

19 February 2016

Regulation of Australian Agriculture  
Productivity Commission  
Locked Bag 2, Collins St East PO  
Melbourne VIC 8003  
**By email: [agriculture@pc.gov.au](mailto:agriculture@pc.gov.au)**

**Animals Australia submission to the  
'Regulation of Australian Agriculture' Issues Paper**

Animals Australia is a peak animal protection organisation in Australia. On behalf of our member societies and individual members and supporters we are pleased to be able to provide the following submission.

Animals Australia is concerned that the current Australian regulatory framework to protect the welfare of farmed animals is significantly deficient – both in the low standards provided and the enforcement systems in place. In relevant sections below (using the questions raised in the Issues Paper) we will expand upon our concerns.

There is an urgent need for reform in this area, and particularly to remove the bias and inherent conflicts of interest that pervade animal welfare standard-setting and enforcement regimes which are dominated by industry capture and government agriculture department oversight. Any move to reduce the current minimal regulation of the welfare of farmed animals would be negligent in the face of growing community and consumer concern and international developments.

**Animal Welfare**

***Do existing animal welfare regulations (at the Australian and state and territory government levels) efficiently and effectively meet community expectations about the humane treatment of animals used in agriculture production?***

Existing animal welfare regulations at the Commonwealth and state/territory levels of government **do not** efficiently and effectively meet community expectations about the humane treatment of animals used in agriculture production. In fact, the trends discussed below indicate that there is a serious misalignment between the regulations and the expectations of the community in this regard.

The root of this 'misalignment' lies in the inherent and untenable conflict of interest that exists within both the Commonwealth and state/territory Departments responsible for agriculture – whereby the department charged with maximising the interests of producers is in most cases the same department charged with looking after the animal welfare portfolio. The reality of this

structure is that, to be frank, animals can't vote, so therefore they are afforded the rough end of the deal. This point is explained below and nowhere is it illustrated more than in the fact that **animal protection laws in Australia exempt animals used for production purposes.**

### ***State & Territory Government***

Increasingly, intensive animal farming, live export and cruel practices (performed without pain relief) in livestock farming do not have the support of the community as more people learn of practices that cause enduring suffering of animals in these systems.

As a result, the corporate sector is now demanding higher welfare animal products and paying close attention to matters of 'social responsibility'. For example, the EU banned the barren battery cage in 2012 because of unacceptable cruelty. However, nowhere has this shift been more pronounced than over the last 12 months in the USA, where major companies are making commitments to move away from cage eggs and pork from intensive farms. Below we list just some of the many similar commitments in Australia:

- Woolworths supermarkets will phase out the sale of cage eggs by 2018.
- Over half of all eggs sold from both Coles and Woolworths supermarkets in Australia are now produced in a 'cage free' environment.
- All fresh pork meat for both supermarket chains is sourced from farms that are 'sow stall free'.
- McDonalds, Subway and Hungry Jacks are the most high profile of many recent additions to the growing list of companies pledging to remove cage eggs from their menus.
- Nestle have committed (internationally) to eliminate gestation crates (sow stalls), tail docking, and surgical castration for pigs, and will be using cage free eggs by 2020.

These examples illustrate the will of corporates to listen to consumers as they demand higher animal welfare standards in the products that they purchase. The regulators, however, are falling short behind the progress that is being made by corporates and internationally.

In 2014, *World Animal Protection* launched an index called the Animal Protection Index. This Index establishes a classification of 50 countries around the world according to their commitments to protect animals and improve animal welfare in policy and legislation. Senior members of internationally renowned animal protection NGOs participated in the formation of the Index. Additionally, various academic experts were consulted to ensure the suitability of design, international applicability and adequacy of issues covered in the Index.<sup>1</sup>

Australia scored an overall 'C', along with Brazil, India, Malaysia and the Philippines.<sup>2</sup> In relation specifically to the protection of livestock under Australian regulations, Australia scored a 'C'. Our neighbouring countries, however, such as New Zealand, scored an A.<sup>3</sup>

---

<sup>1</sup> See: <http://api.worldanimalprotection.org/#>.

<sup>2</sup> See: <http://api.worldanimalprotection.org/country/australia>.

<sup>3</sup> See: <http://api.worldanimalprotection.org/country/new-zealand>.

This is, in large part, because despite the existence of state/territory level animal protection laws<sup>4</sup>, the majority of animals in Australia – farm animals – are in fact exempt from protection under these state/territory Acts.

For example, in Victoria, there are regulated standards or mandatory codes which prescribe husbandry conditions for keeping domestic fowl; pigs, livestock slaughter and for livestock transport. There are voluntary codes for most commonly farmed species of animal. Compliance with codes of practice provides an exemption from the provisions of the *Prevention of Cruelty to Animals Act 1986* (section 6); codes provide guidance on the expected minimum conduct or practice. This is why it is legal, for example, to keep a hen in a cage for the purposes of egg production; to clip the tail off a piglet without any pain relief; and to confine a dog to a cage for 23.5 hours/day in a puppy farm. However, the same acts carried out on these animals if they are classified as “domestic pets” would constitute an offence under animal cruelty laws. In other words, these codes of practice are, in effect, legalised cruelty.

The more that the community becomes aware of this discriminatory treatment of animals in the eyes of the law, the more the community *intolerance* of such practices is forcing corporates to change their behaviours in order to stay competitive and relevant to the market.

The industry groups (regulatory and otherwise) that support intensive farming practices have an obligation to recognise that this ‘economies of scale’ model at the expense of animal welfare is no longer a feasible business model. The law should and will ultimately follow the moral sentiment of the community and therefore it is time for these industries to take heed from the actions of corporates to stay competitive, relevant and viable.

### **Commonwealth Government**

In taking the live animal export trade as an example: the Exporter Supply Chain Assurance System (**ESCAS**) was implemented in Australia in 2011 in response to the Indonesian exposé on the ABC’s *Four Corners* program, which showed the brutal mistreatment of Australian cattle in Indonesia. Within days of the *Four Corners* program airing, hundreds of thousands of Australians called for a ban on live export by signing petitions, attending national public rallies and inundating politicians with emails, letters and phone calls.

In response, former Minister Ludwig, on 8 June 2011, announced a six-month suspension of livestock exports to Indonesia, and a review of live exports to all overseas buyers, including those in the Middle East.

As a result, ESCAS was introduced in an effort to protect the welfare of Australian animals shipped overseas for slaughter. This also included the exposure and subsequent global ban on the use of a particular slaughter box (Mark 1) supplied by Meat and Livestock Australia and part-paid for by the Australian tax payer, which was being used in these importing markets.

---

<sup>4</sup> ACT *Animal Welfare Act 1992*; NSW *Prevention of Cruelty to Animals Act 1979*; NT *Animal Welfare Act*; WA *Animal Welfare Act 2002*; Queensland *Animal Care and Protection Act 2001*; SA *Animal Welfare Act 1985*; Victoria *Prevention of Cruelty to Animals Act 1986*; Tasmania *Animal Welfare Act 1993*.

ESCAS makes Australian exporters legally responsible for ensuring exported animals remain within approved supply chains in importing countries. This means that the animals are tracked through the supply chain from disembarkation in the importing country, to the feedlot, and then to the approved abattoir where they are slaughtered. Compliance with ESCAS is a condition of an exporter's licence.<sup>5</sup> Animals exported for breeding or dairy industries are not covered by ESCAS.

Animals Australia's investigators have travelled to 12 countries for investigations of feedlots, markets and abattoirs processing Australian animals over the past 4 years, and has lodged no less than 37 detailed formal complaints to the Department of Agriculture and Water Resources (**DAWR**). The DAWR investigations have found numerous 'critical' breaches of ESCAS and as a result imposed conditions on exporter's licenses, and even prohibited some supply chains (e.g. Gaza). These crucial investigations have shown – and continue to show – that the live export industry cannot and must not be left to regulate itself and that profit and expedience has and will continue to override the welfare of our animals unless there is full regulatory oversight of this trade in live animals.

Rather than any contemplation of a reduced role, the Department's regulatory role needs to be bolstered if even the minimum standards of ESCAS are to be consistently enforced through the exporter's licences (under the Australian Meat and Livestock Industry legislation).

The Australian community clearly places a high priority on animal welfare. The outrage felt around our country after the exposé of the cruel cattle slaughter in filthy abattoirs in Indonesia in 2011, and on each occasion that we have exposed similar issues in the years since, reveals that this concern does not lessen when Australian animals leave our shores. Indeed, 86% of Australians believe that the live trade should be transitioned to boxed meat exports.<sup>6</sup>

***Do animal welfare regulations materially affect the competitiveness of livestock industries, and, if so, how?***

Animal welfare is certainly an important element of sustainability, particularly when considered in the context of growing consumer concern about where food comes from and the methods of production (farming and slaughter) used for animal-based products. Similarly market access and competitiveness (e.g. with New Zealand) in the export market for Australian produce, particularly to the European Union countries where most welfare standards are already higher than Australian standards, depends on a sound animal welfare regulatory system.

***What are the reform priorities for animal welfare regulations, if any, and have recent reforms, for example in relation to the ESCAS, delivered net benefits to the community?***

In June 2014, Animals Australia provided a comprehensive submission in response to Minister Joyce's invitation of 17 June 2014 to provide input to the Department's report on the effectiveness of ESCAS.

---

<sup>5</sup> Prior to the rollout of ESCAS, Australian exporters were only responsible for exported animals up to the point that the last animal was unloaded from the vessel at the port of the importing country. ESCAS now makes it a condition of the exporter's licence to track and trace each animal up until they are slaughtered in the importing country.

<sup>6</sup> Galaxy Opinion Poll (2010).

Consistent with the Minister's request and the recommendations of the Independent Review of Australian's Livestock Export Trade, the 'Farmer Review' of August 2011<sup>7</sup>, Animals Australia provided facts, data and direct examples of how ESCAS has been implemented in the different importing markets, provided views on the effectiveness of ESCAS in 'delivering animal welfare', and on 'lessons learnt', and we made recommendations for improvements to the current system. We **attach** this submission.

As concluded in our submission to the review of ESCAS:

*The Farmer Review, significantly, concluded that '... the trade is sustainable only if it can demonstrate animal welfare outcomes acceptable to the Australian community'. The implementation of ESCAS was a positive and needed development, but Australia being the only exporting nation which requires standards of treatment for exported animals becomes irrelevant if those standards are then not adhered to.*

*It is clear that to ensure that even the current ESCAS standards are complied with, changes are urgently needed to increase the effectiveness and independence of oversight and reporting mechanisms. Any suggestion that there is currently broad ESCAS compliance would be ill-informed, naive and at odds with the industry's own conclusions. Supply chain breaches represent only one area of concern. Maintaining standards of treatment in abattoirs where no in-country required audit system or local regulations exist, is a challenge that can only be met by a more robust and independent ESCAS auditing system.*

*Even with a more robust auditing system, the day-to-day effectiveness of ESCAS in improving animal welfare outcomes, will still rely on the willingness of exporters and importers to adhere to ESCAS. There is clear evidence that certain companies are reticent to do so and, as a direct result, shocking evidence of ill-treatment has continued to be documented.*

*The live export industry and animal welfare groups are as one in calling for strong regulatory action to be taken against companies unwilling to 'play by the rules'. Compliance will only become relevant when failure to comply with regulatory measures present commercial implications. DA also has the ability through Section 17 AMLI orders, to prevent an importer who has exhibited an unwillingness to comply with ESCAS, from being able to import animals.*

*Animals Australia is confident that industry support will also be provided for addressing evidentiary issues, such a sheep EID identification and visual markers, so that individual wrongdoers can be identified, rather than placing blanket regulatory measures on all exporters. Implementing sheep EID is completely justifiable when it is an ESCAS requirement for traceability of cattle.*

*As regards the ESCAS standards themselves, history has shown that outcomes that had been considered 'aspirational goals' such as stunning of cattle in Indonesia can*

---

<sup>7</sup> See:

[http://www.agriculture.gov.au/Style%20Library/Images/DAFF/\\_data/assets/pdffile/0007/2401693/ind-ep-review-aust-livestock-export-trade.pdf](http://www.agriculture.gov.au/Style%20Library/Images/DAFF/_data/assets/pdffile/0007/2401693/ind-ep-review-aust-livestock-export-trade.pdf).

*become realities, and be actively embraced when understood to be a necessary requirement to access Australian livestock or to prevent disruptions to trade. Similarly, the current willingness in Egypt to entertain pre-slaughter stunning has been driven through an understanding of the unacceptable nature of past slaughter practices, that led to temporary suspension of trade, and seeking to avoid further suspensions of trade.*

*The welfare issues associated with fully conscious slaughter of cattle should be considered so severe to mandate stunning for cattle as part of ESCAS requirements. If the government is unwilling to do so, then mandating stunning for both cattle and sheep in supply chains in countries where there is no religious impediment to pre-stunning will at least reduce the suffering of a greater proportion of exported animals.*

*Changes are needed for the Australian community to have confidence that ESCAS is delivering necessary animal welfare outcomes. The recommendations within this submission are based on knowledge, insights and evidence gained by Animals Australia over 12 years of investigations in importing countries and our direct involvement as investigators and complainants, both before and since ESCAS was implemented.*

In addition to the clear and critical reform priorities needed in regard to the Australian livestock export regime (whilst live export continues), as indicated above, in Australia farm animals are not being afforded adequate protection under the current regime. Some of the key issues that require reform are further explored below.

### ***Animal Welfare Research Funding***

A key stated requirement of the current Australian farm animal Standards and Guidelines is that they are “...based on current scientific knowledge, recommended industry practice and community expectations”<sup>8</sup> [our emphasis].

However there is a serious degree of bias in the science presented during the process of standards setting. In Australia, most livestock research is funded by levies paid to industry bodies such as Meat and Livestock Australia (MLA) and each of Australian Pork Limited, Livecorp, the Australian Egg Corporation, and the Australian Chicken Meat Federation (via RIRDC) - with matched government funding. Despite the usual 50% public funding, research topics are strongly driven by industry as the respective research body (including CRCs) Boards and advisory groups are dominated by industry representatives.

A recent study by *Phillips and Petherick (2015)*<sup>9</sup> highlighted that there are “*problems with industry-funded research to investigate a public good, farm animal welfare*”. An example of this is that the RIRDC chicken meat funding allocates only 20% of its RD&E budget to: “*Objective 2: Deliver safe food and good animal welfare outcomes*”.

---

<sup>8</sup> See for example the most recently endorsed Cattle S&Gs at: <http://www.animalwelfarestandards.net.au/cattle/>.

<sup>9</sup> Phillips, C.J.C., Petherick, J.C., *The ethics of a co-regulatory model for farm animal welfare research*, Journal of Agricultural and Environmental Ethics (2015) 28, 127–142.

Further, even when research projects are labelled 'welfare', it is often clear from the topics researched that the research is commercially driven (i.e. to obtain productivity gains or defend current practice).

In addition to the problems of industry-dominated decisions about which issues to address – the *Phillips and Petherick* paper also submitted that “[e]vidence of unsupported conclusions that are favourable to industry is provided, suggesting that researchers do experience a conflict of interest that may influence the integrity of the research”.

During the review of farm animal Codes in recent years there have been numerous blatant attempts by industry to 'use' unpublished science to push for pre-emptory decisions on key issues. An important example is the process in 2009 during the review of the *Land Transport Standards*, related to the time that 5 day old (unwanted) dairy calves could be denied milk on the day/s they were transferred from farm to slaughter.

The existing practice was that the bobby calves were slaughtered often the day after leaving their farm of birth, without being fed in the interim. **Rather than embrace the need for a change to reduce the period of stress and hunger for the calves during this time prior to slaughter, the dairy industry was keen to use 'science' to demonstrate that keeping a calf off liquid food (any sustenance) for 30 hours was physically acceptable, and thus 'shore up' the defence of the current system.** In late 2009, industry peak body Dairy Australia commissioned Melbourne University researchers to examine the issue.

However, prior to the commencement of the research, and based on a single New Zealand study, the 'Bobby Calf Reference Group', a sub group of the review 'Reference Group' adopted a recommendation that the Standard be 30 hours' time off food for the bobby calves. When the Melbourne University study was subsequently completed, it was clearly insufficient to place reliance upon as it examined only 60 calves from a single well-run farm, where the operators were aware of the study and the need to provide adequate colostrum, good shelter accommodation and feed prior to the study.<sup>10</sup> The researchers had noted the likely bias of their sample and recommended that further work be undertaken to monitor similar parameters in commercial practice to determine the typical status of calves deprived of milk for up to 30 hours.

In addition to the concern about the validity of the sampled calves, there is significant doubt about the design and interpretation of the study.<sup>11</sup> Despite this doubt, Dairy Australia defended the 30 hours' time off feed for the calves in their industry on the basis of 'science'.<sup>12</sup>

---

<sup>10</sup> Fisher A, Mansell P, Stevens B, Conley M, Jongman E, Lauber M, Hides S., *Determining a suitable time off feed of bobby calf transport under Australian conditions*. Dairy Australia Project no. TIG 124, May 2010.

<sup>11</sup> A more detailed explanation of the flaws and limitations of the University of Melbourne study is set out in the Animals Australia submission to the RIS - <http://www.animalwelfarestandards.net.au/land-transport/bobby-calf-time-off-feed-submissions/>, See Submission 5. An independent scientific critique by Professor Clive Phillips, commissioned by Animals Australia and described in the submission, is available upon request. And a similar assessment can be found in the Queensland DEEDI submission – <http://www.animalwelfarestandards.net.au/land-transport/bobby-calf-time-off-feed-submissions/>. See Submission 14.

<sup>12</sup> See, for example, *The Weekly Times*, 'Bobby calf plan angers Animals Australia' (27 January 2011). Available at: [http://www.weeklytimesnow.com.au/article/2011/01/27/287601\\_latest-news.html](http://www.weeklytimesnow.com.au/article/2011/01/27/287601_latest-news.html).

*Phillips and Petherick* examined the bobby calf transport research issue, and also a second case study looking at the basis for the current *Australian Standards for the Export of Livestock (ASEL)* on board pen density standards for sheep and cattle on live export ships. ASEL, in effect, is the Commonwealth live export version of the state/territory Codes in that it allows for the treatment of livestock in the live trade that would otherwise be considered “cruelty” under animal protection legislation. In that study the authors similarly considered that ASEL is not based on robust independent scientific knowledge and concluded in part:

*Particular risks occur if scientists that are dependent on industry funding are asked to undertake research that is funded by industry and used to evaluate industry-led standards. Inadequate measures may be used, and the interpretation of results may be equivocal at best. Overseeing and management of animal welfare research by government and industry may be improved by outsourcing to an independent body, with representation from the public, consumers, advocacy groups, industry, and government.*<sup>13</sup>

### **Standards Review System Bias**

A further key system reform that is needed is the manner in which the farm animal Codes are converted to Standards and Guidelines and subsequently updated. The system is industry-dominated as explained above.

A pertinent very recent example is the failure of recently AGMIN–endorsed Standards and Guidelines for sheep and for cattle.

In regard to sheep - the Code of Practice for sheep was recently reviewed – and this review was drawn out over a 7 year period – and was endorsed by AGMIN in January 2016 as the *Australian Animal Welfare Standards and Guidelines for Sheep*.<sup>14</sup> Throughout the process the sheep industry itself refused all key initiatives put forward by animal welfare advocates representing the mainstream community, and which were supported by animal welfare scientists, and in some cases by sheep industry contractors (that is, those who undertake the work on many large farms – including: shearers, markers, mulesers, etc).

The most blatant example (though one of many) is of the failure of the industry and Agriculture Ministers to agree to an enforceable requirement (a Standard) to provide pain relief to lambs undergoing mulesing (the cutting of skin from the rear of lambs to reduce the incidence of flystrike). The Standards (at S7.3) do not require pain relief if mulesing is done prior to 6 months of age (as is the norm), and it can be done up to 12 months of age.

This failure to provide pain relief is despite a topical (spray-on) temporary pain relief ‘*Trisolfen*<sup>TM</sup>’ being available at rural supplies stores without veterinary prescription. The RIS (written as part of the Sheep Standard & Guideline (**S&G**) consultation process) calculated that a further 4.86 million lambs a year would benefit if pain relief was mandated, and the cost would be some 66 cents per lamb to provide pain relief for the first day after this serious mutilation.

---

<sup>13</sup> Phillips, C.J.C., Petherick, J.C., *The ethics of a co-regulatory model for farm animal welfare research*, *Journal of Agricultural and Environmental Ethics* (2015) 28, 127–142.

<sup>14</sup> Available at: <http://www.animalwelfarestandards.net.au/sheep/>.



The same new sheep S&G allows other painful practices– including:

- Castration – similarly no pain relief if done before 6 months of age (most are done at around 12 weeks of less);
- Tail docking - no pain relief if done before 6 months of age. And, even though scientific studies show that hot knives (cautery) and rubber rings are better than a sharp knife for tail docking, they make this only a Guidelines, not an enforceable Standard;
- Suturing of severe cuts to sheep during shearing will not require pain relief (the Standards are silent on this issue); and
- Laparoscopic insemination procedures will not require pain relief.

Further, an important issue when discussing surgical procedures and other husbandry practice is to consider the competency of the operators (farmers/contractors). In the case of mulesing (perhaps the most invasive of all such surgical mutilations) any requirement for training and auditing of competency has been removed from these Standards; calls for it to be included during the review process were rejected by the dominant industry representatives. This was despite previous Primary Industries Ministerial Council (the predecessor body to the current AGMIN) agreement (2005) that all farmers (by 2008) and contractors (by 2006) must have undertaken and passed the national mulesing training (NMAP) course. These Standards do not require any training, merely requiring relevant knowledge, experience and skills.

The Cattle S&G endorsed last month by AGMIN also fails to provide sound animal welfare protection and allows cruel practices to continue on farms. There are a vast number of unacceptable painful practices that remain permissible under these Standards, and which will largely not require pain relief at the age these surgical mutilations usually occur. That is, no change to the status quo.

The primary examples of these painful husbandry practices that will still be permitted (without pain relief) include particularly:

- Dehorning - said to be one of the most painful practices. Recently estimated that 2.1% of calves die after dehorning, usually due to blood loss, but at times due to infection;
- Spaying of northern cattle - pain relief will be required for flank spaying, but the Willis technique will continue with no pain relief;
- Disbudding of dairy replacement heifer calves will not require pain relief, and even caustic chemicals are to be permitted;
- Castration; and
- Branding (other than face/head branding).

Some husbandry practices such as calving inductions of dairy cows (injection to induce the birth of premature calves to bring the cows into milk more quickly) will continue to be permitted

despite the welfare implications. It is noteworthy that our dairy exports competitor, New Zealand, has phased this routine practice out (prohibited from 1/6/2015).

Both the sheep and the cattle S&Gs endorsed last month fail to require key husbandry safeguards, including:

- Access to food and water (an unenforceable Guideline suggests daily access for water, but no specific feed interval even by way of guideline – though a Standard requires daily feeding of some classes of cattle, e.g. feedlot cattle);
- Provision of shade and shelter – an unenforceable Guidelines states “[s]hade and shelter should be provided to prevent heat and cold stress”;
- Adequate inspection so that health and welfare issues can be dealt with promptly as they arise (and thus reduce suffering). Daily inspection is a Standard for some animals, such as dairy cattle, calves in rearing facilities and feedlot cattle, but no specific guidance (let alone a Standard) is provided for the inspection of most animals.

As far as urgent change therefore – the system in place to set animal welfare standards is cumbersome, biased and is not providing a sound scientific basis for animal welfare standards in Australia. It is highly likely that if the community were fully aware of the low standards required of farmers, and the lack of enforcement of even those existing standards, they would be rightly shocked. Community awareness is, however, growing. This is evidenced by the trends discussed earlier.

The Australian Animal Welfare Strategy<sup>15</sup>, which was first developed in 2005, had as its mission “[t]o deliver sustainable improvements in the welfare of all animals”. The strategy was abandoned by the current government in 2013 (with all funding ceasing on 30/6/2014). Even during its tenure it was not able to adequately move towards that goal due to the obvious conflict of interests (as noted above). There is no current national leadership, and little hope of achieving the Strategy’s goals unless a new system is developed.

### ***Independent Office of Animal Welfare***

It is our strong view therefore that in the absence of national leadership, an Independent Office of Animal Welfare is needed to monitor, investigate and be able to make recommendations to government regarding matters impacting on animal welfare across all areas of animal use (not only farmed animals). We believe this need is long overdue because:

- Demonstrably Australians care about animal welfare, and in fact politicians receive more correspondence about animal welfare issues than most other issues;
- Public confidence in the current administration of animal welfare has been shaken in recent years as exposés have shown the many flaws in the animal protection regime due to the lack of government oversight of industries such as live export, abattoirs and intensive farming facilities.
- Untenable conflict of interest – the administration of animal welfare legislation in Australia is primarily undertaken by state and federal Departments of agriculture. These departments have as their primary focus the promotion of agricultural products and trade,

---

<sup>15</sup> For background, see: <http://www.australiananimalwelfare.com.au/content/about-aaws>.

their clients are farmers and other animal use industries. As a result they have a conflict of interest and are unable to provide the independence necessary to make needed decisions required to ensure animal welfare meets community expectations. As illustrated above, the outcomes are unacceptable.

***The primary role of an Independent Office of Animal Welfare could include to:***

- Provide independent oversight of the existing federal and state legal framework for animal welfare, including enforcement;
- Develop, monitor and report on agreed 'indicators' of the safety, welfare and well-being of animals and to monitor these trends;
- Conduct special inquiries into issues affecting animals (as referred by the Parliaments or other bodies);
- Provide advice and input to ensure sound independent research is conducted on key animal welfare issues;
- Make recommendations to government and non-government agencies on legislation, policies, practices and services affecting animals; and
- Provide input into the OIE (World Organisation for Animal Health) towards continual improvements in animal welfare internationally.

We commend this approach to the Productivity Commission.

***How do variations between state and territory animal welfare regulations affect livestock businesses and/or consumers?***

The key concern from an animal welfare perspective is not that there are differences between states (and there are), but rather that standards are so low for most farm animals in all states and territories – and this is largely a function of the jurisdictions now striving to have similar standards. After a meeting of state and federal animal welfare Ministers in April 2006, the PIMC 10<sup>th</sup> meeting then requested its 'Standing Committee' to "*develop, in consultation with Animal Health Australia, proposals for a nationally consistent approach to the development, implementation and enforcement of Australian animal welfare standards*".

The welfare issues of current Standards are in our view in large part a function of the decisions on standards needing to be agreed by all jurisdictions, and thus a 'lowest common denominator' outcome emerges. For example, whilst Tasmanian sheep farming bodies (during the Standards review process) made public comments indicating their acceptance of pain relief for mulesing being regulated, the other states representatives would not.

During that review process NSW Farmers representatives even opposed the use of the word "competency" in regard to sheep handlers in the Standards. Instead it was replaced by "***[a] person must have the relevant knowledge, experience and skills to perform a general husbandry task in a manner that minimises the risk to an animal's welfare or be supervised by a person who has the relevant knowledge, experience and skills***". Even then some farmer stakeholders rejected this wording (including the Sheepmeat Council of Australia), as they were concerned that formal training may be required to undertake husbandry practices.

The result (using these two examples) is that the current sheep and cattle standards do not use the word 'competency' for fear some existing farmers or employees would be judged not to be competent. As a result for example, several million lambs each year will be mulesed and suffer to an unnecessarily high degree in each state and territory with no legal redress available.

***What are the costs and benefits of national animal welfare standards? Are there any barriers to implementing national standards?***

The comments above regarding the low standards that are emerging from the national Standards approach are also relevant here. The costs are to the animals, and are not quantifiable in financial terms, though they do put at risk Australia's international and domestic trading reputation.

Unfortunately nor can it be assumed that consumers can alone adequately address these failures – that is, use their buying power to support only good practices. Although consumers value animal welfare (and increasingly so), they may purchase products believing (often wrongly) that animal welfare is being adequately addressed by government or industry audit processes. There is usually no incentive for producers to follow voluntary guidelines. Without government intervention – and by a government department that is not conflicted in its purpose – animal welfare will not be provided at the level which is optimal for Australian society.

***Are animal welfare regulations appropriately enforced?***

In addition to the low standards that are permitted for farmed animals through the Codes and S&Gs, the enforcement of even these standards is also of concern. For example, in Victoria, the system of enforcement does not currently include any random nor routine inspections of intensive farming facilities. The only instance of routine inspection by government officers that we are aware of in recent years in Victoria was related to poultry cage (dimensions/density) compliance in 2009 and 2012.

For the main, the system of enforcement in the various states and territories, whether via the RSPCA Inspectorates or in some states the relevant government departmental officers – primarily the agricultural departments - is reliant only on response to complaints. However, complaints will be limited by the following circumstances. In terms of intensive farming facilities the animals and operations are usually in closed buildings, and in many extensive farming operations the properties are remote and in both situations rarely would members of the community observe practices. Therefore, those who are in a position to observe issues of non-compliance with regulations are usually only those who own or are employed by the businesses, and thus conflicted or implicated in any non-compliance. There is no mandatory reporting requirement for cruelty or non-compliance with Standards.

A series of requests by Animals Australia to state government animal welfare enforcement officers to request details of any 'routine' or systematic compliance initiatives recently found it varied significantly between the states - in NSW and Victoria for example there were no current routine compliance monitoring systems related to animal welfare in place (other than for abattoirs), and only in Tasmania was 'unannounced' inspections the norm.

Industry-based audit programs exist – in the pig, egg, chicken, cattle feedlot and abattoir industries – but Animals Australia has on a number of occasions found these industry programs have not protected animals from serious welfare problems.

A key issue arises when the primary audits are scheduled and allow facilities to ‘prepare’ for them and thus the audit report may not reflect usual practice. For example the pig industry’s APIQ program has a policy whereby even when a problem has occurred at a piggery, and APIQ Management has determined that an additional audit should be conducted, that further ad hoc audit must provide the owner/manager with 24 hours’ notice of the inspection/audit<sup>16</sup>.

Animals Australia also has no confidence in the egg industry’s Egg Corp Assured audit system. For example – at an accredited Pace cage egg facility in Corowa NSW in May 2014, evidence supplied to Animals Australia by investigators underpinned a second complaint in fourteen months to authorities (RSPCA NSW) about overcrowding and other regulation breaches at this cage egg facility. Despite fines imposed and legal ‘directions’ given to address issues found in the first (2013) complaint, fresh evidence showed conditions had deteriorated, further confirming this alarming failure in the industry’s audit system.

In most cases, the Australian public learns about high-level animal welfare incidents from animal welfare groups, like Animals Australia or RSPCA, and not from government regulators, as it should. There is generally poor management of animal industry standards and of enforcement of animal welfare legislation in Australia by the states/territories, especially in relation to livestock, and especially in intensive industries, and by the Commonwealth in regard to the live export chain. There is inadequate enforcement of ASEL and ESCAS by the Department of Agriculture. This has led to animal welfare groups obtaining covert footage to expose livestock cruelty that often occurs outside the public view. These often very shocking incidents are reported to authorities and also exposed via high profile media, with huge impact. Such incidents have included:

- (i)** May 2011 exposé by Animals Australia and RSPCA Australia of inhumane Australian cattle slaughter in Indonesia (on ABC Four Corners);
- (ii)** Aug 2011 report to DAFF by Animals Australia of inhumane abattoir conditions for Australian sheep and cattle in Turkey (prior to ESCAS);
- (iii)** Dec 2011 complaint to the Victorian DPI and exposé by Animals Australia of inhumane treatment of pigs at a Victorian piggery (investigation complete: workers prosecuted and abattoir closed down);
- (iv)** October 2012 complaints to the Victorian DPI and state meat authority PrimeSafe by Animals Australia of inhumane treatment of bobby calves at an abattoir (on ABC Lateline) (Formal warnings were issued and increased State audits are ongoing);
- (v)** Dec 2012 complaint to DPI by Animals Australia about the inhumane slaughter of horses at a Victorian knackery (DPI and PrimeSafe Victoria investigation complete; Sanctions and directions issued and knackery under a supervision order);

---

<sup>16</sup> Advice to Animals Australia from the CEO of Australian Pork Limited.

- (vi) Mar 2013 exposé by Animal Liberation showing inhumane treatment of turkeys at an abattoir in NSW (on ABC) (NSW Police investigated; workers were sacked by abattoir);
- (vii) Mar 2013 complaint to Animal Welfare League and RSPCA NSW from Animals Australia regarding cage egg farm housing approximately 120,000 chickens in 20,000 cages. Hens were stocked grossly in excess of minimum allowable legal stocking density and suffering from various welfare issues. As above, a further investigation in May 2014 found similar and further problems (abandoned and starving hens in the manure pits under the cages) despite earlier written instructions to the facility;
- (viii) May 8th 2014: an expose video released from inside the gas chambers of a NSW abattoir owned by Rivalea — the largest pig abattoir in Australia. The footage was provided by animal advocates (Aussie Farms) to NSW police. It showed pigs screaming and thrashing as they gasp for air inside the abattoir's gas chambers – a common stunning method for pigs. One lame pig, unable to enter the gas chamber, is dragged, kicked, and shocked excessively with an electric prod. Several employees were dismissed for the rough handling, but the gas stunning issue has not been significantly altered.

The above examples are a small snapshot of the status quo when it comes to these issues of failed audit and enforcement systems. Yet despite the fact that industries are enjoying a usually secretive operational environment that is largely self-regulated and overseen by a number of conflicted departments (in their favour), the intended model for monitoring and enforcement of animal welfare legislation, as foreshadowed by the Commonwealth, is one of co-regulation in which monitoring and inspection functions are deferred to industry QA schemes.

This co-regulatory model would require adequate accountability and oversight safeguards to ensure legitimacy, including mandatory reporting by auditors of serious welfare issues. We can have no confidence that this would occur in the current system and prevailing culture within the farming industries. There are already legitimate community and welfare group concerns (as illustrated above) that industry QA schemes are “in-house” and regularly put the needs of industry above the welfare needs of individual animals.

Animal welfare legislation in all states/territories provides harsh penalties, including imprisonment for animal cruelty crimes. These crimes are not restricted to malicious acts but include neglect of animals. Unfortunately, enforcement of animal welfare legislation in the current “agricultural paradigm” is not currently consistent, and acts of cruelty, including serious neglect, which occur within livestock industries, are not always pursued. This is because the discretion to prosecute chiefly resides with departments of agriculture/primary industry, which take into account factors relevant to their role as facilitators of agribusiness.

Further there appears to be an erroneous view within departments of agriculture/ primary industries that even serious neglect of livestock is not cruelty, but rather a “management problem”.

## Food Labelling

### *Do food labels provide information that is useful for consumers? What aspects of labelling are likely to be most important to consumers?*

The response to this question is best provided by way of example. The labelling on egg products is a strong barometer of what consumers expect in terms of truth in labelling and expectations when it comes to the animal welfare standards of the products they purchase.

Consumers have demonstrated a clear concern and interest in the conditions in which their eggs were produced, with 65% of Australians buying free range eggs in the past 12 months, making it the fastest growing egg sector.<sup>17</sup> However, at present, only Queensland and the ACT have legislated requirements surrounding the labelling of eggs,<sup>18</sup> with no nationally consistent definition of 'free range' or requirements for egg labelling currently in place in Australia.

Instead, there are a number of voluntary or third-party certification schemes currently in place, which are significantly varied in their requirements and are largely unregulated and unenforced. For example, stocking densities can range from 1,500 – 10,000 hens per hectare under certain free range standards.<sup>19</sup> Further, it has been reported that nearly a third of free range egg production comes from facilities with stocking densities greater than 20,000 hens per hectare.<sup>20</sup> Not only does this create a situation where consumer choice and information is severely undermined, it also creates confusion and unfair circumstances for producers.<sup>21</sup> This inconsistency has also been reflected in the recent misleading and deceptive conduct cases pursued successfully by the ACCC.<sup>22</sup>

Therefore, the evidence supports a compelling consumer need in Australia for clearer egg labelling requirements in order to clarify consumer information and choice, thereby removing 'confusion', and addressing the existing inconsistency and unfair market environment for producers, which is undeniably creating an inefficient market. As the housing environments and stocking densities in egg producing facilities have a direct impact on hen welfare,<sup>23</sup> and therefore influence consumer purchases, we believe that the Australian government should introduce labelling requirements relating to these factors. It is evident that these factors are at the heart of impacting consumer choice when seeking out (truly) free range eggs.

The free range egg example above is transferable to all products that profit from the use of animals in their production - consumers need clear information at point of sale relevant to animal husbandry and housing systems and that information needs to be backed by regulatory definitions and auditing of facilities.

<sup>17</sup> Choice, 'Free Range Eggs: Making the Claim Meaningful' June 2015, p 3.

<sup>18</sup> See: *Animal Care and Protection Amendment Regulation (No.2) 2013* (QLD) and *Eggs (Labelling and Sales) Act 2001* (ACT).

<sup>19</sup> Australian Government, 'Free Range Egg Labelling, Consultation Regulation Impact Statement' October 2015, p 12-13.

<sup>20</sup> Choice, 'Free Range Eggs: Making the Claim Meaningful' June 2015, p 4.

<sup>21</sup> Choice, 'Free Range Eggs: Making the Claim Meaningful' June 2015, p 3.

<sup>22</sup> Australian Government, 'Free Range Egg Labelling, Consultation Regulation Impact Statement' October 2015, p 47.

<sup>23</sup> See for example, Compassion in World Farming, 'Welfare Sheet: Laying Hens', available at: <http://www.ciwf.org.uk/media/5235027/Welfare-sheet-Laying-hens.pdf>

## Pastoral Leases

### *Is diversification of agricultural activity unnecessarily restricted by conditions in pastoral leases?*

There are many and vast areas in Western Australia and in northern Australia where the environment is particularly harsh for pastoral animals – usually cattle. There have been recurrent issues with some properties, at times related to bad management, but also because the harsh climate and topography mean that the animals often suffer greatly.

Given the size of extensive stations, cattle may only be mustered into holding yards once or twice a year. This infrequent contact with humans, and the sheer number of animals on such farms, means that injured and sick animals can go long periods untreated or die unnoticed.

As stated in a key study, “...northern Australia is characterised by climatic extremes and large areas/distances and these factors, together with low management inputs, mean that the industry faces significant challenges to assure high standards of animal welfare”<sup>24</sup>.

It is not surprising that mortality rates on extensive northern stations are high. Published studies estimate deaths of breeder cows on such properties may have an annual mortality of between 6% and 40% and for steers there is variation between a rate of some 4% to 25% dependent on regions.<sup>25</sup> Further, since herd records can often be incomplete or inaccurate, in reality it is likely more animals are dying than are recorded.

Practical, economic and logistical issues exist in these areas, and make the application of even minimum standards of welfare and enforcement difficult. Environmental degradation is also a risk with introduced hard-hooved cattle into such regions – particularly during extended drought. It is our view then that the current prescriptive nature of pastoral leases which limit or prevent innovative use of this land should be relaxed to allow diversification to other agricultural or eco-tourism uses.

### *Concluding Comments*

The regulatory landscape for animal welfare standards in Australian agriculture is one that is: fragmented, nationally inconsistent, discriminatory, internationally uncompetitive, misaligned to community expectations, and skewed towards the interests of producers. This comes at a huge cost to animals as their welfare is compromised to the highest order. It may also come at a cost to consumers who are paying premium prices for products that make representations about higher welfare standards behind their production but which are unregulated and enjoy operating behind a veil of secrecy. This is all a symptom of an industry that is largely self-regulated and governed by departments that wear two hats: to maximise producer interests; and to ensure animal welfare standards are in place and adequately enforced. The two hats are often incompatible.

<sup>24</sup> Petherick, J.C., ‘Animal welfare issues associated with extensive livestock production: The northern Australian beef cattle industry’, *Journal of Applied Animal Behaviour Science*, 2005 Volume 92, Issue 3, Pages 211–234.

<sup>25</sup> See for example [http://cdn.futurebeef.com.au/wp-content/uploads/Breeder-cow-mortality-project\\_Webinar\\_May2013.pdf](http://cdn.futurebeef.com.au/wp-content/uploads/Breeder-cow-mortality-project_Webinar_May2013.pdf)



Until such time that the animal welfare portfolio is removed from these untenably conflicted departments in the manner discussed above and a new more independent system is constructed, then the ineffective regulation of the animal farming industries, the legalised suffering of millions of animals, and the misleading and deceptive conduct suffered by consumers, will persist.

Thank you for this opportunity to provide input to the Issues Paper. Please contact me if you require clarification or further information.

Yours sincerely,

Glenys Oogjes  
***Executive Director***