

Submission to the ACCC inquiry into the competitiveness of retail prices for standard groceries.

Public Submission to ACCC Grocery Inquiry by AUSVEG Ltd 11th March 2008

Background

The Australian Competition and Consumer Commission (ACCC) is undertaking an Inquiry into the competitiveness of retail prices for standard groceries. The ACC has requested submissions from interested parties by cob 11 March 2008.

The ACCC has released an Issues Paper which says that over the past few years' food price inflation has been larger in Australia than in many other industrial countries, and notes that the larger price increases have been for milk, cheese, bread, fruit and vegetables. Accordingly the focus of the Inquiry is on a number of retail grocery products including vegetables.

The ACCC has been instructed by the Federal Government to consider all aspects of the supply chain in the grocery industry, including the nature of competition at the supply, wholesale and retail levels, to ensure consumers are getting a fair deal. The Government has instructed the ACCC to take a broad approach and ensure all aspects of the chain are included – from the farm gate to the checkout counter.

The Inquiry also specifically includes the ACCC examining a range of issues relating to the effectiveness of the Horticulture Code of Conduct. These include the impact of the current Code on market behavior along the chain, what the impact would be if retailers and other major buyers were also included in the Code, and whether such inclusion would increase the Code's effectiveness.

Submission

The AUSVEG submission states that

- It's submission will focus on the Horticulture Code of Conduct
- The industry is recognised as a supply 'push' industry as opposed to a demand 'pull' industry. This has inherent characteristics that

are most often reflected in both price-cuttings from growers to maintain market share or conversely 'pressure' is applied by purchasers to supply goods at a 'lower price or not supply at all.

- The organisation notes the ACCC notes that prices have risen faster than inflation and concur with this data.
- As regards the broader issue of the causes of high retail prices it understands from its members that the drought 's impact on production and the impact of higher input costs were significant in the cause of higher vegetable prices at the farm gate in recent times. It is noted that prior to the drought, members stated that they could not pass on to the supply chain the rising costs of production and so were being 'squeezed' by costs and market forces.
- However AUSVEG is not in a commercial entity and it is difficult to comment on the causes of high prices along the chain or on the pricing or other commercial practices of commercial parties.
- AUSVEG notes that from time to time concerns are expressed by some of its members about competition developments along the chain such as the narrowing of market channels, or the prices they receive for vegetables.
- Having noted the above, the significant changes in marketing channels, especially to 'preferred supplier/s' has reshaped vegetable trading mechanisms. Concern has been substantial in the area where supermarket supply channels must pass through a third entity before or as part of supply to supermarkets. Commercial operators in this area have been encouraged to submit to the Inquiry.
- A more common view expressed by members is that growers a receiving a shrinking share of the consumer dollar in both % and real terms. Whilst it is acknowledged that a 'fair share' of profits needs to be shared along the supply, trends in this area appear to present a different picture.
- This trend has been happening over the last 15 years and highlighted by shrinking margins to growers, (latest data can be provided upon request). Additionally, a study carried out by Damian Maynard into profitability of Tasmanian growers in their production of processing vegetable highlights this point.
- AUSVEG also notes that when research has been conducted in the past on such issues it failed to produce evidence of 'price gouging' by retailers. AUSVEG itself has not conducted research into these issues but would be prepared to do so if its members decided this was desirable and funds were available

- AUSVEG has encouraged vegetable growers to participate in the Inquiry so that the best possible information is provided to the ACCC so the air can be cleared on the competition issues.

The AUSVEG submission has focused on issues associated with the Code, given AUSVEG's participation in the Code development process as a legitimate activity for the peak body representing vegetable growers, and has only addressed the remaining issues covered by the Inquiry in brief and general terms.

The Horticulture Code of Conduct

The Code offers some potential benefits in relation to promoting the use of terms of trade documentation and in providing for a dispute resolution mechanism. The Code however is too prescriptive and inflexible to add value for the majority of businesses within the industry.

These issues were identified by AUSVEG leading up to the passing of the Code and acknowledged that these points would need reviewing immediately the Code was passed. It was felt that a mandatory code would offer the same rules for all verses a voluntary code with ad-hoc participation.

In view of the ongoing shortcomings of the Code to contribute positively and significantly to the commercial relationships between growers and traders, AUSVEG suggests:

1. That the existing Horticulture Code of Conduct requires a detailed enquiry into the need for and nature of any Code of Conduct in the fresh produce industry and that, if it is found to be in the positive, it should be applicable to all, not predominately restricted to growers and wholesalers. This would remove either real or perceived bias towards growers and wholesaler from other trading channels such as supermarkets and their supply channels.
2. Appoint an industry Committee, including representatives from DAFF and the ACCC as well as industry representatives, to progress a detailed analysis of the need for such a Code and make further recommendations to the Minister regarding the subsequent

amendment and/or repeal of the Code as appropriate as an urgent and negotiated industry-based outcome.

3. On the surface it would appear that compliance to the Code has been 'token' rather than encompassed. Further it has added costs to businesses in both time and dollar sense to most businesses especially those who are recognised as 'leading businesses'. It would appear that the less professional of industry participants have not encompassed the Code – a concern to all.
4. Difficulties with implementation of the Code have suggested that other compulsory areas are under performing for industry development and betterment. This is especially so in regard to collection of R & D levies, voted for by growers, that aims to improve their standing. This is disturbing to all as well as impacting on those that legitimately pay.

Conclusion

AUSVEG welcomes the ACCC Inquiry as an opportunity to firstly 'clear the air' in relation to grocery pricing and secondly that the outstanding issue of the Horticulture Code of Conduct is addressed. AUSVEG continues to encourage commercial operators to submit to the Inquiry in the interests of all and is a willing participant for the ACCC if it requires further information.