

**Review Committee Report on the
National Competition Policy Review of the
Uniform Trade Measurement Legislation**

**Stage 2
Public Benefit Test Report**

April 2002 Draft Version 002

The views expressed in this Report are the views of the Review Committee only and do not represent the views of State and Territory Governments.

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1. Executive Summary

The restriction on the sale of non-prepacked meat is uniform in all Australian jurisdictions (except Western Australia) and requires that non-prepacked meat be sold at a price determined by reference to the mass of the meat (ie price per kilogram). This restriction simplifies the selling process by requiring a standard basis for comparison. It is a minor restriction that can be classified as a control on the method of sale and a control on the form of pricing.

The restriction meets the objectives of the legislation by promoting commercial certainty through the minimisation of transaction costs and providing an equal trading platform from which meat sellers can trade. It also provides consumer protection, which maintains consumer confidence.

Meat sellers, consumers and governments are the three key stakeholder groups affected by the restriction. The public benefit test found that there is justification to continue regulating the sale of non-prepacked meat as the potential benefits to the wider community outweigh the identified costs of the restriction. The overall assessment is that the restriction generates a small net benefit to the community.

Two possible alternatives to the current restriction were identified. The first was to remove the restriction on the sale of non-prepacked meat. It was found that moving to a deregulated state would result in an overall small negative impact to the community. The greatest impact would be felt by consumers who would face a small to moderate negative impact of moving to a deregulated state.

A second alternative was to modify the restriction by clarifying the definition of meat to remove current uncertainties. These uncertainties surround whether fish and poultry are included in the definition and when processed meat ceases to be meat for the purposes of the restriction. Clarifying the definition of meat would mean that the restriction would more adequately meet the objectives of the legislation by creating more certainty for meat sellers.

It was found that meat sellers, in all jurisdictions except Queensland, Victoria and the Northern Territory, would derive a small positive impact from the clarification of the definition of meat. In Queensland, Victoria and the Northern Territory, red meat sellers would derive a small positive impact, while poultry and fish sellers would face a small negative impact. Consumers would derive a moderate positive impact, while governments would face a very small negative impact. Overall, there would be a moderate positive impact to the community in moving to this alternative state.

Therefore, it is recommended that the definition of meat be reviewed to determine whether the definition of meat should expressly include fish and poultry and that the definition of meat be expanded to clarify when specialised meat products cease to be meat for the purposes of the restriction.

In reviewing the definition of meat, the Review Committee further recommends that the Trade Measurement Advisory Committee (TMAC) be involved in the review and decision-making process.

In clarifying the definition to increase certainty for meat sellers, care will need to be taken to ensure that any changes do not unnecessarily inhibit product innovation.

2. Introduction

In April 1995, all Australian Governments endorsed a package of legislative and administrative arrangements that underpin National Competition Policy (“NCP”). The key objective of NCP is to develop a more open and integrated Australian market that limits anti-competitive conduct. A central element of NCP is the review and where necessary reform, of all legislation that restricts competition by June 2002.

Trade measurement legislation plays an essential role in the economy of facilitating market transactions by clarifying for business and consumers the measurement of goods offered for sale. However, in doing this, some elements of trade measurement legislation have the potential to restrict competition.

Each Australian State and Territory, with the exception of Western Australia, has implemented uniform trade measurement legislation. As the legislation is uniform, it was agreed by each jurisdiction that a national NCP review of the uniform trade measurement legislation should be conducted.

In November 1998 the Standing Committee of Officials of Consumer Affairs (“SCOCA”) endorsed a proposal to conduct the NCP review in stages. Stage 1 involved the engagement of a consultant to conduct a scoping study to determine which restrictions on competition contained in the uniform trade measurement legislation required a public benefit test (“PBT”). Stage 2 would then involve the carrying out of a PBT on the identified restriction/s. This staged approach was taken to separate the minor restrictions on competition that would require a brief assessment from those substantial restrictions that would require a full public benefit test.

A Review Committee was formed to oversee the NCP review and its membership was drawn from each State and Territory participating in the review. Representatives from the National Standards Commission, Commonwealth Department of Industry, Science and Resources and Queensland Treasury participated in the review as observers.

The outcome of the Stage 1 scoping study¹ was that no further investigation was required of most of the trade measurement restrictions to competition. Most of the restrictions were generally justifiable and imposed few if any costs while potentially generating widespread and significant benefits. Key findings were:

- The restrictions on the sale of spirits and beer appeared to have little if any adverse impact on competition but provide benefit to consumers.
- The restrictions on pre-packaged goods can generally be justified as they help inform consumers while appearing to impose few costs.
- The restrictions on the unit pricing of pre-packed goods sold in non-rigid containers and the sale of non-prepacked meat warranted further investigation unless they were removed or relaxed.
- The other restrictions on competition² were considered to be sound, imposing few costs while potentially generating widespread and significant benefits.

The Review Committee prepared a report that responded to the scoping study and made recommendations³. The first recommendation was that the Review Committee supported the key outcome of the scoping study that most of the restrictions on competition contained in the legislation were generally justifiable. The Review Committee noted the outcome that a PBT should be conducted on the unit pricing of pre-packed goods sold in non-rigid containers. However, in its recommendation the Review Committee did not consider it necessary to conduct a PBT on this restriction as the restriction is being relaxed and the necessary legislative amendments are in train.

The Review Committee noted the consultant's recommendation that a PBT should be conducted on the restriction on the sale of non-prepacked meat. However, in its recommendation the Review Committee disagreed with the consultant's proposal to conduct the PBT and instead it was recommended that the Committee conduct the PBT. This report is a record of the findings of the PBT on this restriction.

¹ Economic Insights Pty Ltd, "Scoping Study into the Restrictions on Competition of Trade Measurement Legislation – Final Report" 17 May 2000.

² These restrictions relate to the oversight of measurement standards, the prohibitions of end-and-end weighing at public weighbridges and the licensing of service organisations and public weighbridges.

³ Entitled "Review Committee Report on National Competition Policy Review of Uniform Trade Measurement Legislation – Stage 1 Consultants' Scoping Study and Review Committee Responses and Recommendations" December 2001.

2. Methodology

The guiding principle for a NCP review of legislation, as contained in Clause 5(1) of the Competition Principles Agreement, is that legislation should not restrict competition unless it can be demonstrated that:

- the benefits of the restriction to the community as a whole outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

Any proposal to retain or introduce legislation that restricts competition must be supported by a PBT that demonstrates compliance with the guiding principle. This requires an assessment of the costs and benefits associated with the legislation in question and alternative options.

According to clause 9 of the Competition Principles Agreement a NCP review of legislation that restricts competition should:

1. clarify the objectives of the legislation;
2. identify the nature of the restriction on competition;
3. analyse the likely effect of the restriction on competition and on the economy generally;
4. assess and balance the costs and benefits of the restriction; and
5. consider alternative means for achieving the same result including non-legislative approaches.

The structure of this report follows 1-5 above. In assessing costs and benefits, the following key issues were considered, where appropriate, in accordance with clause 1(3) of the Competition Principles Agreement:

- i. government legislation and policies relating to ecologically sustainable development;
- ii. social welfare and equity considerations, including community service obligations;
- iii. government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;

- iv. economic and regional development, including employment and investment growth;
- v. the interests of consumers generally or of a class of consumers;
- vi. the competitiveness of Australian businesses; and
- vii. the efficient allocation of resources.

As noted in clause 1(3), the assessment of costs and benefits not only encompasses economic and financial variables, but also can take account of social, environmental and other considerations. During this review the value of costs or benefits have been quantified where possible. However, where quantification was not possible, the cost or benefit has been described in qualitative terms.

A minor assessment has been conducted on the restriction on the sale of non-prepacked meat due to the minor nature of the restriction. Criteria used in determining the type of assessment included the extent of the restriction, size of the stakeholder impact as a result of removing the restriction, complexity of issues and community concern.

Consultation with affected groups was an integral part of the review process. In 2000 the Trade Measurement Advisory Committee (“TMAC”) consulted industry and consumer groups on a range of proposed changes to the trade measurement legislation. This consultation involved the release of an issues paper regarding the possible removal of the restriction on the sale of non-prepacked meat. The issues paper was forwarded to approximately 283 stakeholders and section 7 provides a summary of the submissions received. The Review Committee has conducted further targeted consultation with industry and consumer organisations and various Australian and overseas government departments.

The Review Committee also conducted direct consultation with meat sellers to determine the impact of the restriction on their business. A total of 46 meat sellers were consulted during the review. 26 meat sellers were consulted in Queensland to determine the impacts generally, as well as the potential impact of extending the restriction to poultry and fish. 20 meat sellers were consulted from the remaining

jurisdictions. The meat sellers were chosen randomly and represent a mix of regional and rural businesses.

3. Objectives of the Legislation

Clause 9 of the Competition Principles Agreement states that reviews should clarify the objectives of the legislation. The objectives of the trade measurement legislation are not stated explicitly in the legislation. In such circumstances, secondary material, such as the second reading speech, are reviewed to gain an insight into the objectives of the legislation. The consultant carried out a review of secondary material and annex B of the scoping study provides details of the material reviewed.

One key document reviewed was the agreement entered into between the Commonwealth and all States and Territories, except Western Australia, in relation to the adoption of Uniform Trade Measurement Legislation and Administration⁴. The preamble to the agreement states that:

“(A) it is generally acknowledged [to be] in the interests of the public and of persons and authorities concerned with the administration of the laws relating to trade measurement that there should be uniformity both in those laws and in their administration in the States and the Territories of Australia in order to promote commercial certainty and bring about a reduction in business costs and greater efficiency in the trade measurement industry that services the marketplace and that the confidence of consumers in the market should be maintained through suitable protection provisions.”

A summary of the key themes from other secondary material reviewed are: the need to establish a uniform and accurate system of trade measurement across Australia due to the increasing amount of interstate trade; to minimise transaction costs incurred by businesses and consumers so as to facilitate market transactions; to promote business and consumer confidence and to provide protection to consumers.

After review of the secondary material, the Review Committee agreed that for the purposes of the NCP review the objectives of the legislation are the:

- promotion of commercial certainty;
- reduction of business costs;

- improvement in the efficiency of the trade measurement industry; and
- the maintenance of consumer confidence through suitable protection provisions.

Section 4.3 of the report discusses these objectives in relation to the restriction on the sale of non-prepacked meat.

⁴ 1 January 1990

4. Nature of the Restriction on Competition

This section discusses the nature of the restriction on competition. It will commence by describing the restriction on the sale of non-prepacked meat and will then classify the restriction. The final part will then link the restriction back to the objectives of the legislation.

4.1 Description of the Restriction:

The uniform trade measurement legislation makes special provision for the sale of non-prepacked meat⁵. The restriction, which is uniform in all jurisdictions, is that it is an offence to sell non-prepacked meat otherwise than at a price determined by reference to the mass of the meat. Mass of meat means a reference to measurement in kilograms (kg).⁶ For example, a butcher selling rump steak that is not pre-packed marks the meat at a price per kilogram (ie. \$7.00/kg). When selling the steak the butcher must calculate the price by reference to the steak's mass (ie. \$7.00 x 0.4 kg = \$2.80).

The restriction does allow a person to sell a quantity of meat at a marked price (ie. \$2.80 per steak). However, this can only occur if the mass of the meat is marked in the same manner and as prominently as the price marking. The price per kilogram must also be indicated as prominently as the price marking by a marking on the meat or by another statement in letters and figures not less than 10mm high that clearly refers to the meat.

The restriction does not apply to meat sold as prepacked articles. These are articles that are packed in advance ready for sale are typically found in meat sections of supermarkets or grocery stores. Prepacked articles are subject to labelling restrictions that require them to be clearly marked with the net weight of the goods contained in

⁵ See section 25 of the Trade Measurement Act 1990 (Qld), Trade Measurement Act 1989 (NSW), Trade Measurement Act 1995 (Vic), Trade Measurement Act 1993 (SA), Trade Measurement Act 1999 (Tas), Trade Measurement Act 1991 (ACT), Trade Measurement Act 1990 (NT).

⁶ See section 5 of the Trade Measurement (Miscellaneous) Regulation 1991.

the package (ie. 2kg, 500g). If the packs are in random weight sizes⁷, the price per kilogram and total price must also be marked. Articles that are not packed on the premises must also be marked with the full name and address of the person who packed the article.

The restriction does not apply to the sale of cooked meat sold on premises on which it is cooked. This is intended to exempt restaurants, fast food outlets and the like. However, if cooked meat is produced for sale elsewhere, that sale is subject to this restriction.

The extent of the restriction is that it applies to any person selling ‘meat’, which includes both retailers and wholesalers. The definition of meat, as contained within the legislation, is so much of a slaughtered animal as is ordinarily sold for human consumption but does not include:

- (a) the whole or any part of a rabbit or shellfish; or
- (b) heads, feet, hearts, lights, kidneys, brains or sweetbread; or
- (c) meat packed as a prepacked article.

The scoping study identified that Queensland, Victoria and the Northern Territory,, unlike the other States and Territories, do not interpret meat as including fish and poultry. There is diversity of opinion between jurisdictions as to whether the definition of meat in the legislation is intended to include competing foods such as fish and poultry. However, it is not clear from a policy point of view why fish and poultry should be exempt. The Review Committee considered that the policy underlying the restriction is that it should apply to all slaughtered animal meat sold for ordinary human consumption. The application of the legislation in Queensland, Victoria and the Northern Territory creates a situation where competing meat products are treated differently. In other States and Territories meat is interpreted to include fish and poultry. The following table details how the definition is applied in each jurisdiction:

⁷ The standard sizes are 100g, 125g, 200g, 250g, 500g, 1 kg and integral multiples of 1kg. If packs of meat are not packed in these sizes, they are referred to as random weight sizes.

Jurisdiction	Description of application of definition
Queensland	Definition applied to red meat only and is not interpreted as including fish and poultry.
New South Wales	Definition applied to red meat and is interpreted as including fish and poultry.
Victoria	Definition applied to red meat only and is not interpreted as including fish and poultry.
South Australia	Definition applied to red meat and is interpreted as including fish and poultry.
Tasmania	Definition applied to red meat and is interpreted as including fish and poultry.
Northern Territory	Definition applied to red meat only and is not interpreted as including fish and poultry.
Australian Capital Territory	Definition is applied to red meat and is interpreted as including to fish and poultry.

Generally, the restriction does not apply to specialised meat products such as chicken kiev and beef wellingtons. The application of the restriction to specialised meat products is a grey area and subject to various interpretations regarding when ‘meat’ ceases to be meat for the purposes of the restriction. The following table clarifies the various interpretations in regarding when ‘meat’ ceases to be meat jurisdiction:

Jurisdiction	Application of restriction to specialised meat products
Queensland	Restriction does not apply in circumstances where a meat seller has added other food to the meat and has undertaken a substantial amount of labour to produce a specialised meat product.
New South Wales	Restriction does not apply in circumstances where other components or products are added to the meat or where the meat has been substantially altered (eg: beef kebabs with additional vegetables).
Victoria	Restriction does not apply in circumstances where a

	meat seller has added other food to the meat and has undertaken a substantial amount of labour to produce a specialised meat product.
South Australia	Processing does not exclude meat from the definition. Processing may alter characteristics particularly when combined with other non-meat food products which may exceed quantity of meats
Tasmania	Restriction is not directed at specialised meat product in circumstances where there has been significant addition of other food and labour.
Northern Territory	Restriction does not apply in circumstances where a meat seller has added other food to the meat and has undertaken a substantial amount of labour to produce a specialised meat product
Australian Capital Territory	Restriction is not enforced where a meat seller has added other food to the meat and has undertaken a substantial amount of labour to produce a specialised meat product.

Generally, the restriction does not apply in the circumstances where a meat seller has added other food to the meat and has undertaken a substantial amount of labour to produce a specialised meat product. In these circumstances, consumers are purchasing more than the standard meat product.

In summary:

- the restriction requires meat to be sold at a price determined by reference to the mass of the meat;
- meat is defined broadly as so much of a slaughtered animal as is ordinarily sold for human consumption;
- the restriction does not apply to specialised meat products;
- the restriction does not apply to meat that is pre-packed; and
- the restriction does not apply to meat sold on the premises on which it is cooked.

4.2 Classification of the Restriction:

There are various classifications of restrictions on market competition, including barriers to entry, price controls, conduct restrictions and quality restrictions. The restriction on the sale of non-prepacked meat can be classified as a control on the method of sale and a control on the form of pricing. The control on the method of sale is that meat can only be sold by reference to its mass. As a consequence, meat sellers who price their meat must mark at a price per kilogram. If a meat seller decides to sell a quantity of meat at a marked price, the meat seller must also mark the mass of the meat and the price per kilogram. These latter two issues are a control on the form of pricing.

It should be noted that the restriction is not a price control provision that prescribes a process for determining the maximum or minimum prices for a specified good or service. The restriction merely creates a standard for any person selling meat.

Consultation has indicated that if the restriction were removed, meat sellers would only make minor changes to their current selling practices. The issue of the size of the yield and standardising cuts of meat could force butchers to continue to sell meat at a price per each to ensure they conduct business in a fair and equitable fashion. The changes are most likely to be seen in the selling of semi-processed meat products (see section 5.2.1). Therefore, based on the likely impacts overall, it is considered that the restriction only represents a minor restriction on competition. This issue was raised during consultation with 46 meat sellers throughout Australia. The majority of meat sellers (89%) identified that the restriction was minor.

4.3 Objective of the Restriction:

The rationale for the restriction is that it minimises transaction costs through information disclosure. In a completely free market, consumers may find it costly to obtain relevant, accurate and reliable information on the quality and quantity of meat sold by a meat seller. For example, when consumers are looking through a shop window at a range of meat products it can be extremely hard to make an assessment regarding the quality and quantity of the meat. This differentiates meat from other staple food such as fruit and vegetables that can be closely scrutinised by consumers

through smell and touch. If the meat seller uses another pricing method such as per each pricing (ie \$2.80 per rump steak), consumers may find it difficult to assess the relative value for money of the various meat products on display. This situation becomes even more difficult if a consumer tries to make an assessment of value for money between a number of meat sellers (ie between meat sellers selling rump steak at \$2.80 each, \$3.50 each and \$7.00/kg).

Consumers can overcome information failures by acquiring information about meat products. However, as meat is purchased regularly, consumers may face high transaction costs in trying to determine this information for themselves. This can lead to an inefficient market outcome and public dissatisfaction.

The restriction requires the disclosure of information to consumers in the form of a price per kilogram description and a requirement to sell meat by a reference to the product's mass. This means that consumers are being provided with basic information regarding meat products. Consumers can use the price per kilogram description as a point of reference to compare between products sold by a meat seller and the description also enables consumers to compare products between meat sellers. Therefore, the restriction reduces transaction costs for consumers and enables them to shop for meat with confidence knowing that there is a standard basis for comparison amongst meat sellers.

Meat sellers may find it more difficult to compete with other meat sellers without the restriction. For example, consider a situation where a meat seller is selling rump steak at \$8.00/kg. If the meat seller determines that a competitor is selling rump steak at \$7.00/kg, the meat seller may reduce his/her price to remain competitive. If, however, the competitor is selling rump steak at \$2.80 each, then it becomes more difficult for the meat seller to directly compete as the mass of the rump steak is not easily ascertainable. Meat sellers may also find it hard to convince consumers that they are providing good value for money when various pricing methods are used. Therefore, the restriction creates an equal platform from which meat sellers can trade and reduces their transaction costs.

The restriction also provides consumer protection by preventing deceptive practices creeping into the market. Such deceptive practices may include displaying a certain size meat product for a fixed price by each and then substituting a smaller product upon purchase, or decreasing the mass of the meat product over time while maintaining a fixed price. Such practices would not only impact on consumers, but also make it hard for meat sellers to compete on an equal platform.

In summary, the restriction:

- simplifies the selling process by requiring a standard basis for comparison;
- reduces transaction costs for consumers and meat sellers;
- provides an equal platform from which all meat sellers can trade and compete;
and
- provides consumer protection by preventing deceptive practices.

Section 3 identified that the objectives of the legislation are the:

1. promotion of commercial certainty;
2. reduction of business costs;
3. improvement in the efficiency of the trade measurement industry; and
4. the maintenance of consumer confidence through suitable protection provisions.

The restriction on the sale of non-prepacked meat meets objectives 1, 2 and 4 of the legislation. The restriction aids in promoting commercial certainty through the minimisation of transaction costs and providing an equal trading platform from which meat sellers can trade. The restriction saves butchers from performing the additional function of calculating the price per each. The restriction creates a reduction in potential costs to butchers associated with calculating the price of meat per each. The restriction also provides consumer protection, which maintains consumer confidence.

These objectives are relevant in the current fresh meat market because meat continues to be a staple product purchased regularly by consumers. As there are a large number of meat sellers in the marketplace, consumers require a simple way to compare between meat sellers' products in order to minimise transaction costs. The standard

method of sale provides a simple standard, which increases consumer confidence and facilitates transactions.

5. Effect of the Restriction on Competition

This section commences with a discussion on the Australian domestic meat market and then describes the impact of the restriction on each of the key stakeholder groups. The key stakeholder groups are meat sellers, consumers and governments. The impact is described in the form of a cost or benefit. Where possible, the value of the cost or benefit has been quantified. However, where quantification was not possible, the cost or benefit has been described in qualitative terms.

5.1 The Australian domestic meat market:

The Australian meat industry produced approximately 3 624 000 tonnes of meat in 2000 for export and domestic markets. Beef made up the largest proportion of meat produced at 1 952 000 tonnes followed by chicken at 593 000 tonnes. The table below indicates that meat production increased over the period 1998 to 2000 by 150 000 tonnes. When comparing the 1998 meat production with 2000 meat production, lamb (+63 000t), chicken (+49 000t), beef (+41 000t) and pig (+5 000t) meat production increased, mutton production remained constant and veal (-8 000t) meat production decreased.

Meat products	1998 tonnes	1999 tonnes	2000 tonnes
Beef	1 911 000	1 973 000	1 952 000
Veal	44 000	38 000	36 000
Mutton	333 000	316 000	333 000
Lamb	284 000	312 000	347 000
Pig	358 000	370 000	363 000
Chicken	544 000	564 000	593 000
Total	3 474 000	3 573 000	3 624 000

Source: Australian Bureau of Statistics⁸

Meat is produced for either export or domestic markets. The restriction on the sale of non-prepacked meat only applies to domestic sales of non-prepacked meat.

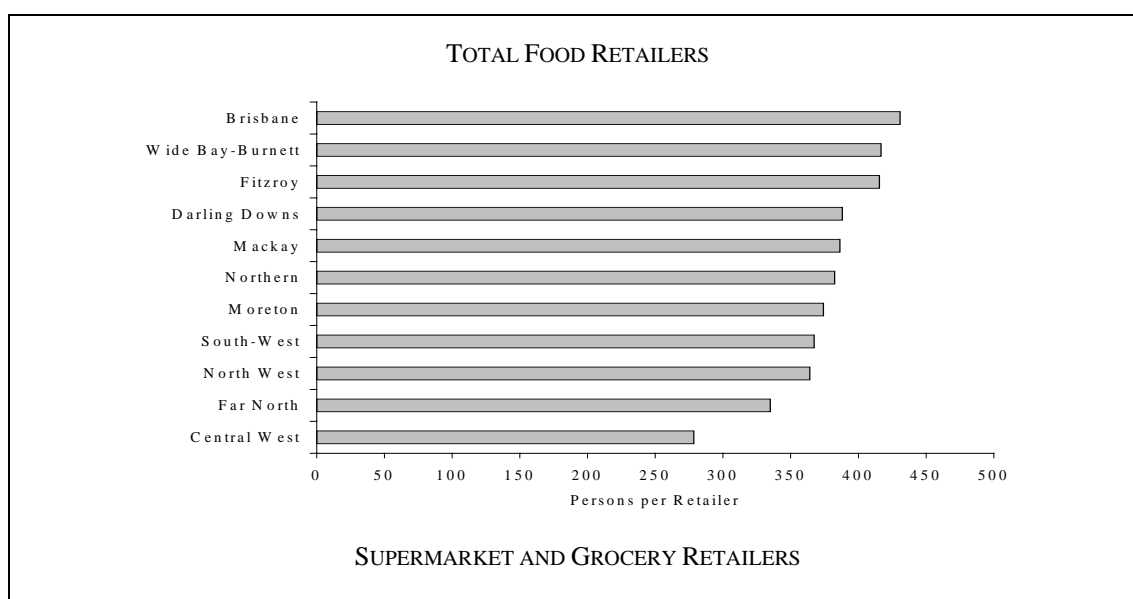
The domestic market is made up of meat sellers and consumers. Meat sellers can be categorised as wholesalers and retailers, and retailers can be divided into fresh meat retailers (butchers) and supermarkets and grocery stores. The table below illustrates that in 1998-99 supermarkets and grocery stores held the greatest share of the domestic fresh meat market (excluding poultry and seafood) at 61.7%. Fresh meat retailers held a 37.8% share of the market.

Retail Outlets	Income	Percentage Share
Supermarkets and grocery stores	\$2 165 800 000	61.7
Fresh meat retailers (butchers)	\$1 328 100 000	37.8
Other retailers	\$ 18 000 000	0.5
Total	\$3 511 900 000	100.0

Source: Australian Bureau of Statistics⁹

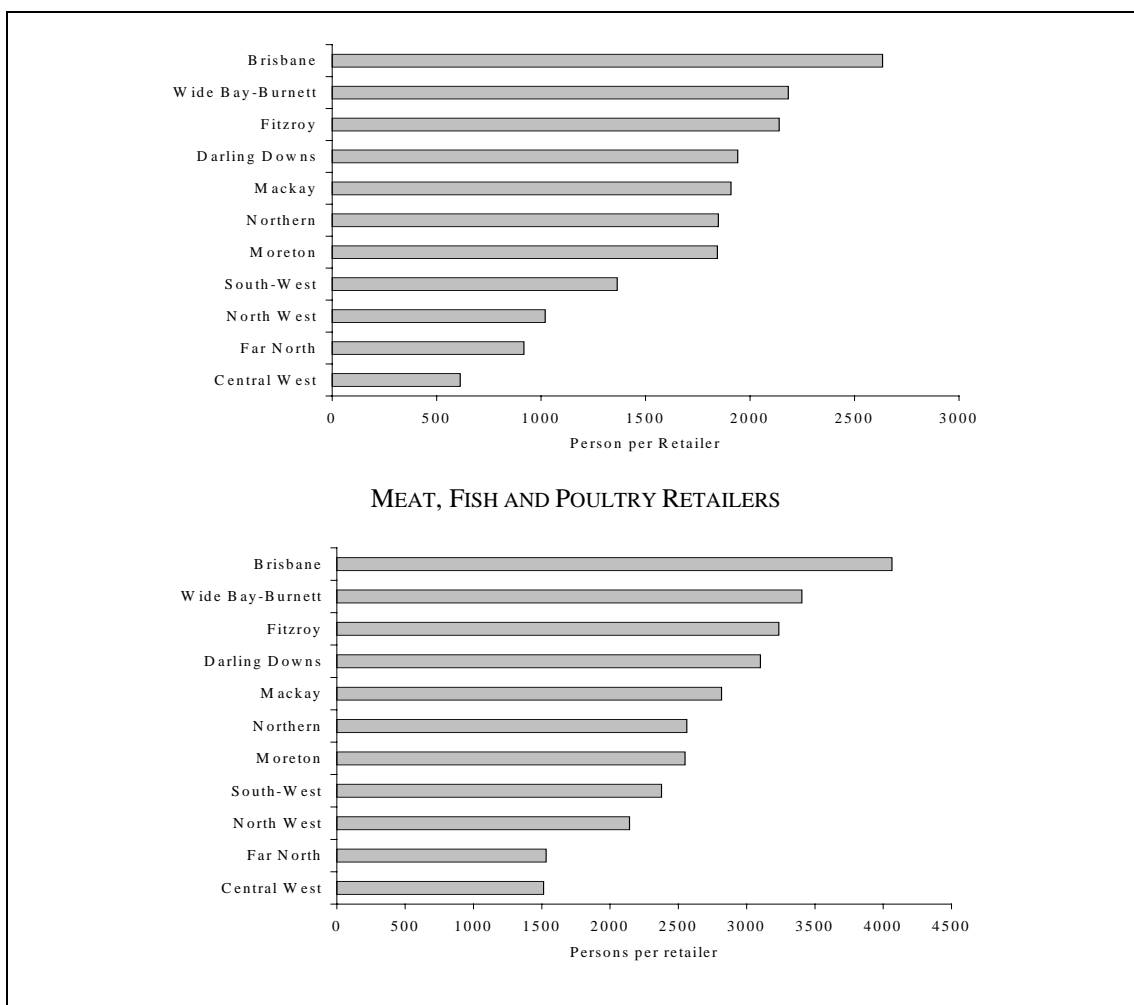
In the scoping study the consultant looked to the number of shops per person in Queensland to give a rough indication of the potential for competition in the market and found that there is generally a reasonable degree of competition. The following table is reproduced from the scoping study.

The Regional Distribution of Retailers



⁸ Australian Bureau of Statistics, Livestock and Livestock Products 7113.0 1999-00

⁹ Australian Bureau of Statistics, Retail Industry, Commodity Sales 8624.0 1998-99



Source: Australian Bureau of Statistics

The restriction on the sale of non-prepacked meat impacts largely on the sale of fresh meat¹⁰. The total income from the domestic sale of fresh meat in 1998-99 was \$5 164 100 000.¹¹ This can be categorised as fresh meat (\$3 511 900 000), fresh poultry (\$965 300 000) and fresh seafood (\$686 900 000)¹².

There are various types of meat which directly compete with each other such as beef, veal, mutton, lamb, pork, and game. Each of these types of meat offer a variety of cuts to consumers. For example, if a consumer intends to buy beef then the consumer may choose from silverside roast, rump steak, T-bone steak, chuck steak and corned

¹⁰ It is acknowledged that the restriction applies to cooked meat which is produced for sale elsewhere, however it is estimated that only a small proportion of meat is sold this way.

¹¹ Australian Bureau of Statistics, Retail Industry, Commodity Sales 8624.0 1998-99

¹² Please note that the ABS indicates that the sales from fresh seafood has a relative standard error of between 25% and 50% and should be used with caution.

silverside. Therefore, the consumer is provided with a large variety of fresh meat products.

In the broader food market, there are a number of competing food products that give consumers a large number of meal options. The meal options range from eating out, purchasing 'ready-to-eat' or 'ready-to-cook' meals to purchasing a variety of fresh products and preparing a meal. Consumers are presented with large variety of food products, which compete with each other.

In 1998-1999 the per capita consumption of meat in Australia decreased by 2.3% from the previous year to 71.6 kilograms¹³. These consumption figures do not include poultry or seafood. The per capita consumption of poultry in 1998-1999 was 30.8 kilograms and the per capita intake of seafood was 10.9 kilograms. Many factors may contribute to this decrease in consumption of meat such as trends toward vegetarianism, fast food options, religious beliefs and eating habits in general.

The average weekly household expenditure on meat (including fish and seafood) was \$19¹⁴ and the average expenditure on food and non-alcoholic beverages was \$127 per week¹⁵. Therefore, approximately 15% of average household expenditure on food and non-alcoholic beverages in 1998-1999 was on meat. This illustrates that meat is a significant food item purchased regularly by consumers and on an annual basis represents an average household expenditure of approximately \$988.

In summary:

- There is a reasonable degree of competition in retailing.
- Sales of fresh meat totalled \$5 164 100 000 in 1998-99.
- Meat has a number of competing food products.
- Meat is a significant food item purchased regularly by consumers.

5.2 Meat sellers:

¹³ Australian Bureau of Statistics, Apparent Consumption of Foodstuffs, 4306.0 1998-99

¹⁴ Australian Bureau of Statistics, Household Expenditure Survey 6535.0 1998-99

¹⁵ *ibid*

The restriction on the sale of non-prepacked meat impacts on any person selling meat that is not pre-packed. Meat sellers have a choice as to whether they sell meat packed in advance ready for sale or not, or to sell a mix of packed/non-prepacked meat products.

Supermarkets and grocery stores typically sell the majority of their fresh red meat prepacked. A mix of fresh poultry is sold packed/non-prepacked and the majority of fresh fish is not prepacked. Therefore, the restriction does not impact on the majority¹⁶ of fresh meat products sold from supermarkets and grocery stores.

Butchers do not tend to pre-pack a large proportion of the meat they sell. The reason can be linked to the marketing appeal of a butcher. This marketing appeal is that consumers can view a range of meat products and can interact with a butcher when deciding on a particular piece of meat, the mass of the meat or the quantity. Therefore, the restriction on the sale of non-prepacked meat impacts primarily on butchers.

For the purposes of describing the costs and benefits, meat sellers are defined as persons selling non-prepacked meat.

5.2.1 Costs:

Regulation results in costs to the community. Some of these costs are direct costs such as the compliance costs to business. There may also be other costs associated with any detrimental effects of regulation on competition in the market. The detrimental effects may manifest themselves in higher prices as a result of reduced price rivalry between competing suppliers as well as reduced incentive for innovation and misallocation of resources.

Compliance costs:

¹⁶ Income from fresh meat sales in 1998-99 were \$2 165 800 000 (red meat), \$711 300 000 (poultry) and \$191 600 000 (seafood). See Australian Bureau of Statistics, Retail Industry, Commodity Sales, 8624.0 1998-99.

Under current arrangements, the compliance costs to meat sellers include the cost to mark meat at a price per kilogram and the costs to purchase, install and maintain a measuring instrument.

The first cost involves the time and labour to mark meat at a price per kilogram. There must be underlying information and assumptions on which to base that price, which would include the price paid to the meat wholesaler, other costs and the market value of the meat product. The meat seller would need to work through these assumptions in determining a price per kilogram and label accordingly. If the restriction were removed, meat sellers would still need to go through a similar process to determine the price of the product for sale and label accordingly. Therefore, the cost to meat sellers of retaining the restriction is considered to be very small.

The second compliance cost relates to the purchase, installation and maintenance of a weighing instrument. This is required to ensure that meat is sold at a price by reference to its mass. Consultation has indicated that a basic scale would cost approximately \$450.00. If the restriction was removed, it is likely that a measuring instrument would continue to be an essential piece of equipment for a meat seller. Furthermore, it is unlikely that all meat would be sold per each if the restriction was lifted. For those products which would continue to be sold at a price per kilogram, a measuring instrument would be essential. Therefore, the overall compliance costs of retaining the restriction are considered to be very small.

Advantaging competitors:

The scoping study indicated that a potential consequence of the restriction is that supermarkets and grocery stores may have an advantage over other retailers such as butchers. This is because 'pre-packed meat routinely sold in supermarkets and grocery stores has the unit price marked, but the total price is also shown and normally more prominently. This means that consumers know up-front the total price and number of pieces that will be provided. This is seen by butchers to attract customers at the expense of other retailers.'¹⁷

¹⁷ See page 20 of the Scoping Study.

The Review Committee considered that this is a marketing issue and not a cost directly associated with the restriction. Some consumers prefer the ‘self-service’ offered by supermarkets in the form of prepacked meat, while other consumers prefer the ‘personalised’ service offered by butchers who cater for their specific demands. If butchers determine that a percentage of consumers are demanding pre-packed meats, then there is nothing preventing butchers from pre-packing meat to attract customers. Consultation has revealed that a number of butchers are now selling a mix of packed and non-prepacked meats.

Butchers also have the option of labelling the price of the meat, provided that the mass and price per kilogram are also marked. For example, a butcher may decide to label whole legs of lamb with the total price, mass and price per kilogram. Or, the butcher may decide to label whole legs of lamb with the total price and mass, and indicate the price per kilogram in a statement not less than 10mm high on the relevant meat tray. These options were raised during consultation, however the peak industry association highlighted that there may be practical difficulties as there is a limit on the size and number of tickets that are used in a meat display window.

The Review Committee also noted that the results of consultation indicated that supermarkets do sell non-prepacked meat, which is typically, fresh seafood and some fresh poultry. After weighing up all of the issues, the Review Committee concluded that the restriction does not impose costs on certain meat sellers and that this is a marketing issue. The Review Committee considered that the key issue was that prepacked meat is also subject to labelling restrictions. Prepacked articles must be clearly marked with the net weight of the goods contained in the package. If the packs are in random weight sizes, the price per kilogram and total price must also be marked. Therefore, like non-prepacked meat, basic information disclosure is provided to the consumer.

Innovation cost:

Consultation has indicated that the restriction discourages meat sellers from innovating and selling specialised meat products. The reason is that the production of specialised meat products involves extra labour costs and the addition of other food products, which translates into a significantly higher price per kilogram. As a result,

consumers tend to avoid these products when sold per kilogram and meat sellers are discouraged from producing them.

By way of example, Lenard's Pty Ltd advised that the restriction is holding back on their expansion into 'ready-to-cook' red meats as it is believed that they would need to be sold by each to be commercially viable¹⁸. The range includes meat products such as lamb kiev, cullet kilpatrick, lamb rack and lamb cocktail balls. These 'ready-to-cook' products would compete with a range of food products such as frozen meat products and would attract those consumers demanding easy 'ready-to-cook' meat products.

The application of the restriction to specialised meat products is a grey area and subject to various interpretations regarding when 'meat' ceases to be meat for the purposes of this restriction. Generally, the restriction does not apply in the circumstances where a meat seller has added other food to meat and undertaken a substantial amount of labour to produce a specialised meat product. For example, the production of a lamb kiev or a beef wellington would involve adding other food and substantial labour. The restriction would not apply to such meat products. However, if the meat seller has merely crumbed or marinated beef, it would still be considered to be meat for the purposes of the restriction as it has not substantially changed. The scoping study indicated that there are various inconsistencies between the States and Territories in enforcement of the restriction, particularly in the area of specialised meat products¹⁹. These inconsistencies can create unnecessary uncertainty for meat sellers and may discourage a degree of innovation.

There is an opposing argument that the restriction actually encourages innovation as it does not apply to specialised meat products. Therefore, meat sellers who produce specialised meat products can sell them either per kilogram or per each. However, the inconsistencies created during enforcement do create uncertainty. To this extent, retaining the restriction may discourage a level of innovation and result in a small innovation cost. Reducing the uncertainty would help to minimise such costs.

¹⁸ See Scoping Study page 19.

¹⁹ See Scoping Study page 21.

Inequity:

In Queensland, Victoria and the Northern Territory, poultry and fish are not interpreted as meat and therefore in those jurisdictions the restriction is not enforced against the sale of poultry and fish. There is diversity of opinion between jurisdictions as to whether the definition of meat in the legislation includes fish and poultry. However, putting the interpretation issue aside, there does not appear to be any underlying policy justification for excluding fish and poultry. Non-prepacked fish and poultry are sold readily by meat sellers and in many instances along side with red meat. Therefore, meat sellers in Queensland, Victoria and the Northern Territory are not competing on an equal platform and consumers are not guaranteed of a standard basis for comparison (ie price per kilogram) which simplifies the purchasing process of all fresh meat products.

Consultation has revealed that the majority of basic poultry and fish products are sold at a price per kilogram in Queensland. For example, chicken breasts, chicken legs and fish fillets. However, some processed chicken products appear to be sold per each. Some of these products would be categorised as specialised meat products and not subject to the restriction (if it applied) such as chicken kiev. Other products such as crumbed chicken and chicken rissoles are sold per each, which can be viewed as giving these meat sellers an advantage over red meat sellers who are required to price similar products at a price per kilogram. The number of poultry and fish products marketed this way is small. Out of the 26 meat sellers consulted in Queensland, only 3 were selling crumbed chicken per each and 2 were selling mini roasts per each. On this basis, it is likely that the relative competitive disadvantage faced by red meat sellers because of the restriction is small. This situation is isolated to Queensland.

Consultation also indicated that fresh meat sellers are being treated differently from other food sellers who do not have to comply with a similar restriction. Other fresh food products include fruit and vegetables and bread. Sellers of fruit and vegetables, which are not pre-packed, do not face a similar restriction. However, fruit and vegetables can be differentiated from meat as it can be closely scrutinised by consumers and scales are available to weigh products. Customer demand forces many retailers to sell fruit and vegetables by weight and there would be increased cost to sellers if they were to count every piece of fruit and vegetables upon sale. Bare

loaves of bread are not subject to a similar restriction and consumers would face similar difficulties as faced when purchasing meat, as bread can not be closely scrutinised. However, the fact that there is not uniform restrictions across all fresh food products does not result in a cost to meat sellers as fruit, vegetables and bread are not competing products.

Pre-packed articles are exempt from the definition of meat and as such do not compete directly with meat. Prepacked articles must be clearly marked with a statement of the measurement of article. Therefore, consumers are able to make an assessment regarding price/weight ratio and make comparisons. While it is acknowledged that there is not uniformity in food restrictions, the Review Committee considers that any consequential cost incurred by meat sellers because of the restriction is insignificant.

5.2.2 Benefits:

Equal playing field:

The restriction benefits meat sellers overall by providing an equal platform from which all meat sellers can trade and compete. Without the restriction, some meat sellers may find it hard to compete effectively with other meat sellers. For example, consider a situation where a meat seller is selling rump steak at \$8.00/kg. If the meat seller determines that a competitor is selling rump steak at \$7.00/kg, the meat seller may reduce his/her price to remain competitive. If, however, the competitor is selling rump steak at \$4.00 each, then it becomes more difficult for the meat seller to compete directly on price alone as the mass of the competitor's rump steak is not easily ascertainable. Therefore, the restriction assists in creating an equal platform from which all meat sellers can trade. The restriction also increases consumer confidence given that there is a standard basis for comparison amongst meat sellers which encourages consumers to transact in the market.

Of the 46 meat sellers consulted, 12 (26%) identified that the restriction generates benefits for their business and the most common benefit stated was that the restriction creates a standard or equal playing field for selling meat which is fair. 54% of meat sellers consulted indicated that the restriction should not be removed, 35% indicated

that the restriction should be removed and 11% did not indicate a preference. However, the peak industry association has lobbied on behalf of its members for the removal of the restriction. Therefore, weighing up these results the Review Committee considers that the provision of an equal platform is only a very small benefit to some meat sellers.

Minimises competitors engaging in deceptive practices:

The restriction also acts to minimise deceptive practices that competitors may engage in to gain an unfair advantage. Such deceptive practices include displaying a certain size product for a fixed price by each and then substituting a smaller product upon purchase, or decreasing the mass of the product over time while maintaining a fixed price. Such practices not only impact on consumers, but also make it hard for meat sellers to compete fairly on an equal platform. There is limited evidence to indicate that these practices would be a substantial problem. However, consultation has revealed that this is one of the areas of concern to consumer organisations and a number of meat sellers. To the extent that the restriction provides some restraint on deceptive practices by unscrupulous meat sellers, its retention would provide a small benefit to reputable meat sellers.

Minimises transaction costs:

The basic per kilogram pricing minimises transaction costs. A price that represents per each is a superadded stage to the basic per kilogram pricing as it requires further effort and calculation on the part of the meat seller. For example, consultation with meat sellers indicates that the yield of meat products sold per each would have to be carefully monitored and products would need to be standardised where possible. When calculating the price, the meat seller would need to consider these preparation and labour costs as well as the price paid to the wholesaler. Consultation also indicated that some meat sellers would be concerned if wholesalers commenced selling per each. Some meat sellers indicated that they would not purchase meat sold per each from wholesalers, while others indicated that they would have to work out the price per kilogram. This extra effort and calculation increases transaction costs associated with the sale and purchase of meats.

Meat sellers may also find it hard to convince some consumers that they are providing good value for money when competitors use various pricing methods. Effective marketing could overcome this problem, however it would also increase transaction costs.

To the extent that the current restriction minimises these transaction costs for meat sellers, its retention is likely to represent a benefit to meat sellers. However, any benefit is likely to be limited by the fact that most sellers are only likely to undertake the additional effort and cost of selling by each if they believe it will be outweighed by improved sales and revenue. Therefore, any benefits are likely to be very small.

5.3 Consumers:

Meat is a significant food item purchased regularly by consumers and the average annual expenditure on meat is approximately \$988 per household. Consumers are presented with a variety of options when deciding to purchase meat. The first option is where to purchase meat. It is readily available from supermarkets, grocery stores and butchers and some of the factors impacting on where to purchase is the price, quality of product, range of products available, service received, standard of the outlet and its presentation, convenience and location. The next option is whether to purchase fresh, frozen, canned, bottled or processed meat. If a consumer decides to purchase fresh meat there are a large variety of types of meat available that have a mixture of cuts. Consumers are also presented with the option of purchasing either prepacked or non-prepacked meat.

5.3.1 Costs:

Disadvantages consumers who prefer to buy per each:

Consultation has revealed that the restriction may disadvantage consumers who have a fixed monetary amount they wish to spend on a meal or meal component. A mandatory reference to a price per kilogram (ie rump steak \$7.00/kg) does not enable a consumer to work out the exact price and may set an artificially high price impression in the consumer's mind as opposed to a price per each. The reference to a price per kilogram also does not permit a consumer to quickly work out how many

slices or pieces of meat there are in a kilogram. This may lead to consumer embarrassment if items have to be taken out of the purchase order. Consumers may also be reluctant to purchase whole cuts of meat, for example, legs of lamb when displayed on a per kilogram basis because the actual price is not easily ascertainable while on display.

The National Meat Association of Australia has advised that a 1993 survey of 3,195 customers in New South Wales indicated that 51% of customers surveyed bought 'per each', 23% purchased 'per gram' and 26% purchased 'per kilogram'. It was submitted that these results confirm the belief that consumer preference has shifted from that which might have existed in the past. Supporting this result is a submission received from Lenard's Pty Ltd, which sells meat products per each. Lenard's Pty Ltd have not received any complaints from consumers about buying meat per each and served in excess of 9,000,000 consumers last year. However, it is not clear from these results if consumers prefer purchasing all meat products per each or particular meat products (ie. specialised meat products).

There is diversity of opinion regarding consumer preference for per kilogram pricing. Anecdotal evidence provided during consultation suggests that consumers like being able to make price comparisons by weight when purchasing meat. While some consumers may like to purchase packaged meat or portions of meat labelled by unit price, they also appreciate being able to compare the price/weight ratio. It has also been suggested that the fact that Queensland poultry and fish retailers largely sell at a price per kilogram without having to do so is striking evidence of consumer demand for this type of method of sale.

It was also highlighted during consultation that consumers are demanding more information about food products, which supports the continued requirement for a price per kilogram description. Examples include public support for the new labelling requirements regarding genetically modified organisms and a recently initiated inquiry into providing price per weight information on the shelf labels of supermarket general grocery lines. There have also been calls from consumer organisations for meat to be graded as it is difficult for consumers to judge the quality of meat before

purchase. For example, CHOICE²⁰ recently called for a national standard for beef, which should be overseen by the Australian New Zealand Food Authority to ensure that it is enforceable and separate from industry.

If the restriction was removed, consultation has indicated that the majority of basic meat products would continue to be sold at a price per kilogram. It is likely that butchers would find it less cost effective and more difficult to standardise or manage the size of a yield because of the lack of potential to cut meat to a standard size without wasting considerable portions of meat in some instances. It is likely that more processed products would be sold per each. Some of these processed products would be classified as specialised meat products, which can currently be priced per each. The remaining products would be items such as rissoles, patties and crumbed product, which currently must be priced per kilogram. It is likely that some meat sellers would commence selling these products per each. However, in terms of the total market for meat, the removal of the restriction is likely to lead to only a small change from the current selling methods. Even then, a proportion of consumers would continue to be dissatisfied with the price per kilogram description in certain circumstances, for example when buying to a predetermined \$ value. Therefore, retaining the restriction would represent only a small cost to these consumers.

Reduces the range of meat products:

As outlined earlier (section 5.2.1), the inconsistencies surrounding specialised meat products creates unnecessary uncertainty for meat sellers and may discourage a degree of innovation. To the extent that this uncertainty reduces the range of specialised meat products available, there would be a small negative impact on consumers.

5.3.2 Benefits:

Minimises transaction costs through mandatory information disclosure:

Regulation can give benefits to the community or a certain class within the community. The restriction provides benefits to meat consumers by minimising their transaction costs through mandatory information disclosure.

²⁰ Choice, 'Food: Food Opinion Column: A load of old beef?', 'Any old beef? No guarantee of

In a completely free market, consumers may find it costly to obtain relevant, accurate and reliable information on the quality and quantity of meat sold by a meat seller. For example, the health and safety related prohibition on consumers handling meat before purchase makes it extremely hard to make an assessment regarding the quality and quantity of the meat. This differentiates meat from other staple food such as fruit and vegetables that can be closely scrutinised by consumers through smell and touch, and in some cases, sampled. If the meat seller uses another pricing method such as a price per item, consumers may find it difficult to assess the relative value for money of the various meat products on display. This situation becomes even more difficult if a consumer tries to make an assessment of value for money between a number of meat sellers. For example, it becomes difficult for a consumer to determine value for money between one meat seller selling rump steak at \$7.00/kg and another meat seller selling rump steak at \$4.00 per steak. When viewing the products, the consumer's perception may be distorted due to the presentation of the steak.

Consumers can overcome information failures by acquiring information about meat products. However, as meat is purchased regularly, consumers may face high transaction costs in trying to determine this information for themselves. This can lead to an inefficient market outcome and public dissatisfaction.

The restriction requires the disclosure of information in the form of a price per kilogram description and the requirement to sell by a reference to the product's mass. This description can be used as a point of reference to compare different meat products. It also enables consumers to compare between similar products offered by meat sellers and between prepacked/non prepacked meat. For example, if a consumer wishes to purchase rump steak the consumer can compare the price per kilogram advertised at a butcher with other butchers and/or with prepacked meat at a supermarket. Consultation has indicated that consumers may also find the description helpful to determine whether a price is particularly cheap. Therefore, the restriction reduces transaction costs for consumers and enables them to shop for meat with

domestic beef quality, says Choice' www.choice.com.au.

confidence knowing that there is a standard basis for comparison amongst meat sellers.

As discussed in section 5.2, removing the restriction could increase transaction costs for meat sellers. These transaction costs relate to the further effort and calculation of per each pricing and the possibility of increased marketing costs to convince consumers that their products are providing value for money. Ultimately, the increased transaction costs could be passed onto consumers in the form of higher prices for products sold per each. Therefore, the basic per kilogram pricing minimises these transaction costs.

In determining the extent of the benefit, the Review Committee noted the consultation results from consumer organisations and some industry representatives, which indicated that the mandatory information disclosure based on a price per kilogram description is fundamental. The Review Committee also acknowledged that one of the eight fundamental consumer rights adopted by the United Nations is: “the right to be informed - the right to be given the facts and information you need to make your own choices”. Therefore, the Review Committee considered that the minimisation of transaction costs through mandatory information disclosure generates a small to moderate benefit to some consumers.

Indication of value for money:

It was indicated during consultation that the more expensive lines sell much more readily when priced per each as consumers tend to avoid the products when priced per kilogram. The price per kilogram can be viewed as giving consumers an indication of value for money. For example, if chicken breast is sold at \$10.00/kg and crumbed chicken breast is sold at \$12.00/kg, then consumers can make an assessment of the value of the products. The price per kilogram description is more transparent than per each pricing. For example, consider a consumer comparing chicken breast at \$10.00/kg with pieces of crumbed chicken at \$3 each.

However, consultation also highlighted that the price per kilogram will not necessarily provide consumers with a good measure of value for money. The amount of fat and/or bones may typically vary in certain meat products. A meat product may be

sold boneless, semi-boned or bone-in. For example, meat seller “A” may sell a leg of lamb for \$12.99/kg whereas meat seller “B” may sell a leg of lamb for \$6.99/kg. Both meat sellers ticket the product as “leg of lamb”. However, the difference between the meat products is that meat seller “A”’s product is boneless whereas meat seller “B”’s product is semi boned. Quite often a consumer cannot visually distinguish the two products and would therefore prefer to purchase the cheaper product (with more bone content) as a measure of value for money.

It was also raised during consultation that not only does the price per kilogram description make it simple to compare prices between meat sellers, it also informs consumers when the price of meat is particularly cheap and therefore good value for money.

After weighing up these issues, the Review Committee considered that the price per kilogram description provides a very small benefit to consumers in determining value for money.

Minimises deceptive practices:

The restriction also protects consumers from deceptive practices. Consultation has revealed that some meat sellers could engage in practices such as displaying a certain size product for a fixed price by each and then substituting a smaller product upon purchase. The true value of a product could also be hidden from the consumer by maintaining a set price for a product and decreasing the mass of the product over time. Hence, there could be an increase in the price per kilogram at any time without the consumer being aware of the price rise. Another practice is selling small legs of lamb, roasts etc at the same price as larger cuts of meat in other stores. Consumer organisations have indicated that disputes would be difficult to resolve, because of the impossibility of returning the product.

There is little evidence of such practices occurring in Western Australia and New Zealand where meat sellers are not subject to a similar restriction. However, consultation has revealed that this is one of the areas of concern to consumer organisations and a number of meat sellers. Overall, retaining the restriction is

considered to represent a small benefit to consumers through its role in inhibiting deceptive practices.

Advantages consumers who prefer to buy at ‘\$/kg’:

Consultation has revealed that the restriction impacts positively on those consumers who wish to buy to a recipe and require meat to be weighed to recipe specifications. Anecdotal evidence provided during consultation also suggests that consumers like being able to make price comparisons by weight when purchasing meat and most other processed foods. While some consumers may like to purchase packaged meat or portions of meat labelled by unit price, they also appreciate being able to compare the price/weight ratio. As noted in section 5.3.1, the exact number of consumers that would prefer this method of sale is unclear. If the restriction was removed, it is likely that the majority of meat would continue to be sold at a price per kilogram due to the inherent difficulties in managing the size of yields as discussed in section 4.2. Therefore, the restriction only generates a small benefit for these consumers by guaranteeing that non-prepacked meat is sold at a price per kilogram.

5.4 Government:

The Uniform Trade Measurement Legislation is administered by the following government agencies throughout Australia:

Jurisdiction	Agency
Northern Territory	Department of Justice
Queensland	Department of Tourism, Racing and Fair Trading
Australian Capital Territory	Office of Fair Trading
New South Wales	Department of Fair Trading
Victoria	Trade Measurement Victoria
South Australia	Office of Consumer and Business Affairs
Tasmania	Office of Consumer Affairs and Fair Trading

These agencies engage in activities to ensure that meat sellers are complying with the restriction. The enforcement costs are those incurred by the relevant government agencies in having trade measurement officers/inspectors randomly visit a range of

meat sellers to determine compliance with the restriction. For example, statistics from New South Wales indicate that during the 2000/2001 financial year, inspectors conducted 546 inspections of meat retailers (which included supermarkets). This would equate to \$35,000 in inspectors time devoted to this restriction. Statistics from South Australia indicate that officers visited 165 retail butcher's premises in 2001.

Consultation with government agencies has indicated that the cost of administering the restriction is very small. If the restriction was removed, trade measurement officers would continue to randomly visit a range of meat sellers to check trading practices.

5.5 Conclusion:

The costs and benefits can be summarised as follows:

Stakeholder	Description	Size
Costs		
Meat Sellers	Compliance cost	- very small
	Innovation cost	- small
	Inequity	- small
Consumers	Disadvantages consumers who prefer to buy by 'each'	- small
	Reduces the range of meat products	- small
Government	Administration and enforcement cost	- very small
Benefits		
Meat Sellers	Equal playing field	+ very small
	Minimises competitors engaging in deceptive practices	+ small
	Minimises transaction costs	+ very small
Consumers	Minimises transaction costs through information disclosure	+ small to moderate
	Indication of value for money	+ very small
	Minimises deceptive practices	+ small
	Advantages consumers who prefer to buy by '\$/kg'	+ small

Therefore, the overall assessment is that the restriction generates a small net benefit to the community.

6. Alternative Approaches.

This section of the report involves the identification of viable alternatives to the current restriction. The alternatives to be reviewed are deregulation and modification of the current restriction.

6.1 Deregulation:

Deregulation would involve removing the restriction on the sale of non-prepacked meat from the uniform trade measurement legislation. This would leave a model similar to Western Australia, which does not include a specific restriction on the sale of non-prepacked meat in their trade measurement legislation.

The general protection for business and consumers provided by the Fair Trading Acts, the Trade Practices Act and common law obligations would apply. The relevant sections of State and Territory Fair Trading Acts are those related to misleading or deceptive conduct. These provisions may act as a deterrent against some meat sellers from engaging in misleading conduct such as displaying good quality and sized meat products and then substituting a smaller/reduced quality product upon purchase. However, the Acts would not provide protection against deceptive practices such as displaying a certain size product for a fixed price and then decreasing the mass of the product over time. The consumer protection of the Fair Trading Acts would also not operate to ensure that a minimum amount of information is provided to consumers to enable them to make a comparison and informed choice between meat products.

The impact of moving to this alternative state on each of the key stakeholders groups is described in the next three subsections. This involves identifying the type, direction (positive and negative) and magnitude of the impact.

6.1.1 Impact on Meat sellers:

Increased sales:

The impact of removing the restriction is that meat sellers would have the choice as to how they intend to sell non-prepacked meat products to consumers. The options are

to continue to sell meat by reference to its mass or to sell meat per item. This would involve meat sellers making an assessment of which meat products offered for sale should be sold per item. Consultation has indicated that the majority of meat products would continue to be sold at a price per kilogram. For example, in Queensland, Victoria and the Northern Territory poultry is not interpreted to be subject to this restriction and meat products such as chicken breasts and chicken legs are sold at a price per kilogram. However, it is likely that other meat products such as sausages, lamb chops, rissoles and patties may be sold per each. If these products sell more effectively per each, meat sellers could benefit through a small increase in sales.

It is likely that more specialised meat products would be sold per each. As discussed in section 5.2, specialised meat products are not subject to the restriction and can currently be sold per each. However, uncertainty caused by inconsistent enforcement of the restriction may discourage some meat sellers from pricing per each. Removing the restriction would remove the uncertainty and may encourage more meat sellers to extend their current range of meat products. Meat sellers may find that specialised meat products sell more effectively per each and benefit through a small increase in sales.

Removal of compliance costs:

There would be a very small benefit from the removal of compliance costs. Meat sellers would continue to price and label meat, however, they would not be required to mark meat sold per each with the price per kilogram and mass. As the majority of meat would continue to be sold at a price per kilogram, meat sellers would be required to maintain a measuring instrument.

Increased competition in Queensland, Victoria and the Northern Territory:

The removal of the restriction would impact on Queensland, Victorian and Northern Territory poultry and fish sellers as it is likely that some red meat sellers would price products such as sausages, rissoles and patties and specialised meat products per each. If these products sell more effectively per each it could increase competition in these products. This would only be a small benefit, isolated to Queensland, Victoria and the Northern Territory, as meat sellers can currently sell specialised meat products per each.

Increased transaction costs:

If a meat seller determines to sell meat products by each this could lead to increased transaction costs. This is due to the fact that a price per each is a superadded stage to the basic per kilogram pricing. It requires further effort and calculation on the part of the meat seller. Meat sellers may also find it hard to convince consumers that they are providing good value for money when competitors use various pricing methods. Effective marketing could overcome this problem, however it would increase transaction costs. The increase in transaction costs would be very small.

Remove the equal trading platform:

The removal of the restriction would effectively remove the equal trading platform from which all meat sellers trade. This would impact on all meat sellers as there would no longer be a standard of selling by reference to mass, which promotes fair competition. As the peak industry association has lobbied to remove the restriction it was identified in 5.2 as providing a very small benefit. Therefore, meat sellers would face a very small negative impact from the removal of the equal trading platform.

Labelling restriction for prepacked meat:

The labelling restrictions for prepacked meat could also need to be reconsidered if this restriction was removed. There could be little justification for requiring prepacked meat to be marked at a price per kilogram if the restriction was removed. This would largely impact on supermarkets and grocery stores that prepacked meat. Consultation with one major supermarket has indicated support for the retention of the price per kilogram description, as it is an essential guide for consumers.

Competitors may engage in deceptive practices:

The restriction prevents deceptive practices that competitors may engage in to gain an unfair advantage. Such deceptive practices include displaying a certain size product for a fixed price by each and then substituting a smaller product upon purchase, or decreasing the mass of the product over time while maintaining a fixed price. Such practices not only impact on consumers, but also make it hard for meat sellers to compete fairly on an equal platform. There is limited evidence to indicate that this would be a substantial problem. However consultation has revealed that this is one of

the areas of concern to consumer organisations and some meat sellers. As a result, it would be a small cost to meat sellers.

6.1.2 Impact on Consumers:

Advantage consumers who prefer to buy by 'each':

The removal of the restriction would impact positively on those consumers who prefer to buy per each as it is likely that more meat products would be sold this way giving them knowledge of the cost immediately and a potentially a greater range to choose from. However, the majority of basic meat products would continue to be sold at a price per kilogram. It is likely that more meat products such as rissoles, patties and sausages may be sold per each. Therefore, the removal of the restriction would provide a small positive benefit to consumers who prefer to buy such products per each.

Increase range of meat products:

As indicated in section 6.1.1, the removal of the restriction may encourage more meat sellers to produce specialised meat products. This would give consumers a small positive benefit through the increased range of meat products.

Disadvantage consumers who prefer to buy by '\$/kg':

Consumers who prefer to know the weight/price ratio would face a small negative impact as the price per kilogram description would no longer be guaranteed. The impact will be small as it is only likely to be processed meat products such as sausages, rissoles and patties, higher priced items where the portion size is harder to control and more specialised meat products sold per each. Consumers could ask meat sellers for information on a weight/price ratio for these products or could shop around for a meat seller that sells meat per kilogram. However, this would increase the transaction costs for these consumers.

Increases transaction costs:

As indicated in section 5.3, the restriction minimises transaction costs faced by consumers. If the restriction was removed, consumers would no longer be guaranteed of a standard basis for comparison between meat sellers. Some meat sellers may sell

at a price per kilogram and others at a price per each. This would increase transaction costs for consumers.

It was also indicated in section 5.3 that pricing per each represents a superadded stage to the basic per kilogram pricing. It requires further effort and calculation on the part of the meat sellers and in this sense may ultimately increase transaction costs associated with the sale and purchase of meats. Other transaction costs, which may increase, are marketing costs. As a result, there is the potential for consumers to incur excess costs through purchases. Therefore, the increased transaction costs would result in a small to moderate negative cost.

Removes the indication of value for money:

Consumers may find it more difficult to determine the value for money. The scoping study found that meat sellers consulted advised that the more expensive lines sell much more readily when priced per each. This is because consumers tend to avoid such products when the price per kilogram is known. The removal of the restriction will remove the transparency of pricing and consumers will find it more difficult to assess value for money. Section 5.3 identified that there is debate regarding whether the price per kilogram description provides an indication of value for money. Therefore, this would be a very small negative cost to consumers.

6.1.3 Impact on Government:

Consultation has indicated that the removal of this restriction from the trade measurement legislation is unlikely to reduce the cost of administering the legislation significantly. This is because trade measurement officers would still be required to administer other sections of the legislation and officers would continue to visit meat sellers to check trading practices.

6.1.4 Overall Impact of Moving to a Deregulated State:

Stakeholder	Description	Size	Direction
Meat Sellers	Potential increase in sales	small	positive
	Removes compliance costs	very small	positive

	Increases competition in Queensland	small	positive
	Increase transaction costs	very small	negative
	Removes equal trading platform	very small	negative
	Competitors may engage in deceptive practices	small	negative
Consumers	Advantage consumers who prefer to buy by 'each'	small	positive
	Increase range of meat products	small	positive
	Disadvantage consumers who prefer to buy '\$/kg'	small	negative
	Increase transaction costs	small to moderate	negative
	Removes the indication of value for money	very small	negative
Government	Removes administration and enforcement costs	very small	positive

The impact of moving to a deregulated state on meat sellers would be a very small positive impact. Consumers would face a small to moderate negative impact, while government would face a very small positive impact. Therefore, the overall result is a small negative impact to the community by moving to a deregulated state.

6.2 Modification to the Current Restriction

This alternative would involve modifying the current restriction through the review and clarification of the definition of meat. The Review Committee agreed that the underlying policy of the restriction is that it should apply to any meat seller selling meat for ordinary human consumption. In the current meat market, this would include poultry and fish and new meats such as kangaroo. It was also agreed that the restriction was only intended to apply to meat products that have not been substantially processed. This is because labour makes up a large component of the cost as well as other foods. For example, a beef stir fry would include non-meat

products such as vegetables and soy sauce. In these circumstances the weight of the product would include a substantial amount of non-meat ingredients.

Clarifying the definition of meat with regards to these two issues would mean that the restriction would more adequately meet the objectives of the legislation by creating more certainty for meat sellers.

The impacts of the restriction would be similar to the assessment in section 5.5. However the three negative impacts of innovation cost, inequity and reduction in the range of meat products would be removed.

6.2.1 Impact on Meat sellers:

Potential increase in sales:

The innovation cost would be removed because it would be clear for meat sellers that substantially processed products are not subject to the restriction. Therefore, meat sellers would be free to determine how such meat products could be priced. This may encourage more meat sellers to innovate, which could lead to increased sales of such products. This would result in a very small positive impact.

Equal playing field:

The inconsistency in enforcement in relation to poultry and fish sellers created in Queensland, Victoria and the Northern Territory would be removed. However, it appears that most basic poultry and fish products are already sold per kilogram. It will largely impact on poultry and fish products that are currently sold per each which are not substantially processed such as crumbed chicken, chicken rissoles and chicken mini roasts. The number of poultry and fish products marketed this way is small. Out of the 26 meat sellers consulted in Queensland, only 3 were selling crumbed chicken per each and 2 were selling mini roasts per each. The 26 meat sellers consulted were asked whether the extension of the restriction to poultry and fish would impact on their business. 22 meat sellers indicated that there would be no impact, one meat seller indicated that there might be a slight impact on value added products, one meat seller indicated that it would be easier if the restriction applied across the board and two meat sellers were unsure of the impact.

Lenard's Pty Ltd have indicated that extending the restriction to include poultry would have a devastating effect on their selling strategy, which is based on unit sales. For example, consumers are less likely to purchase a chicken kiev at \$13.99 per kilogram as compared to \$1.99 each. Lenard's Pty Ltd indicated that if all of their products are required to be sold by weight, it has the potential to destroy their business which comprise of 150 stores nationwide serving in excess of 9,000,000 customers involving total gross sales in excess of \$91,000,000 in the 1999/00 year. However, it is unlikely that all of Lenard's Pty Ltd products would have to be sold at a price per kilogram as a large proportion of their products would be classified as specialised meat products. Furthermore, Lenard's Pty Ltd is currently operating in other jurisdictions where the restriction applies to poultry.

Therefore, the application of the restriction to all meat sellers in Queensland, Victoria and the Northern Territory would result in a small negative impact on poultry and fish sellers.

6.2.2 Impact on Consumers:

Increased range of products:

Clarifying the definition with regards to specialised meat products may result in more meat sellers innovating. As a result, consumers may derive a small positive benefit by being provided with a greater range of specialised meat products.

Consumers in Queensland, Victoria and the Northern Territory:

In Queensland, Victoria and the Northern Territory, consumers would derive a small positive benefit of being guaranteed of a price per kilogram when they purchase meat, including fish and poultry. However, a small proportion of these consumers may prefer to purchase fish and poultry at a price per each. These consumers would face a small negative impact.

6.2.3 Impact on Government:

Government would derive a small benefit as the application of the restriction would be more readily ascertainable. This would be of assistance to trade measurement officers when enforcing the legislation.

There would also be a small cost to administering departments in educating the community on the restriction. Education is required to ensure that meat sellers are aware of the restriction and how it applies.

6.2.4 Overall Impact of Moving to the Alternative State:

The impacts in the table below of moving to the alternative state have been reproduced from section 5.5, however the impacts discussed in sections 6.2.1-6.2.3 have been included.

Stakeholder	Description	Size	Direction
Meat Sellers	Some Queensland, Victorian and Northern Territory meat sellers may have to change selling method	small	negative
	Potential increase in sales	very small	positive
	Compliance cost	very small	negative
	Equal playing field	very small	positive
	Minimises competitors engaging in deceptive practices	small	positive
	Minimises transaction costs	very small	positive
Consumers	Disadvantages consumers who prefer to buy by per each	Small	Negative
	Increased range of meat products	Small	positive
	Minimises transaction costs through information disclosure	Small to moderate	positive
	Indication of value for money	very small	positive
	Minimises deceptive practices	small	positive
	Advantages consumers who prefer to buy by '\$/kg'	small	positive

Government	Administration and enforcement cost	very small	negative
	Education cost	small	negative
	More certainty in enforcing	small	positive
	restriction		

The impact of moving to this alternative state on meat sellers, in all jurisdictions except Queensland, Victoria and the Northern Territory, would be a small positive impact. However, in Queensland, Victoria and the Northern Territory red meat sellers would face a small positive impact, while poultry and fish sellers would face a small negative impact. Consumers would face a moderate positive impact, while governments would face a very small negative impact. Therefore, the overall result is a moderate positive impact to the community of moving to this alternative state.

7. Consultation:

Consultation with affected groups was an integral part of the review process. During Stage 1 of the NCP review, the consultant carried out consultation by phone or face-to-face with more than 30 organisations in Australia and New Zealand. Table E.1 of the scoping study provides details of the organisations consulted.

In 2000 the Trade Measurement Advisory Committee (“TMAC”) consulted industry and consumer groups on a range of proposed changes to the trade measurement legislation. This consultation involved the release of an issues paper regarding the possible removal of the restriction on the sale of non-prepacked meat. The issues paper was forwarded to 283 stakeholders and the following two subsections provides a summary of the submissions received.

7.1 Industry:

A.J Bush & Sons Pty Ltd:

- Removal of the provision will level the playing field for the company as a meat retailer against its competitors who retail other foods and who are not constrained by the special provisions.
- There will be no adverse cost impact on the meat retailer nor will there be adverse cost impacts on the consumer. It may in fact encourage consumers to buy only the quantity needed for their meal requirement.
- The provisions are anti-competitive in that they encumber meat while other foods are free to market in ways that are more attractive and meaningful to today’s consumer.
- The impression given to customers by per kilogram pricing is that meat is an expensive item.
- The restriction has hindered industry attempts to reverse the dropping consumption per capita of meat throughout Australia. More meat is sold in pre-pack form where consumers are able to see the unit price of the article they are buying.

CML Supermarkets (Coles/Bi-Lo):

- Price per kilogram and product weight are the best guide to the consumer upon which they can make a judgement on value. Eliminating these options reduces the consumers' ability to make an effective decision at a time when the community in general, is looking for more information to make purchase decisions.
- Open sale per piece would increase the opportunity for the retailer to increase prices without the ability of the consumer to be aware of the increase. Price per kilogram would vary for the same product and vary per customer.
- Price per kilogram is the easiest method of identifying a retailer's competitive position and provides a practical limit on the ability to increase price. Lifting the restrictions would provide only real benefits to the retailer, the consumer would not gain any practical advantage.
- The question of quality is not in real terms effected by a decision either way and there is no perceived advantage to the retailer or consumer on the issue of quality.

Rocky Creek Abattoir Pty Ltd:

- Operate an abattoir, smallgoods factory, portion cutting, meat wholesaling and meat retailing.
- Restriction should be removed so that meat products and meat could be sold by piece (each) basis or selectively on both per piece basis and a price per kilogram basis.
- Fish, poultry, fruit and vegetables should also operate under the same system.

National Meat Association of Australia:

- Represents directly the interests of in excess of 2200 meat retailers across Australia.
- The special provisions for the sale of meat no longer accurately reflects the eating patterns, buying behaviour and product choice of today's consumer.
- Western Australia has not enacted the special provisions for the sale of meat in its legislation. There has been no suggestion that consumers in that State have been disadvantaged.
- Where the legislative provisions do exist there is anecdotal evidence that the law has been enforced with differing degrees of vigour.

- Many consumers have a fixed monetary amount they are able to spend on meal components. The current provisions prevent a customer from easily ascertaining the cost of a purchase and effectively do not allow customers to easily remain within their spending constraints.
- The requirement to price per kilogram places an impression in the minds of consumer that meat is more expensive than competitor foods which can be priced on a per each or per 100 gram basis. For example, pasta, chicken, fish, potato chips and chocolate.
- The retention of the restriction clearly places meat at a disadvantage to other food products. The disadvantage created by the restriction falls heaviest on independent meat retailers who specialise in selling of meat and meat products other than in pre-packed form.
- The current law cannot adequately handle the increasing move by consumers to value-added meat products and meal-ready meat cuts. Regulators have adopted a definition of what constitutes a value-added product. The definition is not widely understood by the trade. It also requires a subjective test to be applied by regulators and this can vary between regulators and States.
- There is no objective evidence that would suggest that current day meat retailers are any less reputable in their retailing practices than other food retailers. The level of competition that exists between the various meat retailing outlets ensures that any retailer engaging in less than reputable practices will pay the ultimate price of loss of business.
- The Association made a further submission on 7 February 2002 which reiterates the above earlier submission made by them and raised the following issues in relation to the sale of non-prepacked meat:
 - The meat industry is unable to comply with consumers' buying behaviour of purchasing meat cuts by the unit rather than the kilo
 - Competitors such as fruit and vegetable retailers and bakeries have an unfair advantage as they are able to offer products for sale by any method they desire;
 - Consumers can make a decision on the value of fruit, vegetable and meat products, even though the weight by product has large variances. Red meat has a consistent weight density across all species, making it easier for consumers to make an accurate judgment on the value of their purchase of

meat cuts. Fruit and vegetables have minimal weight density and it is normal practice that these products are sold by the unit, which disguises the price per kilo;

- Allowing supermarkets to highlight unit price by size and font with a minor display of the kilo price and weight component encourages unfair practice by supermarkets. The fact that supermarkets participate in this practice confirms the Association's research that consumers demand to know the unit price, not the price per kilo. Lower income earners who have a fixed amount of money should be given consideration, as kilo pricing does not allow them to make a decision on their ability to pay for their purchase, without the embarrassment of rejecting their purchase on completion of the transaction because of lack of money.
- Meat consumption, although still a major proportion of the Australian staple diet, has fallen from 95.2kg per capita to 73.0kg per capita.

W.W Wedderburn Pty Ltd:

- Leading supplier of weighing technology, label printing and technical services.
- Firmly committed to the fundamental and time-honoured principal that fresh and prepared food products should be sold on a price per kilogram basis.
- The fundamental concept of fair trading and commerce throughout history has been the great importance of the calculation of values by means of standard weights and measures, not by approximate estimations under the control of traders.
- Consumer can only form a judgement on the value of their purchase by referring to 'quality' and 'quantity'. Quality is a subjective judgement by the consumer, however quantity should be quite specific ie price per kilogram.
- It is difficult for a consumer to make a judgment on the quantity (weight) of a random weight item sold by the count or piece. This makes comparisons difficult for the consumer between offers of similar goods in different stores.
- Marking goods so that their price per kilogram and total price is shown provides consumers "informed choice" which is not available with sales based on count or piece.
- Should be sold by reference to price per kilogram for transparency, fairness and equity in the market place.

Lenard's Pty Ltd

- The various state trade measurement legislation needs to be reviewed in accordance with the current consumer trends.
- Consumers clearly support the sale of meat by unit. This is evidenced by Lenard's serving in excess of 9,000,000 consumers in Australia last year.
- Lenard's is not aware of any customer complaints regarding their selling strategy, the only complaints are from their competitors.
- Meat should not be treated any less favourably or differently as compared to other food groups such as bread, fish, fruit and vegetables.
- Due to the varying qualities of meat available in the market place as well as the varying bone/meat and fat/meat ratios in meat cuts, sale of meat by price per kilogram does not necessarily provide a consumer with a measure of value for money.
- Many consumers have a fixed monetary amount they wish to spend on a meal.
- The consumers' interests are in no way eroded by the sale of meat by unit.
- Consumers will ultimately determine where they will purchase their product.
- The removal of the restriction will encourage product innovation and diversification to the benefit of the consumer as well as to promote competition in the market place.
- If the restriction is maintained, a special exemption should be made in the legislation for uniform meat products in the terms of size, weight and quality.
- If the restriction is extended to include poultry, that would have a devastating effect on Lenard's as the selling strategy of the company is based on unit sales. For example, consumers are less likely to purchase a Chicken Kiev at \$13.99 per kilogram as compared to \$1.99 each. If all Lenard's products are required to be sold by weight, it has the potential to destroy our business which comprise 150 Lenard's stores nationwide serving in excess of 9,000,000 customers involving total gross sales in excess of \$91,000,000 in the 1999/00 year.

7.2 Consumers:

Logan City Consumers Association:

- The restriction does not hinder free and fair competition in the market place.

- Removing the restriction would remove the ability of the consumer to compare prices in a just way.
- The association has not received any complaints from consumers regarding the sale of meat by weight.
- As retail traders purchase from wholesalers by weight there is no justification for them charging retail consumers by the piece.
- If a consumer wishes to know the price of a particular piece of meat they can ask for it and then make the decision if they wish to purchase it.
- There is no justification for the removal of the section as meat sellers have the ability now to sell meat by the piece so long as the kilogram price is displayed.

Australian Consumers' Association:

- The association opposes the removal of the restriction as it would negatively impact on consumers, and would also undermine National Competition Policy Principles by promoting competition on unfair grounds.
- Sale of meat by weight ensures fair competition as it ensures a tangible basis on which to compare pricing.
- Price per piece does not provide such a comparison, hindering consumers ability to compare size and thickness of this staple food product which can not, for food safety concerns, be closely scrutinised by the consumer. Therefore, consumers' ability to ascertain the best value meat product would be hindered by the introduction of pricing per piece.
- Support retaining the restriction as:
 - there have been no complaints from consumers about buying meat by weight;
 - there have been no submissions from consumer organisations to repeal the section;
 - one organisation has recently initiated an inquiry into providing price per weight information on the shelf labels of supermarket general grocery lines;
 - lack of gradation and stipulation of piece sizing of meat products undermines comparisons of other graded and easily examinable staple food items such as apples and breads;
 - consumers are apt at buying meat on a weight basis and that food preparation and recipes are designed around weight measurements, not a "\$12 leg of lamb"; and

- price per piece may encourage prepackaging and wasteful sizings for consumers to buy.

Brisbane Consumer's Association:

- Removing the restriction poses a long term threat to the tradition of transparency in meat pricing.
- Pieces vary greatly in size and thickness and without the opportunity to handle the product, consumers will rarely be able to accurately judge relative value for money.
- Rather than changing the system for meat it may be appropriate to place requirements on fish and poultry retailers to display price per kilogram or to have weighing available on request.
- It would be much harder to compare prices between meat sellers, or to know whether the price is particularly cheap this week. The budget conscious would be particularly badly affected if the restriction was removed.
- This form of pricing is open to abuse by retailers, who will be tempted to hide price rises by simply making pieces smaller or thinner. Indeed over time it is possible that the standard serves or meat pieces will drop allowing increases in the average cost of meat. Transparency is the key issue here and in the absence of price per kilogram it will be very difficult for consumers to assess price and quality.
- It will be difficult for consumers to verify that the meat pieces actually bought are of the same size and quality as those on display, with consumers possibly feeling that they have been sold a smaller poorer product.
- The essence of a genuinely fair and smoothly functioning market place is for there to be transparency in pricing. Without clear pricing information the consumer is unable to exercise right to judge products for value. Where for health reasons the consumer is unable to handle the product it is essential that the price be displayed by the most transparent and comparable system possible. In the case of meat sales price per kilogram remains the fairest and simplest system.

Canberra Consumer Inc:

- Repealing the section would leave a wide-open loophole for merchants to introduce other than the level playing field thereby denying the consumer value for money.

The Review Committee has conducted further targeted consultation with the organisations listed above and with other industry and consumer organisations and various Australian and overseas government departments. A list of organisations consulted is detailed in the table below.

Organisation	Region	Representative	Position
W.W. Wedderburn Pty Ltd	New South Wales	Bill Wedderburn	Chairman
Australian Pensioners' and Superannuants' League	National	Yvonne Zardarni	Secretary
National Meat Association of Australia	National	John Coles	Member Services Manager
Canberra Consumers Inc	Australian Capital Territory	Vrlehrer	Acting Chairman
Lenard's Pty Ltd	National		Legal Counsel
Brisbane Consumers' Association	Queensland	Fiona Guthrie	
Australian Consumers' Association	National	Janet Angel	
Logan City Consumers Association	Queensland	Rebecca Smith	Senior Policy Officer
CML Supermarkets	National	Cherie Dalley	Secretary
Consumers' Federation of Australia	National	Graham Clark	National Manager Compliance & Regulatory Affairs
A.J. Bush & Sons Pty Ltd	New South Wales	David Tenant	President
Rocky Creek Abattoir Pty Ltd	Queensland	Norman Bush	Director
Ministry of Fair Trading	Western Australian	Victor Byrnes	Managing Director
Ministry of Consumer Affairs	New Zealand	Nick Roberts	
Department of Trade and Industry	United Kingdom	Mary Waller	Senior Advisor, Trade Measurement
Four Bee Meats Wholesaler	ACT	David Evans	Manager

The Review Committee also conducted direct consultation with meat sellers to determine the impact of the restriction on their business. A total of 46 meat sellers were consulted during the review. 26 meat sellers were consulted in Queensland to determine the impacts generally, as well as the potential impact of extending the restriction to poultry and fish. 20 meat sellers were consulted from the remaining jurisdictions. The meat sellers were chosen randomly and represent a mix of regional and rural businesses. Points of discussion were:

- Do you consider that the restriction to sell at a price per kilogram is a minor or major restriction on the way you conduct business?
- Do you feel that the restriction imposes any costs on your business or disadvantages your business in any way?
- Do you feel that the restriction generates any benefits for your business?
- Do you feel that the restriction impacts on your customers in any way?
- If the restriction was removed, would you change your selling practices? If yes, in what way and why?
- If wholesalers sold some meat products per each would this impact on your business?
- Queensland meat sellers only – do you currently sell any fish or poultry products? If so, please identify whether they are sold at a price per kilogram or per each.
- Queensland meat sellers only – if fish or poultry was required to be sold at a price per kilogram like red meat, how would this impact on your business?

8. Recommendation/s:

The conclusion of the PBT is that there is justification to continue regulating the sale of non-prepacked meat as the potential benefits to the wider community outweigh the identified costs of restriction. The overall assessment is that the restriction generates a small net benefit to the community.

Two viable alternatives to the current restriction were identified. The first was to remove the restriction on the sale of non-prepacked meat. It was found that moving to a deregulated state would result in an overall small negative impact to the community. The greatest impact would be felt on consumers who would face a small to moderate negative impact of moving to the alternative state.

A second alternative was to modify the restriction by clarifying the definition of meat to remove current uncertainties. These uncertainties surround whether fish and poultry are included in the definition and when processed meat ceases to be meat for the purposes of the restriction. Clarifying the definition of meat would mean that the restriction would more adequately meet the objectives of the legislation by creating more certainty for meat sellers.

It was found that meat sellers, in all jurisdictions except Queensland Victoria and the Northern Territory, would derive a small positive impact from the clarification of the definition of meat. In Queensland, Victoria and the Northern Territory, red meat sellers would derive a small positive impact, while poultry and fish sellers would face a small negative impact. It is unlikely that this would negative impact on employment. Consumers would derive a moderate positive impact, while governments would face a very small negative impact. Overall, there would be a moderate positive impact to the community in moving to this alterative state.

Therefore, the Review Committee recommends that the definition of meat be reviewed to:

1. Determine whether the definition of meat should expressly include fish and poultry; and

2. The definition of meat be clarified as to when specialised meat products cease to be meat for the purposes of the restriction.

In reviewing the definition of meat, the Review Committee further recommends that the Queensland Office of Fair Trading commence review within 18 months and that TMAC be involved in the review and decision-making process.

In clarifying the definitions to increase certainty for meat sellers, care will be need to be taken to ensure that any changes do not unnecessarily inhibit product innovation.