

Horticulture Code of Conduct – dispute resolution system works fine

*Without properly functioning Central Wholesale Markets,
Australia’s fresh fruit and vegetable supply chain would collapse.*

**60 million
transactions
over five years**

**Only 21 inquiries
to ACCC over
five years**

**Just 35
complaints
to ACCC over
five years**

**One complaint
for every
1,714,285
transactions**

**0.0000583%
complaints
for every
transaction**

LOW LEVEL OF COMPLAINTS

The Federal Government’s *Issues Paper: Review of the Horticulture Code of Conduct* reports that, over the eight years of the Code’s operation, there have been a total of 89 inquiries to the Horticulture Mediation Advisor, 14 mediator appointments and 12 mediations.

The *Issues Paper* also reports that over the same period the Australian Competition and Consumer Commission (ACCC) received 218 inquiries (only 21 over the past five years) and 147 complaints (just 35 over the past five years).

OUT OF PROPORTION

This low level of inquiry, mediation requests and formal action demonstrates that commercial interactions between growers and wholesalers are working just fine.

It is not evidence, as some would claim, that the dispute resolution system is “too hard” for growers to use or that growers fear “retribution” by wholesalers.

It is evidence that the administrative infrastructure developed by the Federal Government to manage the Code of Conduct is completely out of proportion to the perceived issues.

FMA calculates that there are about 12 million transactions between growers and wholesalers across Australia every year.

Over the past five years, that represents about 60 million transactions – which on the Federal Government’s own figures resulted in just 21 inquiries and 35 complaints to the ACCC.

The ratio of complaints to transactions is ludicrously low at 0.0000583%.



MARKET TRANSPARENCY

Calls from grower groups for improved transparency fail the credibility test when compared to day-to-day business operations at Central Markets.

Transparency of market pricing is available to growers through independently compiled market price reports. Pricing data is collected daily from the market floor and is available as daily, weekly or monthly reports.

The specifications that produce must meet to achieve Class One pricing are available through FreshSpecs on the Fresh Markets Australia website. A reference to FreshSpecs as a quality standard is also included in wholesaler Terms of Trade.

Since the Code’s introduction, digital communications and smart phones have changed the way growers and wholesalers communicate.

Technology now enables instant communication between growers and wholesalers, including the use of digital imagery to review produce quality from the trading floor, so that queries can be raised and addressed in real time.



COST TO TAXPAYERS

FMA calculates that there are about 12 million transactions between growers and wholesalers across Australia every year. Over the past five years, that is about 60 million transactions – which resulted in just 21 enquiries and 35 complaints to the ACCC. That’s one complaint for every 1,714,285 transactions. The ratio of complaints to transactions is ludicrously low at 0.0000583%.

In December 2014, the Productivity Council recommended the Federal Government reconsider the need for high-cost, low-volume complaints services, including the dispute resolution services provided in the Mandatory Horticulture Code of Conduct.

The historic low level of inquiry, mediation requests and formal action under the Code is evidence that the “issues” promoted by grower groups are exaggerated.

Growers have had eight years under the Code to raise issues.

After remaining silent over that time, growers and their representatives can not now argue for changes to the Code by citing the same issues they originally raised a decade ago.

There have been three reviews of the Code and industry over the past eight years, some of which included sensible revisions to the Code, yet no government acted upon them.

It is too late now for growers and their associations to be arguing for changes which will further tip the balance against wholesalers.

REVIEW MUST DELIVER BALANCE

FMA is committed to participating in a robust review of the Code and, after eight years of wholesalers struggling under an anti-competitive and inflexible Code, is committed to finding a resolution that is equitable and commercially practical.

FMA is not opposed to a Code of Conduct, but it is opposed to the Code’s unworkable regulations which must be revised so that both growers and wholesalers are treated fairly and are able to operate their businesses the way they need to.



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