

Australian Chicken Growers' Council Limited

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ACGC submission to the ACCC Collective Bargaining Class Exemption' Discussion Paper

The Australian Chicken Growers Council (ACGC) welcomes the opportunity to comment on collective bargaining as a tool for reducing the power imbalance in agriculture. Over the past 10 years, there has been an enormous degree of change to the environment that chicken growers operate in. The further corporatisation of chicken meat processing companies has meant the further consolidation of power at the top of the supply chain exacerbating the power imbalance and making running a farming enterprise much more complex. Australian consumer laws have an important role to play to ensure market power and/or manipulation does not add to profitability and competitiveness challenges faced by the sector.

ACGC understands that the ACCC is considering making a 'class exemption' that would provide eligible small businesses, agribusinesses and franchisees with legal protection to collectively bargain with customers or suppliers, without having to apply to the ACCC in addition to the ACCC's existing 'authorisation' and 'notification' processes.

ACGC broadly supports the proposal to introduce a class exemption for farm businesses to collectively bargain. Principally, we consider any move to reduce red tape and regulatory burden in the agribusiness sector to be a positive one, we would however, counsel caution and wish to see a full exploration of the settings, boundaries and transparency that would be required to ensure there aren't any unintended consequences and perverse outcomes.

While we support in principle, the concept of a class exemption and the efficiencies it might provide, we would prefer to see a review of the current authorisation and notification processes that currently exist. The notification and authorisation process can be quite burdensome in their application and implementation, and having gone through the process as an industry, we can understand how it might put some groups off the process entirely. Given the diverse nature of the poultry meat industry and indeed agriculture in general, ACGC would be hesitant to pass comment on whether or not a class exemption should apply to businesses which meet certain criteria.

As mentioned above, we would instead like to see the ACCC to retain an overarching assessment of the collective bargaining process and believe that this is best achieved by streamlining the notification and authorisation application process rather than putting in place a blanket class exemption.

A review of the collective bargaining process as a whole, would allow an opportunity to address flaws in the mechanism. For example, while authorisations are held by chicken growers at a state level, to collectively bargain on behalf of chicken growers with the state's processors, the processors, are not required to solely negotiate with the negotiating group. In the past this has led to processors exploiting their market power despite having collective bargaining authorisations in place, by negotiating separate agreements with individual farm businesses when contract negotiations become difficult. This undermines the strength of a united negotiation position and reduces the effectiveness of the collective bargaining authorisation. We would encourage the ACCC to look at ways to rectify this situation, which should include the addition of an effective and cost-efficient mediation process, and ensuring that if a class exemption is implemented it does not embolden this approach.

Effectively structured, collective bargaining can rectify power imbalances and help poultry businesses negotiate better terms with infrastructure and services providers (e.g. electricity pricing and the ability to export surplus on-farm energy generation), input suppliers (e.g. feed, energy), machinery suppliers and product purchasers (e.g. processors). To ensure the success of a 'class exemption', a full exploration of the settings, boundaries and transparency would be required to ensure there aren't any unintended consequences and perverse outcomes.

ACGC thanks the ACCC again for the opportunity to provide feedback and looks forward to working with you towards a more sustainable competitive environment for all players.

Regards,



Jodie Redcliffe
ACGC Acting President