

## Chapter 2

### Issues

2.1 The outbreak of equine influenza in August 2007 was crippling for the horse industry. Once it was confirmed that Equine Influenza (EI) had escaped into the wider horse community, horse movement was strictly controlled, resulting in a virtual standstill for many sectors of both the commercial and recreational horse community. Racing and other sporting associations were forced to cancel meetings, resulting in significant financial loss for both horse owners and related businesses. The Australian Bureau of Agriculture and Resource Economics estimated that the costs resulting from the EI outbreak during the initial response involving containment and eradication reached \$560,000 a day for disease control and \$3.35 million a day in forgone income in equine businesses, including racing, farming and recreational enterprises.<sup>1</sup>

2.2 Under the Emergency Animal Disease Response Agreement (EADRA), the cost of responding to emergency disease outbreaks is shared by the affected parties. Under this agreement, Government agrees to underwrite the costs of an emergency response to a disease outbreak. Many livestock industries are party to EADRA, with the agreement providing certainty in the event of a future outbreak of disease. The horse industry however, is not a signatory to EADRA. The proposed legislation would allow this to occur, through the introduction a horse levy at point of registration. The committee recognises the important role of EADRA in other livestock industries, and acknowledges the benefits offered to the horse community in becoming party to the agreement.

2.3 The committee recognises the concern of community recreational associations like pony clubs over the issue of levies, but points out that owners of horses engaged in these and similar organisations will not be liable to pay a levy. Registration of horses is a matter for states and territories, and laws vary considerably. The concern of some recreational associations that they will be turned into levy collection agencies needs to be answered in light of their experience. The bill provides for organisations to be so identified or designated, but in the absence of regulations it is not possible to know the scope of what is proposed. The committee is confident, however, that regulations will be framed which take into account the wide diversity of horse ownership and riding activity in the community. Negotiation of the regulations will require an intensive level of consultation.<sup>2</sup>

2.4 As noted in Chapter 1, these bills may be regarded as enabling legislation, allowing for the making of regulations which will spell out the detailed arrangements for levy collection. The committee believes that it is premature to conclude that horse

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1 The Hon I. Callinan, *Equine Influenza*, p. 11.

2 Department of Agriculture, Fisheries and Forestry, *Submission 6*, p.11.

ownership will become more onerous or expensive for recreational owners or riders as a consequence of this legislation.

### **Recreational versus commercial industry concerns**

2.5 The committee notes that most submissions place emphasis on distinguishing the recreational from the commercial sector of the horse community. This distinction was widely discussed in reference to both the outbreak of Equine Influenza in 2007 and the compensation received. Many recreational horse owners referred to the findings of the Callinan report of 2008 identifying the cause of the EI outbreak as resulting from a breakdown in quarantine arrangements and the importing of shuttle stallions:

In the first instance, quarantine rules were relaxed significantly to allow thoroughbred shuttle stallions to perform stud duties in both the Southern and Northern Hemisphere. Prior to the thoroughbred industry lobbying the government, horses had lengthy stays in quarantine.<sup>3</sup>

2.6 At the public hearing, it was argued that the levy should be imposed on those most likely to contribute to a future disease outbreak, and who would ultimately benefit from compensation. That is, importers of stallions to service the racehorse industry. Mr Sean Dillon, Vice-President of the Australians' Campdraft Association stated:

...who stands to lose the most out of the government not responding under an EADRA agreement? It is not the pleasure horse owners. Yes, we would struggle, but it is the people who conduct business who are desperate for an EADRA-style agreement out of this...<sup>4</sup>

2.7 Many submissions from the recreational and hobby sector of the horse community emphasised that their horse ownership had no commercial interest, and that most people engaged in this activity did so as volunteers. In distinguishing the recreational industry from the commercial, the Pony Club Australia submission argued:

In the Performance, Recreation and Hobby sector there is no end product other than the companionship and pleasure, or performance, enjoyed by the rider. In this sector the horse is commonly a much loved family pet which is not ever sold but is kept, and lovingly tended, for the whole of its life...<sup>5</sup>

2.8 The Galloping Gulley Polocrosse Club state in their submission:

We would like to see a clear distinction made within the 'horse industry' between those who are recreational and those who are professional. As recreational participants in the industry we generate no income from our

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3 Ms Simone Brinsmead, *Submission 3*, p. 1.

4 Mr Sean Dillon, *Committee Hansard*, 24 September 2008, p. 17.

5 Pony Club Australia, *Submission 14*, p. 6.

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involvement with horses and we therefore feel strongly that it is unjust and nonsensical that we should incur a levy.<sup>6</sup>

2.9 In their submission, the Queensland Horse Council drew attention to the tax deductions available to the commercial horse industry, but not to recreational owners:

At least 70 per cent of the Equine Industry does not derive any income from their horses although collectively they pay millions of dollars in GST which is not reclaimable.

At least 70 per cent of the Equine Industry do not benefit from tax deductions on horse related expenditure e.g. feed, fuel, vet expenses, farriers, saddlery and competition entry fees, although these same horse owners are the main stay of these subsidiary industries.<sup>7</sup>

2.10 Similarly, Mr Don Nixon elaborated upon the lack of GST concessions for the recreational sector when giving evidence to the committee:

Members of the sector we are in, the performance, recreation and hobbies sector, have no income and no GVP. We do not believe we should. If we were given the tax concessions and allowed to claim our GST and so on, we would be happy to pay the levy because we would be miles in front, but we do not get any of that. We pay our own way. Everything we pay we have already paid tax on. We pay GST and the suppliers that we deal with, who are the industry that make money, pay tax and GST. We believe it is inequitable to put any levy on us.<sup>8</sup>

2.11 Dr Barry Smyth and others noted that many racehorse owners themselves are by no means wealthy.

2.12 Conversely, those considered 'commercial' in nature argue that despite the widely different financial means of commercial and recreational horse owners, disease outbreaks do not discriminate between recreational and commercial horses:

All horse sectors benefit from the eradication of an emergency pest or disease through lower ongoing disease management costs. A pony club horse is as susceptible to disease as a thoroughbred.<sup>9</sup>

2.13 Likewise, Harness Racing Australia opposes the 'commercial' industry alone being levied and questions the perceived income of the industry:

It is illogical to suggest the racing industry should bear a disproportionate part of the burden because it is 'commercial'. Indeed, the vast majority of harness racing owners do not profit from their ownership.<sup>10</sup>

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6 Galloping Gully Polocrosse Club Inc, *Submission 31*, p. 31.

7 Queensland Horse Council, *Submission 19*, p. 3.

8 Mr Don Nixon, *Committee Hansard*, p. 7.

9 Thoroughbred Breeders Australia, *Submission 30*, p. 1.

10 Harness Racing Australia, *Submission 26*, p. 1.

2.14 In evidence given to the committee, the Australian Horse Industry Council recognise the difficulty in achieving a levy decision which would be supported unanimously by the diverse horse community:

We do not see this as a perfect solution by any means. It is not universally agreed to. However, we see this as a way that the industry can move forward and have a levy mechanism in place.<sup>11</sup>

2.15 At a more practical level, the Department told the committee that it may not be administratively efficient or effective to collect the levy from all groups within the commercial sector. Mr Phillip Fitch told the committee

The arrangements put in place will need to be, as I have said, as efficient and as effective as possible, bearing in mind administration costs; therefore, there will be a threshold below which it will not be economical to collect the horse registration levy and a threshold will need to be set.<sup>12</sup>

2.16 In summary, it is clear that recreational owners and riders have little enthusiasm for a scheme which puts them on an equal footing with the racing industry. The argument, for all intents and purposes, is that the risk of equine disease comes from breeding practices in the professional racing industry and that is where the levy should be sourced.

2.17 However, the committee also recognises that the breed societies and recreational groups, while small, represent a significant proportion of recreational horse riders. The committee considers that there are arguments to support the application of a more broadly based levy which would extend beyond the thoroughbred owners and standard breed owners to include a greater proportion of the wider horse-owning public.

### **The registration debate**

2.18 When the Emergency Disease Response Agreement (EADRA) was being negotiated in 2002, the horse industry identified the need for a statutory levy to fund its obligations under this agreement. However, when EADRA was finalised, the industry was unable to agree on a suitable levy mechanism. After extensive consultation the Australian Horse Industry Council (AHIC) put a formal levy submission to Government in November 2006. This was on behalf of the Australian Racing Board and Harness Racing Australia, representing the entire horse industry. This submission endorsed levy collection at point of registration.

2.19 In their submission, the Department of Agriculture, Fisheries and Forestry describe support from the horse industry for the legislation, listing the Australian Horse Industry Council as being one of three 'peak national representative horse

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11 Dr Barry Smyth, *Committee Hansard*, p. 22.

12 *Committee Hansard*, p. 34.

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industry bodies'.<sup>13</sup> The other two peak groups are the Australian Racing Board and Harness Racing Australia. However some recreational associations who are members of the Australian Horse Industry Council recently renounced their support for the Council, disputing the status of the AHIC as a representative body. Following the Council's proclamation of industry support for the signing of EADRA, the Queensland Horse Council told the committee:

We have withdrawn our membership mainly because of their misrepresentation of the true opinion of the pleasure and recreation and hobbyist sector of our views towards this agreement. That has been misrepresented. It has been document very clearly in the minutes of the meetings, and the AHIC has gone to great lengths to indicate to the government to the contrary.<sup>14</sup>

2.20 Similarly, the National Campdraft Council said in their submission:

The AHIC has misrepresented the interests of pleasure and performance horse owners throughout Australia and Campdraft members in particular by advocating to the Government that the pleasure and performance horse owners fully support the introduction of these bills. This is simply not correct.<sup>15</sup>

2.21 Dr Barry Smyth, President of the Australian Horse Industry Council, gave evidence which carried the message that representations of dissent among horse associations needed to be regarded with scepticism. He acknowledged that there was opposition to the idea of the levy, but surveys taken across the horse-owning community indicate that 'negative opinion represents only 20 per cent of the broader industry.' Dr Smyth indicated that a majority of people, up to 60 per cent, supported the levy.<sup>16</sup>

2.22 Dr Smyth further explained to the committee that in supporting the proposed legislation, the Australia Horse Industry Council does so in the best interest of the wider horse community:

We need to act in the best interests of the whole industry and not just individual groups, and in terms of the overall industry, relatively small groups, who are opposed. We think that if the levy bills do not go through it leaves everybody in the industry, including those opposed to these bills, fully exposed to the ravages of an emergency disease incursion without government assistance.<sup>17</sup>

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13 Department of Agriculture, Fisheries and Forestry, *Submission 6*, p. 8.

14 Mr Andrew Deacon, *Committee Hansard*, p. 13.

15 National Campdraft Council, *Submission 28*, p. 4.

16 Dr Barry Smyth, *Committee Hansard*, p. 25.

17 *Ibid.*, p. 27.

2.23 Evidence was given of the benefits received by recreational associations in the wake of the EI outbreak in 2007. Dr Smyth told the committee that of the 150 000 horses vaccinated and micro-chipped during the emergency, a large proportion were standard breeds and included many pony club horses. Well-known pony club members were strongly in favour of a levy.<sup>18</sup>

2.24 Many submissions outline arguments against collecting a levy a registration, preferring to advance the merits of alternative sources of revenue. In her submission, Ms Kelly Gannon advocates a gambling levy be introduced, arguing for:

A 10 cent levy be included on all TAB bets placed during a period that an EADRA cost recovery program is in place. This could be continued outside of these cost recovery periods to assist in building a reserve for the industry and a basis for research.<sup>19</sup>

2.25 Imposing a levy at each shoeing of a horse was also debated in a number of submissions, but was deemed ineffective by Dr Barry Smyth who told the committee:

Probably 10 per cent or less of Australia's horses are ever shod. The vast majority of them never get shoes on. It completely leaves out all the breeding industry, and people who shoe horses, or put horses on their shoes, usually get it done on a regular basis so it hits that particular group every time they put a set of shoes on their horse, and everybody else gets left out.<sup>20</sup>

2.26 The Australians' Campdraft Association suggests a levy applicable only to the commercial sector of the horse community, proposing:

A 1 per cent levy included in a service fee paid at the point of joining a mare to a registered Thoroughbred Stallion verified as per stallion return...Including the levy at the point of service ensures that the levy reflects the true nature of the commercial risk taking behaviour rather than the net result of foals registered.<sup>21</sup>

## **Compulsory registration**

2.27 The committee heard evidence and discussion about the merits of compulsory registration. It was stated that the intent of the proposed legislation may be hindered by a lack of compulsory registration. A compulsory levy would widen the pool of potential levy payers and lower the overall levy per unit. This point was made by the Australian Horse Industry Council in their submission when they argued:

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18 Ibid., pp 27-28.

19 CBG Consultants, *Submission 11*, p. 5.

20 Dr Barry Smyth, *Committee Hansard*, 24 September 2008, p. 28.

21 Australians' Campdraft Association, *Submission 10*, p. 8.

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Our key concern is that a levy mechanism that applies to the initial registration of a horse by a horse registration body is potentially too narrow and might not extend to the majority of industry participants. AHIC is of the view that a levy imposed at the time of initial registration or a horse can only be equitable if applied to the broadest possible contribution base.<sup>22</sup>

2.28 Mr Sean Dillon from the Australians' Campdraft Association told the committee that for the legislation to work, registration would need to be compulsory:

If this legislation is passed, the only way it can be made to work, if they are genuinely serious about recovering the costs of a disease outbreak, would be for all horses to be registered, that is, if the repayment fee were to be made small enough for everyone to pay it. That is if we look at it as it is. The only way to ensure that all horses are caught in the net...<sup>23</sup>

2.29 As horse registrations are voluntary at present, it has been argued that horse owners may not register their horse if in doing so it attracts a levy. Not only would this reduce the pool of possible levy payers, it could result in claims about horse numbers being significantly misrepresented in the event of a future outbreak of disease. The Australian Horse Industry Council also propose the mandatory recording of horses, creating a horse database:

In an emergency, a horse database will assist governments identify at-risk horses and take appropriate and immediate steps to activate disease eradication efforts, and in doing so minimise longer term disruption to the industry.<sup>24</sup>

2.30 The AHIC submission lists a number of benefits that would result from the establishment of a national horse database, and notes that the idea is being assessed in several states.<sup>25</sup>

2.31 In order to implement some form of national horse database as suggested by the Australian Horse Industry Council, horse registration would need to be compulsory. However, only states and territories have the ability to enforce registration of horses. In evidence given to the committee, officers from the Department of Agriculture, Fisheries and Forestry explained that the Commonwealth does not have the constitutional power to mandate national registration of horses.<sup>26</sup>

2.32 The issue of enforcing compulsory registration nation wide was discussed in submissions. The Pony Club of Australia highlighted the case of the United Kingdom, where registration is compulsory:

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22 Australian Horse Industry Council, *Submission 25*, p. 2.

23 Mr Sean Dillon, *Committee Hansard*, 24 September 2008, p. 17.

24 Australian Horse Industry Council, *Submission 10*, p. 4.

25 *Ibid.*, p. 3.

26 Mr Tom Aldred, *Committee Hansard*, 24 September 2008, p. 32.

Compulsory registration has been in the UK for five years and it is believed that only 75 per cent or less of horses in the UK are registered. Taking into consideration the small area and dense population of the UK, where policing would be much easier than in Australia, this is a very poor result and one can only conclude that any attempt here in Australia would be much less successful.<sup>27</sup>

2.33 The practicality of checking registrations of recreational owners was questioned by Mr Don Nixon, President of Pony Club Australia when he appeared before the committee:

Our members feel that they should be treated in the same manner as the poultry people who keep chooks in their backyard. The cost of trying to get out to all the individual owners who have one or two horses in a little paddock somewhere is too great. Policing it and chipping it and doing all those things is just too great for the return. It is going to be uneconomical.<sup>28</sup>

2.34 The committee appreciates the force of the argument put forward by the AHIC and sees some merit in the implementation of compulsory registration. The committee considers that the establishment of a mandatory universal register of horses in domestic use would enhance the capacity of animal health authorities to act in the event of a horse disease outbreak.

2.35 At the same time, the committee acknowledges that the Commonwealth would need the full cooperation of the states and territories to implement compulsory registration. The committee notes that the consultation and negotiation required to achieve such agreement could be lengthy and the committee would be concerned if the implementation of the measures proposed in this bill were unduly delayed as a consequence. In this context, the committee notes the evidence of the Department that compulsory registration is not excluded by the arrangements in the Bill and that it could be addressed later. The Department advised the committee that the concept of compulsory registration has been referred to the Animal Health Committee of the Primary Industries Ministerial Council for examination.<sup>29</sup>

## **Conclusion**

2.36 It is evident to the committee that the general principle on which this legislation is based is soundly consistent with measures applying to all livestock. This legislation represents an insurance measure to ensure that horse owners will have funds to deal with any future outbreak of equine diseases.

2.37 The committee supports compulsory registration for all horses and believes that this, together with the establishment of a national register, would greatly enhance

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27 Australian Pony Club p.7.

28 Mr Don Nixon, *Committee Hansard*, 24 September 2008, p. 3.

29 Mr Tom Aldred, *Committee Hansard*, 24 September 2008, p. 32.



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the ability of animal health agencies to respond in the case of an emergency. The committee understands that the establishment of such a register will require consultation and agreement between the states and territories, and is encouraged to note that the concept of a national register has been discussed by the Animal Health Committee which reports to the Primary Industries Ministerial Council.

2.38 The committee notes the concerns of community recreational owners and riders that the measures proposed under this legislation will result in horse ownership becoming more onerous or expensive. However, the committee is aware that this is enabling legislation and the policy detail, which has attracted speculation from interest groups, will be contained in regulations which are not yet available. It is too early to condemn the proposed legislation without consideration of the regulations that will follow. The committee is confident that the regulations can be framed so as to take account of the wide diversity of horse ownership and riding activity in the community.

2.39 The committee agrees with the principle of a broadly-based levy. However, the committee accepts that it may be appropriate to exempt some classes of owners and riders, particularly community groups such as Riding for the Disabled. In this context, the submission from the Department of Agriculture, Fisheries and Forestry carries a message of reassurance that small sectors of the horse owning community are unlikely to be affected by levies. For instance, horse owners registering their horses with small breed societies cannot cost-effectively be captured by the proposed levy scheme.<sup>30</sup>

2.40 The committee is confident that the regulations will be drafted in a way that is equitable, and it is equally confident that they will not impose onerous conditions on recreational horse owners. If it did so it would result in legislation which failed to carry out its primary purpose.

2.41 The committee will be monitoring the regulations as part of its continuing scrutiny of quarantine and animal health issues.

### **Recommendation**

**2.42 The committee recommends the passage of this legislation without amendment.**

**Senator Glenn Sterle**

**Chair**

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30 Department of Agriculture, Fisheries and Forestry, *Submission 6*, p.12.