

WESTERN AUSTRALIAN BROILER GROWER ASSOCIATION (WABGA)

ECONOMIC REGULATION AUTHORITY -
WESTERN AUSTRALIAN

**RESPONSES TO DRAFT REPORT BY:
ECONOMIC REGULATION AUTHORITY**

September 2010

Prepared By:
L. S. Brajkovich
On behalf of the
Western Australian Broiler
Grower Association

Responses to Economic Regulation Authority Draft Report on the Inquiry into the Chicken Meat Industry Act 1977

The WABGA, acknowledges the Economic Regulation Authority's Draft Report , (Inquiry into the Chicken Meat Industry Act 1977, 4 August 2010) as a comprehensive and accurate representation of the complexities inherent in assessing the effectiveness of the Chicken Meat Industry Act.

The Draft Findings and Recommendations identify 10 numbered points in the Executive Summary. The WABGA takes this opportunity to further comment against these positions.

Item No.	Reference to ERA's Draft Report	Response from Western Australian Broiler Growers Association (WABGA)
1.	<p>The factors that shape the chicken meat industry in Western Australia are similar to those in other states.</p> <ul style="list-style-type: none"> • The processing sector is dominated by a small number of large processors, who have integrated control over most stages of chicken meat production, apart from the growing of broiler chicks, which is contracted out to individual broiler growers. • In negotiating contracts, growers are in a weaker bargaining position than processors, due to the limited opportunity of growers to provide growing services to other processors, and the growers' significant investments in capital assets specific to chicken growing. 	The WABGA fully concur.
2.	In the absence of regulation, it is likely that growers would be offered standard form contracts by processors and that growers would have little input into their contract terms and conditions. This could result in returns to growers that are below what they would be if there was a competitive market for growing services.	In the area of contracts it would be claimed by the growers that the only purpose that they serve is to show financial institutions that we have continuity for the utilisation of our facilities. They serve little or no guarantee of meaningful price negotiation or dispute resolution and like all previous contracts are seldom, referred to. For the record, only two farms have had their contracts terminated. This was with the full sanction of the WABGA as the farms, in the first instance, could have been sold with a contract in place. Therefore, termination was solely based on poor management relating to inefficiency, and non compliance with husbandry practices that reflected poorly on our industry.
3.	In principle, regulation could improve the bargaining position of growers in the negotiation and execution of their contracts with their	Unless the regulations that are now in place, specifically the gazettal of a notional fee based upon a genuine model ,derived

Item No.	Reference to ERA's Draft Report	Response from Western Australian Broiler Growers Association (WABGA)
	processors. This would result in a transfer of welfare from processors to growers.	from an audited survey, are retained. The contracts are basically irrelevant.
4.	<p>It is unclear how regulation could improve aggregate social welfare by increasing output by the growing sector, as output is determined by consumer demand. However, regulation could improve net social welfare by:</p> <ul style="list-style-type: none"> • reducing the transaction costs and the costs of disputes and arbitration associated with grower contracts; and • helping to overcome any potential hold-up problems in investment by growers and encouraging an optimal level of investment. 	Conquer 100% with the analogy.
5.	<p>It is possible that the benefits of the average price regime in the Chicken Meat Industry Act 1977 may outweigh the costs.</p> <ul style="list-style-type: none"> • The extent to which the average price regime may result in higher growing costs and therefore higher chicken meat prices to consumers than would be achieved under a competitive market for growing services is likely to be minimal, because: <ul style="list-style-type: none"> – the cost of production model used to set the average growing fee appears to be based on efficient production costs, and the model inputs can be scrutinised by both processors and growers; – the rate of return on capital used in the model appears low; – growers' fees can be further adjusted by processors to reflect growers' productivities and market factors, and average fees paid to growers are below the average price; – growers are free to enter into individual contracts with processors; Economic Regulation Authority vi Inquiry into the Chicken Meat Industry Act 1977: Draft Report 	Again, fully conquer.

Item No.	Reference to ERA's Draft Report	Response from Western Australian Broiler Growers Association (WABGA)
	<ul style="list-style-type: none"> - countervailing power in the retail sector limits the extent to which any increases in growing fees can be passed on to consumers; - the growing fee is a small proportion of the costs of producing chicken meat; - the administration costs associated with the Act are minimal; and - any differences in productivity between the grower groups can be reflected in payments to growers through the incentive payment mechanisms in the contracts. • Setting an average fee on the basis of the costs of an efficient notional production model: <ul style="list-style-type: none"> - allows growers to have greater input into the terms and conditions of their contracts and improves the balance of bargaining power between growers and processors; - appears to reduce the costs of arbitration, dispute resolution and other transactions involved in negotiating contracts; and - improves cost transparency in the industry, which can potentially enhance efficiency. 	
6.	<p>The Authority will be further examining any possible efficiency impacts from setting a notional price and the impacts of the legislation on productivity growth in the industry.</p>	<p>Production is driven by the consumer who after all, is the final arbitrator on market share and consumer demand, such as free range with an increased emphasis on welfare and environmental management, hence a major change in relation to the previous edict by Processors that all future shedding shall be tunnel. Processors have consciously reduced densities on all farms in adopting these measures with the knowledge that this would impacting on overall productivity, thus increasing the final price to consumer.</p>
7.	<p>The benefits of prescribed form agreements established under the Chicken Meat Industry Act 1977 are likely to outweigh the costs, as they can help to ensure that minimum terms and conditions for</p>	<p>Again fully conquer.</p>

Item No.	Reference to ERA's Draft Report	Response from Western Australian Broiler Growers Association (WABGA)
	growing contracts are met.	
8.	<p>The Chicken Meat Industry Act (Participation in Growth Expansion) Regulations 1978 should be repealed, as the costs of these regulations are likely to outweigh the benefits.</p> <ul style="list-style-type: none"> • These regulations restrict entry into the growing sector and the manner of expansion of existing growers. This can reduce competition in the growing sector and hinder the rate of innovation and efficiency improvement in the industry. 	<p>Conquer, as this regulation has served the purpose in ensuring that one of the most effective and efficient models in relation to size in Australia is WA. Amazingly again, super farms ie 300.000 birds plus are the order of the day. Without this regulation uniform growth that has occurred would not have been possible.</p> <p>We point out that a vast amount of capital has been spent by the Growers on new facilities. On the other side of the ledger, the Processors have spent very little, no new processing plant, no new hatcheries (the oldest being 30years plus and the other major hatchery 15years plus) no new feed mills.</p> <p>It should be also noted that at no time, do any contract growers ever own the birds, the ownership is always retained by the processor.</p>
9.	<p>There are protections available under the Trade Practices Act 1974 to participants in the chicken meat industry in Western Australia. However, the costs of arbitration and dispute resolution under authorised collective bargaining are likely to be higher than under the current state legislation. The Authority will be further examining the extent of these costs in different jurisdictions.</p>	<p>Conquer. One need only look at the vast amount of monies spent on arbitration in VIC NSW and Qld, to support theses findings. However the notion that collective bargaining under authorisation and exemption via the ACCC in the Area of the growing fee as been successful is a fallacy as nothing could be further from the truth as all states finish up inevitably at arbitration.</p>
10.	<p>The effectiveness of the Act in achieving its objectives would also need to be considered to determine whether the Act should be amended (for example, to better encourage productivity growth, or to improve the balance of bargaining positions between growers and processors).</p>	<p>Productivity growth is purely market opportunity which in the first instance is related to the ability to increase the size of the processing plant. The example being, as already alluded to by the processors that in South Australia. Where 1 million bird plus processing plants are operated by single processors. To suggest that WA, whose total processing capacity, of all processors is well under this capacity are in a position to increase productivity is highly unlikely. Hence the growers are at the bottom of the chain with little or no opportunity to affect the outcome with respect to market growth.</p>

The authority made the notation that it would appear that the labour costs in the model seemed relatively high. Therefore we have included the following graphs which show that the total labour costs per bird produced in Western Australia is one of the lowest in the Nation. This could be put down to the fact that the model relative to the number of birds produced is one of the highest in Australia. A simple analogy would be comparing the wages of a A380 Airbus Captain and that of a Fokker F27 Captain.

