

The Senate

Standing Committee on
Rural and Regional Affairs
and Transport

Horse Disease Response Levy Bill 2008

Horse Disease Response Levy
Collection Bill 2008

Horse Disease Response Levy
(Consequential Amendments) Bill 2008

November 2008

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ISBN 978-1-74229-013-3

This document was prepared by the Senate Rural and Regional Affairs and Transport References Committee, and printed by the Senate Printing Unit, Department of the Senate, Parliament House, Canberra.

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Chapter 1

Introduction

1.1 The Horse Disease Response Levy Bill and related bills were introduced into the House of Representatives on 21 February 2008, and subsequently debate was postponed. Debate resumed on 1 September 2008 and the bills were passed by the House on 3 September 2008.

1.2 The bills were introduced in the Senate on 3 September 2008. On 4 September 2008, the Senate referred the provisions of the bill to the Senate Rural and Regional Affairs and Transport Committee for inquiry and report by 3 October 2008, on the motion by the then Leader of the National Party in the Senate, Senator Scullion. The specific bills are:

- *Horse Disease Response Levy Bill 2008;*
- *Horse Disease Response Levy Collection Bill 2008;* and
- *Horse Disease Response Levy (Consequential Amendments) Bill 2008*

1.3 The committee dealt with the bills cognately. Its review of the legislation was concerned mainly with policy issues rather than with technicalities. The committee notes that these bills essentially comprise enabling legislation, and the detail of how the legislation will work will become more apparent once the regulations to implement the legislation are made. Therefore, the committee believes that its review of these bills may become 'work in progress' as current policy unfolds and the issues of registration and appropriate levies across the broad equine sector are subjected to wider scrutiny.

Conduct of the inquiry

1.4 Notice of the inquiry was posted on the committee's website and advertised in *The Australian* newspaper on 10 September 2008 and 24 September 2008. The committee also requested submissions from a number of equine organisations. The committee received 33 submissions, a list of which is at Appendix 1.

1.5 The committee held a public hearing in Canberra on 24 September 2008. A list of witnesses who appeared at the hearing is at Appendix 2 and copies of the Hansard transcript are available through the Internet at <http://aph.gov.au/hansard>.

1.6 The committee thanks all those who provided submissions and evidence to the inquiry.

Background to the bill

1.7 In August 2007, an outbreak of equine influenza (EI) occurred. EI was an exotic disease, not present in Australia. At the time of the last reported detection of the virus, on 25 December 2007, over 8000 properties had been reported infected.¹

1.8 A national response to the emergency involved state, territory and Commonwealth governments working with the horse industry and with horse-owners to eradicate the virus. On 30 June 2008 affected areas of the country were officially declared free of the virus, no new cases of the disease having been reported since 25 December 2008. Australia is one of the few countries to have successfully eradicated EI.² According to the Callinan Report on the causes of equine influenza outbreak, the Commonwealth had provided through its various assistance packages about \$227.9 million of the \$268.8 million committed to those whose primary source of income had been affected by the outbreak and the subsequent movement restrictions.³

1.9 Under the Emergency Animal Disease Response Agreement (EADRA), the costs of responding to emergency animal diseases are shared by the affected parties. The Commonwealth and all state and territory governments are signatories to the EADRA which commenced in 2002, as are a number of livestock industries. Under the EADRA, government agrees to underwrite the costs of an emergency response to an animal disease outbreak. Industry signatories have made arrangements to meet their obligations under the agreement in the event of an emergency. In most cases this is in the form of a levy imposed at the point of transaction. When the outbreak of EI occurred the horse industry was not party to EADRA.

1.10 The Commonwealth Government covered the cost of dealing with the recent EI outbreak, deciding not to impose charges upon the industry retrospectively. These bills introduce a mechanism to share the costs of responding to future outbreaks, with the intention of giving the same assurances of support to the horse industry as enjoyed by other EADRA parties when faced with disease outbreaks in the cattle, dairying, sheep, pig and similar primary industries.

Purpose of the legislation

1.11 The purpose of the bills is to impose a levy on the initial registration of horses. This levy would ensure that the horse industry is able to repay any amount paid by the Commonwealth on behalf of the industry in the event of an outbreak of a horse disease. The levy will assist the industry fund its obligations under the

1 The Hon. I. Callinan, *Equine Influenza: the August 2007 outbreak in Australia*, p. 10.

2 Commonwealth Government National Pests and Disease Outbreak webpage, Equine Influenza Inquiry:
http://www.outbreak.gov.au/pests_diseases/pests_diseases_animals/equine_influenza/faqs.htm
Accessed 15 September 2008

3 The Hon I. Callinan, *Equine Influenza*, p. 12.

provisions of the EADRA. The agreement provides for the Commonwealth initially meeting the industry's obligations under the EADRA, with the industry repaying any amounts paid on its behalf through the imposition of a statutory levy.

Provisions of the bills

The provisions of each of the bills is briefly outlined as follows:

Horse Disease Response Levy Bill 2008

1.12 The Horse Disease Response Levy Bill 2008 provides the mechanism to impose a levy on the registration of horses. The proposed levy arrangements for the horse industry are similar to those applying to other industries party to EADRA.

1.13 Details of the imposition of the levy, and the rate at which this will be set are listed in the provisions of the bill. Section 4 outlines how the levy is imposed:

- (a) A horse disease response levy is imposed in the first registration of a horse with a horse registration body that occurs on or after the day on which this Act commences;
- (b) The legislation does not make the registration of horses compulsory, but it provides that where horses are registered, a levy must be paid; and,
- (c) A horse disease response levy is not imposed on any subsequent registration of the horse, even if a subsequent registration is with another horse registration body.

1.14 Section 5 deals with the rate of levy:

- (a) The bill sets the rate of horse disease response levy at zero;
- (b) The regulations will fix a rate for the horse disease response levy; and,
- (c) These regulations will be subject to disallowance by either House.

1.15 What constitutes a horse industry body is discussed in Section 7:

- (a) If the Minister considers that a body is a national body which is representative of the horse industry, the Minister may, by writing, declare the body to be a horse industry body.

Horse Disease Response Levy Collection Bill 2008

1.16 This bill provides the framework for the collection of the levy. Under s.55 of the Constitution, provisions dealing with the collection and administration of a levy must be in legislation separate from the legislation which imposes the levy itself.

1.17 Section 7 of the bill outlines the proposed levy collection powers of horse registration bodies. Paragraph (a) states:

- (a) Despite any law of a State or Territory or any contract entered into before this Act commences, a horse registration body must not register a horse unless the owner of the horse first provides the body with the funds necessary for the body to pay, on behalf of the owner, the horse disease response levy that would be due in respect of the registration of the horse with the body.

1.18 Penalties for late payment of the registration are outlined in Section 10. Paragraph (a) states:

- (a) During the month in which the horse disease response levy became due for payment the amount accrues at the rate of 2 per cent per month on the horse disease response levy due

1.19 The bill also provides for information gathering powers which allows for the collection of information and documents required by the Commonwealth.

Horse Disease Response Levy (Consequential Amendments) Bill 2008

1.20 The Horse Disease Response Levy (*Consequential Amendments*) Bill 2008 provides for the appropriation and application of the levy. The legislation will enable Animal Health Australia to hold and manage the levy on behalf of the horse industry. It will amend the *Australian Animal Health Council (Live-stock Industries) Funding Act 1996*.

1.21 The bill also provides a mechanism for any excess levies collected to allow for their use in horse industry research and development, and for promotion of horse health.

Submissions to the committee's inquiry

1.22 The 33 submissions received represented different facets of the horse community, from professional racing associations and breed societies to pony clubs and individual recreational horse owners. The majority of submissions came from the hobby and pleasure sector of the horse community.

1.23 The submissions received by the committee highlighted a number of issues relating to the bill. Most submissions from recreational organisations and horse breeders were critical of the levy proposals, and this was reflected in the majority of the evidence presented to the committee at its public hearing. It is, however, the commonplace experience of committees to receive many more submissions from critics of legislation than from those who support it.

1.24 The issues and arguments raised before the committee are dealt with in Chapter 2.

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.¹

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.²

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

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.³

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...⁴

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...⁵

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

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.

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

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.⁷

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.⁸

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.⁹

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.¹⁰

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.¹¹

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.¹²

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

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

12 *Committee Hansard*, p. 34.

industry bodies'.¹³ 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.¹⁴

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.¹⁵

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.¹⁶

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.¹⁷

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.¹⁸

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.¹⁹

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.²⁰

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.²¹

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:

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.

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.²²

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...²³

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.²⁴

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.²⁵

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.²⁶

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:

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.²⁷

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.²⁸

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.²⁹

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

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.

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.³⁰

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

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

Dissenting Report by Opposition Senators

The bills are very specific in that they establish a levy collection mechanism that would then permit the Australian horse industry to sign up to the Emergency Animal Disease Response Agreement, EADRA.

While Opposition Senators support the Australian Horse Industry in becoming signatories to EADRA, if that is their desire, we cannot support the passage of these bills as the proposed levy collection mechanism does not enjoy the support from those who will be liable to pay, does not include horses that pose the greatest risk of disease introduction in the levy collection mechanism, and fails to give consideration to the financial circumstances of horse owners within Australia's horse associated industries.

A number of specific issues were raised in both written submissions provided to the committee and through evidence provided during the committee hearing in Canberra on 24 Sept 2008 that highlight the inequity and failures of these bills to achieve the stated purpose of the legislation.

Narrow Levy Collection Base

The stated objective of the Horse Disease Response Levy Collection Bill 2008 was to establish a broad base that would share the financial burden equitably across the Australian horse industry.

While Opposition Senators accept that the regulations that will define the levy collection base are yet to be drafted, any regulations must be consistent with the provisions of the legislation. This would therefore limit any collection base to newly registered horses with a horse registering body.

The number of horses registered in Australia each year has been estimated at between 50,000 – 60,000. The levy would therefore only be applied across this number of horses provided that horses are continued to be registered at the current rate.

Evidence provided to the committee cast doubt upon the willingness to register horses if registration of horses was not compulsory and there was a levy imposed.

Senator MILNE—In the absence of compulsory registration you are saying that there will be a huge incentive for people not to register and there will be a smaller and smaller pool to pay whatever the amount of money is?

Mr Dillon—I believe that is the most succinct summary of the issue that I have heard from an elected official in six months.¹

¹ Hansard, RRA&T, Wednesday, 24 September 2008, p. 16.

This prescribed collection mechanism excludes all horses previously registered regardless of their purpose or function. The horses that present the greatest risk of disease introduction, including imported race horses and shuttle stud stallions that enter the country will also not be subject to the levy under the provisions contained within these bills.

The levy collection mechanism that is defined under the legislation would also be further reduced if exemptions were considered as indicated in the Department of Agriculture, Fisheries and Forestry submission to the committee.²

Exempting some groups from the levy may well simplify collection and reduce the financial burden on some bodies, but the fact remains that the largest number of horse registrations are with pony clubs and small breed societies. By granting exemptions the government is diluting the recommended principle of supporting a broad based levy.

Commercial Operators and Racing Sector Exempt from Levy

Submissions were received from individuals and pleasure horse groups highlighting the inequality inherent in the proposed bills relating to the uniform basis of the levy.

All horses regardless of value or intended purpose would attract an equal levy payment obligation. This blatant inequality can be best described through the following exchange between Senator Heffernan and Mr Nixon at the committee hearing.

Senator HEFFERNAN—Do you think it is fair that they have struck this levy equally to a person who contributes their time to Riding for the Disabled or some disobedient kids that get along to Pony Club, and someone else that spends their time at Randwick sipping champagne and watching the racehorses run? Do you really think that is fair, given that the whole thing came on because the deadheads out at Badgerys Creek—and I visited them the Olympics and reported to the government—who were the slackest mob of people I ever run across in my life? They were just wandering in and out during the Olympics like it was nobody's business. Do you think that is fair?

Mr Nixon—No, I certainly do not. The whole context and the push of our submission is that it is not fair. No.³

The bills further stipulate that there are only three representative bodies that are eligible to sign EADRA on behalf of the Australian Horse Industry. One of these bodies is the Australian Racing Board, ARB, that represents thoroughbred racing in Australia.

² Department of Agriculture, Fisheries and Forestry, Submission 6, p. 12.

³ Hansard, RRA&T Wednesday, 24 September 2008, p. 6.

The ARB represents thoroughbred racing but does not represent race horse owners. At present the Thoroughbred Breeders Association is a member of the Australian Horse Industry Council.

The ARB have lobbied strongly for the Australian Horse Industries to become signatories of EADRA yet this peak body will not be liable to contribute towards any levy implemented through these bills.

Considering all sectors of the horse industry, breeding and racing (particularly thoroughbreds) contributes the greatest gross value of production. The Minister for Agriculture, Fisheries and Forestry, stressed this point at length during his second reading summation speech in the House of Representatives on 3 Sept 2008 when he described the impact upon the racing industry. The minister's speech in part read: "It went to all the add on parts of it, from the person selling meat pies at the side of the track to the people involved in transport and logistics through to the Spring Racing Carnival being cancelled and a whole lot of milliners not being able to sell any hats. There were businesses torn apart at every level during that time."⁴ This assessment and the impacts upon the thoroughbred racing industry were reiterated a number of times during both debate on these bills and through evidence provided to the committee. Therefore the absence of a levy collection mechanism that incorporates the largest contributors to the GDP of Australia's horse industry cannot be overlooked.

Enabling Regulations

The majority report asserts that 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.

This statement on equity cannot ever be satisfied as the collection mechanism does not include a large number of horses in Australia, especially high risk of disease introduction horses, with the collection base to be further reduced with proposed exemptions to small registering bodies.

The regulations must be consistent with legislation meaning that horses that pose little to zero risk of disease introduction and spreading will be liable for the levy while other horses of a high risk pay nothing.

The legislation or regulations cannot be equitable or fair if a back yard hobby breeder or pleasure horse owner who derive no income through their horses pays the same levy as a professional breeder earning or charging considerable sums of money through their activities.

⁴ Hansard, HOR, 3 September 2008, P. 7000.

Recommendations

A levy collection mechanism be developed that applies equitably to all sectors of Australia's horse industry including previously registered horses and internationally registered horses transiting through Australia.

The ARB must devise a mechanism that would allow them to raise a levy from their activities in order to meet their financial obligations as signatories to EADRA. In 2005–06 the thoroughbred industry in Australia had 379 race clubs maintaining 355 racetracks. These clubs held 2,752 race meetings during which 19,963 races were conducted with 195,720 starters. A levy could be raised against racecourse entry, horse nominations, or any other transaction or combination of transactions that are inherent to the racing industry.

As the bills have been described through submissions as not fair, not equitable, and impose a liability upon the pleasure sector to pay to protect the racing sector while the racing sector is immune from the levy, Opposition Senators urge the Senate not to pass these bills as presented.

Senator John Williams
Nationals Senator for New South Wales

Senator the Hon Bill Heffernan
Liberal Party Senator for New South Wales

Senator the Hon Nigel Scullion
Country Liberal Party Senator for the Northern Territory

Dissenting Report by Australian Greens

There is no doubt that the outbreak of equine influenza was crippling for the horse industry in Australia and devastating for owners and riders. It is clear that Australia must be better equipped financially and administratively to deal with such disease outbreaks in future.

The Greens believe that compulsory registration of all horses is necessary and would provide a national database which would enhance the capacity of animal health authorities to act in the event of a horse disease outbreak.

The Greens do not oppose the collection of a levy but we do not share the optimism of the government that all equity issues will be taken care of in the regulations. The devil will be in the detail. Without seeing the regulations, we remain to be convinced that the concerns of community recreational owners and riders regarding costs and how onerous the collection of the levy will be, will be addressed in an equitable way.

Whilst the majority report says, “It is too early to condemn the proposed legislation without consideration of the regulations that will follow”, we argue that it is too early to support the proposed legislation without consideration of the regulations that will follow. The Greens requested that the government provide to the Committee the draft regulations before we finalised the report or dealt with the legislation but the Government declined.

Therefore we do not support the passage of the legislation at this time and will reconsider it, if and when, the government has finalised the regulations. Such regulations must be accompanied by the framework for, and date of implementation, of a national registration system.

We note that the Government has provided draft regulations to a number of other pieces of legislation before Committees have finalised reports on the legislation and should have done so on this occasion.

**Senator Christine Milne
Deputy Chair Rural and Regional and Transport Committee**

**Senator Rachel Siewert
Australian Greens Senator**

Dissenting Report by Senator Julian McGauran

I support the principle of applying a levy upon the 'Horse Industry' so as to meet its obligations under the provision of the Emergency Animal Disease Response Agreement (E.A.D.R.A).

However, the principle to impose a levy must be supported by the principle of equity between all involved. To this end the Horse Disease Response Levy Bill 2008 does not meet the principle of equity and subsequently **I dissent from the majority recommendation.**

There are two fundamental areas where the equity test for the levy fails:

(a) The legislation imposes the levy upon the first registration of a horse. The legislation does not make the registration of a horse compulsory but provides that where horses are registered a levy is to be paid. Given the levy is to be imposed on new registrations, existing registered horses avoid any levy payment. In the thoroughbred horse industry alone this amounts to many thousands of horse owners avoiding any levy collection. Yet these owners will be prime benefactors to any emergency disease response. Clearly the main weight of meeting the payment for an industry emergency response is on a narrow sector, namely the new registrations. A more equitable system would be to impose a once only levy on existing registered and newly registered horses.

(b) Following the evidence that came before the committee I am convinced that based on equity grounds no levy or a lesser levy ought to be paid by the non-profit sector of the industry – namely the recreational horse owners.

This principle is based on the fact the greatest benefactors to any emergency response is the commercial sector of the industry. For example the outbreak of Equine Influenza 2007 witnessed a major emergency action by the Government Departments with necessary outlays of hundreds of millions of dollars to manage the crisis. The focus of the response was on the thoroughbred racing industry as not only was it the primary origin of the spread of the outbreak but also because it is a valuable commercial contributor to the Australian economy.

Therefore while it is expected that the whole horse industry would be involved in any emergency disease response, from the thoroughbred sector to the pony club sector, it is the commercial/ professional sector that should be primarily responsible for paying a future levy.

However the definition of 'commercial/professional' should be broad to include not only the thoroughbred and standard bred sector but also areas such as the tourist, equestrian and stockhorse operators/owners etc. Also it should be noted commercial/professional does not necessarily equate with profitability.

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.’¹

In Conclusion

It is noted that the majority report is in agreement with the view that there is currently some inequity in the Bill as to the imposition of the levy. However the majority seeks to rely on the regulations which are introduced following the passing of the Bill to attend to this inequity question.

However equitable intent ought to be attended to at the legislative stage not at the regulation stage. The legislation stage is where the core principles are put down from which regulations are drawn up.

The majority report is putting the cart before the horse.

I cannot recommend the legislation without amendment.



Senator Julian McGauran

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

Appendix 1

Submissions received

- 1 Mr Gordon Marsden
- 2 Peter Lake & Kim McKenna
- 3 Ms Simone Brinsmead
- 4 Petition
- 5 Owen and Rosalind Wagstaff
- 6 Department of Agriculture, Fisheries and Forestry
- 7 Daniel Burton
- 8 Joy Ringrose
- 9 Chris Mathias
- 10 Australians' Campdraft Association
- 11 Kelly Gannon, CBG Consultants
- 12 Janet Rose
- 13 Cindy L Medway
- 14 Pony Club Association of Australia, Pony Club Assoc. of the Northern Territory, Pony Club of Tasmania, Pony Club of New South Wales
- 15 Horses SA
- 16 Ms Debera Ebbett
- 17 Jennifer Maynard
- 18 Ms Noelene Scott
- 19 Queensland Horse Council
- 20 Mr Barry Emmett, President EIDSA All Breeds Inc
- 21 Ms Jasmine Cooper

- 22 Australian Racing Board Limited
- 23 The Waler Horse Society of Australia Inc
- 24 The Equestrian Federation of Australia
- 25 Australian Horse Industry Council
- 26 Harness Racing Australia
- 27 The Australian Stock Horse Society
- 28 National Campdraft Council
- 29 The Equestrian Federation of Australia
- 30 Thoroughbred Breeders Australia
- 31 Galloping Gully Polocrosse Club
- 32 Ivahri Arabians
- 33 Mr Peter Haggarty

Appendix 2

Hearings and Witnesses

Parliament House, 24 September 2008, Canberra

Pony Club of Australia

Mr Don Nixon – President

Queensland Horse Council

Mr Andrew Deacon – President

Australians' Campdraft Association

Mr Sean Dillon – ACA Vice President

CBG Consultants

Ms Kelly Gannon

Mr Vincent Gannon

Australian Horse Industry Council

Dr Barry Smyth – President

Department of Agriculture, Fisheries and Forestry

(Product Integrity, Animal and Plant Health Division)

Mr Tom Aldred – Executive Manager

Dr Bob Biddle – General Manager – Animal and Plant Health Policy

Mr Phillip Fitch – Animal and Plant Health Policy

Mr Steve Maxwell – General Managers- Levies, Contracts and Services

