



Wine grapes – A market study by the ACCC

Issues Paper

September 2018

The Issues Paper

The ACCC has released this issues paper to assist interested parties in making submissions to the ACCC's wine grapes market study. The paper contains:

- details about what will be covered in the market study
- issues on which we are seeking comment, and
- information about how to make submissions and key dates for the market study.

Background to the market study

Global demand for wine created a boom in new vineyard plantings in the late 1990s. Exports grew rapidly to peak in 2007. From 1991 to 2007, the Australian wine sector more than tripled production from less than 400 million to 1.2 billion litres.¹

However, by 2005-2006, an international wine glut resulted in a significant over supply of wine grapes in Australia. This supply and demand imbalance persisted until at least 2016 and had a particularly marked impact on prices in warm climate growing regions, which account for around 70% of wine grape production.

Since 2017, supply and demand has become more balanced, mostly driven by increasing demand from China and growers exiting from the industry in Australia. A downturn in European, South African and Chilean production is also likely to have contributed to stronger demand for Australian wine grapes.

Despite these improving market conditions, the ACCC has continued to hear concerns from industry participants regarding the issues outlined in this paper.

Previous consideration of wine grapes markets

The sector has been considered by a number of government reviews, including inquiries by the Senate Rural and Regional Affairs and Transport References Committee in 2005² and in 2016.³ These inquiries considered competition, contracting practices and the effectiveness of the voluntary Australian Wine Industry Code of Conduct (the Code).

In 2016, the ACCC held six workshops in regional Australia focusing on understanding competition and fair trading issues in the horticulture and viticulture industries. The ACCC subsequently published a report outlining the issues raised during the workshops and broader engagement with the industries.⁴

In that report the ACCC committed to undertake further work on the issues identified as part of our focus on competition and fair trading issues in the agriculture sector.

Competition and consumer issues in the agriculture sector, including a focus on analysis of the wine grape industry, are current ACCC priorities, as set out in our annual Compliance and Enforcement Policy.⁵

¹ <https://www.wineaustralia.com/au/market-insights/australian-wine-sector-overviews>.

² https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Completed_inquiries/2004-07/wine/report/index

³ https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Australian_wine_industry: The 2016 inquiry made 12 recommendations including phasing out the current wine equalisation tax (WET) rebate, independent review of the existing voluntary Australian Wine Industry Code of Conduct, and reconsideration of a mandatory industry code of conduct if targets for update of the current voluntary code are not met.

⁴ <https://www.accc.gov.au/publications/perspectives-in-horticulture-and-viticulture>.

⁵ <https://www.accc.gov.au/about-us/australian-competition-consumer-commission/compliance-enforcement-policy-priorities>.

In July and August 2018, the ACCC invited wine grape growers across Australia to provide feedback about competition issues in their industry through an online survey.

The survey posed a range of questions to allow grape growers to share their experience. The questions related to contracting practices, competition among wine grape buyers, reliability and transparency of pricing information, quality assessment of wine grapes, timing of payment, the Code, available mechanisms for dispute resolution, and collective bargaining.

The survey helped the ACCC to learn about the interactions of growers and buyers of wine grapes, how they do business and to identify any issues that require particular attention. We received responses from 262 wine grape growers from a range of regions across NSW/ACT, VIC, QLD, SA and WA. The responses highlighted various ways in which the market may not be functioning effectively across Australia. The responses also indicated that some concerns, including concerns relating to contracting practices, competition and pricing, are generally more prevalent in warm climate regions than in cool climate regions. A report of survey results is available at the ACCC's wine grapes market study website <https://www.accc.gov.au/winegrapes>.

Given the survey results, the findings of previous inquiries, and the broader context of the market, the ACCC considers that a closer investigation of the industry is warranted. Conducting the market study will help to identify any impediments to effective competition for the acquisition of wine grapes and consider how these may be addressed.

Objectives of the market study

The purpose of this study is to complete an in-depth review of the Australian wine grape industry and identify any market failures or trade practices issues that may be preventing the functioning of competitive markets or resulting in detriment to wine grape growers.

The market study will examine:

- the state of competition between winemakers and any other purchasers for acquiring wine grapes
- bargaining power and risk allocation in the supply chain, particularly in relation to growers and winemakers
- wine grape price and quality assessment
- contracting practices between growers and winemakers (including the timing of price notifications and payments)
- the effect of the Code and dispute resolution processes, and
- the use of collective bargaining by growers.

Previous consultation and the survey results indicate that industry concerns are most prevalent in the three warm climate wine grape growing regions, namely: Riverina (NSW), Riverland (SA), and Murray Valley (which includes the Murray Darling (NSW/Vic) and Swan Hill (NSW/Vic) regions). While the ACCC will focus on the trade dynamics between wine grape growers and winemakers in these regions, we will also engage with industry and consider issues in cool climate growing regions.

The study will also examine the commercial relationship between retailers and winemakers where this is relevant to the relationship between wine grape growers and winemakers. However, we do not intend to focus on broader competition issues relating to the retail sale of wine.

This market study may lead to a range of outcomes, such as:

- opportunities for the ACCC to make recommendations and/or to work collaboratively with industry and/or governments to develop solutions addressing competition or other industry practices
- ACCC action to address any conduct in the industry that raises concerns under the *Competition and Consumer Act 2010*
- improved transparency about price and quality determination and trading practices in the supply chain.

Process

The ACCC invites your views by way of written feedback, telephone conversations and comments at public hearings. The ACCC will also directly contact some market participants to request specific information.

Indicative timeframes

The dates below are indicative. As the market study progresses, the ACCC will publish further information with confirmed dates on its website.

26 September 2018	Commencement date
2 November 2018	Final due date for initial submissions
November-December 2018	Further direct consultation, including forums
March 2019	Publication of draft findings
April 2019	End of consultation period on draft findings
June 2019	ACCC to publish final report

Consultation forums

The ACCC will hold forums so we can hear directly from interested parties.

At this stage we plan to hold forums in the Riverina and Murray Darling/Swan Hill. The ACCC may also travel to other regions, including Riverland, to meet with industry stakeholders.

The dates and locations of these forums will be announced on our website in October.

Submissions

Interested parties should provide submissions by no later than 5pm on 2 November 2018. Responses may be emailed to winegrapes@acc.gov.au with the title: Submission re: wine grapes market study.

If you would like to provide information over the phone or if you have any questions, please contact:

Tari Georgious
tari.georgious@acc.gov.au

Andrew Parnell
andrew.parnell@acc.gov.au

Ph: (03) 9290 1887

Ph: (03) 9290 6975

Confidentiality

Treatment of submissions generally

Submissions, the information contained in them and their source, may be referred to, relied upon or reproduced in part in the ACCC's draft and final reports on the market study, which will be public documents. The ACCC will not publish submissions to this study in full on the ACCC's website.

The ACCC is mindful that commercial sensitivities may be present in this industry and recognises that some interested parties may wish to make a confidentiality claim over certain information provided in their submission. Confidential information might include the source of the information (e.g. your identity or the identity of a third party) or the content provided.

The ACCC will not treat a submission as confidential unless a confidentiality claim is made over all or part/s of the submission.

The ACCC will also accept anonymous submissions. The ACCC has an [online tool](#) for the agriculture sector to anonymously report concerns about competition or fair trading issues.

Confidentiality claims

If you have concerns about the disclosure of certain information in your submission, you may make a confidentiality claim over all or part/s of your submission. Any information which you consider confidential should be provided in a separate document to your main submission and should be clearly marked as "confidential" on each page.

The fewer anonymous submissions and confidentiality restrictions placed on submissions to the market study, the more easily the ACCC can test information provided and reach accurate conclusions about the market. Therefore, we ask that information you claim confidentiality over must be genuinely of a confidential nature and not otherwise publicly available. We request that you provide reasons in support of your claim, to assist the ACCC to better understand your claim and assess the information you provide.

The ACCC is committed to treating confidential information responsibly and in accordance with the law. Where it is provided with confidential information, the ACCC will, to the extent reasonably possible, seek to protect the confidentiality of that information. In some circumstances the ACCC may be legally required to produce confidential information. For example, the ACCC may be required to disclose information that is subject to a confidentiality claim pursuant to a court order or subpoena. If this occurs, the ACCC will endeavour to notify and consult with you about the proposed release of your information and measures (such as confidentiality orders) that may be taken to protect that information. It is also important to note that the ACCC may share confidential information internally with ACCC and AER staff and with its external lawyers and consultants.

For further information on the ACCC's treatment of confidential information, please refer to the ACCC/AER Information Policy available on the ACCC [website](#).

Issues to be considered

This section outlines the issues that the ACCC plans to explore during the market study, selected based on our previous consultation with the industry, issues raised during various inquiries, and the results of the grower survey.

The issues discussed in this paper are a guide to assist people in making submissions and are not intended to be exhaustive. The ACCC encourages interested parties to raise other relevant issues.

The ACCC is aware that some of the issues identified below have been explored in previous public reviews and inquiries. We encourage interested parties to provide specific information, including data and documents, in support of their submissions to the ACCC.

The Australian wine grape industry

Australia is the fifth largest wine producer in the world, and the largest in the Southern hemisphere, with a total vineyard area of around 135,000 hectares.⁶ In 2017, total wine production in Australia was around 1.2 billion litres per year.

Growing regions

There are 65 wine grape growing regions in Australia and around 5000 wine grape growers across these regions.

Broadly, Australian wine grape growing regions fall into one of two categories: warm climate or cool climate.

There are three regions regarded by the industry as warm climate: Riverina (NSW), Riverland (SA) and Murray Valley (NSW/Vic). Around 1,500 wine grape growers and approximately 70% of Australia's wine grape production comes from these regions.

The environment in warm climate regions is more naturally suited to high volume wine grape growing, with higher average temperatures, longer growing seasons, less exposure to disease and access to irrigation. Accordingly, production is focussed on bulk production and the average cost of production is generally lower.

Consequently vineyards in these regions generally produce high volumes of grapes, which are sold to large processors. There tends to be less emphasis (or at least the perception of less emphasis) on the individual qualities of either grapes or wines produced in these regions. Most of the wine grapes from these regions end up in lower priced, generic blended or bulk wine. Around 70-80% of wine made from grapes in these regions is exported and accordingly, they are particularly exposed to fluctuations in international wine prices.

Australia's largest winemakers' processing facilities are concentrated in the warm climate regions.

In contrast, there is a shorter growing season for wine grapes in cool climate wine regions with a greater risk of disease and frost damage, and less access to irrigation. Cool climate vineyards generally operate on a smaller scale with a greater general reliance on hand tending (as opposed to mechanised spraying, watering, pruning or harvesting). Production costs per tonne tend to be higher in cool climate areas and average yields are lower.

Figure 1 below shows the average yield in warm climate regions and cool climate regions.

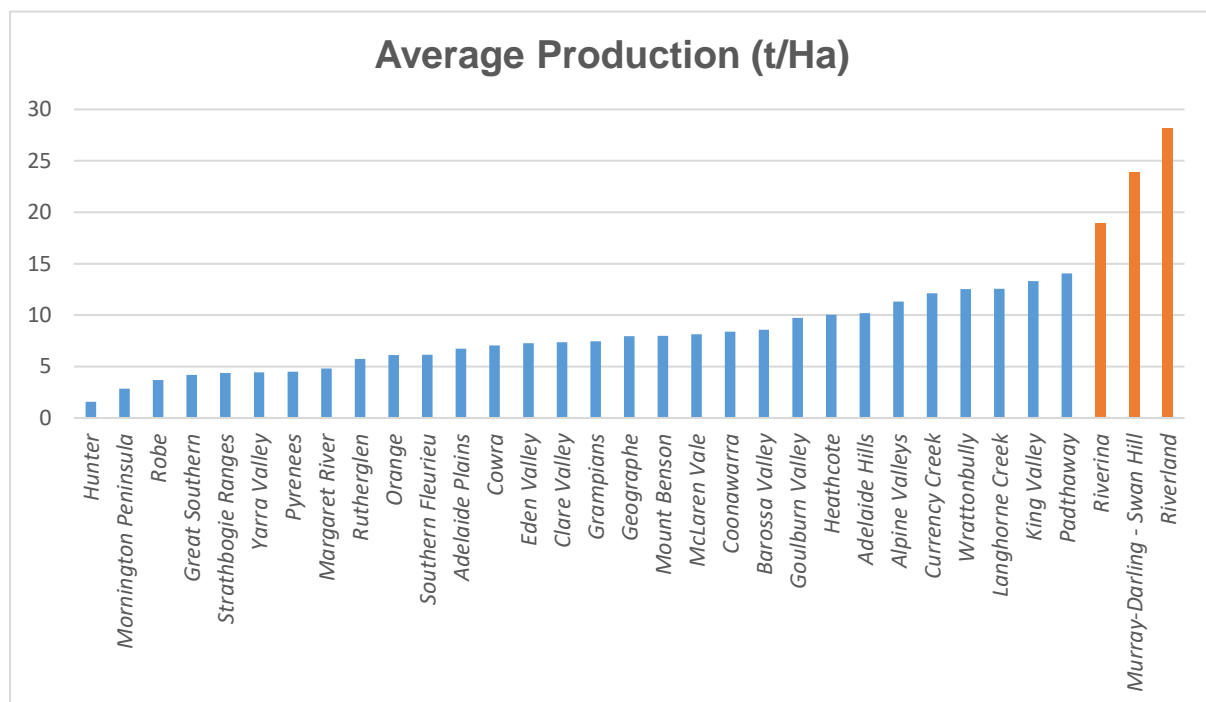
⁶ <https://www.wineaustralia.com/au/market-insights/australian-grape-and-wine-production>

As a result of these differences between the warm and cool climate regions, there are generally also different commercial relationships between growers and processors. In the warm regions, commercial arrangements focus on producing higher volumes of generalised qualities of grapes. In the cool regions, the vineyard and winemaker are more likely to be vertically integrated or work together to grow grapes that will produce wines with specific characteristics, often referred to as ‘premium’ or ‘boutique’ wines.

Some cool climate regions have prestige branding attached to the area, such as the Barossa Valley and Mornington Peninsula. Wine grapes and wines from these regions typically attract premium pricing.

Branding is not, however, attached to all cool climate regions, despite the fruit often having premium qualities. Wine grapes from these regions are often blended with lower quality grapes from warm climate regions to improve the overall quality of the final product. Accordingly, while these regions may attract higher prices than grapes from warm climate regions, they do not attract the high prices of certain premium regions. Figure 2 below shows the relationship between region and average price per tonne of grapes.

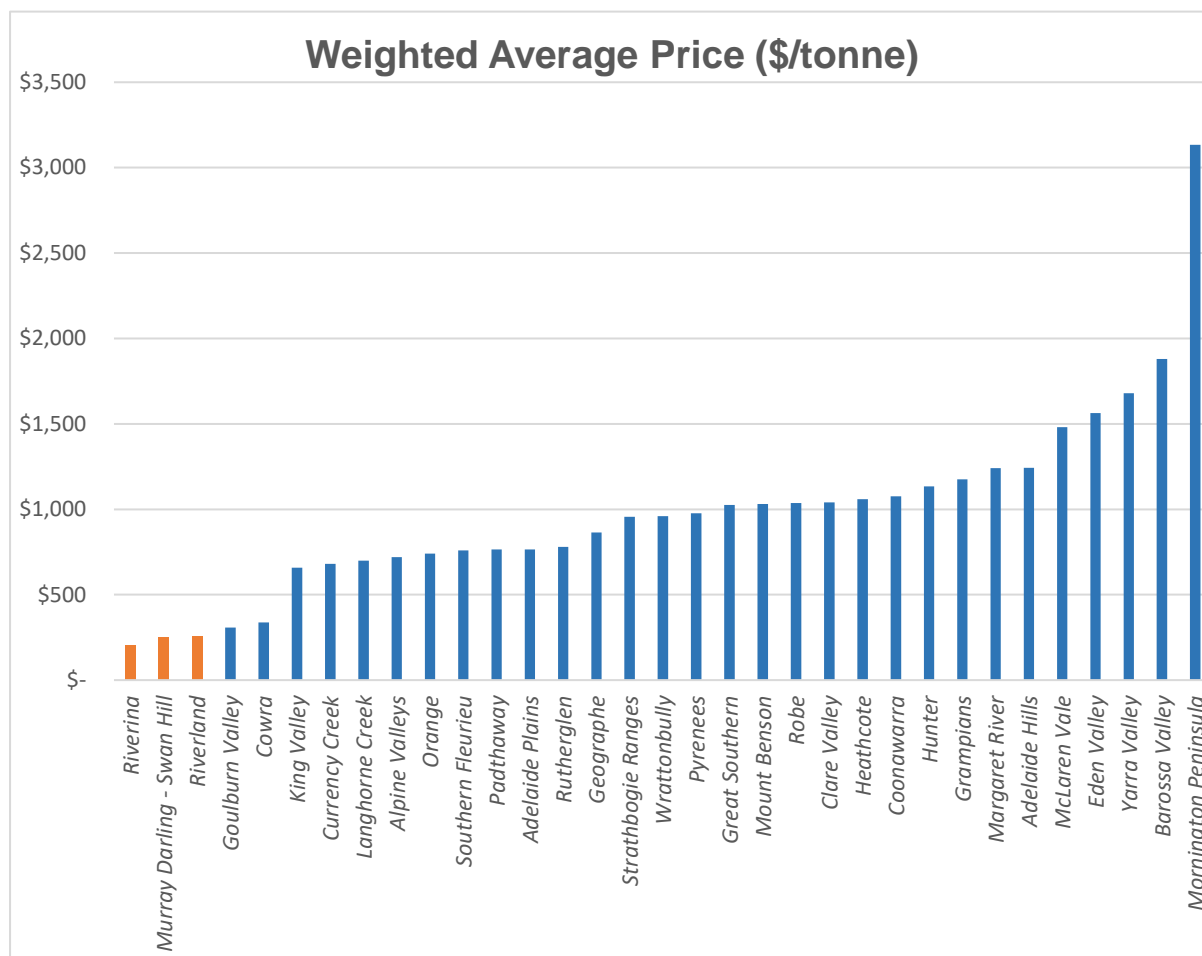
Figure 1: Average wine grape yield in top 32 growing regions (warm climate regions illustrated in orange columns)⁷



Source: Wine Australia

⁷ <https://www.wineaustralia.com/market-insights/regional-snapshots>.

Figure 2: Average price per tonne in top 32 growing regions (warm climate regions illustrated in orange columns)⁸



Source: ACCC calculations based on Wine Australia data. Price is weighted average for top 5 varieties in each region.

Australian winemakers and sales channels

Australia’s largest winemakers include Accolade, Treasury Estates, Casella Wines, Pernod Ricard, McWilliams, Kingston Estates, Australian Vintage, De Bortoli, Brown Brothers, Tyrrell’s and Zilzie. These companies produce wine brands across the quality spectrum from lower quality bulk wines, to niche products from ‘up and coming’ wine regions, to premium wines.

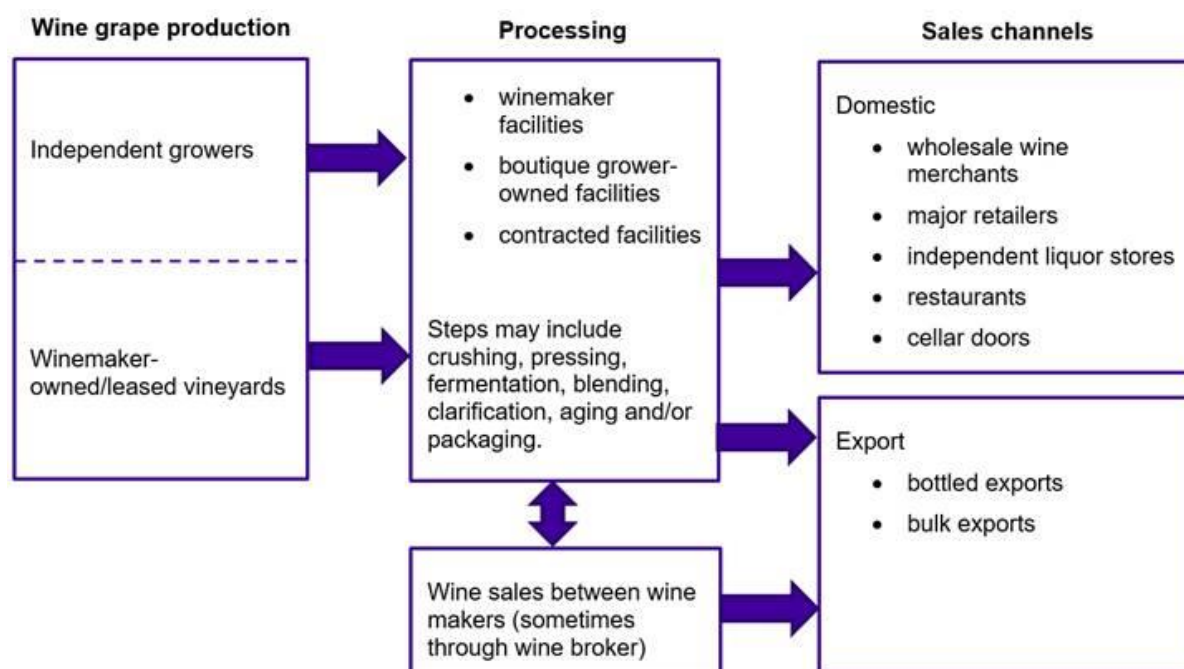
The ACCC understands that in the past 10-15 years, large winemakers have increased their vineyard areas through acquisition or new plantings in order to manage price risk and reduce exposure to the volatility in international wine prices. According to Wine Australia data, in the 2017 vintage around a third of the wine grapes crushed by large winemakers were supplied from their own vineyards.⁹

Winemakers sell to several channels including export markets and domestic wholesale wine merchants. Winemakers also use brokers to find buyers for bulk and bottled wine.

⁸ <https://www.wineaustralia.com/market-insights/regional-snapshots>.

⁹ <https://www.wineaustralia.com/market-insights/national-vintage-report>

Figure 3: wine grape supply chain



Around two thirds of wine produced in Australia is exported. The majority of exports are 'bulk wine' which is transported in containerised bladders and then bottled at destination. In addition to being sold as product labelled as Australian made, bulk wine is also sourced to blend with locally made products.

The ACCC understands that the five largest winemakers account for approximately 85% of Australian export volumes¹⁰ and a large proportion of sales through major retailers (namely Wesfarmers, Woolworths, Metcash and Aldi and their associated liquor retail store brands). In contrast, the majority of wine produced by smaller winemakers¹¹ is sold via cellar doors or through local sales channels, such as restaurants and independent liquor shops. Only around 10% of their wine is exported after bottling in Australia.¹²

Small winemakers are concentrated in cool climate regions. While most are vertically integrated (supplying grapes to their operations from their own vineyards), Wine Australia data indicates that small wineries are still reliant on topping up supply from other sources: 48% of wine grapes crushed by small winemakers come from third party vineyards.¹³

Australian wine dominates the local retail market, with imported wine from all sources having less than a 20% share.¹⁴ However, demand for imported wines has been increasing, which, on top of an increased supply of local wine, has contributed to notable discounting in retail prices.

Australia imports around 95 million litres of wine per year, of which two-thirds comes from New Zealand.¹⁵ Sauvignon Blanc from New Zealand's Marlborough region is the highest-selling wine in Australia.¹⁶

¹⁰ Wine Titles, *The Australian and New Zealand Wine Industry Directory 2018*

¹¹ Those crushing up to 500 tonnes

¹² https://www.wineaustralia.com/market-insights/small_winemaker_survey_2016

¹³ https://www.wineaustralia.com/market-insights/small_winemaker_survey_2016

¹⁴ <https://www.wineaustralia.com/au/market-insights/australia-domestic>

¹⁵ <https://www.wineaustralia.com/au/market-insights/australia-domestic>

¹⁶ <https://www.wineaustralia.com/au/market-insights/australia-domestic>

Retail prices have been further constrained by private label wines. The major liquor retailers have arrangements with winemakers to bottle low value wine into their home branded products. Additionally, major retailers acquire bulk wine and bottle it into private label products. Woolworths and Wesfarmers have increased their presence in the liquor retailing market over the past five years. Combined, Woolworths and Wesfarmers had over 60% of the liquor retailing industry in 2017-18.

The market study will primarily focus on the relationship between wine grape growers and winemakers, as this has been identified as of particular concern. However, we will also examine the relationship between winemakers and retailers to some extent, including the impact of retailer practices on downstream pricing.

Issue 1 – Markets for the sale and purchase of wine grapes

The market study will examine the competitive dynamics along the supply chain.

Wine grapes are primarily purchased from growers by winemakers. In previous years, when there was an oversupply of wine grapes, some unprocessed wine grapes were exported directly to overseas markets. However, the ACCC understands this is a very small supply channel and is not expected to grow, particularly in light of strengthening domestic demand for wine grapes.

Preliminary industry consultation indicated that winemakers can readily transport grapes without deterioration within south-eastern Australia, and separately, within Western Australia.

However, despite there being a significant number of winemakers in both south-eastern Australia and Western Australia, competition between winemakers for wine grapes appears limited. More than 50% of growers in warm climate regions and just over 30% of growers in cool climate regions disagreed or strongly disagreed that there is competition between wine grape buyers for their produce.

Further, industry consultation and survey results indicate low levels of growers switching between winemakers. 58% of growers in warm climate regions and 40% of growers in cool climate regions disagreed or strongly disagreed with the statement in the survey that they could choose to sell to different buyers without suffering adverse treatment (assuming they are not bound by an existing contract).

In order to assess the level of competition that exists between wine grape buyers, the ACCC seeks further information about the specific sales options available to growers.

The ACCC would appreciate feedback on:

1. The level of competition between winemakers (and other buyers) for the acquisition of wine grapes, within and across regions.
2. The ability of wine grape growers to switch between winemakers or other buyers.

When providing feedback, you may wish to comment on:

- (a) How far wine grapes are transported to processing facilities and how this varies between different regions and grape varieties.
- (b) The cost of transporting grapes to processing facilities and who bears this cost.
- (c) The features of wine grape growing regions. This includes the range of potential buyers, and access to and reliance on domestic or export sales.

- (d) The extent to which winemakers and other buyers of grapes monitor and match each-others prices and terms.
- (e) The factors influencing why growers choose to supply certain buyers.
- (f) Any cultural, contractual or structural barriers that affect a grower's ability to switch winemakers, including the use of exclusive supply terms and bonus or penalty clauses in contracts.
- (g) How winemakers plan ahead for supply arrangements with customers, given the long lead time for wine production.
 - i. How winemakers manage oversupply and undersupply.
 - ii. How winemakers respond to fluctuations in demand.
 - iii. How winemakers manage inventory costs.
 - iv. The timing of wholesale price determination.
- (h) Winemaker and grower profit margins. This includes information on costs of production for growers and winemakers.
- (i) The capacity of winemakers' processing facilities and the factors affecting their operations.
- (j) Barriers to entry and expansion for winemaking including any examples of recent entry or expansion of processing capacity.
- (k) The impact of any consolidation or vertical integration in the industry.
- (l) Factors that influence winemakers' decisions to own vineyards rather than acquire wine grapes from growers; whether there is an optimal mix of purchased versus own grown grapes.
- (m) The extent of trading or swapping of wine grapes or wine between winemakers.
- (n) Concerns about anti-competitive conduct.

Issue 2 – contracting practices between growers and winemakers

The market study will examine contracting practices between growers and winemakers, including the significance of the relative bargaining power of growers and winemakers and the allocation of risk across the supply chain.

Winemakers and growers use a variety of contracts and arrangements for trading in wine grapes including long-term exclusive supply contracts, year on year agreements, standard form agreements and tailored contracts. We understand that many growers and winemakers trade without written agreements.

Growers have raised concerns with the ACCC that they carry significant risk in many transactions, with very little certainty about returns. They also frequently commented on the extended payment terms they are required to accept from winemakers, which can result in full payment only being received nine months, or longer, after they have delivered grapes to the winemaker.

In response to the survey, more than 60% of growers from warm climate regions and 40% of growers in cool climate regions agreed or strongly agreed that contracts with wine grape purchasers are offered on a take-it-or-leave-it basis, with no opportunity to negotiate the terms. Almost 60% of warm climate region respondents disagreed or strongly disagreed that

contracts provide a fair balance between the rights and obligations of wine grape growers and wine makers, compared with around one third of cool climate respondents.

These survey responses indicate that some growers in both warm and cool regions may not be in a position to negotiate more favourable contracts due to bargaining power imbalance. Imbalances in bargaining power in the supply chain may be due to different business sizes between growers and winemakers. During periods of oversupply of wine grapes, the bargaining position of growers is further weakened. Such market conditions can provide scope for opportunistic behaviour, which takes advantage of this power imbalance.

The ACCC understands that the only region where a significant proportion of growers are currently engaging in collective bargaining is the Riverland through the CCW cooperative of around 600 growers (approximately two thirds of the growers in the Riverland region).

In examining grower concerns, we will also consider the extent that collective bargaining or collective boycotts could address any imbalances in bargaining power.

The ACCC would appreciate feedback on:

3. The different types of supply contracts used across the supply chain, for different varieties and in certain regions.
4. Concerns about unfair trading practices, including unfair contract terms.¹⁷

When providing feedback, you may wish to comment on:

- (a) Imbalances in bargaining power in contract negotiation and how this is reflected in contract terms.
- (b) The risks faced by each party in the supply chain and how these are allocated according to supply agreements.
- (c) Practices surrounding the entering and renewal of contracts, including the nature of negotiations and timing relative to key points in the season (e.g. watering, picking, supply).
- (d) Payment practices, including the timing of payments and factors that impact when winemakers pay growers.
- (e) How growers manage risks around exposure to changes in market conditions.
- (f) The nature of winemakers' trading arrangements with retailers, exporters and other customers and how these influence with the terms of the agreements or arrangements winemakers have in place with growers.
- (g) The methods used by winemakers to determine or forecast demand and how long winemakers can hold onto inventory in period of decreased demand.
- (h) The effectiveness of any existing collective bargaining arrangements and the level of awareness of and industry support for collective bargaining.

¹⁷ The Australian Consumer Law protects small businesses from unfair terms in standard form contracts. Examples of terms that may be unfair include: terms that enable one party (but not another) to avoid or limit their obligations under the contract; terms that enable one party (but not another) to terminate the contract; terms that penalise one party (but not another) for breaching or terminating the contract; and terms that enable one party (but not another) to vary the terms of the contract. More information about unfair contract terms is available on the ACCC website: <https://www.accc.gov.au/business/business-rights-protections/unfair-contract-terms>

Issue 3 – voluntary industry Code and dispute resolution processes

The market study will consider the impact and effectiveness of the existing voluntary Code.

The Code was established in December 2008 by Wine Grape Growers Australia (WGGA) and the Winemakers' Federation of Australia (WFA). The Code aims to establish a common Australian wine grape supply contract framework and to provide a dispute resolution system to manage disagreements which arise over price or quality assessments.

The uptake of the Code has been low. Of the approximately 2500 winemakers in Australia only 41 are signatories. The signatories to the Code include around 36 of the top 100 wine companies in Australia, and represent approximately 40% of the annual total crush.¹⁸

The Code is currently under review and the ACCC will continue to monitor progress of this, in addition to considering submissions on its potential effectiveness and shortcomings during the conduct of this market study.

The ACCC would appreciate feedback on:

5. Views on the effectiveness or shortcomings of the Code.
6. Examples from growers and winemakers of the impact of the Code.

When providing feedback, you may wish to comment on:

- (a) Examples of times when the Code's requirements have assisted or failed to assist growers resolve disputes with winemakers.
- (b) How growers' and winemakers' operations are impacted by the Code's requirements.
- (c) Any factors that prevent the Code from being an effective industry led regulatory instrument.
- (d) Any factors preventing winemakers from becoming signatories to the Code.
- (e) Views on whether the Code's indicative pricing and timing of payment requirements assist growers make informed business decisions and manage cash-flow.

Issue 4 – transparency and timing of pricing information

The market study will consider practices impacting transparency and timing of pricing information.

Many wine grape growers and representative bodies have raised concerns that reliable pricing is not provided in time for decisions about investment in inputs like fertilisers, irrigation, pesticides and labour.

The ACCC understands that contracts vary greatly in how much clarity they provide growers about the price that will ultimately be paid for grapes.

The Code provides for indicative pricing to be announced in December of each year. However, both growers and winemakers appear dissatisfied by this.

There is a long lead time between fruit being harvested and wine produced from it being ready for sale. Many winemakers consider that this makes it difficult to predict the product

¹⁸ Australian Wine Industry Code of Conduct Code Management Committee, *Annual Report 2016-17*, <http://www.wineindustrycode.org/Reports.html>, page 4.

mix that will be derived from a particular vintage, and consequently the return on investment that will be made. Accordingly, their view is any indicative price will be inaccurate and will distort the market.

On the other hand, the ACCC has heard from growers that by December all of the decisions about farming inputs have been made. Hence having price information at this stage will not enable them to alter their production cost and optimise growing practices. Many growers have argued that pricing information should be provided earlier in the season to ensure they can accurately assess the profitability of their operations, including whether to produce at all that year. Growers consider that the timing of pricing announcements forces them to carry an unfair degree of risk.

Responses to the survey indicated that warm climate growers are much less likely than cool climate growers to receive pricing information early enough to make informed decisions, and the pricing guidance provided by wine makers is considered to be unreliable.

In both warm and cool climate regions, around 36% disagreed or strongly disagreed, and around 20% were unsure in response to the question “the timing of payment enables me to effectively manage cash flow and the costs of running my business”.

The ACCC would appreciate feedback on:

7. The timing, clarity and reliability of pricing information winemakers provide to growers.

When providing feedback, you may wish to comment on:

- (a) How movements in price impact growers’ viticulture practices.
- (b) Factors that impact the degree and timing of pricing information or methodologies that winemakers provide to growers.
- (c) How winemakers determine the price that they will pay to wine grape growers.
- (d) Growers’ views on whether pricing information is easy to understand and reliable.
- (e) Price information sources outside of your buyer that you can access which provides insight into market price.
- (f) The extent growers can manage or mitigate against risks of price movements.

Issue 5 – quality assessment

The market study will consider the transparency of quality assessment and grading of wine grapes.

The ACCC understands that grading is based on a number of factors. The primary factors are sugar (Baume), pH, flavour, size and colour (red wine grapes only), as well as factors that can result in downgrading, including disease, foreign matter (such as sticks and leaves), bird damage and sunburn.

Some measures, such as Baume and pH are considered as objective measures. However, the ACCC has heard concerns that other factors that contribute to the final price for fruit, such as colour and flavour assessment, are highly subjective.

The ACCC has also heard concerns that winemakers have frequently ‘downgraded’ grapes, stating that it was due to inferior colour or flavour, when allegedly, the real reason is that the winemaker has already met its quota for grapes of a particular quality or at a particular price point. In these circumstances, using a quality assessment as a reason for lowering the price paid to growers reduces transparency and sends unclear and distortionary signals.

In response to the survey, 46% of growers in warm climate regions and 32% of growers in cool climate regions disagreed or strongly disagreed that their buyers' quality assessment of wine grapes is transparent and well understood. 42% of respondents in warm climate regions and 28% in cool climate regions disagreed or strongly disagreed that their grapes are assessed objectively by the buyers.

Growers from warm climate regions and growers from cool climate regions generally offered similar responses on whether they have available an effective process to query the quality assessment of their grapes and have disputes resolved. Over 40% of respondents in both warm and cool regions disagreed or strongly disagreed that they had an effective process to query quality assessment of their grapes and have any dispute resolved.

The ACCC would appreciate feedback on:

8. How and when grape quality assessment occurs, and whether growers participate in the process.
9. How the conduct of quality assessment impacts the final price paid to growers.

When providing feedback, you may wish to comment on:

- (a) What measures are used to assess the quality of grapes and how this varies between regions and varieties?
 - i. Which of these measures are objective/subjective?
 - ii. Can they be verified/scrutinised by the grower/representative?
 - iii. Are these measures reliable quality indicators?
 - iv. For any measures considered subjective, how significantly do they influence the price paid?
- (b) How winemakers work out harvesting/delivery schedules, including factors that may prevent growers from being able to pick and deliver grapes according to their optimum harvest times.
- (c) The visibility that growers have over the assessment and grading of wine grapes.
- (d) The extent to which growers get feedback from winemakers about improving quality of wine grapes or grading quotas that may apply.
- (e) Any examples within Australia or overseas of solely objective measures being used to assess wine grapes.
- (f) The ability of growers to dispute grading results, including the cost and time involved in dispute resolution.