

22 December 2020

Melissa McEwen
Principal Regulatory Officer
Animal Welfare and Live Animal Exports
Department of Agriculture

Via: haveyoursay.awe.gov.au

Dear Melissa

Exposure Draft Export Control (Animals) Rules 2020

Thank you for the opportunity to comment on the Export Control (Animals) Rules 2020 Exposure Draft (Draft Rules).

We believe the additional powers for suspending and revoking approved arrangements, permits, and licences proposed in the Draft Rules are positive and will afford the Department greater avenues for holding exporters to account and instilling a stronger culture of compliance within the industry.

We are also pleased to see that ensuring the health and welfare of livestock is a condition that runs throughout the Draft Rules' various powers and approvals. We hope that this focus will be enforced strictly to encourage a more risk-averse approach by both exporters and regulators.

We have also reviewed the proposed rules for recognising third-party providers of assurance services and while we would like to see further detail on key elements of the proposed arrangements, we are pleased to see a focus on transparency and independence reflected in the Draft Rules, and overall, we believe the proposed arrangements may strengthen current assurance systems.

Specifically, we are pleased to see that current ESCAS requirements remain in place and that the Department maintains authority for key regulatory decisions and functions such as the approval of new supply chains, the investigation of non-compliance, and the imposition of sanctions for non-compliance. As we have consistently maintained throughout the development of LGAP, we believe there is a legitimate role for third-party providers to play in undertaking auditing functions but not in undertaking core areas of regulatory decision-making. We are therefore pleased to see that the formal recognition of third-party providers is limited to auditing and reporting functions under rule 6-32(4)(f).

We also support the reporting and publishing requirements for third party providers outlined in 5-18 and 5-19 of the Draft Rules. However, while the proposed Rules include periodic reporting obligations, they do not currently address immediate reporting requirements in the event that significant incidents of non-compliance and animal welfare

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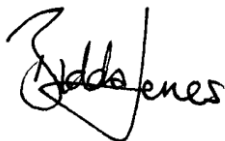
breaches are detected by the provider. We would like to see such reporting obligations built into the Rules.

Elements that we would like to receive further detail on include the meaning of independence from relevant entities and exporters under rules 5-10 and 5-12(2)(a). As we have noted before, AniMark's founding members include the Australian Livestock Export Corporation and the Australian Livestock Exporters Council. Given that these founding members are governed by representatives of Australia's largest live export companies, we do not believe that AniMark can be regarded as independent of the commercial interests of the trade. We would therefore like to better understand the meaning of the term independence in this context and whether further safeguards and requirements are necessary to ensure independence in the operation of third-party assurance providers. We would also like to receive further detail on the meaning of transparency and integrity under rule 5-12(2)(b).

Subject to this, we believe the Draft Rules have the potential to significantly strengthen the current framework. However, rules are only as good as their enforcement. We hope that the passage of the new Animals Rules will coincide with a revised enforcement policy. The 2012 Guideline for the Management of Non-compliance is in need of review to ensure that proportionate and escalating penalties, which take into account the cumulative non-compliance record of exporters, are applied so that the objective of the new Rules in ensuring animal health and welfare is achieved.

We trust our comments have been of assistance. We look forward to being consulted on any further developments in the drafting of the Rules and any policies underpinning them.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Bidha Jones', written in a cursive style.

Dr Bidha Jones
Chief Science and Strategy Officer
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