



ACCC Murray Darling Basin Water Markets Inquiry - Interim Report

Victorian Farmers Federation Submission

October 2020

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The Victorian Farmers Federation

The Victorian Farmers Federation (VFF) is the only recognised consistent voice on issues affecting rural Victoria and we welcome the opportunity to comment on the ACCC's Murray Darling Basin water markets inquiry.

Victoria is home to 25 per cent of the nation's farms. They attract neither government export subsidies nor tariff support. Despite farming on only three per cent of Australia's available agricultural land, Victorians produce 30 per cent of the nation's agricultural product. The VFF represents the interests of our state's dairy, livestock, grains, horticulture, flowers, chicken meat, pigs and egg producers.

The VFF consists of a nine person Board of Directors, with seven elected members and two appointed directors, a member representative General Council to set policy and eight commodity groups representing dairy, grains, livestock, horticulture, chicken meat, pigs, flowers and egg industries.

Farmers are elected by their peers to direct each of the commodity groups and are supported by Melbourne-based and regionally located staff.

Each VFF member is represented locally by one of the 200 VFF branches across the state and through their commodity representatives at local, district, state and national levels. The VFF also represents farmers' views on hundreds of industry and government forums.

A handwritten signature in black ink, appearing to read 'David Jochinke', followed by a horizontal line and a period.

David Jochinke
President

Introduction

The VFF welcomes the opportunity to provide comment on the Australian Competition and Consumer Commission's (ACCC) Murray- Darling Basin water markets inquiry. It is clear from the interim report that Victoria is leading the way regarding water market management among Basin States.

The VFF is pleased the ACCC has identified the efforts by Victoria to ensure water markets are operating as efficiently as possible. While more work is required among interstate trades the VFF was pleased the ACCC identified that:

“Since 2007, Victoria has invested significantly into updating its trade processes, and is now ahead of the other states in terms of the service it offers. For example Victoria’s register supports a Broker Portal and Broker API, which allow for automated approval of trades submitted by approved lodgers. (Pg 288)

“Victoria’s water register ensures that ownership of water entitlements is recorded with integrity, with consistency in recording across the State, due processes in recording and providing a state-wide view of entitlements recorded, water availability and use. (Pg 291)

“Basin States should implement the approach already taken in Victoria, and clearly mandate a more expanded role for trade approval authorities and water register which better fits with market participants’ needs and expectations.” Pg 355

“While Victoria has automated most of its temporary trade processing, other states continue to rely on manual trade processing”. (Pg 360)

“The ACCC considers that the framework in Victoria, where the Victorian Water Holder is a partnership between DELWP and the authorities, provides a sound example of what can be achieved in the other states.” (Pg 365)

Buyers and Sellers:

Investors in the Market:

The VFF welcomes steps by the ACCC to identify retired farmers participating in the water market by separating investors into two groups; institutional investors and non-institutional investors (Pg 135).

In Victoria, the ACCC identified irrigators own 47 per cent of high reliability entitlements on the Murray and 53 percent in the Goulburn. Institutional Investors own 9 per cent of high reliability on the Murray and 7 percent in the Goulburn. Non-Institutional Investors (retired farmers) own less than 0.2 percent of entitlement across the two systems.

The VFF would suggest further analysis into these figures and present these amounts of water in an actual table. This information could also be strengthened if information was collated across the Basin into high, medium and low security entitlements and then separated into ownership groups (irrigators, agribusiness, institutional investors, non-institutional investor, environment etc).

If possible this data, reviewed over time, could help establish trends in water ownership across the Basin.

It would seem Institutional Investors amount of entitlements owned is increasing, irrigators would like to understand this trend and the implications it poses to agriculture.

Key Water Ownership and Trading Strategies:

The ACCC identifies seven water ownership and trading strategies on page 153.

The ACCC concludes that a traditional and diversified trading strategy involves the irrigators “selling surplus water to earn more income” (Pg 153).

The VFF believe these definitions do not accurately reflect irrigator behaviours. Irrigators decision to sell water in these models, is largely not the result of having “surplus” water, but rather making a decision that they can earn more from the market by selling the water than if they used the water to grow their crop/pasture.

Newer Water Products:

Irrigators survey data from 2018 found that 6.7 per cent of irrigators across the whole Basin report using water that sources from leased entitlements with little to no data on carryover parking.

The VFF believe to ensure improved transparency and understanding more information on newer water products (leases, forwards and carryover parking) is required across the Basin.

Trade Barriers/ Riskier Water Strategies:

The biggest barrier to water trading in Victoria is that many farmers have been priced out of the market because of the increasing value of water on the market particularly in low allocation years – making some irrigation enterprises unprofitable. This is perhaps not strictly a barrier but strongly influences attitudes about the market.

The increasing value of water has been a function of reduced supplies because of Commonwealth water purchases (i.e. supply and demand) and shifts to higher value crops (i.e. pasture to horticulture).

Irrigators attitude to the market also depend on how their decisions to trade turn out. Current irrigators generally understand the market and take risk based decisions based on their assumptions about seasonal conditions (i.e. rainfall) crop water needs, future water availability, future water market prices, the costs of substitutes, commodity prices, etc. Some market decisions turn out poorly if the planning assumptions are not realised.

High prices can result in some irrigators being priced out of the market and new entrants being discouraged. This can result in accelerated structural adjustment, stranded assets and delivery issues.

Many irrigators in Northern Victoria had little choice but to sell entitlements and increase reliance on allocation markets in response to the financial hardship caused by the millennium drought, which therefore increased their water risk profile.

- **Are irrigators who adopt these riskier strategies able to accurately assess the change to their water supply and price risks?**

It is extremely difficult for irrigators or anyone else to accurately assess water supply and price risk. Fundamentally, the accuracy must be less than the accuracy of annual and seasonal weather forecasts when all the variables are taken into account.

- **What risk management strategies, if any, are they using to mitigate the increase in water supply and price risk? Why are they choosing these risk mitigation strategies?**

The inherent risks mentioned above are priced into leases and forward contracts. This means that these products are not attractive to many irrigators.

- **What might explain the difference between irrigators' more positive views on the ease of making an allocation or entitlement trade, and their more negative views on the fairness of water markets and water market rules?**

The 'infrastructure' for trading water within Victoria using the Victorian Water Register is highly functional. This is because the water register was designed to not only record water entitlements, but also to support water trading. Irrigator positive views are related to this functionality. Despite some misgivings about the regulation of water brokers.

- **What might explain irrigators' lack of confidence in the fairness of water markets and water market rules?**

Confidence in the fairness of the market may be driven by:

- irrigators that have been priced out of the market (e.g. it is not fair that a corporate almond farmer can afford to out compete me for water)
- concerns that net trade out of my district has damaged local communities, created stranded assets and caused delivery charges to increase due to fixed costs being spread over a smaller volume of water deliveries.

- **What might explain irrigators' beliefs that entitlements held by the government were not subject to the same rules and charges as other participants' entitlements?**

Victoria changed its water trading rules to accommodate Commonwealth water purchases by removing the 4% annual limit on trading entitlements out of irrigation districts and the 10% limit on disassociated water entitlements. The protections were well supported by irrigators and regional communities.

Furthermore, irrigators considered it unfair that they had to compete against the Commonwealth on the market. This was because the Commonwealth did not face the same commercial realities as irrigators because they were effectively not constrained by price (i.e. backed by Treasury funds) and did not have the discipline of making a commercial return from the water they purchased.

- **What might explain irrigators' views that non-farm entities (investors) should not be allowed to buy water, and that retired irrigators should not be allowed to retain their water rights?**

The concern about investors are that they are relatively capital unconstrained (similar concerns were raised in the past about managed investment schemes (e.g. Timbercorp) and that these investors are able to manipulate market prices.

There has been little concern about retired irrigators retaining water, as they are likely to sell allocations each year for income and because a large number of small holders are unlikely to be able to manipulate market prices.

- ***What barriers, financial, regulatory or other, do First Nation and Traditional Owner groups currently face to acquiring permanent and temporary water in Basin water markets?***

Traditional owners have the same access to the water market as any other person or business. The VFF supports the function of the Victorian Water Act 1989 that limits the issuance of new entitlement where it may impact on existing entitlement holders.

Investor Role, Strategies and Conduct:

The ACCC identify that investors portfolios have grown markedly since 2013. There has been heavy investment in Victorian high reliability entitlements which have grown from about 69GL in June 2013 to almost 160GL by June 2019 (Pg 180)

Victorian irrigators feel particularly vulnerable when compared to other states. The attractiveness of Victoria's high security water and carryover arrangements is clearly evidenced by Investors securing more Victorian water than any other water products in the Basin. Similarly, Victorian high reliability water was equally attractive to the Commonwealth Government during their water buyback programs, which saw a disproportionate amount of Victorian high reliability water purchased.

Analysis completed by the VFF in 2019 concluded that while the intent of the buyback program was to establish a balanced portfolio, greater amounts of Victorian high reliability water were purchased than other products. 22% of Victorian High reliability water shares water was purchased in Victoria compared to just 4 percent (22GL) of high reliability in New South Wales. Additionally, less low reliability was purchased in Victoria compared to New South Wales, 470GL of general security entitlements were purchased in New South Wales and only 70GL of Victorian low reliability water shares were purchased.

- **What are the investment objectives and strategies of water investors that participate in the water market by buying and selling water allocations but do not own entitlements?**

The investment objectives are the same as other traders - annual income and capital gains.

- **What are the investment objectives and strategies of irrigators that buy and sell water allocations for profit, alongside their farming operations?**

The strategies are generally designed to supply their water needs as these needs become apparent as the season develops. Irrigators water needs depend on the market price of water compared with the projected value of their crop and the prices of water compared with the price of water substitutes (e.g. fodder).

- **What are the investment strategies adopted by retired irrigators who have retained their water access entitlements?**

The strategies are generally designed to use the allocation market to earn an annual income. The timing of allocation sales depends on the financial position of the retiree and their risk appetite.

Water Broker roles, practices and conduct:

- **Should a broker or brokerage firm be permitted to provide brokerage services to both parties to a trade?**
No.
- **Should a broker that is providing intermediary services in a trade, be permitted to have an interest as a principal in that trade?**
No.
- **In what circumstances should individual brokers or brokerage firms be permitted to have water accounts?**
Brokers should not be permitted to have water accounts unless there is sufficient regulation to ensure they are acting in their client's interest.
- **Should individual brokers be permitted to only trade in water markets for personal irrigation purposes and in that case, always through an unrelated broker (in an unrelated firm)?**
Yes.
- **Should brokers be required to hold professional indemnity insurance?**
Yes.
- **If clear, reliable and timely information about the market was more easily available, would this prevent brokers from providing misinformation to clients?**
It may reduce but not prevent brokers providing misinformation.
- **Should brokers be required to give reasons for zero dollar trades?**
Yes. The ACCC identifies that in 2018-19, 28 per cent of trades occurred for zero dollars. This included the environmental water holders and 32 per cent of zero dollar trades were for less than 10ML per transaction (Pg 340). The VFF welcome steps to improve transparency of zero dollar trades.
- **Do you consider you are able to effectively access inter-valley trade opportunities when they arise?**
No, because opportunities are often short lived and irrigators would need to be constantly monitoring to know when the opportunities are available. Victorian irrigators report that access to IVT's tend to be dominated by a handful of water brokers working for those seeking large parcels which leaves little access for the average family farm to access water through IVTs.
- **Water Brokers and associated persons should not be allowed to have Allocation Bank Accounts (ABA's)**
There are multiple stories of water brokers owning ABA's and trading between themselves to drive up water prices. This behaviour cannot be allowed.

Regulatory settings and solutions:

The ACCC outlines three options on how to provide sufficient regulatory oversight, enforcement and compliance. It is recognised that improved regulatory oversight is required. The VFF believe the evaluation of sufficient regulatory oversight needs to include a cost benefit analysis, especially if regulatory oversight is to be of the broader market.

The regulatory oversight of water brokers needs to consider that although there are about 80 water brokers within the Murray-Darling Basin water market, the majority of transactions and volume traded is completed by a smaller number of broker agencies or exchanges.

Victoria has the most developed arrangements to guard against broker conduct, or deal with reporting or data issues and transparency through regulation of access to the Victorian Water Register Broker portal. Access to the Broker portal includes commitment to the interface access agreement and interface common rules. Agreement to access to the Broker portal includes an annual audit of broker conduct and systems and procedures. However, an improved framework that improves governance, standards, educational requirements and transparency would be supported.

A national or Murray-Darling Basin approach would be the most logical approach to remove duplication of regulation, especially in the connected southern Murray-Darling Basin market, however the regulation of brokers should extend beyond the Murray Darling Basin.

- **Do you consider that there is a place for bona fide water options and futures in the MDB water market?**

Not at this time, options and futures markets may support sophisticated traders, but are likely to be less useful for the average irrigator. Leasing arrangements currently provide some ability to manage uncertainty/risks about future water availability. Irrigator survey data from 2018 found that 6.7 percent of irrigators across the whole Basin reported using leased water products.

- **What records do you keep for calculating the cost base of your allocations and entitlements for CGT purposes, and cost of goods purchased for income tax purposes?**

The sophistication of record keeping varies from irrigator to irrigator.

- **Do you think that brokers and intermediaries in MDB water markets should be licensed?**

Yes, if part of strengthened regulatory arrangements.

- **Should a licensing scheme be enforced at the Basin State or federal level?**

In theory licensing at the federal level would be best for consistency and cost, however, as most trading occurs within state boundaries, progress within a state should not be held up while a national arrangement is developed. The same licensing regime should apply outside the Basin.

- **Should the licensing scheme be entrusted to an already established body or an independent new body specific to the MDB water market?**

The licensing body should be an independent body at arm's length from government. It could be a new function for a compatible existing body (to keep costs down).

- **Should the financial regulation framework be applied to basic tradeable water rights and arrangements to buy and sell them, noting that it is a ready-made market regulation framework?**

Yes, if analysis showed it was the least cost arrangement that could provide effective oversight.

- **Should a market focused independent regulator be established for the MDB water market?**

Greater regulation is needed, but it should not be limited to the Basin.

Trade Processes – advising, matching, clearing, settlement, registration and information.

The VFF strongly supports initiatives to improve interoperability between state water registers and to support interfaces like the Victorian Water Register Broker Portal that support more efficient water trading. Detailed options and cost benefit analysis will be required to identify how improved interoperability could be best achieved in a staged and transitional way between state registers, IIOs, and intermediaries like exchanges and brokers.

The VFF supports initiatives to make water market data open and accessible to improved information platforms. This must be practical, cost effective, avoid duplication and robust to ongoing maintenance costs and efforts. This will need to address privacy issues of the sharing of information consistent with state legislation and an appropriate security framework to manage access based on market participants roles and functions

As identified in the ACCC interim report this does not address the underlying issue of existing transaction processing times and costs or improve the timeliness of publishing trade data.

The ACCC identified a number of technological options, the VFF offer the following comments:

ACCC proposal	VFF comment
a spot market and real-time automated matching of buyer and seller offers, similar to the National Electricity Market	As identified in the ACCC interim report this does not address the underlying issue of existing transaction processing times and costs or improve the timeliness of publishing trade data
a single exchange platform for posting and matching trade offers by creating a single mandatory online platform for matching buyers and sellers	As identified in the ACCC interim report this would create a monopoly that would require regulation similar to the ASX and add to transaction costs. It would also prevent off market trades between neighbouring farmers/businesses
an ASX-like approach of a single clearinghouse for administering trading (but connecting via interoperability protocols to trading platforms as overlays and different Basin State registers underneath)	As identified in the ACCC interim report creating a single clearing house could prevent 'off market' trades. There is also the risk of increased costs in linking the clearing house to state registers

ACCC proposal	VFF comment
Distributed Ledger Technology which administers trade through smart contracts and also records all registry information	This is a new relatively untried technology. Further investigation is required to identify if it would be a long-term option and how advancements in systems could accommodate progressing towards such an approach. It would also require consistent metering standards and frequency at least across the southern connected Basin
a single common register in which all water accounting for both trade and delivery (use) would be accounted for in the same, single system	A single common register is not preferred as this has previously been attempted through the National Water Market System and Common Registry system. The complexity in the differences in state legislation likely makes this cost prohibitive and other alternatives are likely to be viable and more agile options

- **Do you consider that automating the flow of information (price, struck date, product type) from an exchange to a register would greatly improve accuracy of data?**

The Victorian Water Register is reasonably automated and proposed enhancements are supported. Automation in Victoria improved market functionality, transparency, data accuracy and confidence in the market.

- **Do you consider that there would be benefits in aligning the states' water management roles (as much as hydrologically possible)?**

There would be almost insurmountable transitional problems in harmonising the water products on the shared Murray system (e.g. a Murray high reliability entitlement and a Murray low reliability entitlement). There is little benefit in harmonising entitlements if entitlements are clearly defined and the market is functioning.

The expansion of the roles the MDBA since 2007 have enabled the politicalising of the MDBA (i.e. increased decision making powers of the Commonwealth Minister), heightened disagreements and animosity between the jurisdictions (i.e. loss of community) and reduced the accountability of the directors of the Authority.

- **Do you consider, that apart from state-specific or water sharing plan specific rules that each allocation trade within the Basin should be subject to the same assessment framework?**

Yes, although Victoria should continue to use its current processes. Care would need to be taken to ensure that changes in automated processes such as those in the Victorian water register are minimised. States should be free to include additional checks where required by State legislation.

- **Do you consider that entitlement trades should also be standardised across the states? Do you consider this will create more equal trading opportunities?**

Entitlement trades are subject to greater State legislative requirements than allocation trades. Standardisation that requires changes to existing entitlements or legislative checks and balances should only be considered where there is a compelling benefit.

An analysis of the strengths and weaknesses of each States' framework in theory and in practice would be required before adopting one State's framework.

- **Would you like to see one trade form with standardised language be used across the states?**

The trade form is not a significant impediment to trade. The forms must meet each state's legislative requirements. The benefits of a standardised trade form would have to be very substantial if legislative amendments were required.

- **Would you like to see the trade type and party type (investor, irrigator, other) recorded publicly?**

Yes.

- **Would you like to see all state water register websites to provide the same information, presented consistently? If no, why not?**

This would be nice to have, but not essential, particularly if it is costly to deliver. It is much more important that the registers within each state provides the information irrigators in that state where the majority of trades occur.

- **Do you think that the consolidation of trading rules into one document per state/per Basin would assist users in undertaking trades?**

Victoria has a consolidated trading rules which works well. It is also important have simplified information on the water register.

- **Do you think there would be benefit in standardising and making it clear that each state should have the following separate and distinct registers and information should be published on each:**

- **Ownership register (water entitlement)**
- **Water entitlement trade/transfer register**
- **Water allocation trade/transfer register—including identifying product type**
- **Water use register (account balances).**

No. Victoria has consolidated the different types of registers above into the Victorian Water Register. The option of having separate registers described above was rejected because of critical interactions between entitlement ownership/transfers/seasonal allocations /transfers/use and water account balances.

- **Do you consider that the roles of approval authorities and registers are clearly understood?**

Victoria's processes and roles are mature, effective and well understood by Victorian irrigators and the assessment processes are rigorous (and probably more rigorous than elsewhere). Differences between states are not a significant impediment to trading.

- **Do you consider that roles, services and products offered by intermediaries are well understood?**

Yes, reasonably understood by the people who chose to use or not use them.

Solutions to improve trade processes, transaction costs and information:

- **Do you consider that the Basin Plan Water Trading Rules should be updated to include requirements on trade approval authorities to collect more information on trades?**

Rules should be consistent across Victoria, Basin Trading Rules may not be the appropriate mechanism.

- **Do you consider that Basin Plan Water Trading Rule 12.50, which applies to states to make water allocation announcement generally available is sufficient?**

Victoria's processes for making water allocations have been codified and are transparent regardless of the Basin Plan.

- **Do you consider that each state should make, in one place, the following:**
 - **How much has been allocated to entitlement holders**
 - **What the current carryover limit is applying to each zone, with clearly explained reasoning if there are any differences**
 - **Historical trading information, with sufficient detail to understand what products are being traded and for what price**
 - **Current bids and offers to understand market depth and current pricing**
 - **Trading and carryover policies and rules.**

- Yes, the information above is readily available in Victoria from the accountable entities' web sites – the Water Register for trading information and the Northern Victorian Resource Manager for seasonal determination information.

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- The VFF believe the ACCC could provide additional detail about how unlimited carryover is managed in unregulated systems, particularly in the Northern Basin. (Pg 404)

Carryover rights enable a person who has been allocated water to carry over that water in a storage. By definition unregulated systems do not have storage, and hence carryover is not permitted in unregulated Victorian systems. In Northern Basin systems the carryover rules enable licence holders to increase their diversions to make up for low diversions in previous years because of low inflows with increased risks of third party impacts on other entitlement holders and the environment.

- **What information should a single water market information portal cover?**

It is unlikely that a single water market information portal would replace other more specific sources of information, such as the Victorian Water Register and brokers.

- **Do you consider that the markets for permanent trade, derivatives and temporary transfers can all be dealt with under one technological solution? Do you consider permanent trades less reliant on real-time data and would be better suited to a different solution?**

This question must be answered in two parts. Firstly, we have seen in the past that a single technical solution applied across the Basin does not work, due to difference in state legislation and concerns about governance and accountability.

Secondly, the Victorian water register has demonstrated that it can be efficient and effective to have one technical solution for entitlement and temporary trades including leases. The need for derivatives and the associated technological solution if not widely evident.

- **Do you agree that it is important to preserve the ability for buyers and sellers to strike 'off-market' deals, provided that all approved trades are registered and captured in historical trade data? Why or why not?**

Yes, to provide competition to brokers and exchanges.

- **Use of ABN's**

The VFF supports the ACCC's suggestions of using ABN's or another common identifier for trading parties to improve trade processing, data transparency, and the ability to regulate market power (Pg 367). The advantage of requiring the ABN to be recorded is that the ABN is an existing national identifier, avoiding the cost of creating and maintaining a new system.

Market architecture reform options

The ACCC's preliminary conclusions are the southern connected Basin market architecture has not kept pace with increasing trade activity, and identifies a number of options for reform. In summary, the VFF offers the following comments:

ACCC proposal	VFF comment
Improvements to policy transparency and consultation processes	The ACCC noted recent work in Victoria to increase market transparency with new dashboards now available on the Victorian Water Register website. The VFF supports efforts to improve transparency providing personal privacy is not jeopardised.
Alternative approaches for allocation and carryover policies such as continuous accounting and capacity sharing	<p>The VFF is not supportive of this approach and believes the ACCC interim report does not demonstrate a strong basis for significant changes to allocation or carryover policies.</p> <p>Victoria's allocation and carryover rules have been developed and refined over time and in close consultation with the community. These policies reflect Victoria's entitlement framework and moving to continuous accounting or capacity sharing arrangements would mean a fundamental change to existing property rights for entitlement holders. Victoria has previously undertaken major carryover reviews and implemented adjustments to refined carryover arrangements. Any changes to carryover arrangements will likely impact on property rights for existing holders and will have implications for the reliability of both high reliability and low reliability water shares</p>

ACCC proposal	VFF comment
<p>The creation of formal markets for storage and delivery capacity</p>	<p>Formal markets for storage capacity would require changing existing property rights through implementation of continuous accounting and capacity sharing and therefore is not supported by the VFF. The ACCC has not clearly defined the issues that need to be addressed that warrant major restructure of entitlements by splitting out different components (share of capacity).</p> <p>The VFF is supportive of clearer delivery rights as an issue that should be discussed with other states and in consultation with the community. The Independent Panel overseeing interjurisdictional work on capacity risks has noted that delivery risks are real and increasing and that governments need clear plans in place for dealing with delivery issues. This needs to be addressed through both river operations and clear rights to the delivery of water.</p>
<p>Application of transmission loss factors to water deliveries in the southern connected Basin</p>	<p>This would be a significant change to market operation and how losses and conveyance entitlements are defined.</p> <p>More information is needed to determine if this option warrants further investigation by jurisdictions and the MDBA as river operator. The ACCC report does not include a strong evidence base for pursuing this complex work.</p>
<p>Removal of the exemption for grandfathering tags</p>	<p>The VFF strongly support the removal of grandfathered exemptions under rule 12.23. There is significant potential for market distortion by those who hold a grandfathered tagged water access entitlement. This exemption does not support a level playing field in the market and provides the opportunity to take advantage of arbitrage between trading zones.</p>

ACCC proposal	VFF comment
Removal of entitlement tagging	<p>The VFF does not support the removal of tagging. Tagging offers a number of flexible trade advantages that should be carefully considered when evaluating its effectiveness:</p> <ul style="list-style-type: none"> • When trade opportunities are open, tagging generally provides increased ease-of-use, efficiency and cost savings to a water user as it avoids the need for frequent allocation trade. • In systems that are not fully regulated, the ability to tag and keep track of the source of the water allows for any necessary controls on the use of the water to continue to be applied.
Improving consistency across Basin State' accounting and metering requirements	<p>The VFF support increased metering, particularly in the Northern Basin. While SA may have 96% of its usage metered, meters are self read quarterly which can lead to SA irrigators taking water unauthorized and topping up their water accounts later in the season when water prices may be cheaper. This cannot continue.</p>

The ACCC identify extraction caps, allocation policies, carryover, trade rules, river operations and metering as the main areas of concern regarding trade activity. While the VFF find the list comprehensive, it should be noted that matters such as extraction caps and river operations involve many issues beyond water trading.

- **The ACCC seeks stakeholder feedback on the merits and drawbacks of, and the potential to adopt, the options outlined below:**
 - **re-evaluating the assumption that conveyance losses should be socialised**
 - **making carryover parking markets more formal unbundling storage access/carryover eligibility from water access entitlements and**
 - **creating formal, separate markets for carryover storage**

In the Victorian context, the reliability of HRWS and LRWS depends on access to 100% of storage capacity when the storages are full. Therefore, it would only be possible to define individual storage capacity entitlements as an inferior right to those granted by HRWS and LRWS.

Given the relationship between storage capacity and reliability and recognising that often there is 'air space' in the storage Victoria introduced 'spillable water' to provide entitlement holders with the option of storing water in the airspace but with the risk that the water would be first to spill.

It would be possible in Victoria to decouple the relationship between spillable water and HRWS and LRWS to create a new entitlement to this air space. There would be transitional issues unless the new entitlement are granted to existing HRWS and LRWS holders and the market used to re allocate the grandfathered rights.

The product would be of potential interest to traders of water allocation and would not be supported until irrigators are confident that market prices are not being manipulated. Adding a new product would increase rather than reduce complexity. The value of the product would be strongly linked to the hydrological characteristic of the storages.

- **introducing continuous accounting in the southern Basin**

Continuous accounting is already an essential feature of the water sharing arrangements set out in the Murray Darling Basin Agreement.

Victoria's carryover rules provide an attenuated form of continuous accounting for individuals in its regulated systems. The rules are defined to avoid third party effects on the reliability of HRWS and LRWS.

- **introducing capacity sharing in the southern Basin**

The Murray Darling Basin Agreement establishes a form of capacity sharing at the bulk level between the states, although SA is favoured by guaranteed monthly deliveries except during drought times with periods of special accounting. It would be extremely difficult to change these arrangements if the changes advantaged one state at the disadvantage of another.

Interstate water markets provide the mechanism to transfer water across state boundaries at market prices and so greatly reduce the benefits of change existing interstate arrangements.

Victoria did explore the feasibility of issuing each irrigator individual capacity shares (i.e. share of storage volume, inflows and losses) as part of a 1994 investigation into how to develop water trading opportunities in Victoria. It was concluded that it would not be possible to introduce capacity shares at the individual level without making some users worse off and some better off in terms of the volume and reliability of water supplied. It was also found that trading would be extremely complex because of the different reliabilities of inflows from different sources and the different reliabilities of different storages and weirs.

It was concluded that individual capacity shares were not feasible in systems with multiple storages with inflows from multiple sources above and below storages. It was recognised that the risks of variable inflows should be 'owned' by the entitlement holders. Victoria's bulk entitlements, water share entitlements, seasonal determination processes and carryover arrangements effectively provide shares of inflows, storage capacity and losses. Trading of HRWS and LRWS is a much less complex process than would be involved in trading individual capacity shares of multiple sources.

- **harmonising or increasing the frequency of water account reconciliation and reducing the ability to reconcile accounts by entering water markets (this would require upgrades to metering technology, the cost of which would vary by location)**

The Victorian water register provides reasonable functionality in this regard and continues to evolve.

- **removing the exemption for grandfathered tags or getting rid of entitlement tagging altogether developing more dynamic IVT mechanisms**

The fundamental requirement of IVT rules is for them to align with river operating rules. This can be problematic when trades do not specify when the water is to be delivered. Dynamic rules are designed to maximise the volumes that can be traded, but they also increase complexity. Rules need to be easily understood, and not unduly favour traders who have the capacity to monitor trading opportunities in real time unlike farmers who have many other demands on their time.

- **make all allocation trade tagged allocation trade (so that water only moves between valley accounts when it is being delivered, and remains in the origin valley accounts at the time of trade and for carryover)**

This option has the potential to overcome delivery issues that have been experienced in recent years and is worth investigating.

- **developing markets for on-river delivery capacity**

Perhaps a long term objective, sharing the delivery capacity of the Murray is problematic because the Murray-Darling Basin Agreement is silent and defining shares now will create winners and losers. Past efforts have failed.

- **non-market allocation mechanisms for on-river delivery capacity, that allocate capacity on a less than annual accounting period and are defined with respect to specific constraints.**

This is likely to be a more practical and achievable outcome.

- **limited development of trading rules for unregulated systems in northern New South Wales, or for trade of overland flow/floodplain harvesting rights.**

Trade for overland flow/flood harvesting must not be enabled until:

- flood harvesting entitlements are properly defined,
- flood harvesting over allocation issues are resolved
- accurate metering is in place
- there is a mechanism to account for the losses incurred in transferring water between locations
- rules are in place to manage third party impacts on other entitlement holders and the environment.

- **shepherding and other arrangements available to trade/change the location of environmental water.**

Transfers of environmental water can involve very large volumes and have the potential to cause channel congestion. Only 4 environmental water holders make decisions in accordance with narrowly defined legislation. The decisions are not based on commercial considerations, but rather on public (environmental) benefits. This creates significant market power that requires specific regulating to avoid third party impacts and a need to considered environmental social and economic benefits and costs.

Further development of market architecture for environmental water in the Southern Basin is urgently needed.

- **Single source of truth:**

The VFF note suggestions for a single source of truth. The reality is that the source of truth for various information must sit with the accountable authorities. In Victoria the Northern Victorian Water Resource Management must be the source of truth for seasonal determinations and resource assessments, because that is their legal function and accountability. The Victorian water register must be the single point of truth for entitlement information as required by the Victorian Water Act.

What irrigators would like is a single web site where irrigators can see the depth of the market across the Basin (e.g. the amount of water traded in recent days, the amount of water for sale today, and prices.

Some of the information is available on the Victorian water register, but it is about one week old and could be improved.

Governance:

- **In what ways is the 'governance' of the Murray–Darling Basin's water-rights markets helping or harming those markets?**

Current governance arrangements have enabled interstate trading to occur but failed to anticipate some emerging delivery and third party risks. Processes to address these risks are slow and cumbersome.

The ACCC state they will consider:

“whether there are market focused roles and functions currently performed by each of the Basin States separately where there would be benefit in consolidating into more centralised governance arrangements. Such changes may require governments to revisit the division of responsibility for managing water in Australia's federal system”. (Pg 492)

The VFF do not support this approach, we have seen that a more centralised approach with the creation of the Murray Darling Basin Plan has not resulted in improved outcomes for irrigators.

Australia has a federal governance system based on a hierarchical allocation of power and resources with most service delivery functions and related policies and decisions resting with the States as set out in the Constitution.

Victoria, New South Wales and South Australia first agreed to cede certain powers to manage the Murray River to an interstate agency, the River Murray Commission in 1914. The Commission harnessed the interests of the states rather than threatening them. The Agreement shared the available water of the Murray between the States and arrangements to invest and operate the storages and weirs required to utilise these water resources.

The ceding of overlapping jurisdiction to an inter-state agency was always perceived as not only raising sovereignty issues but also complex issues of day to day administrative jurisdiction. The rigid discipline applied in the Agreement enhanced functional separability and simplified decision making for most purposes. Accountabilities were clear and the opportunities for the blame shifting which is so prevalent today were minimised.

The Commonwealth *Water Act 2007* disrupted the disciplined hierarchical structure and confused and duplicated accountabilities. Clear functional responsibilities have been replaced by bureaucratic coordination. All too often the Commonwealth blames the States or the States blame the Commonwealth for issues that remain unresolved.

The solution to the problems is not to centralise powers with the Commonwealth but rather to go back to the elegant design of our forefathers based on clear hierarchical organisations where the inter-jurisdictional agency focuses on the few elements that require joint control leaving separate and independent control of the multitude of subordinate elements to the States.

The hierarchical approach of the ACCC setting trading objectives and the states' developing trading rules is supported. The approach could be strengthened by enabling the ACCC to review the rules proposed by the States.