution against growers.

2.18 NSW has generally smaller farm sizes than other states, with the "model" farm being about half the size (at 3,903 square metres) of WA farms (at 7,483 square metres) and about 20% smaller than Qld farms. Batch throughput is also lower at about 5.6 batches per year compared with 6.1 in WA and lower densities as well, all of which affect returns. Farm quality and reinvestment has been adversely affected by the poorest returns and lowest growing fees on the mainland.

2.19 SA - countervailing power legislation was "middle order strength" until removal was recommended at the beginning of the NCP process without a public benefit test being conducted. Farms of about average size or slightly better, farm numbers were controlled by the Act but this did not stop the development of a significant oversupply situation.

2.20 Vic: Broiler Chicken Industry Act (1978)

Queensland: Chicken Meat Industry Committee Act (1976)

These Acts were similar to the NSW Act, but the application of the Acts in these states has been stronger. In Qld in particular the farm size and

efficiency is higher than NSW and the relationship has generally been better - this appears to have been largely a personality issue.

2.21 WA: the strongest state legislation across Australia has included all five key elements - collective bargaining with approved written agreements, price discovery, mediation of disputes, provision of information including contract guidelines and arbitration on issues including (but not limited to) price. Has traditionally also included restrictions on the number of farms and minimum standards for such farms. As a result the average farm size is considerably larger than states such as NSW and Victoria, with variability in production of only 2 points across all growers in July (compared to NSW's 19 points for example) and a generally higher level of both "standard" equipment and reinvestment. As a corollary, there has been a more respectful relationship developed between growers and processors with a more "partnership" approach than has been the case in most other states, since growers have more countervailing power and are thus more confident in negotiations.

### **3.0 COMPETITION WITHIN THE INDUSTRY**

3.1 There are a number of levels of competition in the Australian Poultry industry. While it is stated that increased competition results in consumer benefit, in fact in the Poultry Industry it has been continued investment in new technologies, development of new farming methods, new genetics, new feed technology, processing efficiency etc that has been as great a contributor to reduction in consumer price. This improvement in efficiency has outstripped other meats and led to a consistent reduction (in real and absolute terms, source, ABS) in consumer price every year for more than the last 15 years.

3.2 In the face of this improved efficiency and reduced price, there has also been improvement in the health and safety of this biologically labile food product, through improved shed hygiene (better and more thorough shed cleanout, single batch use of litter material), improved animal husbandry (which by reducing bird stress often reduces susceptibility to disease), through better vaccination practices and through better hygiene at processing plants.

3.3 Growers have accepted reduced returns per kilogram of meat produced and in response have become larger and more finely tuned production units. With this fine-tuning however comes increased risk in both the financial and biological sense. In the financial sense individual growers now manage investments generally valued at over A\$1M, while in the biological sense the larger the unit and the more birds pass through a unit per year the effectively greater risk of disease and greater impact if this occurs.

3.4 Importantly in the Poultry Meat Industry, there is an additional level of competition. A processor is not obliged to use contracted growers; processor



may grow chickens on his own farms. many processors do so, which means that growers must stay competitive with company operated farms. That over 70% of the birds grown in Australia are grown on contracted grower farms is testament to the efficiency of this form of arrangement, which is used in almost all poultry meat growing countries.

#### **4.0 MARKET FAILURE IN THE POULTRY INDUSTRY**

Most forms of market failure are seen in the poultry industry

4.1 **Imperfect competition** - characterised by unequal bargaining power between growers and processors. Processors control downstream activities (processing of "finished" birds) and growing process inputs (chicks, feed medication etc).

4.2 Growers are economically captive with incomes being determined by the throughput of the processing company they are contracted to.

4.3 State Poultry Meat Acts (or equivalent) attempt to address these issues by providing a low cost and technically efficient method of negotiating disputes, by providing information to growers about the actual growing costs (through the "model") and assisting growers to negotiate prices with their processor.

4.4 **Externalities.** Processors determine management of pollution (particularly noise) and "disaster" issues such as exotic disease outbreaks (Nov 1997 and Oct 1998). Growers may be caught in these issues through processor edicts in pollution issues (eg time of pick up) and disputes may arise as a result. State legislation has attempted to address these issues through examining the actual costs of production (through a price discovery "model") and by providing a medium for negotiation on issues where appropriate.

4.5 **Imperfect information.** The processor knows intimately the extent of each grower's performance and profit/cost relationships. By contrast the growers have limited knowledge of other growers performance and no knowledge of the performance of the processing company (as they are with one exception privately owned companies and hence do not provide any relevant information even to government that would be appropriate for negotiations).

4.6 There is significant misinformation given to growers regarding the state of a processors' market difficulties, by presenting information selectively. This may have the effect of growers making decisions that are not in their own best interests, by misleading growers into thinking that if they do not take a certain decision that their survival (or that of their processor) may be in jeopardy.

4.7 State legislation attempts to address these issues by providing industry information through both the maintenance of the price discovery "model" and through gazettal of actual fees paid by processors to their growers.

4.8 These Acts therefore have an important role in information, mediation and negotiation for payments. While they in no case completely address the industry market failures, they are an important adjunct to efficient industry function.

## **5.0 APPLICATION OF NATIONAL COMPETITION POLICY**

The application of the National Competition Policy has caused significant problems for this industry in four key areas:

### **5.1 a) Uncertainty for farmers and the industry.**

These reviews have been mooted or actually under way in various states for nearly three years. Poultry Meat Growers have a well recorded history of poor relationships with processors in some states and with some companies that go back many years and note that essentially the same players are in the processing industry. In addition there are well recorded cases of inappropriate use of business power by processors to some extent even with the various Acts in place (WA is probably the exception, which reflects favourably on their stronger legislation providing a more stable relationship). In addition the early removal of countervailing power legislation in SA has led to significantly worse business behaviour on the part of the processors, no current written contracts and significant uncertainty.

5.2 These behaviours reinforce the perception that if these Acts are removed in entirety there will be little countervailing power available to growers.

5.3 On this basis there has been a reduction in reinvestment in the industry in some (again with the possible exception of WA which has elected to retain their Act and has given some certainty to growers). This results in slower improvement in an industry closely tied to continuing technical innovation and reinvestment to improve efficiency. This is particularly notable in SA.

5.4 "Farms for Sale" in NSW have reached "record" numbers as farmers seek to minimise uncertainty by cashing up their farms. The possible outcome of this is loss of critical farming expertise at a time when, due to introduction of new genetic stock by a number of processors, all available expertise is required.

5.5 Banks in NSW have "advised that if the NSW Act is substantially altered they will place an additional "risk factor" of 1-2% on farm interest rates for poultry growers' farms. This has resulted in concern by growers

about new borrowing, concern to reduce debt now (at the expense of reinvestment in new technology) and increased reluctance by new growers wishing to enter the industry.

#### 5.6 b) Disharmony between states

Until this time, there has been reasonable cause for comparison between mainland states in terms of Poultry Meat Industry Acts (or equivalent). All mainland states introduced legislation in the 1970's and they all have had similar provisions. This has meant some certainty of operation for those processors who operate in more than one state and a focus on growing chickens at the best and most efficient geographic location for the relevant market.

5.7 Because the NCC has not provided any guidelines on "How to conduct their preferred version of the Public Benefits Test" this has meant that each state has approached the same review differently. Because the NCC has not set any precedent as to what is acceptable public benefits testing through outcomes analysis, each state has modified it's approach to different acts over time as well as their previous reviews have (mainly) been rejected out of hand or substantially modified by NCC.

5.8 For example, the WA Chicken Meat Act was reviewed early in the process. Partly for this reason the WA review team, in addition to demonstrating net public benefit, decided to "wear the fine" from NCC if it chose to reject the WA review.

5.9 In NSW however the Poultry Meat Industry Act is being reviewed *after* the Dairy Industry Act and the Rice Industry Act. Even though a net public benefit was demonstrated for the Rice industry the NCC has threatened to withhold up to \$10M per year from the state, and the Dairy Industry is also under scrutiny. The NSW review team is thus examining the Poultry Meat Industry Act from the perspective of having potentially lost significant income even though their public benefit test showed a clear benefit. Not only can the state not afford to suffer additional potential losses from the NCC, but the state appears unsure as to how to proceed with additional reviews.

5.10 In effect then the Poultry Industry in Australia has been subject to five reviews across the states. Each has come from not only from a different state perspective but also from a different time and budget perspective.

5.11 This will almost certainly result in five quite separate outcomes across the states according to the order of review and the different public benefit test approaches. At the moment the Australian Poultry Meat industry status is:

5.12 **SA:** Effectively laid aside the Act with little consultation very early in the piece. ACCC authorisations put in place for two only of the three processor groups. One group has exercised good faith and things have proceeded relatively smoothly, the other still has no current written contract; the

proposals put to the growers by the processor have been untenable, the growers are effectively without legal redress and performance and reinvestment are suffering. ACGC is given to understand that the minister is considering re-introduction of legislation, which is further confusing an already impossible situation.

5.13 **WA:** will retain their Act with little change. This Act has traditionally been the most stringent in Australia with all 5 "key elements" and has resulted in the largest, most technologically advanced and efficient farms in the country.

5.14 **Qld:** public benefit test wholly on "raw numbers" basis with no consideration of food safety, reinvestment, employment, biosecurity and other "soft" issues. Numbers used in calculation have been thoroughly discredited by Emeritus Professor (Qld). Majority and Minority reports submitted, Qld currently sitting "firmly on the fence" since Aug 1997.

5.15 **NSW:** under review at the moment. Processors have proposed "sham" legislation that would weaken the power of an already weak Act and give growers effectively no countervailing power, mainly through having disputes resolution systems (including arbitration) which is non-binding on the parties.

5.16 **Vic** just commencing review now, little industry input.

5.17 **c) Extension through value chain.**

The NCC is forcing states to look only at state legislation without any analysis of why these Acts were enacted in the first instance and apparently without any thought to the entire value chain. In the first instance the various Poultry Meat Acts were enacted to counter gross misuse of market power by processors against growers and includes price discovery mechanisms to ensure that the economic balance does not fall too favourably to the growers.

5.18 State reviews have (based on the effective precedent of the NCC apparently rejecting reviews that do otherwise) accepted the "fundamental" economic theory that "free" markets exist and that any dollars accruing from removal of legislation will flow magically through to the consumer. The reality could not be further from these truisms. Analysing the results of "deregulation" of the egg (Larkin 1997) and dairy industries, it can be clearly seen that over time the returns to the producer are reduced, farm standards fall (and food standards are called into question), consumers pay little or no less and the entire "saving" is captured by the highly concentrated retail system. In effect the outcome of these state legislation reviews is to move capital from the producer ("small business") to big business and from rural areas to the city.

5.19 This has been well documented in a recent report into the egg industry 8 years after "deregulation", which describes "complete retail capture". More disturbingly, there have been increased numbers of well publicised food poisoning cases, poorer animal health standards including findings of Salmonella in the national Layer flock (Source: Salmonella Reference

Laboratory, Adelaide) and the emergence of new groups of rural poor. There is good evidence in NSW of recent outbreaks of emergency diseases associated with farms cutting costs based on the "perceived" rather than the actual cost of production.

5.20 It is lack of follow through the value chain that undermines the relevance of the NCC process. Growers are understandably cynical that they are being forced to run at a loss while big business captures any theoretical savings.

#### 5.21 d) State Effects

Because of the number of Acts to be reviewed under the NCP process, because of the lack of "up front" resource assistance provided to the States and because of the number of Agricultural Acts that must be reviewed in a relatively short time, it is fair to state that reviews have fallen far short of being comprehensive.

5.22 The Australian Chicken Grower's Council has been advised that the Qld reviewer noted that there was a shortage of time for adequate analysis, and also notes that in NSW there are some 43 Acts under review *by the same Chairman* simultaneously. The Association note that in no case to date have experts been called to advise any state review team on issues relating to disease, antibiotic use or food safety and the relationship between these and financial stress to growers. South Australia was reviewed and a notice to repeal was given; subsequently the Act was set aside by the then minister. It would appear that states are being forced to "go through the motions" to please the process timetable rather than providing deep expert analysis of the issues in the reviews.

5.23 The Association that this is NOT an acceptable basis on which to determine the livelihoods of small business in whole industries.

## 6.0 LIKELY EFFECTS (INCLUDING SOCIO-ECONOMIC) OF NCP

6.1 The recent Poultry Act review outcomes in some states, together with analysis from others as part of the review process and the experiences of other (clear including closely related) industries provide clear evidence of the socioeconomic effects of NCP and the likely effects of continuing this process in the Poultry Meat Industry.

6.2 These effects on growers have been forecast in the analysis as

a) *Equipment failure* due to cost cutting and reduction in maintenance. This is demonstrated in SA and also seen in other industries.

b) *Reduced introduction of new technologies*. Given that this industry in heavily technology-reliant, it would be expected that Australia would lose its

pre-eminent position in bird performance as a result and thus become less cost-efficient relative to other country's industries.

c) *Disputes due to improper exercise of market power* which the ACCC has been unable to curb (even with the new small business legislation) and admits so.

d) Bankruptcies due to summary termination of processor contracts and the associated cost of these bankruptcies.

e) *Unemployment* in two areas:

1. those growers bankrupted for reasons other than farming efficiency (see also {d} above), and
2. those casual employees currently employed on and for poultry farms including unskilled farm labourers, skilled farm labourers, tradespersons and local service persons. Poultry growers would seek to "do more of the work themselves".

In NSW alone this would be expected to result in the loss of at least 180 full time equivalents, almost entirely in regional areas, not including any "knock on" effects in local communities resulting from these direct employees being lost.

f) *Significant increases in transaction costs* associated with contract renegotiation, increased bank fees and charges.

g) *Decline in food safety standards*, already demonstrated in other industries and illustrated simply by the increased number of "food scares" in the last few years.

In this industry (and given that poultry meat is a biologically very labile foodstuff) there is a well demonstrated relationship between poor quality supervision and disease breakdown (as would occur if the farmer is forced to take "off-farm" income); and between quality hygiene practises and disease breakdown. Farms that "cost cut" (as compared to being cost efficient) almost invariably suffer the consequences in terms of disease outbreaks.

6.3 In NSW the grower's groups has estimated the cost of these detriments to be in the order of \$8Million per annum, EXCLUDING those items which are difficult to cost including

- \* cost of decreased bird performance ( "Feed conversion efficiency")
- \* cost of any additional outbreaks of foodborne illness. As an estimate, the cost of managing the food borne illness in the "Garibaldi" incident was estimated in July this year to be in the order of A\$20M, not including any effects on demand.
- \* cost of increased use of antibiotics in production of poultry as a result of poorer management or reduced hygiene standards

\* cost to community of increase in antibiotic resistance as a result of above

6.4 These are not idle theoretical costs, but based on the USA “completely deregulated” situation. USA growers have poor bird performance by Australian standards, use more antibiotics in bird production and have higher levels of antibiotic resistance in poultry workers, as well as a less attractive food safety record (the extent to which this is a result of factors in the growing of poultry compared with processing, and distribution is not quantified however).

6.5 The Australian Chicken Grower's Council notes that in all the reviews of Poultry Meat Legislation performed to date, and in the two applications for authorisation with ACCC in South Australia, food safety, disease management and use of antibiotics has been effectively ignored by these groups. The ACCC noted in their Authorisation that they had “examined, but not given weight to” food safety issues (Mar 1998).

6.6 The Australian Chicken Grower's Council contends that these issues appear to have been ignored primarily because they are difficult to quantify, and that many of the reviewers have not understood (nor have they called in the relevant experts to understand) the importance of these issues. In an industry producing an important primary foodstuff used extensively (because of its digestibility) in aged, infants and infirm, this is NOT acceptable.

## **7.0 INTERFACE OF NCC WITH PROCESSOR GROUPS**

7.1 The possibility that processors would deliberately “force” bankruptcies in order to purchase farms at “bargain basement prices” has already been foreshadowed by one state Departmental reviewer. This would also have the effect of moving local profits to city based companies, rather than circulating it in the local economy, as happens generally with family owned farms. Given that family owned farms have been demonstrated many times to be an extremely efficient form of production (due to both commitment to quality, extended hours of work and underestimate of labour costs) the possibility that farms may revert to company ownership this way may also result in decreased industry efficiency.

## **8.0 WHO PAYS? COST SHIFTING AS A RESULT OF NCP.**

8.1 The illustration of a public disbenefit in NSW of at least \$8M per year gives rise to a conundrum facing state reviewers.

8.2 In the example of the Rice review in NSW, The Australian Chicken Grower's Council is given to understand that there has been a threat by NCC

to withhold about \$10M per year from the state (a "threatened fine" since it is effectively a direct penalty) unless the state agrees to NCC directions.

8.3 If this example was transferred to the Poultry Meat scenario and the "threatened fine" reduced somewhat to reflect the increased level of competition already present in the industry, it is possible that the cost to the industry in NSW (at least A\$8M per annum) associated with "deregulating" would be completely offset by the "threatened fine" by the NCC if the industry is not "deregulated".

8.4 The issue therefore becomes whether the industry and the consumer bears the cost, or the state Treasury. For the states, there is the corollary issue of how many of these "threatened fines" can a state bear before it takes decisions to simply do the NCC's bidding, regardless of any demonstration of public benefit. Thus those industries whose legislation is reviewed later in the process must contend with this additional interference in state decision making

8.5 The possibility that the Poultry Industry might be sacrificed in the name of the budget rather than on the basis of genuine public benefit cannot be ignored.

8.6 The ACGC contends that state treasury issues should NOT play a role in decision making. The playing off of "disbenefits" between an industry and the state is not in the best interests of stable, food industries.

## **9.0 CONCLUSION**

9.1 The Association's experience Australia-wide is that the theoretical outcomes of the review held to date under NCC are not meeting the reality, and this is resulting in uncertainty and confusion and in some cases blatant profiteering by the retail sector.

9.2 It would appear that the states, as reviewers and managers of current legislation, understand the industries that they are reviewing at a far deeper level than the NCC, yet are often at the mercy of NCC's opinion once the reviews are completed. Even then they appear to be being forced into shallow reviews based more on avoiding penalty from the NCC than making the right industry decisions.

9.3 The ACGC's recommendations would be to

a) Immediately cease any further reviews until such time as appropriate timelines for reanalysis can be set

b) Ensure that NCC operates according to a transparent set of analytical guidelines and widely available economic models, after expert independent review of these models and guidelines. In this manner the states and industry groups will understand the rules.



c) Ensure that NCC provides clear parameters for public benefit testing which include some factors that cannot be readily quantified including food safety, antibiotic use, employment and regional development issues, "knock on" effects and the low likelihood of transfer of cash savings to consumers by a concentrated and aggressive retail sector.

d) Set in place clear guidelines for transition arrangements, including short term legislation, ACCC authorisation that is binding, financial assistance, relevant tax (eg stamp duty) exemptions, etc. These transition arrangements should be clearly pegged to the timelines of industries in a holistic way (including analysis of investment cycles) to allow industries to develop alternative arrangements.

9.4 Poultry Growers are not afraid of competition, as is clearly demonstrated by current levels of competition. They are concerned that provision of adequate countervailing power against processors with a long and undistinguished history of coercion and market power abuse is being construed as anti-competitive. They are concerned that they will be made to suffer large and continued "changes in the goal posts" by government and the processors alike. Finally, they are concerned that economic theory, which has been clearly demonstrated as not matching the reality, will result in reduced quality foodstuffs, inadequate investment and no likelihood of developing the industry further.

9.5 The Australian Chicken Growers' Council would welcome the opportunity to address the Committee directly if this option was available.