

Australian Dairy Industry

Represented by

Australian Dairy Farmers Ltd and

Dairy Australia Limited

Response to

Primary Industries Levies and Charges Collection Amendment Bill 2016

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Submission to: Senate Standing Committees on Rural and Regional Affairs and
Transport, rrat.sen@aph.gov.au

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About Australian Dairy Farmers Ltd

Australian Dairy Farmers (ADF) is the national advocacy body representing dairy farmers across the six dairying states. Our mission is to improve the profitability and sustainability of dairy farmers in Australia. ADF develops and co-ordinates policy and represents dairy farmers on national and international issues.

About Dairy Australia Ltd

Dairy Australia is the national services body for dairy farmers and the industry. Its role is to help farmers adapt to a changing operating environment, and achieve a profitable, sustainable dairy industry. As the industry's research and development corporation (RDC), it is the 'investment arm' of the industry, investing in projects that can't be done efficiently by individual farmers or companies.

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1. Summary

The dairy industry endorses the principle of the Commonwealth providing levy payer information to RDCs to enable effective and efficient communication, engagement and accountability between the RDC and levy payers. Regular and ongoing engagement with levy payers is a very important part of RDC planning, review, and delivery.

Dairy Australia, as one of two RDCs which has carried out regular levy polls, already largely operates under the arrangements proposed in the Bill.

The provisions of the Bill generally align with the Dairy Produce Act 1986 under which Dairy Australia currently operates. However, there is one area arising from the proposed arrangements which impose a more restrictive regime on Dairy Australia than is currently the case under the Dairy Produce Act and will in fact place Dairy Australia in a worse position in its ability to use levy payer information for the benefit of levy payers.

This submission highlights the particular restriction which would arise under the operation of new sections 27B(4) and (6). We do not support these new sections' constraints on Dairy Australia's disclosure of levy payer information.

We request that the Bill's wording be amended to enable secondary disclosure in certain circumstances e.g. third party assistance in AGM procedures, and thereby avoid introducing inefficiencies and restrictions in current operational activities.

2. The Australian dairy industry

The dairy industry is one of Australia's major rural industries. Based on farm gate value of production, it is ranked third behind the beef and wheat industries. There are approximately 6,100, mostly family owned farms, producing approximately 9.7 billion litres of milk annually¹.

The dairy industry is Australia's largest value added food industry, contributing \$13 billion at wholesale to the economy. It is estimated that the dairy industry directly employs approximately 40,000 Australians on farms and in factories, while more than 100,000 rely on dairy for their livelihood through related service industries.

The dairy industry is also one of Australia's leading agrifood industries in terms of adding value to Australia's primary produce. The estimated value of farm production is \$4.7 billion annually and total value added production (ex-factory) is \$13 billion. Much of this processing occurs in rural areas, thus generating significant employment and economic activity in country Australia.

The dairy industry exports approximately 65% of manufactured product (in milk equivalent terms), to over 100 countries and this makes Australia the fourth largest trader of dairy products on the world market.

Our export markets are concentrated in the Asia/East Asia regions, with Japan being our largest customer by value, followed by China, Indonesia, Singapore and Malaysia. Our major export products are cheese, milk powders, butter, milk, and other dairy ingredients such as casein and whey products.

Our industry has the potential to grow substantially over the next decade to meet growing domestic and international demand. But to realise this potential, it will be critical to continue dairy research, development and extension and drive innovation to support industry growth, increase productivity and profitability, and retain competitiveness with our key global competitors.

Both Dairy Australia and ADF support the rural research and development corporation (RDC) model. RDCs provide an effective model to direct funds towards projects that are industry driven and targeted at achieving real benefits for the dairy industry.

¹ Dairy Australia *Australian Dairy Industry In Focus 2015*

3. Background to this Bill

Both ADF and Dairy Australia engaged in the Committee's Inquiry during 2014-15 into "*Review of industry structures and systems governing the imposition of and disbursement of marketing and research and development levies in the agricultural sector*". Our organisations lodged submissions to the Inquiry and made appearances before the Committee hearing.

We note that this Bill has resulted from one of the recommendations from this Inquiry, with its primary purpose being to allow the Commonwealth to provide levy payer information to 13 rural RDCs who are not currently entitled to receive such information.

As the Committee will be aware Dairy Australia, along with Australian Wool Innovation, are the only RDCs who can currently receive levy payer information. As Dairy Australia already has a levy payer database and levy payer information through the Dairy Produce Act, this was not a matter the dairy industry provided particular comment on in its input to the Committee's 2014-15 Inquiry.

With Dairy Australia already largely operating under the arrangements proposed in the Bill, the dairy industry endorses the principle of the Commonwealth providing levy payer information to the RDC to enable effective and efficient communication, engagement and accountability between the RDC and levy payers. Regular and ongoing engagement with levy payers is essential, not just related to a levy poll but throughout the planning, review and delivery cycle. Engagement involves disseminating information to levy payers, but even more importantly, involves genuine dialogue and feedback using mechanisms suited to the levy payers.

4. Alignment between the Bill and the Dairy Produce Act 1986

As Dairy Australia is already operating under arrangements similar to this Bill, our focus in reviewing the Bill has been to check that the proposed provisions align and support our demonstrated practice and use of levy payer information.

While the provisions generally align, there are some aspects to highlight which are more restrictive than the current Dairy Produce Act and will actually place Dairy Australia in a worse position in its use of levy payer information for the benefit of levy payers.

Those parts of the Bill which we specifically support as being similar and/or clearer and/or improved compared to the current Dairy Produce Act include those clauses relating to provision of levy payer information to Dairy Australia (new section 27A(1)), and clauses relating to use of levy payer information (new sections 27B(1) and (2)).

That part of the Bill where we seek amendment relates to the new sections 27B(4) and 27B(6) which introduce limits on secondary disclosure which do not currently apply in Dairy Australia's use of levy payer information under the Dairy Produce Act. The introduction of these constraints on secondary disclosure will introduce inefficiencies and will not allow Dairy Australia to disclose levy payer information in circumstances it currently can do so for uses permitted under the Dairy Produce Act. We explain this further below.

5. Amendment to Bill to enable secondary disclosure for standard operations of RDCs

We are not supportive of the limits on secondary disclosure contained in the Bill as these introduce new restrictions on Dairy Australia's disclosure of levy payer information for standard operational purposes.

5.1 Concerns with section 27B(4)-(6)

Under these new sections, Dairy Australia will not be able to disclose levy payer information to any other person, except with the approval in writing of the Secretary of the Department. Information could not be disclosed, for example, to a share registry for the purposes of compiling voting entitlements for an AGM or to another third party for a legitimate operational purpose as currently permitted under

Section 8 of the Dairy Produce Act. For example, this might include a mailout of R&D outcomes to levy payers, which is more efficiently performed by a mailhouse than by Dairy Australia itself.

The Dairy Produce Act does not currently contain any specific prohibitions or restrictions on secondary disclosure of information. Subject always of course to constraints imposed by any other applicable legislation.

Proposed new section 27B(4) will restrict Dairy Australia disclosing levy payer information it receives pursuant to new section 27A(1): 'to any other person or body except with the approval, in writing, of the Secretary of the Department'. If the Secretary of the Department consents to disclosure to a person or body, that person or body may use the information only for an R&D activity, marketing activities, biosecurity purposes or National Residue Survey purposes (see proposed new section 27B(6)).

Under the new regime it would not be possible for Dairy Australia to disclose information to third parties without the consent of the Secretary of the Department. If consented to, a third party could then use the information only for one of the purposes permitted under new section 27B(6). There is no provision for the Secretary to permit additional uses not listed in section 27B(6), for example a share registry using the information for the purposes of determining voting entitlements for an AGM.

The combined operation of sections 27B(4) and (6) are a significant restriction on the ability for Dairy Australia to use specialist third parties to assist in operational matters.

5.2 Recommended amendment to section 27B(4) and (6)

It is recommended that Dairy Australia be permitted to disclose the information to third parties if the disclosure relates to one of the permitted uses of information under new section 27B(1). This should not require the consent of the Secretary. We seek amendment to section 27B(4) and (6) to reflect this.

We recommend section 27B of the Bill be amended as follows:

(4) A body covered by any paragraph of subsection 27A(2) must not disclose information given to it under subsection 27A(1) to any other person or body except:

- (a) in relation to use of the information for purposes under section 27B(1); or*
- (b) with the approval, in writing, of the Secretary.*

(6) If, in accordance with ~~an approval under~~ subsection (4), information is disclosed to a person or body, that person or body may use the information for:

- (a) a purpose listed in section 27B(1); or*
- (b) any other purpose approved by the Secretary.*
- ~~(a) an R&D activity (within the meaning of the Primary Industries Research and Development Act~~*
- ~~(b) marketing activities (within the meaning of the Primary Industries Research and Development Act 1989); or~~*
- ~~(c) biosecurity purposes; or~~*
- ~~(d) National Residue Survey purposes.~~*

If such an amendment is not accepted by the Commonwealth (and we strongly urge that it is) and all disclosures are required to have the consent of the Secretary of the Department, then, the section would need to be amended to provide for the uses to which the third person may put the information to be the same as the uses to which Dairy Australia could put the information as set out in section 27B(1).