

Chapter 3

Issues raised in evidence

Support for the bill

3.1 The bill will amend the Act to allow for the establishment of levy payer registers, and implement recommendations of the Reference Committee's report on *Industry structures and systems governing the imposition and disbursement of marketing and research and development (R&D) levies in the agricultural sector*.

3.2 In light of growing recognition of the need for levy payer registers, the committee's previous inquiries, and the ongoing development work to trial levy payer registers, the bill was supported by numerous submitters, including Sugar Research Australia (SRA), the Australian Cane Farmers Association (ACFA), and the Council of Rural Research and Development Corporations (CRRDC).¹

3.3 Many submitters highlighted the overarching need to access levy payer information. The National Farmers' Federation (NFF) argued that the bill builds further transparency into the levy system and presents an opportunity for representative organisations to 'more effectively engage and consult with the levy payers they represent'.²

3.4 The CRRDC noted that the lack of readily-available levy payer information has 'hampered' the efforts of RDCs to undertake 'extensive communication and consultation programs to reach out and engage with producers who are responsible for paying the levy'. It argued that the establishment of accessible levy payer registers would therefore 'enable more targeted approaches to report on activities and seek feedback'.³

3.5 In this regard, the ACFA noted that access to levy payer contact details is 'a necessity for SRA to operate effectively and deliver on its role'.⁴ The ACFA further explained that:

...access to information on the size of levy paid by individual levy payers, in terms of volume (tonnage) and quantum of levy (dollars), will assist SRA

1 Sugar Research Australia, *Submission 1*, [p. 1]; Australian Cane Farmers, *Submission 4*, [p. 1]; Council of Rural Research and Development Corporations, *Submission 3*, p. 2.

2 National Farmers' Federation, *Submission 7*, [p. 1].

3 Council of Rural Research and Development Corporations, *Submission 3*, p. 2.

4 Australian Cane Farmers Association, *Submission 4*, [p. 1]. Sugar Research Australia (SRA) are an industry-owned research and development corporation (and levy payer recipient) for the sugar industry.

to tailor, where appropriate, its communications and RD&A activities to suit small, medium and large cane farmers.⁵

3.6 A number of stakeholders in the sugar industry voiced their support for the establishment of a sugar levy payer register. SRA expressed its full support for the proposed amendments while the Australian Sugar Research Alliance (ASA) noted that:

...providing there are no privacy issues involved, contact details required to establish a sugar levy payer register should be made available to SRA via the Department of Agriculture and Water Resources.⁶

3.7 Submitters also supported the publication of anonymised statistical information which would 'give further insights into rural industries in Australia'.⁷ The NFF noted that the publication of such information will be a valuable asset for industry.⁸

Intermediaries

3.8 The bill seeks to expand the definition of 'intermediaries' within the agricultural levy system.

3.9 The CRRDC expressed support for the legislative amendments which expand the definition of 'intermediaries'. It noted that the changes would 'more accurately reflect modern business practices'.⁹

3.10 Concerns were raised by Mr Rob Moore in relation to the expanded definition. He suggested that the bill would include farmers 'not currently defined and prescribed as an 'Intermediary' – that sell to other farmers that might not be paying the allocated commodity levy'.¹⁰

3.11 However, the department explained the need for the expanded definition. It noted that as Australia is a high-cost agricultural producer, participants in rural industries have continued to 'innovate how their produce is bought and sold to remain competitive in the global market'. It emphasised the point that the definition has been expanded under the bill to take into account these innovations, new business types and

5 Australian Cane Farmers Association, *Submission 4*, [p. 1].

6 Sugar Research Australia, *Submission 1*, [p. 1]; The Australian Sugar Research Alliance, *Submission 2*, [p. 1].

7 Council of Rural Research and Development Corporations, *Submission 3*, p. 2. Also see: The Australian Sugar Industry Alliance, *Submission 2*, [p. 1].

8 National Farmers' Federation, *Submission 7*, [p. 1].

9 Council of Rural Research and Development Corporations, *Submission 3*, p. 2.

10 Mr Rob Moore, *Submission 6*, [p. 3].

modern ways of buying and selling agricultural produce, which do not clearly fit within the legislative framework created in 1991.¹¹

Privacy concerns

3.12 The issue of data privacy was raised by a number of submitters. Concerns were raised with regard to the security of levy payer information, and in particular, financial information, within a proposed levy payer database. Some submitters were also concerned about the extent to which private levy payer information could be disclosed to a third party.

3.13 Mr Rob Moore argued that the availability of levy payer information to third parties could amount to 'a clear breach of our privacy' with regard to personal and corporate data.¹² The ACFA made the point that farmers should be in control of their personal information and how it can be used. Noting the importance of maintaining the privacy of individuals and their business, ACFA did not support the provision of a farmer's personal or business information to parties other than SRA, without the permission of the farmer.¹³

3.14 In relation to protecting levy payer data, the CRRDC expressed concern that the responsibility to protect this sensitive data could place a substantial burden on the RDCs. However, it assured the committee that the RDCs were:

...working to ensure appropriate levels of data security and management are in place to maintain integrity in our use of levy payer register data, and responsible release, use and management by third parties.¹⁴

3.15 However, other submitters such as the NFF recognised that the proposed amendments will further protect the privacy of levy payer information.¹⁵

3.16 The department highlighted the various safeguards within the bill to protect levy payer information. Firstly, section 27B of the Act sets out the purposes for which levy payer information provided to eligible recipients under that section can be used. The EM lists the purposes as follows:

This is limited to matters relating to the development and maintenance of levy payer registers; the ability to publish information of a statistical nature; and for any functions required of the recipient under Commonwealth law or under an agreement that eligible recipients have with the Commonwealth.

11 Department of Agriculture and Water Resources, *Submission 5*, p. 4.

12 Mr Rob Moore, *Submission 6*, [p. 3].

13 Australian Cane Farmers Association, *Submission 4*, [p. 1].

14 Council of Rural Research Development Corporations, *Submission 3*, p. 2.

15 National Farmers' Federation, *Submission 7*.

3.17 To this end, the EM highlighted that the disclosure of personal information as provided for in the bill is 'not arbitrary, as it is only permitted for specific uses', which directly relate to the operations of eligible recipients. In addition, the bill provides that information can only be disclosed to a third party with the written approval of the Secretary, who has the power to impose conditions on the approval, and revoke an approval where there has been a breach of the conditions.¹⁶

3.18 Furthermore, as the RDCs and the department are Australian Privacy Principles (APP) entities, they will be required to hold and manage levy payer information in line with their existing obligations under the *Privacy Act 1988*. The department explained the obligations on the involved parties:

The APPs are legally-binding principles that apply to the department and to the RDCs when dealing with personal information such as that held in levy payer registers. Any third party granted approval to access levy payer information from a register will also have to act in accordance with these principles whether it is an APP entity or not. This requirement is intended to be set out in the binding agreement that the department expects the RDC to establish with third parties around access, use and protection of levy payer information. The Australian Information Commissioner has power to investigate possible interferences with privacy.¹⁷

3.19 The department further explained the restrictions on information disclosure. It noted that the financial information of levy payers will not be released to industry representative bodies.

3.20 Under the proposed arrangements, levy payers would only be able to access their own information on the levy database and RDCs will only be able to access the data that relates to their operations. In terms of the physical security of the levy databases, the committee was informed that all access to the portal would be subject to a number of security measures including a two-factor authentication process.¹⁸

3.21 The department added that the proposed safeguards provide superior protections when compared to the existing wool and dairy levy database systems. Mr Jason Lucas, Acting Assistant Secretary, Industry Support Branch at the department explained:

That infrastructure that's been developed is an enhanced piece of technology over and above what we currently run through our levy system. That system will include a web portal that levy recipient bodies will be able to access through a number of security measures... We would expect that, in order to have an efficient running of the system, the dairy and wool commodities may choose to move onto that platform. There are a lot of benefits to that: they can control a lot more of their information through that

16 Explanatory Memorandum, p. 8.

17 Department of Agriculture and Water Resources, *Submission 5*, p. 2.

18 Department of Agriculture and Water Resources, *Submission 5*, p. 3.

portal rather than the existing system, which is a little bit more manual in the way it operates.¹⁹

3.22 The department emphasised the point that the proposed amendments are intended to 'further safeguard the proper use and protection of levy payer information'.²⁰

Committee view

3.23 The establishment of levy payer registers is an important and essential next step in the Australian levy payer system. Numerous parliamentary committee inquiries have brought to light the importance of such systems to agricultural industries while involved stakeholders have highlighted the need for levy recipient bodies to understand who their levy payers are, and to communicate and consult with them directly about relevant industry business.

3.24 Whilst the committee acknowledges the concerns raised in evidence with regard to data privacy, it recognises that the bill seeks to introduce a range of measures explicitly designed to provide additional safeguards for the proper use and protection of levy payer information.

3.25 The committee is of the view that by enabling RDCs to better communicate with their levy payers, an efficient and securely managed levy payer system will bring significant gains to Australia's agricultural industries.

Recommendation 1

3.26 The committee recommends that the bill be passed.

Senator Barry O'Sullivan

Chair

19 Mr Jason Lucas, Department of Agriculture and Water Resources, *Proof Estimates Hansard*, 23 May 2018, p. 108.

20 Department of Agriculture and Water Resources, *Submission 5*, p. 3.

