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## B Approach to gathering information

As outlined in chapter 4, the Commission drew on submissions, as well as consultation with business, regulators and other stakeholders, to identify those differences in food safety regulation that warranted benchmarking. This appendix details the approach the Commission took to obtaining the data to facilitate that benchmarking.

### Gathering information for benchmarking

The Commission sought to minimise the burdens placed on government departments/agencies and businesses through requests for information by using existing data sources wherever possible. In particular, the Commission made use of:

- data from the Australian Bureau of Statistics, OzFoodNet<sup>1</sup> and Seafood Services Australia<sup>2</sup>
- studies and reviews completed by Food Standards Australia New Zealand (FSANZ), the New Zealand Food Safety Authority (NZFSA) and the Victorian Competition and Efficiency Commission (VCEC)
- other studies into food safety regulation and submissions to the Bethwaite Review (where they were publicly available)
- annual reports, regulatory impact statements and regulation assessment reports prepared by the food safety regulators listed in table B.1 and FSANZ
- the *Comparison of Food Acts in Australia with the Model Food Bill* paper prepared by Cormorant Technical Services Pty Ltd (Theobald 2007).

While these sources provided valuable information for the study, the specific areas of food safety regulation selected for benchmarking required additional and, in

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<sup>1</sup> The Australian Government's Department of Health and Ageing established OzFoodNet in 2000 as a collaborative initiative with Australia's State and Territory health authorities to provide a better understanding of the causes and incidence of foodborne disease in the community and to provide an evidence base for policy formulation (OzFoodNet 2008).

<sup>2</sup> In November 2008, Seafood Services Australia undertook a survey of its members in relation to the costs of food regulation. Further details of the survey are provided below.

some cases, more current information. As a result, the Commission sought additional information via:

- a survey of food safety regulators across Australia and New Zealand (including local councils and territorial authorities)
- the engagement of a consultant to provide detailed information on the key areas of difference and similarity in the regulation of primary production and processing activities
- information provided by a leading Australian retailer
- a questionnaire for completion by the Meals on Wheels branches in each Australian state and territory.

**Table B.1 Regulators survey — national and state/territory regulators**

NZ	New Zealand Food Safety Authority
NSW	NSW Food Authority
Vic <sup>a</sup>	Department of Health PrimeSafe Dairy Food Safety Victoria
Qld	Queensland Health Safe Food Production Queensland
SA	Department of Health Primary Industries and Resources South Australia Dairy Authority of South Australia
WA	Department of Health
Tas	Department of Health and Human Services Department of Primary Industries, Parks, Water and Environment Tasmanian Dairy Industry Authority
NT	Department of Health and Families Department of Regional Development, Primary Industry, Fisheries and Resources
ACT	ACT Health

<sup>a</sup> Responsibility for food safety regulation passed to the newly created Department of Health from the Department of Human Services (Food Safety Unit) in August 2009.

## Information from regulators

As regulators are the primary interface between businesses and the regulations, the way in which regulators approach their administration and enforcement responsibilities can significantly affect the compliance costs of business. As such, food safety regulators are an obvious source of data on the regulatory frameworks they administer and enforce. They should have a detailed knowledge of the regulatory requirements, how those requirements are enforced and how the regulation is administered. To access this data the Commission developed two surveys — one to be completed by national and state/territory regulators (table B.1)

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and the other by local councils in Australia and territorial authorities in New Zealand (collectively, 'local councils').

### *Survey development*

The surveys were based on those used in the Commission's previous benchmarking reports (PC 2008c and PC 2008d), but were refined to better target specific aspects of food safety regulation (as applicable to the different classes of regulator). The surveys were further refined following four pilot surveys completed during June and July 2009. The feedback from these pilot surveys alerted the Commission to aspects of the surveys where it could better target the questions and where the questions were ambiguous. Having addressed the issues raised in the pilot surveys, the amended surveys were distributed to all relevant regulators for completion during July and August 2009.

### *The distribution and return of surveys*

The surveys of the national and state/territory regulators were distributed directly to the Chief Executive (or equivalent) of the respective regulators. Once completed, the surveys were returned directly to the Commission.

The local council surveys were distributed to the individual Australian local councils through the local government associations in each of the Australian states, except New South Wales. In New South Wales and New Zealand, the surveys were distributed through the NSW Food Authority (NSWFA) and NZFSA, respectively (given the relationship these two regulators have with the local councils/territorial authorities in their respective jurisdictions in relation to food safety regulation). The majority of the completed surveys were returned directly to the Commission.

The Commission followed up all national and state/territory regulators to ensure a response was received from each regulator. The Commission also followed up on local council/territorial authority surveys for those jurisdictions with relatively low response rates or where the returned surveys did not represent a good mix of rural and urban councils. The final response rates for the local council surveys are shown in table 7.1 (chapter 7).

### *Data from the surveys*

Data for both 2007-08 and 2008-09 was sought in the surveys. Tables B.2 (national and state/territory regulators) and B.3 (local councils) detail the questions asked in the surveys. The data collected from the surveys is reported in chapters 7–14, along

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with any caveats applicable to the data and its interpretation. In particular, the tables and figures indicated in tables B.2 and B.3 show where the survey responses have been used to compare regulators in chapters 7 and 8.

**Table B.2 Food safety regulation survey (2008-09) — national and state/territory regulators**

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*Survey question*

*Table /  
figure number*

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**PART 1 — Regulator characteristics**

1. Regulator name
  2. State/Territory
  - 3a. How many of the following regulatory instruments was your agency responsible for administering in 2007-08 and 2008-09?
    - Acts
    - Regulations
    - Standards
    - Codes of practice
    - Guidance notes
    - Other
  - 3b. During 2007-08 and 2008-09, were there any acts/regulations administered jointly with another agency? If yes, please provide details.
  4. As at 30 June 2008 and 2009, how many food businesses were licensed or registered by your agency? Table 8.2
  - 5a. As at 30 June 2008 and 2009, how many food businesses in each of the following categories were licensed or registered by your agency?
    - Butchers
    - Food retail & service
    - Smallgoods manufacturers
    - Egg producers
    - Poultry processors
    - Seafood
    - Shellfish processors
    - Other food processors
    - Abattoirs
    - Beef cattle farms
    - Meat transport
    - Dairy farms
    - Dairy processors
    - Dairy transport
    - Export
    - Import
    - Other (please specify)
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**Table B.2 (continued)**

<i>Survey question</i>	<i>Table / figure number</i>
5b. Was regulatory responsibility for any of the activities listed in Question 5a delegated to local governments during 2007-08 and 2008-09? If yes, please list the delegated activities ?	
6. What was your agency's total income (appropriation and other income) for food related activities in 2007-08 and 2008-09?	Tables 8.4 and 8.15
7. What was the total value of each category of fees collected from food businesses by your agency in 2007-08 and 2008-09?	Tables 8.2, 8.4 and 8.15
<ul style="list-style-type: none"> <li>• Licence</li> <li>• Registration</li> <li>• Administration</li> <li>• Inspection</li> <li>• Audit</li> <li>• Accreditation</li> <li>• Other (specify)</li> </ul>	
8a. What was the total value of fines imposed on food businesses (for regulatory compliance breaches) by your agency in 2007-08 and 2008-09?	Tables 8.4 and 8.15
8b. How many food businesses were fined (for regulatory compliance breaches) by your agency in 2007-08 and 2008-09?	Table 8.14
9a. What was the agency's total expenditure on food safety activities in 2007-08 and 2008-09?	Table 8.2
9b. What was the agency's total expenditure in 2007-08 and 2008-09?	
10. How many full-time equivalent staff (including permanent and casual staff) with food safety related responsibilities were directly employed by your agency as at 30 June?	Table 8.2
11. What minimum qualifications are required of staff employed as food safety inspectors/auditors/accreditors?	Table 8.12
<ul style="list-style-type: none"> <li>• Bachelor of Science (Environmental Health)</li> <li>• Bachelor of Science (Food Science)</li> <li>• Bachelor of Science (Veterinary Science)</li> <li>• General degree</li> <li>• Graduate Diploma</li> <li>• Other (specify)</li> </ul>	
12. What is the average annual salary (including allowances and overtime) of staff employed as food inspectors/auditors/accreditors?	Table 8.12
13. What is the average annual starting salary (including allowances and overtime) of food inspectors/auditors/accreditors?	Table 8.12
14. What was the staff turnover rate for food safety inspection/audit/accreditation staff in 2007-2008 and 2008-09?	Table 8.12
15. As at 30 June 2008 and 2009, how many food safety inspection/audit/accreditation staff had:	Table 8.12
<ul style="list-style-type: none"> <li>i) less than 3 years of relevant regulatory or food industry experience</li> <li>ii) more than 3 years, but less than 10 years of relevant regulatory or food industry experience</li> <li>iii) more than 10 years relevant regulatory or food industry experience</li> </ul>	
16. On average, how many hours of specific food safety professional development (internal or external) was provided to food safety inspection/audit/accreditation staff in 2007-08 and 2008-09?	Section 8.4 (text)

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**Table B.2 (continued)**

<i>Survey question</i>	<i>Table / figure number</i>
17a. Were any food safety related activities contracted out (eg. audits) during 2007-2008 and 2008-09?	
17b. If so, what was the value of contracted expenditure for food safety related activities in 2007-2008 and 2008-09?	
17c. Did your agency recognise private or third-party inspection/audit/testing systems in 2007-2008 and 2008-09?	
18. For those staff with food safety responsibilities, what percentage of their time was devoted to the following activities?	Table 8.6
<ul style="list-style-type: none"> <li>• Licensing</li> <li>• Registration</li> <li>• Accreditation</li> <li>• Audits (exports)</li> <li>• Audits (other)</li> <li>• Inspections</li> <li>• Education/Advice</li> <li>• Sampling/Testing</li> <li>• Recalls</li> <li>• Complaints</li> <li>• Investigations</li> <li>• Labelling requirements</li> <li>• Other</li> </ul>	
<b>PART 2 — Regulatory agency activity</b>	
19a. In practice, does your agency consider that it is currently able to fully enforce all food safety regulation it is responsible for?	Table 8.3
19b. Please indicate with an X the importance [low/ medium/ high] of the following constraints on your agency's current ability to enforce food safety legislation?	Table 8.3
<ul style="list-style-type: none"> <li>• Budgetary limits</li> <li>• Insufficient availability of food safety staff</li> <li>• Regulations difficult to interpret/enforce</li> <li>• Regulatory responsibilities unclear</li> <li>• Limited enforcement powers</li> <li>• Other reasons (please specify)</li> </ul>	

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**Table B.2 (continued)**

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<i>Survey question</i>	<i>Table / figure number</i>
19c. Please indicate with an X the priority [low/ medium/ high] given to the following activities when resources for food safety regulation are allocated? <ul style="list-style-type: none"><li>• Licensing</li><li>• Registration</li><li>• Accreditation</li><li>• Audits</li><li>• Inspections</li><li>• Education/Advice</li><li>• Sampling/Testing</li><li>• Recalls</li><li>• Complaints</li><li>• Investigations (outbreaks)</li><li>• Labelling requirements</li><li>• Other (please specify)</li></ul>	Tables 7.5 and 8.5
19d. If additional food safety resources were made available to your agency, how would those resources be used/deployed?	
19e. Please indicate with an X the priority [low/ medium/ high] given to the following FSANZ food safety standards when resources are allocated to food safety enforcement? <ul style="list-style-type: none"><li>• Food Safety Programs (3.2.1)</li><li>• Food Safety Practices (3.2.2)</li><li>• Food Premises and Equipment (3.2.3)</li><li>• Maximum Residue Limits (1.4.2)</li><li>• Labelling (1.2)</li><li>• Dairy products (4.2.4)</li><li>• Seafood products (4.2.1)</li><li>• Other (please specify)</li></ul>	
20. Is business compliance with food safety regulations assessed by way of inspections, accreditations, audits or a mixture of approaches? If so, please rank the assessment method by order of priority. <ul style="list-style-type: none"><li>• Inspections</li><li>• Accreditations</li><li>• Audits</li><li>• Mixture</li><li>• Other (specify)</li></ul>	
21. Are private food safety systems (eg. those used by supermarket operators) recognised in assessing compliance with food regulations and used in place of standard regulatory systems where possible? If yes, please provide details.	Table 8.18

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**Table B.2 (continued)**

<i>Survey question</i>	<i>Table / figure number</i>
22. What type of actions are available to your agency to use in response to food safety compliance breaches and how frequently were those actions used in 2007-08 and 2008-09?	Table 8.8
i. Educate/advise the business	
ii. Verbal warning	
iii. Written warning	
iv. Improvement notice	
v. Prohibition order	
vi. Licence cancellation	
vii. Penalty notice	
viii. Fine	
ix. Infringement notice	
x. Enforceable undertaking	
xi. Prosecution	
xii. Adverse publicity	
xiii. Other	
23a. Please indicate with an X the importance [not used/ used rarely/ used regularly] of the following measures to promote a culture of compliance among food businesses?	Tables 7.10 and 8.10
i. Education/training	
ii. Informative media strategies (including newsletters, pamphlets, use of own website)	
iii. Annual (or occasional) industry awards	
iv. Incentives (eg. licence fee reductions, positive advertising)	
v. Free food safety training for businesses	
vi. Fee-based food safety training for businesses	
vii. Other	
23b. Do you provide special assistance to:	Tables 7.19 and 8.18
a. Small businesses	
b. Employers from non-English speaking backgrounds	
c. Non-metropolitan businesses	
23c. Do you have mechanisms in place to seek feedback from businesses about their satisfaction with enforcement/regulatory practices (eg through surveys)?	Tables 7.19 and 8.18
23d. Which of your regulatory responsibilities do you receive the most queries about from businesses (eg licensing requirements, enforcement policy, inspections etc.)? Please provide details.	
24. Which of the following processes are used to facilitate the uniform interpretation of food safety regulations among food safety staff? Please indicate with an X.	Tables 7.12 and 8.11
• Supervisory oversight	
• Structured training	
• Staff rotation	
• Secondment	
• Peer review	
• Other (specify)	

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**Table B.2 (continued)**

<i>Survey question</i>	<i>Table / figure number</i>
25. On which issues relevant to food safety does your agency liaise with local councils, other State/Territory and/or National food safety agencies? Please indicate with an X. <ul style="list-style-type: none"> <li>• Regulatory overlap</li> <li>• Regulatory gaps</li> <li>• Enforcement consistency</li> <li>• Policy Interpretations</li> <li>• Food recalls</li> <li>• Other matters (please specify)</li> </ul>	Tables 7.21 and 8.13
26. In your view, are there any innovative enforcement approaches or practices used by your agency that could be of benefit to other agencies in your jurisdiction or in other jurisdictions? If so, please provide information.	
27a. Does your agency publish food safety enforcement strategies affecting business on its website and/or by circulating printed material?	Tables 7.19 and 8.18
27b. Does your agency publish outcomes for food safety enforcement activities on its website and/or by circulating printed material?	Tables 7.19 and 8.18
28a. Were food businesses classified according to the different risks posed to consumers in 2007-08 and 2008-09?	Table 8.7
28b. If yes, how many food businesses in each food category were classified in the following risk groups (low/ medium/ high] in 2007-08 and 2008-09? <ul style="list-style-type: none"> <li>• Butchers</li> <li>• Food retail &amp; service</li> <li>• Smallgoods manufacturers</li> <li>• Egg producers</li> <li>• Poultry processors</li> <li>• Seafood</li> <li>• Shellfish processors</li> <li>• Other food processors</li> <li>• Abattoirs</li> <li>• Beef cattle farms</li> <li>• Meat transport</li> <li>• Dairy farms</li> <li>• Dairy processors</li> <li>• Dairy transport</li> <li>• Export</li> <li>• Import</li> <li>• Other (please specify)</li> </ul>	
28c. Were those risk classifications used to determine: <ul style="list-style-type: none"> <li>i. fees and charges for different businesses</li> <li>ii. inspection frequency for different businesses</li> </ul>	Table 8.7
28d. Were the frequency of food safety inspections/audits related to the compliance history of individual food businesses/premises in 2007-08 and 2008-09?	Table 8.7
29a. How many food safety inspections and audits were undertaken in 2007-08 and 2008-09?	Table 8.14

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## Table B.2 (continued)

<i>Survey question</i>	<i>Table / figure number</i>
29b. Of these inspections/audits, how many were:	Table 8.14
i. Routine inspections	
ii. Initiated by a complaint	
iii. Reinspections following a compliance breach	
29c. How many complaints were received from the public regarding food businesses in 2007-08 and 2008-09?	
30. How many food recalls was your agency involved with in 2007-08 and 2008-09?	Table 8.14
31a. What is the basis on which food safety inspection/audit fees are levied? Please indicate basis/bases with an X.	Table 8.16
<ul style="list-style-type: none"> <li>• Type of business</li> <li>• Type of activity</li> <li>• Business turnover</li> <li>• Risk category</li> <li>• Number of employees</li> <li>• Other (please specify)</li> </ul>	
31b. What was the standard fee per hour charged for food safety inspections/audits/ accreditation for each business food risk category (low/medium/high)?	Table 8.17
31c. What was the standard fee per hour charged for laboratory testing of food samples in 2007-08 and 2008-09?	
31d. Do food safety inspection/audit/laboratory testing fees fully cover the direct cost (not including corporate overheads) of those inspections?	
31e. If no, what proportion of the direct cost (not including corporate overheads) of food safety inspections/audits/laboratory testing is recovered? Please indicate proportion with an X.	
<ul style="list-style-type: none"> <li>• Zero - no fee charged</li> <li>• 1%- 50% direct cost recovery</li> <li>• 51%-99% direct cost recovery</li> <li>• More than 100% direct cost recovery</li> <li>• Other</li> </ul>	

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**Table B.2 (continued)**

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*Survey question*

*Table /  
figure number*

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31f. On average, how long did it take (in minutes) to conduct (on-site) a routine food safety inspection/audit for each activity relevant to your agency in 2007-2008 and 2008-09?	
<ul style="list-style-type: none"><li>• Butchers</li><li>• Food retail &amp; service</li><li>• Smallgoods manufacturers</li><li>• Egg producers</li><li>• Poultry processors</li><li>• Seafood</li><li>• Shellfish processors</li><li>• Other food processors</li><li>• Abattoirs</li><li>• Beef cattle farms</li><li>• Meat transport</li><li>• Dairy farms</li><li>• Dairy processors</li><li>• Dairy transport</li><li>• Export</li><li>• Import</li><li>• Other (please specify)</li></ul>	
32a. What percentage of primary food safety inspections/audits of food businesses complied with all key food safety regulations in 2007-08 and 2008-09?	
32b. Of those food businesses not complying with all key food safety regulations, what percentage subsequently complied after follow-up?	
32c. How many prosecutions were initiated during 2007-08 and 2008-09?	Table 8.14
32d. How many prosecutions initiated during 2007-08 and 2008-09 were successful?	
33a. Were businesses able to appeal food safety enforcement actions in 2007-2008 and 2008-09 and if so, how? Please indicate review type with an X.	Tables 7.18 and 8.18
<ul style="list-style-type: none"><li>• Internal review</li><li>• External review</li><li>• Internal and external</li><li>• No review available</li></ul>	
33b. What fee, if any, is charged for the appeal processes?	
33c. How many food safety enforcement actions were appealed?	
33d. How many appeals were successful?	
<b>PART 3 — Regulatory Burden</b>	
34. In your view, what are the biggest compliance costs imposed on food businesses by food safety regulation?	
35. In your view, are there any regulatory compliance burdens on food businesses that could be reduced without affecting food safety outcomes. If so, please provide information.	
<b>PART 4 — General Comments</b>	
36. Do you have any general comments or observations about this survey?	

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**Table B.3 Food safety regulation survey (2008-09) — local councils**

<i>Survey question</i>	<i>Table / figure number</i>
<b>Part 1 — Council Information</b>	
1. Council name	
2. State	
3. What is the land area covered by your local government area (LGA)?	
4. What is the resident population in your local government area (LGA)?	Tables 7.1 and 7.2
5. As at June 30 2008 and 2009, how many food businesses/premises were operating in your jurisdiction?	Tables 7.1, 7.2 and 7.17
<b>PART 2 — Regulatory Resources</b>	
6a. Did council share food safety related resources with another council/enforcement agency during 2007-2008 and 2008-09?	
6b. What proportion of food safety related activities were performed by staff shared from another council/enforcement agency during 2007-2008 and 2008-09?	
7. How many full-time equivalent staff (including permanent and casual staff) with food safety related responsibilities did council directly employ as at 30 June?	Table 7.2
8. For those staff directly employed by council with food safety responsibilities, what percentage of their time was devoted to the following activities?	
<ul style="list-style-type: none"> <li>• Food Safety</li> <li>• Immunisation</li> <li>• Other Public Health</li> <li>• Local laws</li> <li>• Other</li> </ul>	
9a. Did council contract-out any/all food safety related activities during 2007-08 and 2008-09?	
9b. If so, what was the value of contracted expenditure for food safety activities in 2007-08 and 2008-09?	
10. What was the staff turnover rate for staff directly employed by council with food safety responsibilities in 2007-08 and 2008-09?	
11. As at 30 June, how many council staff with food safety responsibilities had:	
<ul style="list-style-type: none"> <li>i) Less than 3 years of relevant regulatory or food industry experience</li> <li>ii) More than 3 years, but less than 10 years of relevant regulatory or food industry experience</li> <li>iii) More than 10 years relevant regulatory or food industry experience</li> </ul>	
12. On average, how many hours of specific food safety professional development (internal or external) was provided to staff with food safety responsibilities in 2007-08 and 2008-09?	Section 7.5 (text)
13a. What minimum qualifications are required before council employs staff as Environmental Health/Food Technical/Authorised Officers?( Please indicate with an X.)	
<ul style="list-style-type: none"> <li>• Bachelor of Science (Environmental Health)</li> <li>• Bachelor of Science (Other)</li> <li>• General degree</li> <li>• Diploma in Environmental Health</li> <li>• Certificate IV</li> <li>• Year 12</li> <li>• Other (specify)</li> </ul>	
13b. Are these qualification requirements relaxed in certain circumstances (eg during periods where attracting food safety officers is difficult)?	

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**Table B.3 (continued)**

<i>Survey question</i>	<i>Table / figure number</i>
14. What was council's total direct expenditure specifically for food safety related activities in 2007-2008 and 2008-09?	Table 7.2
15. What was council's total direct business regulation expenditure (i.e. the expenditure for all administration and enforcement of planning, licensing, registration, local laws, public health activities etc) in 2007-2008 and 2008-09?	
16. What was council's total expenditure on all activities in 2007-2008 and 2008-09?	
<b>PART 3 — Enforcement Approach</b>	
17a. In addition to enforcing national and state food legislation requirements, how many local laws related to food safety were administered by council in 2007-2008 and 2008-09?	
17b. Which type of food premises/activities are regulated by the relevant state authority and not by the local council? (Please indicate type of premise/activity with an X.)	Table 8.19
<ul style="list-style-type: none"> <li>• Butchers</li> <li>• Smallgoods manufacturers</li> <li>• Poultry processing</li> <li>• Shellfish processing</li> <li>• Other food processing</li> <li>• Abattoirs</li> <li>• Farms</li> <li>• Dairy</li> <li>• Other (please specify)</li> </ul>	
18a. In practice, does council consider that it is currently able to fully enforce all food safety regulation for which it is responsible?	
18b. Please indicate with an X the importance [low/ medium/ high] of the following constraints on council's current ability to enforce national and state food safety regulation?	Table 7.3
<ul style="list-style-type: none"> <li>• Budgetary limits</li> <li>• Insufficient availability of food safety staff</li> <li>• Regulations difficult to interpret/enforce</li> <li>• Regulatory responsibilities unclear</li> <li>• Limited enforcement powers</li> <li>• Directed not to enforce by State agency</li> <li>• Other reasons (please specify)</li> </ul>	
18c. Please indicate with an X the priority [low/ medium/ high] that council gives to the following activities when it allocates resources to food safety regulation?	Table 7.4
<ul style="list-style-type: none"> <li>• Routine inspections               <ul style="list-style-type: none"> <li>- food retail</li> <li>- other food (eg hospitals)</li> </ul> </li> <li>• Food licensing/registration</li> <li>• Sampling and testing</li> <li>• Complaints</li> <li>• Education</li> <li>• Other (please specify)</li> </ul>	

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**Table B.3 (continued)**

<i>Survey question</i>	<i>Table / figure number</i>
<p>18d. Please indicate with an X the priority [low/ medium/ high] that council gives to the following food safety standards/regulations when it allocates resources to food safety regulation?</p> <ul style="list-style-type: none"> <li>• Food handling practices</li> <li>• Cleanliness of food premises</li> <li>• Food labelling</li> <li>• Food composition</li> <li>• Maximum Residue Limits</li> <li>• Licensing</li> <li>• Other (please specify)</li> </ul>	Table 7.4
<p>19. What type of enforcement actions were used by council in response to food safety compliance breaches in 2007-2008 and 2008-09 and how frequently were those actions used?</p> <ul style="list-style-type: none"> <li>i. Educate/advise the business</li> <li>ii. Verbal warning</li> <li>iii. Written warning</li> <li>iv. Improvement notice</li> <li>v. Prohibition order</li> <li>vi. Fine</li> <li>vii. Infringement notice</li> <li>viii. Prosecute</li> <li>ix. Adverse publicity</li> <li>x. Other</li> </ul>	Table 7.7
<p>20. Please indicate with an X the importance [not used/ used rarely/ used regularly] of the following measures used by council to promote a culture of compliance among the food businesses it regulates?</p> <ul style="list-style-type: none"> <li>i. Education</li> <li>ii. Informative media strategies (including newsletters, pamphlets, use of own website)</li> <li>iii. Annual (or occasional) industry awards</li> <li>iv. Incentives (eg. licence fee reductions, positive advertising)</li> <li>v. Free food safety training for businesses</li> <li>vi. Fee-based food safety training for businesses</li> <li>vii. Other</li> </ul>	Table 7.9
<p>21a. Which of the following processes does council use to facilitate the uniform interpretation of food safety regulations among its food safety staff? Please indicate with an X.</p> <ul style="list-style-type: none"> <li>• Supervisory oversight</li> <li>• Structured training</li> <li>• Staff rotation</li> <li>• Secondment</li> <li>• Peer review</li> <li>• Other</li> </ul>	Table 7.11

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**Table B.3 (continued)**

<i>Survey question</i>	<i>Table / figure number</i>
21b. On which issues relevant to food safety does council liaise with State Government food safety agencies? Please indicate with an X.	Table 7.20
<ul style="list-style-type: none"> <li>• Training</li> <li>• Enforcement consistency</li> <li>• Policy Interpretations</li> <li>• Fee setting</li> <li>• Other matters</li> </ul>	
22a. Does council publish food safety enforcement strategies affecting business on its website and/or by circulating printed material?	Table 7.18
22b. Does council publish outcomes for food safety enforcement activities on its website and/or by circulating printed material?	Table 7.18
23a. Did council classify food businesses according to the different risks posed to the public in 2007-08 and 2008-09?	Table 7.6
23b. If yes, how many food businesses were classified in the following risk groups in 2007-08 and 2008-09?	Figure 7.1
<ul style="list-style-type: none"> <li>• Low</li> <li>• Medium</li> <li>• High</li> </ul>	
23c. Were those risk classifications used to determine:	Table 7.6
<ul style="list-style-type: none"> <li>i. fees and charges for different businesses</li> <li>ii. Inspection frequency for different businesses</li> </ul>	
23d. Were the frequency of food safety inspections related to the compliance history of individual food businesses/premises in 2007-08 and 2008-09?	Table 7.6
<b>PART 4 — Enforcement Activity</b>	
24a. How many food safety inspections of business premises did council undertake in 2007-08 and 2008-09?	Table 7.17
24b. Of these inspections, how many were:	Table 7.17
<ul style="list-style-type: none"> <li>i. Routine inspections</li> <li>ii. Initiated by a complaint</li> <li>iii. Reinspections following a compliance breach</li> </ul>	
24c. How many complaints were received from the public regarding food safety businesses in 2007-08 and 2008-09?	Table 7.17
25a. What is the basis on which food safety inspection fees are levied? Please indicate basis with an X.	Table 7.14
<ul style="list-style-type: none"> <li>• Type of business</li> <li>• Business turnover</li> <li>• Risk category</li> <li>• Seating capacity</li> <li>• Premise area</li> <li>• Number of food handlers</li> <li>• Other</li> </ul>	
25b. What was the total of all food safety inspection fees collected in 2007-08 and 2008-09?	

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**Table B.3 (continued)**

<i>Survey question</i>	<i>Table / figure number</i>
<p>25c. What was the standard fee per hour charged for food safety inspections/re-inspections for each business food risk category? (If the standard fee is charged regardless of risk, please enter that fee value against each risk category).</p> <ul style="list-style-type: none"> <li>• Low</li> <li>• Medium</li> <li>• High</li> </ul>	<p>Tables 7.13 and 7.16<sup>a</sup></p>
<p>25d. What other fees did council charge food businesses in 2007-2008 and 2008-09, how much was charged per business and on what basis were the fees levied?</p> <ul style="list-style-type: none"> <li>• Administration</li> <li>• Notification</li> <li>• Licence</li> <li>• Registration</li> <li>• Other</li> </ul>	<p>Tables 7.13 and 7.16</p>
<p>25e. Do food safety inspection fees fully cover the direct cost (not including corporate overheads) of those inspections?</p>	
<p>25f. If no, what proportion of the direct cost (not including corporate overheads) of food safety inspections is recovered? Please indicate proportion with an X.</p> <ul style="list-style-type: none"> <li>• Zero - no fee charged</li> <li>• 1%–50% direct cost recovery</li> <li>• 51%–99% direct cost recovery</li> <li>• More than 100% direct cost recovery</li> <li>• Other</li> </ul>	
<p>25g. On average, how long did it take to conduct (on-site) a routine food safety inspection in 2007-2008 and 2008-09?</p>	<p>Table 7.17</p>
<p>26a. What percentage of primary food safety inspections of food businesses complied with all Critical Food Handling Practices (or key food safety regulations) in 2007-08 and 2008-09?</p>	
<p>26b. Of those food businesses not complying with all Critical Food Handling Practices (or key food safety regulations), what percentage subsequently complied following re-inspection?</p>	
<p>27. How many prosecutions initiated during 2007-2008 and 2008-09 were successful?</p>	
<p>28. What was the total value of fines collected for food safety breaches in 2007-08 and 2008-09?</p>	
<p>29a. Were businesses able to appeal food safety enforcement actions by council in 2007-2008 and 2008-09 and if so, how? Please indicate review type with an X.</p> <ul style="list-style-type: none"> <li>• Internal review</li> <li>• External review</li> <li>• Internal and external</li> </ul>	<p>Table 7.18</p>
<p>29b. How many food safety enforcement actions were appealed?</p>	
<p>29c. How many appeals were successful?</p>	
<p>30. In your view, what are the biggest compliance costs imposed on food businesses by food safety regulation?</p>	

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Table B.3 (continued)

<i>Survey question</i>	<i>Table / figure number</i>
<b>PART 5 — Relationship with the Not for Profit Sector</b>	
31. What type of support does council provide not-for-profit (NFP) organisations?	Not used in this study
32. What are the main impediments your council faces in forming a closer relationship with NFPs in your local area? What could be done to enhance these relationships?	Not used in this study
<b>PART 6 — General Comments</b>	
33. Do you have any general comments or observations about this survey?	

<sup>a</sup> All councils reported 'flat fees' rather than per hour fees. Accordingly, 'flat fees' have been reported in table 7.16.

The Commission reviewed the completed surveys and sought clarification from the regulators on any anomalies in their responses. In September 2009, the Commission circulated a working draft of the study to the jurisdictions for their review and comment. The working draft contained the benchmarking data (from all sources) for all jurisdictions. The circulation of the working draft was the first time the jurisdictions had seen their survey responses in the context of the data from other jurisdictions.

#### *Cost of data collection*

The surveys asked the regulators to record the time taken to complete the survey. This provides an indication of the cost to jurisdictions of providing data to the Commission (table B.4).

Table B.4 Time spent completing surveys

	<i>Aus</i>	<i>NZ</i>	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>SA</i>	<i>WA</i>	<i>Tas</i>	<i>NT</i>	<i>ACT</i>
<b>Number of survey responses from:</b>										
National regulators	1	1	na	na	na	na	na	na	na	na
State/territory regulators	na	na	1	3	2	3	1	3	2 <sup>a</sup>	1
Local councils	na	21	25	22	17	23	22	9	na	na
<b>Total time to complete survey(s) (minutes)</b>	<b>840</b>	<b>2275</b>	<b>2505</b>	<b>4410</b>	<b>2450</b>	<b>2475</b>	<b>2650</b>	<b>1049</b>	<b>990</b>	<b>180</b>

na not applicable. <sup>a</sup> Although two responses (one for 'meat' and one for 'fish' were received from Department of Regional Development, Primary Industry, Fisheries and Resources.

Source: Productivity Commission surveys of food safety regulators and local councils (unpublished).

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## **Consultancy — primary production and processing**

The Commission engaged a consultant, Baldwins-FoodLegal, to identify the key areas of difference and similarity in the food safety regulation applying to primary production and processing activities. Specifically, the Commission sought information on the following industries:

- red meat and poultry meat
- eggs
- dairy
- seafood (including both fish and shellfish).

The engagement was to cover all the relevant acts of parliament and regulations of the Australian states and territories and New Zealand, but exclude industry negotiated codes of practice or conduct. The consultant was to base the analysis on the acts and regulations as they stood at December 2008 and was to consider such factors as:

- size of businesses covered by the regulation(s)
- requirements for business registration/accreditation/notification
- the use of food safety plans/programs (FSPs) or risk management plans
- inspections and audits for food safety purposes (including the tools and instruments used in these processes)
- labelling requirements, particularly as they relate to product source or supplier
- product sampling and testing requirements
- record keeping requirements
- requirements specifying the equipment or processes to be used in processing, storage or transportation of food products
- provisions relating to the condemnation of product as unfit or unsafe
- requirements relating to the environment or conditions of animals.

The resulting report from the consultant has informed benchmarking of primary production and processing regulation contained in chapters 9–12.

## Information from business

### *Information from a leading Australian retailer*

The Commission approached a leading Australian retailer to provide details of the compliance visits made by regulators to a sample of its stores across Australia and New Zealand. The retailer was asked to provide the details outlined in table B.5 for stores in New Zealand and each of the Australian states and territories. The Commission left the selection of the stores to the retailer's discretion so as to minimise the burden on the retailer by allowing it to select those stores best placed to provide the data. However, the Commission requested that, where possible, the stores selected should have as part of their operation some aspect of aspect of food preparation or handling — such as a deli, butchery or bakery.

Information was provided for a total of 26 stores — 1 store in New Zealand, 2 in New South Wales, 11 in Victoria, 7 in Queensland, 4 in Western Australia and 1 in Tasmania. The information from these stores is reported in Chapter 7.

**Table B.5 Information sought from a leading Australian retailer**

Town/suburb store

<i>Date of visit</i>	<i>Agency/ auditor</i>	<i>Aspect of store</i>	<i>Reason for visit</i>	<i>Was advanced notice of the visit provided?</i>	<i>Fee</i>	<i>Total staff time involved<sup>a</sup></i>	<i>How long after the visit did the store receive a copy of the visit report</i>
	eg 3 <sup>rd</sup> party auditor/ PrimeSafe/ Department of Health/ local council	eg Butchery / Bakery / Seafood / all of store	No reason (routine audit)/ Complaint / follow-up audit (for issues raised previously) / Other	Yes/No	\$	Minutes	No report received / number of days

<sup>a</sup> Include only the time spent dealing with the auditor while they were on the premises.

### *Information from Meals on Wheels*

Meals on Wheels operates in each Australian state and territory and, as many of the meals they deliver are to the elderly or people with disabilities who cannot cater for themselves, they need to comply with the FSP requirements applying to those providing food to 'vulnerable populations' in Australia. As such, Meals on Wheels provide an opportunity to compare and contrast the application of the FSP requirements across the Australian jurisdictions. To facilitate this comparison the Commission sought information from the state and territory branches of Meals on Wheels using a questionnaire (table B.6). Cognisant of the Meals on Wheels'

limited resources, the Commission did not seek exhaustive detail in the questionnaire, but rather sought broad, indicative information and anecdotal stories on which a case study could be built.

**Table B.6 Questionnaire — Meals on Wheels case study**

<i>Question</i>							
1 The Commission is interested in understanding the general nature of operations in each jurisdiction, including whether:							
<ul style="list-style-type: none"> <li>• the operations are centralised (such as in South Australia) or decentralised?</li> <li>• meals are predominately purchased from outside suppliers or cooked in Meals on Wheels kitchens?</li> <li>• meals are fresh-cooked or cook-chilled?</li> <li>• meals are largely delivered hot, chilled or frozen? If a mixture, can the broad proportions be estimated?</li> <li>• the operations are run mainly by volunteers with some paid staff?</li> </ul>							
2 Background statistics on Meals on Wheels — please complete							
<b>Meals on Wheels statistics 2007-08</b>							
<i>Jurisdiction</i>	<i>No. of MOW providers</i>	<i>Total clients per day</i>	<i>Total meals per year</i>	<i>Total volunteers</i>	<i>Total paid employees</i>	<i>Regional clients</i>	<i>Meal price</i>
		'000	Million	'000		per cent	\$
NSW							
Vic							
QLD							
SA							
WA							
Tas							
NT							
ACT							
3 Are food safety programs or plans a requirement in your jurisdiction? (tick appropriate box)							
<input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> not sure							
If yes, when was the requirement introduced?							

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**Table B.6 (continued)**

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<i>Question</i>
4 For each jurisdiction, what costs were incurred as a result of establishing and implementing food safety plans? The Commission is interested in indicative costs incurred. Establishment costs could include: <ul style="list-style-type: none"><li>• researching and developing food safety programs</li><li>• training of staff to establish and maintain food safety programs</li><li>• drafting of each food safety program/plan</li><li>• employing a consultant</li><li>• purchasing equipment:<ul style="list-style-type: none"><li>– cook-chillers</li><li>– data loggers for temperature testing</li><li>– other</li></ul></li></ul>
5 What ongoing management costs do jurisdictions incur? Management costs include: <ul style="list-style-type: none"><li>• completing the documentation on a regular basis</li><li>• reviewing and updating the document outlining the program/plan</li><li>• internal audits and external audits</li><li>• routine checking of records to ensure tasks have been completed</li><li>• other.</li></ul>
6 What changes have been made to the way meals are prepared and delivered as a result of new requirements to have food safety plans/programs? <ul style="list-style-type: none"><li>• delivering chilled meals instead of hot meals</li><li>• no longer using eskies</li><li>• temperature of meals tested on delivery</li><li>• purchasing meals instead of preparing</li><li>• employing more staff? If so, why:<ul style="list-style-type: none"><li>– volunteer numbers have declined</li><li>– needed to meet additional requirements</li><li>– other</li></ul></li></ul>
7 What problems did you encounter while trying to implement and develop food safety plans?
8 What initiatives were helpful in implementing and developing food safety plans?
9 Are you required to have a food safety supervisor? (tick appropriate box) <ul style="list-style-type: none"><li><input type="checkbox"/> yes</li><li><input type="checkbox"/> no</li><li><input type="checkbox"/> not sure</li></ul>
10 Other comments

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The Commission received responses to the questionnaire from:

- New South Wales (including various individual providers within the state, namely: Camden, Swansea, Cooma and North Shoalhaven)
- South Australia
- Western Australia
- Tasmania.

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Also, rather than complete the Commission's questionnaire, the Victorian branch provided information from their own recent survey. The 'Meals on Wheels' case study is reported in chapter 6.

### *Information from Seafood Services Australia*

In November 2008, Seafood Services Australia (SSA) responded to concerns from its constituents about the cost of regulation by initiating the 'Regulatory Compliance Costs' survey. The survey was intended to obtain information from seafood business enterprises on the:

- compliance issues of concern
- the (estimated) direct and indirect costs of compliance
- opportunities to reduce the legislative compliance burden
- potential business costs savings that can be achieved.

SSA intended to use the information obtained from the survey to frame a report to Commonwealth, state and territory governments to illustrate the regulatory concerns of the industry. Part of SSA's strategy was to possibly:

... [seek] a commitment from the Australian Government for a separate Productivity Commission inquiry into the cost of regulatory compliance in the industry and opportunities to reduce this burden (SSA 2009a).

A draft survey was refined at the SSA Network Meeting on 6 November 2008 so as to better ensure it captured all the relevant concerns and costs. While the survey carefully defined the costs on which it was seeking information (box B.1), the survey sought only estimated figures in order to reduce the burden of responding for industry participants.

The survey was divided into five sections:

1. general and background information on the respondent
2. aquaculture
3. commercial fishing, harvest and collection fisheries
4. seafood handling, processing and retailing (including export and import)
5. respondent's views on regulatory compliance and its impact on their costs.

All respondents were to complete sections 1 and 5, with respondents from the respective industries completing sections 2, 3 and 4 as appropriate.

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**Box B.1 SSA's Regulatory Compliance Costs survey — definition of cost****What does the SSA mean by the cost of regulatory compliance?**

In their survey, the SSA refer to recurrent costs imposed on seafood business by legislative requirements of governments (federal, state and local). Some examples of these costs were provided, including:

- aquaculture — costs of complying with permit or licence conditions. For example, the cost of monitoring and reporting on a range of performance criteria, levies
- wild harvest fisheries — costs of complying with permit or licence conditions. For example, costs associated with completing logbook requirements, export accreditation of fishing vessels
- processing/value adding — costs associated with accreditation and audit. For example, costs associated with the development and maintenance of food safety schemes and inspection and auditing of premises, including staff costs associated with the audit process
- export/import — costs associated with legislative requirements that apply to the export and import of seafood products.

The SSA also provided guidance that they were focused on the costs of food regulation and that businesses should not include cost details from their 'normal business costs' or costs incurred in relation to other regulatory matters, such as taxation.

*Source:* SSA (2009b).

Aside from general information on the respondent, the survey sought information:

- on the number of Commonwealth, state/territory and local government licences and permits a business was required to hold, as well as the cost of those licences and permits
- on the annual cost to the business to comply with the requirements of the licences and permits it holds
- on the details of the other aspects of regulation that place a cost on the business — including details of the costs
- from seafood processors on:
  - the details of the food safety plans (FSPs) required in order to comply with both government and private sector requirements, as well as details on the cost of developing and maintaining those FSPs
  - the frequency and cost of government audits of FSPs, including those of AQIS.

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The Commission became aware of the survey in March 2009 through the consultation process with industry. In September 2009, SSA provided a copy of its report based on the survey to the Commission. The Commission was not provided with the raw data from the survey, but used the information in the SSA report (SSA 2009b) in its benchmarking of the costs of seafood regulation in Chapter 12.