



ALPA

Submission

Easy and Transparent Trading - Empowering Consumers and Small Business.

Consultation Paper – July 2018

To:

Easy and Transparent Trading Consultation Paper
Regulatory Policy, BRD
Department of Finance, Services and Innovation
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ALPA is a proud member of



ALPA General Introduction

The Australian Livestock & Property Agents Association Ltd (**ALPA**) submission is in response to the Easy and Transparent Trading - Empowering Consumers and Small Business Consultation Paper – July 2018.

We understand that the NSW Government has opened public consultation on a range of possible reforms designed to empower consumers and small businesses in NSW by facilitating easy and transparent trading. The proposals focus on driving efficient markets, supporting economic growth and creating opportunities for innovation.

They would deliver on these objectives by:

1. Removing unnecessary red tape – making it easier to do business
2. Increasing transparency and consumer choice.

Australian Livestock & Property Agents Association (ALPA)

ALPA is the national peak industry body for livestock and property agents.

ALPA represents more than 1,200 agency businesses across Australia. Collectively this group plays an important role in livestock, wool, merchandise and rural property sales and marketing.

ALPA members handle in excess of 97% of rural agency business Australia wide.

ALPA is one of the largest national organisations of small rural business men and women, relied on to protect the interests of agents and producers nationally.

ALPA national membership includes Elders, Landmark, Ruralco and private livestock agencies across Australia.

ALPA appreciates the opportunity to provide this submission to the NSW Commissioner for Fair Trading.

NSW has over 200 private member businesses and over 100 Elders and Landmark branches.



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ALPA membership is a signature of professionalism in the industry

ALPA Comments

ALPA believes that the consultation paper is timely and we appreciate the opportunity to participate in the consultation process. However, we do question why these were not put before the Real Estate Reference Group prior to going to public consultation.

1.1 Extending licence durations

ALPA agrees with Option 2.

Extend licence durations for temporal licences.

1.2 Extending licence restoration periods.

ALPA agrees with Option 2.

Provide a consistent three-month restoration period, with the Commissioner having the discretion to extend the restoration period, in exceptional circumstances.

1.3 Increase the threshold for an owner builder permit

ALPA agrees with Option 2.

Increasing the value threshold of the owner-builder permit to \$20,000.

1.4 Exemptions from tow truck licensing requirements

ALPA does not have a position on this.

1.5 Real estate auctioneer licence

ALPA strongly oppose Option 3 - the preferred option of the Government.

Remove the requirement to hold an endorsed licence to be an auctioneer, if a licensed real estate agent has engaged the auctioneer and is present at the auction.

ALPA feel this will be detrimental to consumers due to a lack of training, professionalism and a lack of knowledge of the Property, Stock and Business Agents Act. This will also create more work and expense for the agent who must be present at the time of the auction.

There is a Real Estate Reference Group (RERG) that was set up by the Fair Trading Department in 2015. Why were these items of such significance not discussed with this group prior to public consultation?

The Property, Stock and Business Agents Amendment (Property Industry Reform) Bill 2017 was passed by the Legislative Assembly in February 2018 after lengthy consultation with the RERG. We would have thought if agreed this should have been included in that reform after consultation with the RERG.

In 1993 the NSW government took away the general auctioneers licence. This Association and others objected at the time to the licence being taken away. Ten years later in 2003, the government had a "reform of industry" and brought it back in due to problems in the auction system.

They did this by an accreditation to a Real Estate Agents Licence and/or a Stock and Station Agents Licence as Auctioneer. The reform option to remove the requirement to hold an endorsed licence to be an auctioneer, that is Option 3, has the hallmark of history repeating itself.

ALPA would like to point out the following from the ACCC.

The ACCC conducted a cattle and beef markets study in 2016. The ACCC invited the views of interested parties by way of written submissions, telephone conversations, and attendance at public forums.

The ACCC's market study provided an opportunity for meaningful improvements to be made to the cattle and beef supply chain.

There were a number of recommendations made with the aim of bringing about improvements.

The purpose of the ACCC's market study was to:

- examine competition and transparency in the supply chain, and
- consider whether there are impediments to competition and efficiency at various stages of the supply chain in cattle and beef markets.

Recommendation 14 from ACCC. *Legislation should be introduced requiring standardised national licensing of livestock agents, professional buyers (applying to commission and salaried buyers) and livestock auctioneers.*

In the several submissions and direct interviews with the ACCC over the course of the markets study, ALPA strongly endorsed this recommendation. This recommendation also had strong support from other peak industry councils and the Red Meat Advisory Council (RMAC). RMAC escalated the issue by writing to the Council of Australian Governments Agricultural Ministers Forum (AGMIN) requesting consideration of this recommendation.

On the back of the ACCC's recommendation, ALPA recently conducted a member's survey with one question specifically asking members if all auctioneers should be licensed. An overwhelming 91% of respondents (n=400) either agreed or strongly agreed that auctioneers should be licensed.

This response is important for a few reasons. This was a national survey, so also captured the sentiments of members from states who are currently unlicensed. With such a strong result, it can be inferred that many auctioneers operating in an unlicensed environment would prefer to be licensed.

This response is also important as it is a grass roots response. It is coming from individuals who day in day out live and breathe the auction industry.

It is not the opinion of someone who attends an auction once in a lifetime to buy their home or an individual who attends at saleyard every now and then to buy or sell livestock. This is the opinion of professionals who see the value in an auctioneers licence.

ALPA offer the following proposal alternative for 1.5.

A separate proposed licence be made for Auctioneers, with restrictions.

Under this proposed licence the restrictions would include, that the person can perform the task of auctioneer only. Any other duties performed beyond the role of auctioneer will require a Real Estate Agents Licence or a Stock and Station Agent Licence. For example, this would include doing inspections or listing of any properties. They would also not be able to auction livestock under this proposed licence.

ALPA believes the current Auctioneer Accreditation should remain as is for licensed agents.

ALPA offer the following observations and comments.

ALPA would like to maintain the current Stock and Station Certificate of Registration for those who only deal in private treaty livestock sales. We agree that those who auction livestock and deal in any form of rural property sales, must transition to a full Stock and Station Agent Licence, as per the Property Industry Reform 2018.

ALPA would like to see the Stock and Station Agent Licence incorporate the provision to sell all types of properties, that is, both Real Estate and Rural Property (as described under the act). Currently the sale of "property" requires two licences, depending on the type of property and in many instances agents in rural areas are operating under a dual licensing framework. They are required to have a Real Estate Agent Licence to sell houses, units and blocks of land within the country towns and also a Stock and Station Agent Licence to sell rural properties in the surrounding district. Regardless of the property type Stock and Station Agents perform the same functions as a Real Estate Agent in relation to rural land sales.

ALPA believes that the current Real Estate Agent Licence remains the same as it is now and does not allow for the sale of rural property or livestock as the selling of rural property and livestock is a very specialised field.

ALPA would like to back this proposal up further based on the following descriptions of the licence categories from the Fair Trading website "Different types of licences, certificates of registrations".

<https://www.fairtrading.nsw.gov.au/housing-and-property/property-professionals/licensing,-certification-and-qualification>

Real estate agent

A real estate agent is used:

- for a real estate transaction – ie. the purchase, sale, exchange, lease, assignment or other disposal of land, whether or not an auction is involved or
- for inducing or attempting to induce or negotiating with a view to inducing any person to enter into, or to make or accept an offer to enter into, a real estate transaction or a contract for a real estate transaction or
- for the introduction, or arranging for the introduction, of a prospective purchaser, lessee or licensee of land to another licensed agent or to the owner, or the agent of the owner, of land or
- collecting rents payable in respect of any lease of land and otherwise providing property management services in respect of the leasing of any land or
- for the sale or purchase of rural land with an area of up to 20 hectares or
- for a buyer or
- for the sale of residential premises in a retirement village.

A licence holder who wishes to act solely as a buyer's agent may have a condition placed on their licence noting that they may only act as a buyer's agent.

When selling property over 20 hectares, an agent needs a stock and station licence. If the licensee in charge holds a stock and station licence, an employee also needs at least a stock and station certificate.

Stock and station agent

A stock and station agent carries on business as an auctioneer of rural land or livestock or as an agent for:

- performing the functions of a real estate agent in relation to rural land or
- a livestock transaction (the purchase, sale or other disposal of livestock, whether or not an auction is involved) or
- inducing or attempting to induce or negotiating with a view to inducing any person to enter into, or to make or accept an offer to enter into, a livestock transaction or a contract for a livestock transaction or
- providing agistment for livestock or collecting of fees for the agistment of livestock.

When selling property over 20 hectares, an agent needs a stock and station licence. If the licensee in charge holds a stock and station licence, an employee also needs at least a stock and station certificate.

ALPA draws your attention to the first dot point above, Stock and Station Agent.

ALPA would be more than happy to discuss this proposal further.

1.6 Removing 13 categories of home building licences

ALPA does not have a position on this.

1.7 LP gas and electricity licence category

ALPA does not have a position on this.

1.8 Allowing licence holders to trade out of external administration

ALPA agrees with Option 2.

Amend the requirement in Fair Trading laws relating to the mandatory cancellation of licences.

1.9 Streamlining financial reporting requirements

ALPA agrees with Option 2.

Streamline financial reporting requirements across industries.

1.10 Reducing locational restrictions on motor vehicle dealers

ALPA does not have a position on this.

1.11 Streamlining uncollected goods regulation

ALPA does not have a position on this.

1.12 Repealing redundant statutes

ALPA does not have a position on this.

1.13 AMR – Architects and other building related occupations

ALPA agrees with Option 2.

Introduce AMR for architects and other building occupations.

ALPA would like this expanded to include all agents covered by The Property, Stock and Business Agents Act.

1.14 ID requirements

ALPA does not have a position on this.

1.15 Review of Continuing Professional Development (CPD) requirements

ALPA does not agree with mandatory CPD.

ALPA have a strong view on “compulsory” CPD that it is in some cases a waste of time and money. The stock and station sector does not change as much as the residential real estate sector. There would be a majority of stock and station agents that never have and never will sell a rural property and they only deal with livestock. When there are changes within the livestock industry they generally need to be implemented immediately and the attendance at a CPD course is not the answer.

The costs of attending CPD in rural areas is sometimes prohibitive. It is not simply the training cost, but the many hours out of a business to travel to a regional area to complete CPD is a huge cost to a small business for little to no benefit to the person attending. The problem with CPD in NSW is the way it was introduced with no regard given to the relevance for participants. Fair Trading decided what they thought was best for agents to learn and made it mandatory with no understanding of the differences within the industry.

ALPA delivers CPD where possible, to our members that is relevant to the livestock sector. In most instances there is no new information to disseminate as most livestock industry changes that occur require immediate adoption by stock agents, as we are dealing with live animals. However, livestock handling is a key professional requirement of a Stock and Station Agent.

The livestock sector is highly regulated under various state and federal legislations including the Stock Diseases Act; various animal welfare standards and guidelines; land transport standards and guidelines; livestock traceability requirements; biosecurity requirements; WH&S; and live export protocols to name just a few, which are administered by numerous bodies including the federal DAFF, NSW DPI, Local Land Services, NSW Police Force, NSW Food Authority, and so on. Stock agents are complying by understanding and keeping up to date with these various laws dealing with livestock. To do so requires ongoing professional development to keep abreast of these changes without it being an actual course and as such there is no CPD point recognition.

It has been proven that there are some RTO's delivering CPD just on payment and or at a very reduced time. Some online CPD can be done in under 15 minutes.

ALPA has a very strong view that if CPD must be continued, it should be for the Licensee In Charge only. It is their ultimate responsibility that all agents and certificate holders under their control are compliant. This will reduce costs and red tape to the vast majority of small business owners, especially those in rural and remote NSW.

ALPA believes that CPD for Stock & Station Agents should be scrapped.

2. Increasing transparency and consumer choice

ALPA does not have a position on this section of the consultation paper.

[END]