

SUBMISSION NO. 12
Horticultural Code and
Farm Gate to Plate



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For the attention of –

Committee Secretary
House of Representatives Standing Committee on
Agriculture, Resources, Fisheries and Forestry
PO Box 6021
Parliament House
CANBERRA ACT 2600
AUSTRALIA

RE: *Competition and Consumer Amendment (Horticultural Code of Conduct) Bill 2011*

Submission made on behalf of the OneHarvest Group of Companies –
Harvest FreshCuts Pty Ltd (HFC) – freshcut salad and vegetable processor
Vegco Pty Ltd - freshcut salad and vegetable processor
Harvest Markets Pty Ltd (THC) – marketer and wholesaler of fresh produce

We note that the Committee has invited submissions on the text of the legislation generally but in particular:

- the practicalities of implementing the Bills' provisions, for both practitioners and regulators, taking into account the whole supply-chain;
- the cost of implementation;
- domestic and international linkages;
- the interaction of and any potential issues between related Federal, State and Territory laws in this area; and
- possible amendments to the Bills, or other alternative measures, to achieve the objectives of the Bills.

We ask that the Committee take into account this feedback in its consideration of the proposed legislation and are of the view that the proposed amendments add no value whatsoever to the horticultural industry as a whole, or its individual industry members.

We were actively involved in the development of the original Code and have subsequently been participants in the formal review committees. It is disappointing to review a proposed piece of legislation that bears no reference to the recommendations of these Review Committees and which appears to disregard the entire process and intent of the Code. This renders the Reviews a significant waste of time and money.

The proposed changes add cost, complexity and undue complication to existing trading relationships. Furthermore, the notion that the Code be extended to capture all sales of produce, discounting highly effective, existing contractual arrangements currently sitting outside the realm of the Code, again does not add value to any part of the supply chain in question.

In our view, the proposed legislation is so poorly drafted that it makes it difficult, if not impossible, for submitters to obtain a concrete legal opinion on the operation or likely effect (from a legal perspective) of the legislation in its current form.

Assumptions and deductions had to be made for the purposes of preparing such a report and we are of the opinion that it is entirely unsatisfactory that the public be asked to make submissions on legislation in circumstances where it is drafted so poorly as to make it difficult to understand the likely effect of the legislation, should it be enacted.

It is almost impossible to provide a logical report in relation to this proposed legislation. It is vague, illogical and contains numerous drafting and other errors. In many cases, we have had to try to deduce the intended effect of the legislation from the language contained in it. In that regard, the report attached contains our best assessment (based on interpretation of the draft legislation) as to the likely effect of this legislation.

We have refrained from making reference to the numerous drafting and typographical errors that are contained in the draft legislation. To do so would have resulted in a lengthier and more confusing submission. However, the poor drafting of the legislation is something that should be flagged for consideration by the Committee.

Below is a more detailed summary of our comments, particularly focusing on the practicalities of implementation of suggested changes to the Code.

This submission has been made on behalf of the OneHarvest group of companies –

Harvest FreshCuts Pty Ltd (HFC) – freshcut salad and vegetable processor
Vegco Pty Ltd - freshcut salad and vegetable processor
Harvest Markets Pty Ltd (THC) – marketer and wholesaler of fresh produce

By – Robin Poynton, Chief Executive Officer

Signed –

Date – 16th December 2011

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51AFC (1) – definition of Horticultural Produce	<ol style="list-style-type: none"> <li data-bbox="355 248 1394 360">1. The <i>Trade Practices (Horticulture Code of Conduct) Regulations 2006 (the Existing Code)</i> defines “horticulture produce” as unprocessed fruits, vegetables and other edible plants. <li data-bbox="355 383 1394 584">2. The proposed new code defines “Horticultural Produce” as fruit, vegetables, nuts and plants for human consumption that are fresh and: <ol style="list-style-type: none"> <li data-bbox="443 483 1394 528">(a) unprocessed; or <li data-bbox="443 528 1394 573">(b) processed only by cutting and or mixing for sale. <li data-bbox="355 595 1394 786">3. The term “Horticultural Produce” is not used consistently throughout the proposed new code. For example, the definition of “Seller” refers to “Horticulture Produce” rather than “Horticultural Produce”. In other instances, the code simply refers to “produce”. This is only one example of the many drafting/typographical issues in the proposed new code. <li data-bbox="355 797 1394 1189">4. In any event, the expansion of the definition to include items processed by cutting/mixing substantially expands the reach of the proposed new code. A number of products produced by HFC could potentially be argued to be processed only by cutting and/or mixing for sale. Obviously, this oversimplifies what HFC does as there are other processes (washing, drying, bagging) that take place. The complexity of those processing operations was probably lost on the author of the proposed new code. Irrespective, our reading of the intent of these additional words is to seek to expand the operation of the proposed new code to processing industries which means that the proposed new code has a significantly greater reach in operation than the Existing Code.
51AFC(1) – definition of Merchant	<ol style="list-style-type: none"> <li data-bbox="355 1211 1394 1323">1. Under the Existing Code, a “Merchant” is defined as a person who purchases horticulture produce from a grower for the purposes of resale but excluding exporters and retailers. <li data-bbox="355 1335 1394 1458">2. Under the proposed new code, a Merchant is anyone who acquires ownership of Horticultural Produce from a Seller including Wholesale Exporters, Processors and Retailers. <li data-bbox="355 1469 1394 2024">3. There are a number of problems with this definition, including that: <ol style="list-style-type: none"> <li data-bbox="443 1536 1394 1760">(a) There is nothing in the definitions that requires the person acquiring the Horticultural Produce to be doing so for the purposes of resale. As presently drafted, consumers would fall within the definition of “Merchant” as they acquire ownership of horticultural produce when they purchase it. That (acquisition of ownership) appears to be all that is required by the definitions. <li data-bbox="443 1771 1394 2024">(b) Processors and Retailers (terms which are both capitalised but not actually defined) are expressly included within the definition of “Merchant” for the purposes of the proposed new code. This reinforces the comments above regarding the significant expansion of the operation of the proposed new code so that it would catch processors (such as HFC) and even retailers. The fact that the term “Processor” is not defined makes it difficult to comment with

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	<p>certainty as to whether or not HFC would be caught. This is an example of one situation where we have had to “read between the lines” in terms of trying to understand the intent and potential operation of the proposed new code. For the purposes of this advice (and having regard to the definition of “Horticultural Produce” referred to above) our view is that HFC could potentially be caught by the operation of the proposed new code and our advice is to proceed on the basis that that will be the case unless/until the drafting of the legislation is amended to clarify the position one way or the other.</p>
51AEC(1) – definition of Seller	<ol style="list-style-type: none"> 1. The Existing Code is primarily directed at the relationship between growers (defined in the Existing Code as someone who grows his/her own produce for sale) and agents/merchants. 2. The definition of “Seller” in the proposed new code potentially expands the operation of the Code beyond it simply operating for the benefit of growers. A Seller is <i>“any person or entity that sells Horticulture Produce [see comment above regarding incorrect use of this defined term] other than to an end consumer, whether or not the person or entity is also a Merchant/Agent”</i>. 3. Again, the effect of this definition is that the proposed new code, if enacted, will have a substantially broader operation than the Existing Code. Anyone who sells Horticulture Produce other than to a consumer is a Seller for the purposes of the proposed new code. 4. Thus, under the proposed new code, HFC would not only be a Merchant when it acquires produce from grower, it would then be a “Seller” for the purposes of the code when it sells processed produce to retailers. 5. If the proposed new code were enacted, this would significantly increase compliance burdens within HFC, based on the current draft of the code. Further comments are made in this regard below.
51AED(2) – Retrospective effect of proposed new code	<ol style="list-style-type: none"> 6. The proposed new code, if enacted, would replace the Existing Code. 7. The proposed new code would apply from the date of commencement and would have effect despite any existing individual agreements between Sellers, Merchants and Agents. 8. As you know, the Existing Code contained a “grandfathering” provision, whereby existing written agreements that were in place prior to the commencement of the Existing Code were allowed to continue. Where existing written agreements were in place, the Existing Code did not apply. This obviously had significant relevance in terms of existing B74 Grower Agreements, particularly as those agreements contained pooling mechanisms. 9. As noted above, the proposed new code contemplates that it will apply despite any existing individual agreements. This outcome is highly

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	<p>undesirable from THC's perspective, as the proposed new code contains a number of provisions that are inconsistent with existing contractual arrangements that are in place – notably, pooling arrangements in relation to B74 and seedless watermelon.</p>
	<p>10. We were actively involved in the development of the original Code and have subsequently been participants in the formal review committees. The advantages of pooling and its practicalities for the supply chain were a major focus of the most recent review. The proposed piece of legislation that bears no reference to the recommendations of these Review Committees in this particular area and appears to disregard the entire process and intent of the Code.</p>
	<p>11. If enacted, the proposed new code would create significant uncertainty in relation to the operation of existing agreements where those existing agreements are not consistent with the proposed new code. Would those agreements become void? Or would they continue to operate to the extent that they were not inconsistent with the proposed new code? The proposed new code provides no clarity in this regard. Either outcome could be potentially undesirable. Harvest Markets may find itself in a position where it has to choose between (on the one hand) a contractual breach or (on the other hand) a breach of the code. In short, the retrospective operation of the proposed new code is undesirable as it potentially negatively impacts on existing agreed contractual arrangements that are currently operating in a manner that is satisfactory to all parties.</p>
51AEE – Terms of Trade	<p>1. The proposed new code requires Merchants and Agents to prepare and maintain a document that sets out the terms and conditions upon which they are prepared to trade with a Seller (Terms of Trade).</p> <p>2. In so far as these provisions affect Merchants and Agents who are already caught by the Existing Code, the proposed new code is not dissimilar to existing obligations. Indeed, there are some aspects of the proposed new code that may be more desirable than the Existing Code. For example:</p> <p>(a) The Existing Code requires Merchants and Agents to publish their terms of trade and make them publicly available. All that the proposed new code requires is that a Merchant/Agent provide a copy of their Terms of Trade to any Seller that they choose to deal with – there is no need to make the Terms of Trade publicly available or otherwise generally publish them.</p> <p>(b) The proposed new code is also less prescriptive than the Existing Code in terms of the types of matters that must be addressed in the Terms of Trade.</p> <p>3. However, as noted above, HFC will also be caught by the proposed new code, both as a Merchant and as a Seller. Accordingly, one of the additional compliance burdens that will be placed on HFC will be, in respect of HFC acting as a "Merchant" (as defined in the Code) when it purchases produce from growers, to prepare Terms of Trade and provide those Terms of Trade to all growers that HFC deals with.</p>

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51AEF to 51AEJ – Intent to dispatch	<p>1. The heading of section 51AEF refers to “Grower intent to dispatch Produce Notification” although the section itself refers to “Sellers” not just “Growers”. As noted above, the definition of “Seller” is drafted in such a way as to catch not only growers but anyone who sells produce other than to an end consumer.</p> <p>2. Under these provisions, a Seller must not dispatch a consignment of Horticultural Produce without first notifying the Merchant/Agent of details of the quantities and grades. Notification can be made by telephone but must be followed by a written summary. Agreed Terms of Trade can include a proforma Intent to Dispatch Produce Form which can be used for this purpose.</p> <p>3. If a Seller dispatches a consignment without first providing the required notification, the Merchant/Agent to which the consignment is delivered must notify the Seller:</p> <p>(a) that the consignment has been received; and</p> <p>(b) whether or not the Merchant/Agent will accept or reject the consignment.</p> <p>Such notification must be made within 8 hours of a consignment being received. Thus, if a consignment arrives at 5pm one afternoon, notification must be given by 1am the following morning. All reasonable efforts must be made to ensure that this notification is brought to the attention of the Seller (although the proposed new code does not go on to specify exactly what has to be done in this regard). If the consignment is rejected by the Merchant/Agent, the Seller must then notify the Merchant/ Agent whether they wish to have the consignment destroyed, delivered to a third party or returned to the Seller. This notification must be made within 8 hours of the notification given by the Merchant/ Agent. Following on from the example above, assuming that the Merchant/Agent’s notification of rejection was given at 1am (being the deadline) then the Seller would need to notify the Merchant/ Agent by 9am as to what the Seller wants done with the consignment. If notification is not given, the Merchant/Agent may deal with the consignment at its discretion and may recover reasonable costs incurred in so doing.</p> <p>5. If a Merchant/Agent receives notification from a Seller of the Seller’s intent to dispatch produce, the Merchant/Agent is obliged to respond in an agreed way to the Seller within the maximum number of hours specified in the Agreed Terms of Trade (which must not exceed 12 hours) indicating whether or not they will accept the consignment. If the Merchant/Agent does not respond within the permitted time frame then the Merchant/Agent will be deemed to have agreed to accept the consignment, subject to the consignment complying with the Agreed Terms of Trade.</p> <p>6. If a Merchant/Agent responds within the relevant deadline that they will not accept the consignment, the Seller must not dispatch the consignment. If the Seller does dispatch the consignment, the provisions summarised in</p>

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	paragraph 3 above apply.
7.	<p>If a Merchant/Agent responds within the relevant deadline and confirms that they will accept the consignment then the Merchant/Agent must accept it unless:</p> <p>(a) it does not meet the quality or quantity requirements specified in the Seller's original notification or the Agreed Terms of Trade; or</p> <p>(b) the Merchant/Agent advises the Seller of the rejection within the time specified in the Agreed Terms of Trade (which must not exceed 8 hours after the time of delivery).</p> <p>We assume that the "or" referred to above is in fact intended to read "and" – ie the produce must fail to meet quantity/quality requirements and, in that situation, notification must be given within the requisite timeframe. Otherwise, the provision makes no logical sense. This is one example of how poor drafting makes it very difficult to advise in relation to the operation of the proposed new code. In any event, if a Seller believes that a consignment of produce has been arbitrarily rejected, they can "appeal" to the "Producer Fairness Tribunal" (see comments below).</p>
8.	These provisions seem to us to add additional complexity to existing arrangements that would already be in place to deal with dispatch, acceptance and delivery of produce. For example, the above notifications would need to be given in addition to purchase orders and other documents that parties to business transactions routinely use in their day-to-day operations which already provide a sufficient paper trail to establish who ordered what, in what quantity and from whom.
9.	The response deadlines are unrealistic for reasons that are illustrated by the example above. The Existing Code makes provision for Terms of Trade to specify periods within which (for example) notice of rejection of produce must be given. The fact that the Existing Code does not specify defined periods for response is reflective of the diverse nature of arrangements that might be in place and the fact that timelines may need to change based on the particular arrangements at hand. The proposed new code contains no such flexibility.
10.	The consequences of missing a deadline for response can be significant. For example, a Merchant/Agent is deemed to accept consignments of produce if a response is not given within the relevant deadline, which must be not more than 12 hours after notification of intention to dispatch is given. So if notification is given at 5pm one afternoon, the Merchant/Agent must respond by 5am the next morning. If they don't, they are deemed to have agreed to accept the produce.
11.	From THC's perspective, current trading arrangements are adequate and we highlight the need for flexibility in dealing with growers, particularly as regards deadlines for response/rejection.
12.	Critically, HFC will be obliged to comply with the above procedures at both ends of the supply chain – ie when it orders and receives produce from _____

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	<p>growers (as HFC will be a Merchant based on current drafting of the proposed new code) and also when it sells produce to retailers (as in that situation HFC is a "Seller"). This is another example of the significant compliance burden that will be introduced from HFC's perspective if the proposed new code is enacted.</p>
51AEL to 51AES – provisions relating to Agents	<ol style="list-style-type: none"> <li data-bbox="343 414 1394 616">1. The provisions commented upon in this section appear to apply only where a Seller is dealing with an Agent (rather than a Merchant). We say "appear to apply" as drafting inconsistencies within the proposed new code make it unclear as to exactly when the relevant provisions actually do apply. For the purposes of this advice, we have proceeded on the basis that they only apply in agency situations. <li data-bbox="343 649 1394 784">2. Section 51AEM confirms that, in an agency situation, ownership remains with the Seller until it passes to the third party purchaser (ie the agent never obtains ownership of the produce). This reflects the position under the Existing Code, and generally at law. <li data-bbox="343 817 1394 1019">3. Section 51ARN requires that all monies received by an Agent for a consignment of Horticultural Produce must be deposited into a trust account maintained by the relevant Market Authority (eg Brismark) to be distributed to the Seller less the Agent's commission. The proposed new code provides that distribution of funds from the trust account should take place within 7 days of the funds being deposited into the trust account. <li data-bbox="343 1052 1394 1288">4. The proposed new code provides that the Market Authority should receive a 2.5% commission (non-negotiable) for the trust account service that it manages. This will obviously constitute an additional cost for growers (and other Sellers) as the amount that they receive for their produce will not only be net of commissions and other expenses that the Agent can seek reimbursement for (see below) but also this additional charge by the central Market Authority. <li data-bbox="343 1321 1394 2004">5. The rationale for requiring all transactions to be conducted through the Market Authorities is unclear but presumably there is some concern that an Agent might receive an amount from a third party purchaser and then for some reason (eg insolvency) not pay that amount to the grower. In circumstances of simple non-payment, the grower would obviously have the ability to sue the Agent for the relevant amount so the provisions relating to the central trust account must be driven at insolvency situations where the grower sues but the Agent does not have funds to pay. We can only assume that the trust account mechanism is intended to "quarantine" growers' funds from the rest of the Agent's operations to ensure that those funds are not used to pay the Agent's other creditors. Having said that, it still seems to be contemplated that funds will initially be received by the Agent from the third party purchaser (see section 51AES(2)) and then paid by the Agent into the trust account - so the problem of those funds being mixed with the Agent's other funds (and utilised to pay the Agent's other creditors) still exists at least until the funds are actually physically deposited by the Agent into the trust account. In those circumstances, it really is difficult to see what mischief the trust account is designed to overcome.

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6. Perhaps there is also perceived to be some additional layer of transparency by virtue of transactions being conducted through an independently managed trust account - such transparency could be achieved (indeed more effectively) via information that is provided to growers (rather than simply by funds being deposited to a central trust account).
7. Indeed, the fact that all funds will be deposited to the one trust account may increase the possibility of funds being incorrectly dealt with. We would anticipate that there would be many thousands of transactions undertaken every day that will need to be processed through the trust account contemplated by the proposed new code. If all of those transactions have to pass through one central trust account then somebody (presumably the Market Authority) will be responsible for matching up those transactions and ensuring that the funds are paid to the persons entitled to them. This seems to us to impose a significant compliance burden on the central market authorities in that they will be administering receipts and disbursements from an account in circumstances where they have no direct involvement in the underlying transaction (between the grower and the agent) that has taken place. Ultimately, the Market Authorities will have to rely on information provided by someone who is actually a party to the relevant transaction (presumably the Agent) and then act on that information. Thus, if the Agent provides incorrect information, there is a risk that funds could ultimately be incorrectly disbursed from the trust account. This further underlines the fact that accurate reporting by Agents is the best way to achieve transparency as far as the growers are concerned.
8. Under the proposed new code, Agents may only charge commission (as specified in the Agreed Terms of Trade) and seek reimbursement for extra costs (the basis for which must also be set out in the Agreed Terms of Trade). For some reason, the proposed new code provides that if a commission cannot be agreed between the Seller and the Agent then the Agent's default commission rate is 12.5%. We would have thought that if the Seller and the Agent cannot agree on something as fundamental as the rate of the Agent's commission then it is difficult to see how they could proceed on the basis that there is any kind of agreement in place between them.
9. Under the Existing Code, Agents are required to give reports to growers in respect of produce that is sold by the Agent on behalf of the grower. The proposed new code contains a similar reporting regime, but it differs from the Existing Code in that:
 - (a) The Existing Code expressly says that the Agent does not have to provide the name or contact details of the person to whom the produce was sold. Under the proposed new code, the Agent must provide both:
 - (1) *the details of the buyer of the Horticultural Produce; and*
 - (2) *the name of the purchaser.*

The difference between these two pieces of information is entirely

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	unclear to us but the proposed new code specifies them separately.
	(a) The proposed new code actually requires the Agent to provide the Seller with a duplicate copy of the invoice/statement of sale that is provided to the purchaser of the produce. There is no such requirement under the Existing Code.
51AET to 51AEW – provisions relating to merchants	<ol style="list-style-type: none"> Section 51AEU(1) sets out when a Merchant acquires ownership of produce that is delivered by a Seller to the Merchant. This section is similar to the provisions in the Existing Code, except that where a price has not been agreed between the Seller and the Merchant prior to delivery, they must agree that price immediately and in any case no later than 24 hours after receipt of the produce by the Merchant. If agreement is not reached within the 24 hour period referred to above then the Merchant is deemed to be an Agent with a maximum commission rate of 12.5%. On its face, this provision seems not to create too many problems for companies such as TUC that are true traders in fresh produce – ie in the unlikely scenario that TUC was to act as Merchant and then be unable to agree a price with the grower, it could then essentially act as Agent (where there is no risk of loss in terms of ultimate sale price). However, the expanded definition potentially creates problems for companies, such as HFC, that are now caught by the definition of “Merchant” (even though they are not acting in any way that is traditionally recognised as acting as a merchant). For example, if HFC (for whatever reason) hadn’t agreed a price for a particular consignment of produce (eg baby leaf) prior to delivery then if the price subsequently couldn’t be agreed within 24 hours, HFC would be obliged to act as an Agent for the purposes of seeking to sell that produce on behalf of the grower. That is obviously not what HFC does and the prospect that the proposed new code could legally oblige it to act in that way is of significant concern.
51AEW – Summary Price information	<ol style="list-style-type: none"> This section provides that a Merchant must provide a Seller with a statement for each consignment of Horticulture Produce accepted by the Merchant showing the quantity and grades purchased and the price paid. The requirement for this statement is unclear – if a Merchant has agreed to acquire a particular consignment of produce for a particular price, isn’t that the end of the story? Why there is an additional obligation to then provide a summary of that transaction is unclear. The section goes on to provide that statements containing average prices are not acceptable. Section 51AEW(3) provides that the only pooling permissible under the code is by growers and only where the pooling body is totally owned and controlled by the growers involved. Growers must agree in writing to be part of the pooling arrangement. Pooling by Merchants, Agents and Processors is not permissible. This is obviously of concern from a TUC perspective, particularly given that the proposed new code is expressed to apply irrespective of the terms of any existing written agreements that are in place (see above).
51AEX and 51AEZ –	1. These provisions purport to outline a process for resolving disputes under

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Dispute resolution	the code.
	<ol style="list-style-type: none"> <li data-bbox="352 282 1382 342">2. If a dispute is notified and is not resolved within three weeks, either party may refer it to mediation under section 51AEZ. <li data-bbox="352 380 1382 685">3. Section 51AEZ contemplates that the mediation may be conducted by the "Producer Fairness Tribunal". This is a tribunal that is contemplated by the proposed new code, although proposed new code says nothing about the composition or authority of the Tribunal. Various other provisions in the code refer to the Tribunal – eg section 51AEJ(2) provides that Sellers can "appeal" to the Producer Fairness Tribunal if they deem that produce has been arbitrarily rejected by an Agent/Merchant. The code is silent on what the nature of that "appeal" is (ie is it some form of judicial appeal?) and in relation to the authority of the Tribunal to make any kind of decision. <li data-bbox="352 723 1382 1162">4. Returning to section 51AEZ, the fundamental problem with the section is that it purports to empower a mediator to make decisions in respect of the mediation and award costs. Section 51AEZ(7) provides that the parties are bound by a decision of the mediator unless (upon application) a court makes a different decision. Mediation is not a process whereby parties should be bound by the decision of the mediator. The role of the mediator is simply to try to assist the parties in resolving their dispute. Typically, mediators have no power to make any decisions and that is entirely appropriate as the mediation process is not one that necessarily provides the mediator with all necessary facts upon which a decision can be made (in contrast with, for example, an arbitration process where evidence is lead by the parties and the arbitrator sits in a quasi-judicial role to enable them to form a view as to the most appropriate outcome).
51AEY – Horticultural Inspectors	<ol style="list-style-type: none"> <li data-bbox="400 1200 1382 1402">1. The proposed new code contemplates that Horticultural Inspectors may be appointed to report on whether amounts paid by a Merchant/Agent to a Seller were calculated in accordance with the requirements of the code and the relevant Terms of Trade. They can also report on any other matter that is the subject of a dispute under section 51AEX (so, effectively, every kind of dispute that could arise between a Merchant/Agent and a Seller). <li data-bbox="400 1440 1382 1641">2. A Horticultural Inspector must prepare a report within 48 hours of appointment. The report is not legally binding but is intended to provide objective evidence to facilitate the dispute. We would query the quality of the report that will be able to generated in circumstances where the Inspector has only 48 hours to collect all necessary evidence, examine it and prepare their report.
51AEZA – Horticultural Code Management Committee	<ol style="list-style-type: none"> <li data-bbox="352 1675 1382 1843">1. The proposed new code also contemplates the establishment of this new committee, which will have various responsibilities including facilitating the introduction of the Code, establishing guidelines for the appointment of Horticultural Inspectors, appointing those Inspectors, and establishing guidelines for the Producer Fairness Tribunal.