



## **MEDIA RELEASE**

6 July 2017

### **Concerns raised about grower awareness of new Horticulture Code**

While Australia's fresh produce wholesaling sector's representative organisation, Fresh Markets Australia (FMA) has taken a proactive approach to promoting an understanding of the new Horticulture Code of Conduct to Market Wholesalers, it has serious concerns for the nation's 15,000 Growers.

FMA has delivered training to more than 400 Central Market businesses regarding the Code and is progressing the roll out of standard formal Terms of Trade and Horticulture Produce Agreement (HPA) documents to assist businesses transition to compliance with the requirements of the new Code.

However, FMA Chairman, Shane Schnitzler, said that Growers did not appear to be receiving the same message about their need for compliance.

"It is the first time that the Code has imposed obligations on both Traders and Growers, and the first time that there are substantial penalties for anyone not complying with those obligations," Mr Schnitzler said. "This could obviously lead to a costly mistake."

Mr Schnitzler said there were a number of Grower-specific Code obligations in the new regulations.

This was in addition to the clear definitions which identify who is considered to be a 'Trader', new dispute resolution requirements, and, most importantly, beefed up powers for the policing body, the Australian Competition and Consumer Commission (ACCC).

Mr Schnitzler said that over the coming weeks, Market-based Traders will start issuing new HPAs to their Grower suppliers and it was important that Growers recognise that there is a legal requirement for them to have a HPA in place with each Trader who they do business with.

"FMA's documentation has the flexibility to be customised with the Grower and Trader's relevant details and trading requirements," Mr Schnitzler said.

"That's a key difference to the previous Code which was considered inflexible and anti-competitive."



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Mr Schnitzler said it was important that Growers engaged with all Traders that they are doing business with and that they move to agree the terms of Code compliant HPAs.

Growers needed to:

- Understand that Traders and Growers are required to have HPAs in place; and
- Review, negotiate and agree the terms of HPAs they receive from all Trader's which they doing business with.

"The Code states that Traders and Growers must not trade in horticulture produce unless they have a Code compliant HPA in place and if they do, a penalty of up to \$63,000 can apply for such a breach," Mr Schnitzler said.

For more information about the Code, visit the ACCC website

<https://www.accc.gov.au/business/industry-codes/horticulture-code-of-conduct>.

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**Note:** The Horticulture Code was established in 2007 to regulate trade in horticulture produce between growers and Traders of fresh fruit and vegetables and to provide an alternative dispute resolution procedure. The Horticulture Code is a prescribed, mandatory industry code under the Competition and Consumer Act 2010. The Code came into operation with the aim of improving the clarity and transparency in transactions between horticulture Growers and Traders and to provide some standard procedures and mandatory requirements in the trading relationship. The existing Code was poorly drafted and was widely accepted as being unworkable.

#### **About FMA**

The Australian Chamber of Fruit and Vegetable Industries trading as Fresh Markets Australia (FMA) is the national organisation representing each of the six Market Chambers, which themselves are organisations which represent the fruit and vegetable wholesalers located in each of Australia's six Central Markets (Brisbane, Sydney, Melbourne, Adelaide, Perth and Newcastle).

In total, the organisation represents in excess of 400 Market wholesaling businesses. Market Wholesalers are involved in the sale of some 50-60% of the fresh produce sold across Australia in servicing the requirements of fruit and vegetable retailers, secondary wholesalers/provedores, foodservice industry businesses, processors, exporters and the public. Over 15,000 growers supply to businesses within the Central Market system. The total turnover of businesses in the Central Markets exceeds some \$7 billion annually.