

22 December 2016

Senate Standing Committees on Economics

Via email: economics.sen@aph.gov.au



Re: Competition and Consumer Amendment (Misuse of Market Power) Bill 2016

The National Farmers' Federation (NFF) welcomes the opportunity to make a submission to the Economics Legislation Committee on the *Competition and Consumer Amendment (Misuse of Market Power) Bill 2016*. The NFF is the peak national body representing farmers and, more broadly, agriculture across Australia. Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations collectively form the NFF. The NFF is of the view that a fair market place for farmers requires competition both in upstream and downstream markets. Having a competition regulator empowered with a strong misuse of market power provision (and sufficient resources to enforce it) is key to improving competitiveness and driving innovation and productivity in the agricultural sector.

The 'effects test' solution, initially proposed in the 2015 *Harper Review* will help drive value for businesses across rural and regional Australia. Australia's farming sector is comprised of a large number of small players that are geographically dispersed and have close supply chain relationships with much bigger entities on both sides of the market that are able to use their scale and proximity to squeeze farm gate returns. These relationships can work well, but asymmetries in the market mean that when they don't, the financial impact can be severe for individual farmers. That is why the amendments to the existing legislation are necessary to provide practical means of redress.

The NFF supports the Government's bill to amend Section 46 of the *Competition and Consumer Act 2010* to better prevent the misuse of market power and to reliably enforce measures to improve competition. The introduction of an 'effects test' and the removal of the 'taking advantage' element in the current Act will help protect Australia's 135,000 farm businesses from unfair marketplace conduct, which will in turn drive innovation and jobs growth for the Australian economy. However, the effectiveness of the reforms will predominantly depend on how the ACCC plans to implement and enforce the proposed legislation and how the courts interpret and apply the law.¹ The NFF advocates that the ACCC should be sufficiently resourced to enforce the new provisions and launch test cases to clarify the new law as soon as practicable.

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¹ See the NFF's *Submission to the Australian Competition and Consumer Commission on Frameworks for Concerted Practices and Misuse of Market Power Guidelines* from October 2016. <http://www.nff.org.au/submissions-search.html?subcategoryid=3412>