

**Public Submission to ACCC
Grocery Inquiry by the Chamber of
Fruit and Vegetable Industries in
WA (Inc.)**

11th March 2008

BACKGROUND INFORMATION

The Chamber of Fruit and Vegetable Industries in Western Australia (CFVIWA) is a member organisation that represents all of the fruit and vegetable wholesale businesses trading in the Central Trading Area at Market City in Canning Vale. One of the roles of the CFVIWA is to lobby state and federal politicians as well as government departments in order to raise awareness of the many issues its members face. The CFVIWA also provides services to its members and also undertakes promotional activities on behalf of the fresh fruit and vegetable industries in WA.

Horticulture Code of Conduct

The scope of the grocery inquiry is quite broad with the ACCC seeking input on a number of issues across a range of grocery products. Given the nature and business of the CFVIWA we have chosen to provide input in relation to the effectiveness of the Horticultural Code of Conduct and the impact the code may have if it applied to other sectors of the supply chain (i.e. questions 81 and 82 of the Issues Paper).

The CFVIWA has long supported written terms of trade between suppliers and wholesalers. However, we do not support the Mandatory Code of Conduct in its current form. The Code is too rigid. Amendments need to be made to the Code to allow both parties to structure their own terms of trade should they both agree in writing to do so. The Code should also be amended to allow merchants to determine a price based on a method of calculation.

We feel that the Code is discriminatory in that it only applies to traders and not retailers and exporters. Having said this we believe if the Code were to apply to retailers and exporters they will face the same difficulties and frustrations experienced by the wholesaling sector due to the inflexible nature of the Code.

The major impact of the Code since it was introduced in May 2007 is that it created a raft of administrative activity however it has in our opinion had little impact on price. The exception being that it has restricted the ability of merchants to adjust prices in accordance with market movements. This can be beneficial for consumers if prices are moving upwards but not if they are going down (provided the prices are passed on to the consumer).

Historically prices for fresh fruits and vegetables sold through central wholesale markets have been determined by supply and demand forces and this continues to be case. Given that there has been little influence on price in the wholesale sector there is little reason to expect that there would be any significant impact on prices paid by retailers if the Code applied to the retail sector as well.

The Code does not apply to transactions between growers and exporters, retailers, or the Potato Marketing Corporation. The Chamber understands that retailers that buy direct from growers already have clear terms of trade and usually purchase produce on a farm gate price basis. However there does not appear to be a mandatory dispute resolution process in place if these retailers trade contrary to the specifications detailed in their supply agreements. This leaves open the potential to manipulate produce orders as specifications could be relaxed when produce supply is short or alternatively specifications could be tightened during periods of oversupply.

In summary we believe the Code as it is currently written is inflexible. In the interests of equality the Code should apply to all sectors of the horticulture supply chain including retailers and exporters however the amendments referred to above must be made so that these sectors do not face the same difficulties as the wholesaling sector in complying with the Code.