



PricewaterhouseCoopers Building  
Level 13, 113-119 The Terrace  
PO Box 345, Wellington 6001  
New Zealand  
Telephone: (0064) (4) 473 6465  
Facsimile: (0064) (4) 473 1731  
Email: [info@mia.co.nz](mailto:info@mia.co.nz)  
Website: [www.mia.co.nz](http://www.mia.co.nz)

# Meat Industry Association of New Zealand (Inc)

Submission to the Commerce  
Select Committee on

Regulatory Responsibility Bill

10 August 2007

**Meat Industry Association Submission on the Regulatory Responsibility Bill**

**Contents**

I: About the Meat Industry Association ..... 2

II: General Comments..... 2

III: Clarification of Public Interest..... 4

IV: Issues of Practical Implementation ..... 4

V: Proposed Amendments to the Bill..... 5

VI: Concluding Remarks ..... 5

Appendix 1: Association Members and Affiliate Members as at 1 July 2007 ..... 6

## **I: About the Meat Industry Association**

1. The Meat Industry Association of New Zealand Incorporated ('MIA') is a voluntary trade association representing New Zealand meat processors, marketers and exporters. It is an Incorporated Society (owned by members) that represents companies supplying virtually all of New Zealand sheepmeat exports and all beef exports, producing 15 per cent of our nation's exports by value (29 percent of New Zealand's primary sector export revenue). The New Zealand meat industry earned \$5.4 billion in export revenue in the year ended May 2007 and \$1.1 billion from domestic meat sales in the year ended September 2006.
2. MIA member companies operate approximately 80 processing plants dispersed throughout the country. The plants slaughter and process approximately 24 million lambs, 4.4 million sheep and 4.2 million cattle and calves each year. Ninety percent of this production is processed into value-added products. Approximately 840,000 tonnes or 85% of the production is exported to overseas destinations. Our affiliate members add to the depth of expertise available from the membership, with representation throughout the meat supply chain, including road and rail transport, shipping lines, ports, packaging firms, specialist product exporters, research and technology.
3. The Association advocates on behalf of its members and provides advice on economic, trade policy, market access, employment relations, business compliance costs and technical and regulatory issues facing the industry, with a particular focus on:
  - Food safety trends and developments in importing countries
  - Economic and trade aspects of market access to key overseas markets
  - Major public policy proposals that could impact on industry operations
4. The MIA is also the interface between the meat industry and government (i.e., it is the consultative body referred to in various New Zealand statutes, such as the Meat Board Act 2004, Meat Act 1981 and the Animal Products Act 1999).
5. The Association's mission is to:
  - Provide a forum for consideration of industry-wide commercial, human resource, marketing, and sanitary and zoosanitary issues; and
  - Provide the means of formulating a collective view on issues of industry wide interest, and of conveying that position to government, departments of state, trade bodies, and other appropriate external agencies and organisations.
6. A list of Association members is attached as Appendix 1.

## **II: General Comments**

7. The MIA supports the intention of the Regulatory Responsibility Bill ('the Bill') in its aims to define principles of responsible regulatory management and to ensure Government compliance with those principles. The meat industry is highly competitive and generally produces relatively tight profit margins. As such, minimising the regulatory compliance outgoings incurred when ensuring compliance with legislation, regulations, and policy decisions is crucial to the industry's ongoing success.

8. We consider there is a need for more robust assessment of proposed policy initiatives to ensure that the total cost of any policy decision on New Zealand businesses is an objectively justifiable means to a desirable end. Over the past couple of years, reducing the administrative burden of regulation has attracted a good deal of attention, but work to date has largely focussed on minimising 'form-filling' obligations. While such work has been welcomed, we note that significant reductions to the costs faced by New Zealand businesses are more likely to be achieved through more thorough review and scrutiny of the costs and benefits of existing and proposed legislative policy.
9. As an illustration of the significance of this, the Holidays Act 2003 introduced the principle of 'relevant daily pay' – which has meant that workers taking, for example, sick leave were no longer paid an agreed rate, but were entitled to receive the productivity bonuses etc. that they would have received had they worked that day.
10. For a large proportion of New Zealander's (e.g., salaried and/or '9-to-5, Monday to Friday' workers), the introduction of 'relevant daily pay' made little change in terms of the burden on employers. However, the quantifiable direct cost of this one legislative change to the meat industry was \$32 million<sup>1</sup> over the first two years under the new Holidays Act – and this excludes the unquantifiable cost in terms of productivity etc. arising due to dramatic increases in absenteeism.
11. To put this cost in context, the entire profit for the industry trends at between 1% and 3% of turnover (or between \$50 million and \$150 million).
12. We contend that New Zealand cannot afford to continue making such decisions (or refuse to re-consider such decisions) without taking the time to develop a full appreciation of both the cost implications of the action and, perhaps more importantly, the extent to which that action will realistically contribute to a desirable policy gain. In our view, the Bill would go some way towards addressing this.
13. Our major reservation regarding the Bill is an indirect one. Both the principles of responsible regulatory management and the requirements around statements of conformance with those principles are lengthy and fairly prescriptive. This has some advantages, as it helps to ensure a level of consistency in the application of the principles. It also serves to ensure that regulation is not an easy option and really brings the issue of whether legislation or regulation is desirable to the fore.
14. We predict, however, that the level of prescription is such that the Bill is likely to be simplified significantly if it is to proceed through the entire Parliamentary process. The simplification of the Bill is our major concern, though. Rather, we are concerned with ensuring that what we see as the key principles underlying the Bill are not lost as a result of this. In our view, these key principles are:
  - Demanding genuine assessment of the need for regulation, and of the alternative options for achieving the desired outcome;
  - Ensuring that far greater emphasis is placed on identifying potential 'unintended consequences' before proposing legislation/regulation;

---

<sup>1</sup> Meat Industry Association Holidays Act Surveys – 2005 and 2006

- Ensuring that the benefits of existing legislation/regulation are continually tested against any negative consequences – intended or otherwise;
  - Compensation for persons whose individual interests are sacrificed to the wider public interest; and
  - Transparency and accountability in all of the above.
15. In his speech on the first reading of the Bill, its proponent, Rodney Hide, acknowledged that the Bill is a starting point and that it is likely to require amendment if it is to achieve the cross-party support that is necessary for the Bill to pass into law. We submit that care needs to be taken with such amendments to ensure the key principles set out above are not diminished.

### **III: Clarification of Public Interest**

16. Moving to a few more specific comments on the drafting of the Bill, the definition of ‘essential public interest’ in clause 4 of the Bill is vague and open to interpretation. ‘Essential public interest’ is defined as meaning ‘if the action is not taken, there would be a major reduction in the public interest’. Exactly what constitutes a ‘major reduction’ would potentially vary among decision-makers – particularly given that clause 11 of the Bill proposes to exempt decisions made under the Bill from the judicial review process.
17. We also question whether the definition of ‘public interest’ in clause 4 of the Bill is appropriate. Our reading of the definition is that the ‘public interest’ essentially equates to productive efficiency. We support the idea that promoting productive efficiency is a dominant goal that should centrally underpin the setting of the regulatory environment. We can accept, however, that the public interest is also served through achieving social outcomes, and that such outcomes will not necessarily complement the pursuit of productive efficiency.
18. Rather than ignore social outcomes as a part of the public interest, we see that the real issue is ensuring that the cost of social objectives are closely and robustly scrutinised so that the extent to which they affect productive efficiency can be assessed. Decision-makers seeking to embed a social objective must openly and transparently justify the extent to which the benefits of that objective override their impact on productive efficiency, and we see that the Bill would achieve this without needing to limit the public interest solely to matters of productive efficiency.

### **IV: Issues of Practical Implementation**

19. Clause 6(2)(e) refers to ‘full compensation for persons whose property is taken or other rights under common law are impaired’, and raises a number of issues that should be addressed in the Bill, notably:
- Clause 6(2)(e)(v) refers to the net benefits of a ‘forced exchange’ being shared proportionately among the parties to the exchange. We see that there is some logic to this principle as it aims to promote equitable dealing among those whose property or rights are impacted, and those that benefit from the impacts. We anticipate the principle could create difficulties where net benefits are ongoing, rather than being limited to a single transaction, however.

- How would the impairment of common law rights be measured for the purposes of compensation?
- Clause 6(2)(e) is concerned with the 'taking' of rights without consent, but there is plenty of scope for interpretation around when consent is given. A party elected on a particularly policy platform may argue that this is consent, for example. An alternative interpretation would frame the question in terms of the consent of affected individuals themselves – but this creates potentially greater difficulties that could hamstring effective government.

## V: Proposed Amendments to the Bill

20. The MIA is concerned with the implications of clause 11, which stipulates that 'an act or regulation, a statement, decision or any other action of the Government, a Minister, an agency, an official, or any other person under this Act, ... must not be questioned, reviewed, or restrained by or on an application for judicial review or any other process or proceeding in court'.
21. The Association notes that judicial review is a necessary tool for upholding the accountability and transparency of official decision-making, and we are therefore concerned at the breadth of the proposed exemption from judicial review.

## VI: Concluding Remarks

22. The MIA wishes to express once again its support for the general purposes of the Bill in encouraging responsible regulatory management and reduction of compliance costs imposed on businesses associated with government legislation, regulation, and policy. We recommend that the Bill proceed.
23. The MIA does not wish to present oral submissions.
24. For any queries relating to this submission, please contact Dave Harrison (DDI: 04 495 8371 or email: [dave.harrison@mia.co.nz](mailto:dave.harrison@mia.co.nz)) in the first instance.

Meat Industry Association of New Zealand (Inc)  
10 August 2007

## Appendix 1: Association Members and Affiliate Members as at 1 July 2007

<b>Members</b>
Advance Marketing Ltd
AFFCO New Zealand Ltd
Alliance Group Ltd
ANZCO Foods Ltd
ANZCO Green Island Ltd (ANZCO group)
ANZPAC Foods Ltd
APJ Meats Ltd
Auckland Meat Processors Ltd
Ballande New Zealand Ltd
Bernard Matthews New Zealand Ltd
Blue Sky Meats (NZ) Ltd
<i>Brookland (NZ) Ltd (in receivership)</i>
Canterbury Meat Packers Ltd (ANZCO group)
Columbia Exports Ltd
Crown Marketing Ltd (ANZCO group)
Crusader Meats New Zealand Ltd
Davmet New Zealand Ltd
Fern Ridge Ltd
Frasertown Meat Company Ltd
Garra International Ltd
Greenlea Premier Meats Ltd
Harrier Exports Ltd
Horizon Meats New Zealand Ltd (wholly owned subsidiary of Blue Sky Meats (NZ) Ltd)
Lamb Packers Feilding Ltd (wholly owned subsidiary of Bernard Matthews NZ Ltd)
Land Meat (NZ) Ltd (AFFCO group)
Lanexco Ltd
Lowe Corporation Ltd
Mathias International (Mathias Meats NZ Ltd)
New Zealand By-Products
Pilot (NZ) Ltd
PPCS Ltd
Progressive Gisborne Ltd (wholly owned subsidiary of Bernard Matthews NZ Ltd)
Progressive Meats Ltd
Riverlands Ltd (ANZCO group)
South Pacific Meats Ltd
South Pacific Meats - Malvern (AFFCO Group)
Tara Exports Ltd
Taylor Preston Ltd
Te Kuiti Meat Processors Ltd
Towers Thompson (New Zealand) Ltd
Universal Beef Packers Ltd (UBP)
Wallace Corporation Ltd

<b>Affiliate Members</b>
AgResearch-MIRINZ Centre
Aon New Zealand Limited
Axis Intermodal (Ports of Auckland Ltd)
CentrePort Wellington
Energy for Industry (ex Meridian Solutions)
Hamburg-Sud New Zealand Ltd
Hapag Lloyd (New Zealand) Ltd
Maersk New Zealand Ltd
Millers Mechanical NZ Ltd
Oceanic Navigation Ltd
Port of Napier
Port Otago Ltd
Port Taranaki Ltd (previously Westgate Transport Ltd)
ProAnd Ltd (Meatek Ltd)
Sealed Air (New Zealand), Cryovac Division
Thompson Clarke Shipping Pty Ltd (ANZ Marketing Representative for the Port of Los Angeles)
Vero Marine Insurance