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Australian Melon Association Inc

ABN 36 990 325 012

*Working together to build a successful future for the Australian Melon Industry*

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Select Committee on Supermarket Prices  
PO Box 6100  
Parliament House  
Canberra ACT 2600

By email: [supermarketprices.sen@aph.gov.au](mailto:supermarketprices.sen@aph.gov.au)

To the Select Committee,

**RE: Price setting practices and market power of major supermarkets**

On behalf of the Australian melon industry, Melons Australia thanks the Senate for establishing the Select Committee on Supermarket Prices (the Committee), to inquire into and report on the price setting practices and market power of major supermarkets.

Those supermarkets who are signatories to the Food and Grocery Code of Conduct, including the major supermarkets, Coles and Woolworths along with both Aldi and Metcash, are an essential and valued part of the Australian fresh produce supply chain. The Horticulture industry, including the Australian melon industry, have a keen interest in retailers remaining profitable, sustainable and reliable partners. Some Australian melon growers supplying these supermarkets directly report satisfaction with their trading relationship, however others do not.

The price setting and other associated price setting practices of major retailers, together with the market power they exercise, are of legitimate interest and concern for the Australian Parliament and the Federal Government. This is largely due to the immense impact they have on Australian consumers and the supply chains they rely upon.

Domestic horticultural wholesale and retail markets should be supported to ensure efficient, transparent, and fair transactions for all throughout the supply chain. They play a crucial role in maintaining resilient supply chains, sustainable agriculture, and local employment, while providing safe, affordable food for households and national food security.

The Senate Select Committee has been established to investigate, unpack and report and make recommendations on the price setting practices and market power of major supermarkets. It is important to note that there are two elements to pricing which should be considered: (a) the price paid to suppliers, better known in the agriculture industry as the "farmgate price", and (b) the price paid by consumers at the checkout, better known as the "retail price".

The submission made on behalf of the Australian melon industry will primarily focus on the price setting practices and market power of major supermarkets as it concerns the farmgate price. However, it's important to recognise that farmgate and retail prices do not always correlate directly, and sometimes not at all. Supermarkets have various tactics that may diverge from traditional supply and demand dynamics, such as:

- Employing "loss leading" strategies by selling products below cost to draw in customers.
- Preventing staple products from increasing too much in price, even with low supply, to align with consumer expectations.
- Maintaining prices despite ample product supply, opting for higher margins on lower volumes rather than the inverse.

### **The melon industry and it's markets:**

In 2022/23, 226,022 tonnes of melons were grown in Australia valued at \$248.2 million. Watermelons account for the largest share of production by volume (74%), followed by rockmelons, honeydew and other melons varieties (the muskmelons totalled 26% of production). This production occurs across all mainland States and in the Northern Territory, from approximately 140 growers.

The Australian melon industry is divided into four (4) primary markets upon leaving the farmgate: (i) retail markets encompassing major supermarkets as well as independent grocery stores (both direct supply and via wholesale markets), (ii) food service comprising restaurants and catering, (iii) minimal processing such as juicing, and (iv) export, facilitated via sea and air channels.

A melon grower's exposure to or reliance on any of these markets is primarily determined by factors like melon perishability, distance to market, domestic competition barriers, legal access to overseas markets, and production costs compared to competing countries abroad. Opportunities for melon export growth are limited, and barriers to entry into new and developing markets are a significant impediment. On average, only 8 percent of all Australian-grown melons are exported annually, so our industry therefore relies significantly on domestic consumption.

### **Other factors impacting prices and profitability:**

It's crucial to recognise and underscore that there are additional factors that have and continue to impact both the current prices of fresh produce in major supermarket aisles and the pressure on supplier profits. These factors are entirely unrelated to the market power the supermarkets wield or the practices they employ, but are certainly exploited and only build pressure on growers.

External factors like the COVID-19 pandemic and global conflicts have worsened existing market deficiencies, making it challenging for growers to cover rising production costs.

- Freight and transport costs have increased 35% on average for our Australian melon growers over the past 3 years alone. The heavy vehicle road user charge (a Federal Government initiative) will increase by 6 percent each year over the next three (3) years, from 28.8 cents per litre for petrol and diesel now to 32.4 cents per litre in 2025–26, significantly lifting transport costs.
- Fair Work Commission minimum wage decisions and introduction of new and expanded obligations for Approved Employers under the PALM scheme have resulted in an increase of 25-30% in wage costs over the past 3 years.

- The proposed imposition of a new tax on agriculture (the Biosecurity Protection Levy/Tax), from 1 July this year, to fund the delivery of biosecurity services to importing businesses by the Department of Agriculture, Fisheries and Forestry at the national border.

These, and other rising input costs, have resulted in a combination of 30-65% increase in inputs and multiple IR/HR policy changes over a short period of time, and no corresponding increases in farm gate price and revenue leaving industry at breaking point.

### **The codes of conduct:**

There are two (2) codes of conduct that deal with the trading relationships respectively between growers and buyers in wholesale markets, and between major supermarkets and the fresh produce suppliers who deal with them.

1) The Horticulture Code of Conduct is a mandatory industry code, established in 2007, that regulates the trading relationship between growers and wholesalers of fresh produce in Australia specifically. It aims to promote transparency, fairness, and clarity in contractual arrangements, including issues related to pricing, payments, and dispute resolution. The ACCC is responsible for monitoring and enforcing compliance with this code.

2) Most relevant to this Committee and its inquiry is the Food and Grocery Code of Conduct, a voluntary industry code established in 2015 with the same broad aims as the Horticulture Code of Conduct, to which currently four (4) supermarkets are signatories. The ACCC is also responsible for monitoring and enforcing compliance with this code, however it remains voluntary and relatively toothless. As the Committee will be aware, a review of this code is currently underway, not including the dispute resolution provisions in Part 5. The Federal Government has appointed the Hon Dr Craig Emerson to lead this review on their behalf, with a requirement to report back by 30 June. This should by no means restrict the Senate Select Committee from making recommendations to strengthen the Code prior.

### **Supply Agreements and Purchasing Practices of Supermarkets:**

Supermarkets' purchasing practices, as mandated by the Food and Grocery Code, vary widely among fresh produce suppliers. While Grocery Supply Agreements are required, some suppliers operate on verbal agreements, or supply is sourced direct from wholesale markets with no agreement in place. Where agreements are in place, they must address delivery principles, rejection criteria, payment terms, agreement duration, termination clauses, and quality standards. However, they do not specify prices, which are negotiated weekly based on market conditions.

Supermarket buyers typically provide volume forecasts to growers, but the actual purchase volumes often differ, leading to oversupply and increased price pressure. Supermarkets possess asymmetric data advantage in price negotiations, leaving suppliers with little recourse. This lack of transparency raises concerns about potential market manipulation by supermarkets to drive prices down further.

The alleged practice of overstating forecasted volumes to trigger oversupply and lower prices requires scrutiny, given its potential to distort fresh produce markets. Further investigation is warranted to ensure fairness and market efficiency.

The Food and Grocery Code lists a series of practices it prohibits major supermarkets undertaking, yet in reality they are permitted as long as there is recognition of these within a Grocery Supply

Agreement between themselves and the supplier to allow it. Fresh produce suppliers often lack the leverage to resist supermarkets' requests to deviate from practices prohibited by the Code. Two items commonly commented on by melon growers are: 1) the need to pay a rebate to the retailer to be paid in shorter terms, up to 4 per cent, to ensure cash flow and staff payments can be made, and 2) suppliers to cover wastage of fresh produce incurred post farm gate.

There are several known and common supermarket practices, not considered currently by the Food and Grocery Code, that might amount to the unfair transfer of costs and risks to suppliers. We seek this Committee to consider options to restrict and more closely regulate these practices.

**Conclusion:**

Only truly free markets, marked by equitable information exchange among participants with equal bargaining power, can achieve efficiency and fairness autonomously. However, domestic horticultural markets fall short of perfection and, due to supermarkets' information flow and influence, could be termed "perfectly imperfect".

While increased government regulation might be necessary to address market imperfections, it also brings about its own challenges and expenses. Any new regulatory intervention must weigh the benefits of enhanced efficiency, transparency, or fairness against the accompanying costs it imposes.

Market power concentration at the retail level has squeezed margins, pushing many businesses to financial strain or closure. The melon industry alone has seen approximately 100 growers leave the industry over the past 7 years. Urgent action is needed to rectify these issues, given the significant impact on businesses and consumers. Public involvement in ensuring market fairness aligns with societal values is essential to instill confidence in the fresh produce supply chain's future. Ongoing inquiries provide an opportunity to address these challenges and build a more equitable and sustainable market system.

To complement the above information provided for the review of the Senate Select Committee, we also present Recommendations on the following page. These present the minimum outcomes we seek from the inquiry to provide fairer prices for fresh produce, greater transparency and reduced fear of retribution currently experienced by many growers.

Melons Australia, including through our membership of the NFF Horticulture Council, would welcome further engagement with the Committee as their inquiry unfolds.

To discuss any element of our submission further, please contact me either by email at  
or phone on

Yours sincerely

**Johnathon Davey**

Executive Officer  
Melons Australia

## **Recommendations:**

### **1. Recognition of Vulnerability of Fresh Horticultural Products:**

Advocate for comprehensive recognition of the perishable nature of fresh horticultural products and ensure domestic retail and wholesale markets are regulated, including through codes of conduct, in a way that is consistent and fit for purpose.

The domestic markets for horticultural products work entirely differently to other less perishable goods including meat and dairy, let alone shelf stable processed foods or other household items sold in supermarkets.

### **2. Implementing Effective Penalties:**

Increase penalties under the Food and Grocery Code of Conduct to deter unfair practices, including considerations for penalties proportional to the misconduct and the Code being made mandatory.

The Food and Grocery Code of Conduct regulates standards of business behaviour in the food and grocery sector, including the conduct of retailers and wholesalers towards suppliers. The Code is the only protection supermarket suppliers have from unscrupulous practices and at present it contains no provision for imposing penalties.

Industry recommends that the Code be amended to include significant penalties that will act as a proper deterrent to poor behaviour.

### **3. Empowering Regulatory Bodies:**

Grant the ACCC broader investigative powers to monitor and enforce the Food and Grocery Code of Conduct, ensuring fair trade practices across all supermarket chains.

The industry recommends the Food and Grocery Code of Conduct should apply mandatorily to all supermarkets and the ACCC should have the power to investigate the practices of any individual retailer at any time, regardless of whether they have a reasonable suspicion of any wrongdoing. These powers should include the ability to compel the sharing of historic purchase price data.

### **4. Independent Dispute Resolution:**

Establish an independent mechanism for resolving disputes between supermarkets and suppliers to ensure transparency and trust, the current system of arbiters (appointed by supermarkets) is not suitable. A truly independent mechanism is the only way to curb the current fear of damaging commercial relationships and fear of retribution, which are common reasons presented when growers are asked why they do not raise issues about current practices.

### **5. Government Policy Impact Assessment:**

Investigate the impact of government policies (including reduction of the fuel excise), amendments to PALM Scheme and the proposed Biosecurity Protection Levy/Tax) on the costs of production of Australian grown fruit and the subsequent breakeven price required at the farm gate. These increased costs of production then need to be assessed against the subsequent retail grocery prices, to in-turn acknowledging the role of Government policy in the pricing crisis alongside external factors such as the COVID-19 pandemic and global conflicts.