



18 August 2016

Regulation of Agriculture
Productivity Commission
Locked Bag 2
Collins Street East
MELBOURNE VIC 8003

via email: agriculture@pc.gov.au

Dear Sir/Madam

Productivity Commission Draft Report – Regulation of Australian Agriculture

1. The Law Society of South Australia welcomes the opportunity to make further submissions to the Productivity Commission in relation to its Inquiry into the Regulation of Agriculture, having provided a submission (12 February 2016) to the Issues Paper. We have now considered the Productivity Commission's Draft Report published on 21 July 2016.
2. The work of the Society's Animal Law Committee has been instrumental to the views as expressed in this submission. In particular, the Animal Law Committee has considered in detail those issues addressed in Part 5 of the Draft Report in relation to the Regulation of Farm Animal Welfare and the subsequent recommendations in the Draft Report that relate to it.

General Comments

3. The Society shares the concerns outlined from page 185 of the Draft Report that efforts to develop a national approach to farm animal welfare have stalled and supports the view the process should be recommenced and reinvigorated.
4. The Society notes that the review referred to in Box 5.5 on page 188 of the Draft Report, commissioned by the Primary Industries Standing Committee's Animal Welfare Committee in 2013, identified opportunities to improve the process of developing animal welfare standards and guidelines and is of the view the process should be informed by the findings of the review.
5. The Society agrees with statement as expressed at Page 193, that the Government is unable to adequately assess whether the benefits to the community with respect to changes in animal welfare outweigh the costs. This is mainly attributed to the source

of the Governments advice on such matters. The Government is predominately informed by representatives from the department of primary industries, whose principal objective is promoting the productivity of the animal sector. To progress matters appropriately, a different process is required.

6. The Society is of the view that the effectiveness of farm animal welfare regulation should be improved and that there is a community appetite for this.

Draft Recommendations

7. The Society supports Draft Recommendation 5.1 which outlines that Australian Government should take responsibility for ensuring that scientific principles guide the development of farm animal welfare standards.
8. To achieve this, an independent body tasked with developing national standards and guidelines for farm animal welfare should be established.
9. The body should be primarily responsible for determining if new standards are required and if so, managing the regulatory impact assessment process for the proposed standards.
10. The Society also agrees the body should include an animal science and community ethics advisory committee, to provide independent evidence on animal welfare science and research on community values.
11. The Society supports Draft Recommendation 5.2, in particular, that State and Territory governments review their monitoring and enforcement functions for farm animal welfare, to ensure that there is a separation between agricultural policy matters and farm animal welfare monitoring and enforcement functions.
12. Further, we support transparency in the process for publicly reporting on monitoring and enforcement activities and the provision of adequate resourcing to ensure that there is an effective discharge of monitoring and enforcement activities, as outlined in Recommendation 5.2.
13. The option of recognising industry quality assurance schemes as a means of achieving compliance with farm animal welfare standards is supported. However, additional information on what is proposed is required. We would suggest at the very least, such schemes need to be informed by internationally recognised and supported animal welfare standards. Funding must be allocated to ensure that the schemes are properly inspected or audited and a provision for sanctions to be imposed in the event of breaches should be included.

The Regulation of Exporter Supply Chain Assurance Systems

14. The Society agrees that there is support for regulation of Australian live exports.
15. The Society shares the concerns as to the effectiveness of the Exporter Supply Chain Assurance Systems (ESCAS). We note the reforms to the ESCAS proposed by live

exporters in Box 5.13, highlighting the inevitable, inherent conflict given the source of these proposals.

16. It is important that internationally accepted animal welfare standards, the concerns expressed by animal welfare groups such as RSPCA and Animals Australia, and community expectations are also given weight.
17. The Society supports the call by Animals Australia for greater penalties for non-compliance. We recommend the suggestion of the 2015 Review be adopted, that ESCAS be supported by a system of financial or other sanctions (such as enforceable undertakings) rather than the administrative and criminal (strict liability) sanctions currently available.
18. We note that a broader range of monitoring, investigation and performance powers to deal with non-compliance are currently being considered as part of Stage 2 of the Australian Government's review of agricultural export legislation (with Stage 2 reforms expected to take place during 2016 and 2017 so implementation can occur before April 2020).
19. Although it was expressed that such reforms would provide a more effective suite of tools to manage instances of non-compliance with ESCAS, the Society is of the view that constant review and monitoring of the new regime will be necessary.
20. With respect to enforcement, the RSPCA is not, and can never be, an adequate substitute for a dedicated federal body tasked with addressing reform and enforcement in the area of animal welfare. This is the view also expressed by People for the Ethical Treatment of Animals (PETA).
21. RSPCAs around Australia are member based charitable associations which are required to raise funds to assist with their operations, including the prosecution of animal welfare offences under State and Territory legislation. Therefore the RSPCA cannot be responsible for the monitoring of welfare issues in agricultural animals, and prosecution of offenders.
22. It is the view of the Society that the Government should take on the responsibility of monitoring issues relating to the welfare of agricultural animals and in doing so establish and fund an appropriate supervisory and regulatory regime as discussed above.
23. I trust these comments are of some assistance. Please do not hesitate to contact us, should you require any further information.

Yours sincerely

David R A Caruso
PRESIDENT

