

Chapter 4

Payer influence over quantum and investment of the levy

4.1 Evidence to the committee focused on a number of key problems with the current levy structures, many of which are closely interrelated, including:

- the strongly held view of many grass-fed cattle producer levy payers that they are disenfranchised under the current system, which doesn't represent them or serve their interests;
- a dysfunctional divide between peak council policy settings and service provider policy delivery which has contributed to transparency and accountability concerns in relation to levy collection and investment;
- the fact that MLA operates as both fund holder and funding provider for producers while also being required to provide services to both live exporters and meat processors;
- the impact of CCA's shrinking resources and falling membership coupled with its inability to obtain adequate funding to carry out its mandate under the MOU and effectively represent the grass-fed cattle sector; and
- misunderstanding and lack of clarity about the current organisational structures, including roles and responsibilities, as well as confusion about which bodies represent the cattle industry.

4.2 This chapter considers the problems which have contributed to a disconnection between levy payer producers and the bodies that are supposed to represent them. In light of these flaws, evidence to the committee suggested that the current levy structures and systems fail to meet the current collective representational needs of the grass-fed cattle sector. This chapter considers these issues from the viewpoint of levy payers and focuses on the MLA voting system as one of two primary mechanisms available to them to influence the quantum and investment of the levy. Chapter 5 addresses sectoral representation as the second primary mechanism.

Grass-fed cattle producer contribution to the CTL

4.3 The grass-fed cattle sector generates the greatest proportion of levies to MLA.¹ Of MLA's total revenue of \$162 million in 2012–13, the grass-fed cattle sector's contribution of 33 per cent was by far the largest.

1 Mr David Pietsch, Meat and Livestock Australia, *Committee Hansard*, 7 March 2014, p. 24.

Diagram 4.1: Levy contribution of MLA revenue 2012–13²

| Sector | Contribution amount | Percentage of total revenue |
|------------------|---------------------|-----------------------------|
| Grass-fed cattle | \$54 million | 33% |
| Lamb and sheep | \$31 million | 19% |
| Processors | \$9.4 million | 5.8% |
| Grain-fed cattle | \$7.8 million | 4.8% |
| Goat | \$0.8 million | 0.5% |

Diagram 4.2: MLA grass-fed cattle levy income and membership

| Year | MA levies income | Grass-fed cattle levy portion of total levies income (as % of total levies income) | MLA membership | Grass-fed cattle producer members (as % of MLA membership) |
|----------------------|------------------|--|----------------|--|
| 2008–09 ³ | \$98.1 m | \$59.5 m (60%) | 46,156 | 39,062 (84.6%) |
| 2010–11 ⁴ | \$96.1 m | \$56.2 m (58%) | 47,556 | 40,450 (85%) |
| 2012–13 ⁵ | \$93.8 m | \$54.2 m (57%) | 48,608 | 41,334 (85%) |

4.4 While grass-fed cattle producers pay the largest proportion of the levies, many who gave evidence to the inquiry held the view that they have little influence over how the levy funds are spent.⁶

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- 2 Dr Peter Barnard, Meat and Livestock Australia, *Committee Hansard*, 7 March 2014, pp 30–31. These contributions together with the government contribution of \$39 million, \$9 million in private investment and \$10.07 million 'others' make up the outstanding amount.
 - 3 Meat and Livestock Australia, *Annual Report 2008–09*, p.12, <http://www.mla.com.au/CustomControls/PaymentGateway/ViewFile.aspx?DzPGHp5ainem5G12zOhGHBZ7A7TxZzRZWqW1hM2uU5vtaknVw60N7Uhl2fUA8HEi3EYMKKAfsh7d1Tnt3BqiA> (accessed 22 May 2014).
 - 4 Meat and Livestock Australia, *Annual Report 2010–11*, p. 31, <http://www.beefcentral.com/u/lib/cms/mla296-mla-ar-2011-lr-v2.pdf> (accessed 22 May 2014).
 - 5 During this period, producer levies made up 58 per cent of the MLA's total revenue for 2012–12 of which the \$54.2 million revenue from the grass-fed cattle levy comprised the substantial bulk. Meat and Livestock Australia, *Annual Report 2012–13*, p. 8, <http://www.mla.com.au/About-MLA/Planning-and-reporting/Annual-reporting/Annual-report-2012-13> (accessed 22 May 2014).
 - 6 Richmond River Beef Producers Association, *Submission 9*, p. [2]; Mr Ernie and Ms Kylie Camp, *Submission 129*, p. [2].

4.5 A primary mechanism for levy payers to engage in decisions about levy fund investment is through MLA membership and participation at the MLA AGMs. However, estimates suggest that only about one-third of levy payers become MLA members, and of those, only about one-fifth vote at MLA AGMs.⁷ The reasons given in evidence for the declining engagement of levy payers included the MLA voting structure, board composition and election process as well as the capacity of CCA to serve as the sector's PIC. It is to these matters that the committee now turns.

MLA membership

4.6 While payment of the levy is compulsory, levy payers must register to become members of MLA. All levy paying cattle producers, lot feeders, sheep producers and goat producers are eligible to apply for and receive MLA membership.

4.7 Evidence to the committee revealed that only one-third of levy payers secure MLA membership.⁸ It was suggested that many small producers do not apply for membership because they feel that they have no voice or voting power within the current voting system.

4.8 Some producers argued that payment of the levy should entitle them to automatic membership.⁹ However, MLA informed the committee that automatic membership for levy payers was not possible because 'imposing membership obligations without consent upon producers is not allowed under corporations law'.¹⁰

MLA voting structure

4.9 While MLA highlighted that its membership has consistently grown over a decade – from 30,011 in June 2004 to 48,608 in June 2013 – evidence to the committee revealed that the number of members who have sought their full voting entitlements has remained consistently low, while the level of membership participation in MLA's AGM is even lower.¹¹

Diagram 4.3: Membership participation at MLA AGMs 2007–2009¹²

| Membership participation in AGMs | 2007 | 2008 | 2009 |
|--|-------------|-------------|-------------|
| % MLA members registered for voting entitlements | 23.8% | 23.6% | 21.5% |
| Estimated % production covered by votes cast | 18% | 19% | 20% |

7 Australian Meat Producers Group and Concerned Cattle Producers, *Submission 184*, p. 19.

8 Australian Meat Producers Group and Concerned Cattle Producers, *Submission 184*, p. 19.

9 Ms Dixie Nott, *Submission 92*, p. [4]; Mr Doug O'Neill and Ms Zoe O'Neill, *Submission 95*.

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

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

12 Estimate provided by MLA. Archer Consulting, *Meat and Livestock Australia 3 Year Review of Performance—Final Report*, June 2010, p. 38.

4.10 MLA does not, as a matter of course, release official figures on the number of levy payers who register for their full entitlement to vote. However, of the figures publicly available, they reveal consistently low registration rates. In 2005, there were 39,086 MLA members, of whom 8,838 members (or 22 per cent) registered for full voting entitlements.¹³ That year, an increase in the levy from \$3.50 to \$5 was supported by 57.8 per cent of AGM voters.¹⁴

4.11 In 2009, of 46,785 levy payers, 10,091 secured their full vote entitlement while only 5,058 cattle producer members cast their vote to maintain the levy at \$5. The 5,085 cattle producers represented 12.5 per cent of MLA members and 25 percent of Australian cattle production.¹⁵

4.12 At the 2013 AGM, MLA confirmed that only 8,963 of 48,575 members registered for their full voting entitlement while only 3,282 levy payers actually voted.¹⁶ Those who voted at the 2013 AGM represented 6.7 per cent of MLA members and less than 2 per cent of levy payers.¹⁷ By way of comparison, Australian Wool Innovation (AWI) which provides automatic voting entitlements for its members, achieved 36 per cent voter representation.¹⁸

4.13 These figures are important, as a key mechanism for levy payers to influence the MLA constitution, levy quantum and investment decisions, is through special resolutions for voter consideration at the MLA AGM. Amending the MLA constitution requires a special resolution, which is defined in section 9 of the Corporations Act as one that is passed by at least 75 per cent of the votes cast by members entitled to vote on the resolution.¹⁹

Disconnection between membership and voting rights

4.14 Upon receipt of membership, levy payers are entitled to vote at the MLA AGM.²⁰ However, applying for full voting entitlements is a separate action.²¹ Some levy payers argued that while payment of the levies is compulsory, the fact that such payment does not automatically entitle them to their (full) vote is undemocratic and

13 Meat and Livestock Australia, *Annual Report 2005–06*, pp 3 & 45.

14 Meat and Livestock Australia, *Submission 154*, p. 24.

15 Beef Levy Review 2009 Report to the Minister, CCA, ALFA, BMFC and MLA, p. 3, www.mla.com.au/files/f29cf47c.../BLRfinalreportfortheminister (accessed 22 May 2014).

16 Mr Brad Bellinger, Australian Beef Association, *Committee Hansard*, 20 June 2014, p. 21; Dr Michele Allen, Meat and Livestock Australia, *Committee Hansard*, 20 June 2014, p. 44.

17 Meat and Livestock Australia, Answer to question on notice at 20 June 2014 hearing; Mr Brad Bellinger, Australian Beef Association, *Committee Hansard*, 20 June 2014, p. 23.

18 Mr Brad Bellinger, Australian Beef Association, *Committee Hansard*, 20 June 2014, p. 23.

19 *The Agriculture, Fisheries and Forestry (2007 Measures No 1) Act 2007* removes the term 'memorandum and articles of association' in section 61(2)(b) and substitutes 'constitution' to reflect the term used in the *Corporations Act 2001*.

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

21 Mr Colin and Ms Jocelyn Gordon, *Submission 23*.

amounts to 'taxation without representation'.²² Mr Derek Schoen, Cattle Committee Chair, NSW Farmers' Association, suggested that the need to separately register for voting entitlements every year had contributed to producer disengagement from the MLA voting system.²³

4.15 Members' full voting entitlements for the purposes of the MLA AGM are determined according to the amount of their levy contribution during the financial year immediately prior to the AGM.²⁴ As a first step in allocating voting entitlements, MLA sends out a levies notice to producers each year requesting details of the amount of levies paid over the previous financial year.²⁵ As voting entitlements are allocated on submission of the levies notice, producer members who do not return a levy notice are entitled to a single vote. The MLA voting structure is based, therefore, on the dollars paid as levies by the producer.²⁶ Individuals or companies have to declare the amount of cattle sold each year to MLA to claim their full vote. The scale of voting allocations is described in the next section in this chapter.

4.16 In 2005 an external review of MLA membership conducted by McGrath Nicol Corporate Advisory recommended the development of a new system to automate the issuing of voting entitlements. It also recommended the establishment of an independent audit of MLA's member register and vote allocation.²⁷ However, the costs involved in establishing and maintaining an automatic voting entitlement system were considered prohibitive. The total amount for an automated system was estimated at 3.8 per cent of the levies collected in 2005–06 or approximately 2.5 times more than established levy collection costs.²⁸ As MLA would have had to divert these funds from R&D and marketing programs, the decision was made by the board (with PIC agreement) to retain the voluntary levies notice system.²⁹

22 Mr Colin and Ms Jocelyn Gordon, *Submission 23*; Ms Jacqueline Curley, *Submission 42*, p. [3]; Mr John Carter, *Submission 93*, p. [1]; Mrs Kylie Camp, *Committee Hansard*, 7 May 2014, p. 32.

23 Mr Derek Schoen, NSW Farmers' Association, *Committee Hansard*, 10 June 2014, p. 14.

24 Meat and Livestock Australia, *Submission 154*, p. 44.

25 Mr David Pietsch, Meat and Livestock Australia, *Committee Hansard*, 7 March 2014, p. 28.

26 Mr David Pietsch, Meat and Livestock Australia, *Committee Hansard*, 7 March 2014, p. 24.

27 Meat and Livestock Australia, *Submission 154*, p. 46; Archer Consulting, *Meat and Livestock Australia 3 Year Review of Performance—Final Report*, June 2010, p. 36.

28 Meat and Livestock Australia, *Submission 154*, p. 46; Archer Consulting, *Meat and Livestock Australia 3 Year Review of Performance—Final Report*, June 2010, p. 37.

29 Archer Consulting, *Meat and Livestock Australia 3 Year Review of Performance—Final Report*, June 2010, p. 37.

4.17 In 2007 an industry committee was established to re-assess the cost-benefit implications of establishing automatic voting entitlements.³⁰ Of the industry committee's findings, MLA noted that such a system was:

Seen as an unnecessary cost burden on levies received, with no guarantee of greater involvement of levy payers. Therefore it was concluded and supported by peak councils and industry bodies that resources would be better spent on marketing and R&D programs, however this may be revisited in the future.³¹

4.18 Noting substantial technological advances since 2007, a number of submitters suggested various means by which an automated system could be established. Mr Edgar Burnett suggested the introduction of a levy collection and voting system based on existing Property Identification Codes (PI codes). The PI code system is already in place and the number of cattle sold off each PI code is determined from the National Vendor Declaration system.³² Similarly, ABA argued that, as cattle in Australia cannot be sold without a PI code, the levy collection system could easily be linked to it.³³

4.19 However, CCA raised concern with PI codes as the preferred levy collection method on the grounds that the PI code databases are managed by state and territory governments. Regulations regarding the management and use of the databases, including privacy restrictions, differ from one state to another.³⁴ As an alternative, United Stockowners of Australia (USA) recommended the establishment of a National Livestock Producer Register mirrored on the National Grower Register which serves as a centralised, national registration system to provide grain growers with access to multiple grain handlers and marketers across the country using a single delivery card.³⁵

Vote allocation

4.20 If a vote at the AGM is decided on a show of hands, every producer present (or proxy) at the AGM has one vote. If a vote is to be decided on a poll, full voting entitlements apply in accordance with the following scale:

30 The committee comprised MLA, AMIC, Australian Livestock and Property Agents Association, ALFA, SCA, CCA and GICA. Meat and Livestock Australia, *Submission 154*, p. 46.

31 Meat and Livestock Australia, *Submission 154*, p. 46.

32 Mr Edgar Burnett, *Submission 108*, p. [3].

33 Mrs Linda Hewitt, Australian Beef Association, *Committee Hansard*, 20 June 2014, p. 14.

34 Cattle Council of Australia, Answer to question on notice taken at 20 June 2014 hearing.

35 United Stockowners of Australia, *A Model for the Restructure of the Grass Fed Cattle production sector and for the facilitation and Introduction of a Trading Entity Identification scheme or device*, June 2012, http://unitedstockowners.com.au/wp-content/uploads/2014/02/Proposed-Restructure.USA_.17.02.2014.pdf (accessed 15 July 2014). National Grower Register, <http://www.ngr.com.au/Site/index.php/about/faq/> (accessed 15 July 2014).

Diagram 4.4: Levy contribution and full voting entitlement³⁶

| Levies paid | Voting entitlement |
|----------------------|--|
| \$0 to \$29,088 | One vote for each \$1 paid |
| \$29,089 to \$87,263 | 29,088 votes plus 0.75 votes for each \$1 paid in excess of \$29,088 |
| \$87,264 or more | 72,719 votes plus 0.5 votes for each \$1 paid in excess of \$87,263 |

4.21 The committee heard that the current system for allocating voting entitlements was not democratic because it allowed the biggest levy payers to dominate smaller levy payers and thereby control the direction and decisions of MLA.³⁷ The committee noted newspaper report on the 2008 MLA AGM revealed that a cattle farmer with an average 350 head of cattle had less than 1600 votes compared to the Australian Agricultural Company with 555,533 votes and JBS with 504,045 votes. It was noted that at the AGM, the top 50 levy payers could out-vote the rest of the industry.³⁸

4.22 Many other submitters argued that the 'undemocratic' voting system had contributed to the disenfranchisement of grass-fed cattle producers.³⁹ Mr David Gregory expressed the view that while smaller cattle producers make up the vast bulk of beef industry businesses, they have little or no say in MLA's direction or priorities and therefore take little or no interest.⁴⁰ Former CCA chair, Mr Greg Brown argued that if CCA, as the sector PIC, is to deliver on the expectations of levy payers, the grass-fed cattle sector should have voting influence commensurate with the proportion of levies contributed rather than have to share the vote with the grain-fed cattle sector and sheepmeat industry.⁴¹

4.23 However, some witnesses supported the current vote allocation system including AgForce Queensland, which argued that the level of representation should be proportionate to the amount of levies paid. Agforce's Ms Smith contended that 'if

36 Meat and Livestock Australia, *Submission 154*, p. 44.

37 Mr Peter Joliffe, *Submission 153*; Mr Vince Ptolemy, *Submission 14*, p. 3; Mr Sergio Beani, *Submission 146*; Mr B.A. and D.E. Miller, *Submission 25*, p. [1]; Mr Michael and Ms Maureen Borello, *Submission 26*, p. [2]; Richmond River Beef Producers Association, *Submission 9*, p.[1]; Mr Ryan and Ms Tracey Hacon, *Submission 20*, p. [1]; Mr Mal and Ms Anne Peters, *Submission 181*; Ms Rachel Weston, *Submission 94*, p. [1]; Mr Tom and Ms Robyn Aisbett, *Submission 100*; Mr Graeme Acton, *Submission 116*; Ms Thelma and Mr Brendan Seed, *Submission 149*.

38 Peter Weekes, 'Top dog ruling our beef industry', *Northern Star*, 30 March 2011 available as AMPG/CCP, *Submission 184*, Attachment 1.

39 Mr Damien Jensen, *Submission 22*; Mr Mike and Ms Maureen Borello, *Submission 26*.

40 Mr David Gregory, *Submission 150*, p. 4.

41 Mr Greg Brown, *Submission 123*, p. 2.

you pay 75 per cent of the levy, you should have 75 per cent of the say'.⁴² Likewise, MLA noted that grass-fed cattle producers who pay the most levies and then go on to secure their full voting entitlement will have the most say in matters that go before the AGM.⁴³

4.24 However, MLA's argument was put into perspective by Mrs Jo-Anne Bloomfield who made the point that under the voting system, smaller producers have little opportunity to influence voting outcomes. She explained that out-voting a mid-range levy payer who has 150,000 votes would require the joint efforts of 60 smaller levy payers (all of whom sell 500 cattle and receive 2500 votes in return) to match that one person or company.⁴⁴ This illustrates to the committee the large disparity between the voting entitlements of smaller producers in relation to larger ones. In this way, it can be argued that the current voting system magnifies the disparity between larger and smaller producers.

4.25 It was put to the committee that a viable alternative to the current system is that of the AMPC model whereby AMPC directors are directly elected by levy payers.⁴⁵ Under its two-tiered structure, the first tier provides for one vote, one value, and the second tier is a vote on the value of levies paid. For resolutions to be binding, they have to be passed by both tiers. According to AMPG/CCP, when the two-tiered or two-register voting system was not adopted in the MLA constitution, the ownership and accountability principles that underpinned the 1996 steering committee recommendations were lost.⁴⁶

4.26 The two-tiered system was supported by a number of producers and sector bodies on the basis that it enabled all parties' interests to be addressed.⁴⁷ Noting the need for a fair and inexpensive voting system that delivers equitable representation for grass-fed cattle producers, CCA voiced interest in a two-tiered model.⁴⁸ Mr J. Ashley McKay who advocated for this system noted its advantages:

It prevents the big boys dominating the little guys, and it also prevents the big guys being outvoted by the little blokes on things. There are totally competing differences between a bloke with 10,000 cattle and a bloke with

42 Mr Howard Smith, AgForce, *Committee Hansard*, 21 May 2014, p. 6.

43 Mr David Pietsch, Meat and Livestock Australia, *Committee Hansard*, 7 March 2014, p. 24.

44 Mrs Jo-Anne Bloomfield, *Committee Hansard*, 7 May 2014, pp 15–16.

45 Mr Norman Hunt, Concerned Cattle Producers; and Australian Meat Producers Group *Committee Hansard*, 10 June 2013, p. 27.

46 Australian Meat Producers Group and Concerned Cattle Producers, *Submission 184*, p. 19.

47 Mr J. Ashley McKay, *Submission 99*, p. 4; Mr Bradley Bellinger, Australian Beef Association, *Committee Hansard*, 7 March 2014, p. 53; Mr Jed Matz, Cattle Council of Australia, *Committee Hansard*, 20 June 2014, p. 28; Mr J. Ashley McKay, *Submission 99*, p. 4; Ms Joanne Rea, Property Rights Council, *Committee Hansard*, 21 May 2014, p. 13; Mrs Rachel Weston, *Committee Hansard*, 21 May 2014, p. 45; Mrs Kylie Camp, *Committee Hansard*, 7 May 2014, p. 29; Richmond River Beef Producers, *Submission 9*, p. 3.

48 Cattle Council of Australia, Answer to question on notice taken from 20 June 2014 hearing.

100 cattle, but they both have a right to be represented. They both need representation.⁴⁹

4.27 ABA argued in favour of a two-tiered system on the grounds that it would bring equilibrium between the small and large cattle producer in a sector populated by operators of varying size and scope. ABA Director, Mr Brad Bellinger clarified that for the election of directors to the board, the first tier (one vote per levy payer) should be applied, while matters including constitutional change would require the majority vote of both tiers.⁵⁰

Identification of CTL payers

4.28 Further concerns regarding the veracity of the voting entitlement structure stem from the fact that producers who actually pay the levy are not identified against their levy payments.⁵¹ USA noted that:

The majority of cattle transaction levies are collected from grass-fed livestock producers whose real identity and actual levy payments are not recordable by the time the levies collection unit receives the collected tax (levy). This levy money, now consolidated revenue, is transferred to recipient organisations, including Meat and Livestock Australia (MLA), Australian Lot Feeders Association (ALFA), etc, and is further distributed in relation to marketing and other functions.⁵²

4.29 Therefore, MLA does not receive information about what levies each producer has paid from the levies section of the department (formerly Levies Revenue Service) through collection agents. The department's levies unit uses an intermediary system which largely comprises stock agents (selling agents) and abattoirs (processors) to collect the levy. The levy is held in trust for one month and 28 days before transfer as a bulk payment to the levies collection unit.⁵³ The levy is payable by:

- (a) the buying agent, selling agent or first purchaser who buys or sells cattle or livestock in a month;
- (b) the processor who slaughters cattle or livestock or takes delivery of the cattle or livestock; or

49 Mr J. Ashley McKay, *Committee Hansard*, 21 May 2014, p. 63.

50 Mr Brad Bellinger, Australian Beef Association, *Committee Hansard*, 20 June 2014, p. 20.

51 Mr Robert Wass, United Stockowners of Australia, *Committee Hansard*, 10 June 2014, p. 32; Mrs Linda Hewitt, Australian Beef Association, *Committee Hansard*, 20 June 2014, p. 14.

52 United Stockowners of Australia, *Submission 182*, p. 6.

53 Department of Agriculture, *Information on Cattle and Livestock Transaction Levy*, http://www.daff.gov.au/data/assets/pdf_file/0008/2135582/cattle-livestock-levy.pdf (accessed 10 April 2014).

(c) the processor on whose behalf cattle or livestock are slaughtered by, or delivered to, another processor in a month.⁵⁴

4.30 When an intermediary deducts the levy from the proceeds of sale or recovers the levy from the producer, the producer must be provided with a receipt or written statement acknowledging payment of the levy. The department noted that in 2012–13, there were 702 intermediaries for the CTL on grass-fed cattle and 254 intermediaries for the cattle transaction levy on bobby calves. Levy agents are subject to compliance checks through a risk-based inspection program, with approximately 600 levy agents subject to inspection each year.⁵⁵

An auditable system

4.31 The fact that members must self-declare their levy payment to MLA raised questions about the accuracy of declarations and the transparency of the voting entitlement allocation system. MLA informed the committee that there are thresholds beyond which votes are subject to verification. For example, where a producer claims a significantly different voting entitlement when compared to the previous year.⁵⁶ However, the system lacks accountability, not least because a producer has no right to challenge or dispute a determination, estimate or adjustment made by MLA in relation to the number of votes the producer may cast.⁵⁷

4.32 Notwithstanding the levy agent inspection program and verification of levy payments above a certain threshold, the transparency and efficacy of the system remains limited by the fact that the identity of levy payers is not established for verification against levy payments and voting entitlements. The department confirmed that the system does not require the identity of the levy payer to be recorded:

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.⁵⁸

4.33 The Food Producers Landowners Action Group (FLAG) Australia and USA noted that it is at the very beginning of the process, when the levy is collected, that the first major problem in the levy system occurs. That is, as discussed in the previous section, the levy payer is not identified and hence the identity of the levy payer is not recorded against the actual levies paid.⁵⁹

4.34 Without an accountable, regularly audited system to ensure what is advised by a producer is accurate, legitimate and can be verified against the amount of levies

54 Department of Agriculture, *Information on Cattle and Livestock Transaction Levy*; Mr Robert Wass, United Stockowners of Australia, *Committee Hansard*, 10 June 2014, p. 32.

55 Department of Agriculture, *Submission 28*, p. 13.

56 Mr George Scott, Meat and Livestock Australia, *Committee Hansard*, 7 March 2014, p. 28.

57 Paragraph 2.6(b)(9) of the Meat and Livestock Australia Articles of Association.

58 Department of Agriculture, *Submission 28*, p. 13.

59 Food Producers Landowners Action Group Australia Inc., *Submission 103*, p. [2]; Mr Robert Wass, United Stockowners of Australia, *Committee Hansard*, 10 June 2014, p. 32.

paid, the current system lacks transparency.⁶⁰ The point was made that without checks and balances within the system to confirm that the values put forward are correct, the system could be rorted.⁶¹

4.35 As matching Commonwealth R&D funding is provided to MLA, transparency in relation to the levy collection system is important for the industry, Australian Government and the tax payer. This is a matter of some importance to MLA, given that under the present system, accountability to its members is necessarily limited. As noted by the Northern Territory Cattlemen's Association (NTCA), when the service provider does not know who is supplying the income, 'it is hard to justify where it is going'.⁶²

4.36 Southern Director of USA, Mr John Michelmore argued that:

Many grass-fed producers see the dire need for levy payer identification and levy payment records that lead to automated allocation of voting rights and democratic representation from our sector, including a democratic levy-setting mechanism. To continue under the current processes and structure will result in further discontent and potential problems.⁶³

MLA board and selection committee

4.37 The composition of the MLA board selection committee and its impact on the accountability of the board were issues of particular contention amongst many submitters. They argued that, despite grass-fed cattle producers contributing the majority of the levies received by MLA, they have no greater say over MLA board selection decisions or voting rights than the other sectors which contribute a far smaller share of the levy.⁶⁴

4.38 The selection committee is responsible for nominating members of the MLA board. It comprises nine people including three producer-elected representatives, three PICs representatives (one each from CCA, SCA, and ALFA) and three MLA board directors. Board directors and the producer representatives on the selection committee are appointed at MLA AGMs.⁶⁵ Producer Mrs Rachel Weston explained that:

The selection committee comprises nine people. Three are current board members so that is one-third of the selection committee. Three people are industry-body representatives. There is one person from ALFA, the lot feeders, one person from the Sheepmeat Council and one person from the

60 Ms Jo-Anne Bloomfield, *Submission 102*, p. [2].

61 Mr Ernie and Ms Kylie Camp, *Submission 129*, pp [1–2].

62 Mr Tom Stockwell, Northern Territory Cattlemen's Association, *Committee Hansard*, 7 May 2014, p. 3.

63 Mr John Michelmore, United Stockowners of Australia, *Committee Hansard*, 10 June 2014, p. 30.

64 Mr Malcolm and Ms Colleen Reid, *Submission 179*; Mrs Rachel Weston, *Committee Hansard*, 21 May 2014, p. 46; Mr Rod Barrett, *Submission 45*, p. [1].

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

Cattle Council of Australia. If you are not a member of the state farm organisations—and I guess now with new members paying \$100 to the Cattle Council you can join in here—that is the only chance you are represented by the Cattle Council of Australia. It is if you are already a member of them or state farm organisations. That leaves 80 to 90 per cent of producers, who are not those members, now only having one chance of a bit of a say from the three producer elected representatives.⁶⁶

4.39 The view was put to the committee that the presence of three MLA board members on the selection committee enabled MLA to concentrate power at the expense of levy payers.⁶⁷

4.40 Mr Greg Brown made the point that there was no reason why the MLA board should have any positions on the selection committee at all, let alone the greatest number. He argued that the selection process for the MLA board is 'totally distorted' by the fact that MLA representatives dominate it. Furthermore, he noted that CCA, which represents the largest portion of revenue, is relegated to having two members on the selection panel, along with the SCA and ALFA, while MLA has three.⁶⁸

4.41 The committee heard that there had been various attempts to increase the direct influence of producers over MLA governance and board selection composition. At the 2001 AGM, a resolution was introduced to remove two directors from the selection committee and replace them with two additional producer members (a grass-fed cattle producer and a sheep producer member). The resolution achieved 69 per cent support and was defeated as a majority of 75 per cent of votes is required.⁶⁹

2002 Senate Legislation Committee recommendations and attempts at reform

4.42 Noting the 'undemocratic' process by which MLA board members were appointed, in 2002, the Senate Rural and Regional Affairs and Transport Legislation Committee (Senate committee) recommended that the MLA board consult with its membership on democratic reform of the MLA's Articles of Association.⁷⁰ The committee underscored concerns raised in evidence regarding the selection committee charter set out in section 5 of the MLA Articles of Association. According to Article 5.4(d), the selection committee cannot endorse more candidates than the number of vacancies to be filled at an AGM. It was put to the Senate committee at the time that

66 Mrs Rachel Weston, *Committee Hansard*, 21 May 2014, p. 45.

67 Mr Ronald and Ms Gabriele Bown, *Submission 178*.

68 Mr Greg Brown, *Committee Hansard*, 21 May 2014, p. 32.

69 Meat and Livestock Australia, *Submission 154*, p. 41.

70 Senate Rural and Regional Affairs and Transport Legislation Committee, *The Australian meat industry consultative structure and quota allocation—Second report: Existing government advisory structures in the Australian meat industry*, December 2002, p. 23.

this process was undemocratic because it effectively removes the right of the AGM to elect candidates to the board.⁷¹

4.43 As part of its recommendations, the Senate committee noted that if progress on democratic reform of the Articles of Association did not proceed, then the Minister should 'engage in detailed and open consultation with levy payers on reform options for a more democratic board selection process'.⁷² The committee took the view that changes to the appointment process could be accomplished by way of amendment to MLA's Articles of Association or by the 'replacement of MLA with another company, identical in all respects except for the omission of these articles from any new company's Articles of Association'.⁷³

4.44 In its response, the Australian Government noted that, while it had no power to intervene in such matters (as MLA is a company formed under the Corporations Act), it nonetheless had 'encouraged MLA to consider making the board selection process more democratic and open to participation by MLA members'.⁷⁴

4.45 In response to the committee's recommendation, MLA proposed amendments designed to provide greater producer representation in the board election process to its membership at its 2003 AGM. While the 75 per cent of votes required was not met, a substantial 73 per cent of votes were cast in favour of the change.⁷⁵ In 2004, MLA members considered a special resolution proposed by a group of members that the constitution be amended to provide for the direct election of up to six directors (including one processor) and four specialist board members chosen by the selection committee. The resolution received 31.2 per cent of votes and in 2005 the same resolution was put to the membership, of whom 24.2 per cent voted in favour of the change.⁷⁶

4.46 MLA informed the committee that the board had offered to step down from all selection committees. Noting that MLA had not been able to achieve the required 75 per cent vote to change the composition of the committee or the MLA constitution, MLA Chair, Dr Michele Allan explained that the board would continue to work with industry on 'developing a consensus view' on greater industry representation on the

71 Senate Rural and Regional Affairs and Transport Legislation Committee, *The Australian meat industry consultative structure and quota allocation—Second report: Existing government advisory structures in the Australian meat industry*, December 2002, p. 12.

72 Senate Rural and Regional Affairs and Transport Legislation Committee, *The Australian meat industry consultative structure and quota allocation—Second report: Existing government advisory structures in the Australian meat industry*, December 2002, p. 23.

73 Senate Rural and Regional Affairs and Transport Legislation Committee, *The Australian meat industry consultative structure and quota allocation—Second report: Existing government advisory structures in the Australian meat industry*, December 2002, p. 23.

74 Government Response to Senate Rural and Regional Affairs and Transport Legislation Committee, *The Australian meat industry consultative structure and quota allocation—Second report: Existing government advisory structures in the Australian meat industry*, p. 4.

75 Meat and Livestock Australia, *Submission 154*, p. 41.

76 Meat and Livestock Australia, *Submission 154*, p. 41.

selection committee.⁷⁷ However, she clarified that it was up to PICs to propose special resolutions at AGMs, including any proposal that the selection committee should no longer include board members.⁷⁸

Article 5.4(d) of the MLA Articles of Association

4.47 Another concern raised in relation to the current arrangements was Article 5.4(d) of the Articles of Association. Under this provision, when there are vacancies on the board, the selection committee will endorse enough candidates to fill only the number of placements available. If there are two vacancies, only two applications will be endorsed for members to vote on. Producers argued that under this system, their votes are of no consequence. As Mrs Weston explained, producers have one small chance to vote on people who are already preselected so 'we really do not get a chance to choose'.⁷⁹

4.48 At the 2013 AGM, there were more than 90 nominations for three available board positions. The selection committee eliminated all but three of the nominated candidates. As voters were then asked to vote for the three candidates to fill three vacancies, the election was declared a 'farce'.⁸⁰ Dr Brian Creedy from the Richmond River Beef Producers Association stated that it was 'just three out of three or waste your vote'.⁸¹ Similarly, Mr Schoen from the NSW Farmers' Association expressed the view that it 'looked far from democratic to have three nominations for three positions'.⁸²

Meeting producer and processor needs

Of the \$5 levy, \$3.66 goes to marketing – marketing a product we do not sell. We sell cattle, not beef.⁸³

4.49 Under the current red meat structure, MLA is required to deliver policy for, and report to, grass-fed cattle producers, lot feeders and sheep producers, live exporters and meat processors. However, central to the concerns raised by grass-fed cattle producers regarding the current structures was the contention that the needs of both producers and processors are divergent (if not conflicting) in regard to marketing and R&D, and that one industry service body cannot represent both (competing) sets

77 Dr Michele Allan, Meat and Livestock Australia, *Committee Hansard*, 20 June 2014, p. 39.

78 Dr Michele Allan, Meat and Livestock Australia, *Committee Hansard*, 20 June 2014, p. 53.

79 Mrs Rachel Weston, *Committee Hansard*, 21 May 2014, p. 45.

80 Richmond River Beef Producers Association, *Submission 9*, p. [1].

81 Dr Brian Creedy, Richmond River Beef Producers Association, *Committee Hansard*, 7 March 2014, p. 61.

82 Mr Derek Schoen, NSW Farmers' Association, *Committee Hansard*, 10 June 2014, p. 14.

83 Mr Brad Bellinger, Australian Beef Association, *Committee Hansard*, 20 June 2014, p. 23.

of interests.⁸⁴ While both are involved in the meat industry, producers want to sell at the highest possible price while processors want to buy at the lowest price.⁸⁵ CCA argued that the interests of processors and the interests of producers are never the same.⁸⁶ AMPG/CCP observed that:

In theory, MLA has three divisional masters, CCA, SCA and ALFA and is also meant to act co-operatively with the abattoir owners and live exporters to provide "willing partnership" services to those sectors of the red meat industry.⁸⁷

4.50 In a similar vein, Ms Juliane Cowan put the argument that meat processors would not support the expenditure of significant funding on opening up more live export markets, as this would create more competition in the live cattle market and therefore potentially drive up the price that they pay for meat. However, such markets are a vital area for growth if grass-fed cattle producers are to be profitable.⁸⁸

4.51 Mr Ryan and Ms Tracey Hacon and others drew on the role of MLA in relation to the 2011 live cattle export ban, noting that the situation benefited the processors who were able to make substantial monetary gains from the oversupply of cattle brought about by the ban.⁸⁹

4.52 Citing the same event, Mr Peter Mahony argued that the cattle export ban served as an example of how control of MLA policy delivers poor returns to those stakeholders who pay the lion's share of the levies.⁹⁰ The fact that many grass-fed cattle producers are undergoing financial hardship contributed to the poignancy of their evidence regarding the need for a fair and efficient levy system, which provides an equitable return to producers.⁹¹

84 Mr Vince Ptolemy, *Submission 14*, p. 3; Ms Juliane Cowan, *Submission 15*, p. [1]; Mr Christopher Walton, *Submission 27*, p. [1]; Mr Philip and Tania Curr, *Submission 31*, p. [1]; Ms Sue Campbell, *Submission 37*; Ms Jacqueline Curley, *Submission 42*, p. [3]; Ms Dixie Nott, *Submission 92*, p.[3]; Mr Markus Rathsmann, *Submission 97*, pp [2–3]; Mr J. Ashley McKay, *Submission 99*, p. 3; Mr Peter Mahony, *Submission 101*; Mr Rod Dunbar, *Submission 107*, p. 9; Mr Barry and Ms Marella Green, *Submission 118*; Mr Gordon and Ms Gwen Moore, *Submission 119*; Mr Ernie and Kylie Camp, *Submission 129*, p.[3]; Mr G and Mrs R Gibbins, *Submission 136*; Mr Darryl and Ms Karen Smith, *Submission 147*; Mr Jim O'Neill, *Submission 148*; Mr Gary and Ms Melina Ryan, *Submission 158*; Mr Ian and Ms Judy Duly, *Submission 163*; Ms Emma Robinson, *Submission 176*, p. [1].

85 Mr Ryan and Ms Tracey Hacon, *Submission 20*, p. [1].

86 Mr Andrew Ogilvie, Cattle Council of Australia, *Committee Hansard*, 7 March 2014, p. 44.

87 Australian Meat Producers Group and Concerned Cattle Producers, *Submission 184*, p. 11.

88 Ms Juliane Cowan, *Submission 15*, pp [1–2].

89 Mr Ryan and Ms Tracey Hacon, *Submission 20*, p. [1].

90 Mr Peter Mahony, *Submission 101*.

91 Mr B and A McCullough, *Submission 29*; Mr RI and DA McCullough, *Submission 30*;

Dominance of beef processors

4.53 Through their feedlots, processors are entitled to apply for full voting entitlements if they pay the levy.⁹² Under the *Primary Industries (Excise) Levies Act 1999*, processors are required to pay the CTL if they keep cattle in their yards for 60 days. Furthermore, as the levy is paid as a flat rate, due to varying production systems, one beast may be sold several times to breeder, backgrounder, feedlot and meatworks with the levy being paid for each transaction.

4.54 In June 2011, newspaper reports revealed that representatives of four of the country's largest meat processors – JBS-Swift Australia, Nippon, Rockdale and Teys sat on the MLA board. The committee was informed by CCP that now four of the five biggest MLA vote holders are beef processors.⁹³ The view that beef processors are able to use their voting dominance and position on the MLA board to influence the distribution and expenditure of the levy was shared by many grass-fed cattle producers who gave evidence to the committee.⁹⁴

4.55 Producer Ms Jo-Anne Bloomfield argued that there is a distinct conflict of interest, given that retailers and processors can influence the spending of producer levy payments through the current voting system.⁹⁵ Similarly, Mr Norman Hunt, Convenor of AMPG/CCP stated that processors and producers with directly competing interests are members of the same corporation where processors 'hold sway because of the predominance of the levies they pay'.⁹⁶

4.56 These concerns also came to light in evidence regarding the processing sector's contribution to levy funding when compared to the other sectors. The committee was informed that processors contributed approximately 10 per cent to MLA, while enjoying a return of about 33 per cent in terms of levy investments.⁹⁷

4.57 The original intent of the AMLI Act was to provide for clear sectoral ownership.⁹⁸ While noting that the 1997–98 red meat restructure had originally sought to separate the producer service provider (MLA) from the processor service provider

92 Mr David Pietsch, Meat and Livestock Australia, *Committee Hansard*, 7 March 2014, p. 27.

93 Mr Mark Driscoll, Concerned Cattle Producers, *Committee Hansard*, 21 May 2014, p. 38.

94 Mr J.B. Carpenter, *Submission 5*, p. [6]; Ms Juliane Cowan, *Submission 15*, p. [1]; Mr Mike Kena, *Submission 16*; Mr Ryan and Tracey Hacon, *Submission 20*, p. [1]; Mr Rob Moore, *Submission 32*, p. [1]; Mr Markus Rathsmann, *Submission 97*, p. [2]; Mrs Lasca Greenhill, *Submission 104*; Ms Tracey and Mr Alan Hewitt, *Submission 111*; Mr Michael and Ms Gaylene Reardon, *Submission 132*, p. 1; Mr Peter and Ms Catherine White, *Submission 33*; Mr Ian Tincknell, *Submission 34*, p. [1].

95 Ms Jo-Anne Bloomfield, *Submission 102*, p. [3].

96 Mr Norman Hunt, AMPG/CCP, *Committee Hansard*, 20 June 2014, p. 25.

97 Mr Stephen Kelly, Australian Meat Processor Corporation, *Committee Hansard*, 7 March 2014, pp 18–19; Dr Peter Barnard, Meat and Livestock Australia, *Committee Hansard*, 7 March 2014, p. 31.

98 Second reading speech, Australian Meat and Live-stock Industry Bill 1997, *House Hansard*, 1 October 1997, p. 8848.

(AMPC) because the interests of processors and producers were often in conflict, AMPG/CCP argued that the evolution in integration over the past decade resulted in significant voting entitlements vested in the hands of large processors. According to AMPG/CCP, in 2010–11, eleven meat processors were amongst the top seventeen MLA levy payers.⁹⁹ Similarly, Mr Rod Dunbar noted that since the 1997–98 reforms, unprecedented wealth transfer to the secondary sector (registered feedlots and processors) has taken place, enabling it to effectively control the levy structure and grass-fed cattle sector.¹⁰⁰

4.58 AMPC noted in a submission to the 2011 Productivity Commission (PC) review that as vertically integrated processors operate feedlots and some have pastoral properties, 'they pay substantial levies on livestock transaction, often a number of payments along the chain'.¹⁰¹ According to MLA, on average, a beast is traded 1.7 times during its lifetime.¹⁰² As many of the larger agricultural businesses are now vertically integrated, this potentially means that they could claim multiple votes at the MLA AGM for the same beast by moving that beast within their properties several times.¹⁰³

4.59 When faced with the question of whether the contention regarding processor voting dominance was well-founded, MLA's Dr Allan informed the committee that MLA simply didn't know whether the number of non-farmer (processors) voting members outweighed that of farmer (producer) members.¹⁰⁴

Disparity in interests between producers and processors

4.60 It was also highlighted that meat is a different commodity to livestock and when livestock are converted into meat, the livestock producer has no further interest in its marketing.¹⁰⁵ In other words, cattle producers supply the beef industry but are not involved in the production or distribution of saleable meat products.¹⁰⁶ Many grass-fed cattle producers supported the separation of the livestock industry from the meat processing industry for these reasons, arguing that the former should raise a levy solely for its own purposes.¹⁰⁷

99 Australian Meat Producers Group and Concerned Cattle Producers, *Submission 184*, p. 13.

100 Mr Rod Dunbar, *Submission 107*, p. 4.

101 Australian Meat Processor Corporation, Submission to Productivity Commission, June 2010, *Submission 111*, p. 17.

102 Ms Lucinda Corrigan, Meat and Livestock Australia, *Committee Hansard*, 20 June 2014, p. 47.

103 Mr Ernie and Ms Kylie Camp, *Submission 129*, p. [1]; Mrs Kylie Camp, *Committee Hansard*, 7 May 2014, p. 32.

104 Dr Michele Allan, Meat and Livestock Australia, *Committee Hansard*, 7 March 2014, p. 27.

105 Mr James Ramsay, *Submission 7*, p. [2].

106 Mr Greg Northover, *Submission 2*, p. [7]; Mr J.B. Carpenter, *Submission 5*, p. [2].

107 Mr James Ramsay, *Submission 8*, p. [2].

4.61 Furthermore, processors did not support many of the collective funding activities proposed by the producers. However, according to AMPG/CCP:

Those implementing the restructure did not, however, realise the full extent of integrated backgrounding and feedlot interests of processors, and the evolution of that integration over the following decade. The result has been very significant voting entitlements vesting in the hands of the larger meat processors. 18% of all MLA levies are now paid by abattoirs and at least half of the top MLA levy payers are abattoirs; JBS Swifts, Australia's and the world's largest meat processor, is MLA's largest levy payer.¹⁰⁸

4.62 Mr Alex Munro stated that the levy is a producer rather than industry levy as only the producer pays it. 'Therefore the majority of this levy should be helping the producer, not processors and retailers who are paying producers the same prices as 20 years ago'.¹⁰⁹ Mr Smith from AgForce Queensland noted that the bulk of the grass-fed cattle levy marketing funds are used to market boxed beef (or dressed meat).¹¹⁰

4.63 Many submitters argued of the need for a producer-only body for these reasons.¹¹¹ Mr Norman Hunt informed the committee that the processors themselves may prefer to have their levies directed to AMPC rather than MLA as ultimately 'their interests are directly competing'.¹¹²

4.64 In a submission to the 2011 PC review of rural research and development corporations (RDCs), AMPC suggested that it receive all levy funds paid by its members. It argued that:

In the event of any restructuring, the AMPC would look to receive and manage all statutory levy funds paid by members, including \$4-6m a year of transaction levies from red meat processing firms with feedlot and grazing activities. The case for this closer alignment with sector structures is outlined in this paper. Processors, working through the AMPC, and in collaboration with a range of skilled providers, are best positioned to secure returns for the sector, the industry and the wider economy from these funds.¹¹³

4.65 Under the current red meat structure, processors retain half of their own levy fund revenue and contribute only six per cent to MLA and RMAC while retaining two

108 Australian Meat Producers Group and Concerned Cattle Producers, *Submission 184*, p. 20.

109 Mr Alex Munro, *Submission 140*, p. [3].

110 Mr Howard Smith, AgForce, *Committee Hansard*, 21 May 2014, p. 4.

111 Mr Ronald and Ms Gabriele Bown, *Submission 178*; Mr Malcolm and Ms Colleen Reid, *Submission 179*;

112 Mr Norman Hunt, Australian Meat Producers Group and Concerned Cattle Producers, *Committee Hansard*, 10 June 2014, p. 25

113 Australian Meat Processor Corporation, Submission to Productivity Commission Review of Rural Research and Development Organisations, June 2010, p. 52.
http://www.pc.gov.au/data/assets/pdf_file/0008/99422/sub111.pdf (accessed

seats on the MLA board.¹¹⁴ Through their influence on the board and in relation to the voting system, it was put to the committee that vertically integrated entities had become the largest recipients of marketing funding while the grass-fed cattle sector receives little return and is peripheral in relation to R&D investment.¹¹⁵

114 Mrs Linda Hewitt, Australian Beef Association, *Committee Hansard*, 20 June 2014, p. 13.

115 Mr Rod Dunbar, *Submission 107*, p. 9.

