



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 oversees 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 as 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

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**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 Ardmona 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  
Fruco 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

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