

# **Australian Dairy Farmers**

Response to the Productivity Commission's Draft Report  
on the

## **Regulation of Australian Agriculture**

**August 2016**

## Introduction

Australian Dairy Farmers (ADF) recognises the importance of effective and necessary regulation to maintain and uphold the industry's reputation as a producer of safe and nutritious food. As identified in our previous submission, we support the comprehensive food standards and regulation across the dairy production and processing chain which ensure the integrity of the industry.

There are existing areas where ADF sees unnecessary red tape which has the potential to stifle modernisation and restrict growth in an industry which requires innovation to prosper. We are pleased with many of the draft findings in the report which will remove red tape, such as removing state-based moratoria on GM crops and streamlining transport issues. However, we are concerned by adding further regulation to the industry with the recommendation to introduce an independent animal welfare officer. Our submission expands on these points and provides further comment on the draft recommendations.

Since our first response to this review in February, the dairy industry has suffered from a significant downturn in milk prices, largely due to international market forces. Opening prices announced on 1 July 2016 are below the cost of production for many dairy farmers, causing many to be operating at a loss for at least the next year. The substantial impact that global milk prices have on our domestic price emphasises that dairy farmers are price takers in a globalised industry. Reductions in red tape which reduce the costs associated with running a dairy farm and therefore increases farmers' productivity are welcomed by ADF, especially during the current situation.

## Chapter 2: Land use planning

### Draft Finding 2.2: Right of veto

In addition to monetary value, land use planning must take account of environmental stewardship, eco-system services, community social licence, local versus distant gain from the proceeds, the flow-on economic benefits from service industries, the sustainability of different land uses in the long term, and policies to avoid boom/bust cycles in regional economies. While ADF does not have a position on the right of veto for farmers, we highly encourage stronger regulatory frameworks around fair compensation and ensuring that farmers are fully informed and supported so they are in an equal bargaining position with mining companies. We also support legislated codes of conduct for mining companies, to respect when a farmer ultimately decides they do not want to give access to their land for mining companies, particularly as technological advances mean mining companies can usually access minerals and fuels without having to access particular properties. Mining companies also have the option of purchasing properties outright, which they often do over time to ensure access in future. It is important to consider that there is more to land use than just how much money can be made relative to other uses, whether by mining or by agriculture.

### 2.6 Planning, zoning and development assessment

ADF welcomes the discussion on land use planning and the complexity of requirements and processes. Despite widespread acknowledgment that this represents a significant impediment to farming, progress in implementing recommended reforms has been slow. Inconsistencies between regions and across levels of government hamper development in areas zoned for farming, especially when conflicting objectives are at play, as highlighted in section 2.6.

ADF **supports** in particular the discussion about the problems with the definitions of intensive farming and **requests** the Productivity Commission to examine further the implications of each of the three policy options contemplated by the Animal Industries Advisory Committee in Victoria (p. 88). ADF encourages the Productivity Commission to work closely with the Animal Industries Advisory Committee in the development of a) some findings relating to the challenges posed by current classification of intensive farming and b) some recommendations to ensure planning regulations are fit-for purpose for the dairy sector—one whose farming practices may not be static but may vary according to climatic conditions throughout a season or year. Given that resilience and adaptability is a very real component of sustainable development in the dairy industry at this time, facilitating appropriate planning reform is opportune.

## 4: On-farm regulation of water

### Draft recommendation 4.1: SUPPORTED

ADF supports the recommendation to minimise regulatory burden and redundancy imposed on data providers. The water management information requirements do not directly apply to individual dairy farmers, but do apply to the private irrigation infrastructure operators (IIOs). IIOs are directly involved and affected with the issues of duplicated water reporting

requirements. Dairy farmers bear the added costs of the regulatory burden enforced on IIOs through the fees and charges farmers must pay.

It is our view that simply determining where reporting duplications are occurring is not sufficient. It is crucial to also investigate whether the information collected is valuable and necessary for the outcomes being sought from the data. We encourage a full analysis of the costs and benefits of collecting and reporting on the data sought, in addition to addressing duplications in reporting.

## Chapter 5: Regulation of farm animal welfare

### Draft Recommendation 5.1: NOT SUPPORTED

ADF seeks uniform legislative implementation of the endorsed national animal welfare standards, which are science-based and proportionate to risk and have been subject to rigorous public consultation.

For example, the Australian Animal Welfare Standards and Guidelines for Cattle (S&Gs) have been developed and we look forward to their timely implementation in legislation. The S&Gs have been endorsed by State and Territory governments. Legislative implementation of the Land Transport Standards has been helpful in achieving better welfare outcomes for the transport of livestock.

The new cattle standards and guidelines will provide a basis for achieving livestock welfare outcomes —through regulation and industry quality assurance activities —to meet community and international expectations and reflect Australia’s position as a leader in modern, sustainable and scientifically based welfare practice. In consultation with stakeholders, AHA, has a well-documented and sound plan for the development of standards and guidelines.

ADF does not support the assertion that community expectations about animal welfare are not being met. While the national standards represent minimum effective and science-based requirements for achieving animal welfare outcomes (as per best practice in regulation), industry quality assurance programs demand a higher bar of achievement on farm, in response to customer demands. These industry schemes enable the food industry to respond to strongly held belief systems outlined by special interest groups and make credence claims accordingly, to suit those consumers. There is no market failure justifying the establishment of a new statutory body with new functions.

The proposal for establishing a new independent body/agency is counter to the Australian Government’s policy for reducing red tape and is **not supported** by ADF.

### Draft Recommendation 5.2: SUPPORTED

ADF **supports** recognition of existing industry quality assurance schemes in assessing compliance against regulatory requirements. Moreover, there should be scope for rewarding long-term ongoing compliance by reducing the burden of audit.

Notwithstanding the above, it is important to note that while industry quality assurance schemes may represent best practice (or the ‘gold’ standard), regulatory requirements need to be set at a minimum effective level and monitored accordingly.

ADF supports the uniform legislative implementation by States and Territories of the endorsed national animal welfare standards which are science-based and a minimal legal requirements proportionate to risk. Further improvements in animal welfare outcomes by the adoption of relevant industry recommended husbandry practices are achieved through additional co-regulatory initiatives in industry programs, supplier agreements and on-farm quality assurance measures. These programs are well-established in the dairy industry. They involve extension, education and include monitoring and enforcement through commercial incentives and supplier obligations. These industry activities are complementary to the regulatory controls and meet community and international expectations and reflect Australia's position as a leader in modern, sustainable and scientifically based welfare practice.

## Chapter 6: Regulation of technologies and agricultural and veterinary chemicals

### Draft Recommendation 6.1: SUPPORTED

ADF **supports** the recommendation to remove moratoria on genetically modified crops and repeal the enabling legislation in states and territories.

Moratoria on GM crops deny farmers access to much needed tools, and reduce their international competitiveness. The dairy sector seeks a predictable path-to-market for GM crops.

ADF supports a role for government in ensuring human health and environmental safety. ADF supports the national regulatory scheme for gene technology overseen by the Office of the Gene Technology Regulator (OGTR) and prescribed additional Commonwealth agencies. ADF has confidence in the science-based regulatory system, administered by the OTGR, to provide pragmatic pathways for the exploration, development and utilisation of emerging technologies in our agricultural sector with due consideration given for the health and safety of the community. However, ADF does not support a role for state and territory governments in managing any risks associated with markets. On that point, ADF points to the effective management of differentiated grains supply chains over 20 years and **supports** Draft Finding 6.1 that successful coexistence is possible and has been demonstrated in markets both here in Australia and overseas.

### Draft Recommendation 6.2: SUPPORTED

ADF **supports** the recommendation that the APVMA should make greater use of international evidence in its assessments of agricultural and veterinary chemicals.

Consideration of safe history of use in a well-regulated foreign market ought to have a place in a risk assessment framework that purports to be proportionate to risk.

There are many low risk situations where the dairy industry does not need new Australian clinical data to be developed and provided to the regulator—such as circumstances where existing data demonstrates safe use in overseas markets that employ comparable dairy farming practices to those used in Australia.

Two examples of where the use of international evidence could expedite approvals of products that would benefit the dairy sector include:

- 1) data in support of efficacy and safety evaluation of teat disinfectants; and
- 2) data in support of efficacy evaluation of on-farm dairy cleansing and sanitising products.

It is not scientifically necessary to have to undertake the same level of evidence for products with a safe history of use elsewhere as is required for completely new actives not used anywhere in the world.

The dairy sector has repeatedly argued for guidelines to be provided to industry that set out a clear hierarchy of evidence requirements such that applicants for new approvals know exactly what data is required prior to each application. (Further details about Dairy Australia's proposal for a hierarchal framework for data requirements for teat disinfectant applications can be provided upon request.)

While ADF understands that the APVMA intends to make greater use of international evidence, and is highly supportive of this intent, implementation is slow. The dairy industry has an immediate need in this regard. As international markets make regular demands for compounds to be removed from chemical products important to dairy farmers (such as the recent examples of Nonylphenol Ethoxylates and Quaternary Ammonium Compounds), any reform that expedites approvals for new formulations and re-formulations is critical to maintaining market access.

## Chapter 8: Transport

### Draft Recommendation 8.1: SUPPORTED

ADF **supports** this recommendation as it is consistent with addressing our concerns about State and local governments being slow to assess and gazette routes for heavy vehicles access.

### Draft Recommendation 8.3: SUPPORTED

ADF **supports** this recommendation as it is consistent with feedback from farmers on the need to remove burdensome red tape around oversized agricultural machinery.

### Draft Recommendation 8.4: SUPPORTED

ADF **supports** this recommendation, as the NVHR needs to be more efficient, responsive and proactive in opening up access for heavy vehicles where it can be demonstrated to be safe.

### Draft Recommendation 8.6: SUPPORTED

ADF **supports** this recommendation, as the mandates put a floor price on grain prices which drive up costs for farmers.

Grain is a key primary input for milk production in Australia. All the cereal grains are used to varying degrees and the domestic grain market is often set at a price premium to export returns as a result of demand from the dairy industry. As an export exposed industry, anything which artificially increases the cost of a production input (such as mandated and subsidised ethanol production) disadvantages the thousands of individual dairy producers across the country.

## Chapter 9: Food Regulation

### Information request 9.1: Country-of-Origin-Labeling

The dairy industry has argued repeatedly for **voluntary** Country-of-Origin-Labeling and welcomes the Productivity Commission's examination of whether a voluntary scheme would deliver higher net benefits to the community than mandatory requirements. ADF reiterates that where industry-driven voluntary labelling schemes are in place, mandated arrangements are difficult to justify.

The proposed mandatory scheme is a significant increase in regulation and associated costs. The Consultation RIS provided no real valuation of the benefit to consumers (beyond a vague 'preference' for more information). ADF is concerned that confusion about the meaning of claims and associated logo will remain. ADF is also concerned about the impact of a mandatory scheme on international trade and argue this was not sufficiently examined during the Consultation RIS process. (The full Australian Dairy Industry Council submission to the Consultation RIS can be provided upon request.)

## Chapter 10: Labour regulation

ADF appreciates and understands the level of review which is being undertaken by other inquiries in relation to red tape hampering the attraction and retention of staff. However, due to staff wages being one of the key input costs for dairy farmers, ADF encourages the Productivity Commission to further investigate areas of unnecessary red tape in labour regulation. As identified in our previous submission, these include unaligned ANZSCO codes and the three-hour minimum engagement provision as stipulated in the Pastoral Award.

## Chapter 11: Competition regulation

### Draft finding 11.2: NOT SUPPORTED

As identified in our first submission, ADF is strongly supportive of amending section 46 of the Competition and Consumer Act 2010 to include an effects test. With respect, ADF, therefore does not support the Productivity Commission's view that the effects test is unlikely to shield farm businesses from intense competition in retail grocery markets.

The supermarket duopoly in Australia benefits from unprecedented market share, including for their own private label brands, and market power. The unique nature of milk provides retailers with an effective means to grow their market share and power, however the consequences for the sustainability of the domestic fresh milk supply chain is significant. Furthermore, over 60 per cent of milk produced in Australia is consumed domestically.

Importantly, an effects test is in line with competition policy around the world – the vast majority of developed nations have an effects test.

The former Section 49 of the Competition and Consumer Act included an effects test relating to price discrimination – does the conduct in question have the effect or the likely effect of bringing about a substantial lessening of competition?

ADF believes it is well worth reinstating this under section 46 to take a longer term view of issues and discovering the true impact for consumers, farmers and others of strategies undertaken by those with significant market power.

## Chapter 13: Export regulation

Dairy industry growth prospects are dependent on the ability to capitalise on existing and emerging export market opportunities. Efficient navigation of regulatory requirements are intrinsic to a successful, profitable result.

While Chapter 13 maps out some key areas where government involvement exists, it doesn't yet provide details about how impediments could be addressed, or make any recommendations.

ADF **requests** that Productivity Commission consider the appropriate strategy, mechanism, and resourcing by industry, state and Commonwealth governments for engaging foreign governments to work on the removal of barriers to agricultural exports (and in particular, dairy) in key export nations.

ADF **supports** cost recovery for export certification. Regular review of charges is essential, however, to ensure they do not become a barrier to entry for new exporters.

ADF **supports** the transition to electronic processing of export certificates. However, progress is slow. ADF encourages acceleration of the program to introduce electronic certification, and where possible have this occur across a multi commodity platform simultaneously to deliver gains more broadly across the agricultural sector in a timely manner.