



AUSTRALIAN  
FOOD AND GROCERY  
COUNCIL

# SUBMISSION

SUBMISSION TO

Australian Competition and Consumer Commission

IN RESPONSE TO

Inquiry into grocery prices: Supplementary advice –  
Horticulture Code of Conduct

10 June 2008

## **PREFACE**

The Australian Food and Grocery Council is the peak national organisation representing Australia's packaged food, drink and grocery products industry.

The membership of the AFGC comprises more than 150 companies, subsidiaries and associates which constitutes in the order of 80 per cent of the gross dollar value of the highly processed food, beverage and grocery products sectors. (A list of members is included as Appendix A.) The AFGC represents the nation's largest manufacturing sector. By any measure Australia's food, drink and grocery products industry is a substantial contributor to the economic and social welfare of all Australians. Effectively, the products of AFGC's member companies reach every Australian household.

The industry has annual sales and service income in excess of \$70 billion and employs more than 200 000 people – almost one in five of the nation's manufacturing workforce. Of all Australians working in the industry, half are based in rural and regional Australia, and the processed food sector sources more than 90 per cent of its ingredients from Australian agriculture.

The AFGC's agenda for business growth centres on public and industry policy for a socioeconomic environment conducive to international competitiveness, investment, innovation, employment growth and profitability.

The AFGC's mandate in representing member companies is to ensure a cohesive and credible voice for the industry, to advance policies and manage issues relevant to the industry and to promote the industry and the virtues of its products, enabling member companies to grow their businesses.

The Council advocates business matters, public policy and consumer-related issues on behalf of a dynamic and rapidly changing industry operating in an increasing globalised economy. As global economic and trade developments continue to test the competitiveness of Australian industry, transnational businesses are under increasing pressure to justify Australia as a strategic location for corporate production, irrespective of whether they are Australian or foreign owned. In an increasingly globalised economy, the ability of companies to internationalise their operations is as significant as their ability to trade globally.

Increased trade, rationalisation and consolidation of businesses, increased concentration of ownership among both manufacturers and retailers, intensified competition and dynamic, increasingly complex and demanding consumers are features of the industry across the globe. Moreover, the growing global middle class of consumers is more sophisticated and discerning, driving innovation and differentiation of products and services.

The AFGC is working with governments in taking a proactive, even tactical, approach to public policy to enable businesses to tackle the threats and grasp the dual opportunities of globalisation and changing consumer demands.

## SUPPLEMENTARY ADVICE TO INQUIRY

The Australian Competition and Consumer Commission has invited additional comment on the operation of the mandatory Horticulture Code of Conduct.

As the commission has outlined in a discussion paper (20/5/08), the horticulture code's objectives are to:

- regulate trade in horticulture produce between growers and traders to ensure transparency and clarity of transactions
- provide a fair and equitable dispute resolution procedure for disputes arising under the Code or a horticulture produce agreement.

The Australian Food and Grocery Council (AFGC) is a participant in the Administration Committee which oversights the voluntary Produce and Grocery Industry (PGI) Code of Conduct. This has afforded AFGC an opportunity to monitor the effectiveness of the voluntary code. It is noted the voluntary code enjoys broad-based endorsement from stakeholder organisations along the produce supply chain.

The main objective of the voluntary PGI code is to promote fair and equitable trading practices across the supply chain. A key element of this is the dispute resolution procedures available to industry through the services of the Grocery Industry Ombudsman. This offers a confidential dispute resolution process drawing on the expertise of qualified mediators, with some financial support from the Australian Government.

There is a clear trend towards a reduction in demand for mediation:

- The number of dispute enquiries has declined from 140 in 2004-05 and 124 in 2005-06 to 58 in 2006-07 and to date 12 in 2007-08
- The number of applications for mediation is down from 58 in 2004-05 and 65 in 2005-06 to 12 in 2006-07. There have been no applications for mediation during 2007-08.

This clear trend suggests that industry is now better able to resolve disputes before reaching a mediation stage. The very presence of the Ombudsman resource may be acting a catalyst towards more transparent and accurate transaction activity between participants in the produce industry.

This in turn is delivering on a number of objectives established for the PGI code, including:

- *"improve transparency in 'vulnerable' supply markets – where growers have to deal with a range of market characteristics, including perishability, market volatility and a high degree of risk exposure"*
- *"reducing contractual uncertainty, in particular, the passing of ownership of produce and the circumstances under which produce can be returned"*

Importantly, it should be noted that mediation services under both the PGI and the Horticulture codes are through a dispute resolution mechanism that is provided by the same provider.

The essential difference between operation of the two codes is that the mediation is compulsory under the horticulture code should either party so ask.

AFGC believes the voluntary code has been shown to provide a pro-active and successful incentive towards transparent and open conduct between parties.

It is therefore essential that any recommendations for change to the operation of the Horticulture Code of Conduct do not in any way impinge on or compromise the ability of the voluntary code to maintain operation in its current form.

AFGC will be pleased to expand further on this matter if required

*AFGC contact:*

Russ Neal

Director, Industry Policy

02 6273 1466

[russ.neal@afgc.org.au](mailto:russ.neal@afgc.org.au)

## AFGC MEMBERS AS AT 22 MAY 2008

AAB Holdings Pty Limited  
 Arnott's Biscuits Limited  
     Snack Foods Limited  
     The Kettle Chip Company Pty Ltd  
 Asia-Pacific Blending Corporation Pty Ltd  
 Australian Pacific Paper Products  
  
 Barilla Australia Pty Ltd  
 Beak & Johnston Pty Ltd  
 BOC Gases Australia Limited  
 Bronte Industries Pty Ltd  
 Bulla Dairy Foods  
 Bundaberg Brewed Drinks Pty Ltd  
  
 Bundaberg Sugar Limited  
 Cadbury Schweppes Australia NZ  
  
 Campbell's Soup Australia  
 Cantarella Bros Pty Ltd  
 Cerebos (Australia) Limited  
 Christie Tea Pty Ltd  
 Clorox Australia Pty Ltd  
 Coca-Cola Amatil (Australia) Limited  
     SPC Ardmara Operations Limited  
 Colgate-Palmolive Pty Ltd  
 Coopers Brewery Limited  
 Dairy Farmers Group  
 Danisco Australia Pty Ltd  
 Devro Pty Ltd  
 Dole Australia  
 DSM Food Specialties Australia Pty Ltd  
     DSM Nutritional Products  
 Earlee Products  
 Ferrero Australia  
 Fibrisol Services Australia Pty Ltd  
  
 Fonterra Brands (Australia) Pty Ltd  
  
 Foster's Group Limited  
 Frucor Beverages (Australia)  
 General Mills Australia Pty Ltd  
 George Weston Foods Limited  
     AB Food and Beverages Australia  
     AB Mauri  
     Cereform/Serrol  
     Don  
     GWF Baking Division  
     George Weston Technologies  
     Jasol  
     Weston Cereal Industries  
 GlaxoSmithKline Consumer Healthcare  
 Golden Circle Limited  
 Goodman Fielder Limited  
     Meadow Lea Australia  
     Quality Bakers Australia Pty Ltd  
 Green's Foods Limited  
 H J Heinz Company Australia Limited  
 Hans Continental Smallgoods Pty Ltd  
 Harvest FreshCuts Pty Ltd  
 Heimann Foodmaker Group

Hoyt Food Manufacturing Industries Pty Ltd  
 J Boag and Son Brewing Limited  
 Johnson & Johnson Pacific Pty Ltd  
  
 Pfizer Consumer Health  
 Kellogg (Australia) Pty Ltd  
     Day Dawn Pty Ltd  
 Kikkoman  
 KR Castlemaine  
 Kimberly-Clark Australia Pty Ltd  
 Kerry Ingredients Australia Pty Ltd  
  
 Kraft Foods Limited  
 Lion Nathan Limited  
 Madura Tea Estates  
 Manassen Foods Australia Pty Ltd  
  
 Manildra Harwood Sugars  
 Mars Australia  
     Mars Food  
     Mars Petcare  
     Mars Snackfood  
 McCain Foods (Australia) Pty Ltd  
 McCormick Foods Australia Pty Ltd  
  
 Merino Pty Ltd  
 Merisant Australia Pty Ltd  
 National Foods Limited  
 Nerada Tea Pty Ltd  
 Nestlé Australia Limited  
     Nestlé Foods & Beverages  
     Nestlé Confectionery  
     Nestlé Ice Cream  
     Nestlé Chilled Dairy  
     Nestlé Nutrition  
     Foodservice & Industrial Division  
     Novartis Consumer Health Australasia Pty Ltd  
 Nutricia Australia Pty Ltd  
 Ocean Spray International, Inc  
 Parmalat Australia Limited  
 Patties Foods Pty Ltd  
 Peanut Company of Australia Limited  
 Procter & Gamble Australia Pty Ltd  
  
 Gillette Australia  
 PZ Cussons Australia Pty Ltd  
 Quality Ingredients Limited  
     Prima Herbs and Spices  
 Reckitt Benckiser (Australia) Pty Ltd  
  
 Ridley Corporation Limited  
     Cheetham Salt Limited  
 Sanitarium Health Food Company  
  
 Sara Lee Australia  
     Sara Lee Foodservice  
     Sara Lee Food and Beverage  
 SCA Hygiene Australasia  
 Schwarzkopf and Henkel  
 Sensient Technologies  
 Simplot Australia Pty Ltd  
 Specialty Cereals Pty Ltd  
 Spicemasters of Australia Pty Ltd  
 Stuart Alexander & Co Pty Ltd  
 Sugar Australia Pty Ltd  
 SunRice

Swift Australia Pty Ltd  
 Symrise Pty Ltd  
 Tate & Lyle ANZ  
 Tetley Australia Pty Ltd  
 The Smith's Snackfood Co  
 The WRIGLEY Company Pty Ltd  
 Unilever Australasia  
 Waters Trading Pty Ltd  
 Wyeth Australia Pty Ltd  
 Yakult Australia Pty Ltd

### Associate members

Accenture  
 Australia Pork Limited  
 ACI Operations Pty Ltd  
 Amcor Fibre Packaging  
 CAS  
 CHEP Asia-Pacific  
 Concurrent Activities  
 Dairy Australia  
 DHL Exel Supply Chain  
 Focus Information Logistics Pty Ltd  
 Food Liaison Pty Ltd  
 Food Science Australia  
 Foodbank Australia Limited  
 IBM Business Consulting Services  
 innovations & solutions  
 KPMG  
 Lawson Software  
 Legal Finesse  
 Linfox Australia Pty Ltd  
 Logistics Bureau Pty Ltd  
 Meat and Livestock Australia Limited  
 Monsanto Australia Limited  
 PricewaterhouseCoopers  
 Promax Applications Group Pty Ltd  
 SAP Australia Pty Ltd  
 Sue Akeroyd & Associates  
 Supply Chain Consulting Pty Ltd  
 Swire Cold Storage  
 Swisslog Australia Pty Ltd  
 Touchstar Pacific Pty Ltd  
 Touchstone Cons. Aust Pty Ltd  
 Visy Pak  
 Wiley & Co Pty Ltd

### PSF members

Amcor Fibre Packaging  
 J Boag and Son Brewing Limited  
 Bundaberg Brewed Drinks Pty Ltd  
 Cadbury Schweppes Asia Pacific  
 Coca-Cola Amatil (Australia) Limited  
 Foster's Group Limited  
 Golden Circle Limited  
 Lion Nathan Limited  
 Owens Illinois  
 Visy Pak

## **AUSTRALIAN FOOD AND GROCERY COUNCIL**

ABN 23 068 732 883

Level 2, Salvation Army House  
2-4 Brisbane Avenue  
Barton ACT 2600

Locked Bag 1  
Kingston ACT 2604

Telephone: (02) 6273 1466

Facsimile: (02) 6273 1477

Email: [afgc@afgc.org.au](mailto:afgc@afgc.org.au)

**[www.afgc.org.au](http://www.afgc.org.au)**