

Public hearing – Melbourne

30 May 2008

Time: 10.00am – 2.00pm

Address: ACCC Office
Level 35, The Tower
360 Elizabeth Street
Melbourne

Room: Large View Room – Level 35

Time (indicative only)	Witness	Submission	Summons
10.00am	Produce and Grocery Industry Code Administration Committee Mr Ian Davis Chairman	50	No
11.00am	Lamanna Group Mr Peter Delis President	N/a	Summonsed and compelled to appear by ACCC
12 noon	Fonterra Mr Jim Van Bruinessan Sales Director	85	Summonsed and compelled to appear by ACCC
<i>1.00pm – 1.30pm</i>	<i>Lunch</i>		
1.30pm	Baker's Delight Mr Richard Taylor Chief Financial Officer/ Company Secretary Mr Gerry Gerrard General Manager – Property, Projects and Supply Chain	N/a	No

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TRANSCRIPT OF PROCEEDINGS

AUSTRALIAN COMPETITION

AND CONSUMER COMMISSION

MR GRAEME SAMUEL, Chairman

DR STEPHEN KING, Commissioner

MR JOHN MARTIN, Commissioner

GROCERY PRICE INQUIRY HEARING

**CONDUCTED AT: MELBOURNE CENTRAL TOWER,
MELBOURNE**

DATE: 10.12 AM, FRIDAY, 30 MAY 2008

THE CHAIRMAN: All right. I will go through the appropriate introductory comments to open the hearing. My name is Graeme Samuel and I am the Chair of the Australian Competition and Consumer Commission and the Chair of this public inquiry into the Competitiveness of Retail Prices of Standard Groceries. As Chair, I welcome you all, which is actually two people other than the members of the ACCC, and declare this hearing opened. I am joined by Commissioner John Martin and Commissioner Stephen King who are the other two presiding members of the inquiry.

The inquiry has been convened under part 7A of the Trade Practices Act. It is held pursuant to a request made on 22 January, from the Assistant Treasurer and Minister for Competition Policy and Consumer Affairs, Mr Chris Bowen. Details regarding all the matters to be taken into consideration by the inquiry are available on the ACCC website. I note that we have received so far over 200 public submissions to the inquiry, as well as confidential submissions. They cover a range of issues and we will endeavour to take into account all relevant information that has been provided. The purpose of these hearings is to give the ACCC an opportunity to investigate into detail the key issues that have been raised. We have held hearings throughout Australia during April and May with the remaining hearings being held in Melbourne.

Some of the material covered in today's hearing will be confidential and commercially sensitive and therefore parts of the hearing won't be open to the public. That is because we must be able to investigate issues without damaging the witness's competitive position or commercial relationships. We will also be questioning witnesses about confidential documents the ACCC has obtained using our information gathering powers, and, of course, that cannot occur in public. Transcripts of the public parts of the hearing are available on the website. We may disclose some aspects of confidential components of the transcript some time after the hearing if we consider some of the material should be in the public domain but we will consult with the relevant witness before doing that.

In terms of procedural issues, all witnesses will have received a document that outlines how we intend to approach these hearings, so I won't go through those procedural points in detail. I just want to emphasise that, although we are not taking evidence under oath at this hearing, it is a serious offence to give false or misleading evidence to the ACCC. In relation to confidentiality, if a witness believes that a particular question or series of questions are likely to result in the disclosure of confidential information, then the witness should indicate an objection to answering that question on that basis. I will then consider whether the inquiry should take evidence in private.

We are not using external counsel at this hearing, but witnesses will be questioned by the ACCC's internal lawyers, Mr Damien O'Donovan and Ms Catherine Freeman. That concludes my preliminary remarks and I thank Mr Davis for attending this hearing. We realise you are a busy person and attending is a significant imposition

on your time and your organisation. Could I now hand over to Mr O'Donovan, who will take the questions for Mr Davis.

5 MR O'DONOVAN: All right. Could you just state for the record your name and your position and the organisation that you are representing?

MR DAVIS: Ian Russell Davis. I am Chairman of the Produce and Grocery Industry Code Administration Committee.

10 MR O'DONOVAN: And do you understand that it is an offence under the Criminal Code to give evidence to this inquiry that you know is false or misleading or omits any matter or thing without which the evidence is misleading?

15 MR DAVIS: I understand.

MR O'DONOVAN: Okay. All right. Could you just briefly describe the Produce and Grocery Industry Code Administrative Committee? What its role is and what your role is within it?

20 MR DAVIS: How far back would you like me to go?

MR O'DONOVAN: I think it might be useful just to have a short potted history.

25 MR DAVIS: The Produce and Grocery Industry Code Administration Committee administers and monitors the Produce and Grocery Industry Code of Conduct. It is a voluntary code. It promotes fair trading practices and commercial relationships in the produce and grocery industry and it covers all supply chain participants, except consumers, in the industry, including growers, processors, wholesalers, distributors and retailers. The objectives of the code are to promote fair and equitable trading
30 practices among industry participants, to encourage fair play and open competition between industry participants as a means of avoiding disputes, and provides a simple, accessible, cost effective, non-legalistic dispute resolution mechanism in the event of a dispute between participants within the industry.

35 The current committee had its origins following the response of the then government to the Joint Select Committee report, "Fair Market or Market Failure", back in 1999, when the Code of Conduct Committee was established in February, 2000, and it was charged with the task of drafting a code in line with the response by the government at that time. As a result of which, the code was adopted and came into operation, I
40 think, 13 September, 2000. Since that time, there have been changes to the code. The code has a mechanism whereby changes can be effected by unanimous resolution of the members of the Committee. The Committee comprises a wide representation from all sectors within the produce and grocery industry, in its entirety, and there have been a number of changes from time to time which have
45 strengthened the code as we have seen how the code has developed. Is that sufficient for your purposes?

MR O'DONOVAN: Yes, that's great. All right. Now, the code itself, in terms of how – in terms of the specific regulation it provides for, placed obligations on retailers in relation to specifications and contracts and packaging. In your experience, are the major retailers who have signed up to the code, are they generally
5 compliant with those requirements?

MR DAVIS: I think it's fair to say that the experience over seven years has been that there has been minimal dispute activity in relation to the retailers. I don't have the figures in front of me specifically, but to the best of my recollection, there has
10 been only one major dispute involving retailers in the whole of the period of the life of the code. So, it is difficult for me to otherwise ask. You can only assume from that, and what the review of the code have expressed – and we have had two reviews – that the retailers are seen to be generally compliant in terms of their clarity and transparency of their contractual terms with those with whom they are dealing and
15 have a clear set of rules and it is probably for that reason that we don't see any – or we see very minimal – dispute activity involving retailers. Most disputes that come before the Ombudsman are at the trader, wholesaler, agent level.

MR O'DONOVAN: Okay. Now, in relation to the major dispute, is that – as
20 Chairman, are you privy to the details of that?

MR DAVIS: No.

MR O'DONOVAN: No. So, that's all just - - -
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MR DAVIS: That is confidential.

MR O'DONOVAN: Yes. And that's held only by the Ombudsman.

30 MR DAVIS: It is held by the Ombudsman and the parties.

MR O'DONOVAN: Okay.

MR DAVIS: We are only provided with general details of the nature of the dispute.
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MR O'DONOVAN: Sure. All right. Now - - -

MR DAVIS: I think it is widely known, though, that that dispute, I think, involved egg producers.
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MR O'DONOVAN: Yes. Which I think we heard some evidence about from the - - -
-

MR DAVIS: Yes.
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MR O'DONOVAN: The VFF. All right. Now, the code also provides a sort of omnibus dispute resolution provision for anyone - - -

MR DAVIS: Yes.

MR O'DONOVAN: - - - in the supply chain?

5 MR DAVIS: Yes.

MR O'DONOVAN: In terms of the information provided to the Committee, where did the problems seem to rest, based on where the complaints come from within the supply – the horticulture supply chain?

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MR DAVIS: At the level of merchants and agents you would have to say that that represents a vast number of the issues that come before the Ombudsman and in terms of the nature and basis of disputes, which either are subject of mediation inquiries or mediations, it is failure to pay invoices, value of produce, quality of produce.

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MR O'DONOVAN: So that the - - -

MR DAVIS: With isolated examples of other areas, but - - -

20 MR O'DONOVAN: Sure. Now, do you have specific details in documentary form which we could have?

MR DAVIS: No.

25 MR O'DONOVAN: No.

MR DAVIS: That information is not available to us.

MR O'DONOVAN: But just the generic information?

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MR DAVIS: Generic information – we have - our submission attaches – no, it doesn't. The submission attaches disputes by territory and location and the number of disputes and the number of mediations. So, it doesn't actually go to the nature of the disputes but I can extract for you the material from the annual reports going back to 2001, if that's your wish.

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MR O'DONOVAN: Yes.

MR DAVIS: I can have the secretariat do that.

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MR O'DONOVAN: All right. I think that would be useful. All right. So – and when you say “disputes about the quality of produce”, presumably that means that the wholesaler has sold, or merchant has sold, produce based on it being of a different quality – assessing its quality differently to the grower?

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MR DAVIS: Or issues of perishability, I would imagine, as well.

MR O'DONOVAN: Okay. All right. Now, given that it seems that complaints about retailers are uncommon, do you think that that's because suppliers are, in some ways, too scared to make complaints about their biggest customers, which is – I think it's fair to say – persistent rumour that is said about the major retailers, but there
5 seems to be little substantive evidence of it. Do you have any view or experience that might suggest that it's because growers are too scared to complain about the major retailers?

MR DAVIS: Well, in fact, it is – actually, the evidence is to the contrary to the best
10 of my direct knowledge. From evidence that we have received from the Ombudsman there is anecdotal evidence of what you say in terms of fear of retribution, but the Ombudsman has consistently reported to us that there has never been any actual evidence of that coming before the Ombudsman. Nor has there been any claim based on victimisation.

15 MR O'DONOVAN: All right. And in terms of the processes, a complaint can be made to the Ombudsman on a confidential basis?

MR DAVIS: Yes.
20

MR O'DONOVAN: Right.

MR DAVIS: Absolutely.

25 MR O'DONOVAN: And notwithstanding – yes. And notwithstanding that, still no?

MR DAVIS: Correct.

30 MR O'DONOVAN: There is no evidence of that. Okay. Now, in looking at the figures – no, before we move off that topic – in terms of complaints about wholesalers, or people acting as merchants, do you have any material available that would indicate whether or not those merchants are acting on behalf of, or as
35 aggregators for, the major supermarkets?

MR DAVIS: No.

MR O'DONOVAN: No. Okay. All right. Now, on the statistics that you have
40 provided to us, it looks like there's been a dramatic decline in the number of complaints dealt with by the Ombudsman. Could you just explain briefly why that would be?

MR DAVIS: I would like to be able to answer that with some certainty, and in our
45 submission I think we indicated that we cannot determine if this is because the code has genuinely improved relationships or whether industry participants are becoming more proficient with internal and other dispute resolution mechanisms. There are, within our code, it is a two step process. It is an internal first and we encourage all

industry participants to adopt an internal mechanism and it doesn't get to the Ombudsman unless the internal mechanism has not been successful in resolving the dispute. And it is only those circumstances that ultimately get to the Ombudsman. So, we don't have the evidence as to disputes that have actually been determined by an internal mechanism before they get to the Ombudsman.

MR O'DONOVAN: Okay. So, it is possible that the decline in complaints is an indication that relationships within the industry are improving?

MR DAVIS: It could be, and it is interesting that you – on the one hand, as you look at those numbers, you have a number of mediations totalling over the period that have been handled by the Ombudsman or the panel of 151, and a peak of mediations in '05/06, where there were 46 and 54 respectively, down to a very small number in '06, '07 and '08. Yet at the same time, if you look at the next page, the hits on the website actually is growing exponentially. It's gone from 263 hits a month to 1754 hits per month, and that's significant because in the review that was undertaken by Garland Associates last year, they did indicate that one of the strengths of the code was that there is a heightened awareness of the code, so it is out there and there is certainly a high level of awareness of the Code. So, it's not because of any lack of knowledge that participants in the industry may have, but it's not bringing it forward.

COMMISSIONER MARTIN: Mr Davis, the '05/06 numbers; was that under the current Ombudsman or the mediator today?

MR DAVIS: No, it was under the previous Ombudsman, and that is before the panel was adopted. And we have also - - -

COMMISSIONER MARTIN: And that previous Ombudsman had a wider role?

MR DAVIS: Yes, the previous - - -

COMMISSIONER MARTIN: Sort of a promotion - - -

MR DAVIS: - - - Ombudsman had a role of promotion as well as acting as Ombudsman and it was not a situation as we have at the present, where the Ombudsman manages a panel of mediators.

COMMISSIONER MARTIN: Yes.

MR DAVIS: The Ombudsman actually handled all of those disputes.

COMMISSIONER MARTIN: Or his company did?

MR DAVIS: His company. Yes. And there were two within that company that handled all disputes at that time.

MR O'DONOVAN: All right. Now, there's also, there seems to be a particular over-representation of Queensland in the disputes. Is there any particular reason for that?

5 MR DAVIS: I think probably you will find it relates predominantly to mango growers.

MR O'DONOVAN: Yes?

10 MR DAVIS: If I was to answer that question to the best of my knowledge.

MR O'DONOVAN: Right. And is there a reason why there are a particularly large number of disputes in the mango industry?

15 MR DAVIS: I can't answer your question.

MR O'DONOVAN: Okay. All right. Now, has the introduction of the Hort Code, Horticulture Code, altered the way in which people are accessing the Produce Code?

20 MR DAVIS: We haven't seen any difference in the way the participants in the industry are approaching our code. It is fair to say the Hort Code has a very narrow sector to which it relates in relation to fruit and veg, whereas our code applies to all relationships, both food and non-food, within the vertical supply chain. So, it's a much wider sphere which we cover. And obviously there is also no transitional
25 arrangements, or transitional provisions, in relation to our code, so the issues regarding the pre-existence of, or contracts existing prior to the date of introduction of the Hort Code is obviously an issue and anecdotally seems to be an issue in terms of participants in the industry.

30 MR O'DONOVAN: And in terms of the people who are outside of – who aren't covered at all by the Horticulture Code, so I suppose manufacturers?

MR DAVIS: Well, it's also within the horticulture industry because the horticulture industry has, or horticulture produce is defined in the Hort Code, as I understand it,
35 as fruit and vegetables, edible plants, whereas growers, if you turn to the Produce and Grocery Industry Code, growers covers all yield of plants and/or animals and marine life. So, it covers dairy, eggs, fish, milk, and the whole ambit, whereas they are not covered by the Hort Code.

40 MR O'DONOVAN: And in terms of their representation in complaints? Do you break down the figures so that you know which particular industries are – the complaints are coming from?

MR DAVIS: There is evidence in the annual reports to that effect, yes.
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MR O'DONOVAN: Okay. And is it mostly focused in the fruit and veg part, in terms of the complaints? Or, you know, are cut flowers and fish and dairy also strongly represented in the complaints area?

5 MR DAVIS: It goes from potatoes, oranges, pears, mangos, wine grapes, table grapes, tomatoes, right across the spectrum.

MR O'DONOVAN: Right. But that all does seem to be focused in the same area the Horticulture Code covers?

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MR DAVIS: Yes. Yes, it does.

MR O'DONOVAN: Right. Which does suggest that – I mean, that that's the focus – that is the supply chain that creates the most difficulties.

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MR DAVIS: On the evidence before us, yes.

MR O'DONOVAN: Do you think if the Horticulture Code was extended to retailers, would that make, firstly, any difference to the activity under your code?

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MR DAVIS: I am really not able to say. Other than the dispute mechanism – dispute resolution mechanism under our code is, I believe, a more cost effective mechanism in that the costs of the mediator are met by the government and also the costs of the participation of the parties to the mediation are also covered, which is not the case under the Hort Code.

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MR O'DONOVAN: All right. That was all I had.

THE CHAIRMAN: I'm going to take you outside your formal role for the moment as Chairman of the Produce Code, because in that role you have a lot of contact with representatives of growers, representatives of the supermarket chains, of ALDI and of others that are participants in the produce Code and you may be aware that through the course of this enquiry, we've had a number of propositions put to us in relation to the Horticulture Code. I just wanted to test the feedback you might get from the discussions that you'd have, either in an informal or in a formal way, around the administration committee table just as to reactions to these various propositions because of a number of them are incomplete.

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The first is that the Horticulture Code should apply to the major supermarket chains. Then the second is that it shouldn't apply to the major supermarket chains because they largely comply with the Horticulture Code and that the trading arrangements they have with growers is satisfactory and that is the advice that's given to us by growers on the record in almost unanimous position. We have issues raised about the role of "agents", and as a lawyer you know that the definition of agent tends to be a bit loose in this area. Agents are, on a legal sense, those who perfectly represent, in a true agency sense, the supermarket chains but then when you enquire a bit further, as we did with the Victorian Farmers Federation, we learned that agents are really

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parties who are buying almost as consignment purchases, buying as principals and then moving on to aggravating acquisitions of produce and then move them on through various subsidiaries and other intermediary parties through to the major supermarket chains and others.

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And then we talk about aggregate as we talk about merchants. We hear that there is, on the one hand, a large level of non-compliance with the Horticulture Code and then we hear that there is a large level of parties within the ambit of the Horticulture Code who don't want to comply with it anyway because they don't like the Horticulture Code and the regulatory prescriptions that it imposes. We're aware of the grandfather and contractor relationships and then there are those that suggest that the Horticulture Code supplants the Produce Code and that, you know, that there's a duplication, a dual track process, if you like, in terms of regulation. Now, I've raised a whole lot of propositions there for you because you can imagine that these propositions can be terribly confusing.

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Could I ask you in a very liberal way to just wax lyrical about the information you're getting from the people with whom you're dealing in the produce area, both at the retailer end, the wholesaler end and the grower end about the reactions to all those sort of propositions and anything else you want to talk about in relation to this area. Feel free to speak freely.

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MR DAVIS: I think the starting point for me as Chairman, I believe, would be to say that at the time that the Produce and Grocery Industry Code or the Retailer Grocery Code, as it then was, was put into place the industry participants were very dysfunctional. There was a high level of dysfunction and the ability to get agreement on issues was very, very difficult and there was a high level of antagonism between the various members of the committee even at that time when the code was initially put in place. Increasingly, we have seen that the code has led by virtue of our broadening the base of the committee since that time and it is now very representative of a wide group throughout the industry.

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It has led to, I think, a very successful example of industry self regulation where it has influenced behaviour and achieved its objectives and has operated to foster collaboration and communication and remove communication barriers which I think existed at the time that the code came into practice. Anecdotally – and I can only talk anecdotally – I can't say that I'm hearing the same about the Hort Code. In fact, I'm hearing exactly the opposite in relation to the Horticulture Code and in fact, I think the anecdotal statements I'm hearing is that the Horticulture Code has actually set the industry back and has polarised the growers and the marketing arms of the industry, so that what we are seeing within our code and the level of collaboration and communication between the committee members on issues – and successfully so because we set up committees to handle standardisation of product specification, labelling, terms of trade, etcetera.

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They're areas where we've actually worked together and we've had sub committees of our committee working to actually try and introduce initiatives which will

improve and influence behaviours within the industry. The other point I would make is that anecdotally, the constraints on the Hort Code by virtue of the fact that it only applies to corporations, it doesn't apply to unincorporated growers where there's no interstate trade and commerce, where you have limitations on what can be or can't be included in contracts, whether services can be included in contracts or not be included in contracts. All of these things, I believe, on the anecdotal evidence that I hear around the table, are inhibitors to the effective roll out of the Hort Code, as it exists at the present time.

10 And the other fact, of course, is the dispute resolution procedure, even though it's managed by the same Ombudsman or panel of mediators, it is a more cost effective mechanism to go via the Industry Code rather than the Hort Code and that's recognised out there. And also, the Hort Code has got a very narrow base in terms of its fruit and vegetables and nettle plants, as against the broad base and coverage of the voluntary code. So, for all of those reasons there has continued to be buy in and as new industry participants have been approached to endorse and promote our code, there has never been a difficulty. In fact, we've had organisations who want to be represented around the committee table of our code and as industry participants have come in, for instance ALDI came in, we approached and ALDI were happy to endorse the code and agree to promote the code within their organisation.

THE CHAIRMAN: What about – I just want to try and reconcile a few things here because the Hort Code resulted from the Neil Buck analysis of the review of the Produce Code and my recollection is that Buck said that the Produce Code was going so far but what we needed was a more mandatory, regulatory prescriptive type arrangement and the Hort Code then developed out of that, but also developed out of a strong pressure from segments of the growing industry which said to the former Government, we need to have a Hort Code. And so much so that the former Government, I think at one stage, undertook to produce a Hort Code within a - - -

30 MR DAVIS: 100 days.

THE CHAIRMAN: - - - limited period of time, 100 days of the 2004 election. It took a bit longer than that but so be it. But clearly the Hort Code was the result of the then Government perceiving that there was a need to have it. Whether the need flowed from the report of Neil Buck or whether it flowed from the plaintiff cries of growers or whatever it might be, they perceived a need to have it and yet your anecdotal information is that – and I would have to say to you I think they're anecdotal information by the way is useful because you're talking to representatives sitting around your committee table – but that anecdotal information would seem to suggest, to use your words, that there's been a polarisation between growers and marketing arms. Do you mean marketing arms of retailers or marketing arms of wholesalers or?

45 MR DAVIS: Wholesalers and agents.

THE CHAIRMAN: Of wholesalers. So, there's been a polarisation that's occurred there as a result of the Hort Code which was not evident prior to the Hort Code being in existence.

5 COMMISSIONER MARTIN: It's evident. There was a polar – I mean, the forty – your peak a year was all wholesaler versus growers. I mean, that – so there was polarisation.

10 THE CHAIRMAN: But what's being suggested, I think, by Mr Davis is that the polarisation has been exacerbated by the Hort Code. That's what I'm trying to test.

COMMISSIONER MARTIN: Yes, yes, exacerbated.

15 MR DAVIS: But it's only anecdotal evidence.

THE CHAIRMAN: Sure.

20 MR DAVIS: It's not first hand evidence that I have but it's just evidence that I've heard.

THE CHAIRMAN: And we're getting evidence from the Victorian Farmers Federation that says that the major supermarket chains should be subject to the Hort Code, although the evidence was slightly confusing in that it - - -

25 MR DAVIS: Sorry. My apologies. Who was that evidence from?

THE CHAIRMAN: The Victorian Farmers Federation.

30 MR DAVIS: The VFF.

THE CHAIRMAN: Yes.

MR DAVIS: Yes.

35 THE CHAIRMAN: Sorry. That the evidence was slightly confusing because it tended to relate to the role of the – what they described as agents which turned out to be, if anything, more consignment aggregators from the growers who weren't acting as agents for the major supermarket chains at all but were aggregating and they're passing through several tiers to ultimately sell through to the major supermarket
40 chains. And then we have evidence from other parties representative of growers, Farmers Federation and the like, that suggest that the point of first sale between the grower ought to be subject to the Hort Code which, of course, would not necessarily include the major supermarket chains unless they were dealing direct.

45 I'm just trying to get a sense from you - the sense I'm getting from your anecdotal information, which is valuable because you're dealing with a range of parties in this

industry, but the sense I'm getting is that the Hort Code may have been a step backwards rather than step forwards.

MR DAVIS: May have been.

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THE CHAIRMAN: And is that the information that's coming to you from the groups represented around your administration committee table, leaving aside those who are not party to it, that is, the supermarket chains at the moment. I'm think of those that are now party to it as wholesalers and as growers.

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MR DAVIS: Would you like to rephrase that question?

THE CHAIRMAN: Yes.

15 MR DAVIS: Sorry.

THE CHAIRMAN: Yes, sorry. I'm just trying to open up in a more informal sense - - -

20 MR DAVIS: I'm sorry.

THE CHAIRMAN: - - - to get some information from you but if I have a look at the representatives around your table and we've got dairy farmers, chicken growers, egg corporations, food and - well, we can leave aside the Food and Grocery Council - wine grape growers, NARGA, National Farmers Federation - - -

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MR DAVIS: Horticulture Australia.

THE CHAIRMAN: Horticulture Australia etcetera. We've got a pretty wide ranging group of representatives there of growers and/or wholesalers, leaving aside the major supermarket chains but I sense - I don't want to verbal you - but I sense that you're saying that anecdotally they're saying that a Horticulture Code has not been a step forward, it's been a step backwards for them.

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35 MR DAVIS: Some, not all. Some of them.

THE CHAIRMAN: Could just give us a bit of an idea about where the weak points might be. Which are those that are saying it's a step backwards, why are they saying it's a step backwards, why are getting evidence that there is apparently a large group that are saying, amongst the growers and wholesalers, that the compliance costs and the compliance prescriptions of the Hort Code are a disadvantage to them, why are you suggesting that anecdotally there's been a greater polarisation that's occurring between these parties as a result of the Hort Code?

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45 MR DAVIS: I can't give any further detail than give you broad assertions that I am hearing from within members of our committee.

THE CHAIRMAN: Yes. And if you were to summarise the broad assertions, and recognising the limitations of those broad assertions, what would you say the broad assertions would amount to, if we were to say to all these parties, put to us a series of submissions as to what ought to be done with the Hort Code, what do you think they
5 would say to us based on your anecdotal discussions and information?

MR DAVIS: I think it's fair to say that the representatives that sit around the committee table of our committee are very keen to ensure that this code is effective and influences behaviours in the industry.
10

THE CHAIRMAN: That this code, being the Produce Code?

MR DAVIS: That this code, being the Produce Code and Industry Code. And they work pretty hard to do that and they're very diligent. They're there because they
15 want to be there. They meet their own costs of being there. So, there is a high level of commitment to the code because it's not simply attending committee meetings on a regular basis. They meet their own costs of travelling to meetings, sub committee meetings, submissions, meetings for the secretariats and there is a high level of commitment. And I think there is a view that the – and these were views that were
20 expressed to ACCC representatives who came and addressed our committee after the election at which the Hort Code was foreshadowed as to what it may or may not include and when it was being evolved.

And during that evolution period, I think views were expressed by members of the
25 committee, even then, that there were going to be real difficulties with the Hort Code, the way that it was - the road that they were going down. If you go back to the committee members and the minutes of meetings at that time when the ACCC reps addressed our committee, there were real reservations expressed even then as to whether they could co-exist and where do you draw the line in terms of the co-
30 existence between the two and there were lots of discussions. I would have to go back to the minutes as to specifically the points that were raised at that time where difficulties were being foreshadowed by members of the committee even then. And I think a lot of the issues that were raised during that period have now materialised.

THE CHAIRMAN: I won't take you too much further on this because it's not fair to do so to you but I wonder if we could ask you to do this. We've issued an issues
35 paper on the Hort Code which is quite specific and it addresses a number of - - -

MR DAVIS: I've seen those issues.
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THE CHAIRMAN: You've seen that. Now, would it be appropriate to ask you to ask the members of your committee to specifically address some of those issues and to give their views, whether as a collective group or as separate groups, but we're
45 anxious to get, you know, as much as we can on the Hort Code and at the moment we're getting some quite conflicting views about it and it's making it a bit difficult.

MR DAVIS: Yes. Most of those issues, as I go through them, are – in terms of our code, they're not issues at all because they don't – issues regarding the transition arrangements, the delivery pricing issues, service agreements, agents, packing houses and co-ops are non issues under our code. They're only issues under the Hort Code,
5 they're not issues under our code, which is another sort of way of saying to me that it just re-enforces what our committee was saying two years ago when this was in the early stages, that there would be so many issues arising out of it that would cause a problem, which are issues which are basically embraced within our code and capable of being met by our code.

10 The lack of clarity asserted as to intermedia as being agents, merchants or retailer's agents, for instance, is not, in my view, an argument as to why you would include retailers within the Hort Code because there's no uncertainty between - for a grower who is dealing directly or supplying directly to a retailer. There's certainly no lack
15 of clarity in that relationship. So, in the issues paper where it asserts that there needs to be transparency as to whether intermediary is acting as an agent or a wholesaler or a retailer's agent certainly doesn't apply to the retailer because there's absolute clarity there.

20 COMMISSIONER MARTIN: Only absolute clarity if the relationship is direct.

MR DAVIS: Direct. Yes.

25 COMMISSIONER MARTIN: Because in a lot of cases, it's not direct.

MR DAVIS: Yes but the issues paper asserts that there's lack of clarity at the first stage and then the issue is, should retailers be included? One doesn't seem to follow the other.

30 THE CHAIRMAN: No, that lack of clarity, I should just suggest, is not perhaps so much at the Commission end, it's a – with various submitters to the Commission. We had a long discussion with the Victorian Farmers Federation who were adamant that the major supermarket chains ought to be collective within the Horticulture Code because they then talked about agents and when we started to query about agents,
35 who the agents were, it actually turns out that the agents are probably more consignment, aggregators for the growers, rather than agents acting for the major supermarket chains. So, that's the lack of clarity that we're referring to in the issues paper.

40 MR DAVIS: Okay. There was another point, if I may, in the issues paper and I'm not sure whether it was intended, that at the bottom of page 4:

45 *Retailers have been able to achieve a competitive advantage over wholesale traders through their access to a dispute resolution process through the voluntary Produce and Grocery Industry Code.*

It seems to imply that it's only the retailers that have access to that dispute resolution mechanism which is – and it seems to me that there may be a misunderstanding as to how that's been expressed because that dispute resolution mechanism, of course, is available to all participants right through the vertical chain, not only to retailers. And again, that's repeated on page 8 and I've just don't understand the reference to it where again, it's been asserted that:

Growers who have a dispute with a retailer could already use the existing dispute resolution process to establish under the voluntary code –

again. There seems to be this constant inference that it applies to the retailers but not to agents, merchants and others, which is not the case.

THE CHAIRMAN: All right. John.

COMMISSIONER MARTIN: The only question I have, Mr Davis, was in relation to the original review of the code. The voluntary code by Neil Buck, in fact, indicated that the whole code should be made mandatory. Did you have a view on that?

MR DAVIS: Did I have a view as chairman of the committee? No, I didn't have a view at the time. There were a number of elements of the Buck Review that were not embraced by the members of our committee. there was fair bit of comment as to the conclusions reached in the Buck Review.

COMMISSIONER MARTIN: That's all.

THE CHAIRMAN: All right. Thank you very much. Thank you for your time.

MR DAVIS: Thank you.

THE CHAIRMAN: Very much appreciated.

ADJOURNED [10.55 am]

RESUMED [11.08 am]

THE CHAIRMAN: All right. Mr O'Donovan, over to you.

MR O'DONOVAN: Okay. Now, Mr Treacy, could you just state for the record your full name, the organisation you represent and your position within the organisation?

MR TREACY: Bernard Treacy. I am chief executive officer of Lamanna Bananas Pty Ltd.

5 MR O'DONOVAN: And I just need to confirm that you understand that it is an offence under the Criminal Code to give evidence to this inquiry that you know is false or misleading, or omits any matter or thing without which the evidence is misleading, Do you understand that?

10 MR TREACY: Yes, I do.

MR O'DONOVAN: Okay. Could you describe the history of Lamanna Bananas and what – how it currently operates as a company?

15 MR TREACY: Lamanna Bananas is a company that was established in 1972 here in Victoria. Today it operates a number of – owns and operates – a number of fresh produce subsidiaries across Australia. These entities are commonly referred to as the Lamanna Group. The activities include farming, packing, ripening, distribution, import and export of a wide variety of produce items. The company is privately held and our majority shareholder is actually a growers co-operative.

20 MR O'DONOVAN: And in terms of the products in which it primarily deals? Is that public information?

25 MR TREACY: Our principal business is in the banana business and we operate wholesale market operations in Brisbane, Sydney, Melbourne, Adelaide and Perth.

MR O'DONOVAN: Okay. Do you operate in any markets other than bananas?

30 MR TREACY: Yes.

MR O'DONOVAN: All right. Can you state publicly what they are?

35 MR TREACY: It depends on the geography. So, there's varying degrees of diversification in the different market centres.

MR O'DONOVAN: Okay. All right.

MR TREACY: And I can go into more details on that in the closed session.

40 MR O'DONOVAN: Sure. Okay. All right. Now, in terms of how the wholesale markets themselves operate, just as a general comment, in your view do they respond to market forces in a normal way? There is supply and demand and there is enough volume going through those markets for the price to be established that is genuinely a product of market forces?

45 MR TREACY: Well, the produce industry is somewhat unique in that there's a high degree of volatility. It is the perfect match of supply and demand, so within your

question you asked, if there is not enough volume, and that's reflective in the pricing conditions at that given point in the market.

5 MR O'DONOVAN: Okay. So, it's not possible that a single player, say a major supermarket, could affect the market simply by withholding the potential demand that it could put in to the market?

MR TREACY: I believed that your question was specific to the wholesale markets?

10 MR O'DONOVAN: Sure. But is there any player within the wholesale markets that operates - - -

MR TREACY: Well - - -

15 MR O'DONOVAN: - - - within the wholesale markets that is large enough to manipulate the market in that way?

MR TREACY: Not in the space that we operate in.

20 MR O'DONOVAN: No. Okay. All right. Now, in relation to the markets themselves, do you get the Ausmarket reports that are produced? Does your company rely on the Ausmarket reports that are produced about commodity pricing?

25 MR TREACY: The company may receive those. It's not something that I am aware of or that I review on a regular basis.

30 MR O'DONOVAN: Right. Okay. So, in terms of the – because we have had evidence that, I suppose, questions the reliability with which those Ausmarket reports report the pricing of particular commodities within the markets. Would you be able to comment on that?

MR TREACY: I can't comment on it because I don't review them.

35 MR O'DONOVAN: Right. Okay. And does that – is that because they are not important in terms of informing your view on price? Or that it's just someone else's responsibility within the company ?

40 MR TREACY: My view on price is going to be established by our market intelligence, which is going to be through our organisation which is interfacing on a daily basis with growers and with customers and with an understanding of what's going through the entire supply chain across the country.

45 MR O'DONOVAN: Okay. So, in terms of the market intelligence that you get, without necessarily revealing specific sources, but in general terms, what do you regard as the most reliable information about what's – what's the best way of obtaining reliable information about what's happening within the market?

MR TREACY: Talking to our employees.

MR O'DONOVAN: Okay. And they, in turn, will be talking to growers and customers?

5

MR TREACY: That's correct.

MR O'DONOVAN: Okay. All right. Now, I think – now, you've indicated in your submission to the Commission that Lamanna is also starting to engage in export. Is that right?

10

MR TREACY: Not starting to engage; we've had an export business for some period of time.

MR O'DONOVAN: Okay. Are you happy to discuss any details of the export markets in terms of destinations and volumes?

15

MR TREACY: Our export business is set up principally to export winter season vegetables from Queensland to New Zealand.

20

MR O'DONOVAN: Okay. And in terms of volumes; could you give a percentage publicly?

MR TREACY: No, I would not give that information publicly.

25

MR O'DONOVAN: Okay. Sure. All right. Now, in relation to the Horticulture Code, there is currently – well, there has been information given to the Commission that suggests that there might be a basis for extending the coverage of the Horticulture Code to retailers, who are not presently covered. Does your company have a view or a position on that?

30

MR TREACY: No.

MR O'DONOVAN: No, okay. All right. Now, the remainder of the questions that I have got deal with the specifics of your relationships with growers. Are those matters confidential?

35

MR TREACY: Yes.

MR O'DONOVAN: All right. I think that's as much as I can ask.

40

THE CHAIRMAN: All right. We will have to go into confidential sitting. Sorry.

COMMISSIONER MARTIN: Well, just on the issue of how you operate as an agent for growers. One of the areas that we have had a lot of feedback on, is the difficulty in finding agents as opposed to operators in the wholesale market just

45

wanting to be merchants. Is this something, a phenomenon, in bananas? That agents are available? Or is it – are we only hearing one side of the story here?

5 MR TREACY: We have established our business as an agent and the specifics as to why we have gone down that path are fairly central to our business model and I would prefer, if it's possible, to discuss those in closed session.

COMMISSIONER MARTIN: Okay.

10 THE CHAIRMAN: All right. We will have to clear the room of non ACCC personnel.

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CONTINUED FROM TRANSCRIPT-IN-CONFIDENCE

RESUMED

[12.31 pm]

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THE CHAIRMAN: I think in view of the fact that we are running a little bit late, I might get you to start and then the others will join us as they do.

10 MR O'DONOVAN: All right. Could I get each of you to state for the record your name, the company you represent and your position within the company?

MR VAN BRUINESSEN: Yes. My name is Jim van Bruinessen. I am the sales director for Fonterra Brands Australia.

15

MR CARTER: My name is Geoff Carter and I am a partner at Minter Ellison Lawyers. And I am here in the capacity of legal representative for my client.

20 MR O'DONOVAN: Okay. All right. Then can I just get you to indicate that you understand that it is an offence under the Criminal Code to give evidence at this Inquiry that you know is false or misleading or omits any matter or thing without which the evidence is misleading.

MR VAN BRUINESSEN: I understand that.

25

MR O'DONOVAN: Okay. All right. Now, could you just – then can you confirm that you were summonsed to give evidence here today?

MR VAN BRUINESSEN: Yes.

30

MR O'DONOVAN: Okay. Now, could you just indicate briefly what it is that Fonterra does? What its major brands are and what products it distributes?

35 MR VAN BRUINESSEN: Yes. Fonterra Brands Australia is essentially a dairy based business within Australia and within Australia and New Zealand. We have products represented in fresh milk, in cheese, yoghurt, butter, milk powders – so general dairy categories. The major brands that we produce are Mainland cheese, Bega cheese, Western Star butter, Mainland butter, Connoisseur ice cream, and our local or regional brands of milk. We have Browns in Western Australia, the Norco brand in northern New South Wales and South East Queensland, and Riverina Fresh out of the Murrumbidgee - Wagga Wagga area.

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MR O'DONOVAN: Okay. And how widely spread are your dairy processing facilities?

45

MR VAN BRUINESSEN: Spread across the country, but the bulk of them are in south eastern Australia – the bulk of them are in Victoria.

MR O'DONOVAN: All right. And do you acquire milk direct from farmers in all those states?

MR VAN BRUINESSEN: Yes, we do. Yes.

5

MR O'DONOVAN: Okay. All right. Now, in terms of what's publicly known about market conditions that have impacted on your costs in recent years, could you describe the main factors that have impacted Fonterra's costs of doing business?

10 MR VAN BRUINESSEN: Yes. The couple of main factors, sort of from a macro standpoint, are really around shortages in domestic supply. So, whether – probably due to drought. But the domestic supply of milk has reduced over the past number of years. At the same time, of more recent history, the international demand for dairy products has increased significantly. So, you've had both of those factors really
15 impacting purely from a supply and demand standpoint, where supply has been reducing and demand has been significantly increasing.

MR O'DONOVAN: Okay. And what's been the effect on price at the farm gate of those factors?

20

MR VAN BRUINESSEN: Yes. Over the last couple of years, the farm gate pricing has increased significantly.

MR O'DONOVAN: Okay. And is that, in broad terms, not necessarily the specific
25 contracts you've entered in to, but is the, in broad terms what's been the change in cents per litre? Or is that something you would prefer to answer confidentially?

MR VAN BRUINESSEN: I actually couldn't answer that, I'm sorry.

30 MR O'DONOVAN: Right.

MR VAN BRUINESSEN: I just don't know the answer so not from a – not wanting to. I don't know the answer.

35 MR O'DONOVAN: Yes. Okay. All right. Now, have there been other broader changes in the economy that have impacted on Fonterra's costs?

40 MR VAN BRUINESSEN: Essentially, there are other minor increases in costs in various areas, such as in freight and in packaging. So, PET packaging and that sort of thing has increased over the last couple of years. But certainly the major issues have been all around milk supply in Australia and demand internationally.

MR O'DONOVAN: Okay. And does Fonterra export milk products?

45 MR VAN BRUINESSEN: Yes, we do.

MR O'DONOVAN: Okay. And are the prices it charges domestically influenced by the prices that are available internationally?

5 MR VAN BRUINESSEN: Yes, they are.

MR O'DONOVAN: Okay. So, it would be fair to say that there is an international market for milk?

10 MR VAN BRUINESSEN: Yes.

MR O'DONOVAN: Based products?

MR VAN BRUINESSEN: Yes.

15 MR O'DONOVAN: Okay. All right. Now, I think I am unfortunately going to get straight into pricing of specific products so I think we need to move to the confidential session.

20 THE CHAIRMAN: Yes. So, you have got nothing more we can do on the public register?

MR O'DONOVAN: No.

25 THE CHAIRMAN: All right. Sorry, guys at the back. And we won't resume public session until, I think, 1.30 at the earliest, when we have Bakers Delight, and then there will be a short area of public and then it will probably go in to private.

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CONTINUED FROM TRANSCRIPT-IN-CONFIDENCE

RESUMED

[1.36 pm]

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THE CHAIRMAN: All right. Look, we'll start and move into the hearing. Over to you, Mr O'Donovan.

10 MR O'DONOVAN: Okay. Can you state your name, position in the company, and the company you represent?

MR TAYLOR: Richard Taylor, Chief Financial Officer and Company Secretary, Bakers Delight.

15

MR GERRARD: And Howard Gerrard, General Manager of Property. Sorry. I forgot where I was working. General Manager of Property, Bakers Delight Holdings.

20 MR O'DONOVAN: Okay. And can I just get each of you to confirm that you understand that it's an offence under the Criminal Code to give evidence at this inquiry that you know is false or misleading, or omits any matter or thing without which the evidence is misleading?

25 MR GERRARD: Yes, I do.

MR TAYLOR: I do. Correct.

30 MR O'DONOVAN: Okay. Good. All right. Now, can you just describe, briefly, the business that Bakers Delight operates?

MR TAYLOR: We – Bakers Delight Holdings is primarily a franchisor of retail – fresh bread retail outlets, franchise outlets. Approximately 90 per cent of our business in Australia is franchised. The remainder is company managed.

35

MR O'DONOVAN: Okay. And that 10 per cent, how many stores would that consist of?

40 MR TAYLOR: In fact, that's probably less than 10 per cent. There's about 30 company managed operations in Australia.

MR O'DONOVAN: Okay. And are they managed for the purpose of finding franchisees and then moving on, or is it part of the business strategy to - - -

45 MR TAYLOR: Part of the business strategy is to have a company managed operation. There are a number of prongs to that strategy. Primarily to ensure that we can walk the talk, so when we tell franchisees how to run their business we are, in

fact, doing it from the experience of running our businesses ourselves; development of talent internally, and, funnily enough, to make profit as well. So they're the key issues.

5 MR O'DONOVAN: Okay. Now, in terms of how Bakers Delight manages its business, does it see supermarkets and other big grocery retailers as direct competitors?

10 MR TAYLOR: We certainly see supermarkets as direct competitors, and a number of our – quite a significant number of our shoppers would cross-shop between ourselves and supermarkets.

15 MR O'DONOVAN: Okay. Does that mean that you price competitively against major supermarkets?

MR TAYLOR: I would say that in setting our prices we would always take into account the prices that supermarkets set their level of pricing. We would always compare that against their regular retail price, as opposed to the, you know, special \$2 a block type price. So we would be always comparing ourselves. Not setting our
20 prices based upon their price, but always, you know, just assessing where the relativities are between the two prices.

MR O'DONOVAN: Right. Okay. So, for example, when there are price reductions on generic white bread that we have seen in recent months, where Coles and ALDI
25 and Woolworths, I think to a lesser extent, are pricing white bread at around about \$1.09 a loaf. Does Bakers Delight react to that, or what competitive response does it make?

MR TAYLOR: We would consider that part of the market to be irrelevant to us.
30 We could never compete at those price levels. We pay attention to the pricing of the supermarket bread, presumably the branded supermarket bread out of – obviously – the two brands, Buttercup and the other one that the name escapes me for a moment.

35 MR O'DONOVAN: Tip Top.

MR TAYLOR: Tip Top.

40 MR O'DONOVAN: Tip Top.

MR TAYLOR: The branded product would be our price competitive points.

45 MR O'DONOVAN: Right. Okay. And so you do take account of where they're pricing in the market?

MR TAYLOR: Correct. Predominantly we will take into account the – particularly the cost of ingredients, and the cost of rents. So it's a combination of our cost base movements, and also the retail pricing environment.

5 MR O'DONOVAN: Right. Okay.

MR TAYLOR: But, generally, we're all under the same type of cost pressures from – certainly, from an ingredients perspective. So we're all – yes, generally moving our prices in the same direction.

10

MR O'DONOVAN: Okay. And in terms of your ability to price bread on a – or your product on a cost plus basis, is your position in the market such that you can work out your costs and then add a margin? Or can sometimes the price move against you just because of other competitive dynamics within the marketplace?

15

MR TAYLOR: I'll answer that and see if you're happy with the way I'm going to approach that. We always seem to find that a pricing approach that is designed to ensure the ongoing profitability of our franchisees and retail outlets generally puts us at a price setting that is there or thereabouts with our key competitors. So we never really seem to have a problem in matching a price level that allows us to be competitive – sorry – which allows us to be profitable, which is then uncompetitive.

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MR O'DONOVAN: Yes. Okay. And in terms of the approach that you take to competing against supermarkets, does it make a difference if a supermarket has an in-house bakery? Does that make it more competitive for you in a location?

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MR TAYLOR: I don't think it would determine – it certainly does not enter our mind from a pricing perspective. I'm sure supermarkets compete with us better when they have an in-store bakery than when there is no in-store bakery, because the standard of the in-store baked product, I think, is better than – certainly the selection is better than if they have just got pre-packaged bread. So I think what we would find, that where we are close to a supermarket with an in-store bakery our sales would be lower than if we were close to the same – we were next to the same supermarket without an in-store bakery.

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35

MR O'DONOVAN: Right. But it wouldn't overtly affect your pricing?

MR TAYLOR: Wouldn't affect our pricing at all. At all.

40 MR O'DONOVAN: Okay.

MR TAYLOR: Not – that's not one of the considerations we take into account.

45 MR O'DONOVAN: Yes. Okay. All right. Now, then, in terms of inputs, changes to pricing of your inputs, what inputs have changed, and what's been the effect on the retail pricing in recent years?

MR TAYLOR: This is Gerry's particular area of expertise, so I'll let you talk about ingredients.

5 MR GERRARD: Yes. We have – two of the main inputs for us are retail rents, at what I call total occupancy cost of a site, and the other side is the ingredient cost, which together make up about a third of our cost base.

MR O'DONOVAN: Okay. Well, then, looking just purely at ingredients - - -

10 MR GERRARD: Yes.

MR O'DONOVAN: - - - how much have they shifted in the last couple of years?

15 MR GERRARD: Yes. If you – just our flour. Our flour represents – it's the single biggest purchase that we make. In two years - it's been around about 60 per cent increase in two years on flour.

MR O'DONOVAN: Okay.

20 MR GERRARD: And prior to that it had a shift of about 20 per cent, ups and downs, but about 20 per cent over the last 20 years.

MR O'DONOVAN: Right. Okay.

25 MR TAYLOR: In addition, we have had major increases in dairy, major increases in meat. So we have – most of the ingredients in, say, the top five to 10 individually significant cost elements of our ingredients have gone up, you know, by at least 10 per cent, and in most cases, more.

30 MR GERRARD: Correct. And whilst it's not exclusive to those, the others have a smaller impact. So if I pick on sesame seeds, for example, if that price doubles the end result is not as great as it is, say, for flour.

MR O'DONOVAN: Sure.

35 MR GERRARD: That's what I was meaning.

MR O'DONOVAN: So just with a standard loaf of bread, standard white loaf of bread - - -

40 MR GERRARD: Yes.

MR O'DONOVAN: - - - if the price of – when the price of flour goes up 60 per cent - - -

45 MR GERRARD: Yes.

MR O'DONOVAN: - - - in terms of the end retail price, how much does it need to move for you to be making the same amount on that loaf?

MR GERRARD: Yes. Yes, about seven per cent.

5

MR O'DONOVAN: Seven per cent.

MR GERRARD: Is that what – yes.

10 MR O'DONOVAN: Okay. And it retails for about \$3? Is that - - -

MR GERRARD: \$3. Yes, \$3.20 I think it is at the moment.

MR O'DONOVAN: Right. Okay. So it's around about 20 cents?

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MR GERRARD: That's correct. Yes.

MR O'DONOVAN: Okay. All right. Now, in terms of the operations of the ingredient input markets that you buy into, do you have any concerns that they're not operating efficiently, or - - -

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MR GERRARD: Do you mean our suppliers?

MR O'DONOVAN: Yes.

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MR GERRARD: Is that what you mean?

MR O'DONOVAN: Yes.

30 MR GERRARD: Yes. I'll indirectly answer that, in that we have a system of measures and checks and balances for things that come from overseas, so that we can understand the exchange rates, we can understand the buying volume, maybe the mix that comes in with Australian ingredients and our ingredients, distribution costs, their own margins. We have all of that itemised. So I believe I do, but I also don't see my competitors and how they do it, but I believe that we do, yes. I don't believe there's anything in there that they haven't justified, and, secondly, we benchmark them against other suppliers that come in and say, "We would like to sell you the same product." We ask them for a breakdown on that. Then, if nothing else gives us a bench, to see how we're progressing with our costs. So I think to answer your question is we have done all that we can to demonstrate that those costs are where they should be.

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MR TAYLOR: We have very good transparency about the make-up of our costs, particularly – well, flour comes from wheat. There's an international benchmark price for wheat.

45

MR GERRARD: Yes. Yes.

MR TAYLOR: So we can see how that moves over time, and we can then benchmark that back to the movement of flour price.

5 MR GERRARD: Correct. And wheat goes into flour. We know that exactly 25 per cent of that wheat will be waste and sent somewhere else. So we know how much we will get out of that, and we also know what they get from the sale of the chaff. So we then get money from that, and it's cut down, or we say, "Well, you can't have a 20 per cent margin because we know you're selling the chaff here. So how about 18," and so forth. So we are certainly well placed to cover it all. But I'm a retailer, 10 so I'm doing the best I can to get that, so I can't directly say to you that they're not inefficient anywhere, but I can sure as heck give you information that makes me think they are.

15 MR O'DONOVAN: Right. Okay.

MR TAYLOR: That's not to say that if we didn't – if there wasn't another, or one or two flour millers in the market, that we wouldn't be able to obtain a better price. But given the current supply structure, we think we have a fairly good handle on that price.

20 MR O'DONOVAN: Right. Okay. So at the moment are there really only two suppliers who could supply you with your major - - -

MR GERRARD: Correct. With the flour, the main ingredient, yes.

25 MR O'DONOVAN: Yes.

MR GERRARD: Yes.

30 MR O'DONOVAN: All right. And you think that if – I suppose you're speculating, but you think that if there were more players in that market, that you may be able to get a better price?

MR TAYLOR: I would guarantee you we'd probably get a better price.

35 MR O'DONOVAN: Right.

MR TAYLOR: Whether that is two or three per cent better or 10 per cent better I would probably think it – my feeling is a relatively low margin, mature industry, and 40 I don't think they're making lots and lots of money out of us. So additional competitors would probably reduce the price marginally.

MR O'DONOVAN: Right. More like the two to three per cent than the 10 per cent.

45 MR TAYLOR: And that's just very much navel gazing.

MR O'DONOVAN: Yes.

MR TAYLOR: Certainly less than 10 per cent I would imagine.

5 MR O'DONOVAN: Yes. Okay. All right. Well, the other questions I wanted to ask you about was about sites, but I think you want to do them confidentially.

MR TAYLOR: That would be great. Yes.

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