



MEDIA RELEASE

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Wholesalers welcome Government's Code response

The fresh produce wholesaling sector's representative organisation, Fresh Markets Australia (FMA), has welcomed the Federal Government's long anticipated response to the review of the Horticulture Code of Conduct.

FMA Chairman, Shane Schnitzler, has congratulated the Government for its efforts in seeking to achieve a balanced, commercial outcome in its review, which removes the unnecessary and unworkable requirements of the existing Code.

FMA liaised closely with the Federal Government in finalising the Code review as it looks to having a new Code finalised and introduced by April 2017 when the current Code ceases to apply.

The Federal Government has responded to the 13 recommendations made by the Code Review Panel and in the main, FMA supports its position.

FMA Executive Director, Andrew Young, said there were concerns with just two areas, with the Government not supporting the inclusion of deeming provisions in the Code, while at the same time supporting the inclusion of monetary penalties.

"FMA believes that the inclusion of monetary penalties will be anticompetitive as these provisions will apply to just one sector of the Industry," said Mr Young.

"It is noted that similar monetary penalties do not exist under the voluntary Food and Grocery Code which applies to the retail chains, while there is no regulation of other retailers buying direct from growers. There is therefore a significant risk that the Code will be anticompetitive.

"Accordingly, penalties must only be applied in extreme cases where there has been systematic, repeated and blatant breach of the Code," he said.

The lack of deeming provisions which provide for deemed Code compliance when a Grower continues to supply product to a Wholesaler, when they have not returned a signed terms of trade document, can also mean that a Grower can unintentionally force a Wholesaler to breach the Code.

This situation will expose both the Grower and the Wholesaler to potential monetary penalties for breaching of the Code. FMA says this would be a harsh and unfair outcome which should not be allowed to occur.

Mr Young said that while it was good to see the Federal Government's response, the devil would be in the detail and, as yet, FMA had not seen the draft new Code.



“While the actual detail of the new regulations is yet to be released, we certainly look forward to continuing to work with the Government and grower representative organisations to see a timely and seamless introduction of the new workable Code,” Mr Young said.

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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.

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.