



**AUSTRALIAN  
FARMING  
SERVICES**

Attn: Director  
Murray-Darling Basin Inquiry  
Australian Competition and Consumer Commission  
GPO Box 3131  
Canberra ACT 2601

29 November 2019

**Submission: Australian Competition and Consumer Commission Inquiry into water markets in the Murray-Darling Basin (Issues Paper)**

Australian Farming Services Pty Limited (AFS) is pleased to contribute to the Australian Competition and Consumer Commission (ACCC) Inquiry into water markets in the Murray-Darling Basin (MDB).

Notwithstanding the current focus on water markets, AFS welcomes the ACCC Inquiry, particularly given that the desired outcome is to recommend options that:

Enhance markets for tradeable water rights relating to water in the Murray-Darling Basin, including options to enhance the markets' operations, transparency, regulation, competitiveness and efficiency.

**1. About Australian Farming Services**

AFS is a leading farmland development and property management company. We provide management services to industry participants and landowners.

AFS currently manages property aggregations in the Murrumbidgee, NSW Murray and VIC Murray zones. Across these aggregations AFS manages over 5,000 hectares, incorporating over one million trees.

Our operations contribute substantially to the socio-economic development of regional Australia by providing local jobs and supporting a broad range of local supply chains.

**2. Responses to the ACCC Issues Paper**

**2.1 Issue 2- Market Transparency and Information**

Reliable, real-time market data is a key opportunity for improving the efficiency, transparency and competitiveness of MDB water markets.

The information that AFS currently utilises to manage its water requirements is currently spread across multiple sources and platforms, thus inefficient.

There are two broad categories of market data in which relatively simple and low-cost improvements can be made: public water registers and supply / demand data published by the Murray-Darling Basin Authority and State authorities.

- *Public water registers*

While the establishment of public water registers has been critical to implementation of the National Water Initiative, significant improvements are required to achieve the consistency, transparency and reliability in information that irrigators require. AFS supports the recommendations of the [Murray-Darling Basin Authority's Water trade Price Reporting under the Basin Plan](#) report. Proposed improvements in water registers, including:

- Time and date information (date lodged; date approved)
- Specifying whether entitlements are sold wet or dry
- Information about lease and forward contract arrangements
- Justification for \$0 trades
- Reporting of entitlement and allocation trade within Irrigation Corporations

For market participants to fully benefit from actions to improve the reliability and access to market trade data, inter-jurisdictional collaboration and co-operation is fundamental. Attempts by any Basin State to act independently may exacerbate the existing issues with information availability and access.

AFS does not support the disclosure of commercially sensitive information of market participants with large holdings (see below). Thus, when addressing transparency in water markets, clear objectives should be established that aid the decision-making process about which data should be made available and how.

- *Supply and demand data published by the Murray-Darling Basin Authority and State authorities*

The changing dynamics of water supply and demand have altered the way in which information should be interpreted. For example, prior to there being environmental water entitlements and carryover, storage volumes provided a reasonable indication of the expected seasonal opening allocations. This is no longer the case. It is very difficult to determine a range of key metrics on the water supply and demand balance based on publicly available information.

Current reporting of environmental water and consumptive water together is not providing irrigators with an accurate view on water availability. Key information that would improve this includes:

- Volumes held by water corporations, environmental water holders and irrigation users
- System wide carryover balances (ML)
- Allocation to date to consumptive users (ML)
- Current volumes available for trade / use (ML)
- Consumptive usage to date (ML)

The same reporting and disclosure rules should apply for all water owners.

A key tenant of the advice provided by the ACCC to the Australian government in the establishment of the Murray Darling Basin Plan Trading Rules is open and non-discriminatory access to water markets. Thus, any amendment that requires different reporting and disclosure rules for some water owners should be evaluated against this principle.

Likewise, publishing information on large market participants may not be as effective as envisaged. There are likely to be several work arounds, including parties holding entitlements under different entities, to avoid disclosure thresholds.

AFS supports policy and regulatory change that would improve access to price and market depth information, through a single trading platform. We encourage the ACCC and other governments to investigate whether market participants are behaving illegally and introduce rules and regulations that enhance the efficiency of the market.

## **2.2 Issue 3- Regulation and Institutional Setting**

Improved transparency and consistent market rules will improve market participants' confidence in water markets.

AFS is of the view that the lack of transparency and consistency in market rules are key impediments to improving market participants' confidence in water markets. While market rules have been established to allow inter-valley trade and trade across jurisdictions, in principle, there appears to be insufficient co-ordination and co-operation across the agencies tasked with the management and enforcement of these rules. Key examples are inter-valley trade (IVT) constraints, carryover and environmental flows.

### *Inter-valley trade constraints*

The AFS managed properties are located across a key IVT constraint. As prices diverge between zones, the IVT constraints can materially influence decisions made by AFS. It is unclear to AFS, and many other market participants, how the IVT rules work and how applications are processed. There appears to be procedural differences across jurisdictions, however the decision process is unclear.

AFS believes that the current approach of 'first in, first served' with email applications on a certain day lacks integrity and undermines confidence in the market. Given current concerns regarding the integrity of water markets, improvements to the settings that were established in the 1990's or before should be reviewed.

AFS would welcome the ACCC review of the operation of the IVTs and the extent to which all market participants are able to access trade opportunities. While, in principle, AFS supports the Victorian government's review of the Goulburn IVT rules, it represents an example of an interim rule change which is difficult to plan for.

### *Carryover*

Carryover is an important risk management tool that AFS and other market participants use to secure and manage water supply. However, inconsistencies across the Basin States mean that all carryover opportunities are not equal. Particularly concerning is the [NSW Governments' recent announcement that it will prioritise high security allocations over carryover](#). AFS is of the view that this undermines carryover as an important risk management tool for irrigators. In combination with the inter-valley trade constraints from the Murrumbidgee to the Murray, the increased risk to carryover on NSW water entitlements is introducing unnecessary challenges and fees when managing water supply across trading zones. It is also an example of rule and policy changes that are difficult to plan for and reduce the efficiency of the market.

### *Environmental flows*

Similarly, the rationale for and management of environmental flows are also unclear, particularly in terms of the interface with IVT open and close dynamics. As an example, the influence of environmental water transfers from below to above the Barmah Choke are a major source of uncertainty and unpredictability for the market. The potential for inside information to reduce market integrity is high. In addition, the ability for market participants to make informed decisions about the risks and opportunities associated with holding water in

any trading zone are almost impossible to determine given the potential for large environmental transfers to influence the market.

### **2.3 Issue 4 - Market participant practices and behaviors**

While an increasingly diverse range of market participants has benefits for water markets, improved regulation of market intermediaries is likely necessary to alleviate current concerns and allegations of misconduct.

AFS considers the introduction of a more diverse range of market participants to have a range of benefits, including the development and provision of new products and services (e.g. carryover, entitlement leases and forward allocations), all of which are utilised by AFS.

Notwithstanding these benefits, there are numerous concerns that the practices and behaviors of market intermediaries are adversely impacting water market access, transparency, efficiency and competition.

Water brokers are somewhat unregulated, and practices and behaviors vary across providers. This may undermine participants' confidence in the water markets. AFS would welcome the ACCC's use of its powers under the Competition and Consumer Act to obtain evidence that demonstrates the extent to which illegal / unethical conduct is or is not taking place. The ACCC should clarify what constitutes legal and illegal conduct in the water market and should make recommendations to address any inefficiencies in the market arising from conduct of various parties.

AFS believes the ACCC should make it easier for market participants to raise ongoing concerns regarding issues of market conduct.

### **3. Summary**

Overall, AFS is of the opinion that the objectives of water markets in the Murray-Darling Basin are largely being achieved. That is, enabling the efficient allocation of scarce water resources. Water markets in the Southern Murray-Darling Basin are an important mechanism that support the AFS's operations, including managing water supply and price risk in and across water years.

As outlined above, the key areas for improvement are:

- More robust water trade registers that remove inconsistencies across jurisdictions
- Clear definition of trade rules that are readily interpretable
- Timely, accurate and readily accessible market information, including on IVTs and delivery and allocation outlooks
- Continued support for carryover and other products that support efficient water supply risk management over multiple years

AFS appreciates the opportunity to contribute to the Inquiry. Please do not hesitate to contact me with any queries regarding our submission.

Yours sincerely,



**David Armstrong**  
Chief Executive Officer