



SUBMISSION

PERTH MARKET AUTHORITY

**Regarding the Issues Paper Released by the
ACCC Inquiry into the Competitiveness of Retail
Prices for Standard Groceries**

BACKGROUND

The ACCC has released a Horticulture Code Issues Paper as part of the ACCC Grocery Inquiry. The Perth Market Authority (PMA) respectfully makes the following submission

INTRODUCTION

The PMA is responsible under statute for the management of Perth's central fresh produce market, Market City Canning Vale.

In January 2005, the Minister for Agriculture, Fisheries and Forestry, the Hon. Warren Truss MP, formally notified key stakeholders, industry associations and state and territory governments, of the Government's intention to introduce a mandatory horticulture Code of Conduct (the Code).

The stated objective of the election commitment was to address the issue of clarity & transparency in negotiations of price & other terms between growers and buyers.

It was announced that the Code would be prescribed under Section 51AE of the *Trade Practices Act 1974* (TPA).

The proponents of the Code contended the Code would improve market efficiency by providing clarity and transparency in trade transactions in the wholesale fruit and vegetable sector.

It was also stated at the time that an integral component of a Code would be a practical and cost effective dispute resolution mechanism that may include negotiation between growers and intermediaries (purchasers), the use of mediation and adjudication, and ultimate legal enforcement by the ACCC.

The Consultants preparing the Regulatory Impact Study and draft code released their report in July 2005. This report highlighted the need for the Code to apply to all transactions between growers and purchasers.

It is also noteworthy that the joint NFF/HAC submission in response to draft code stated: " in terms of scope of the code NFF & HAC support the position that the code should cover the first transaction from the grower and should apply to all parties including but not limited to central market wholesalers, other wholesalers, retailers, exporters and processors"

The Code was introduced in May 2007.

PERTH MARKET AUTHORITY REPRESENTATIONS

The PMA is a member of the Central Markets Association of Australia (CMAA) and as such submits that central markets must be viewed as *bone fide* stakeholders in the current and future consultation process.

The PMA continues to argue the need for any code to apply equally to all sectors of the industry, including central market intermediaries, off-market intermediaries, packing houses, and supermarket chains.

The application of the Code to only one section of the Industry as now exists does not provide an even playing field.

PMA was of the understanding that the ACCC would oversee a dispute resolution mechanism to ensure compliance with the Code. However the practical application and enforcement of the code in WA has been by way of direct audit of intermediaries to assess their compliance. This was not what was originally proposed.

PMA questions whether an even playing field is being established to ensure compliance. PMA submits that ACCC does more to educate growers about their rights and responsibilities under the Code. Our understanding is that there are a considerable percentage of growers who are reluctant to sign Horticulture Produce Agreements effectively meaning that the traders have been forced to police the application of the Code.

A break down of the current marketing systems, particularly in a large state like Western Australia will cause even greater domination of the Industry by a few parties, potentially causing growers to be more disadvantaged. This may result in larger margins between grower returns and retail prices for consumers causing adverse reaction against the Government and Industry.

The viewpoint of PMA is that the application of the Code must provide fairness for all parties. We support a code that is not onerous, is fair, is practical, and will provide protection for growers and traders and would apply to all those that carry on the business of purchasing fresh produce.

Mike Donnelly
CHIEF EXECUTIVE OFFICER
PERTH MARKET AUTHORITY