

Chapter 4

Committee view and recommendations

4.1 While the committee acknowledges the mixed views regarding industry representation and levy investment matters, the inquiry has revealed that there is general support across the agricultural sector for the levy system.¹ Notwithstanding this point, the committee recognises that there are a number of challenges within the levy system which need to be addressed.

4.2 Considerable evidence to the committee focused on governance and management arrangements within RDCs rather than R&D and marketing investment. For these reasons, the following recommendations focus on providing greater flexibility and responsiveness within the levy system in order that industry aspirations can be realised in a timely, cost-effective manner.

4.3 There is no question that the levy system and the structures that underpin it are complex, convoluted and difficult to penetrate. This complexity is evident at every stage of the process, including in relation to the introduction and modification of levy rates, collection arrangements, investment decision-making, extension and return, and representation and oversight. While there is considerable diversity across industries in terms of these dynamics, processes and visibility, the key issue of commonality across all industries was the need to know who the producer levy payers are.

Fundamental principles underpinning the agriculture levy system

4.4 The committee appreciates that a one-size-fits-all approach to agricultural levies would be totally inappropriate, given the diversity across the various commodities subject to levies and the unique characteristics of each industry. Nevertheless, the committee recognises that the underpinning principle of the levy system should be that producer levy payers can trace their levies from payment to investment and return. They should also have a say on the investment and utilisation of their own levy. For many levy payers, the levy system is abstract, removed from

1 Dr Andreas Dubs, Australian Chicken Meat Federation, *Committee Hansard*, 3 February 2015, p. 1; Mr Robert Prince, Nursery & Garden Industry Australia, *Committee Hansard*, 3 February 2015, p. 12; Mr William Hamilton, Ag Institute Australia, *Committee Hansard*, 3 February 2015, p. 15; Mr Gregory Seymour, Australian Mushroom Growers Association, *Committee Hansard*, 3 February 2015, p. 34; Mr Adam Kay, Cotton Australia, *Committee Hansard*, 3 February 2015, p. 44; Mr Matt Brand, NSW Farmers Association, *Committee Hansard*, 3 February 2015, p. 67; Mr Adam Kay, Cotton Australia, *Committee Hansard*, 3 February 2015, p. 44; Mr Matt Brand, NSW Farmers' Association, *Committee Hansard*, 3 February 2015, p. 67; Mr Richard Mulcahy, AUSVEG, *Committee Hansard*, 4 February 2015, p. 2; Mr David Jochinke, Victorian Farmers Federation, *Committee Hansard*, 4 February 2015, p. 20; Ms Annie Farrow, Apple and Pear Australia Ltd, *Committee Hansard*, 4 February 2015, p. 63; Mr Tony Mahar, National Farmers Federation, *Committee Hansard*, 5 February 2015, p. 1; Mr David McKeon, GrainGrowers Ltd, *Committee Hansard*, 5 February 2015, p. 13; Southern Rocklobster Ltd, Submission 18, p. 3; Australian Sugar Industry Alliance, *Submission 35*, p. 1; Grain Growers Ltd, *Submission 36*, p. 2 and Mr David and Ms Janet Haynes, *Submission 96*.

their daily lives and confusing. Decision-making processes in relation to levy investment are perceived by some to be unreachable and intangible. However, the integrity of the agriculture levy system into the future rests on the fundamental principle of levy payer engagement.

4.5 The mechanism and means through which this is achieved is a matter for each industry. Nevertheless, the committee recognises that AGMs provide an important opportunity for levy payers to raise their concerns directly with RDC boards and thereby improve board accountability. For this reason, the committee strongly encourages statutory RDCs to seriously consider cost-effective methods to initiate AGMs as a means to engage directly with levy payers and their representative bodies. The ability to discuss concerns and priorities directly, and in an open forum, could only contribute to greater understanding and agreement upon research imperatives and levy investment priorities.

4.6 The following committee recommendations are not directed at addressing each of the concerns raised during the inquiry across all agricultural industries but rather seek to ensure that the structures that underpin the levy system are reformed to provide producers with the means to manage their own levies. It is not the place of the committee to comment on the best methods to engage levy payers or to detail the most appropriate representation models, except to say that levy payers must have a clear say about R&D decisions and where relevant, marketing investment decisions. They must have oversight of how their levies are invested and the process undertaken to make that determination.

4.7 While there was considerable debate as to whether a regular poll should be required across agricultural industries to determine the levy rate and allocations within the levy, this is a matter for each respective industry. However, it is noted that without a comprehensive database or register of levy payers, there is considerable risk that mandating a regular poll (or prescribing other opportunities directed at securing levy payers with a greater say in the levy) would lead to decision making based on assumptions, rather than serve as a true reflection of the aspirations and priorities of levy payers themselves.

Automated and transparent levy collection and vote entitlement system

4.8 The levy collection systems used in relation to agricultural commodities vary considerably in terms of method of collection, collection point, rate and means of measurement, as well as documentation provided to levy payers on their levies paid. It is at the point of levy collection that the important information regarding levy payers is diluted. Yet, much of the complexity and confusion in relation to levy arrangements, and questions regarding transparency and accountability to levy payers, arises from the lack of a mechanism to identify those payers.

4.9 The committee repeatedly made the point throughout the inquiry that a levy payer register was fundamental to the levy system. Furthermore, it could potentially be used in a variety of additional and exceptional circumstances (such as biosecurity, quarantine and food safety events) to contact producers immediately, and thereby serve a wider public good.

4.10 The committee holds the view that the premise of a transparent and accountable levy system is that of knowing who the levy payers are. Without a levy payer database, the basis on which RDCs and industry bodies communicate with levy payers will remain ad hoc. In this regard, the committee recognises as a fundamental flaw, the fact that there is no mechanism to directly advise levy payers about the ways in which their levy funds are being invested.

4.11 For this reason, the committee strongly encourages agricultural industries, in cooperation with the department, to consult on the most appropriate and cost-effective way to develop an electronic levy payer database. In this regard, the committee reiterates its 2014 recommendation for such a system in relation to the grass-fed cattle levy. The committee notes that the introduction of an automated levy collection system would:

- provide for transparency in terms of levy collection;
- provide an accurate mechanism to record levy payers' details;
- enable the rapid settlement of levy payment and timely transfer of levy revenue to the department;
- provide a mechanism to determine voting entitlements;
- be subject to regular independent auditing and verification; and
- provide an accurate audit trail.

4.12 The committee recognises that an electronic system may also positively impact levy collection costs and the administrative charges that industries are subject to. It has the potential to alleviate the reporting burden currently placed on agents as levy collectors. It may also address other challenges in relation to agents, including that of payment for services and liquidation.

4.13 The committee notes the department's concern that one model for the identification and documentation of levy payers should be established across all agricultural industries, and that the introduction of fifteen or more different models should be avoided. While the establishment of levy payer databases should not serve as an additional layer of difference or divergence between industries, the committee appreciates the challenges in establishing one model when levy collection systems vary considerably across the agricultural sector. Nevertheless, the committee strongly encourages agricultural industries to work together, and with the department, to identify appropriate mechanisms to capture levy payer details.

4.14 The move to an automated mechanism to identify levy payers against levies paid also provides the opportunity for relevant industries to allocate voting entitlements to levy payers. In this regard, the committee supports the evidence that eligibility for membership of industry-owned RDCs should be automatically assigned to levy payers.

4.15 Furthermore, the committee understands that agricultural levies are paid at both the federal and state levels. Ideally, therefore, any such database or databases should capture both levy structures. Such an effort would require industry, in conjunction with the federal and respective state departments, to identify a system that

can be used uniformly. Furthermore, the establishment of a database could serve as an opportunity for industries to review their levy collection methods, with a view to streamlining the collection process, particularly in relation to state-based levies, which should be merged where possible in order to reduce duplication.

4.16 As the levy system is extremely complex and opaque for many levy payers, the provision of information on levy payers would enable industry bodies (including relevant RDCs) to target and tailor the information they provide to levy payers. The committee takes the view that if used appropriately, information gleaned vis-à-vis the database will provide for voting entitlements of levy payers and enable levy recipients to demonstrate to levy payers where and how their levies are invested.

4.17 The committee further considers the collection of such data would assist relevant authorities and industry to communicate timely information to levy payers in the event of biosecurity emergencies, and assist authorities in better identifying risks in such emergencies.

4.18 As a first step towards achieving these objectives, the committee recommends that the *Primary Industries Levies and Charges Collection Act 1991* be amended, consistent with subsections 27(3) concerning wool and 27(3A) concerning dairy to allow for the collection and distribution of levy payer information in relation to other agricultural industries. Such an amendment, which identifies both the authorised person and eligible recipient in relation to the publication of levy payer information, would make it clear which bodies have responsibility for, and access to, levy payer data.

Recommendation 1

4.19 The committee recommends that the *Primary Industries Levies and Charges Collection Act 1991* be amended, consistent with subsections 27(3) and 27(3A), to enable the collection and distribution of levy payer information which will allow the creation of levy payer databases for all agricultural industries that pay agricultural levies. The committee further recommends that levy payer databases be established within two years of the legislative amendment.

Recommendation 2

4.20 The committee recommends that data collected for the purposes of levy databases and held by the Department of Agriculture should be limited to information sufficient to enable organisations responsible for spending or allocating levy funds to communicate with levy payers and enable votes to be allocated on a production basis. Data should include location, contact details, crop or enterprise type and production volume and/or value. Databases should be held by the appropriate levy-payer owned body, and be available to appropriate authorities under circumstances of biosecurity emergencies.

Recommendation 3

4.21 The committee recommends the establishment of a cost-effective, automated agricultural levy system. The system should identify levy payers against levies paid. The automated system should provide for more immediate

settlement of levy fees paid and the allocation of voting entitlements where relevant. It should be subject to regular independent auditing and verification.

Recommendation 4

4.22 The committee recommends that where industry sectors are subject to levies by both states and territories and the Commonwealth, the merging of record keeping and levy collection should be investigated to avoid duplication and reduce costs to producers.

Flexibility and transparency in levy change arrangements

4.23 Evidence to the committee highlighted the often lengthy and complex processes involved in seeking changes to levies – including introducing new levies, changing the rate of existing levies and changing the amounts allocated within a single levy. The evidence focused on the extensive, time-consuming and resource intensive processes and administrative burden placed on industries in this regard.

4.24 The committee acknowledges concerns raised by both RDCs and industry representative bodies regarding what has become an inflexible and time-consuming process. Evidence to the committee suggested that at times, this resource-intensive process hindered rather than supported the process of levy modification, and with it, industry aspirations for R&D and marketing.

4.25 It was suggested to the committee that it was excessive red tape which deterred agricultural industries from increasing investment in R&D, marketing and biosecurity rather than a lack of desire. While the committee recognises that there may be other contributing factors, the point remains that these administrative obstacles have contributed to a situation in which levy adjustments are rarely undertaken. The committee is sympathetic to the view that if such adjustments were carried out more regularly, levy increases may not seem as substantial when submissions for them are made.² Furthermore, opportunities to rationalise levies (and potentially reduce collection costs which could accompany such adjustments) are also not undertaken. The efforts of the Australian Chicken Meat Federation to pay back a debt by raising a component of its levy to repay its industry's share of the emergency animal disease response was one such example which highlighted the unnecessary complexity of the process.

4.26 While the committee acknowledges that industries must demonstrate producer levy payer support for any modification to a levy, the point was repeatedly made that the bureaucratic burden placed on industries hinders and prevents responsiveness to industry changes while also redirecting focus and resources away from R&D and marketing investment. What is fundamental to such a system is certainty and responsiveness in terms of funding arrangements to ensure the realisation of long-term outcomes in RD&E as well as the ability to respond to issues that arise suddenly, such as a biosecurity incident.³ For these reasons, the committee acknowledges that there is

2 Australian Mushroom Growers' Association, *Submission 115*, p. 8.

3 Mr Tony Maher, National Farmers Federation, *Committee Hansard*, 5 February 2015, pp 2 & 3.

a need to identify methods to reduce the compliance burden and therefore the time, resources and costs involved, particularly in relation to levy rate amendment proposals.

4.27 The committee takes the view that there is scope for the department to rationalise the process without compromising the levy principles and guidelines. To this end, the committee strongly encourages the department to establish a clear and transparent timeframe in relation to the decision making process once levy applications are submitted. Further, the committee recommends that the department in cooperation with agricultural industries and RDCs, conduct a review of levy introduction and amendment processes, with a view to identifying methods to provide for a more cost-effective and responsive levy change process.

Recommendation 5

4.28 The committee recommends that the Department of Agriculture provide agricultural industries with a timeframe for levy application and amendment decisions.

Recommendation 6

4.29 The committee recommends that the Department of Agriculture, in cooperation with relevant agricultural industries, conduct a review of the process to establish and amend agricultural levies including modifications to levy components. The review should identify methods to provide for a more cost-effective and responsive process while maintaining an appropriate level of accountability.

Prescribed Industry Bodies

4.30 The committee notes, and to an extent, agrees with concerns raised by some submitters and witnesses regarding the true level of representation provided to levy payers by peak industry bodies and the lack of uniform, transparent criteria determining the recognition of PIBs under legislation. The committee further notes concerns raised about voting systems based on volume, area or value as opposed to 'one man, one vote' systems; the former allows relatively few large levy payers to dominate votes determining expenditure of levies – potentially at the expense of smaller levy payers – while the latter may potentially not reflect large levy payers' significant investment in R&D with an expectation to have a proportional influence over expenditure.

4.31 The committee notes the diversity and disparity of various PIB voting systems, and significant under-representation in some cases in votes determining levy rates and expenditure.

Recommendation 7

4.32 The committee recommends that the Department of Agriculture review and if necessary, redraft the criteria for Prescribed Industry Bodies (PIBs) with a view to developing a transparent, uniform and contestable process, including published criteria and thresholds as applicable, for the recognition of PIBs for the purposes of collecting levies.

4.33 The committee further recommends that PIBs already recognised under legislation should be required by the Department of Agriculture to conclusively demonstrate, within a period of no more than five years, that they meet the criteria referred to in Recommendation 7 in order to remain the recognised PIB for their relevant industry sector.

**Senator Glenn Sterle
Chair**

