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15 June 2023

Phillip Glyde
Chair
Independent Panel for the phase out of live sheep exports by sea
Department of Agriculture, Fisheries and Forestry
70 Northbourne Avenue
Canberra ACT 2601

Dear Mr Glyde

Re: Submission to independent panel for phase out of live sheep exports by sea

Thank you for the opportunity to comment on the Independent Panel's consultation paper on the phase out of live sheep exports by sea (**the phase out**).

The Australian Competition and Consumer Commission (**ACCC**) is an independent Commonwealth statutory agency. The ACCC is responsible for:

- enforcing compliance with the competition, consumer protection, fair trading and product safety provisions of the *Competition and Consumer Act 2010 (CCA)*
- regulating national infrastructure, and
- undertaking market studies

for the benefit of consumers, businesses and the Australian community.

The ACCC does not have a specific role in relation to livestock exports from Australia and as such we do not propose to provide any comments on the policy drivers of the phase out or its specific timing. The purpose of the ACCC's submission is to assist the Panel to identify any competition and fair trading issues that may arise because of the phase out.

Background

Australia is a major producer of sheep, with the national flock estimated to consist of around 79 million sheep in 2023.

Since 2018, WA has accounted for more than 93% of all live sheep exports from Australia. More recently, WA has accounted for 100% of live sheep exported from Australia.¹ Accordingly, WA producers are most likely to be directly affected by the phase out.

¹ DPIRD, [Volume of live sheep exported from WA and Australia](#), accessed 26 May 2023.

Impact, adjustments and opportunities

While live sheep exports represent a relatively small component of the Western Australian sheep industry, the impact of the phase out on WA sheep producers and related industries may be significant.

Alternatives to live exports by sea

While the phase out is limited to live sheep exports by sea, the ACCC considers that live exports by air are unlikely to represent a viable alternative to sea exports.

Over the past five years, exports by air represented a small proportion of all live sheep exports – less than 3% of all live sheep exports in 2021-22:²

	2017-18	2018-19	2019-20	2020-21	2021-22
Live sheep exports by sea and air	1,934,904	1,009,795	996,690	608,144	478,781
Live sheep exports by air	36,370	36,816	40,790	32,357	14,117

Loss of live sheep export markets

Middle Eastern nations represent the key export markets for live sheep from Australia, with Kuwait, the United Arab Emirates, Israel, Oman and Jordan accounting for 96% of Australia's live sheep exports by sea.³

While Australian exporters currently enjoy a number of competitive advantages due to the high quality of Australian sheep and the absence of disease, it is not clear that these markets would be willing to shift away from live sheep imports to other products such as sheep meat. For example, Kuwait, Australia's largest market for live sheep exports, has publicly stated it does not intend to shift away from live sheep imports for religious, cultural and social reasons.⁴ This indicates that sheep meat exports may not be directly substitutable in Australia's live export markets.

Accordingly, sheep producers, exporters or the Government would need to invest resources in expanding existing sheep meat export markets or identify new markets to address the downsides associated with losing access to our current live sheep export markets.

Potential reduction in competition

The loss of access to live export markets and the potential reduction in competition due to fewer buyers of WA sheep may lead to poorer outcomes for sheep producers by increasing the market power of remaining buyers in a relatively concentrated market. This increases the risks of businesses using unfair trading practices in their dealings with sheep producers and the risks of anti-competitive behaviour through the supply chain.

In the Cattle and Beef market study final report (2017), the ACCC observed that livestock agents may represent multiple buyers and sellers, or both buyers and sellers, in a single transaction. In certain circumstances, this may create a conflict of interest for the agent and

² DAFF, [Live animal export statistics](#), accessed 26 May 2023.

³ DPIRD, [The Western Australian sheep and wool industries](#), accessed 26 May 2023.

⁴ Australian Financial Review, Brad Thompson, [Kuwait says live sheep trade vital as farmers turn on Albanese](#), accessed 26 May 2023.

could potentially suppress competition between buyers and sellers which may lead to artificial prices for livestock.⁵ These risks may be heightened by the phase out if this leads to further consolidation within the livestock agency sector. The ACCC understands there are currently no licencing requirements for livestock agents in WA, unlike some other jurisdictions.

The market study also identified the reduction in competition that arises when a single commission buyer acts on behalf of multiple meat processors or exporters in purchasing livestock at saleyards. The reduction in potential purchasers at livestock sales (due to the removal of live export buyers) will be likely to further exacerbate the reduced level of competition arising from the operation of commission buyers.

The ACCC considers these risks could be partially mitigated by ensuring agents receive appropriate guidance on how to manage potential conflicts of interest and education about their obligations under the CCA. The Cattle and Beef market study also recommended the establishment of a buyers register at saleyards, that was publicly available and included details of commission buyers and livestock agents intending to bid at the sale, and the principals that those buyers would be acting for. The ACCC believes such transparency measures may also be appropriate at WA livestock saleyards given the future reduction in competition that will arise from the cessation of live sheep exports.

WA sheep meat processing capacity and price risks

Data available from the Western Australian Meat Industry Authority (**WAMIA**) indicates that WA processed over 1.1 million sheep and 2.5 million lambs in 2021-22.⁶

While there is limited publicly available data on current domestic processing capacity, the phase out may increase demand for sheep processing facilities in WA. If domestic markets are flooded with excess sheep, this would tend to impose downward pressure on farmgate prices and negatively impact Australian sheep producers.

The ACCC suggests that the Panel should seek further information about sheep processing capacity in WA and whether the phase out is likely to create an oversupply of sheep in the short to medium term. Depending on the outcome of those inquiries, it is possible that these risks could be mitigated through the adoption of a longer transition period to allow more time for sheep producers to turnoff sheep and adjust to changing market conditions or identify new or expanded markets for Australian sheep meat exports.

Risks of collusion

If the Panel and the Government intends to facilitate discussions between competitors, care should be taken to ensure this does not increase the risk of collusive behaviour. For example, the transition may involve significant discussions or agreements in relation to processing outputs or the allocation of capacity across competitors. Certain kinds of agreements between competitors are cartels and represent a *per se* breach of competition laws – meaning they are against the law regardless of their effect on competition.

If the phase out necessitates competitors entering anti-competitive arrangements businesses can apply to the ACCC for an exemption (prior to putting them into effect) where they will need to establish that the public benefit of the conduct outweighs the likely public harm.

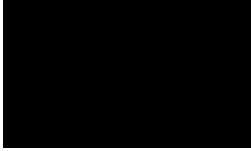
⁵ ACCC, [Cattle and Beef Market Study Final Report \(2017\)](#), pp 85-87, accessed 30 May 2023.

⁶ WAMIA, [Annual Report 2021-2022](#), accessed 26 May 2023.

Conclusion

We thank the Panel for the opportunity to contribute to this consultation and encourage you to contact the ACCC if you have any further questions.

Yours sincerely



Mick Keogh
Deputy Chair