

2 December 2022

Mr Ross Carter
Inspector-General of Live Animal Exports
Department of Agriculture, Fisheries and Forestry
GPO Box 858
CANBERRA ACT 2601

Via: 'Have Your Say' website

Dear Ross

Review of communication and engagement in livestock export regulation

Thank you for the opportunity to comment on your review of the effectiveness and efficiency of the Department of Agriculture, Fisheries and Forestry's (the Department) approach to stakeholder engagement and communication (the review).

We represent six of Australia's leading animal protection organisations with a combined supporter base of over 2 million people. Our members include Animals Australia, World Animal Protection Australia, Humane Society International Australia, FOUR PAWS Australia, Compassion in World Farming, and Voiceless, the animal protection institute. In addition to our core members, this submission is also supported by Animals Angels and Stop Live Exports.

While we have found the Department to be relatively responsive to personal communications and general inquiries, we have long held concerns about the Department's general approach to information disclosure relating to the trade. Over the past decade in particular, we have noted a distinct tendency for Department's approach to information disclosure to be influenced by a desire to protect the reputation of the trade at the expense of regulatory transparency and impartiality. This has manifested in the form of systematic minimisation of animal welfare issues and incidents and in the complete refusal to release certain information, often based on tenuous reasoning.

A telling case in point was the Department's rejection of RSPCA Australia's Freedom of Information application for access to video footage taken by an Independent Observer in 2018. The below reasons for refusing the application made it clear that protecting the reputation of the trade was a key consideration influencing the Department's decision:

It is possible that the footage would be selectively used by those who are opposed to the industry to lobby for the banning of the trade, to the commercial detriment of the organisations involved in the subject voyage. In particular, the footage is capable of being manipulated without adequate explanation of the overall animal welfare outcomes on the subject voyage.¹

This matter is currently awaiting determination before the Information Commissioner. The Department must take a more objective approach to the disclosure of information relating to the trade, including the manner in which such information is framed and described. Frank and fearless advice and reporting are key to the integrity of the public service. The Department must improve the transparency and impartiality of its communications if it is to build the trust and confidence of the community in its approach to regulating the live export trade.

We provide the following specific comments on key components of the Department's communication and engagement to further elucidate this general point.

Stakeholder Communication and Engagement Policy – Live Animal Exports

The Department's live animal exports Stakeholder Community and Engagement Policy (the Engagement Policy) provides limited detail with respect to communication and engagement with animal welfare stakeholders. The 'Stakeholder Engagement Circumstances and Platforms' table in the appendix fails to identify animal welfare groups as a distinct stakeholder audience in any of the proposed circumstances. The Engagement Policy should be amended to provide greater consideration of circumstances in which animal welfare stakeholders are consulted and engaged.

Live Export Animal Welfare Advisory Group

The Live Export Animal Welfare Advisory Group (LEAWAG) was established in 2018 following the Moss Review, which recommended that "the department establish appropriate forums to consult with stakeholders and assess community expectations."² Three animal welfare organisations are currently represented on LEAWAG, including RSPCA Australia, Animals Australia, and the Australian Alliance for Animals.

While we value the opportunity to attend and participate in LEAWAG meetings, we have noted that LEAWAG functions less as an advisory group and more as a forum for the Department to provide updates on their activities. The information is largely one-way and there is limited opportunity to provide substantive advice on Departmental policy, processes and regulatory activities, or to deliberate with other stakeholders on matters pertinent to animal welfare and the trade.

¹ As reported in Latika Bourke, 'Department of Agriculture refuses to release live export footage', *Sydney Morning Herald*, 31 August 2019 <<https://www.smh.com.au/politics/federal/departments-of-agriculture-refuses-to-release-live-export-footage-20190829-p52lt4.html>>

² Philip Moss, *Review of the Regulatory Capability and Culture of the Department of Agriculture and Water Resources in the Regulation of Live Animal Exports*, (Report, 2018) rec 30.

We would like to see the Department change its approach to LEAWAG meetings to allow stakeholders greater opportunity to deliberate and to provide advice. This would include circulating draft papers relating to matters to be discussed so that stakeholders can provide comment and feedback, providing sufficient time for stakeholders to discuss issues and provide advice, providing a record of such deliberations and advice, and factoring such advice into future Departmental policy and practice.

Reporting and engagement on compliance activities

Independent Observer reports

We remain concerned about the way the Department processes and summarises reports of Independent Observers. Comparative analysis between full observer reports (obtained under FOI) and relevant summary reports produced by the Department often reveals factual discrepancies and high levels of sanitisation regarding incidents and onboard conditions.

While we note the desire for consistency in format and terminology, the Department must ensure adopted terminology accurately reflects the full observer reports and the different impacts on animal welfare reported. We have also noted that the adoption of form terminology, particularly around concluding remarks suggesting the voyage experience no animal welfare issues, can often contradict the data and information presented in the summary report itself.

Often summary observer reports will include images of animals at high stocking densities with heavy faecal contamination with an accompanying note of “no issues identified”. This can negatively impact confidence in the Department as a regulator as it gives the impression of a laissez faire attitude to assessing welfare impacts and conditions. Proforma terminology must be adapted and customised where necessary to ensure accurate representation of observer data and welfare conditions.

The Department should consult with animal welfare groups and scientists on the use of descriptors and terminology in summary observer reports or, to overcome these issues entirely, publish the full observer reports subject to redacting personal identifiers to protect privacy.

We are also concerned about the current process of consulting with exporters on the production of the summary reports. We understand the need for procedural fairness but providing exporters with an opportunity to comment on, edit and amend summary report descriptions and conclusions risks undermining the independence of the Independent Observer program. This process must be carefully managed to ensure safeguards are in place to protect the integrity of the observer reports.

Breaches of ASEL

There is a paucity of information relating to investigations of ASEL breaches. We question why there is such disparity between reporting on ESCAS breaches compared to those relating to ASEL considering they are equally critical components of the live export regulatory regime.

We recommend the Department treats breaches of the ASEL in the same way as it does breaches of ESCAS and starts reporting on its investigations and actions taken in response.

ESCAS investigations

As the organisation with the most experience in making ESCAS, we defer to and support the comments of Animals Australia on this critical issue. While we note the inherent jurisdictional complexities associated with investigating breaches of ESCAS, the current approach of relying heavily on the responsible exporter for information, verification of complaints and resolution of incidents is highly problematic. There is currently significant information asymmetry between the regulator and the exporters under investigation for ESCAS breaches. The Department needs to identify and invest in mechanisms to independently verify information received to mitigate such asymmetries and reduce reliance on those under investigation for information.

We would also like to reiterate the need for more timely responses to ESCAS investigations and reporting. There are ESCAS complaints noted on the Department's website from over two years ago without response. This delay is unacceptable, particularly as exporters are generally permitted to continue exporting to markets subject to the complaints while the investigation continues. This increases risks of continued animal welfare breaches and of undermining the ESCAS regime.

Significant regulatory decisions

We support the Department's recently adopted approach of publishing reasons for 'significant regulatory decisions'.³ This promotes transparency and provides valuable information to stakeholders about the Department's regulatory approach. We would like to see the Department continue and expand on this practice.

We trust this submission has been of assistance in conveying our position and we look forward to reviewing your report in due course. Please do not hesitate to contact us should you require further information on the matters raised.

Yours sincerely,



Dr Jed Goodfellow
Co-Director
Australian Alliance for Animals

³ See, Department of Agriculture, Fisheries and Forestry, 'Published Regulatory Decisions' 15 July 2022 <<https://www.agriculture.gov.au/biosecurity-trade/export/controlled-goods/live-animals/livestock/regulatory-framework/published-regulatory-decisions>>