



Regulation of Australian Agriculture
Productivity Commission
Locked Bag 2, Collins Street East
Melbourne Vic 8003

18 August 2016

Dear Sir/Madam

Inquiry into the regulation of Australian agriculture

As the primary union representing Department of Agriculture and Water Resources (DAWR) and Australian Pesticides and Veterinary Medicines Authority (APVMA) employees, the Community and Public Sector Union (CPSU) is committed to providing a strong voice for our members in key public policy and political debates.

The CPSU made a submission during the first stage of the Inquiry into the Regulation of Australian Agriculture. This second submission goes to the recommendations in the Review's draft report and responds to comments in that report. This submission is focussed on issues of most concern to our members, specifically addressing animal welfare, biosecurity, export processing, and resourcing of DAWR and APVMA.

The preparation of this CPSU submission has been guided by the experience and expertise of CPSU members working in Meat Inspection, Biosecurity and Veterinarian roles in the Department and in APVMA.

Animal welfare

The CPSU supports the recommendation that the Commonwealth should take responsibility for ensuring that scientific principles guide the development of farm animal welfare standards. The CPSU and its members support the phasing out of live animals for slaughter overseas. Many of Australia's live animal export markets lack enforceable standards for animal welfare and hygienic production of meat as well as appropriate inspection systems to enforce animal welfare standards.

The CPSU supports the creation of an independent Commonwealth entity tasked with developing national standards and guidelines for farm animal welfare. The CPSU notes that in 2013, the Government disbanded the Australian Animal Welfare Strategy Advisory Committee which provided animal welfare policy guidance.¹ The body should include representation of regulatory bodies and other industry stakeholders, be independent from industry, and be fully financed by government. It should

¹ Anna Vidot, Federal Government scraps welfare advisory group, *ABC Rural*, 8 November 2013, www.abc.net.au/news/2013-11-08/animal-welfare-committee-scraped/5079284, last accessed 17/08/2016.

provide advice to the Animal Welfare Committee (AWC) within the Primary Industries Ministerial Council (PIMC) about National Codes of Practice.

CPSU members have also suggested the re-engagement of DAWR in the Australian Animal Welfare Strategy (AAWS) at jurisdictional level. The creation of the new body should, however, occur in conjunction with steps to maintain a rigorous and independent inspection system to enforce standards.

It is important that any farm animal welfare standards developed by the new body are upheld through the supervision of the animal welfare standards of live exports by Departmental employees and that employees have the protections of the *Public Service Act 1999*, including whistleblower protections.

Inadequate resourcing of DAWR

CPSU members have raised concerns about staffing resources in DAWR. Headline staffing levels between 2013-14 and 2015-16 have declined by 102 Average Staffing Levels or nearly 3 per cent in biosecurity areas.² Staff levels in some jurisdictions are constantly stretched and these services are only managing to cope because they are prioritising work while other work is not being carried out fully or at all. In several jurisdictions staff levels are seen as severely inadequate.

Members have told the CPSU that inadequate resourcing by the Department is leading to shortcuts that are affecting confidence in the quality of Australian exports and leading to significant risks. It is particularly concerning that members are being told to do less monitoring. Members inform the CPSU that there are emails telling Inspectors to cut corners and that they do not need to follow the Biosecurity Import Conditions System exactly. Staff were told to *“be comfortable in determining the risk as being much lower than what some of our current assessments are implying.”* As an example, the email stated that heavy machinery part *“coming from Caterpillar in Japan going to Caterpillar in Sydney is likely to be new. Companies are not likely to send dirty highly contaminated goods”*. A CPSU delegate working in Air Cargo questioned the veracity of the example, stating that machinery is often caked with dirt, seeds or pests and has to be cleaned up, so it could have unknown biosecurity hazards in it.

The reduced levels of monitoring in the export inspections are an attempt to reduce the workload of already depleted staff resources but increases risk levels. If importing countries send audit teams to Australia to assess the suitability of Australia’s systems and their audit findings are unfavourable, in the worst case scenario, the risk to Australian industry is that the importing countries may totally prohibit entry of export products from Australia.

Members have also informed the CPSU that some DAWR inspections are not being done by registered veterinarians. It is our understanding that the staff undertaking inspections are eligible to be registered but are not registered. The majority of state Veterinary Boards now stipulate that DAWR veterinarians engaging in any activity associated with their veterinary qualifications (e.g. inspection/certification of export goods) must hold a current veterinary registration in the state in which they operate. It is concerning that DAWR has stated that it will take time to be compliant. DAWR should ensure that all staff undertaking DAWR veterinary inspections are currently registered, regardless of state, and provide support to existing unregistered staff to ensure their registration occurs as quickly as possible.

These issues suggest a need for an in-depth evaluation of staffing levels of veterinarians and veterinary para-professionals at jurisdiction level, with particular attention to emergency animal disease response capability and essential responsibilities like surveillance and traceability functions.

² Staffing figures from Outcome 2 of 2014-15 and 2015-16 Agriculture Portfolio Budget Statements.

Biosecurity

As stated in our previous submission, the CPSU is concerned about the inquiry's narrow focus on "red tape" and cost to individuals. The CPSU has significant concerns about the shift to a risk-based focus. The shift in focus means that DAWR will be more likely to be focused on responding after biosecurity incidents occur rather than preventing the incidents in the first place.

The CPSU rejects the Productivity Commission's assertion that the risk of approved arrangements weakening Australia's biosecurity is low.³ The CPSU continues to have concerns that self-regulation by industry participants potentially will have adverse impacts on quarantine outcomes.

While there can be costs to industry from multiple auditing, members inform the CPSU that a large proportion of these audits are from commercial customers. The focus on "red tape" and costs as a result of government audits is misguided.

The shift to a risk-based focus is being driven by attempts to cut costs rather than a desire to improve Australia's biosecurity. It is particularly concerning given the number of recent incidents that highlight the dangers of more relaxed biosecurity regulations. In May 2016, Khapra beetle larvae and adults were found on imported goods at two premises in Adelaide and one on Kangaroo Island.⁴ There was also a confirmed Russian Wheat Aphid outbreak in South Australia⁵ – the first time it has been detected in Australia. The Aphid outbreak could have a devastating impact on wheat-growing regions (up to 75% crop losses). The origins of aphid are unknown and it may have arrived on live plant material or on machinery. These are just two recent examples.

The draft report acknowledges that changes could weaken Australia's biosecurity if businesses do not adequately assess their biosecurity risks. This could easily occur if businesses' interests conflict with Australia's biosecurity priorities. The draft Report downplays this risk, stating that businesses' interests are often aligned with Australia's biosecurity objectives.⁶ However, this relies on a belief that collective self-interest will come first rather than the profit motive which drives businesses. It only takes one business failing to adequately assess their biosecurity risk to lead to a biosecurity outbreak which has the potential to do significant economic and reputational damage to Australian agriculture. A business is different to an industry. A business may have little or no understanding that a failure to inspect properly for biosecurity risks could devastate an entire industry unrelated to the industry the business is operating in.

Rather than a narrow focus on reducing biosecurity and outsourcing work to the private sector, there should be a greater focus on investment in the public biosecurity workforce. In the push for cost savings within the public sector, the working conditions and recognition of highly skilled professionals working in biosecurity have been eroded. Government and industry should work together to determine what additional services and benefits might be available from this pool of skilled professionals, rather than downscaling their numbers and degrading their work conditions. A business may be willing to take risks without regard to the impact it may have on an entire industry. All of these conflicts of interest are addressed by a properly trained and remunerated government workforce operating in the national interest.

³ Productivity Commission 2016, *Regulation of Australian Agriculture*, Draft Report, Canberra. P.278.

⁴ Department of Agriculture and Water Resources, Containment and destruction of Khapra beetle in South Australia, 24 May 2016, <http://www.agriculture.gov.au/about/media-centre/media-releases/khapra-beetle-south-australia>, last accessed 17/08/2016.

⁵ Cassandra Hough, Russian wheat aphid spreads through South Australia, ABC Rural, 6 June 2016, www.abc.net.au/news/2016-06-06/russian-wheat-aphid-spreads-200-kilometre-south-australia/7482368, last accessed 17/08/2016.

⁶ Productivity Commission 2016, *Regulation of Australian Agriculture*, Draft Report, Canberra. P.278.

Export certification

The CPSU notes that while the Productivity Commission supports greater private sector involvement in export certification, it has acknowledged that there may be an increased risk of non-compliance and higher failure rates from increased private sector export certification.⁷

Many aspects of meat export regulation are necessary since regulatory agencies are tasked to deliver compliance with numerous overseas country requirements on behalf of those foreign countries. Overseas countries may impose their own requirements and also can subject either Australia's entire regulatory systems or individual establishments to audits at their whim. Predictability in export markets and, indeed for business, is minimised by overseas countries recognising and respecting Australian regulatory practices and conferring equivalence with the overseas country requirements. Maintaining government control of export certification is necessary for business confidence in Australia's export inspection system.

Many countries insist on government control of export certification functions and for good reason. Members have informed the CPSU that Australian exports are often non-compliant with the treaties that are signed. The rejection rate of meat exports from Australia is causing nervousness among the authorities of importing countries. Europe and Japan have refused to buy "self-inspected" products as they did not meet their standards.⁸ The EU has already requested further oversight by government employed meat inspectors after determining that the Australian system does not meet their legislation. Consumer groups in the USA have also expressed great concern regarding the Australian Export Meat Inspection System.⁹

The experience of privatised meat export inspection in Australia highlights why many countries do not recognise and accept private certification. In our previous submission, the CPSU provided examples of how the privatised meat export inspection system was not in compliance with overseas food safety regulations. Conflict of interest was cited as a major concern.¹⁰ Furthermore, shipments of meat were rejected because of contamination.¹¹ The CPSU does not support greater private sector involvement in export certification because of these risks of non-compliance and conflicts of interest.

Since our previous submission, members have provided additional examples of conflict of interest. The high reliance on the private sector and the direct employment of inspectors by entities being inspected can create a perceived conflict of interest. Australian Government Accredited Veterinarians (AAVs) involved in export of live animals and contracted by the private sector also create a perceived conflict of interest, even if they are partly supervised by an official veterinarian. While the CPSU acknowledges that concerns about conflict of interest are often driven by perception, it can risk Australian export markets and everything should be done to eliminate these risks.

The fact is that industry should be held to account for their failures. Some of these necessary protections are a direct result of repeated failures by industry to self-regulate and address production issues (e.g. repeated Port of Entry rejections of Australian Meat and Meat Products in the United States

⁷ Productivity Commission 2016, *Regulation of Australian Agriculture*, Draft Report, Canberra. P.482.

⁸ Sue Neales, Export quality fears over meat inspection privatisation, *The Australian*, 23 March 2015, <http://www.theaustralian.com.au/national-affairs/policy/export-quality-fears-over-meat-inspection-privatisation/news-story/92c6dc61bf0248ee6763b0817dabbde6>, last accessed 17/08/2016.

⁹ Rachel Creasey, American Consumer Group Raises Questions about Australian Meat Safety, *Australian Institute of Food Safety*, 12 November 2013, <https://www.foodsafety.com.au/news/american-consumer-group-raises-questions-about-australian-meat-safety>, last accessed 17/08/2016.

¹⁰ European Commission, Food and Veterinary Office, Australia's Response to DG (SANCO) / 2012-6361– MR PREFINAL, http://ec.europa.eu/food/fvo/act_getPDFannx.cfm?ANX_ID=7442, last accessed 17/08/2016.

¹¹ Brewster, Kerry, Aussie meat exports found with E.coli, faeces, *ABC News*, 25 May 2012, <http://www.abc.net.au/news/2012-05-25/aussie-meat-exports-found-with-e-coli/4032216>, last accessed 17/08/2016.

due to contamination of product – including faecal contamination). Another significant failure is animal welfare levels in live animal transportation.

There are, however, other reforms that can be made. The CPSU acknowledges there can be some additional work as a result of export standards being applied by State Regulatory Authorities (SRAs). There can be inconsistency between various SRAs which leads to duplication of regulatory functions. SRAs should convene to develop nationally consistent standards to allow reciprocal recognition of standards across all SRAs. Therefore an operator having demonstrated compliance in one state could have that compliance recognised automatically in every other state.

Care needs to be taken with any future changes to ensure Australia meets the requirements of our export markets. International markets expect Australian product to be of very high standards. A reduction in regulatory oversight that results in damage to Australia's standards and reputation would harm the long-term prospects for the industry. A misguided attempt to reduce regulatory costs in an attempt to compete in low cost, low quality trade may have the result of restricting market access and harming high quality producers.

Role and powers of APVMA

APVMA members commented that the sections of draft report about APVMA are very general and it was not clear to them whether the Productivity Commission fully understood the legislation, APVMA's related top-level processes or its resource base. One member raised concern that it is not clear whether the draft report's assertion about "limited capacity" for APVMA to reform its processes relates to lack of will, lack of legal power, lack of options to change the legislation or lack of suitable staff in the right areas. There were also concerns that the draft report did not provide reasonable counter comment by APVMA to specific assertions.

Members noted that there was no clear statement of what APVMA is able to do in the draft report, for example, whether it had the legal power to take certain elements into consideration in their risk assessment and decision making. One example provided by members was that legally the cost of alternatives cannot be considered when making a regulatory Agvet-decision. This effectively negates a number of comments from stakeholders within the draft report. The main crux for decision making is Section 14 of the Agvet Code, related to "unintended effects" upon human health, the environment, the host crop/animal and trade. Members informed the CPSU that this is operationally dealt with by risk assessment and what is deemed to be an acceptable risk. Unless the legislation gives APVMA a power, it cannot exercise authority. CPSU members indicated that the draft report does not clearly identify these limits.

APVMA members also queried claims about Globally Harmonised System labelling issues. APVMA has no power to ensure Dangerous Goods statements are on the product label that resides with another agency. Similarly the content and sufficiency of a product's Material Safety Sheet is governed by another agency. APVMA has the power to ensure there is a reference to it on the label, but no power to amend its contents.

Furthermore, members also questioned the assertions from other stakeholders about regulation. As one member stated:

"From my own experience here, over a number of years, we do not want to do more than we have to. We do not have the staff or time to do so. So if the legislation allows it, we take into account as much overseas experience as possible."

APVMA time frames

CPSU members raised questions about the Commission's reporting on timeframes. The draft report noted that the APVMA was not meeting statutory timeframes to finalise Agvet evaluations.¹² Some members stated that the focus on the percentage of Agvet applications finalised within timeframe is a very crude measure and does not allow a focus on the key areas that are not meeting the timeframe.

APMVA members noted that within agricultural chemicals or veterinary medicines, there are many different classes (items) of application, based on their purpose and what is needed to address the risk areas involved. The associated complexity of the application then determines the timeframe.

Given the draft Report indicated that it was unclear what the exact reason for this failure to meet the time frame, further investigation is warranted before making claims about regulatory 'burdens'. Before claims are made, more information should be gathered on what items are overdue. Without doing so, it will remain unclear what may be the reason for missing the timeframe, for example, whether it is due to insufficient risk assessors in APVMA or lateness of assessments or sub-assessments by external agencies or reviewers or the timeframe not being reasonable for the amount of work that must be done.

APVMA resourcing

The CPSU contends that APVMA's performance has been affected by inadequate resourcing. Members inform the CPSU that APVMA previously had struggled to find qualified staff to replace staff who have resigned. This is in line with APVMA informing the Inquiry that unexpected high levels of staff leave in the period contributed to this performance.¹³

While there has been improvement with APVMA getting back on track and meeting targets, as noted in the Report¹⁴, the planned move to Armidale will detrimentally affect APVMA. The CPSU has strongly opposed the proposed move since it was announced. The CPSU notes that APVMA's chief executive Kareena Arthy is on the record saying it would be hard to rebuild a relocated agency without scientists, most of whom refuse to leave Canberra.¹⁵ The CPSU notes that a survey of staff indicated that less than 10 per cent of staff would be prepared to move to Armidale¹⁶. The loss of such a significant number of staff undoubtedly will mean APMVA will not meet their targets and processing timeframes will blow out. Arthy also raised concerns about sustaining the agency without staff and what it would mean for the number of products being approved.¹⁷

Rather than solely focusing on the institutional arrangements and regulatory objectives underpinning APVMA, improved performance will come from additional staffing and dropping the planned move to Armidale which is undermining staff morale.

Many of the issues members seek to address in our submission are overcome by having properly resourced, independent and accountable government bodies with a well-trained and remunerated workforce, conducting their duty in the national interest, in accordance with legislation set out by Parliament.

¹² Productivity Commission 2016, *Regulation of Australian Agriculture*, Draft Report, Canberra. P.251.

¹³ Productivity Commission 2016, *Regulation of Australian Agriculture*, Draft Report, Canberra. P.251.

¹⁴ Productivity Commission 2016, *Regulation of Australian Agriculture*, Draft Report, Canberra. P.252.

¹⁵ Noel Towell, Public servants told it's Armidale or find new jobs, *Canberra Times*, 10 June 2016, www.canberratimes.com.au/national/public-service/public-servants-told-its-armidale-or-find-new-jobs-20160609-gpfhkk.html.

¹⁶ Colin Bettles, APVMA performance "abysmal", *The Land*, 25 February 2016, <http://www.theland.com.au/story/3752398/apvma-performance-abysmal/?cs=4956>, last accessed 17/08/2016.

¹⁷ Noel Towell, Public servants told it's Armidale or find new jobs, *Canberra Times*, 10 June 2016, www.canberratimes.com.au/national/public-service/public-servants-told-its-armidale-or-find-new-jobs-20160609-gpfhkk.html, last accessed 17/08/2016.

For further information, please contact Osmond Chiu, Research Officer via email

Yours sincerely,

Rupert Evans
Deputy National President
Community and Public Sector Union