

Chapter 2

The basis on which levies are collected and used

2.1 This chapter considers the collection of the cattle transaction levy and its use. It explores the components of the levy and their allocation with focus on the R&D and marketing components.

2.2 The rural sector includes a wide range of industries which largely comprise small family businesses. The incentive and capacity for businesses such as these to invest in marketing and R&D is low, resulting in potential under-investment in relation to these functions for the sector.¹ As a means of overcoming this, Commonwealth taxing powers are used to facilitate marketing and R&D services for rural industries through the imposition of levies. Industry levies are statutory, production-based payments which are often matched by government and then used to fund marketing and R&D.

2.3 Levies are collected by the Department of Agriculture (department) on behalf of the red meat sector and distributed to recipient bodies as set out in the legislation. Schedule 3 of the *Primary Industries (Excise) Levies Act 1999* (Levies Act) and Section 8 of the *Primary Industries (Customs) Charges Act 1999* impose levies in relation to cattle transactions.

Red meat and livestock industry structure

2.4 The *Australian Meat and Live-stock Industry Act 1997* (AMLI Act) provides the legislative framework for the structural and funding arrangements of the red meat industry and its marketing and R&D activities. A Memorandum of Understanding (MOU) between the red meat industry and Commonwealth sets out the roles, responsibilities and funding arrangements in relation to the red meat industry. Agreed on 27 April 1998, the MOU serves as a statement of principles between industry bodies and the Commonwealth.

2.5 The red meat industry structure comprises the following bodies under the MOU together with the Commonwealth Government:

- Red Meat Advisory Council (RMAC);
- six peak industry councils² (PICs): Cattle Council of Australia (CCA), Sheepmeat Council of Australia (SCA), Australian Lot Feeders' Association (ALFA), Australian Meat Industry Council (AMIC), the Australian Livestock Exporters' Council (ALEC), and the Goat Industry Council of Australia (GICA); and

1 Department of Agriculture, *Submission 28*, p. 4.

2 See below for an explanation of Peak Industry Councils (PICs).

- three service providers: Meat and Livestock Australia (MLA), the Australian Meat Processor Corporation (AMPC), and the Australian Livestock Export Corporation (LiveCorp).

2.6 Responsibilities and functions under the MOU are divided between RMAC and the PICs which serve as policy and strategy bodies while MLA, AMPC and LiveCorp are service delivery companies.

2.7 Please note that, while this chapter provides background information about the role and nature of the relevant bodies, more substantive discussion of their performance is contained in later chapters.

Custodian of MOU—Red Meat Advisory Council

2.8 As part of the 1997–98 restructure, RMAC was formed by the PICs to provide a 'single industry touch-point' for the Australian Government when dealing with cross-sectoral and whole-of-industry matters. It comprises members of five PICs:

- CCA representing the grass-fed cattle production sector;
- SCA representing the sheepmeat production sector;
- ALFA representing the grain-fed cattle production sector;
- AMIC representing red meat processors, retailers, wholesalers and smallgoods operators; and
- ALEC representing the livestock export sector.³

2.9 RMAC has five principal functions including the provision of advice to the Minister for Agriculture (Minister) on cross-sector or whole-of-industry matters. RMAC is responsible to develop and monitor the Meat Industry Strategic Plan (MISP) which provides the industry's overarching strategic framework while serving as the custodian of the MOU.

2.10 RMAC is also charged with managing the investment reserves (the Industry Reserve Fund) to generate income to support RMAC and its members to fulfil their MOU obligations and provide capital funding if and as needed for multi-sector crisis management. As a representative body, RMAC is also responsible to facilitate a forum for its members (PICs) to discuss multi-sector and whole-of-industry policy issues.⁴

Peak industry councils

2.11 A PIC is recognised as a prescribed industry body for the purposes of section 59 of the AMLI Act and is a signatory to the MOU.

2.12 Under the terms of the MOU, PICs are responsible to develop the strategic objectives, give direction and set policy for their respective industry sector. PICs are also required to give policy advice to the Minister in respect of the industry sector they represent. For the purposes of this inquiry, the CCA is the key PIC.

3 GICA holds an observer/Associate Member status with RMAC.

4 Red Meat Advisory Council, *Submission 165*, p. 7.

Cattle Council of Australia

2.13 CCA is the prescribed peak representative body for Australian grass-fed cattle producers under the MOU. CCA's membership includes 15,000 cattle producer members through state farming organisations (SFOs) as well as 152 direct members.⁵

2.14 Under the *Primary Industries (Excise) Levies Act 1999* and the *Primary Industries (Customs) Charges Act 1999*, the Minister has declared CCA and ALFA to be bodies whose recommendations must be taken into consideration in determining levy amounts for the grass-fed and grain-fed cattle sectors respectively. MLA's constitution reflects this requirement and stipulates that the peak councils have the exclusive right to propose resolutions regarding adjustment of the CTL.

2.15 Under the MOU, CCA is responsible to represent and progress the interests of Australian grass-fed cattle producers. Clause 5 of the MOU details the roles of CCA and other PICs which includes oversight of levy expenditure.⁶ MLA noted that CCA is closely consulted for direction on all MLA's marketing and R&D programs relating to the grass-fed industry.⁷

2.16 The four core functions of CCA include advocacy (which is funded from members' voluntary contributions), as well as strategic direction and planning (which draws on RMAC funding) and industry oversight and strategic policy development.⁸

Service providers

2.17 Through the investment of levies, service providers offer marketing and R&D services to their respective industry sector. There are three service providers under the MOU which are all corporations limited by guarantee under the *Corporations Act 2001*.

2.18 Under the MOU:

- MLA serves CCA, SCA, ALFA and GICA⁹;
- AMPC serves AMIC; and
- LiveCorp serves ALEC.

2.19 The three service providers are responsible under the MOU to provide management, funding and administrative arrangements for industry activities to be undertaken. For the purposes of this inquiry, MLA is the key service provider. It undertakes research and marketing on behalf of over 48,787 beef, sheep and goat

5 Mr Andrew Ogilvie, Cattle Council of Australia, *Committee Hansard*, 7 March 2014, pp 35–36.

6 Cattle Council of Australia, *Submission 142*, p. 3.

7 Meat and Livestock Australia, *Submission 154*, p. 28.

8 Mr Jed Matz, Cattle Council of Australia, *Committee Hansard*, 7 March 2014, p. 40.

9 MLA also provides services to the other PICs, described immediately below.

producer members of whom 41,460 are engaged in the raising, finishing or trading of grass-fed cattle, including 22,809 specialist grass-fed cattle producers.¹⁰

CCA, SCA, ALFA and GICA and relationship with MLA

2.20 The four PICs which represent producers are responsible to develop the strategic objectives for their respective industry sector in collaboration with MLA. They are also responsible for developing jointly with MLA the goals for achieving the vision and strategic imperatives for the industry sector each represents.¹¹

2.21 In 1998, CCA, SCA, ALFA and GICA established MLA as a producer-owned service company to deliver marketing, promotion, R&D and other agreed functions for the whole of industry.

2.22 Having regard to their relationship to MLA, the roles and responsibilities of the four PICs under the MOU are to:

- assess performance of services delivered by MLA or arranged by MLA to be delivered by other persons towards achieving the goals identified in MISP; and
- propose levy motions at general meetings of MLA, make recommendations to the Minister on the operating level of levies required to fund MLA's activities and consult widely within its industry sector on MLA's funding requirements.¹²

2.23 Along with activities on behalf of producers, MLA is required to undertake joint functions, core functions and services for AMIC and ALEC as stipulated under the MOU.

2.24 MLA is both the declared marketing and declared research body in accordance with sections 60(1) and (2) respectively of the AMLI Act. As the industry research body, MLA undertakes services for the processing sector and livestock exporters sector. Under the MOU, this role requires MLA to jointly develop with AMPC and LiveCorp and their respective PICs, goals for achieving the vision and strategic imperatives for the industry sectors they represent.

2.25 Under section 66 of the AMLI Act, matching Commonwealth funding for industry research is paid to MLA as the declared industry research body. The two other service providers, AMPC and LiveCorp are recognised as 'approved donors' under section 61(1) of the AMLI Act for the purposes of matching Commonwealth R&D funding.

2.26 A Statutory Funding Agreement between MLA and the Australian Government facilitates matching Commonwealth R&D funding and the management of levy monies. Therefore, it is only the R&D projects undertaken by AMPC and

10 Meat and Livestock Australia, *Submission 154*, pp 7–8.

11 Memorandum of Understanding, 24 April 1998, p. 8.

12 Memorandum of Understanding, Clause 5.1: Role and responsibilities of CCA, SCA, ALFA and GICA and their relationship with MLA, p. 8.

LiveCorp *with* MLA that are eligible for matching Commonwealth R&D funding, while AMPC and LiveCorp both operate independently, and in conjunction with MLA.

ALEC and relationship with LiveCorp and MLA

2.27 The roles and responsibilities of ALEC are similar to those of the other PICs. Amongst other things, ALEC is responsible to develop jointly with LiveCorp (and MLA where services are provided by MLA) goals for achieving the vision and strategic imperatives for the industry sector it represents. ALEC is also required to assess the performance of services delivered by MLA (or arranged by MLA to be delivered by others) towards achieving the goals identified in the MISP.

2.28 LiveCorp serves as the service provider to ALEC and has roles and responsibilities to its PIC consistent with that of other service providers. Where services are provided by or through MLA, ALEC is required to develop jointly with MLA and ALEC goals for achieving the vision and strategic imperatives of the industry sector it represents. ALEC must also consider and agree with LiveCorp the amounts of money required to fund LiveCorp and MLA pursuant to the MOU and support LiveCorp in securing its funding requirements.¹³

AMIC and relationship with AMPC and MLA

2.29 AMIC serves as the PIC for retailers, processors and smallgoods manufacturers. It has the same roles and responsibilities as other PICs under the MOU. AMIC develops jointly with AMPC and MLA (where services are provided by MLA), goals to achieve the vision and strategic imperative for the processing sector.

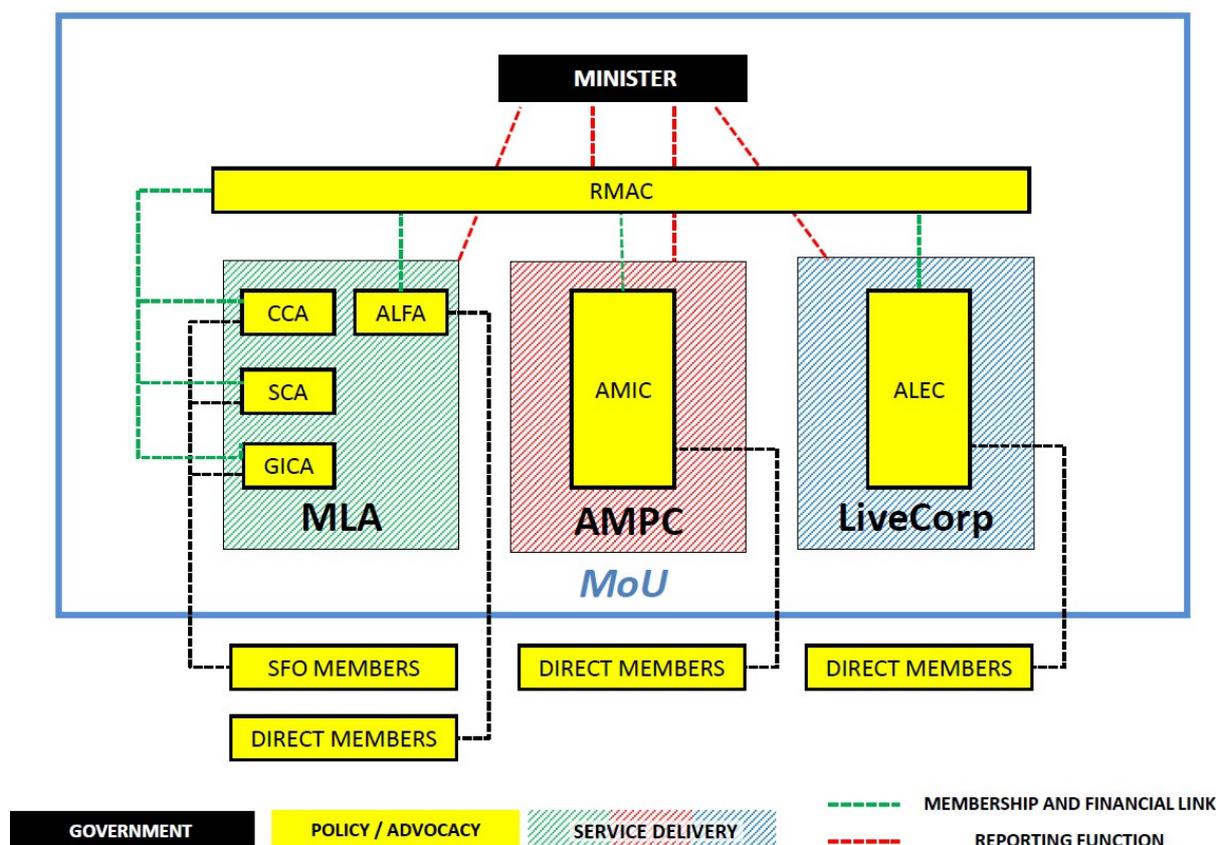
2.30 AMPC is the processing sector service company responsible to provide management, funding and administrative arrangements for the meat processing industry.¹⁴ It conducts marketing and R&D on behalf of the processor sector or directs these funds to MLA to carry out agreed projects as requested in accordance with the MOU.

2.31 AMPC invests its R&D and marketing revenue into three programs on behalf of the processing sector. These include a joint program with MLA as defined in the MOU, a core R&D program, and the Plant Initiated Projects (PIP) program. In 2013, processors paid \$18.06 million in levies with half of project expenditure directed towards joint investment with MLA.¹⁵

13 Memorandum of Understanding, Clause 5.3: Role and responsibilities of ALEC and its relationship with Livecorp, p. 9.

14 The MOU defines a processor as a proprietor of a processing establishment.

15 Australian Meat Processor Corporation, *Annual Report 2012–13*, p. 6.

Diagram 2.1: Memorandum of Understanding arrangements¹⁶

Cattle transaction levy

2.32 The cattle transaction levy (CTL) is collected under the *Primary Industries Levies and Charges Collection Act 1991* which enables collection through intermediaries. The CTL is composed of a number of different levies including grass-fed cattle at \$5.00 per head; lot-fed cattle (grain-fed) at \$5.00 per head; and bobby calves at \$0.90 per head.¹⁷

2.33 The CTL is imposed on grass-fed cattle and bobby calves defined as follows:

- 'cattle' are bovine animals other than buffalo; and
- 'bobby calves' are bovine animals other than buffalo or lot-fed cattle, with a live-weight of less than 80 kg or, if slaughtered, a dressed weight of less than 40 kg.¹⁸

2.34 The separate components of the \$5 grass-fed cattle transaction levy relate to:

16 Department of Agriculture, *Submission 28*, p. 19. It should be noted that under the CCA's new model, it has independent direct membership as well as SFO membership.

17 Department of Agriculture, Information on cattle and livestock transaction levy, March 2012, http://www.daff.gov.au/_data/assets/pdf_file/0008/2135582/livestock-cattle-transaction-levy.pdf (accessed 23 January 2014).

18 Department of Agriculture, *Submission 28*, p. 10.

- marketing (\$3.66) and R&D (\$0.92) distributed to MLA;
- animal health (\$0.13) distributed to Animal Health Australia (AHA);¹⁹ and
- residue testing (\$0.29) distributed to the National Residue Survey (NRS).²⁰

2.35 All lot-fed cattle and grass-fed cattle producers are required to pay the levy on transactions involving cattle. The CTL 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; and
- the slaughter of cattle by a processor where the 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.²¹

2.36 The committee inquiry is focused on the marketing and R&D components in relation to grass-fed cattle and bobby calves. The research and R&D components of the levy are distributed under Part 3 of the AMLI Act to MLA as the declared industry marketing body for marketing levies and industry research body for research and development levies.²²

Background to the cattle transaction levy

2.37 In January 1997, the 12 Levy Principles were introduced. Any proposal to amend an existing statutory levy or introduce a new levy must comply with the principles.²³ A framework was established to manage the red meat marketing and R&D levies with a view to enabling industry to manage its own affairs. This involved privatising the marketing and R&D statutory authorities and removing government involvement in the day-to-day management of levy funds.

19 \$0.13 is prescribed for animal health programs including emergency animal disease preparedness, market assurance and biosecurity programs. Animal Health Australia, *Submission 115*, p. 5.

20 Department of Agriculture, *Submission 28*, p. 4.

21 Department of Agriculture, *Submission 28*, p. 10.

22 Department of Agriculture, *Submission 28*, p. 8.

23 Department of Agriculture, Fisheries and Forestry, Levies Revenue Service, *Levy Principles and Guidelines*, January 2009, http://www.daff.gov.au/data/assets/pdf_file/0003/253353/levy-principles-guidelines.pdf (accessed 23 January 2014).

2.38 As part of the levy governance arrangements, MLA and the other service providers are responsible and accountable to company members (levy payers) through the *Corporations Act 2001*, while the government has responsibility to establish the tax and set minimum standards for accountability to Parliament and levy payers.

2.39 The role of government in these arrangements was confined to powers of intervention and mechanisms to guarantee appropriate standards of governance. This is achieved through the combination of legislation, appropriation, deeds of grant and an industry MOU.²⁴

2.40 The MLA Memorandum and Articles of Association (or constitution) that relate to levies recognise two classes of members: peak councils and producers. Eligibility to become a peak council member is available to bodies which are:

- prescribed industry bodies for the purpose of section 59 of the AMLI Act;
- declared by the Minister to be a body whose recommendations about amounts to be prescribed under the levy Acts are to be taken into consideration; and
- signatory to the MOU (except the GICA).²⁵

2.41 The four classes of producer recognised under the MLA Memorandum and Articles of Association include 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.

2.42 In 1998 the CTL was set at \$3.50 a head.²⁶ In 2005 the government, through the Minister, accepted recommendations from industry to increase the CTL from \$3.50 to \$5 with the additional \$1.50 to be channelled into marketing.²⁷

2.43 The increased levy was implemented in January 2006 with a sunset clause under the Primary Industries (Excise) Levies Amendment Regulations 2005. The sunset clause stipulated the need for an independent review of the increased levy and prescribed that the levy would return to \$3.50 in January 2011 without demonstrated industry support for retaining it at \$5.²⁸

2.44 In 2009 an independent Beef Marketing Funding Committee (review committee) conducted a beef levy review. The purpose of the review was to evaluate

24 Department of Agriculture, *Submission 28*, p. 4.

25 Department of Agriculture, *Submission 28*, p. 16.

26 Beef Marketing Funding Committee, *Beef Levy Review 2009*, p. 9.

27 CCA, ALFA, Beef Marketing Funding Committee and MLA, *Beef Levy Review 2009–Report to the Minister*, p. 3.

28 Australian Minister for Agriculture, Fisheries and Forestry, Peter McGauran and Parliamentary Secretary for Agriculture, Fisheries and Forestry, Senator Richard Colbeck, Cattle levy increase approved, *Joint Statement*, 8 September 2005, http://parlinfo.aph.gov.au/parlInfo/download/media/pressrel/VG9H6/upload_binary/vg9h63.pdf;fileType=application%2Fpdf#search=%22beef%20levy%20review%22 (accessed 23 January 2014).

the effectiveness of the increased marketing component of the cattle levy and to determine the most appropriate level of funding for beef marketing and trade development.

2.45 The review committee found that the additional \$1.50 per head of cattle had delivered five times the investment back to producers and concluded that the \$5 levy per head of cattle was a modest but appropriate investment in the future of the industry and should be retained.²⁹ The review committee also recommended that the performance yardstick in future reviews be a minimum return on investment to producers of three times the overall marketing levy.

2.46 It also recommended that any future reviews of the levy be undertaken as a result of industry need, triggered by the peak councils, and not according to a pre-determined timeframe.³⁰

2.47 On the recommendations of the review committee, a vote at the MLA annual general meeting (AGM) and via a non-member poll was conducted to establish whether levy payers wanted to retain the levy at \$5. Of the levy payers who voted, 72.5 per cent supported retention of the levy at \$5 a head. The \$5 levy was allocated into components. Of the \$4.58 provided to MLA, \$0.92 was allocated for R&D purposes and \$3.66 for marketing activities on behalf of the industry.

Management and investment of marketing and R&D levy components

2.48 In 2012–13, grass-fed cattle levies amounted to \$53.9 million as detailed below.

Diagram 2.2: Marketing and R&D levy components 2012–13³¹

Levy	Amount per head	Collected
Grass-fed cattle marketing – subsection 6(1)(a) of the Act	\$3.66	\$42,818,000
Bobby calves marketing – subsection 6(2)(a) of the Act	\$0.48	\$204,000
Grass-fed cattle R&D – subsection 6(1)(b) of the Act	\$0.92	\$10,763,000
Bobby calves R&D – subsection 6(2)(b) of the Act	\$0.16	\$68,000

2.49 The marketing and R&D components of the grass-fed cattle levies are distributed to MLA under sections 63 and 64 respectively of the AMLI Act as a declared industry marketing body and declared industry research body.

29 Beef Marketing Funding Committee, *Beef levy review 2009*, <http://www.mla.com.au/About-MLA/Who-we-are/How-MLA-is-funded/Beef-levy-review-2009> (accessed 23 January 2014).

30 Beef Marketing Funding Committee, *Beef levy review 2009*, p. 5.

31 Department of Agriculture, *Submission 28*, p. 9.

2.50 MLA is a company limited by guarantee under the *Corporations Act 2001*.³² Its Memorandum and Articles of Association have effect as a contract between the company and each member, between the company and each director and company secretary, as well as between members.

2.51 The roles and responsibilities of MLA are set out in Clause 6 of the MOU. It is required to undertake activities on behalf of producers and to prepare both a business plan for a three year period and an operating plan setting out the proposed activities of MLA in consultation with PICs.

2.52 As a service company, MLA's five-year corporate planning is informed by and flows from the MISP, industry strategic plans and national R&D priorities. MLA's five-year corporate plan is translated into annual operating plans that define MLA's marketing and R&D strategies and programs.³³

2.53 MLA's governance, strategy and funding responsibilities are specified in its Deed of Agreement with the Australian Government. MLA's governance arrangements are set out in its Memorandum and Articles of Association, or constitution. Article 4 of MLA's Articles of Association details the appointment, duties and remuneration of MLA's governing board of directors.

2.54 The \$4.58 of the levy received by MLA (for marketing and R&D) is directed by MLA into its four strategic imperatives. The funding of those imperatives is as follows:

- Maintaining and improving market access—\$0.62
- Growing demand—\$2.74
- Increasing productivity across the supply chain—\$0.73
- Supporting industry integrity and sustainability—\$0.37.³⁴

Imperative 1: Maintaining and improving market access

2.55 With the objective of developing and delivering industry systems that underpin product integrity, MLA focuses on assisting industry to better integrate and sustainably deliver its on-farm risk management systems which include Livestock Production Assurance (LPA) and National Livestock Identification System (NLIS). MLA is also engaged in assisting government and PICs to secure free trade agreements to eliminate the current tariffs on red meat exports to Korea and Japan, while identifying as a high priority the technical trade barriers that impede red meat export sales.³⁵

32 Department of Agriculture, *Submission 28*, p. 14.

33 Meat and Livestock Australia, *Submission 154*, p. 27.

34 Meat and Livestock Australia, *Submission 154*, p. 13.

35 Meat and Livestock Australia, *Submission 154*, p. 9.

Imperative 2: Growing demand

2.56 As part of growing demand, MLA is engaged in developing practices and programs that help industry deliver consistent and optimal eating quality. Initiatives in this regard include enhancing the nutritional reputation of red meat, developing new products, the aggressive promotion of beef in the domestic market and aggressive promotion of beef in export markets.³⁶

Imperative 3: Increasing productivity across the supply chain

2.57 The objective of increasing productivity across the supply chain is to identify and deliver opportunities to increase on-farm and off-farm productivity and capability, deliver valued supply chain and market information and support industry to improve animal health and biosecurity.³⁷

Imperative 4: Supporting industry integrity and sustainability

2.58 The objective of imperative four is to support both on-farm and off-farm environmental sustainability while providing solutions to meet high standards of animal welfare without reducing productivity levels.³⁸

MLA funding and revenue

2.59 In 2012–13, MLA reported total revenue of \$162.2 million to invest in marketing and R&D programs.³⁹ MLA funding comes from a number of sources including:

- transaction levies on livestock sales;
- Commonwealth dollar-for-dollar matched funding for R&D investments;
- co-investments by processors, livestock exporters, wholesalers, food service and retailers; and
- commercial investments by individual businesses along the supply chain.⁴⁰

2.60 The component of MLA's revenue derived from grass-fed cattle levies over the past three years was \$56.2 million in 2010–11, \$52.5 million in 2011–12 and \$54.2 million in 2012–13. In 2012–13, this levy contribution amounted to approximately 33 per cent of the MLA's total revenue of \$162.2 million.⁴¹

2.61 MLA invests more than \$50 million of grass-fed cattle levies each year in marketing and R&D programs.⁴² In 2012–13, MLA invested \$56.4 million of the

36 Meat and Livestock Australia, *Submission 154*, p. 10.

37 Meat and Livestock Australia, *Submission 154*, p. 10.

38 Meat and Livestock Australia, *Submission 154*, p. 11.

39 Department of Agriculture, *Submission 28*, p. 14.

40 Meat and Livestock Australia, *Submission 154*, p. 7.

41 MLA, *Annual Report 2012–13*, p. 41, <http://www.mla.com.au/About-MLA/Planning-and-reporting/Annual-reporting/Annual-report-2012-13> (accessed 24 January 2014).

42 Meat and Livestock Australia, *Submission 154*, p. 4.

grass-fed cattle levy funds on marketing (\$44.9 million) and R&D (\$11.5 million) while retaining a surplus of \$12 million in grass-fed cattle levies. MLA noted that it had been deliberately running small deficits for several years to maintain reserves at an appropriate level in line with the MLA board's levy reserving policy.⁴³

2.62 The Australian Government matches eligible R&D expenditure by most rural R&D corporations on a dollar-for-dollar basis up to a cap of 0.5 per cent of an industry's gross value of production. Eligible expenditure for MLA is made up of R&D industry levies as well as funds received from the declared approved donors, AMPC and LiveCorp, as well as the MLA subsidiary, MLA Donor Company.⁴⁴

2.63 As part of its role to engage in joint functions, one of the key programs of MLA is a core RD& extension (RD&E) program for the red meat industry. The RD&E program is administered by AMPC and delivered by AMPC and MLA. Using producer and processor levies as well as matching government funding, the program is delivered under the red meat industry MOU. The joint program is designed to address issues that affect the entire red meat industry such as climatic and environmental changes, sustainability, technology, livestock management and capability. In 2012–13 the joint program received the following funding:

Diagram 2.3: Core RD&E program 2012–13⁴⁵

MLA producer levies contribution	AMPC processor levies contribution	Australian Government contribution	Total expenditure 2012–13
\$39.8 million	\$8.8 million	\$2.27 million	\$50.9 million

43 Meat and Livestock Australia, *Submission 154*, p. 8.

44 Department of Agriculture, *Submission 28*, p. 15.

45 Mr Stephen Kelly, Australian Meat Processor Corporation, *Committee Hansard*, 7 March 2014, p. 17.