

Chapter 7

Committee view and recommendations

We as grass-fed producers and levy payers deserve to have a representative body with direct membership, an equitable voting system and transparency in expenditure and operation.¹

7.1 The overwhelming majority of submitters to the inquiry voiced their support for payment of a levy directed at enhancing outcomes for producers. However, the operating environment upon which industry structures and the current levy system are predicated has changed considerably since the 1997–98 reforms. In light of these significant changes, the difficult financial circumstances in which many producers find themselves, and the lack of producer ownership over, and oversight of, levy funds, many submitters advocated for reform to the current levy system and industry structures.

7.2 At the heart of such reform is the need to effectively meet the needs and aspirations of producers. While views across the industry are diverse, the common themes that emerged in evidence to the committee included the need for:

- a democratically elected body to manage the cattle levy, which is directly accountable to levy payers and predicated on a fair and equitable voting structure, such as the two-tiered system;
- a fully audited levy collection and levy payer identification system which provides for automatic voting entitlements;
- a linkage between responsibility for policy development and the management of policy implementation in order to ensure accountability to levy payers;
- a levy system that serves the interests of producers rather than other sectors of the red meat industry;
- greater flexibility in relation to adjusting the allocations within the \$5 CTL;
- a full and independent audit of the cattle transaction levy; and
- research on transparency in pricing and options for a transparent pricing system.

7.3 The current systems and structures which underpin the cattle industry are complex. They encompass many regulatory and technical industry issues and involve a range of peak industry associations, commercial stakeholders, industry committees,

1 Mr Gary and Ms Melina Ryan, *Submission 158*.

service providers and statutory authorities.² The industry is made additionally complicated by vertical structures, size disparity within the producer sector, and the nature of the relationships across the industry – which is significantly fragmented.³ In fact, the levy systems and structures underpinning the red meat industry as a whole have become amongst of the most complex and bureaucratic in operation in Australian agriculture.⁴ In short, the current structure has 'too many mouths to feed'.⁵

7.4 There are a plethora of bodies, groups, forums and committees which seek to determine how the industry is administered and the levy payer funds collected and spent. The reality is that producers find it extremely difficult, if not impossible, to navigate, let alone effectively participate in, or engage with, the industry framework.⁶ The complexities of the systems and processes that underpin the CTL have further contributed to frustrations and misunderstandings regarding respective roles and responsibilities.

7.5 The inquiry focused on the limited ability of producers to directly engage with levy investment decisions and trace levy investments through the supply chain. Central to the concerns of producers is that the current system is unable to bring together the authority to represent the industry, with the means to represent it in a way that is accountable to levy payers.⁷ At the same time, levy payers are unable to penetrate the system which has proven to be opaque and resistant to change by its complexity. The scope for producers to achieve any greater control over their levy expenditure through engagement at MLA AGMs or industry representative bodies is remote indeed. For these reasons, the current industry structures and levy system do not meet the current collective functional and representative needs of the cattle industry.

7.6 The extent to which MLA remains accountable to levy payers under the current system was central to the inquiry. It was the common issue around which reform was discussed. Concerns regarding accountability were specifically raised in the context of R&D and marketing expenditure.⁸ The views of Mr Bernie and Ms Kathy Day were typical in this regard:

2 Mr Alan Thompson, Department of Agriculture, *Committee Hansard*, 7 March 2014, p. 9; Mr Stephen Kelly, Australian Meat Processor Corporation, *Committee Hansard*, 7 March 2014, p. 15; Dr Michele Allan, Meat and Livestock Australia, *Committee Hansard*, 7 March 2014, p. 22; Mrs Linda Hewitt, Australian Beef Association, *Committee Hansard*, 7 March 2014, p.56; Richmond River Beef Producers Association, *Submission 9*, p. [2]; AgForce Queensland, *Submission 151*, p. 2; Tasmanian Farmers and Graziers Association, *Submission 156*, p. 12.

3 Mr Alan Thompson, Department of Agriculture, *Committee Hansard*, 7 March 2014, p. 9.

4 Bindaree Beef Australia, *Submission 155*, p. 6.

5 Bindaree Beef Australia, *Submission 155*, p. 2.

6 Bindaree Beef Australia, *Submission 155*, p. 6.

7 Heytesbury Cattle Company, *Submission 145*, p. 2.

8 Mr Ryan and Ms Tracey Hacon, *Submission 20*, p. [1]; Bindaree Beef Australia, *Submission 155*, p. 2.

Even though we pay levies every time we sell a beast, there is no accountability to us as to how the money is spent.⁹

7.7 Questions were specifically raised about the status, expenditure and ownership of R&D commercial-in-confidence information.¹⁰ These concerns went to the heart of transparency and accountability and demonstrated for many witnesses that the structures no longer provide for effective oversight of MLA. In fact, the structures have lent themselves to the establishment of an undemocratic self-serving system which is not producer-centric and therefore not answerable to levy payers.¹¹

7.8 MLA's lack of engagement with levy payers has been a constant theme, not only in evidence before the committee but also in reviews of MLA performance. The June 2013 independent review of the MLA Livestock Production Innovation (LPI) R&D investment systems noted widespread dissatisfaction with the transparency of MLA processes for selecting and approving projects. An improved formal process for stakeholder engagement in setting priorities, implementing strategy and conducting two-way dialogue with industry was recommended.¹²

7.9 Evidence to the committee suggested that, along with greater stakeholder engagement, there was also a need for greater contestability and competition in the allocation of R&D and marketing levy funds. In this regard, the committee notes that CCA entered into service agreements with MLA without competitive tender. According to MLA, it is not required to put contracts up for competitive tender if it has 'cogent reasons' not to do so.¹³ In light of concerns regarding contestability, the view was put by submitters that any reform to the current structures should provide for a more contestable system. This included the proposition that MLA no longer operate as the default service provider. The view was put that there would be greater contestability within the system if MLA was one of many service providers competing for a tender for R&D and marketing services.¹⁴

7.10 For many grass-fed cattle producers, the levy system is not only impenetrable but also serves the needs of other sectors over their own. The committee acknowledges the strong view of many producers that, as processors are commercially motivated to pay the lowest possible price for cattle and producers seek the best possible return, their interests are competing and should not be accommodated by a

9 Mr Bernie and Ms Kathy Day, *Submission 11*.

10 Mr John Carter, *Submission 93*, p. [3]; Mr Ernie and Mrs Kylie Camp, *Submission 129*, p. [2]; Ms Joanne Rea, *Submission 138*, p. 9; Mr Athol Economou, Australian Beef Association, *Committee Hansard*, 7 March 2014, p. 55.

11 Bindaree Beef Association, *Submission 155*, p. 4.

12 Professor Timothy Reeves et al, *Meat and Livestock Australia/ Livestock Production Innovation: Review of Systems and Processes for Research and Development Investment*, June 2013, pp 4–5.

13 Dr Peter Barnard, MLA, *Estimates Hansard*, 28 May 2014, pp 114–115.

14 Mrs Jo-Anne Bloomfield, *Committee Hansard*, 7 May 2014, p. 15; Mrs Kylie Camp, *Committee Hansard*, 7 May 2014, p. 30.

single body. The point was repeatedly made that sectors that contribute smaller amounts to MLA for R&D and marketing purposes (such as the processors and live exporters through AMPC and LiveCorp) are able to manage their own levies and instruct MLA as to how their R&D funds should be spent. At the same time, there is a widely held view that processors and other industry sectors enjoy disproportionate benefit from MLA R&D and matching government funding investment, at the expense of the cattle producer sector. For grass-fed cattle producers, who pay the largest amount of levies and have the least influence or control over how their money is spent, the current levy system and industry structures appear to benefit those who contribute the least.¹⁵

7.11 Reform to the levy system and industry structures must be predicated on a commitment to enhance value for producers and not the interests of intermediary bodies that serve the industry. Each step in the supply chain must be optimised to deliver a competitive advantage to the industry. However, considerable evidence before the committee highlighted that the current cattle industry structures are not effective in meeting the collective needs of the industry, or enabling the grass-fed sector to maximise its ability to respond to market challenges and capture opportunities in R&D.

7.12 The grass-fed cattle sector clearly needs an effective and adequately resourced representative body. The fact that CCA is currently underfunded and under-resourced has seriously undermined its ability to fully exercise its roles and responsibilities under the MOU. While the use of service agreements has provided additional resources to CCA to operate in the short term, it has created the perception that CCA is reliant upon MLA funding and therefore no longer fully independent. Cattle industry organisations need to be structured and resourced in a way that enables direct relationships between investors (government and levy payers) and firms in the value chain. They must have the capacity to operate at the strategic level while also being able to adapt and respond rapidly to an uncertain and volatile operating environment.¹⁶

7.13 The systems and structures that underpin the CTL have not been subject to reform or adaptation despite industry changes, let alone growing discontent with MLA's ability to represent levy payers' interests. Underpinning concerns regarding MLA's role is that it serves as the intersection between producers and the market whilst also trying to represent the interests of all (and often competing) sectors across the industry. Multiple divisions and lines of authority within MLA including a governance structure that disconnects the board and senior officers from levy payers, has contributed to a context in which 'the expenditure of levy money becomes an end in itself, without sufficient emphasis on lifting the bottom line profitability of levy payers'.¹⁷ At the same time, CCA is now dependent upon the service provider as both holder and investor of levy funds and is unable to represent the policy needs of

15 Richmond River Beef Association, *Submission 9*, p. 3.

16 Tasmanian Farmers and Graziers Association, *Submission 156*, p. 4.

17 Australian Meat Producers Group and Concerned Cattle Producers, *Submission 184*, p. 38.

producers and oversight levy investment. As MLA is not directly and immediately accountable to CCA as the PIC, or to levy payers themselves, it has become self-serving. A number of submitters argued that as MLA provides producers with very little say as to who gets on the board or how their levy money is spent, it should be replaced with a single autonomous organisation that represents all grass-fed levy payers.¹⁸

7.14 Under the current red meat industry structural arrangements, whereby MLA operates as private company and the government has no direct power of intervention or reform, there are very few ways by which meaningful reform can be achieved.

7.15 This report has documented the manner in which recommendations made over years to reform these systems have been resisted. Frustration with the rigidity of the current legislative and administrative structures that underpin the levy system was felt by many levy payers who provided evidence to the inquiry. These frustrations were clear in the evidence of Mr Carter who had come to the conclusion that MLA was untouchable:

I can tell you because I have tried barriers and I have tried the Shareholders' Association, and they all just shook their heads and said that it is unbelievable. I have gone to ASIC, and they have said that it is the minister's responsibility. I have gone to the minister. He said, 'No, it's a private company.' The constitution cannot be altered without a 75 per cent vote in both membership classes of the company. There is one class that is partly funded by MLA. It will never vote for its winding up. The other class includes recipients of the commercial-in-confidence R&D grants. We have had 16 years of this.¹⁹

7.16 The committee appreciates the efforts made by individual producers and producer groups to provide their views to the inquiry. Many of them are frustrated with the current structures and respective bodies which have not been responsive to producer concerns and are resistant to change. Yet, the goodwill of producers, demonstrated by their continuing commitment to paying a levy for the benefit of the industry's future and engage in efforts to ensure the sustainability of the industry, is under stress. Should the following recommendations be rejected or even watered down, the committee fears that this existing goodwill, and with it efforts to provide a viable structure for producers, will rapidly diminish.

7.17 The following recommendations seek to establish a direct relationship between producer levy payers and their representative body. They are directed at providing for greater transparency and accountability within the levy system as well as flexibility and contestability in relation to levy allocation and investment.

18 Mr James Ramsay, *Submission 8*, p. [2]; Mr Scott and Ms Rhonda Conkey, *Submission 24*, p. [2]; Mr Rob Moore, *Submission 32*, p. [1]; Mr David Conachan, *Submission 127*; Mr J. Ashley McKay, *Submission 99*, p. 3; Food Producers Landowners Action Group Australia Inc., *Submission 103*, p. [2]; Mr Edgar Burnett, *Submission 108*, p. [2].

19 Mr John Carter, Committee Hansard, 7 March 2014, pp 70–71.

A producer-owned body

7.18 Producers should have ownership over their own levies and decide how their levies funding and matching tax payer funds are spent. However, the current structures have been resistant to repeated reform efforts and no longer reflect the realities of the industry. Therefore, the committee recommends that a new industry services body be established by legislation. The new producer-owned body should have the authority to receive the producer marketing and R&D component of the CTL, matching government R&D funds and to manage funding investment. While it is possible that this new body might be a reformed version of CCA, it is also possible that agreement is made to start from scratch with an entirely new entity.

7.19 The establishment of a producer-owned body would address the fundamental flaws in the current structure by bringing together the authority for levy investment with the means to invest it. The establishment of such a body would address problems of representation and strengthen producer accountability by establishing a direct relationship between producers and the body; thereby bring together the authority for policy settings and delivery. This could be achieved through legislative means by combining PIC policy development responsibilities with the statutory marketing and separate statutory R&D corporation authority.

7.20 Under the proposed reform, the Australian Government, through the department, would disperse the CTL levy components to AHA and NRS with the R&D and marketing funds directed to the new producer-owned body. It would have the authority to disperse the funds to MLA as well as other service providers. As MLA would remain a service provider under the proposed reform, the important work it is engaged in, particularly in relation to export markets, would continue.

7.21 Under the new producer-owned body, levy payers would be eligible to register for membership and should be required to vote on the rate of the levy every few years. Levy payer members would also be required to vote on whether to vary the allocations of the CTL levy between AHA, NRS, marketing and R&D, with final agreement on varying the allocations achieved with ministerial support.

7.22 The composition of the board of the new producer-owned body could be determined on a geographic or zonal basis. The committee makes no specific recommendation on the method to be used, as that is a matter for industry to determine. Notwithstanding this point, in light of the overwhelming evidence in favour of a directly elected body, the committee strongly supports a directly-elected board model. While the committee acknowledges the strong evidence in support of a two-tiered voting system as a viable option to address the disparity between small and large producers, the voting system is also a matter for industry. The committee simply notes that the voting system should be fair and equitable, while the vote allocation system should be transparent.

7.23 As demonstrated in the foregoing paragraphs, while the committee has come to the view that the systems and structures that underpin the CTL are not delivering the maximum benefit to Australian cattle producers, it does not believe that it should propose a detailed, prescriptive set of recommended reforms. For self-determination to succeed, the industry must establish its own inclusive and consultative structures on

which to build consensus and determine its own future. Nevertheless, in concurrence with the majority of statutory funding agreements between industry-owned companies and the Commonwealth, the new body should not be permitted to engage in agri-political activities.

7.24 In light of the diversity of the producer sector in size, geographical location, and target market, the committee emphasises the importance of initiatives to keep levy payers directly informed and engaged in the decision-making processes of their representative body. Noting that other industry bodies broadcast their AGMs via webcast to enable members who are unable to attend in person to view proceedings online, the committee encourages similar initiatives.²⁰

Recommendation 1

7.25 The committee recommends that a producer-owned body be established by legislation. The body should have the authority to receive and disperse the research and development, as well as marketing component, of the cattle transaction levy funds. The producer-owned body should also be authorised to receive matching government research and development funds. Reforming the Cattle Council of Australia to achieve these outcomes should be examined as part of this process.

7.26 The establishment of a new producer body provides an opportunity to address concerns regarding the imposition of the levy, the levy collection system, and how votes are allocated.

Automated and transparent levy collection and voter entitlement system

7.27 The committee acknowledges the concerns of grass-fed cattle levy payers regarding the current levy collection system on which vote allocations are determined. The committee takes the view that a transparent and automated levy collection system (which identifies levy payers against levy payments) should be introduced. The introduction of an automated system would allow for the rapid settlement of levy payment and timely transfer of levy revenue to the department. The system should be subject to regular independent auditing and verification. As this system would provide an accurate audit trail, levy payers should receive their voting entitlements automatically. The committee considers that the proposed system will go some way to addressing concerns regarding declining membership and participation.

7.28 In addition to re-engaging producers, in view of the fact that the Commonwealth provided MLA with \$176.3 million of R&D funding matched to industry levies from 2008–09 to 2012–12, a transparent and accountable levy system (which provides for the accurate recording of cattle transactions) should offer some

20 The 2013 and 2012 AWI AGM were broadcast live via webcast. The initiative by AWI enables AWI shareholders unable to attend the AGM in person to view AGM proceedings. AWI shareholders also had the opportunity to submit questions online to the AWI Chairman and CEO to be answered at the AGM. Australian Wool Innovation Limited, AGM 2013, <http://www.wool.com/HK/about-AWI/shareholder-information/annual-general-meetings/agm-2013> (accessed 11 July 2014).

assurance to the Australian Government and the tax payer that the government contribution to R&D is proportionate and commensurate.

7.29 The establishment of a fair and equitable voting system underpinned by an automatic and audited levy collection and voter management system will contribute in a meaningful way to enabling producers to determine the investment of their levy funds.

Recommendation 2

7.30 The committee recommends the establishment of a cost-effective, automated cattle transaction 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. It should be subject to regular independent auditing and verification.

Imposition of the cattle transaction levy

7.31 The committee appreciates the merits of reviewing the cattle transaction levy, particularly in light of evidence regarding the impact of the \$5 flat fee (which applies regardless of the value of the animal sold). The possibility that multiple votes can be claimed for the same beast should also be addressed. The principle that should be applied is that only the levy payer who benefits from the sale of a beast should receive the respective voting entitlements.

7.32 The committee appreciates the views of submitters in relation to the flat rate of the levy and strongly encourages the proposed producer-owned body to facilitate an investigation into the cost-benefit to industry of altering the flat fee to a more dynamic structure. If an alternate structure is identified, it should be discussed with, and proposed to, the levy payer members of the producer body in the first instance.

7.33 The committee notes that the current levy system was put in place at a time when the extent of vertical integration could not have been foreseen. The prevailing perception is that the current structure has enabled processors to gain disproportionate influence over the producer levy system, at the expense of grass-fed producers who pay the greatest proportion of the levy. Indeed, this matter, along with concerns regarding the 'undemocratic' nature of the MLA voting system, has contributed to the loss of trust in MLA expressed by many submitters.

7.34 There remain mechanisms in place under the red meat industry structures to realise opportunities for both the producer and processing sectors to engage in joint and complementary R&D activities. For these reasons, the committee recognises the need to separate producers from processors under the producer R&D and marketing structure. It upholds the view that processor-paid levies should be recognised as such under the levy management structure and directed to AMPC accordingly. Therefore, the committee recommends amendment to the *Primary Industries (Excise) Levies Act 1999*.

Recommendation 3

7.35 The committee recommends that the *Primary Industries (Excise) Levies Act 1999* be amended to ensure that levies paid by processors are recognised as processor (or slaughter) levies and not as producer (or cattle transaction) levies.

Full and independent audit of the cattle transaction levy

7.36 There were many concerns raised during the inquiry regarding the purpose and expenditure of the cattle transaction levy. There is considerable risk that if not subject to independent examination, these concerns and the confusion regarding the intent and expenditure of the cattle transaction levy will continue to hamper the industry, potentially impede discussion and hinder necessary reform.

7.37 The committee takes the view that an independent audit of the cattle transaction levy would provide an opportunity to clear the air about levy revenue and expenditure while also providing a necessary factual foundation from which to discuss and initiate reform. Such an audit would provide a comprehensive overview of the cattle levy including its purpose, collection, investment and impact. An independent audit would also complement the committee's other recommendations including the need for a transparent and fully audited levy collection system.

7.38 The committee recommends that the Australian National Audit Office undertake a full and comprehensive audit of the cattle transaction levy with particular consideration of revenue from, and expenditure of, the respective levy components. The audit should consider the cattle transaction levy in relation to the levy principles, as well as its original intent and purpose.

Recommendation 4

7.39 The committee recommends that the Australian National Audit Office conduct an audit of the cattle transaction levy system, tracing the levy from inception and focusing on the revenue from, and expenditure of, the respective components of the levy.

Red Meat Advisory Council

7.40 The committee holds the view that RMAC does not serve the purpose for which it was intended and should be dissolved. Alternative arrangements for the disbursement of earnings from the Red Meat Industry Reserve Fund need to be established by the Department of Agriculture in consultation with the industry.

Recommendation 5

7.41 The committee recommends that the Minister for Agriculture dissolve the Red Meat Advisory Council. The committee further recommends that the Minister for Agriculture establish a new system to manage and disperse earnings from the Red Meat Industry Reserve Fund, in consultation with the industry.

MLA Donor Company

7.42 The committee holds the view that the role of MDC is an anomaly under the current red meat structure that should be rectified. The committee supports the 2011 recommendations of the Productivity Commission which state that contributions made through donor company arrangements, by an individual private entity, should not be

eligible for matching government funding. Furthermore, there are alternative avenues for private entities within the red meat industry to make contributions to R&D.

7.43 The committee recommends, therefore, that the MDC no longer be recognised as an approved donor under section 61 of the *Australian Meat and Live-stock Industry Act 1997*. This amendment would bring the legislative landscape into line with current industry structures.

Recommendation 6

7.44 The committee recommends that the Minister for Agriculture revoke the status of the MLA Donor Company as an approved donor under the *Australian Meat and Live-stock Industry Act 1997*.

Transparency in pricing and trade practices

7.45 The committee appreciates the concerns of producers regarding the need for transparency in pricing and trade practices. It recognises the need for further investigation into mechanisms to provide for such transparency. To this end, the committee recommends that the Department of Agriculture, in consultation with the cattle industry, conduct an analysis of the pros, cons and costs of introducing legislation similar to that of the *Packers and Stockyards Act 1921* and *Livestock Mandatory Price Reporting Act 1999*.

Recommendation 7

7.46 The committee recommends that the Department of Agriculture, in consultation with the cattle industry, conduct an analysis of the benefits, costs and consequences of introducing legislation akin to the *Packers and Stockyards Act 1921* and *Livestock Mandatory Price Reporting Act 1999*.

**Senator Glenn Sterle
Chair**