



# Whistleblowers Australia

PO Box 129, Wollongong NSW 2500

**"All it needs for evil to flourish is  
for people of good will to do nothing"**

Edmund Burke

6 July 2018

Mr Phillip Moss AM  
Independent Reviewer  
Department of Agriculture and Water Resources (DAWR)  
GPO Box 858  
CANBERRA ACT 2601  
By email [LAE.Review@agriculture.gov.au](mailto:LAE.Review@agriculture.gov.au)

Dear sir,

## **Review of regulatory capability and culture of the Department of Agriculture and Water Resources in the regulation of live animal exports**

I have responded to the terms of reference, numbers 1, 2, 5, 6, 8 and 9 only.

I am not competent to know what if anything, can be done to harmonise and or simplify the legislative framework, which seems on my research quite complex.

**But what I can say** is that the *Federal nexus* between commercial profit and animal welfare 'triggers' needs to be abandoned, so that state law can deliver appropriate penalties for animal mistreatment and or cruelty.

I am not in a position to know how the department assesses and determines regulatory conditions appropriate to achieve ASEL and animal welfare standards, **other than to say** that the information made public over more than 33 years - since the 1985 senate select committee report regarding live sheep export deficiencies) - has consistently indicated that whatever it has done to date has either not worked or has not worked well enough. Animal cruelty remains endemic and the live trade in sheep is not commercially viable, with an Australian majority populations level of 'acceptable' animal welfare. It is not and never has been, a one-off.

More recently the Howard government suspended the middle eastern trade in sheep for 2 years due to scabby mouth infection in about 2002. In 2006 the cattle trade to Indonesia was suspended, pending reform. In 2011 the Gillard government suspended the cattle trade for 5 weeks, subject to the introduction of the Export Supply Chain Assurance System (ESCAS). The introduction of ESCAS has seen Saudi Arabia refuse to comply with ESCAS requirements, removing them from the Australia Live Export chain. It was watered down in 2013 by the Abbott and Turnbull Governments, which placed a greater emphasis on industry self-regulation. The amendments introduced to streamline the regulatory system, included removing the requirement for a Memorandum of Understanding (which set out the conditions under which the live trade can be

undertaken, including assurances that animals be unloaded on arrival, regardless of the results of an initial animal health inspection) to be in place with any new live export market and streamlining the export certification process to require that exporters submit ESCAS applications for each new export market rather than for each consignment and the introduction of new risk-based auditing requirements.

Each reform was driven by evidence of devastating animal mistreatment and cruelty, whistleblowers and media. This time around (2018) reform gained real traction, because the whistleblower was safely out of reach of government. Left with no alternative, the Minister did what should be common practice. He thanked Pakistani citizen, Fazal Ullah. This is as it should be and is a lesson for this inquiry.

The other lesson? Self regulation does not work. Money gets in the way. And appropriate, strong, well directed regulation is never just red tape.

Establishing an Inspector-General of Livestock Exports (IG) will assist in driving cultural change and better standards within the industry, **but only if the office is legally independent of government**. Party political interest has been shown to be the one constant in ensuring that animal cruelty remains endemic, as it is the only business model that is commercially viable. It has seen governments twist and turn trying to run and stand still at the same time, even as more animals died unnecessarily.

Which is why **the Inspector-General's role and responsibilities** must be legislated to stipulate that:

- animal welfare and whistleblower protection comes ahead of industry, economical and or political interests.
- independent observers / inspectors onboard each vessel are employed by the IG, to avoid common surrounds becoming a common purpose to cover up animal cruelty and mistreatment.
- whistleblowers and or activist groups must be legally entitled to disclose information directly to the IG *and or* the media without reprisals from non pragmatic legislation such as the Ag - Gag laws . The idea being that, the IG will voluntarily resist any temptation to play for time by demonising the whistleblower and instead, focus *only* on the job at hand - lest s/he be caught napping. That is, the law has to put the whistleblower safely out of the IG's *and* the minister's reach, to develop a strongly consultative relationship between IG and whistleblower based on common purpose.

Note the *DAWR should not have a role* in policing animal mistreatment & cruelty, because of its responsibility to assist industry. The IG should have that responsibility, to avoid industry capture based on the evidence to date.

If and when the live export trade is phased out, which seems more likely than not - given UN shipping regulations, new markets in chilled and frozen meat and growing public pressure - the IG's office could and should be adapted to serve a wider role in terms of animal welfare across all of industry and become a whistleblower resource.

The development and maintenance within the DAWR of an effective regulatory culture that delivers on animal welfare standards depends on legislating for the *science around animal welfare to be the policy priority* – so that it is and appears to be credibly and reliably, independent of political self interest.

The effectiveness of the DAWR's interaction with relevant State and Territory authorities (and applicable State and Territory legislation) hinges on harmonising state and federal laws *with animal care and welfare its priority*, not commercial viability as is the situation presently.

There is no ability for the DAWR to accurately assess community expectations and its cultural capacity to respond, including the manner in which the Department engages with key stakeholders, including the live animal exports industry and supply chain, animal welfare organisations, other regulators, community stakeholders and international trading partners and governments – while there is no legal requirement to *make the public's interest in the dignity and care of animals its priority*.

Thank you, for the opportunity to make a submission.

Cynthia Kardell

President

[ckardell@iprimus.com.au](mailto:ckardell@iprimus.com.au)

[wba@whistleblowers.org.au](mailto:wba@whistleblowers.org.au)