



Dear Sir / Madam,

Thank you for the opportunity to provide a supplementary submission to the Productivity Commission's (the Commission) review of Regulation in Agriculture.

As you are aware, LiveCorp provided a detailed submission to the initial call for input. This submission provided comprehensive, detailed analysis and evidence of regulatory reform opportunities to address inefficiencies in ESCAS.

The careful consideration we put into this review reflected our expectation that the Inquiry represented an opportunity to set a platform for the livestock export industry to be governed by clearer, more consistent and effective legislation and regulation into the future. To enable and inform the Commission in meeting its obligations to deal with these issues, our analysis took a broad view of *regulatory burden* as being not only direct costs, such as audits, but also losses related to regulation not performing as effectively as possible.

It appears from the draft report that the Commission is arguing for very minor refinements, on how exporters operate, of the status quo in regards to livestock export laws and regulatory oversight. This is especially unfortunate given we are the only agricultural industry regulated at the Commonwealth level and the review specifically targeted ESCAS. As will be apparent from our detailed submissions, in our view 'a business as usual' approach maintains serious inefficiencies and is ultimately untenable for the long-term viability of the industry.

Our competition in the USA, Canada, France, Ireland, Brazil, Romania, Uruguay and the other 100 countries that are participants in the global export of livestock will be the direct beneficiaries from any approach that maintains the current significant inefficiencies, at the expense of Australia's own competitiveness. If Australian exporters are uncompetitive, they are less able to establish and maintain international customers. Australia's presence in the global livestock trade has established important benchmarks in standards, as well as lifting animal welfare standard globally, which is being jeopardised with wider impacts on our ability to drive further improvements in animal welfare in international markets.

We are concerned to ensure that the Commission takes the opportunity presented by this inquiry to invest in real analysis of the substantive issues affecting how good regulation for the livestock export industry should look, as it has in other aspects of the draft report and in previous inquiries dealing with such issues. We also want to ensure that the deplorable

treatment of Australian cattle in Vietnam did not affect your perceptions of the success of ESCAS, particularly given the regulation responded strongly and effectively to these incidents and there have been vast improvements in animal welfare across our global markets since ESCAS was implemented 5 years ago.

The approach we have taken in identifying and addressing regulatory inefficiencies aligns with the policy question of note stated by the Commission in its draft report – which is whether regulatory arrangements can effectively manage the welfare of Australian live exports without imposing costs that lead to substitution, and ensuring that the regulation in place effectively addresses the welfare risks for live exports or ultimately risk the viability of the trade.

Clearly for the livestock export trade to be sustainable in the long term, any assessment of regulatory burden cannot separate the interrelated and inseparable need to be regulated more effectively, as well as more efficiently.

In this element, we noted the Commission's characterisation (page 214) of the LiveCorp and ALEC's reform proposals on page 214 as primarily about costs and reducing the level of oversight by the regulator. We differ in our assessment and consider that one of the key strengths of the recommendations we made is that they greatly enhance the regulator's oversight and improve the effectiveness of the regulation in achieving its objectives.

The reforms that we have proposed are targeted at improving clarity, certainty and consistency at all levels (including through reviewing the legislation, rushed together in 2011), removing unnecessary redundancy in the regulation and establishing arrangements which will support the introduction of structures to address and exceed the limitations of the current ESCAS system.

It is important that the Commission and the review not limit its consideration to easily measured incremental or administrative reforms, at the expense of acknowledging the need and value of substantive changes for the livestock export industry.

As our original submission outlined in detail, with the support of semi-quantitative and illustrative estimates, we consider that there are essential, long-term and wide reaching benefits and savings, not at the expense of animal welfare, from the recommendations which we have proposed.

In considering the Commission's draft report, we have grouped our comments into three broad areas of reform – outlined in detail in the attachments and summarised below:

1. The need for substantive review of the legislative framework and regulatory expectations for ESCAS:
  - The reform recommendations made and substantiated in detail in LiveCorp's original submission are critical to building a more effective legislative structure with much greater clarity, certainty and transparency to enable the regulator and underpin the long term sustainability of the trade to 2020 and beyond.

- With lessons learned and progress since the implementation of ESCAS, the reasons for reform throughout the legislative and regulatory framework are compelling and clearly show the opportunities for far-reaching savings and benefits beyond what can be delivered solely through administrative changes or incremental refinement of existing structures and processes.
2. Provide a framework for recognising quality assurance programs;
    - A well-designed Quality Assurance (QA) program, which meets key criteria specified in legislation, will strengthen the department's oversight and reduce the burden on government through a number of means including providing more reliable, transparent and independent evidence demonstrating ESCAS compliance and allowing the regulator to focus on substantive, rather than operational, issues.
    - The quality and scope for a suitable QA program must meet minimum standards as defined in established threshold criteria in the legislation.
    - The Commission is ideally placed to acknowledge and make strong recommendations in support of the approach and the need for separate analysis and development of appropriate criteria.
    - Legislating to allow QA provides a mechanism to vastly reduce the regulatory burden and improve the effectiveness of ESCAS beyond administrative issues such as audit duplication.
  3. Recognise equivalence in other systems or countries.
    - Livecorp strongly supports the Commission's acknowledgement of the opportunity for recognition of equivalence in overseas markets to reduce regulatory burden.
    - The development and integration of a framework to allow formal recognition of overseas equivalence in legislation that meet or exceed ESCAS requirements will dramatically reduce, if not remove, the regulatory burden of ESCAS.
    - Given the significance and scope of the potential regulatory implications and the inherently political and diplomatic challenges, the enabling mechanism and criteria must be established through legislative means, rather than informal structures.

Building upon the above and our original submission, we have distilled the various detailed findings and recommendations into the following fundamental proposals which we request that the Commission acknowledge and incorporate in revising its report:

- **The Commission recognise that LiveCorp's recommendations for legislative reform of ESCAS will likely deliver substantive benefits for the industry and the government and warrant further consideration in a separate forum, such as the department's export legislation review.**
- **The Commission recommend that an independent assurance program, such as LGAP, which has an appropriate meeting point with government be introduced to**

**significantly reduce unnecessary or inefficient regulatory burden and improve the operation of the current framework.**

- **The Commission recommend that a framework for formal recognition of equivalent regulatory standards in importing countries be developed.**

Thank you for the opportunity to provide a further supplementary submission to the inquiry.

Yours Sincerely

Sam Brown

CEO, LiveCorp

## **Attachment 1: The need for substantive review of the legislative framework and regulatory expectations for ESCAS**

### **LiveCorp requests:**

- **The Commission recognise that LiveCorp’s recommendations for legislative reform for ESCAS will likely deliver benefits for the industry and the government and warrant further consideration in a separate forum, such as the department’s export legislation review.**

LiveCorp understands that the detailed legislative proposals that it put forward may not have been within the scope of the Commission’s resources to consider within this review. However, the recommendations which we made and substantiated in detail are critical to the effective operation of the regulatory system and the long term sustainability of the live export trade.

In particular, the recommendations relating to chapters 4, 5 and 7 (good regulatory features, risk appetite and non-compliance) relate strongly to building a legislative structure with much greater clarity, certainty and transparency for the regulatory system and the regulator’s administration and oversight.

Whether assessed in this forum or elsewhere, the Commission is ideally placed to formally recognise that the legislative structures around ESCAS are long overdue for the detailed review of issues such as those raised by LiveCorp. Such a review being absent when it was developed under short time frames and extreme pressure in 2011 to address an unprecedented regulatory challenge.

The goal of ESCAS was unprecedented and it was implemented without experience in meeting this type of overseas regulatory challenge. Prior examples / experiences simply do not exist. It was developed without a clear foresight for how the legal and logistical limitations would impact its effectiveness and efficiency. Further, how it was placed within the export legislation (to meet severe time pressures) has resulted in punitive and regulatory structures less aligned with animal welfare assurance and more with export approval, an approach that is no longer appropriate or effective.

In the last five years, the lessons learned from implementing and regulating ESCAS have been significant and there is much to gain in efficiencies and effectiveness from substantive reform. The reasons for reform throughout the legislative and regulatory framework are compelling and should not be just limited to administrative changes or incremental refinement of existing structures and processes (e.g. through export advisory notices).

LiveCorp’s submission presented a thorough analysis of the legislation to this effect substantiating well considered, specific, practical and achievable recommendations for change. These were summarised, in part, in Box 5.13 – although the Commission did not acknowledge the importance of these substantive reforms or consider them further in any detail.

As our submission detailed, implementing these recommendations would deliver substantive, far-reaching benefits for the industry and government, including:

- Increased predictability and certainty in administrative decisions;
- Greater clarity on compliance expectations and standards;
- Increased clarity on the consequences for non-compliance;
- Improved stability and transparency in the balancing of social and economic objectives;
- Better separation between categories of non-compliance and risk to drive performance;
- Protection from fluctuating risk appetite, regulatory creep and micro-management;
- Ensuring compliance obligations are achievable and transparent and a more appropriate balance exists between how remedial and punitive approaches are applied to support the system; and
- Providing an effective and transparent framework to interact and govern the use of quality assurance and equivalence.

Chapter 11 of the LiveCorp submission provided a detailed semi-quantitative and illustrative assessment of the likely savings and benefits of implementing these recommendations. The reality is that there are major savings to be gained from progressing basic reforms to align the legislative structure with best practice, and which cannot be delivered through subset mechanisms such as export advisory notices.

The need for those substantive reforms does not require validation with precise estimates of cost savings or efficiencies, which are more readily assessed for short-term administrative savings (e.g. such as reducing audits). It is obviously difficult to accurately quantify such elements given their interdependency and the challenges in assessing the impact across the whole range of export scenarios. However, the evidence we provided to the Commission, while necessarily illustrative, is compelling and clearly shows the opportunities for savings and benefits from avoiding or removing unnecessary regulatory burden by adopting our recommendations. Those savings and benefits are more far-reaching than can be delivered solely through administrative reform or incremental change.

### Community expectations

A clear focus of the Commission has been reference to (and even reliance on) community expectations. LiveCorp recognises the importance of community expectations and its relevance to animal welfare, including the value of better defining relevant community standards and avoiding ill-defined or special interest minority views inappropriately influencing regulatory obligations.

The Commission's approach to community expectations risks exposing the livestock export industry to uncertain and inconsistent interpretation of regulatory obligations and increase the vulnerability of that interpretation to manipulation for political and other reasons. It is the remit of Parliament to set the legislative approach to reflect community standards; taking into account broader or wider policy considerations that affect and determine an appropriate balance of the various competing interests.

Government / Parliament has the community mandate to act within this clear, transparent and scrutinised legislative environment. Community expectations must not inappropriately influence regulatory discretion. It is not and should not be up to the regulator to try and address or predict community expectations – a situation which would result only in an inefficient and volatile environment that precludes fairness and transparency to the businesses being regulated. Fluctuating risk appetite, regulatory creep, micro-management and the damage done by unreasonable absolute compliance expectations (e.g. that the regulator and the regulated are failing) are the ultimate results of such an approach.

Any major shift in community expectations (as distinct from vocal minority views) that could change regulatory requirements ought to be implemented and felt by that industry through the Parliament, not by changes in how the regulator interprets the legislation. For example as outlined in our submission, this should be (and is typically) the case for many highly regulated industries subject to strong community scrutiny and expectations; be it mining, uranium, fisheries, forestry, dangerous good, domestic animal welfare – or live exports.

For livestock exports this underpins one of the key lessons learned from ESCAS, in that the lack of clarity in legislation about objectives, discretions and performance (e.g. reasonableness, rather than absolute; remedial, rather than punitive) has provided a gap whereby success is ill-defined. This has in turn allowed volatility and pressure to be applied on the regulator and exporters based on unreasonable / unachievable expectations of performance, undermining the benefits of the system and always placing it in the negative.

## Attachment 2 – Provide a framework for recognising quality assurance programs

### LiveCorp request:

**The Commission recommend that an independent assurance program, such as LGAP, which has an appropriate meeting point with government be introduced to significantly reduce unnecessary or inefficient regulatory burden and improve the operation of the current framework.**

A key element of the LiveCorp submission was to outline and seek support in highlighting the significant opportunity to maximise regulatory efficiency and effectiveness by integrating a wide-reaching assurance program in the regulatory structure, set to an appropriate intervention point.

A well-designed QA program, which meets key criteria specified in legislation, will strengthen the department's oversight and reduce the burden on government through a number of means including providing more reliable, transparent and efficient evidence demonstrating ESCAS compliance and allowing the regulator to focus on substantive, rather than operational, issues. In providing improved evidence and balanced oversight, it in no way reduces the ability of the government to sanction inappropriate conduct by an exporter – in fact, it provides stronger evidence to do so, should it occur.

Such an approach is a substantial improvement over the current system where the regulator is forced to rely in its decision making on ad hoc information of vastly varying pedigree and completeness received from industry, third parties and exporters.

LiveCorp also highlighted that well-designed QA program presents the opportunity to address key issues in the current ESCAS system, several of which were raised by the Commission although the ability of QA to address them was not necessarily highlighted within the draft report. Key challenges within the current system include auditor competence / independence (p218-219); the limitations of point-in-time auditing / inter-audit assessment (page 218); and management of compliance without direct oversight or legal reach in-market (e.g. the inability for regulatory consequences to be placed directly on facilities / importers) (page 216). Some further comments on compliance and auditing are provided later in this attachment.

The ability of QA to deliver the above is dependent on the quality and scope of the program, as per our submission. Critically, the quality and scope for a suitable QA program must meet minimum standards as defined in established threshold criteria in the legislation. The details should be a matter for separate analysis and development, but the Commission is ideally placed to acknowledge and make strong recommendations in support of the approach and the need for that analysis.

Some examples of the threshold criteria which could be applied to provide appropriate confidence to the community / government of the program owner and program include:

- Integrity
- Financial stability



- Independence from exporters
- Continuous self-monitoring and auditing within facilities and operators
- Independent audits by qualified auditors
- Visibility and transparency (with appropriate protection afforded to commercial confidence)
- Clearly defined and proportionate consequences for non-conformance
- Escalation pathways and reporting thresholds for departmental oversight and involvement
- Standards that meet or exceed the minimum standards at law

There may be more criteria, but the key point is that what we have proposed in our submission is that legislating to allow QA provides a mechanism to vastly reduce the regulatory burden and improve the effectiveness of ESCAS across a number of key areas.

The capacity of QA to move ESCAS forward was foreshadowed in the Farmer Review recommendations and again was re-affirmed by the department in its ESCAS Report, where it suggested the potential benefits in terms of effectiveness and savings, as well as the opportunity to focus its attention of the performance of the program, rather than its current micro-management of supply chains (as follows).

- *“The Farmer Review recommended that industry develop a through-chain quality assurance system to complement the government’s regulatory compliance programs. This could **help reduce the regulatory burden** imposed by the government upon industry. An industry-managed assurance system may also **facilitate more efficient and effective management of off-shore supply chain participants that are outside of Australia’s regulatory reach**. If developed, such a system could provide an alternative way for exporters to meet ESCAS principles, provided it was **underpinned by an appropriate statutory framework**. **Such a framework would allow the regulator to audit and verify the operation of the assurance system and step in should the industry managed system fail.**”*

Industry also recognised these opportunities and the recommendations of Farmer to commence R&D considering the feasibility of utilising a QA / Risk Management program for livestock exports.

From this project, the researchers recommended that a QA program be developed and identified key principles to guide its development. Subsequently, industry undertook and recently completed (in 2016) a project to develop and design a potential industry QA program, referred to as the Livestock Global Assurance Program (LGAP).

LGAP was developed directly to address the limitations facing the next step in ESCAS’s improvement and to facilitate regulatory oversight and reduce unnecessary regulatory burden on government and industry. To ensure that LGAP achieved this, a Consultative Committee with representatives from industry bodies, exporters, the Australian Government and the Australian Veterinary Association guided and informed its development.

LGAP subsequently received the support of the Australian Government which announced in June 2016 it would provide \$8.3 million over four years to support the establishment of LGAP/QA.

As the following demonstrates shows, LGAP is extensive not only in addressing the previously mentioned criteria but goes well beyond ESCAS and its administrative processes, including by:

- Ensuring the integrity and independence of the program owner and operation by providing for appropriate separation from industry;
- Increasing impartiality in the auditing process by ensuring Certification Bodies and Auditors are appointed, contracted and remunerated by an independent Program Owner.
- Introducing internal auditing as a means of continual self-monitoring and self-checking, complemented by external audits and unscheduled, random audits.
- Introducing centralised, independent visibility into the performance of Operators and Facilities in real-time in addition to ongoing conformance history.
- As a predominately facility-based program, more effectively encouraging behavioural change at the point that has the most immediate impact on the day-to-day welfare of animals; that is in-market at the feedlot, farm or abattoir.
- Placing requirements and consequences on all participants in the supply chain, including those responsible for the day-to-day management of livestock in sovereign jurisdictions.
- Introducing 'Levels' under LGAP presents a pathway for participants to surpass the current World Organisation for Animal Health's (OIE) guidelines and potentially achieve higher standards than those advocated through ESCAS.
- Requiring the outcomes of audits to be reported to an independent Program Owner in real-time and as recorded, ensuring full and immediate visibility through the supply chain.
- Requiring nonconformities and investigations to be acted upon with immediacy.
- Dealing directly and more rapidly with the resolution of non-conformities at the facility or operator level in a positive identification and resolution approach (e.g. as opposed to the department having to deal through exporters);
- Enabling the management of non-conformance issues by an independent third party, with the Australian Government able to better focus on substantive matters through the relationship with the program owner; and
- Defining pathways and thresholds for reporting and escalating relevant information and non-conformities for department scrutiny.

As the above shows, the ability of QA and LGAP to overcome major logistical and jurisdictional limitations in regulating ESCAS is significant and extensive, as is its ability to increase the transparency in reporting on the monitoring and oversight of overseas supply chains and facilities. As a system it goes well beyond simply complementing the current regulation.

However, to achieve the many benefits that LGAP can deliver in full the meeting point between the government and LGAP needs to be appropriately defined at a suitable level to

allow detailed government scrutiny on substantive matters and effective autonomy and freedom to govern operational matters for the program.

The independent program owner needs to have the capacity to manage non-conformities / non-compliances directly with facilities and operators independently of the government with appropriate reporting requirements to provide satisfaction that issues are resolved and that exporters continue to act in accordance with their licence obligations.

- LiveCorp recommends that the legislature clearly identify and prescribed a “meeting point” between direct regulatory oversight and reliance on QA or equivalence to enable regulatory focus to be maintain at a systems level, where appropriate to define how any interaction or information flow is to be managed between these systems.

The interface of QA with the regulatory oversight must be appropriately set to allow it to deliver significant enhancements in government regulatory scrutiny by ensuring departmental access to independent and best evidence, minimising the burden of micro-management and freeing the department to focus on substantive issues. The benefits of such an approach also include supporting more efficient, reliable and evidence based decision making by the regulator where necessary; insuring the QA program against the undue influence of changing risk appetite; reducing regulatory burden; and providing reliable systems compliance assurance.

As is clear from the above, we agree completely with the Commission’s statement *“the challenge in relation to LGAP for the Australian Government (if it is implemented by industry) is negotiating the appropriate intersection between the program’s independence and the Government’s regulatory oversight of the trade.”*

However, we were concerned by the subsequent observation that *“The Commission understands that the LGAP could be accepted as a co-operative auditing arrangement under existing ESCAS arrangements, if DAWR is satisfied that the LGAP’s auditing arrangements satisfy the relevant ESCAS auditing criteria.”*

This comment, coupled with the repeated references to the potential for LGAP to provide for audit sharing, suggests that the Commission has only considered a narrow scope for LGAP, or any good QA model. Certainly as demonstrated in the key criteria discussed earlier, the principles which guided LGAPs development and the potential efficiencies and effectiveness gains from utilising LGAP extends well beyond simply coordinating audit sharing.

In light of the above comments, we would expect that the Commission would treat QA for international activities in the same manner as it treats domestic issues. In this regard, the scope and opportunity proposed for domestic animal welfare QA is far greater than that comprehended for LGAP or live export QA – as expressed in the Commission’s recommendation that *“state and territory governments should also consider recognising industry quality assurance schemes as a means of achieving compliance with farm animal*

*welfare standards where the scheme seeks to ensure compliance (at a minimum) with standards in law, and involves independent and transparent auditing arrangements.”*

By contrast, the Commission has not recognised in its commentary or within its recommendations the same capacity and scope for LGAP. In fact, it implies a much more limited role (e.g. audit sharing, rather than a means for achieving compliance) and avoids making any recommendation for formal incorporation or recognition of appropriate QA.

Further, the Commission suggests that LGAPs capacity and scope be measured by its ability to meet community expectations (page 221-222), rather than “compliance (at a minimum) with standards in law.”

To further illustrate the regulatory significance of LGAPs broad scope, the following outlines how LGAP or any good QA program would address a number of specific issues broadly raised with ESCAS by the Commission elsewhere in its report:

#### Management of compliance

The Commission noted in its draft report that Australia has no legal basis or authority to conduct compliance activities in overseas countries and that the inability to observe activities directly in foreign supply chains is one of the biggest challenges in the regulation of live export. This is complicated by the need to rely on second hand information from exporters or third parties to determine performance of ESCAS.

Enshrinement in legislation of QA systems such as LGAP is commonly used to support regulatory decision making and scrutiny. For livestock export, QA systems provide a means to drastically improve the transparency, independence and quality of evidence available to the department on the performance of facilities, importers, exporters and the system as a whole. Further, it enables the regulator to step back and avoid micro-management of the corrective action cycle for operational matters and instead turn its resources to substantive matters.

As the department noted in its ESCAS report and which LiveCorp agrees completely, an assurance system will provide a much better model to more efficiently and effectively manage off-shore supply chain participants outside of Australia’s regulatory reach.

QA represents a clear opportunity to avoid the jurisdictional, logistic and distance challenges facing the department in the desire to influence the actions of overseas supply chain participants (which is at the heart of ESCAS) and for an independent program owner to manage issues directly and promptly on an ongoing basis.

#### Auditing

The Commission’s draft report discusses auditor competency and independence as a potential issue within the current ESCAS. It also includes commentary that these issues could be addressed by greater involvement of the department in auditor rotation, auditor selection / appointment and establishing arrangements for cost recovery for auditing. Departmental oversight of LGAP provides the same outcome

but removes the burden of the unnecessary direct involvement of the department in the process. We consider that the comments made by the Commission in relation to a potential expansion of the department's role in auditing are contrary to a reduction in regulatory burden and would likely increase costs and bureaucracy.

Having said this, these current limitations are recognised by LiveCorp and have been a key focus in developing LGAP. Further details on the LGAP audit design are detailed below:

- In order to foster continual monitoring and improvement, two forms of auditing would exist under LGAP: internal auditing and external auditing. In addition, unscheduled external audits are also incorporated under LGAP. Internal and unscheduled auditing do not currently exist under the ESCAS framework.
- External auditing under ESCAS requires that exporters (or importers) engage and pay auditors directly to undertake audits of Facilities in their supply chains. The audit reports are provided to the exporter who provides them to the department. Conversely, under LGAP the independent program owner would review, appoint, contract and pay qualified certification bodies and auditors directly.
- The LGAP Certification Rules also introduce specific requirements and performance criteria for certification bodies and auditors. In obtaining approval by the program owner to provide auditing and certification services, certification bodies would need to demonstrate and maintain fulfilment of specific organisational requirements; in particular the requirements of ISO/IEC 17065:2012, *Conformity assessment - Requirements for bodies certifying products, processes and services*. In making application to become an 'Approved Certification Body', these organisations would need to put forward the auditors they propose to use under the Program. These auditors will be required to have a minimum amount of experience and training in the areas of auditing, animal behaviour, health, husbandry and welfare. Once approved, auditors would also need to commit to ongoing professional development.

LiveCorp believes that LGAP demonstrates the clear ability for well-designed QA program to address any shortcomings in the audit structure and engagement under ESCAS.

### Attachment 3 – Recognising equivalence in overseas markets

#### LiveCorp requests:

**The Commission recommend that a framework for formal recognition of equivalent regulatory standards in importing countries be developed.**

The Commission acknowledged the opportunity for recognition of equivalence in overseas markets to provide reductions in regulatory burden. Livecorp strongly supports these comments and encourages the Commission to more expressly recommend that this be further developed and integrated into the legislative framework.

The development and integration of a framework to allow formal recognition of overseas equivalence in legislation is critical. Equivalence offers a substantive opportunity to dramatically reduce, if not remove, the regulatory burden of ESCAS including supply chain obligations, liabilities, inter-audit oversight and engagement, infrastructure, training, personnel and standard operating procedures. Given the significance and scope of the potential regulatory implications and the inherently political and diplomatic challenges, the enabling mechanism and criteria must be established through legislative means, rather than informal structures. Much as for QA, the nature and scope of any legislative adoption requires separate and detailed analysis.

By way of illustration, contrary to the Commission's comments that the *"regulatory burden may not be material for exporters operating in Japan as the move to a risk based auditing approach has meant that auditing is now only required once per year for facilities and supply chains in Japan"* we note that:

- The relief of regulatory burden for the importer may be significant when considered in the context of duplication with existing domestic requirements;
- Equivalence provides the opportunity to effectively remove regulatory burdens imposed on the exporter, importer and the department in demonstrating and monitoring compliance with ESCAS;
- There are reputational, trade and diplomatic benefits from removing unnecessary interventions and perceived sovereignty issues through ESCAS;
- There are significant benefits for Australia and overseas countries in providing an avenue to recognise export markets which establish their own systems and structures that meet or exceed ESCAS requirements.
- As a minimum, even a minor cost imposition from unnecessary audits adds to the regulatory burden and competitiveness challenges.

In considering the long-term benefits of equivalence, in addition to the regulatory benefits outlined above there are several strong reasons for actively pursuing such reform, such as:

- Australia's trading partners are all members of the OIE and should be working towards adopting its animal welfare recommendations. As ESCAS is based on the OIE animal welfare recommendations it will increasingly become duplicative with systems and regulations in these countries;

- Consumers and societies globally are increasingly placing significance on animal welfare and governments in turn are legislating and developing systems to address these social concerns. Over the longer term, the need for ESCAS should diminish;
- The most effective mechanism to achieve long-term and global animal welfare change and, achieve the most efficient and cost effective assurance for the Australian community, is through countries developing their own animal welfare systems and this should be enabled and encouraged by Australian legislation.
- Overseas systems and structures for monitoring and enforcing animal welfare will generally (subject to various caveats) be more effective at administering regulation / objectives in that jurisdiction.

LiveCorp believes that focusing on equivalence to encourage participants / authorities / overseas governments to move to a shared vision through their own structures and legislation could have the most substantive global animal welfare impact in recent times.

## **Attachment 4 – Miscellaneous comments**

### Animal welfare improvements from ESCAS

The Commission is considerably restrained in recognising the benefits that industry has achieved in animal welfare in its efforts to implement ESCAS in its export markets. The Commission refers to ‘some evidence of animal welfare improvements’ and that ‘ESCAS has helped to improve animal welfare outcomes of Australian livestock exports in some markets.’ However, it is a profound understatement to suggest anything less than that there has been widespread transformation across Australia’s markets and the involvement of industry and exporters in supply chains.

The introduction of ESCAS immediately expanded the responsibilities and expectations of livestock exporters into their overseas markets and set minimum standards which needed to be achieved within those supply chains. The scope and nature of this legal obligation is unique in any international export context.

To support this expanded responsibility and obligation, the industry substantively invested and committed to training, systems, infrastructure and technologies to meet these animal welfare, control and traceability requirements. For example, this included extensive training in handling and slaughter (over 10,000 people), the development and introduction of Standard Operating Procedures to meet minimum standards (such as for confirmation of death or lack of consciousness), the installation of new and improved infrastructure such as restraint boxes, crushes, races, stunning deciders etc; and technologies and systems for control and traceability (including NLIS tag readers and CCTV).

Significant animal welfare improvements have been also supported with the increased uptake of stunning in Indonesia and the introduction and rapid expansion of stunning – driven wholly by the Australian industry – in Vietnam. While the risk of compliance issues cannot be eliminated, there is no doubt that the industry has delivered unequivocal animal welfare improvements across its export markets in implementing ESCAS.

### EIDs for sheep

On page 216, the Commission notes that use of electronic identification in sheep (as suggested by Animals Australia) could be one way of assisting in the identification of sheep removed from an ESCAS approved supply chain. It is noted that this fails to recognise that Australian sheep are already tagged with NLIS tags and in some cases exporter visual tags, yet if someone at a facility is willing to breach the exporter’s ESCAS and remove sheep then they are as likely to remove a NLIS tag as a EID tag. We believe this comment is unsubstantiated and is not relevant to its assessment of cost savings or regulatory reduction.