



Director
Perishable agricultural goods inquiry
Australian Competition and Consumer Commission
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TFGA Submission: Perishable agricultural goods inquiry

The Tasmanian Farmers and Graziers Association (TFGA) is the leading representative body for Tasmanian primary producers. TFGA members are responsible for generating approximately 80% of the value created by the Tasmanian agricultural sector.

Agriculture is one of the key pillars of the economy and, with the current level of support from government, are well positioned to further capitalise on the stature of Tasmania agriculture.

The TFGA appreciates the opportunity to make comment on the Perishable agricultural goods inquiry. The TFGA have collaborated with [REDACTED] with their submission and we support both [REDACTED] and NFF submissions in their entirety, while reiterating and adding the following points:

As quoted by NFF on page 16, the TFGA also agree that ***'unconscionable conduct is often a consequence of a lack of competition – unconscionable conduct tends to occur where a bargaining power imbalance exists, and the existence of a bargaining power imbalance is often symptomatic of a lack of competition in the market'***.

In Tasmania we have even less competition in the supermarket sector which further adds complexity this point. Coles and Woolworths are the only two major chains in Tasmania, which leads to anti-competitive behaviour for perishable goods resulting in farmers being forced to accept below market prices. This also extends to Coles unduly mandating the use of eNVD's, which are not mandatory in Tasmania at this stage. If the farmer refuses to use them then Coles will not accept the stock which may result in cancellation of a contract.

The use of eNVD's is good for traceability but as they are not mandatory yet in Tasmania, the farmer does not receive any subsidy for the cost, unlike Victoria who does offer a subsidy for costs of the eNVD's. This puts farmers in Tasmania at a financial disadvantage.

TFGA also agrees with NFF, as quoted on page 17, Case Study 6: ACCC vs Woolworths Limited, of their submission, that ***'rationale for judging behaviour to be conscionable solely in virtue of the fact that it is typical behaviour in the industry in which it occurs'***.

We believe this is unethical and opens the door to treat farmers in any way that the retailer may see fit, if they can prove that is normal behaviour in their industry.

Another example that TFGA will add, that has not been addressed within NFF's submission, is the lack of transparency of the processors in Tasmania. One example of this would be some Tasmanian based processors require producers to provide their gross margins and costs etc, however they do not reciprocate. If such information is needed, which should be regarded as 'Commercial in Confidence', then processors need to be more transparent. This behaviour puts the processor in a greater business position to make market decisions whereas it leaves the producer at a disadvantage.

The TFGA supports NFF's recommendation that a mandatory code of conduct be implemented and established for perishable agricultural goods (the Code). We also support the need for wider consultation if the ACCC does follow NFF's recommendation, in which TFGA would consult with our membership and the need to conduct a review every 2 years to keep the Code relevant.

If you have any questions regarding this submission, please feel free to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Peter Skillern', with a horizontal line extending to the left and a small flourish at the end.

Peter Skillern

Chief Executive Officer

25 September 2020