

United Stockowners of Australia

75 ALDINGA ROAD
WILLUNGA SA 5172

“A Model for the Restructure of the Grass Fed Cattle production sector and for the facilitation and Introduction of a Trading Entity Identification scheme or device.”

Proposal by the United Stockowners of Australia. (June 2012)

- **Identification of Grass Fed Cattle Producers and more generally, Livestock Producers as a general device or scheme.**

Issue in the first instance:

Under the current regime transaction levies are collected by intermediaries and transferred to the Levies Collection Unit, however no ordinary grass fed producer identification is recorded for the purposes of formal identification.

While ordinary grass fed producer identification and the relevant levies have not ever been recorded together, the equity of this whole system, devoid of ordinary identification, will remain suspect and open to serious questions of rationality.

We believe that it is imperative that all livestock Trading Entities (producers) must be identified if Government is to continue to appropriate monies for the funding of any quasi-statutory authority and in-which Government wishes to be at arm's length of.

Proposal

We proposed that a ***National Livestock Producer Register*** be created, mirrored on the ***National Grower Register (NGR)*** currently in operation for all grain producer Trading Entity's transactions.

This would provide a single number and card access for all sales and purchase (transactions) for Trading Entities of grass fed livestock across Australia, to be held on a secure data base.

From this would be drawn the livestock producer identity and the grass fed livestock including but not limited to any transactional levy paid. Other advantages of this system that link Trading Entities to a single number include automated and secure payment for relevant livestock transfers and a fully integrated and vastly more efficient contractual arrangements system between vendor and purchaser.

The secured data for all Trading Entities (producers) can then be automatically converted to votes for any relevant ballot required for the livestock production Holding Corporation. Each grass fed livestock Trading Entity (producer) could be allocated voting entitlements however; it must be voluntary for the individual or Trading Entity to vote. Registration to obtain voting entitlements must remain a voluntary commitment.

For the purposes of cost benefit; the existing NGR data base probably already includes many grass fed livestock Trading Entities (producers) who are also registered grain Trading Entities (producers) which under a simple transfer of information to a **National Livestock Producer Register** potentially creating substantial savings in implementation of the *Livestock Producer Register*.

Given the expertise **NGR Limited** has in this field we therefore propose that **NGR Limited** be approached to investigate the feasibility of creating a **National Livestock Producer Register** identically mirrored against their **National Grower Register** system currently in operation for the grains sector.

Timing for introduction of a **National Livestock Producer Register** should be limited to 8 to 12 months.

- **Establishment of a Privatised (unnamed) Corporation (Holding Co) for expenditure in Promotional and of an R & D 'Tendering' process of a Grass Fed Cattle Levy.**

Issue:

The current corporate structure of *Meat & Livestock Australia Limited* (MLA) is registered as an *Australian Public Company limited by Guarantee* citing a 'Membership'. This is in the same corporate type that establishes a Tennis, Golf or Cricket club where for the price of a subscription fee, regardless of level of financial commitment by any one or more individuals, membership entitlements are all equal.

On the other hand, membership subscription in the MLA Ltd 'Club' is determined by the prescription of a 'Tax' and the amount of individual membership entitlement in the club is concurrent with the amount of 'Tax' an individual member pays.

Given that MLA Ltd has the corporate structure of a 'Club' of members yet, has the operational characteristics of an *Australian Public Company limited by 'Shares'* and as an unconventional corporation registered under the *Corporations Act 2001*, MLA Ltd as an *Australian Public Company limited by Guarantee* is as farcical as it is obnoxious.

This is to say that the MLA Ltd structure is easily led by a prescribed lack of transparency, a prescribed lack of democracy and severe failing in grass fed producer participation and support and in which has been strangely subjugated by a powerful and domineering meat processing and their registered feedlots sector that is severely interfering in the business, management and independent activities of the grass fed cattle producer.

The dubious, if not downright ugly, vote allocation system deployed by the MLA Ltd structure has led, and is still leading, to considerable unease amongst many grass fed cattle producers who have been caught by force of law to be combative cohabitants in a single, yet breathtakingly overweight and flawed, 'Industry' corporate structure.

In effect, the legislative allowance embedded in the MLA Ltd corporate structure that is by design to be so completely dominated by the meat processing and their registered feedlot sector has led to a severe disconnection and ambivalence in the reasonable objectives of what is fundamentally described and defined as a grass fed cattle producer operating a business under a free enterprise system.

In relation to acceptance of a monopoly control mechanism as established in the corporate structure of MLA Ltd and by legislative force driving vertical integration onto, particularly and specifically the independent and unaligned grass fed cattle producers who make up by far the vast majority of the grass fed cattle production sector, has by and large divided the grass fed cattle production sector into three (3) distinct groups:

- 1) A group of grass fed producers that display open hostility towards the current MLA structure and want MLA wound-up and replaced with no structure at all.
- 2) A group of grass fed producers that display complete dissatisfaction with the current MLA structure and want MLA wound-up yet must be replaced with some-sort of an openly transparent, unequivocally democratic and directly relevant corporate structure.
- 3) A group of grass fed producers that are 'Rusted On' proponents of the current MLA structure and want no change at all. (note – this group is usually aligned with the vehemently controlling yet a statistical minority category made up of *State Farming organisations* and their members)

We believe that the reality is, that group 1) – 'no structure at all' – is unachievable, and group 3) – 'no structural change from current status quo' – is counter intuitive and divisive and increasingly irrelevant to the majority that are the non-aligned demographic.

It is with little doubt that any device or scheme such as the one that establishes a structure that is a failed nationalised integrated melting pot of competing adversaries, legislated as the MLA Ltd structure, a structure that is a relic of the past and is a structure that is in urgent need of reform; reform that should reflect the simplified realities of the digital era that is here in high speed communication and the information age, making grass fed producer consent and agreement through a vastly improved digital process based on producer identification as the new rule, and not the exception, or an excuse for failure to gain essential consent and agreement.

Proposal

We propose that grass fed cattle and their producers be removed from the structural arrangements as garnered from the *Australian Meat & Live-Stock Industry Act* and *Regulations*, the *Cattle Transaction levy at Schedule 3 of the Primary Industries (Excise) Levies Act*, and be retired from their obligations as garnered from the 'Industry'

Memorandum of Understanding (MoU), the Meat Industry Strategic Plan (MSIP), the Red Meat Advisory Council (RMAC), the Meat & Livestock Australia Limited Constitution and all of its related entities.

Subject to legislative amendments and transitional provisions, we propose that a new Corporate Body Limited by **Shares (Unnamed - Holding Co)** be adopted and as mirrored in operation to that of the *Wool Services Privatisation Act 2000 (C'wth)* subject to changed *Definitions*, changes to specific *Commodity Contextual Terminology* and adoption of a secured private sector operated *Trading Entity Identification* data-base regime for grass fed cattle transactional purposes similar to that of the Grains sector *Trading Entity Identification* or *National Grower Registration (NGR)* system.

(Definition) – “*Grass Fed Cattle*” – includes any Cattle that are bred or raised or otherwise grazed on native or non-native vegetation for the purposes of a transaction and does not include:

- a) Cattle that are in, of or from a Registered Feedlot that are immediately or previously owned or, in any other way transferred to, and are slaughtered by a Processor; and
- b) Dairy Cattle; and
- c) Cattle in the ownership of a Cattle Processing Plant. (note - a “**Processor**” as defined in s4 *Primary Industries levies & Charges Collection Act*)

(Definition) – “*Grass Fed Cattle Producer*” includes any Trading Entity that breeds or raises or otherwise grazes Cattle on native or non-native vegetation for the purposes of a transaction and does not include:

- a) A Registered Feedlot Proprietor; and (note – further definition required to reflect related entity grass fed enterprise)
- b) A Dairy Cattle Proprietor; and (note – further definition required to reflect related entity grass fed enterprise)
- c) A Cattle Processing Plant Proprietor. (note – further definition required to reflect related entity grass fed enterprise)

This will require a legislative framework with a long title, perhaps, of *Grass Fed Cattle Services Privatisation Act 20?? (C'wth)* to create the new Australian Public Corporate Body Limited by **Shares (Unnamed - Holding Co)**.

Any assets held of grass fed cattle producers by MLA Ltd or adjunct corporations should be transferred to the new unnamed – Holding Co under the Privatised Services Act.

The ‘Share Structure’ and the ‘Issue of Shares’ of the new body corporate would be a floating, or fluid structure automatically determined as of the end of each financial year for each voluntarily registered *Trading Entity* on the basis of one (1) issued share for “X” amount of levy paid and consistent with the enabling share structure as observed in *Australian Wool Innovation limited*. There should be no ‘Entitlement’ sliding scale in operation as this would erode the corporate validity under the *Corporations Act*, of an *Australian Public Company limited by Shares*.

Concurrent with *Trading Entity identification* following a period of transition, an *'Automatic'* list of eligible grass fed cattle producers and the individual issue of floating Shares for the purpose of engaging and exercising automatic *'Voting Entitlements'* should be a matter of priority in the first instance.

The first *'Board of Directors'* should be appointed by the Minister for a period of not more than 12 months or until the first return date is established following the period of transition.

At the end of the 12 Month period or the first return date there should be a full *'Board of Directors'* retirement with the current board eligible for election along with any other nominations to fill a full *'Board of Directors'* positions.

The Board of Directors are to made up in equal numbers representing *'Northern grass fed cattle producers'* and *'Southern grass fed cattle producers'* to reflect the differing geographical and management separation and the variance in cattle breeds of grass fed cattle enterprises.

(Note – *attribution to either Northern or Southern is a matter for a divisional determination however, we suggest that all of Queensland, all of the Northern Territory and the Northern half of Western Australia should be determined as Northern and all of NSW, all of Victoria, all of South Australia and all of Tasmania should be determined as Southern.*)

After the first return date ballot, and at every AGM thereon after held every 12 Months, half the *'Board of Directors'*, in equal numbers representing Northern and Southern producers, should retire on a rotational basis and should be eligible for re-election along with any other nominations to fill those positions.

A *'Board of Directors'* should be *'Directly'* elected by the *'Shareholders'* following transitional provisions and on the first return date consistent with, and as observed in, the establishment of *Australian Wool Innovation limited*.

Once elected, the Board of Directors are to hold a ballot to elect a *'Chairman of the Board'*.

Any individual or grouping of individuals (ticket) representing either Northern grass fed cattle producers, or Southern grass fed cattle producers, may nominate and advance themselves for election to the Board. There should be no selection criteria for candidates other than the selection criteria as afforded by grass fed cattle producers as expressed through the election process.

- **Objects of the new privatised Grass Fed Cattle Services Corporation.**

We propose that the functions of the new *privatised Grass Fed Cattle Services Corporation* should be limited and only focused on the promotion, both nationally and internationally, of the grass fed cattle sector and to oversee *'Tenders'* for R & D for and on behalf of the grass fed cattle sector.

The 'Objects' of the Corporation are to be full consistent with the principles as observed in the *Wool Services Privatisation Act 2000 (C'wth)* and, this may include the oversight and issue of 'Tenders' to third party's, both nationally and internationally, to perform the 'Objects' of the Corporation, which include overseeing 'Tenders' for R & D for and on behalf of the grass fed cattle sector.

- **Funding of the new privatised Grass Fed Cattle Services Corporation.**

(note – this will require legislative amendments to the *Primary Industries (Excise) Levies Act* and the *Primary Industries levies & Charges Collection Act*)

We propose that Grass Fed Cattle trading entities be removed from the authority of the "Cattle Transaction" levy at *Schedule 3 of the Primary Industries (Excise) Levies Act* and that a new "Schedule" of Levy be introduced within the Act titled the "Grass Fed Cattle Transaction" levy for the purposes of funding the new *privatised Grass Fed Cattle Services Corporation*.

All other adjunct "levies" that are directly or indirectly associated with, and as a result of, the current *Schedule 3 of the Primary Industries (Excise) Levies Act* including but not limited to the *National Residue Survey Levy* and any animal health and welfare prescriptions are to be treated as a separate line item on all grass fed cattle transactions and are not to be in any way associated with, or as a percentage of, the funding arrangements for the new *privatised Grass Fed Cattle Services Corporation*.

It is important to note that these funding arrangements must be concurrent with a "List" of identified grass fed cattle trading entities as observed with the principles as stated in the *Wool Services Privatisation Act 2000 (C'wth)*.

Rate of Levy.

We propose that, and consistent with the principles as stated in the *Wool Services Privatisation Act 2000 (C'wth)*, in the transitional period and until the first return date that the rate of levy be fixed at a rate of \$4.00 per head of grass fed cattle transacted.

At the first return date and every three (3) years thereafter the Shareholders will be given the opportunity, by way of ballot, to fix the rate of levy based on a sliding scale commencing at an option of zero dollars (\$0.00) per head of grass fed cattle transacted to maximum of "X" dollars per head of grass fed cattle transacted.

The zero dollars (\$0.00) per head of grass fed cattle transacted option is important given that it will be entirely left in Shareholders hands to democratically decide, and under the freedom to choose, whether or not they wish to continue funding, or to de-fund, the *privatised Grass Fed Cattle Services Corporation* depending on any number of reasoned performance indicators. It will be their (shareholders) choice, and their choice alone thus removing any need for Government intervention or administrative decision other than those laid out in the *Corporations Act* or the *Trade Practises Act*.

- **Peak National Body(s) for advocacy, advancement and oversight.**

Proposal:

We propose that the Minister may declare one or more bodies to be “*Peak National Body(s)*” to oversight the affairs of the new *privatised Grass Fed Cattle Services Corporation* in the expenditure of what is essentially a “Tax” for and on behalf of the Government.

We think that, and in the best interests of aligned and non-aligned grass fed cattle producers that two (2) Peak National Bodies be declared for this purpose; one representing the interests of an aligned grass fed cattle producer membership (SFO’s) and, the second representing the interests of non-aligned (independent) grass fed cattle membership, unless or until a truly cross-representational single Peak National Body can be formed.

We propose that any assets held for an on behalf of the current representative Peak National Body by the RMAC for grass fed cattle producers in the *Net Industry Reserve Fund* and any other asset should be transferred and granted (*subject to the recent High Court decision and may require specific legislation*), and if necessary divided equally, between any declared Peak National body(s) for grass fed cattle producers as start-up funding in the (their) role in advocacy, advancement and oversight for and on behalf of grass fed cattle producers and any advice or request to, or from, the Minister of the day.

All other funding requirements of any declared representative Peak National Body(s) should be a matter for them and their private membership and may include, concurrent with the *National Livestock Producer Register*, a provision to enable a *Voluntary “Opt-in”* membership subscription deducted directly from grass fed cattle account transactions for membership to any declared National Peak Body(s).

The Corporate structure for any declared grass fed cattle Peak National Body(s) should be a matter for them and their membership and is irrelevant to this proposal.

However, USA would strenuously be opposed to any proposed statutory or otherwise compulsory levy funding of any National Peak Body(s) on the grounds of Constitutional validity and the injustice incurred by offending the principles of natural justice. This is more than a matter of democracy where (50.1% to 49.9%) would prevail; this is matter of a forced financial, if not personal, affiliation to an advocacy organisation without an individual’s right of consent and should be repugnant even to the mildest of intellects.

There can be no mandate for any Government to statutorily fund through inequitable legislation, and being public monies from the Consolidated Revenue Fund, any advocacy organisation. We strongly believe that this would in fact be in excess of both Parliamentary powers and the powers of the Executive unless, or until, an additional oversight organisation is declared by the Minister to oversee the overseer. And, so it goes on.

Conclusion:

United Stockowners of Australia would like to thank the Minister and Departmental staff for his, and their consideration of this proposal. If we can be of any assistance in expanding on this proposal could the Minister or a member of his staff please contact United Stockowners of Australia.

Again, we thank the Minister for his time.

(Please note – this proposal and any necessary legislative amendments only refers to the grass fed cattle sector and the producers therein. All other livestock sectors entrenched under the Australian Meat & Live-Stock Industry Act and Regulations, the Primary Industries (Excise) Levies Act – The Schedules and the Primary Industries levies & Charges Collection Act are to come to their own arrangements with their own relevant constituencies in relation to any proposed reforms.)

(This document has been prepared for and on behalf of the United Stockowners of Australia)

John W Michelmore

Mr John Michelmore (for and on behalf of United Stockowners of Australia)

