

**Submission on version 2 of the Certification Trade Mark Rules
– Application No 1914662 – lodged by Humane Farm Animal**



ACCC
GPO Box 3131
Canberra ACT 2600
Via email: CTMs@accc.gov.au

8 July 2020

To Whom It May Concern,

Re: CTM 1914662 – Certified Humane – Submission on Version 2 of the CTM Rules

WoolProducers Australia (WoolProducers) welcomes the opportunity to provide a third submission to the ACCC for the Humane Farm Animal Care (HFAC) application to register Certification Trade Mark No. 1914662 (HFAC CTM). This submission is made following discussions with the ACCC regarding the application, and the provision of two submissions to the original ACCC consultation. WoolProducers does not support the application, and therefore recommends that the ACCC does not approve the application from HFAC to register a certification trade mark. Reasons for our position are outlined in this submission.

Recommendation: That the ACCC does not approve the application from Humane Farm Animal Care to register the Certification Trade Mark no. 1914662 (HFAC CTM).

1. The CTM Rules (Version 2) – Sheep (Annexure 8) standards are based on those of the RSPCA United Kingdom.

The inside page of the *HFAC Standards for the Production of Sheep (including dairy sheep)* reference the standards are based on those of the Royal Society for the Prevention of Cruelty to Animals (RSPCA) guidelines, with a United Kingdom web address provided as the reference. The HFAC Standards for Sheep should be written on the standards and guidelines of the *Australian Animal Welfare Standards and Guidelines for Sheep* (AAWSGS) and other relevant Australian Animal Welfare Standards and Guidelines.

2. Humane Farm Animal Care Scientific Committee

The majority of animal scientists, veterinarians and producers named as working with HFAC to develop the *Animal Care Standards* are based overseas. Only one of the 40 members of the committee is based in Australia. Knowledge of our unique production systems that are adapted to suit our environment and climate is essential to ensure that any standards required to be followed by producers in HFAC programmes meet Australian jurisdictions' animal welfare laws, the Australian Animal Welfare Standards and Guidelines, and existing requirements for food safety and quality assurance under our domestic regulations.

Several elements of the *Sheep, including Dairy Sheep standards (March 2013)* are specific to production systems and requirements in the United States of America and do not have equivalency with Australian production systems, the *Australian Animal Welfare Standards and Guidelines for Sheep* (AAWSGS), and Commonwealth and/or state/territory animal welfare legislation.

3. Application to Australian productions systems and animal welfare regulation

Section FW1 (a) of the HFAC Sheep standards has been amended to reference the *Australian Animal Welfare Standards and Guidelines for Sheep* however there is little evidence of substantive content

change to incorporate Australian standards into the HFAC Sheep standards. Examples of this are explained further in this section.

Standard FW2 requires that sheep have access to feed each day unless directed otherwise by a veterinarian. Australia has pre-transport curfew requirements for livestock, including sheep, veterinarians do not direct animals to be withheld from feed to enforce pre-transport curfews. It is instead the responsibility of the producer and as such this rule would not meet Australian requirements. Similar applies to saleyard and processing situations.

Section FW5 refers to body condition scoring based on a Pennsylvania State University publication, and not one that is developed by a relevant Australian organisation (such as Meat and Livestock Australia) or government agriculture department. This would ensure that the latest domestic science is used to support production of sheep for Australia's high welfare standards and market specifications.

Standard FW17 of the HFAC Sheep standards has not been amended. WoolProducers stated in a previous submission that, while FW17 states that lambs must not be weaned before five (5) weeks of age, the AAWSGS does not stipulate an age for weaning. However, it does require that weaned lambs gain weight, are supplementary fed prior to weaning so they learn to accept supplementary feed, and that early weaning is an acceptable drought mitigation strategy. These are not stated in the HFAC Sheep standards and we would advocate the AAWSGS are referred to instead of the HFAC requirements.

Vast differences in seasonal conditions exist between Australia and the USA. Regarding the HFAC Sheep standards, Australian sheep are not exposed to severe winter climates like those experienced in parts of the USA. As such, the requirements under E13: Protecting shorn sheep are not applicable to Australian production systems.

The AAWSGS outline minimum space requirements for sheep in pens and feedlots. The HFAC Sheep standards do not provide equivalent information and do not meet the requirements of the AAWSGS.

Section M13: *Shearing* of the HFAC Sheep standards requires shearing equipment be in accordance with UL electrical codes. These electrical codes would need to be listed in accordance with Australian requirements.

Section D. *Identification* does not refer to Australian tagging requirements that meet the National Livestock Identification System, and traceability regulations in each state/territory and nationally. Identification must be in accordance with Australian requirements.

Section F. *Inspection* lists the requirement for sheep to be expected on extensive pasture a minimum of two (2) to three (3) times per week. Extensive production farms in Australia are vastly larger than those in the USA and this requirement would not be practical on many farms.

Standard S3 require producers in the HFAC program to use processors who follow American Meat Institute guidelines for processing livestock. WoolProducers does not support this requirement for processing in Australia. Instead, the requirements of our domestic processors and industry should be met, in alignment with relevant Australian regulations.

4. Appropriately qualified certifiers for the HFAC Program.

HFAC has not provided detail on who will be employed or contracted as certifiers for the Program in Australia, other than required education to be considered for being approved to train as an inspector. It is important that approved certifiers are suitably qualified (to Australian standards in training and education in Life Science, Animal Science, Veterinary Science or other relevant backgrounds; refer to the *Inspector Information Manual (June 2019)*) to make assessments in line with Australia's animal welfare legislation and the *Australian Animal Welfare Standards and Guidelines*.

The HFAC CTM rules do not refer to the state/territory enforced animal welfare legislation, or the Commonwealth framework for animal welfare legislation, in Australia. Therefore, there is no understanding of how the HFAC CTM rules could be automatically modified in accordance with Australian legislation. This is further evidenced by the reference that the CTM rules will only be modified in accordance with the *Australian Animal Welfare Standards and Guidelines*.

5. Competition concerns.

WoolProducers is supportive of the right of producers to differentiate their product in retail markets to seek price premiums and associated benefits. Whether the HFAC CTM would compete with other similar regimes, such as the RSPCA Approved Farming Scheme is beyond the knowledge of WoolProducers. We encourage the ACCC to investigate potential competition concerns.

6. Misleading consumers and consumer expectations of 'humane' food production.

WoolProducers has reconsidered the HFAC CTM and concluded that the HFAC CTM could mislead consumers because it would imply that non-Humane Certified products are not produced humanely. However, there may be no differences in production systems and husbandry techniques used to raise animals for HFAC CTM products compared to non-HFAC CTM products; the only difference would be the CTM labelling. This could lead the consumer to pay an increased price for a CTM-branded product as the producer and manufacturer will need to recover costs spent to use the HFAC CTM, however unfairly as the product may be no different to a lower priced, non-CTM labelled product.

7. Conclusion

WoolProducers appreciates the opportunity to provide this submission regarding the HFAC application to register Certification Trade Mark No. 1914662. As previously stated, and for the reasons outlined in our submission, we recommend that the ACCC do not approve the application from Humane Farm Animal Care to register the Certification Trade Mark no. 1914662 (HFAC CTM). Should you wish to discuss our submission further, please do not hesitate to contact WoolProducers Australia General Manager, Ashley Cooper on [REDACTED] or via email ([REDACTED]).

Yours Sincerely,

[REDACTED]
Jo Hall
Chief Executive Officer

