



SADA Newsletter

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VIRTUAL FENCING LOBBYING FOR CHANGE

It may come as a surprise to many readers that the use of virtual fencing is against the law in South Australia. Virtual fencing is a process of teaching cows where boundaries are in a paddock by way of auditory cautions and electrical stimulus. What it means is that there is no actual fence but rather the cow wears a collar that gives an auditory alarm and then a mild electrical stimulus if the cow strays across a boundary. Go to https://www.youtube.com/watch?v=Td8Qhg4Ev_E to get an idea of how it works or just look up "virtual fencing" on YouTube.



CSIRO showing the collars used

As primary producers, we are constantly on the lookout for technologies that will enable our industry to operate as cost effectively as possible while maintaining the highest standards of care to protect our excellent reputations as livestock producers.

One of the areas of substantial expense to farmers are the erection and maintenance of fences. We at the South Australian Dairyfarmers' Association are supportive at looking at other technologies that exist that may enable cost savings to be achieved as well as better environmental and industry outcomes. One of the other technologies that is available now is the use of electronic or virtual fencing. These virtual fences can be supported

by several technologies including GPS location devices, Wi-Fi or subterranean cables.

The advantages for the technology are many,

- The technology is species specific so that indigenous animals can move across the land unhindered,
- Stock loss through fires can be substantially mitigated,
- Cost of fencing substantially abated,
- Sensitive areas can be protected by virtual ringfencing, and
- Stock management and oversight is much more comprehensive assisting with State commitments such as the National Livestock Identification Scheme.

In recent times collars such as the ones that we are contemplating have substantially stepped forward in terms of animal husbandry. It is not in the interests of any primary producer to distress an animal unnecessarily and these devices use energy levels much lower than electric fences in use today.

Legislative Impediments

Currently, it is against the law in South Australia to use an electrical device to manage an animal except for cattle prods and electric fences. The fine for breaching the law is \$10,000.



How it works is that the Act says that all use of electricity is against the law unless approved by the Regulations. Only cattle prods and electric fences fall into that category. This is an example of technology passing the law. The voltages used by electric fences and prods are far higher than used in virtual fencing technology. The nature of the electric pulse from a collar is more akin to an uncomfortable sensation than an actual shock. Like an electric fence once a cow learns to associate a stimulus with the fence the cow avoids the fence. Research is now indicating that a cow will learn that the audible alarm is a warning the cow understands.

We submit that it would be just as simple to make regulatory changes that would enable the use of collars and in the process, limit their use to the primary/livestock sector.

SADA has written to the Minister for Sustainability, Environment and Conservation recommending that the Regulations be amended to enable the use of these collars for future use particularly future research.

(2) A person may only apply an animal collar in the following circumstances:

- (a) if the animal is a prescribed animal that is being kept in the course of the business of primary industry; and*
- (b) the animal is being managed for the purpose of primary industry; and*
- (c) the collar is not applied to the face, udders, anus or genitals of the animal; and*
- (d) the animal is able to move away from the from the perimeter of the area electronically or virtually fenced;*
- (e) the collar is used with restraint; and*
- (f) the use of the collar is reasonably required to ensure the safety of the animal; and*
- (g) the animal is a prescribed animal.*

The future

Into the future there is already the discussion for further improvements in the technology such as the use of ear tags that have the same function as miniaturisation improves with the passage of time.

SADA Board Member Sharon Joppich who sits on the SA Animal Welfare Advisory Committee will continue to lobby for these sensible changes to South Australian Law.

SADA PRESIDENT TAKES ON GOVERNMENT OVER FRACKING

SADA President John Hunt has launched a salvo at the South Australian Government for betraying the trust they should be earning in the South East, not least of which is regarding the ongoing issue of fracking.

Speaking from the South-East John said that the Weatherill Government isn't listening to the people.

"It is for this reason that we call on proponents for gas exploration in the limestone coast region to commit to gaining social license ahead of any future activity. Social license is permission granted by trust and trust is earned. What we have seen from many of these gas producers, particularly in places like Queensland is an expectation that the Government will simply lever open the farm gate for the gas company."

"We do not accept this government's attempt to lever open this gate. It is not their gate to open, it is the gate of the local community, a community that is not interested in



being ridden roughshod over by out of touch politicians with an inability to see beyond their ivory towers in Adelaide.”

“The behaviour of the Mining Minister will only lead to a further erosion of trust that will be very difficult to repair. The companies promoting unconventional gas need to now do more than simply issue glib one liners from behind the skirt of the government and enter into a real dialogue with the community. Proponent companies have not yet come even close to that benchmark and unless their approach changes then there will always be pushback.”

Parliament of South Australia Natural Resources Committee report of November 2016 stated “Without social license, unconventional gas exploration/development should not proceed in the South East of South Australia. The committee found that social license to explore/develop unconventional gas does not yet exist in the South East of South Australia.”

UNDERPASS LOBBYING COMMENCES



Recently SADA President John Hunt wrote to the South Australian Minister about a threat to road safety posed by the dairy industry’s practice of moving herds across arterial roads, as tourism and population growth increase the traffic on those roads.

In 2009 the Government received a submission from its Regional Communities Consultative Council (RCCC). The RCCC outlined a strategy to address this issue, and arranged a round table meeting with key representatives of the dairy industry, the Alexandrina Council, the Limestone Coast Regional Development Board and PIRSA.

The group concluded that the best and most cost-effective solution is for cattle underpasses to be installed in key locations throughout the Fleurieu and Limestone Coast, where dairying is most prevalent. It was pointed out that the dairy industry is not able to fund the entire cost and there would be requirement for assistance from the State Government.

At that time, the RCCC forwarded a proposal which was the result of many months of research, consultation, and collaboration with the dairy industry, Local Government, and State Government representatives. It is loosely based on the Victorian model, but adapted for the needs and capabilities of South Australia.

Since that time there has been no advancement in this area and the time has come to revisit the issue as there has only been an increase in traffic on those roads with the passing of the years.

SADA proposed to the Minister that there be a cost sharing arrangement between farmers and the state government in the following terms, namely, that the State Government provide grants equalling 33 per cent of the installation costs, up to a maximum of \$50,000 for up to 10 underpasses per year for five years, beginning in the 2018/2019 financial year. This would require an annual budget of \$350,000 and total \$1.75 million over the five years.

SADA also argues that similar schemes exist in Victoria namely, the Stock Overpass Underpass Road Safety Scheme (SOURS) and the Cattle Underpass Scheme (CUPS). Each of these models have merit and the Victorian Government has demonstrated its commitment to road safety by supporting these schemes to the advancement of the safety of Victorians.

Consequently, SADA has called upon the South Australian Government to cast a benevolent eye upon the safety of South Australians and work with SADA to make our roads safer.

WHAT IS THE EFFECTS TEST AND WHY IT MATTERS?

Acknowledgement goes to "The Conversation" <http://theconversation.com/explainer-what-is-the-competition-effects-test-39424>

Extensive lobbying by the Australian Competition and Consumer Commission (ACCC) and some interest groups appears to have brought an "effects test" one step closer, following the recommendations of Ian Harper's Competition Policy Review panel.

But what is an effects test, and what would it mean?

All the fuss relates to section 46 of the Competition and Consumer Act: the provision of our competition laws which regulates unilateral conduct. There are numerous laws affecting arrangements between two or more parties, but only section 46 - which prohibits the misuse of market power - focuses on big business acting alone.

How does section 46 work now?

Section 46 has had several formulations. But for most of the last three decades, it has had the same basic structure. One must prove that the relevant party had substantial market power, that it took advantage of that power, and that it did so for a "proscribed purpose" (generally described as an anti-competitive purpose).

Section 46 as currently drafted is notoriously difficult to establish. The threshold of substantial market power is very high (more than half of the cases fail on this point alone). It is also extremely difficult to prove "taking advantage" - while the courts have said this means no more than to "use" market power, this element accounts for most of the other court failures.

Oddly, proving a company's purpose does not seem to be a sticking point before the courts, although the ACCC tells us that there are many cases it would have pursued but for this issue.

What do we mean by an effects test?

The effects test as proposed by Professor Harper retains the first element of the current section 46 - substantial market power - but removes the other two.

In their place, an effects test has been inserted.

An effects test is a shorthand way of referring to whether conduct has the purpose or likely effect of substantially lessening of competition. This test appears in a number of other provisions of the Competition and Consumer Act, and is perhaps best known in the context of mergers.

Back in 2013, Small Business Minister, Bruce Billson, went on the record as a fan of the effects test, saying that it *would make it easier for the ACCC to win section 46 cases*. We are just trying to make sure that the toolkit available to the Australian Competition and Consumer Commission is fit for purpose. In my mind, the toolkit needs to be revisited to deal with the modern and emerging economy. There are some deficiencies.

Why is an effects test controversial?

Why then does the effects test strike fear in so many? The big end of town thinks it will prohibit good ("pro-competitive") conduct. At the same time, others worry that it makes a difficult test even harder.

Confusingly, both points are valid.

Could it catch too much? A: yes!

By looking at effect, not purpose, attention is only focused on the outcome of conduct, not its rationale. But as the High Court said back in its first consideration of section 46:

Competition by its very nature is deliberate and ruthless. Competitors jockey for sales, the more effective competitors injuring the less effective by taking sales away. Competitors almost always try to “injure” each other in this way... and these injuries are the inevitable consequence of the competition s46 is designed to foster.

The trouble is that “injuring” your competitors can result in a lessening of competition. So observing such injuries tells you nothing about whether they have occurred due to competition that ultimately benefits consumers or because of a misuse of market power that will harm consumers.

Traditionally, we have relied on the taking advantage element to resolve this dilemma: we have been comfortable with the cut and thrust of competition, so long as the company concerned isn't taking advantage of its special position in the market. If it is only doing what everyone else is capable of doing, that's fine.

But the Harper Panel says that taking advantage currently fails to do the job of distinguishing good from bad, as its interpretation by the courts is too unpredictable. It's not clear, however, how an effects test will do any better. In its draft report, the Harper Panel proposed a defence to discern whether conduct was pro- or anti-competitive. But that defence was widely criticised and has been dropped from the final recommendation.

In its place, the panel has suggested that legislative guidance be provided to the courts in applying the new provision. It further recommends that companies be able to seek authorisation (never before allowed for section 46 conduct): this would allow parties to obtain statutory immunity in advance of engaging in conduct if it can prove that there is a sufficient benefit to the public. Finally, it calls for the ACCC to issue guidelines.

Could an effects test catch too little? A: yes!

Completely contrary to the position of big business, some are concerned that an effects test makes proving a contravention of section 46 even harder. Why? Well, there are numerous prohibitions in the legislation which already use the effects formulation, and such cases don't get to court with any more frequency than do section 46 cases.

Furthermore, the ACCC's long-term success rate in effects cases is not materially different to its success under section 46. Proving anything substantially lessens competition is extremely difficult.

It is also notable that we've had an effects test for misuse of market power for almost two decades with no result. In the telecommunications sector, there is a special effects test applied in addition to the standard section 46. This forms part of a suite of laws that were brought in to keep Telstra in line as the market was deregulated (these laws have also been slated for review). But, despite regular concerns with Telstra's conduct over the years, the ACCC has never prosecuted an effects case under these provisions.

Will an effects test mean more cases?

The real proof will be in the pudding: if an effects test is introduced, will it mean more cases? Whatever the merits of the current test, it is clear that we have too few matters going to Court.

Competition cases are extremely complicated and expensive. Legal costs would start in the vicinity of \$2-4 million with the risk of much more if the matter is appealed (as is often the case) or you lose (in which case, you need to pay a significant proportion of your opponent's costs).

The ACCC's budget is constrained and private litigants have been missing in action over recent years, so don't hold your breath for more cases.

All that said, this is just a recommendation. Australian competition policy is a poster child for the saying, “many a slip twixt cup and lip”.

ALEC MOVES TO COLLECT COMPULSORY LEVY ON DAIRY COW EXPORTS

Recently the Australian Livestock Export Council wrote to Andrew Curtis, the CEO of SADA, to seek feedback as he proposed to the move from a voluntary arrangement regarding the payment of a levy on exported Dairy Cows to a compulsory levy payment on the basis that the payments which apply to other livestock were undersubscribed for dairy cows due to the voluntary arrangements for dairy cows. In his letter the CEO of ALEC argued,

Australian livestock exporters currently pay statutory export charges on exported beef cattle, sheep and goats. In 2006, livestock exporters also chose to initiate a voluntary charge on exported dairy cattle, introduced to enable funding for sector specific RD&E and marketing. However, due to the nature of the voluntary arrangement, the export charge is significantly under-collected and is not sufficient to meet the RD&E and marketing needs of the dairy cattle export sector.



In recognising the importance of a reliable income stream for collective investment, and in acknowledging the restrictions and challenges of the current voluntary arrangement, our members unanimously requested that ALEC undertake to implement a statutory export charge for dairy cattle as a matter of priority. As such, ALEC has developed a proposal for instituting a statutory Dairy Cattle Export Charge and has commenced the process for its implementation.

The proposed statutory Dairy Cattle Export Charge will be payable by exporters of dairy cattle at the point of export, at a rate of \$6 per head. The statutory charge will be collected by LiveCorp and invested into sector specific RD&E and marketing activities, with a focus on;

- Improving animal health and welfare outcomes throughout the supply chain;
- Improving supply chain efficiency and regulatory performance;
- Enhancing market access conditions – for existing and new markets;
- Enhancing communication - providing information and services on program progress and issues to industry and government; and
- Improving corporate operations - governance, planning, evaluation and review to ensure efficient and effective investment.

While the Dairy Cattle Export Charge will be imposed on Australian Government licensed livestock exporters, ALEC has identified that your organisation and membership may have an interest in this proposal. Where opportunities exist, the industry, through ALEC and LiveCorp, will be seeking to coordinate program activities maintained under the proposed export charge with industry stakeholders, in order to maximise cross sectorial efficiencies. As such, I have attached for your information and reference, a briefing document, detailing the rate, collection and use of the proposed Dairy Cattle Export Charge, as well as the process for its development and implementation.

In accordance with the Australian Government's Levy Principles and Guidelines, ALEC has now commenced a three month stakeholder consultation period on the proposed statutory Dairy Cattle Export Charge. During this time, stakeholders have an opportunity to consider and comment on the proposal before Australian Government Licensed Exporters vote on its implementation.

"ALEC believes that the implementation of a statutory Dairy Cattle Export Charge reflects both a positive and necessary step forward for the dairy cattle export sector as well as Australia's livestock export industry more broadly. Please note that the stakeholder consultation period will end on 1 September 2017 and that further information about the proposed export charge and consultation process can be found online at; <http://auslivestockexport.com/> "

SADA seeks your feedback and suggestions regarding this move.

The SA Dairy Industry Fund in Mt Gambier

Ken Lyons



DAIRY FUND SUPPORTS THE SA YOUTH DEVELOPMENT PROGRAM

While in Mt Gambier the Dairy Fund Board approved the application from the Holstein Australia-SA Branch for the Fund to be a co-funder of the SA Youth Development program for the next two years.

The program will be delivered across the state's dairy regions and consists of a series of Camps and Workshops. The key objective is to provide participants with the necessary skills, knowledge and experience to continue within the dairy industry.

The SA dairy industry and community is most indebted to the project managers Gino Pacitti and Jack Bramley and all those dairy farmers and industry specialists who will contribute their time to ensure the success of the program.

The Fund Board see this as an important program to build the capability to sustain and grow the dairy industry in South Australia.

FUND SEEKING IDEAS FOR PROJECTS FROM THE DAIRY INDUSTRY

The Dairy Fund was very pleased to have the opportunity at the SE DairySA Dairy Innovation Day on 8 June to brief industry participants and to seek out ideas both on the day and through contacting the Fund (Ken Lyons, 0439 444 509) on where investments can be made to improve industry performance.

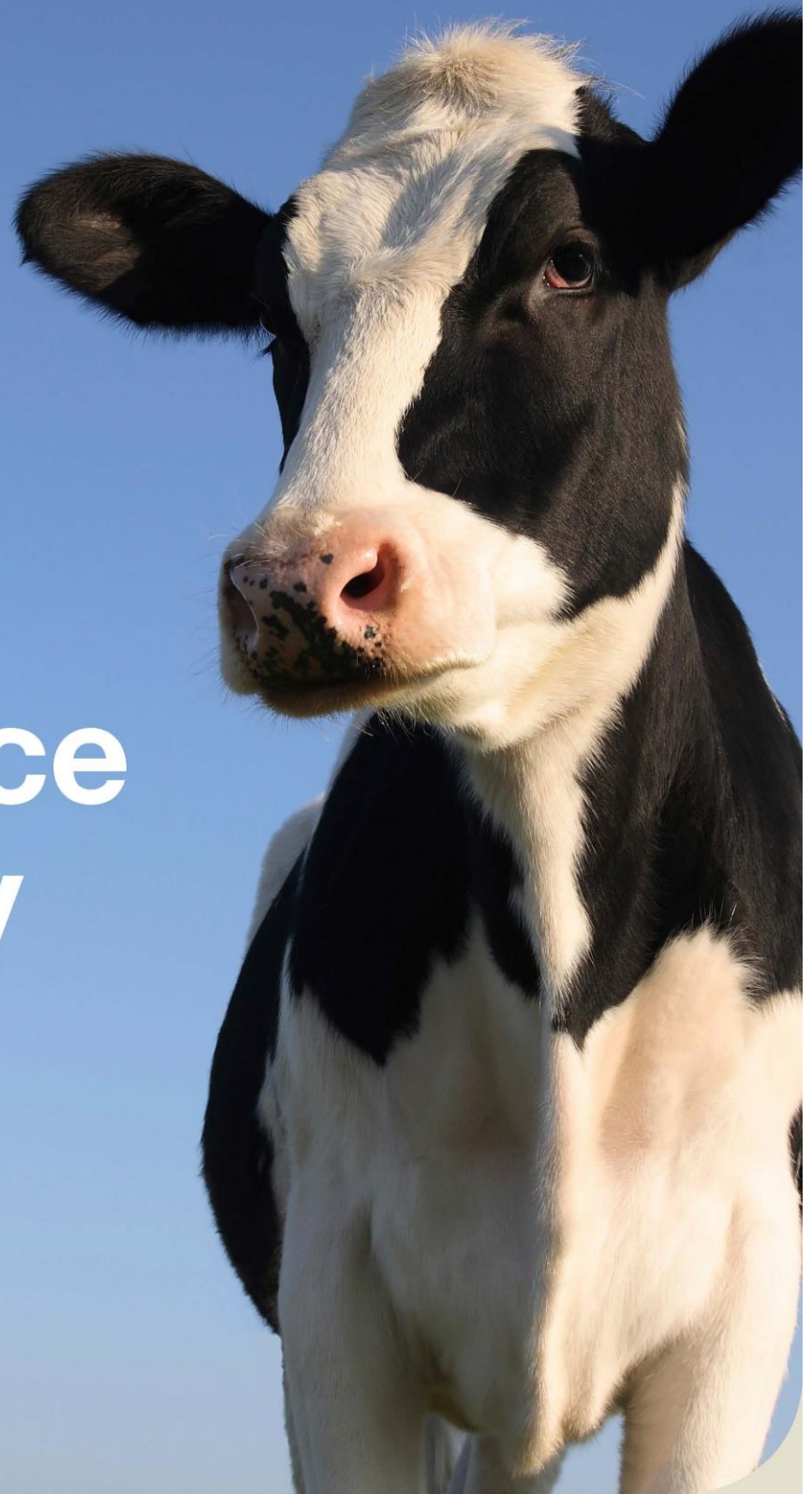
The SA Dairy Industry Fund is taking a very pro-active approach to seeking out projects that will directly benefit the SA dairy industry and its communities. But the Fund Board strongly believes that some of the very best ideas can come from industry participants themselves.

The short presentation from the Fund also indicated how the Fund work was growing and listed the projects being undertaken. Dairy Fund Board Member, John Hunt, was particularly intent on both thanking the consumers for supporting the SADA Fresh brand and clarifying that the SA Dairy Industry Fund is totally independent with an expertise based Board responsible for distributing the funds.

FUND BOARD MEETS WITH SADA, DAIRY AUSTRALIA AND DAIRYSA

The Fund and SADA Boards meet annually and the Innovation Day provided the opportunity this year for the joint meeting. Fund Chair, Dennis Mutton, outlined the growing scope of projects to be funded and SADA President, John Hunt, outlined how they were developing the SADA Fresh brand.

The Fund also met with Dairy Australia (Ian Halliday, James Mann) and DairySA (Michael Connor, Verity Ingham) to discuss potential projects for SA. Dairy Australia and the Victorian RDP's (equivalent to our DairySA) have been receiving significant funding advantages by having the Victorian Gardiner Foundation there to help co-fund projects in Victoria. Now South Australia has the SA Dairy Industry Fund which has been modelled (Constitution) on the Gardiner Foundation. Co-funding of projects provides better leverage of the funding available and therefore greater benefit to the industry.



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