



The Hon. Barnaby Joyce MP

Deputy Prime Minister
Minister for Agriculture and Water Resources
Leader of The Nationals
Federal Member for New England

Ref: MS16-001331

Senator Glenn Sterle
Chair
Rural and Regional Affairs and Transport References Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

05 MAY 2016

Dear Senator Sterle

Glenn,

Please find enclosed a copy of the Australian Government response to the Senate Rural and Regional Affairs and Transport References Committee's report on *Industry structures and systems governing the imposition and disbursement of marketing and research and development (R&D) levies in the agriculture sector*. The response was presented to the President of the Senate today.

Thank you for the committee's interest in this matter.

Yours sincerely

Barnaby Joyce MP



Australian Government

Australian Government response to the
Senate Rural and Regional Affairs and Transport References
Committee report:

Inquiry on industry structures and systems governing the
imposition and disbursement of marketing and research and
development (R&D) levies in the agriculture sector

May 2016

Introduction

The Australian Government welcomes the Senate Rural and Regional Affairs and Transport References Committee's report on industry structures and systems governing the imposition and disbursement of marketing and research and development (R&D) levies in the agriculture sector (the Report).

Innovation through research, development and extension (RD&E) has been a key factor in the rural sector's productivity growth and its contribution to Australia's prosperity. In 2011, the Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) found that past investments in broadacre R&D by Australian governments have generated high internal rates of return. ABARES estimated that for every dollar the government invests, broadacre farmers generate around \$12 within 10 years in terms of increased agricultural productivity. These findings indicate that investment in agricultural RD&E has delivered productivity returns in excess of the cost of the investment.

Despite the clear benefits, Australia would likely experience under-investment in agricultural RD&E without government involvement, particularly the provision of matching payments for eligible RD&E expenditure. In 2014–15, the Government collected \$489 million in levies and contributed \$246 million in matched funding.

Australian farmers have a limited capacity to individually conduct or invest in RD&E and marketing, as around 97 per cent of farms are small businesses with an annual turnover of less than \$2 million. There are also limited incentives for private investment in RD&E and marketing, notwithstanding the Government's policy of matching eligible voluntary R&D contributions, because it is difficult to prevent others from accessing the benefits of their activities. Government involvement in the levy system seeks to address this market failure, encourage socially optimal levels of agricultural RD&E and marketing, and deliver tangible results to farmers.

The Agricultural Competitiveness White Paper highlights the Government's commitment to co-fund RD&E to deliver results on-the-ground that improve farm profitability and productivity. The White Paper adopts a three-pronged approach to building a stronger RD&E system. This involves investing in the right RD&E by setting key research priorities; addressing the gaps in the system through increased funding for collaborative research and adoption (for example, an additional \$100 million for the Rural R&D for Profit programme, and extending the programme to 2021–22); and improving the efficiency of the system by reducing administrative costs and improving governance of rural research and development corporations (RDCs). The White Paper also demonstrated the Government's ongoing commitment to match eligible R&D, where approved, by announcing \$1.4 million to match industry levies in the export fodder and tea tree oil industries.

The Government supports agricultural R&D levies as a means of increasing the profitability, sustainability and competitiveness of Australia's rural industries. For this reason, the Government supports a legislative framework which allows agricultural industries to request that R&D and marketing levies be imposed on producers, processors and exporters, and disbursed to RDCs and other levy recipient bodies. This framework also allows for the Government to provide matching payments to RDCs on eligible RD&E expenditure in recognition that profitable, competitive and sustainable farm businesses will benefit the industry and whole Australian economy.

The Government will continue to work with industry to develop a more transparent and responsive agricultural levy system. The Department of Agriculture and Water Resources administers the levy system for industry and ensures that the system remains transparent, cost-effective and flexible enough to meet the needs of industry—there is no ‘one size fits all’ model for the levy system.

The department has made improvements to its processes and systems in recent years and continues to investigate ways to reduce collection costs for industry and reduce the burden on stakeholders across the levies system. The Government appreciates the diversity of stakeholder perspectives on the structures and systems governing R&D and marketing levies. The Government will endeavour to ensure that the best possible arrangements are in place to deliver tangible benefits from RD&E and marketing levies to all agricultural industries.

Recommendation 1

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.

The Australian Government agrees with this recommendation.

On 3 March 2016, the Government introduced amendments to the *Primary Industries Levies and Charges Collection Act 1991*, and will amend associated regulations, to enable the collection and distribution of levy payer information on a similar basis to that collected for the wool and dairy levies. If passed, the amendments will allow the Department of Agriculture and Water Resources to provide levy payer information to the RDCs for the purpose of establishing levy payer registers.

In 2014, the Senate Rural and Regional Affairs and Transport References Committee also proposed levy payer registers as a means by which RDCs could improve their accountability, transparency and engagement with levy payers, in its inquiry into industry structures and systems governing levies on grass-fed cattle. Since then, the department has worked with RDCs, including Meat & Livestock Australia, the Grains Research and Development Corporation and Horticulture Innovation Australia Limited, to discuss options for developing levy payer registers.

The Department of Agriculture and Water Resources administers, collects and disburses wool and dairy levies and levy payer information on a cost recovery basis. This approach would also apply to future requests for levy payer information from other industries.

While the Government recognises the potential benefits to the broader R&D system of establishing levy payer registers, it considers that the decision to establish a levy payer register is a matter for each RDC, in consultation with industry, to consider. This is consistent with the long-standing approach to the R&D levies system, which is driven by industry.

The Government encourages RDCs to establish levy payer registers within two years of the legislative amendment, but notes that timing would depend on the interest of an RDC and its respective industry in pursuing a levy payer register. The Government also recognises that enforcing a “one size fits all” approach would not be appropriate given the diversity of Australian agricultural industries. Therefore, the distribution of levy payer information to an RDC would occur only where an RDC, in consultation with industry, requests it, and that request is approved by the minister.

Recommendation 2

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.

The Australian Government agrees with this recommendation.

The Government encourages the development and maintenance of strong and consultative relationships between RDCs, levy payers and broader industry.

As outlined in Recommendation One, if the Government's amendments to the *Primary Industries Levies and Charges Collection Act 1991* are passed, and the associated regulations are amended, an RDC, in consultation with industry, will be able to request the collection and distribution to the RDC of levy payer information. The Government expects that the information collected could include the levy payer's name, address, contact details, ABN, the amount of levy paid and relevant commodity information.

This information could be used by the respective RDC for the purposes of:

- determining voting rights in any levy poll
- determining, where relevant, voting rights as a member of the RDC
- developing and maintaining a list of levy payers to allow communication between them and the RDC in the performance of its functions under its respective enabling legislation or funding agreement with the government
- publishing de-identified industry statistics.

The Government is committed to better access to and use of data. Where levy payer information is collected by the Department of Agriculture and Water Resources, it will be made available to the Australian Bureau of Statistics to reduce duplication in data collection activities. It will also be available for use within government in circumstances of biosecurity emergency. This aligns with the Australian Government's Public Data Policy, which includes a commitment to securely share data between Australian Government entities to improve efficiencies, and inform policy development and decision-making; and uphold the highest standards of security and privacy for the individual, national security and commercial confidentiality.

Recommendation 3

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.

The Australian Government agrees with this recommendation.

The Government, through the Department of Agriculture and Water Resources, is committed to administering levies in an increasingly cost-effective and transparent manner. The Government supports the concept of an automated levy system, but notes that such changes to the levy collection process are likely to be cost recovered and would require thorough stakeholder consultation and industry support.

As outlined in Recommendation One, the Government has introduced amendments to the *Primary Industries Levies and Charges Collection Act 1991*, and will amend associated regulations, to enable the collection and distribution of levy payer information to RDCs for the purpose of establishing levy

payer registers. The Government believes that this would allow RDCs to develop an efficient means of allocating voting entitlements, as well as potentially developing an automated voting system.

In line with the Australian Government's Digital Transformation Agenda, the department continues to explore opportunities for digitising the administration of levies to improve the user's experience and efficiency. For example, in recent years the department has implemented: the Levies Online system; automated reminder notices for upcoming returns, overdue returns and payments; and digitised its compliance programme.

Recommendation 4

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.

The Australian Government agrees with this recommendation.

The Australian Government's involvement in collecting and disbursing R&D levies seeks to address the market failure in agricultural R&D investment by ensuring that R&D outputs can be shared across industry. Conversely, state and territory governments may impose other levies for a range of purposes and collect them using a variety of methods, under state-specific legislation.

The Australian Government considers that the cost of undertaking the complex legislative, administrative and practical changes necessary to merge the Australian Government system with the various state and territory levy systems would likely outweigh potential benefits.

Therefore, it may be difficult to identify significant net benefits which would result from merging state and territory record keeping, levy collection and disbursement with the Australian Government's agricultural levies system.

However, the Minister for Agriculture and Water Resources will raise this matter for discussion at a forthcoming meeting of Commonwealth, state and territory agriculture ministers in 2016. Furthermore, if a state or territory government brought forward a proposal to align the collection or disbursement of one of its levies with that of an existing Australian Government levy, the Australian Government would consider the costs and benefits of pursuing that opportunity to reduce regulatory burden.

Recommendation 5

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

The Australian Government agrees with this recommendation.

The Government will endeavour to consider proposals to amend or introduce agricultural levies, including whole-of-government consideration and agreement, and scrutiny by the Parliament, within 12 months of receipt of a proposal which meets the Levy Principles and Guidelines.

Whole-of-government review of levy proposals includes consideration of whether the proposal meets the requirements of the Budget Rules and where a proposal requires new appropriations, these will need to be considered within the Budget timeframes and constraints.

The Department of Agriculture and Water Resources will keep industry informed of progress on levy proposals, once they have been submitted to Government.

Recommendation 6

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.

The Australian Government agrees with this recommendation.

The Government will review the Levy Principles and Guidelines, in consultation with stakeholders. This will include considering how the process can be improved to assist industry in reducing the cost of introducing or amending a levy.

It will also include considering the processes associated with plant and animal emergency response levies.

Recommendation 7

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.

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.

The Australian Government agrees with this recommendation.

Prescribed Industry Bodies (PIBs) play a key role in the rural R&D system. Industry bodies may be prescribed in legislation for a range of purposes, including to provide for an industry body to be consulted, or to make recommendations, about the levies to be applied to the industry's products. PIBs do not currently collect statutory R&D or marketing levies.

The decision to prescribe an industry body in legislation is a matter for the Minister for Agriculture and Water Resources. The Department of Agriculture and Water Resources uses a set of guidelines to aid in the preparation of advice to the Minister regarding the suitability of an industry body to be prescribed. The department will review these guidelines to ensure they remain appropriate for this purpose.

The department will also review PIBs already recognised under legislation within a period of five years, with reference to the guidelines, once reviewed. The department will require PIBs to provide

a submission to the department to this effect. The department will provide further guidance to PIBs on this process in due course. The Government will continue to consider applications from industry bodies to become a PIB on a case by case basis.

Additional recommendations

Recommendation 8

That once such databases are established, each industry sector undertake a regular poll of levy payers to decide:

- the rate of levies imposed (including a zero option) until the next poll
- the split of levy funds (if relevant) between R&D and marketing

The Australian Government agrees in part with this recommendation.

The Government supports the use of polls of levy payers to decide the rate of levies imposed, but notes that the decision to undertake a poll is a matter for industry and may involve significant expense. Should an industry wish to pursue a poll, the Government would provide advice on any administrative and legal requirements.

The Government notes that the split of levy funds between R&D and marketing for each RDC is set out under legislation. Under these arrangements, the allocation of levy funds requires either the approval of the Australian Government or is a decision for the relevant RDC Board.

Industries such as the apple, pear and pig industries pay a levy which is the sum of a specific, legislated marketing component and a specific, legislated R&D component. Funds collected through each component can only be spent on the purpose for which they are collected. This model covers the majority of agricultural industries that pay a statutory levy. Any change to the legislated components would be undertaken under the Levy Principles and Guidelines and would require approval by Government.

Other industries, such as the wool and dairy industries, pay a general services levy. The split between R&D and marketing expenditure from this services levy is a matter for the relevant RDC Board. The Government expects that, where relevant, information regarding the split between R&D and marketing would be provided to all actual or potential levy payers for proposals involving new levies or changes to levy rates.

Recommendation 9

That database information be used to determine proportional voting by producers according to the amount of levies paid.

The Australian Government agrees in part with this recommendation.

The Government recognises the benefits of having an industry voting system that reflects the conditions and production systems of that industry. Under the Levy Principles and Guidelines, except where legislated, an industry can choose to use one of two types of voting allocations when conducting a ballot for a new levy or amendment:

- one vote per producer (business entity) or
- an allocation of votes based on the amount of levy paid (or payable).

As noted in the response to Recommendation 2, the Government expects that the establishment of levy payer registers would allow RDCs to develop an efficient means of allocating voting entitlements.

Recommendation 10

That polls be conducted at intervals of 4 years with the option to defer a particular poll for a maximum of 2 years in exceptional circumstances (e.g. severe drought)

The Australian Government notes this recommendation.

As outlined in the response to Recommendation 8, the Government supports the use of polls of levy payers to decide the rate of levies imposed but notes that the decision to undertake a poll is a matter for industry. The wool industry has a levy poll which is held at a legislated three year interval. The Government, at the request of the dairy industry, introduced legislation to remove the requirement to hold a levy poll every five years and allow the dairy industry to initiate a poll when it sees the need.

The dairy industry can still seek to amend its levy rates by conducting a poll, where a need is identified by industry. The legislation, which was passed by the Parliament in March 2016, includes a mechanism for the dairy industry to initiate a levy poll at any time. It also establishes a levy poll advisory committee to consider the need for a levy poll every five years. If levy payers do not agree with the committee's decision, they may initiate a poll, provided they have the support of at least 15 per cent of levy votes. The changes will provide savings of up to \$1 million every five years, which may be re-directed towards R&D activities.

Recommendation 11

That each industry have the option of undertaking polls to decide the choice of PIB, representative directors of R&D organisations and the allocation of levy expenditure for particular objectives or strategies.

The Australian Government agrees in part with this recommendation.

As outlined in the response to Recommendation 8, the Government supports the use of polls to determine such matters as industry support for the introduction or amendment of a levy.

There are a range of existing avenues through which industry members are consulted on decisions that affect their industry. For example, RDCs are required to conduct structured consultation and engagement activities, particularly around the development of priorities for their strategic plan and allocation of funds. An RDC has the option to conduct an industry survey to gather feedback on its performance and its R&D priorities.

With regard to the selection of directors of RDCs, the Government supports the establishment of skills based boards selected by an independent nomination committee (consistent with the practices promoted in the ASX Corporate Governance Council's Principles and Recommendations) and encourages industry-owned RDCs to adopt this approach. However the selection processes for

directors of industry-owned RDCs is a matter for levy-payer members to agree through the company constitution.

The Government notes that the Minister for Agriculture and Water Resources determines whether a given industry body is ultimately prescribed.

As noted in the response to Recommendation 7, the Government will require PIBs already recognised under legislation to provide a submission to the Department of Agriculture and Water Resources within a period of five years demonstrating that they continue to meet the criteria, once reviewed.

Recommendation 12

That the cost of polls be paid from levy revenue but only to the extent of:

- the actual costs incurred for voting and counting of votes
- providing an information memorandum that gives equal weight to each side of a proposition

The Australian Government notes this recommendation.

The use of levy funds and associated Commonwealth matched funding is governed by the relevant legislation and a funding agreement between the respective RDC and the Commonwealth.

Use of any funds (levy or Commonwealth matched funding) for a non-legislated poll and its administration (i.e. polls other than the legislated wool and dairy levy polls) must be in accordance with the respective RDC's funding agreement with the Commonwealth. In this instance, if levy funds are used, it is unlikely to be eligible to attract Commonwealth matched funding. However, the RDC may, at any time, seek to consult with the Commonwealth on any matter connected with its funding agreement including whether funds could be directed to non-legislated polls.

In the case of the legislated polls for wool and dairy, the relevant funding agreements allow for costs associated with the conduct of the poll to be met by levy revenue.

Recommendation 13

That levy or government funds not be utilised for advocating a particular poll outcome.

The Australian Government notes this recommendation.

The use, or potential use, of levy funds and Commonwealth matched funds for polls was outlined in Recommendation 12. Except where specified, the funding agreements between the respective RDCs and the Commonwealth prohibit the RDCs, except for Australian Pork Limited, from advocating a particular industry position. Australian Pork Limited's operations differ from the other RDCs in that the *Pig Industry Act 2001* and its funding agreement enables it to use marketing levies to fund strategic policy development or other activities for the benefit of the Australian pig industry.

The Government notes that in legislated polls for the wool and dairy industries, the RDCs are required to identify their recommended levy rate.

Recommendation 14

That voting in any poll is voluntary.

The Australian Government agrees with this recommendation.

Voting in existing levy polls is currently voluntary and the Government does not intend to change this.

Recommendation 15

That any claim of market failure relating to the imposition of a marketing levy be assessed by the Office of Best Practice Regulation (OBPR) prior to the inclusion of such a claim in an information memorandum, with the OBPR assessment to then be included in the information memorandum.

The Australian Government notes this recommendation.

The Office of Best Practice Regulation (OBPR) administers the Australian Government's Regulation Impact Statement (RIS) requirements and assesses the adequacy of RISs prepared for policy proposals. The OBPR does not endorse or support particular regulatory outcomes; rather, its role is to assess whether good regulatory policy development has been followed. In this context, the OBPR also provides RIS advice on matters relating to agricultural levies. All changes of significance require a RIS that is independently assessed by the OBPR.

Under the Levy Principles and Guidelines, a levy proposal must identify a significant market failure which justifies the introduction of a levy. The Government will consider requiring industries to provide information on market failure to members during consultation on the introduction of, or changes to, a marketing levy, as part of its review of the Levy Principles and Guidelines.