



PEOPLE FOR
THE ETHICAL
TREATMENT
OF ANIMALS

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**SUBMISSION ON THE PRODUCTIVITY
COMMISSION DRAFT REPORT “REGULATION OF
AUSTRALIAN AGRICULTURE”**

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A. *About PETA Australia*

People for the Ethical Treatment of Animals (PETA) Australia is the local affiliate of the world's largest animal rights organisation, PETA US, which has over 5 million members and supporters worldwide. PETA is dedicated to establishing and protecting the rights of all animals, and operates under the simple principle that animals are not ours to eat, wear, experiment on, use for entertainment or abuse in any way.

PETA Australia works through public education, cruelty investigations, research, lobbying, celebrity involvement, and protest campaigns to focus international attention on the exploitation and abuse of animals for their flesh, for their skins, as living test tubes in laboratories, and for "entertainment".

B. *General Comments on the scope of PETA's response to the Report*

The Productivity Commission has invited submissions from the public responsive to its interim report, "*Regulation of Australian Agriculture*", as part of the Commission's inquiry into regulatory issues associated with Australian agricultural industries. PETA's comments on the draft report are below.

PETA has confined its comments on the report to the portions discussing the proposed establishment of a national independent animal welfare body and the pursuit of improvements in monitoring and enforcement – specifically, those culminating in Draft Recommendations 5.1 and 5.2 and the associated requests for public input. Omission to comment on the remaining premises and proposals in the interim report should not be inferred by the Commission to evince PETA's agreement with nor endorsement of them.

We also note that PETA is an animal rights, rather than animal welfare, organisation. The core values contemplated by the "animals are not ours" mission statement detailed above mean that PETA urges every individual to embrace the adoption of a vegan lifestyle and the avoidance of choices that cause or can cause animals suffering. In short, when there is a kind option and a cruel option, we urge consumers to choose the kind one. Accordingly, PETA's position is that since it is impossible to exploit animals for human interests on the current scale of demand in a way that avoids suffering, animals should not be exploited for human interests in any way. PETA will always champion an animal rights approach and encourage consumers to turn away from animal-exploiting industries; while such exploitation continues, however, PETA concurrently works to minimise animal suffering. We therefore provide our comments in this submission on the potential of the proposed independent animal welfare body to work toward that end.

C. *PETA's reasons for supporting the establishment of a national independent animal welfare body*

PETA endorses Draft Recommendation 5.1 proposing the establishment of an independent body tasked with developing national welfare standards, managing the regulatory impact assessment process for any new proposed standards, and incorporating an independent advisory committee. Our predominant reasons for

doing so are as follows:

1. **The Australian public is demanding change and their expectations are not being met by current arrangements.** It is plainly evident across the range of socio-political spheres that Australians are prioritising positive animal welfare outcomes on a daily basis.

As consumers, we are giving increasing weight to animal welfare considerations in our purchasing choices; as constituents, we are becoming increasingly vocal to our political representatives regarding the changes we want to see in the treatment of animals confined for human interests. The consumer realm is responding – farmers, manufacturers and retailers are tailoring their processes and products to conscious consumers, spruiking ‘higher welfare’ options and moving to phase out practices and housing conditions that are most intolerable to the consuming public.

But those steps are mostly piecemeal and inadequate to introduce meaningful, real change for animals’ lives and daily experiences, and the public knows it. It is a universally accepted value that animals confined, raised and killed for human use should live and die as ‘humanely’ as possible, but Australians’ faith in government and industries’ ability – and indeed willingness – to work towards that goal has been steadily eroded by an unbroken stream of revelations of not just malicious abuse but industry-wide failures to uphold minimum standards of care across farmed animal industries at home and abroad. That those revelations exclusively come from animal protection groups rather than any party proclaiming to care for ‘their’ animals is one of the key reasons for the public’s disillusionment with government and industries’ welfare efforts and highlights the urgent need for establishment of an independent animal welfare body.

2. **Animals currently have no advocate dedicated to their interests, and are being comprehensively failed by current structures.** The current system of animal welfare regulation and monitoring is woefully outdated and in need of fundamental restructuring that not only reflects the public’s shifting priorities but also demonstrates to the public that animal welfare needs are being independently considered and diligently addressed.

The current federal government is unapologetic in its relegation of animal welfare considerations to a matter of the lowest priority. The already paltry funding and support for the Australian Animal Welfare Strategy has been withdrawn, the advisory committee disbanded, and the initiative wholly abandoned, save for the skeleton token efforts noted in the interim report. This has allowed the federal government to effectively wash its hands of all welfare matters relating to animals within Australia and shunt all responsibility back to state and territory governments.

The federal government has instead turned its focus to bolstering initiatives that guarantee adverse welfare outcomes, seeking out new live export markets in countries with non-existent animal protection regimes and ignoring overwhelming evidence from existing markets that exported Australian animals are being handled and killed in ways repugnant to the Australian public. PETA wholly

rejects the Commission's defence of the live export trade taken from the dog-eared "if we didn't less civilised countries would" playbook first consulted by the British to justify its continued participation in live human export.¹

The disconnect between government and industries' repeated claim that Australia is regarded as a "world leader in welfare practices", and the reality of where Australia is positioned on the global spectrum of meaningful protections for animals, is stark. World Animal Protection's Animal Protection Index, which ranks countries for their animal protection commitments and policies, classifies Australia with a C grade – putting it on par with Malaysia, India, the Philippines and France; countries such as New Zealand, Germany, and Chile are considered to outrank Australia in this regard.² It is worth noting that this mediocre grading was evaluated before the government abandoned the task of implementing national model codes of practice; perhaps we would now be downgraded to a D classification, joining Japan, Korea, Tanzania, Romania and Mexico in an acknowledgement of our inexcusable foot-dragging when it comes to actual reform.

One of the key reasons why Australia is seen as middling in our commitment to genuine animal welfare protections is our inertia in addressing some of the worst aspects of current farming practice that much of the industrial world has already phased out. Systems such as sow stalls and battery cages are now illegal throughout Europe yet remain broadly tolerated and unaddressed by Australian laws and industries. Rather than being, and being seen, as at the forefront of animal welfare, as a nation we are falling behind, failing the animals and failing the Australian people. Establishment of an independent body would empower actions comparatively free of the federal government machinations that insulate rather than actively examine animal suffering and abuse. It would give a voice to the millions of animals who live and die each day in Australia without any federal body championing their cause.

3. **Departments that currently have animal welfare policies and laws in their portfolio are conflicted out of administering them in any meaningful way.**
 - a. **The view that departments of agriculture can effectively address both industry and animal welfare concerns is fatally and demonstrably flawed.** The ministries and departments currently responsible for administering animal welfare measures at both a federal and state level are predominantly tasked with promoting and protecting agricultural industries that cause the most widespread and ongoing animal suffering. All such departments make no secret of the fact that their first and foremost goal is to protect farmers' financial interests; instead they proclaim this with pride, and remain comfortable and complacent limiting their efforts on the welfare front to the occasional dismissive morsel of lip service when particularly egregious abuses are brought to light. The federal Department of Agriculture barrels on in its quest to expand Australia's live export

¹ See eg the summary comparison of arguments made to defend live animal export and arguments made to defend the human slave trade in Clive Phillips, *The Animal Trade* (CABI 2015) xiv.

² See World Animal Protection Animal Protection Index API, accessible at http://api.worldanimalprotection.org/?_ga=1.248805575.175419997.1437553962

trade, brushing aside the torrent of horrific abuse revelations from various destinations as fixable aberrations, wilfully astigmatic about the impossibility of effectively regulating the treatment of Australian animals in foreign countries.

The ingrained conflict of interest means that the misery and suffering that the vast majority of farmed animals experience throughout their lives is accepted as the ‘necessary’ norm by governmental departments tasked with minimising it; there is currently no dedicated body with a mandate to prioritise the interests of farmed animals. When government departments are tasked with both expanding and protecting animal industries at the same time as not just holding them accountable for the consequences of their actions but also pushing for reforms that would lead to improved welfare outcomes, protection of industry always wins out, as demonstrated by the last few decades of government torpor and buck-passing in this area.

- b. **The recent AAWS reform proposals illustrate the inescapable hazards of these conflicts.** A recent illustration of the consequences of this intimate relationship is the drafting and decision-making processes involved in the now-abandoned development of the Draft Australian Animal Welfare Standards and Guidelines for Sheep, and the sister guidelines relating to cattle. The proclaimed aim of both documents was to improve welfare outcomes for the animals; stating such an aim was as far as the drafting process and resulting documents went in contemplating real improvement. The drafting committee unabashedly acceded to industry influence in both the overall parameters, structure and classification of the proposed standards and guidelines, and also demonstrated throughout the specific standards themselves that the documents were written by and for the industries purported to be ultimately regulated by them. Pecuniary interests and the efficiency of shortcuts in large-scale farming operations tainted virtually every aspect of the process and the proposed regimes.

The consultation and drafting process for the documents actively strove to exclude welfare stakeholders; the RSPCA objected to the lack of meaningful participation afforded to the welfare groups consulted,³ and a member of the drafting committee bemoaned that reviewing public comments on the documents would be burdensome as “welfare organisations will propose contrary positions to what is in the standards and they will mobilise their members to participate in public consultation”.⁴ Instead of taking note of such widespread objection as an indicator that the proposed standards fell short in their stated aim of improving welfare outcomes, representatives from the committee took the position that “[i]t’s important that the livestock industries have ownership of these standards and guidelines”,⁵ and surrendered to industry demands that many of the most essential and fundamental minimum standards of care outlined in the documents be relegated to the status of unenforceable

³ Sabina Locke, “RSPCA attacks proposed animal welfare standards”, ABC Rural, 25 October 2012

⁴ Deanna Lush, “Short time to consider welfare laws”, The Land, 15 September 2012.

⁵ Ibid.

“guidelines”. The Regulatory Impact Statement published in association with the documents pertaining to sheep noted that “[t]he non-enforcement of the recommendations (guidelines) is a fundamental premise on which industry engagement and support for this process is based.”⁶

The urgent need for an independent entity dedicated to welfare is obvious; without a body focused on advancing the basic needs of farmed animals, industry will continue to have little trouble engineering and perpetuating legislative regimes that allow them to write their own rule books and ensure that any inconvenient or economically unattractive practice that might alleviate suffering is classified as a luxurious choice rather than an imperative.

- c. **The RSPCA is not, and can never be, an adequate stand-in for a dedicated federal body tasked with championing reform and enforcement.** It is worth addressing here the inevitable argument that the proposed body is unnecessary because animal welfare concerns and breaches are already adequately addressed by bodies such as the federal and state RSPCAs. While it is true that in some areas the state-level RSPCA branches are empowered to investigate and enforce cruelty laws (though not in many cases instances of cruelty to farmed animals, where suffering occurs on the largest scale), by their own admission the RSPCA is perpetually under-funded and -resourced and subject to a barrage of industry and political pressures to both stay silent on matters that farming interests feel entitled to entirely self-regulate and also to shy away from prosecutions that would have wider potential consequences for established industry practices. While the establishment of an independent body would obviously not provide a substitute for state-level prosecution and enforcement functions, it is essential to analyse and report on farmed animals’ experiences comparatively free of these pressures and to push for reforms that are unpalatable to industries chronically resistant to change. In sum, the proposed body can be a driver of policy in a way and to an extent that charities like the RSPCA cannot.

D. PETA’s responses to Information Request 5.1

Responsive to the particular questions raised by Information Request 5.1, PETA’s position is as follows:

1. Regarding the most effective governance structure for an independent body tasked with assessing and developing standards and guidelines for farm animal welfare:

PETA supports the establishment of a statutory body, and would urge the Commission to reject any model under which the body is established as “an office within a department” as contemplated as a possibility by the interim report. Independence means just that.

⁶ Animal Health Australia, ‘PROPOSED AUSTRALIAN ANIMAL WELFARE STANDARDS AND GUIDELINES – Sheep – Consultation Regulation Impact Statement’, p 21, available at <http://www.animalwelfarestandards.net.au/sheep/consultative-process/>

2. Regarding what the body's responsibilities should include, and whether it should make decisions or recommendations and if the latter, to whom:
 - a. **The body should be tasked with identifying ways in which the pursuit of state-level compliance and enforcement objectives and outcomes can be improved.** This is discussed in more detail in relation to Draft Recommendation 5.2 below.
 - b. **The principal function of the body should be as a driver of reform and improvement in the areas that most sorely need it.** Even those who profit from the live export industry would be hard pressed to argue that the Commonwealth government is reacting to the increasingly apparent failings of the current system in a way that satisfies either side of the debate. The powers of the body in this regard should therefore extend to decision-making rather than mere recommendations which would ultimately render the entity toothless.
 - c. **The body should be a vocal proponent and driving force behind national harmonisation and consistency.** As discussed in the interim report, both farming interests and animal welfare groups lament the structure of the current regime that sees the vast majority of welfare-related matters legislated at a state and territory level. The fragmented laws and policies foster uncertainty and hinder attempts for nationwide reform, as well as confident application of such laws in enforcement, prosecution and sentencing contexts. The body should be positioned as a shaper of welfare policies nationwide and thus conduct inquiries and prepare reports regarding the possible harmonisation of federal and state-level welfare laws. Such priorities have been actively rejected by the current federal government and their reinstatement would open up a discussion of the importance of welfare concerns across the board, as well as potentially highlighting where various state and territory laws fall conspicuously short of the national public's expectations.

Taking up the mantle of continuing to develop the discarded Australian Animal Welfare Strategy could also result in some improvements for farmed animals if the body were successful in truly positioning welfare concerns as a central priority of the strategy and were able to shepherd into being a strategy that reflected the national public's desire for meaningful reform.

- d. **The body should be an advocate for and to the extent possible enforcer of transparency.** An area of omnipresent and growing frustration for animal protection groups and the consuming public alike is the secretive manner in which federal government agencies and industry bodies conduct themselves or are perceived to conduct themselves in relation to decision-making processes and responses to inquiries and crises. The federal government is going to increasingly outrageous lengths to shield itself from scrutiny when it comes to such matters as the handling of asylum seekers and detained refugees, and appears equally dedicated to concealment in relation to the treatment of farmed animals – witness the

Senate Rural and Regional Affairs and Transport Legislation Committee's recommendation last year that the repugnant Criminal Code Amendment (Animal Protection) Bill 2015 be passed (a possibility that has thankfully died for the moment with the Bill's lapse at dissolution).

The establishment of an independent body is essential to shine at least some light in the darkest corners of animal-exploiting industries. It should through research, review and reporting functions provide crucial insight into the functioning and inevitable failings of ESCAS and other attempts at assuring welfare in the live export industry, a welcome contrast to the current government and industry goal of strangling the flow of relevant information to the public. Its functions in this area must extend to scrutiny of and reporting on all aspects of federal welfare policies and in doing so provide at least some assurance to the Australian public that a comparatively objective eye is being cast over the federal government's policies and practices applicable to the animals confined for their consumption.

- e. **The body should function as a key centralised information resource, acting as a custodian and distributor of information about federal and state animal welfare issues.** The range of potential benefits that development of such an asset could create is diverse: demonstrating to foreign trading partners that Australia is taking steps towards the goal of being a world leader in animal welfare in action rather than just words; bolstering the Australian public's confidence in the setting of federal welfare policy knowing that knowledgeable advisors had provided meaningful input; providing a consistent touchstone for the states and territories in reviewing and adapting their welfare policies; providing a solid foundation of material from which all stakeholders could generate frank, informed debate; and beyond.

One of the key benefits that establishing the body as such a resource may provide is working towards the goal of ensuring that the Minister is provided with relatively objective, evidence-based advice, in contrast to the current practice of allowing industry to drive policy-setting based on economics, convenience, and tradition. Industry conventionally dismisses animal protection groups' and the public's objection to standard farming practices that cause immense suffering on the basis that those objections are based in "emotion" rather than "science" (as particularly reiterated in the WA government's submission to the Commission). In reality, however, actual rigorous scientific enquiry, analysis and input are rarely prioritised in the setting of national welfare policies, and certainly not in the context of focusing on the science of farmed animals' capabilities, experiences and capacities for physical and emotional suffering.

As we saw most recently illustrated in the development of the draft AAWS related to sheep and cattle, decision-making committees and drafting bodies are typically populated by industry stakeholders, with token consideration given to the input of welfare groups, veterinary associations, and animal scientists alike. As contemplated by the interim report and argued by several groups' earlier submissions, where scientific enquiry is

undertaken, even where publically funded, the parameters are crafted by industry to ensure the topics pursued and conclusions reached will support rather than challenge the status quo. Moreover the findings of many studies that are conducted remain unavailable to the public and shielded from peer review. PETA hopes that tasking an independent body with a centralised information resource function will serve to remedy these issues. Further considerations of proposals such as the establishment of a dedicated ‘Australian Animal Welfare Research Centre’ subdivision within the body, a version of which was contemplated by the AAWS R&D Advisory Group’s 2007 report,⁷ are warranted.

3. Regarding how such a body should be funded:

The report notes that costs would principally be the administrative costs of operation, and therefore the body’s funding arrangements would need to be resolved, but that since government funding is already allocated to a range of related activities that could be ceased or subsumed under the operational purview of the new body, “[a] well-designed independent body need not be significantly more expensive than the current arrangements, and could deliver cost savings over time by providing greater clarity of farm animal welfare issues”. We concur, and further note that during the process of exploring both previous proposals to establish such a body noted by the interim report, both Labor and the Greens took steps to cost it and concluded with the aid of costings from the Parliamentary Budget Office that it would require a minimal outlay⁸ to establish the body or indeed be “virtually cost-neutral”.⁹

E. PETA’s position on recommendations regarding state monitoring and enforcement systems

PETA endorses Draft Recommendation 5.2 as a jumping off point as regards the recommendations that state and territory governments should review their monitoring and enforcement functions and make necessary changes to ensure adequate separation of functions and greater transparency and resource allocation. However, we make the further additional recommendations for enhancing and expanding upon these proposals:

1. PETA’s view is that the recommendation will not serve to adequately address the problem at its core – the inherent conflicts of interest discussed above and in the interim report cannot be cured by what would ultimately be a paper-thin Chinese wall between subdivisions still ultimately housed within and answerable to government departments motivated by maximising industry profit.

⁷ Australian Animal Welfare Strategy Research & Development Advisory Group, ‘Animal Welfare R&D for Australia – The Path Forward’, 20 November 2007

⁸ Australian Labor, ‘Positive Policy: Protecting Animal Welfare Fact Sheet’, accessible at http://www.100positivepolicies.org.au/protecting_animal_welfare_fact_sheet

⁹ Adam Bandt/Lee Rhiannon, ‘Media Release: Greens Introduce Bill for Independent Office of Animal Welfare’, 27 May 2013, accessible at http://www.adambandt.com/greens_introduce_bill_for_independent_office_of_animal_welfare; see also Colin Bettles, ‘Greens push animal bill’, *farmonline*, 31 May 2013, accessible at <http://www.farmonline.com.au/news/agriculture/cattle/general-news/greens-push-animal-bill/2659188.aspx>

Therefore, given the ingrained nature of the current conflicts and shortcomings at the state level, PETA believes there is ample room and need to explore incorporating an evaluation and recommendation function regarding ultimate compliance at the state level into the national body's portfolio, rather than continuing to wholly delegate initiative to state and territory governments and trust in their respective enthusiasms for the task. Given among other things the susceptibility of state agriculture departments to industry lobbying as noted by RSPCA Australia and other commentators, clarity is essential on this point. We note that reference is made to such a function in the interim report but that it has not been explicitly set down in the draft recommendation.

Beyond working towards circumventing the conflicts noted above, tasking the independent body with a state-focused review and recommendation function is also essential to ensuring that animal welfare mandates are afforded a greater degree of political continuity and consistency. Leaving animal welfare concerns wholly in the hands of partisan agricultural ministries also leaves animal welfare matters vulnerable to the muddled lobbying-about of portfolios that can occur in periods of transitioning and restructuring.

The handling of PETA US' complaint regarding abuse in Victorian shearing sheds is a prime example. At the time of the complaint's submission, powers to investigate breaches of cruelty laws were vested in the then Department of Environment and Primary Industries in Victoria – already a problematic scenario for the reasons above, with inbuilt concerns about the ability of a department tasked with protecting agricultural interests to freely conduct an independent and vigorous investigation. More than two years after it was submitted pursuit of the complaint continues, but following the restructure of Victorian ministerial portfolios, now by the Department of Economic Development, Jobs, Transport and Resources. That the public is expected to believe that a Department tasked not just with protecting farming interests but also fostering job growth, administering industrial relations, promoting tourism, regulating Victoria's ports, and promoting road safety is the optimal warden of farmed animals' interests is absurd.

While the proposed independent body would not of course have powers to address state departmental restructures directly, having a permanent, dedicated federal body tasked with review and reporting on ways to improve the processes specific to the handling of complaints and enforcement is a step in the right direction.

2. Given, as noted by the interim report, that in several instances the RSPCA is tasked with enforcement rather than the relevant government agency, it is insufficient to recommend that only government agencies take steps to ensure greater transparency through public reporting on monitoring and enforcement activities.

PETA agrees that “[t]ransparent and effective monitoring and enforcement functions are needed”, similarly laments the fact that “[p]ublicly available information on the enforcement activities of state and territory government agencies responsible for farm animal welfare compliance functions is limited”, and that “[t]ransparency could be improved with annual reporting by relevant

regulators of the compliance activities they undertake, including routine unannounced inspections”. Given, as the report notes, that state and territory governments share inspection, enforcement, and prosecution responsibilities with the RSPCA, it is nonsensical that the RSPCA and its various state branches should be exempt from this obligation on the basis of their private charity status, leaving members of the public seeking information on their compliance activities to rely on the idiosyncrasies of each state and territory’s right to information laws which in many cases shield the RSPCA and its decision-making processes from scrutiny entirely.

That the various state-based RSPCAs are statutorily tasked with the investigation and prosecution of animal welfare matters, in some cases exclusively in practice, yet are not proposed to be beholden to the same transparency standards and practices as government departments, is unjustifiable and unsustainable if true transparency is to be pursued.

PETA urges the Commission to retain and indeed build on its recommendations regarding the establishment of an independent body dedicated to promoting meaningful welfare improvements and hopes that the establishment of such a body will be a springboard for much-needed nationwide reform that introduces at least a little relief in the lives of Australia’s farmed, confined, and abused animals.