

F [REDACTED]

Inquiry Name: Inquiry into the Impact of Animal Rights Activism on Victorian Agriculture

Michael Gallagher
[REDACTED]

SUBMISSION CONTENT:

--

I appreciate the committee accepting submissions on this issue.

a) The type and prevalence of unauthorised activity on Victorian farms and related industries, and the application of existing legislation;

Unauthorised activity is generally confined to entry to structures dedicated to animal use. These are generally large-scale animal production facilities (factory farms). Such facilities are not located in people's backyards and there is no evidence that whistle-blowers have ever entered the living environments of person's that live in proximity to such facilities. Unauthorised activity is generally undertaken without any person being aware of the activity. Such activity is generally undertaken to obtain documentary evidence of the condition of the animals in such facilities and is done in public interest, as this information is not readily available to the public (consumers). A large number of animal welfare abuses have only been identified due to the action of whistle-blowers. Animals may be rescued where they are requiring of veterinary care. There is no evidence that unauthorised activity has resulted in any biosecurity events. Unauthorised activity is not a regular occurrence. Existing legislation is sufficient to address unauthorised activity. There are established offences for activities such as trespass, property damage, theft, etc. The penalties for such offences are also sufficient. In the place of the judiciary to impose what is considered an appropriate penalty, not the parliament. There are insufficient legislative provisions to address animal welfare given that "production" animals are exempt from protections under the prevention of cruelty to animals act 1986 (POCTAA).

b) The workplace health and safety and biosecurity risks, and potential impacts of animal activist activity on Victorian farms, to Victoria's economy and international reputation There is no evidence that unauthorised activity by whistleblowers has ever resulted in a biosecurity event. The main risk to biosecurity is intensive animal agriculture. Intensive farming systems keep animals in crowded and stressful situations and rely on the prophylactic use of antibiotics to ward off disease. Antimicrobial resistance is a global health problem and antibiotic use in animals is a major contributor. Intensive farming systems are by their very nature havens for pest and disease. The spread of disease is more

often than not due to the movement of pests and/or animals between facilities. Whistleblowers are generally well versed in appropriate biosecurity measures and will utilise personal protective equipment (PPE), generally consisting of over suits, gloves, booties and masks. Whistleblowers also adhere to infection control measures such as hand and footwear decontamination and are aware of the need to not visit multiple properties within a short period of time. The biosecurity concerns of the industry in regard to whistleblowers could be seen as disingenuous when considered in light of the regular presence of police on farms in response to whistleblowers, without PPE or any adherence to biosecurity protocols.

c) Animal activists' compliance with the Livestock Disease Control Act 1994, Livestock Management Act 2010, and the Prevention of Cruelty to Animals Act 1986;

The relevance of the two livestock acts to whistleblowers is questionable. The livestock management act 2010 seems to have little relevance to whistleblowers. Section 50 may be applicable – offence to endanger people or animals or risk disease. This section applies to people who engage in regulated livestock management activity. It is not clear if whistleblowers would be captured under this provision. Sections 9.A and 9.B of the livestock disease control act 1994 would be applicable to whistleblowers. Section 9.A (2) makes it an offence to remove identification from livestock. Section 9.B requires that property where livestock are kept have a property identification code. The failure of POCTAA to provide protections for animals deemed to be “livestock” or “production” animals, resulting in a situation where acts, which if inflicted on a companion animal would be subject to prosecution under animal cruelty charges, are inflicted on other animals with impunity.

d) The civil or criminal liability of individuals and organisations who promote or organise participation in unauthorised animal activism activities;

It is well established that a course of action for breach of privacy does not exist in Australia. An individual's privacy can be defended by reference to other laws such as those relating to defamation, nuisance and trespass. But a general right to privacy does not exist in Australia. These matters have already been arbitrated in *Australian broadcasting corporation v Lenah game meats PTY LTD* [2001] HCA 6315 November 2001, which is a valuable resource in considering the implementation of Ag gag laws in Australia.

e) Analyse the incidences and responses of other jurisdictions in Australia and internationally; and

Ag gag laws have been introduced by stealth in both NSW (with amendment to the biosecurity act) and SA (with amendment to the surveillance devices act). Attempts to introduce Ag gag laws at a federal level have so far been unsuccessful. Ag gag laws have been introduced into several states in the USA with many more failing to be passed. At least 1 state has overturned the law as it was deemed to be unconstitutional. The findings of the high court *Australian broadcasting corporation v Lenah game meats PTY LTD* [2001] HCA 6315 November 2001, suggest that if ag gag laws were introduced in Australia, they would be subject to legal challenge.

f) Provide recommendations on how the Victorian Government and industry could

improve protections for farmers' privacy, businesses, and the integrity of our biosecurity system and animal welfare outcomes, whether through law reform or other measures.

The failure of current regulation to identify animal cruelty in animal use industries demonstrates the poor standing of Australia in regards to animal welfare when compared to other countries. The fact that the majority of animal cruelty identified is done so by whistleblowers is sufficient reason to avoid further criminalising the activities of whistleblowers. The lack of transparency of standard animal agricultural practices result in the public/consumers being unable to make an informed choice when purchasing animal products. The inherent disconnect in seeking to further criminalise the actions of whistleblowers without seeking to address the animal cruelty that whistleblowers identify. Suggested ways to reduce the need for whistleblower activity may include increased animal protection under legislation, mandatory animal protection standards, and independent animal protection agency to ensure compliance with animal protection standards and CCTV cameras in animal use and related industries.

--

File1:

File2:

File3: