



**Australian Government**  

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**Department of Agriculture**

**SENATE RURAL AND REGIONAL AFFAIRS  
AND TRANSPORT REFERENCES COMMITTEE**

**Industry structures and systems governing levies on  
grass-fed cattle**

**SUBMISSION FROM DEPARTMENT OF AGRICULTURE  
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## TABLES OF CONTENTS

List of acronyms .....	3
Summary .....	4
1. Australia’s primary industries levy system .....	5
1.1 What is a levy? .....	5
1.2 What is the purpose of the levy system?.....	5
1.3 How is a levy created or changed? .....	5
1.4 What is the assessment process for levy proposals?.....	6
1.5 How do levies operate? .....	6
2. Red meat levies.....	8
2.1 What are the marketing and research and development levies pertaining to the sale of grass-fed cattle that are being reviewed in the inquiry? .....	8
2.2 How do these levies fit in the cattle transaction levy as a whole and which parts are not subject to the inquiry? .....	9
2.3 What are the other red meat levies?.....	11
3. Levy collection.....	13
3.1 How are levies collected? .....	13
4. Distribution of red meat levies .....	14
4.1 Who are the levies subject to the Senate inquiry distributed to?.....	14
4.2 What other funding is received by Meat & Livestock Australia?.....	14
5. Governance requirements for the grass-fed levies .....	16
5.1 What is the role of the 1997 reforms to the red meat sector? .....	16
5.2 What are the governance requirements for grass-fed cattle levies under the <i>Corporations Act 2001</i> ? .....	16
5.3 What are the governance requirements for grass-fed cattle levies under the <i>Australian Meat and Live-stock Industries Act 1997</i> ? .....	17
5.4 What is the role of the Memorandum of Understanding and its links with grass-fed cattle levies? .....	18
5.5 How are the parties to the Memorandum of Understanding funded to undertake their respective roles and responsibilities? .....	21
6. Comparison with other levy arrangements .....	22
6.1 Are there differences in consultation arrangements on investment plans for levies? .....	22
6.2 Are there differences in consultation arrangements about levies? .....	23
6.2 Are there differences in membership requirements? .....	24

## **LIST OF ACRONYMS**

The following acronyms appear at points in this submission, in particular in tables and diagrams.

AHA – Animal Health Australia

ALEC – Australian Livestock Exporters’ Council

ALFA – Australian Lot Feeders’ Association

AMIC – Australian Meat Industry Council

AMPC – Australian Meat Processor Corporation

CCA – Cattle Council of Australia

GICA – Goat Industry Council of Australia

LiveCorp – Australian Livestock Export Corporation Ltd

MISP – Meat Industry Strategic Plan

MLA – Meat & Livestock Australia

NRS – National Residue Survey

R&D – research and development

RDC – rural research and development corporation

RMAC – Red Meat Advisory Council

SCA – Sheepmeat Council of Australia

SFA – statutory funding agreement

SFO – state farmer organisation

## SUMMARY

The purpose of this submission is to outline the primary industries levy system and the place of marketing and research and development levies for grass-fed cattle in the broader structural arrangements for the red meat industry.

The Australian rural sector includes a diverse range of industries, which largely comprise small family businesses. The incentive and capacity for individual small businesses to invest in marketing and research and development is low, resulting in market failure and potential under investment in these functions for the rural sector.

The Australian Government helps primary industries overcome this through the use of the Commonwealth taxing powers to facilitate marketing and research and development services for rural industries. By working collectively to identify the opportunities and threats Australia's primary industries have been able to compete internationally.

Levy collection and investment is a joint effort between government and industry. The Australian Government's role, through the department, is to liaise with industries that want a levy system and to implement an effective collection system for them at minimum cost. The department currently administers more than 90 levies across 69 commodities. This number is likely to grow, with the department continuing to receive and assess industry requests to establish new levies. The organisations that receive this levy money are legally accountable to levy payers and the Australian Government.

Levies are collected and distributed for the red meat industry (composed of beef cattle, sheepmeat and goatmeat producers, processors and live exporters). The department collects these levies from a range of intermediaries and provides them to recipient bodies set out in legislation.

One of the red meat levies is known by industry as the 'cattle transaction levy'. The cattle transaction levy is composed of a number of levies and totals \$5 per head for cattle and \$0.90 per head for bobby calves. These separate components relate to: marketing, research and development (paid to Meat & Livestock Australia), animal health (paid to Animal Health Australia) and residue testing (paid to the National Residue Survey). This levy is paid by lot-fed cattle producers and grass-fed cattle producers.

The red meat marketing and research and development levies are managed in accordance with the framework established in 1997. The purpose of this framework was to advance industry towards management of its own affairs. The role of government in these arrangements is minimal, confined to powers of intervention and mechanisms to guarantee appropriate standards of governance and accountability to parliament and levy payers through the combination of legislation, appropriation, deeds of grant and an industry Memorandum of Understanding.

This submission has been set out as a series of answers to questions that Senators and members of the public may have about the system that the marketing and research and development levies pertaining to grass-fed cattle operates within. This includes questions about how the Australian levies system works, what the red meat levies are, how they are collected, who the levies are distributed to and what the governance requirements are and how other primary industries differ in their management of levies.

## **1. AUSTRALIA'S PRIMARY INDUSTRIES LEVY SYSTEM**

### **1.1 What is a levy?**

Levies and charges are a tax imposed by a compulsory exaction of money by a public authority for public purposes, enforceable by law, and not a payment for services rendered (*Matthews v Chicory Marketing Board (Vic)*(1938)).

Levies are a duty of excise which was defined in *Ha v New South Wales* (1997) as 'taxes on the production, manufacture, sale or distribution of goods, whether of foreign or domestic origin. Duties of excise are inland taxes in contradistinction from duties of customs which are taxes on the importation of goods. Both are taxes on goods, that is to say, they are taxes on some step taken in dealing with goods.'

### **1.2 What is the purpose of the levy system?**

Australia's farm businesses are world leaders in terms of production efficiency, sustainable production, product quality, innovation and ability to supply and respond to market demands. Achieving this result for individuals and the entire industry is a joint effort that requires careful management. This is recognised by the Australian Government and industry.

The effective use of primary industry levies and charges can greatly assist producers. By pooling their physical, financial and research resources, different supply-chain participants can work together to find more productive and sustainable farming methods and increased demand for their products.

The purpose of the levy system is to support marketing and promotion, research and development, plant and animal health programs and residue testing activities that benefit industry. The system has enabled those industries to participate and prosper in highly competitive world markets.

The number of industries that have sought to establish their own levies has grown over the years since the levies system was introduced in the 1920s, benefitting Australian agriculture and consequently the broader economy. Investments that result in productivity increases also deliver results for the public good such as regional development, food safety improvements, environmental benefits and new consumer products.

The Australian Government encourages industry investment in research and development to improve industry productivity, viability and sustainability by matching industry's research and development investment up to legislated caps.

### **1.3 How is a levy created or changed?**

The levies and charges within the scope of this inquiry are imposed or changed under legislation at the request of the relevant industry. The Australian Government uses its [Levy Principles and Guidelines](#) to assist in this process. In brief this involves industry developing a levy proposal for consideration by government and the implementation of that proposal in law once it has been approved.

The guidelines assist industry to develop a satisfactory levy proposal and demonstrate a majority industry support for the levy. A levy proposal from industry includes details of:

- consultation and voting outcomes
- the leviable product and exemptions

- the levy rate (calculated on volume or value)
- who pays the levy and whether an intermediary is liable to pay the levy on behalf of the producer
- the plan for using funds (e.g. industry strategic plan)
- the bodies to which the levy will be disbursed
- a practical and efficient imposition and collection mechanism.

The principles used to assess a levy proposal from industry include:

- that the levy is for a purpose for which there is a demonstrated market failure that justifies the use of the Commonwealth's taxation powers and that it will not be used for agri-political activities
- consultation with as many potential and existing levy payers and intermediaries involved in the collection of the levy as possible
- that the imposition between levy payers is equitable and 'red tape' is kept to a minimum.

There are many stakeholders involved in the development and imposition of a levy. An industry may have one or multiple peak industry councils. There may be one or several recipient bodies for the levy. The producers of the product subject to the levy can be widely disbursed. Intermediaries and their representative bodies are critical to the process.

#### **1.4 What is the assessment process for levy proposals?**

Multiple areas of the government are involved in assessing a levy proposal.

The process involves the following steps:

- a six-week objection period
- assessment of the proposal against the Levy Principles and Guidelines
- a regulatory impact statement
- consideration of the proposal by the Australian Government
- if agreed, implementation of the levy in legislation.

#### **1.5 How do levies operate?**

A levy is created and administered under three principal pieces of legislation: an imposition Act, a collection Act and a distribution Act. These are supported by regulations and other legislative instruments.

Under the Administrative Orders, the Minister for Agriculture has responsibility for:

- four primary industries levies imposition Acts
- one primary industries levies collection Act
- 13 principal primary industries levies distribution Acts

The department currently collects and distributes over 90 levies across 69 commodities.

The department's role in administering the levies system involves establishing the levies, collection and distribution of levies (involving receipt and processing of returns and payments), ongoing collection compliance activities and oversight of distributed levies.

The services associated with imposition of a levy are funded through appropriated revenue.

The collection and distribution services are fully cost recovered based on the effort of administration of the levy and not the amount of revenue collected. The levy funds are used to pay these costs so the levy model must be cost effective to administer. Key drivers of the costs include the number of collection points, levy payer compliance, the complexity of the levy arrangements, the frequency of returns, and the use of electronic transactions.

A summary comparison of the cost recovery, as a proportion of levies collected, is set out in Table 1. Costs can be variable and are not linked to revenue raised. The department provides estimates of these costs to industry during the development of a levy proposal.

**Table 1: Comparison across industries of levies collected and collection costs**

Industry body	Total levies collected	Levy collection costs	% total levies collected
Australian Pork Limited	\$12.3 million	\$40,048	0.33%
Australian Wool Innovation	\$43.7 million	\$359 575	0.82%
Horticulture Australia Limited	\$41.2 million	\$1 444 727	3.51%
Meat & Livestock Australia	\$93.8 million	\$727 478	0.78%

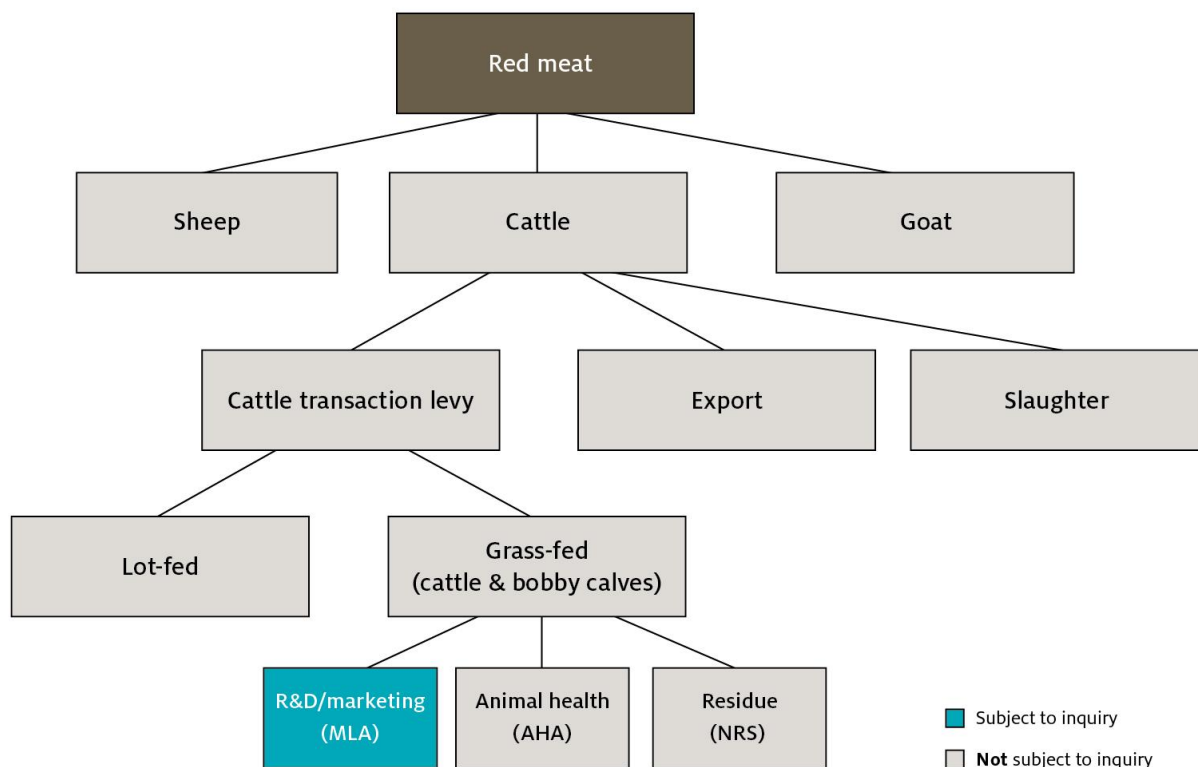
Source: [ACIL Allen Consulting Consultation Paper: Independent Review of HAL and the Horticulture Levy System](#) (2013) as modified by department records of levy collection costs

## 2. RED MEAT LEVIES

The marketing and research and development levies pertaining to the grass-fed cattle sector subject to the Senate inquiry are part of a larger system of levies imposed on the red meat sector.

A visual representation of the red meat levy system and the levies subject to the Senate inquiry is found at Diagram 1.

**Diagram 1: Place of levies subject to the inquiry into the red meat levy system**



This section of the submission describes the:

- marketing and research and development levies pertaining to the grass-fed cattle sector subject to the Senate inquiry
- how these levies fit in with the rest of the cattle transaction levy as a whole, and
- what the other red meat levies exist that are not subject to the Senate inquiry.

### 2.1 What are the marketing and research and development levies pertaining to the sale of grass-fed cattle that are being reviewed in the inquiry?

The grass-fed cattle the levies collected during 2012-13 totalled \$53.9 million.<sup>1</sup> The break-down of this is presented in Table 2. Note that the amount collected during the last 15 days of the financial year ended 30 June 2013 were distributed to levy recipient bodies in the first week of the following financial year.

<sup>1</sup> This includes any penalty of two per cent, per month, compounding penalty for those that do not pay by the due date.



**Table 2: Grass-fed cattle levies**

Levy	Amount per head	Collected
6(1)(a) (grass-fed cattle marketing)	\$3.66	\$42 818 000
6(2)(a) (bobby calves marketing)	\$0.48	\$204 000
6(1)(b) (grass-fed cattle R&D)	\$0.92	\$10 763 000
6(2)(b) (bobby calves R&D)	\$0.16	\$68 000

Grass-fed cattle levies are:

- imposed under Schedule 3 (Cattle transactions) of the *Primary Industries (Excise) Levies Act 1999* - subsections 6(1)(a) and 6(2)(a) for the purposes of marketing and subsections 6(1)(b) and 6(2)(b) for the purposes of research and development
- collected under the *Primary Industries Levies and Charges Collection Act 1991* enabling collection through intermediaries
- distributed under Part 3 of the *Australian Meat and Live-stock Industries Act 1997* to Meat & Livestock Australia as the declared industry marketing body for marketing levies and industry research body for research and development levies.

## 2.2 How do these levies fit in the cattle transaction levy as a whole and which parts are not subject to the inquiry?

As shown in Diagram 1, there are cattle transaction levies for both grass-fed and lot-fed cattle.

The current cattle transaction levy totals \$5 per head and \$0.90 per head for bobby calves. For the purposes of this submission, bobby calves are referred to as grass-fed cattle, as they are the offspring of grass-fed cattle and are not a feature of the lot-fed system. Table 3 sets out the full set of cattle transaction levy components and identifies which parts are not subject to the inquiry.

**Table 3: Cattle transaction levy components**

	Total	Unit	Marketing	R&D	Animal health	Residue testing
Cattle	\$5.00	\$/head	\$3.66	\$0.92	\$0.13	\$0.29
Lot-fed cattle	\$5.00	\$/head	\$3.08	\$1.50	\$0.13	\$0.29
Bobby calves	\$0.90	\$/head	\$0.48	\$0.16		\$0.26

☐ Subject to inquiry      ☐ Not subject to inquiry

The cattle transaction levy was introduced in its current form on 1 July 1998. The cattle transaction levy existed prior to this date but did not differentiate between grass-fed and lot-fed cattle.

The introductory overall levy rate in 1998 was \$3.50. The overall rate has changed once, increasing to \$5 on 1 January 2006. Over the life of the cattle transaction levy, there have been several changes to how it is split between the recipient bodies. The current cattle transaction levy is the fifth iteration since 1 July 1998.

The cattle transaction levies imposed on grass-fed cattle and bobby calves are defined as follows:

- 'cattle' are bovine animals other than buffalo
- 'bobby calves' are bovine animals other than buffalo or lot-fed cattle, with a live-weight of less than 80kg or, if slaughtered, a dressed weight of less than 40kg.

The cattle transaction levy is imposed on each of the following actions:

- each transaction by which ownership of cattle is transferred from one person to another - the levy is payable by the person who owned the cattle immediately before the transaction was entered into
- the delivery of cattle to a processor other than because of a sale to a processor - the levy is payable by the person who owned the cattle immediately prior to delivery
- the slaughter of cattle by a processor where the cattle were purchased by the processor and held for more than 60 days before slaughter - the levy is payable by the person who owned the cattle at the time of slaughter
- the slaughter of cattle by a processor where levy would not be payable under any of the three preceding actions - the levy is payable by the person who owned the cattle at the time of slaughter.

The following are exempt from the cattle transaction levy under section 5 of Schedule 3 of the *Primary Industries (Excise) Levies Act 1999*:

- the sale of dairy cattle for dairying purposes
- the sale of cattle at auction to the vendor
- the sale or delivery of cattle between related companies, unless the company buying or taking delivery is a processor
- the delivery of cattle to a processor occurring less than 14 days after cattle were acquired by a person where the cattle are slaughtered and the person retains ownership after hot carcase weight is determined
- the sale or delivery of cattle to a processor where the cattle are not fit for human consumption at the time of sale or delivery
- the ownership of the cattle changed due to:
  - a sale or transfer ordered by a court under the *Family Law Act 1975*
  - by devolution on the death of the owner of the cattle

- the occurrence of prescribed events under the *Income Tax Assessment Act 1997*
- on a leviable bobby calf where the levy has already been paid
- the slaughter of the cattle by the producer on their own property for consumption by themselves, their families and their employees
- the sale or slaughter of cattle during a defined period where the proceeds were donated to the Victorian bushfire or Queensland flood appeal
- on the sale of cattle by an export licence holder to another export licence holder if the animals are exported within 30 days of being acquired by the first licence holder.

### **2.3 What are the other red meat levies?**

The red meat sector is composed of producers, processors and exporters of beef, sheepmeat and goat meat and producers and exporters of live cattle, sheep and goats.

The commodities that the levies are imposed on are grass-fed cattle, bobby calves, lot-fed cattle, beef, sheep, sheepmeat, lambs and goats. Export charges are imposed on similar commodities.

Table 4 sets out the other levies attributed to the red meat sector paid to: the Australian Meat Processor Corporation (AMPC), Animal Health Australia (AHA), LiveCorp, National Residue Survey (NRS) and Meat & Livestock Australia (MLA). In addition, levies are in place for some commodities for Emergency Animal Disease Response (EADR) but are currently set at zero.

**Table 4: Levies other than cattle transactions levy applying to the red meat industries**

Commodity	Total	Unit	Market	Market Body	R&D	R&D Body	AHA	NRS	EADR
Beef Production Levy (cattle slaughter)	\$0.60	\$/kg	\$0.20	AMPC	\$0.40	AMPC			
Cattle Exporters Charge	\$0.9523	\$/kg	\$0.7936	LiveCorp	\$0.1587	LiveCorp			
Cattle (Producers) Export Charge <ul style="list-style-type: none"><li>- cattle</li><li>- lot-fed cattle</li><li>- bobbies</li></ul>	\$5.00	\$/head	\$3.66	MLA	\$0.92	MLA	\$0.13	\$0.29	0
	\$5.00	\$/head	\$3.66	MLA	\$0.92	MLA	\$0.13	\$0.29	0
	\$0.90	\$/head	\$0.48	MLA	\$0.16	MLA		\$0.26	0
Livestock Exporters Charge <ul style="list-style-type: none"><li>- sheep (incl. lambs)</li><li>- goats</li></ul>	\$0.60	\$/head	\$0.50	LiveCorp	\$0.10	LiveCorp			
	\$0.50	\$/head	\$0.40	LiveCorp	\$0.10	LiveCorp			
Livestock (Producers) Export Charge <ul style="list-style-type: none"><li>- sheep (≤\$10)</li><li>- sheep (&gt;10)</li><li>- lambs (≤\$75)</li><li>- lambs (&gt;\$75)</li><li>- goats</li></ul>	2.00%	% sale value	0.87%	MLA	0.77%	MLA	0.18%	0.18%	0
	\$0.20	\$/head	\$0.087	MLA	\$0.077	MLA	\$0.018	\$0.018	0
	2.00%	% sale value	1.20%	MLA	0.49333%	MLA	0.20%	0.10667%	0
	\$1.50	\$/head	\$0.90	MLA	\$0.37	MLA	\$0.15	\$0.08	0
	\$0.377	\$/head	\$0.105	MLA	\$0.167	MLA	\$0.045	\$0.06	0
Livestock Slaughter Levy <ul style="list-style-type: none"><li>- sheep</li></ul>	\$0.15	\$/head	\$0.06	AMPC	\$0.09	AMPC			
Livestock Transaction Levy <ul style="list-style-type: none"><li>- sheep (≤\$10)</li><li>- sheep (&gt;10)</li><li>- lambs (≤\$75)</li><li>- lambs (&gt;\$75)</li><li>- goats</li></ul> <div>A. Where there is a defined sale price</div> <div>B. Where there is no defined sale price<ul style="list-style-type: none"><li>- sheep</li><li>- lambs</li><li>- goats</li><li>- lambs</li><li>- goats</li></ul></div>	2.00%	ad valorem	0.87%	MLA	0.77%	MLA	0.18%	0.18%	0
	\$0.20	\$/head	\$0.087	MLA	\$0.077	MLA	\$0.018	\$0.018	0
	2.00%	ad valorem	1.20%	MLA	0.49333%	MLA	0.20%	0.10667%	0
	\$1.50	\$/head	\$0.90	MLA	\$0.37	MLA	\$0.15	\$0.08	0
	\$0.377	\$/head	\$0.105	MLA	\$0.167	MLA	\$0.045	\$0.06	0
	\$0.20	\$/head	\$0.0.7	MLA	\$0.077	MLA	\$0.018	\$0.018	0
	\$0.80	\$/head	\$0.626	MLA	\$0.113	MLA	\$0.014	\$0.047	0
	\$0.377	\$/head	\$0.105	MLA	\$0.167	MLA	\$0.045	\$0.06	0
	\$0.16	\$/head	\$0.07	AMPC	\$0.09	AMPC			
	\$0.10	\$/head	\$0.03	AMPC	\$0.07	AMPC			

### 3. LEVY COLLECTION

#### 3.1 How are levies collected?

Levy returns are lodged with the department and payments are made to the department by:

- a range of intermediaries (processors, buying and selling agents and first purchasers) who recover the levy from producers or
- producers for direct producer-to-producer sales.

The collection intermediaries lodge monthly returns with the department. Under the provisions of the *Primary Industries Levies and Charges Collection Act 1991* intermediaries are liable to pay the levy but may recover it from producers. Where an intermediary deducts the levy from the proceeds of sale or recovers the levy from the producer they must give the producer a receipt or other written statement acknowledging the payment of the levy.

Direct producer-to-producer sales are self assessed by producers and provided annually to the department.

Intermediaries lodge the majority of returns containing cattle transaction levies. The intermediaries are mostly stock agents (selling agents) and abattoirs (processors). In 2012-13, there were 702 intermediaries for the cattle transaction levy on grass-fed cattle and 254 intermediaries for the cattle transaction levy on bobby calves.

The department does not systematically collect nor is aware of who the actual levy payers are beyond the provision of the annual returns from direct producer to producer sales.

Compliance auditing is carried out across the levy program through a risk-based record inspection programme with approximately 600 levy agents being inspected each year. The program is designed to ensure that there is statistically sound coverage of revenue and of all leviable commodities.

In 2012-13, the compliance audit program included 111 record inspections at enterprises that paid cattle transaction levies. There is no discrimination between grass-fed and lot-fed cattle in determining the record inspections conducted under the compliance auditing program. Of these 111 record inspections:

- 73 disclosed no breaches of levy requirements and 26 disclosed minor technical errors providing a material compliance rate of 89 per cent
- there was a levy leakage (or underpayment) of less than 0.05 per cent of the levy paid by the enterprises inspected during the 2011-12 (the previous financial year)
- there was one instance of an overpaid levy.

## **4. DISTRIBUTION OF RED MEAT LEVIES**

### **4.1 Who are the levies subject to the Senate inquiry distributed to?**

The marketing and research and development levies pertaining to the sale of grass-fed cattle are distributed to Meat & Livestock Australia under Part 3 of the *Australian Meat and Live-stock Industries Act 1997*.

Meat & Livestock Australia is a company limited by guarantee under the *Corporations Act 2001* and not a statutory authority.

The marketing levies are distributed to Meat & Livestock Australia as the declared industry marketing body (subsection 60(1) of the *Australian Meat and Live-stock Industries Act 1997*). As the industry marketing body, Meat & Livestock Australia works with the Australian Government to resolve market impediments and identify and prioritise issues for strategic engagement with trading partners. This work includes:

- joint representations on marketing issues
- Ministerial and high-level visits to key overseas markets
- advice on impacts and opportunities for the red meat industry of Free Trade Agreements and other international obligations
- input on technical market access conditions (i.e. sanitary requirements imposed by trading partners)
- projects which facilitate red meat and live animal market access.

The research and development levies are distributed to Meat & Livestock Australia as the declared industry research body (subsection 60(2) of the *Australian Meat and Live-stock Industries Act 1997*). As the industry research body, Meat & Livestock Australia works with the Australian Government, other rural research and development corporations, industry and research providers to improve the productivity, integrity and sustainability of red meat industries. Rural research and development corporations commission and manage research, innovation and knowledge creation and transfer this back to industry participants, to government and the wider Australian community.

### **4.2 What other funding is received by Meat & Livestock Australia?**

For the financial year 2012-13, Meat & Livestock Australia reported total revenue of \$162.2 million.

Meat & Livestock Australia receives levies from grass-fed beef cattle, lot-fed cattle, sheep, lamb and goat producers. In 2012-13 it received a total of \$70.4 million for marketing levies and \$23.4 million for research and development levies.

Meat & Livestock Australia receives additional research and development funding from matching funds for eligible research and development activities from the Australian Government, other research and development corporations and private investors. In 2012-13 the matching funds were \$41.1 million, receipts from processors and live exporters \$9.9 million and other receipts \$18.2 million.

The Australian Government matches, on a dollar-for-dollar basis, eligible research and development expenditure by most rural research and development corporations up to a cap of 0.5 per cent of an industry's gross value of production. Eligible expenditure for Meat & Livestock Australia is made up of research and development industry levies and funds received from declared approved donors. The declared approved donors are the other two red meat rural research and development corporations, Australian Meat Processors Corporation and LiveCorp, and the Meat & Livestock Australia subsidiary MLA Donor Company. All approved donors are companies operating under the *Corporations Law 2001*. MLA Donor Company receives funding from a variety of private investment sources.

## **5. GOVERNANCE REQUIREMENTS FOR THE GRASS-FED LEVIES**

### **5.1 What is the role of the 1997 reforms to the red meat sector?**

In 1997, the Australian Government introduced the first model for provision of levies to an industry owned company. Prior to this, all red meat levies had been administered by statutory authorities.

This involved privatising the marketing and research and development statutory authorities and removing government day to day management of levy funds. The resulting governance model for levies composed of:

- responsibility and accountability to company members (levy payers) through the *Corporations Act 2001*
- government responsibility for establishing the tax and setting minimum standards for accountability to Parliament and levy payers

The 1997 reforms were facilitated through whole-of-industry agreement on the principles and intention of the new arrangements in the form of a Memorandum of Understanding between peak industry councils, industry owned rural research and development corporations and the Commonwealth. In addition to describing the roles of the levy recipient bodies, peak industry councils were provided with roles within the system and funding to undertake those roles.

### **5.2 What are the governance requirements for grass-fed cattle levies under the *Corporations Act 2001*?**

The day to day operations of Meat & Livestock Australia is primarily governed by the *Corporations Act 2001* and its Memorandum and Articles of Association.

Key provisions of the Meat & Livestock Memorandum and Articles of Association that relate to levies include:

- There are two classes of members: peak councils and producers
- Eligibility to become a peak council member is available to:
  - prescribed industry bodies for the purpose of section 59 of the *Australian Meat and Live-stock Industries Act 1997*
  - bodies declared by the Minister to be a body whose recommendations about amounts to be prescribed under levy Acts, and
  - is a signatory to the Memorandum of Understanding (except for the Goat Industry Council of Australia)
- There are four classes of producers which are kept on separate registers - cattle producers, lot feeders, sheep producers and goat producers
- A person is eligible to be a producer member if they produce livestock and pay levies
- Producers have rights to:



- receive notices, attend and speak at general meetings
- vote on election of members of board selection committee
- vote on resolutions proposed by the peak council representing the producers of the class of livestock applicable to that class of producer (in the case of cattle producers that is the Cattle Council of Australia)
- Producer voting rights are determined by the amount of levies paid by the producer during the financial year in accordance with the scale set out in subclause 2.6(5)
- Meat & Livestock Australia can audit information provided by members in connection with their eligibility and voting entitlements.

### **5.3 What are the governance requirements for grass-fed cattle levies under the *Australian Meat and Live-stock Industries Act 1997*?**

Monies received by virtue of the operation of the *Australian Meat and Live-stock Industries Act 1997* can only be used for the purposes for which they were appropriated by Parliament (that is for marketing and research and development) and in accordance with conditions agreed between the levy recipient and the Minister for Agriculture.

The conditions relevant to the levies subject to the Senate inquiry are set out in a statutory funding agreement between Meat & Livestock Australia and the Commonwealth.

Statutory funding agreements set out the broad accountability provisions attached to the management and expenditure of funds received by the company from the Commonwealth. Similar governance provisions attached to the spending of public funds are employed in respect of the 10 industry owned rural research and development corporations. The agreement focuses on the continuous improvement of rural research and development corporations and the efficient and effective delivery of marketing and research and development services to levy payers.

The current [statutory funding agreement with Meat & Livestock Australia](#) runs from 2012 to 2016. Under this agreement Meat & Livestock Australia is required to:

- apply good practice corporate governance to the management and spending of the funds received from the Commonwealth, drawing, as appropriate, on the ASX Corporate Governance Council's Corporate Governance Principles and Recommendations (including a skills based board and a process for evaluating the performance of the board and its committees)
- maintain a three to five year strategic plan including
  - consultation with the Minister on the strategic plan and on the consultation process to be followed
  - a description of the consultations with industry and an explanation on the extent to which industry priorities are reflected in the strategic plan, and
  - an annual operating plan to implement the strategic plan
- maintain risk management, fraud control and intellectual property plans

- apply funds in accordance with the *Australian Meat and Live-stock Industries Act 1997* and the statutory funding agreement and in a manner that is consistent with the strategic plan and is otherwise efficient and effective
- take into account any government guidelines (including National Rural and Research Development Priorities, Levy Principles and Guidelines and any directions from the Minister)
- use funds only for the purposes for which they are appropriated (marketing and rural and research and development), and not, for example, for agri-political activity
- only funding peak industry councils by way of membership fees (where these are not used to fund agri-political activities), payments on an arm's length commercial basis for marketing or research and development or services or for the costs of consultation relating to the provision of marketing and research and development services
- provide annual compliance audit reports and chair/managing director certification reports
- prepare an annual report, including a financial statement audit report, in accordance with reporting requirements of the *Corporations Act 2001* and also Schedule 2 of the statutory funding agreement
- attend six-monthly meetings with the government to discuss Meat & Livestock Australia's progress against its plans
- meet twice yearly with peak industry bodies to discuss progress against plans, and
- complete regular independent performance reviews.

#### **5.4 What is the role of the Memorandum of Understanding and its links with grass-fed cattle levies?**

The Minister must have regard to any broad policies formulated jointly by prescribed industry bodies in making decisions under Part 3 of the *Australian Meat and Live-stock Industries Act 1997*. These decisions relate to determining the industry marketing body, the industry research body and the conditions on which funds are provided to these bodies.

The principal example of this is the Memorandum of Understanding dated 27 April 1998 which underpins the 1997 reforms. It is a non-binding agreement involving the following prescribed bodies: Cattle Council of Australia, Sheepmeat Council of Australia, Australian Lot Feeders' Association, Goat Industry Council of Australia, Australian Livestock Exporters' Council and the Australian Meat Industry Council.

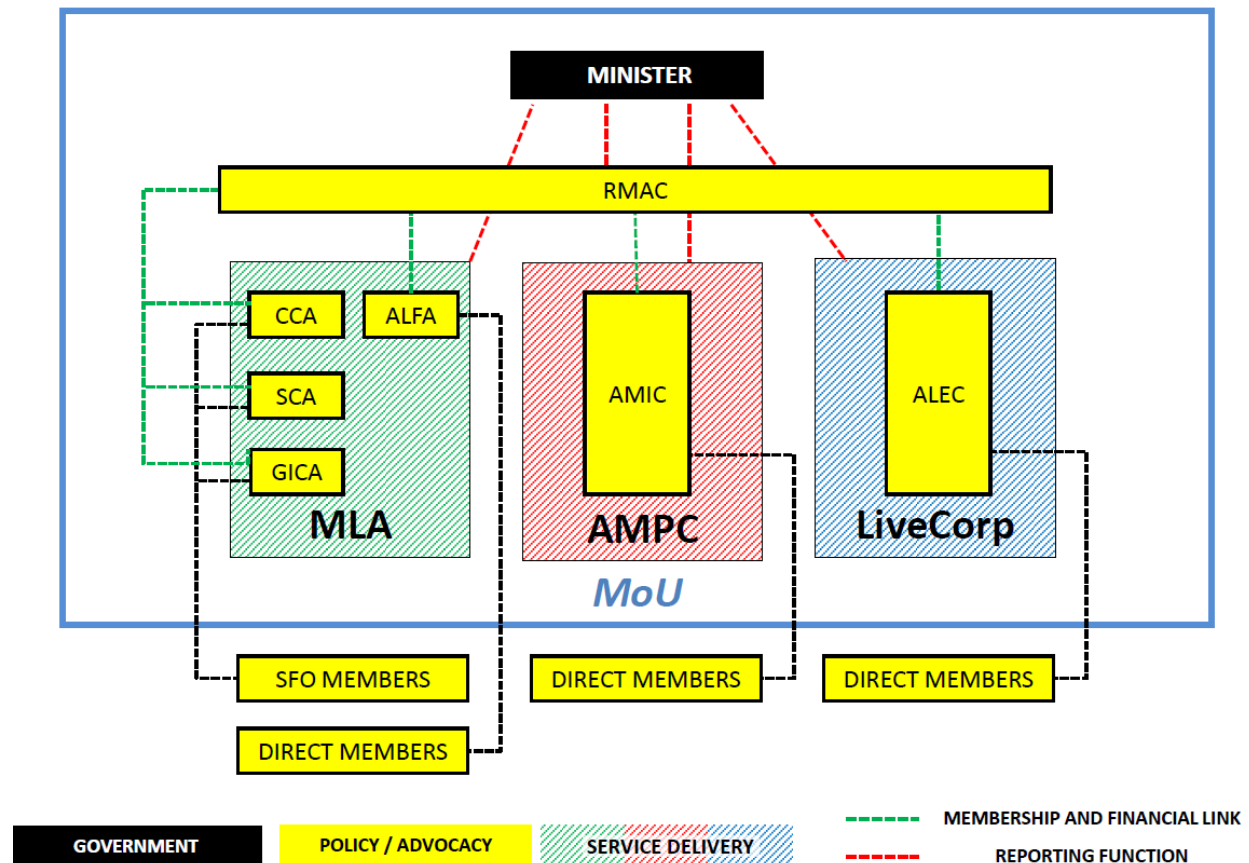
The object of the Memorandum of Understanding is to set out the obligations of the peak industry councils, the companies contemplated by the Memorandum of Understanding and the Commonwealth in working together to progress the interests of the Australian red meat industry.

The Memorandum of Understanding sets out the industry partnership between the signatories. The Memorandum of Understanding incorporates agreed roles and responsibilities, funding, planning and service delivery arrangements, the Meat Industry Strategic Plan, use of industry reserves and research and development. Schedules to the agreement cover the Red Meat Advisory Council, AUS-MEAT Ltd, SAFEMEAT, funding flows and crisis and issues management.

Under subclause 5.4 of the Memorandum of Understanding any body that appropriately represents an industry sector on a national basis may become a prescribed industry body for the purpose of section 59 *Australian Meat and Live-stock Industry Act 1997*. In addition the Minister will consult with affected parties and with the Red Meat Advisory Council before making a determination as to whether a body should or should not be a prescribed industry body.

Diagram 2 illustrates the roles, membership, financial arrangements and reporting functions under the Memorandum of Understanding, noting that the Cattle Council of Australia recently agreed to accept direct membership in addition to State Farming Organisation (SFO) membership.

**Diagram 2: Memorandum of Understanding arrangements**



The parties to the Memorandum of Understanding represented on this diagram are:

- The Commonwealth (represented by the Minister)
- Peak industry councils: Australian Lot Feeders' Association (ALFA), Australian Meat Industry Council (AMIC), Australian Livestock Exporters' Council (ALEC), Cattle Council of Australia (CCA) and Sheepmeat Council of Australia (SCA).
- Industry owned rural research and development corporations: LiveCorp, Australian Meat Processor Corporation (AMPC) and Meat & Livestock Australia (MLA).

The Goat Industry Council of Australia (GICA) is a part of the arrangement but not a formal signatory to the Memorandum of Understanding.

The Memorandum of Understanding agrees to the formation of and role and responsibilities for the Red Meat Advisory Council (RMAC).

The Memorandum of Understanding sets out roles and responsibilities of Meat & Livestock Australia and the Cattle Council of Australia in relation to grass-fed cattle levies. These arrangements are summarised in Table 5.

**Table 5: Roles and Responsibilities of Meat & Livestock Australia and Cattle Council of Australia under the Memorandum of Understanding in relation to the grass-fed cattle sector**

Meat & Livestock Australia	Cattle Council of Australia
<p>To provide, or arrange, marketing and research and development services for the benefit of the meat and livestock industry</p> <p>Develop jointly with Cattle Council goals for achieving vision/strategic imperatives for the grass-fed cattle sector</p> <p>Prepare with the Cattle Council of Australia business and operating plans</p> <p>Perform functions consistent with goals for vision/strategic imperatives</p> <p>With the Cattle Council of Australia and the grass-fed beef industry, maintain a communications network and facilitate crisis resolution</p>	<p>To represent and progress the interests of Australian grass-fed cattle producers, as the prescribed industry body</p> <p>Provide leadership, formulate policies, set strategic imperatives and agree overall levels of expenditure for the grass-fed cattle industry</p> <p>Give policy advice to the Minister in relation to the whole of the grass-fed cattle industry and respond to the Minister on issues the Minister raises with it</p> <p>Develop jointly with Meat &amp; Livestock Australia goals for achieving the vision/ strategic imperatives for the grass-fed cattle sector</p> <p>Cooperate and consult with other peak industry councils to ensure a consistent approach is taken to achieve the goals identified in Meat Industry Strategic Plan</p> <p>Assess performance of services delivered by Meat &amp; Livestock Australia towards achieving the goals identified in the Meat Industry Strategic Plan</p> <p>Propose levy motions at general meetings of Meat &amp; Livestock Australia, make recommendations to the Minister on the operating level of levies required to fund Meat &amp; Livestock Australia's activities and consult widely within the grass-fed cattle sector on Meat &amp; Livestock Australia's funding requirements</p>

### **5.5 How are the parties to the Memorandum of Understanding funded to undertake their respective roles and responsibilities?**

The industry owned rural research and development corporations, including Meat & Livestock Australia, are funded by their statutory levies to undertake the roles and responsibilities set out in the Memorandum of Understanding.

The peak industry councils are funded to undertake their roles under the Memorandum of Understanding from the income of approximately \$40 million fund managed by the Red Meat Advisory Council.

The technical provisions describing how the Red Meat Advisory Council fund came about and the conditions governing the fund can be summarised as follows:

- the funds appropriated out of the Consolidated Revenue Fund and transferred to the Red Meat Advisory Council under section 12 of Schedule 5 of the *Australian Meat and Live-stock Industry (Repeals and Consequential Provisions) Act 1997*
- pursuant to subclause 8(b) of the Memorandum of Understanding, the Commonwealth and Red Meat Advisory Council entered into a Deed of Agreement on 29 September 1998 for the Red Meat Advisory Council to hold the funds
- the funds were transferred on the conditions set out in the attachment to the Deed of Agreement known as the Scheme Rules
- under the Scheme Rules the income from the funds are distributed to the Red Meat Advisory Council and the peak industry councils (including Cattle Council of Australia) for the purpose of fulfilling their roles and responsibilities under the Memorandum of Understanding.

## **6. COMPARISON WITH OTHER LEVY ARRANGEMENTS**

The rural research and development model as it applies to industry owned companies has been subject to continuous improvement processes over time. It embraces the need for best practice corporate governance arrangements and a high level of transparency in relation to the management and expenditure of all public monies, including levies. At the core is the need for rural research and development corporations to deliver services in an efficient and effective manner, regardless of the industry settings.

In recent times, the passage of the *Rural Research and Development Legislation Amendment Act 2013* represented a significant step towards aligning the accountability framework of the statutory rural research and development corporations with the industry owned rural research and development corporations. In particular it established uniform statutory funding agreement requirements across all rural research and development corporations.

Statutory funding agreements are essentially the same for all industry owned rural research and development corporations, with some small variations based on industry needs (such as references to the Memorandum of Understanding being included in the agreement with Meat & Livestock Australia). There is little difference in accountability, transparency and governance requirements across the industry owned rural research and development corporations since they are all spending public monies.

### **6.1 Are there differences in consultation arrangements on investment plans for levies?**

A fundamental principle across all statutory funding agreements is that all levy payers should have the opportunity to contribute to the development of an industry owned rural research and development corporation's strategic investment plan. This plan sets out the priorities and plans for investments of levies. However, the means to effectively achieve this objective can vary across industries depending upon their structures.

For example, where there are a small number of levy payers a high level of direct consultation with most levy payers is possible. In others, delegate systems can assist consultation processes while in others industry representative (or peak industry bodies) can have a key role. It is however incumbent on the industry owned rural research and development corporation's board to demonstrate to the department in its strategic consultation plan that the strategic planning process includes a high level of consultation with levy payers, members, the government and peak industry councils.

Consistent with this, statutory funding agreements require industry owned rural research and development corporations to consult with industry, the Minister and levy payers when developing their three to five year strategic plan and setting industry priorities. Industry owned rural research and development corporations are required to meet with the government and industry at not more than six-monthly intervals and to distribute annual reports to members and the government. Members are also involved in the appointment of directors to the industry owned rural research and development corporations' boards in accordance with their company constitutions.

There is a statutory requirement that the Minister must declare at least one organisation to be a representative organisation for each statutory rural research and development corporation. The representative organisation has a consultative role on preparing strategic plans.

## 6.2 Are there differences in consultation arrangements about levies?

In general terms, the Levy Principles and Guidelines specify minimum requirements attached to government consideration of changes to levies and their structures. At the core is the need for genuine consultation with levy payers and majority agreement to any proposed changes. As in the case of strategic plan consultation arrangements, means for achieving this level of consultation can vary across industries where typically delegate systems or peak industry councils are involved. There is a risk that some levy payers may not be industry owned rural research and development corporations members or peak industry council members, and this risk needs to be identified and managed.

There are some differences in levy payer involvement in levy arrangements across the industry owned rural research and development corporations.

For example, the wool and dairy industries use a statutory consultation process in relation to setting their levies. Neither industry has peak industry councils declared in legislation. Instead they each have a single levy and hold periodic polls where statutory levy payers are able to vote on future levy rates. These polls are led by the respective industries' industry owned rural research and development corporations, Australian Wool Innovation and Dairy Australia and governed by legislation. Extensive consultation with industry must occur prior to holding a poll. The estimated average cost is between \$600 000 to \$1 million per poll.

In accordance with the *Wool Services Privatisation Act 2000*, Australian Wool Innovation must conduct a poll of all eligible wool levy payers every three years to determine the rate of the levy to apply for the following three year period. Australian Wool Innovation must then make a recommendation to the Minister in accordance with the outcome of the poll. The *Wool Services Privatisation (Wool Levy Poll) Regulations 2003* governs the conduct of the poll. In accordance with the regulations, Australian Wool Innovation must propose three to five different rates of wool levy at the poll, including a zero rate. Under the regulations, Australian Wool Innovation is to be assisted in the wool poll process by a panel which must include representatives of those growers that will be eligible to vote in the poll.

In accordance with the *Dairy Produce Act 1986*, Dairy Australia must conduct a poll of all eligible dairy levy payers every five years to determine the rate of the levy to apply for the following five year period. Dairy Australia must then make a recommendation to the Minister for Agriculture in accordance with the outcome of the poll. The *Dairy Produce (Dairy Service Levy Poll) Regulations 2006* governs the conduct of the poll. In accordance with these regulations, Dairy Australia must propose three to five different rates of dairy levy at the poll, including a zero rate. The ballot paper, voting instructions and information memorandum must be submitted to the Minister for approval. The levy poll process is overseen by an independent returning officer. Under the regulations, Dairy Australia is assisted by a Dairy Service Levy Poll Industry Advisory Committee which was established in early 2006 and provides Dairy Australia with feedback on service levels as well as its appreciation of the issues which could confront the industry in the foreseeable future.

The dairy industry is currently undertaking a review of the poll to determine its ongoing utility.

## **6.2 Are there differences in membership requirements?**

In nearly all industry owned rural research and development corporations, levy payers are eligible, and are actively encouraged, to become company members and hence have a say in the operations of the company. The industry owned rural research and development corporations' constitutions outline the voting rights attributed to members.

An exception to this standard is the horticulture sector, which comprises a significant number of individual sector-based levies. The peak industry bodies representing the levy-paying (or voluntarily contributing) industries are the members of the horticulture industry owned rural research and development corporation, Horticulture Australia Limited, not the levy payers themselves. Horticulture Australia Limited has 43 members divided into classes of membership as follows:

- 30 'A Class' members that pay statutory levies (and of these, nine members have a statutory research and development levy alone and 21 members have both a statutory research and development levy and a statutory marketing levy), and
- 13 'B Class' members that pay voluntary contributions.

This arrangement is currently the subject of review, as part of Horticulture Australia's required periodic performance review, to assess how its efficiency and effectiveness can be improved.