

7 November 2014

Australian Pork Limited
ABN: 83 092 783 278
PO Box 4746
KINGSTON ACT 2604

P 02 6285 2200
F 02 6285 2288

www.australianpork.com.au

Competition Policy Review Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Panel

COMPETITION POLICY REVIEW DRAFT REPORT

Australian Pork Limited (APL) welcomes to the opportunity to make a submission on the Competition Policy Review Draft Report (Draft Report). Moreover, APL supports the submission made by the National Farmers' Federation (NFF) on behalf of Australian agriculture.

APL's submission is confined to an area of specific interest to the Australian pork industry, i.e. secondary boycotts prohibition.

Australian Pork Limited (APL) is the national representative body for Australian pig producers. The Australian pork industry employs more than 20,000 people in Australia and contributes approximately \$2.8 billion in gross domestic product to the Australian economy. The pork industry contributes approximately 2.13% of total Australian farm production with roughly 1500 pig farmers producing around 4.8 million pigs annually. Moreover, the Australian pork industry is leading the world in animal welfare – having introduced a voluntary phase out of gestation stalls by 2017, with close to 70% of production already gestation stall free.

It is therefore disappointing when activist organisations target our industry by illegally raiding farms at night, using sophisticated technology, to produce misrepresentative videos which are hosted on overseas registered sites and then seek donations to continue these activities. Of even more concern is that these farm raids contravene strict biosecurity protocols in place to prevent the spread of endemic and exotic diseases. APL has evidence that proves that the videos and photos hosted on these websites are taken from different farms on the same or consecutive nights. Biosecurity best practice dictates at least three days and showers between such visits is required to maintain robust biosecurity protocols.

The sole purpose of this unauthorised access to biosecure premises by activists is to target the purchasing behaviour of consumers through an attempt towards public humiliation of the industry and of individual producers. These organisations promote veganism, for example Animals Australia¹ and Aussie Farms².

The Aussie Farms website's objective is "*fighting to end commercialised animal abuse and exploitation*"³. The website seeks donations to continue its actions, while noting that "*all footage is provided anonymously*"⁴. Aussie Farms suggests that individuals can take action by sharing the photos and images of the piggeries, and that contact details for piggeries are

¹ The Animals Australia website notes that it is not a "vegan organisation" despite stating "we will always identify that not consuming animal products is one of the most powerful ways an individual can help protect farmed animals from harm", even suggesting the meat free section of supermarkets to purchase "pig-free bacon and veggie roasts". Accessed online 4 November 2014 <http://www.animalsaustralia.org/about/animals-australia-agenda.php>.

² The Aussie Farms website has a direct link on its home page to VeganEasy.org. Accessed online 4 November 2014 <http://www.aussiefarms.org.au/>.

³ <http://www.aussiefarms.org.au/>

⁴ <http://www.aussiepigs.com/donate>

provided so they can be contacted directly. In addition, there is a petition, “report a piggery” section and “go vegan” section, i.e.

“the most important thing you can do for the pigs is to stop eating them - and while you're at it, cut out animal products altogether. You'll be doing the animals, the environment and your health a big favour. Every vegan saves around 100 lives a year.”⁵

Specifically, the website notes:

“64 BILLION land animals and 1-3 TRILLION water animals are killed for human consumption each year after lives of misery. Pigs aren't the only animals suffering - see our other Aussie Farms websites ([turkeys](#), [chickens](#), and more to come). The Australian dairy industry repeatedly impregnates female cows through artificial insemination, killing 700000 unwanted male calves a year in order to collect and sell the milk intended for them (like humans, cows can't lactate without having given birth). Similarly, male chicks in the egg industry are ground up alive at just a day old.”

These activists do not accept that the intensive management of pigs is in accordance with the law, because they do not agree with that law. Activists simply do not wish any animal to be farmed for any purpose – even free range farming practices attract criticism.

The actions of these activists are of major concern for a number of reasons:

- Nuisance reports by these activists to relevant authorities of animal cruelty and the consequent investigation takes up valuable resources when pig farmers are acting appropriately and within the law;
- Resources of our industry and our producers are being wasted by being directed towards dealing with the activists rather than other more worthy initiatives;
- The costs of implementing additional security to warn of intrusion are very significant;
- The risk of disease incursion as biosecurity protocols are ignored⁶ is enormous, and the costs of this to industry and governments a potential time bomb;
- Negative animal welfare impacts, including the death of pigs as a direct result of the actions of activists has been recorded on a number of occasions;
- Stress on pork producers and their employees has been widespread on affected farms; and
- The threat to human safety due to the potential of confrontation is a major concern, including a risk of loss of life (activist, producer or their workers).

Eleven biosecurity infringements have occurred to date, i.e. activists being on different pig farms on the same or consecutive nights rather than complying with the mandatory three days exclusion required for good biosecurity practice. However, “Aussie Farms” are now deleting all the metadata associated with the footage and still photography, making it impossible to further trace biosecurity infringements. Australian governments are likewise concerned about these activities due to the detrimental impact a disease incursion could have on animal welfare⁷, human food safety, and trade and market access. Moreover, governments are rightly concerned that an exotic disease outbreak could lead to significant fiscal implications for producers, industry and governments through obligations imposed under the Emergency Animal Disease Response Agreement (EADRA).

The ability for pork producers to take legal action against those perpetrators illegally entering premises is constrained by a number of factors:

- An inability to identify the perpetrators due to disguises being used – this affects a number of possible legal actions;

⁵ <http://www.aussiepigs.com/act>

⁶ There is evidence of 11 such occasions

⁷ Some of these raids have resulted in damage to infrastructure, along with injury and death of sows and piglets, harm through exposure to weather and pests, abortions and still births, and very possibly the spread of endemic disease.

- The expiry of the statute of limitations for trespass in many states by the time the farm invasions are discovered;
- The reluctance of police and public prosecutors to take action (e.g. for trespass); and
- The inability to quantitatively demonstrate economic impact through the purchasing behaviour of consumers or the costs of preparing for or derived from farm invasions.

Investigations by APL of the legal actions available to producers and industry shows that in many cases present options provide a limited prospect of success. Apart from anecdotal evidence of endemic disease outbreaks and in Victoria, infrastructure damage and pig/piglet deaths, there is little evidence of economic impact. Such legal investigations have included trespass and surveillance legislation.

Even if a successful legal action could be implemented, the remedies are unlikely to act as a significant deterrent to continued action from fanatical activists.

At present, activist organisations hide behind, and enjoy the benefits of, charity status. “Aussie Farms” has achieved NSW Charity status⁸ to continue its fundraising efforts to continue this egregious activity. More importantly, as they are not operating in trade or commerce, pork producers and APL are unable to refer their actions and conduct to the ACCC for investigation under Australia’s Competition law.

APL is of the opinion that these animal activist groups use targeted campaigns designed to hurt the producer, and to negatively influence the purchase of pork products by consumers. The aim of the “Aussie Farms” website is to close down pork producers’ farms through both pressure from activists (e.g. defamation) and nuisance investigations by making complaints to the relevant authorities when individual farms are “exposed”. If consumers in particular can be unfairly influenced, this will have a direct economic impact on pork producers who will have no option but to cease production. The website specifically notes whether the “exposed” pig farms and abattoirs are open or closed⁹.

APL is of the strong view that such organisations ought to be subject to the laws prohibiting false, misleading and deceptive conduct, particularly as their actions directly and openly seek to impede the lawful commercial activity of others. Moreover, the spread of both exotic and endemic disease will directly affect commercial activity of producers. The only way to rid a piggery of even an endemic disease is to depopulate, sterilise and repopulate. This means loss of production for several months. Such costs for an average size piggery can easily result in hundreds, if not millions, of dollars in losses. APL is aware of at least two raided piggeries that have had outbreaks of endemic disease following a farm raid, when they had been free of the relevant disease for several decades. While there are no diagnostic tests that can be used to determine cause and effect, the timing is highly suspect. Considering their motivations, it is not out of the question that activists might want to spread disease as a part of their suite of tactics.

Importantly, activists actions are jeopardising Australia’s trade and market access should diseases such as foot and mouth (FMD), and others that effect trade¹⁰, be spread through their actions.

While this may raise complex issues for the ACCC, APL recommends that such activities warrant strong attention by the ACCC under Australia’s Competition Laws.

Should you have any questions about this submission, please do not hesitate to contact me on 02 62708803 or via email Deb.Kerr@australianpork.com.au.

⁸ NSW Charity Licence Number CFN/23231

⁹ Only two pig farms owned by Wally Perenc are being prosecuted, but the prospects of a successful litigation is constrained by a reluctance by the activists to be open about who took the footage (chain of custody evidence). However, this case is still before the Yass Court, with next hearing date 17 November 2014.

¹⁰ For example, see trade impacts of outbreaks of African Swine Fever between Europe and Russia, and the impacts of trade arising from Porcine Epidemic Diarrhoea Virus in the USA.

Yours sincerely

A handwritten signature in black ink, appearing to read "Deb Kerr". The signature is written in a cursive, slightly slanted style.

DEBORAH KERR

General Manager, Policy