The Senate

Rural and Regional Affairs and Transport References Committee

Australian grape and wine industry

February 2016

ISBN 978-1-76010-318-7

This document was prepared by the Senate Standing Committee on Rural and Regional Affairs and Transport and printed by the Senate Printing Unit, Department of the Senate, Parliament House, Canberra.

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Abbreviations

ABARES	Australian Bureau of Agricultural and Resource Economics
ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
AGWA	Australian Grape and Wine Authority
ATO	Australian Taxation Office
FARE	Foundation for Alcohol Research and Education
GST	Goods and Services Tax
WET	Wine Equalisation Tax
WFA	Winemakers' Federation of Australia
WGGA	Wine Grape Growers Australia

List of recommendations

Recommendation 1

2.84 **The committee recommends that the Government phase out the current Wine Equalisation Tax (WET) rebate over five years, allocating the savings to a structural adjustment assistance program for the industry including an annual grant to genuine cellar door operators to support their continued operation.**

Recommendation 2

3.13 **The committee recommends that the Government amend labelling requirements so that wine labels must declare whether wine is produced by an entity owned or controlled by a major retailer.**

Recommendation 3

3.32 **The committee recommends that in responding to the Competition Policy Review's Final Report, the Government specifically consider commercial agreements between growers and producers of wine and the major retailers.**

Recommendation 4

3.46 **The committee recommends Australia Post review its approach to wine delivery in each Australian state and territory with a view to developing harmonised agreements across Australia.**

Recommendation 5

3.51 **The committee recommends that the Commonwealth Government, through the Council of Australian Governments (COAG), work with states and territories to establish mutual recognition arrangements for responsible service of alcohol qualifications.**

Recommendation 6

4.26 **The committee recommends that Government continue to match the grape research levy and wine grapes levy income collected by the Australian Grape and Wine Authority.**

Recommendation 7

4.34 **The committee recommends that Government give further consideration to the roles of the Australian Grape and Wine Authority and the Australian Bureau of Statistics in wine industry data collection.**

Recommendation 8

4.35 **The committee recommends that funding be allocated so that the production of the Vineyards Census is resumed on an annual basis.**

Recommendation 9

4.60 **The committee recommends that Government commit to increasing export demand for Australian wine by considering whether current opportunities for industry participants to increase exports through the Australian Grape and Wine Authority and the Export Market Grants Development Scheme are fully optimised or would benefit from redesign.**

Recommendation 10

4.61 **The committee recommends that the government significantly increase its funding to wine export market development.**

Recommendation 11

5.33 **The committee recommends an independent review of the Australian Wine Industry Code of Conduct, to report to Government before 30 June 2016.**

Recommendation 12

5.34 **The committee recommends that if targets for increase uptake of the Australian Wine Industry Code of Conduct are not met, the Government, in consultation with representative organisations for growers and winemakers, reconsider the development of a mandatory code before the end of 2017.**

Chapter 1

Background

1.1 On 25 March 2015, the Senate referred the following matter to the Senate Rural and Regional Affairs and Transport References Committee (the committee) for inquiry and report by 11 November 2015:

a) the extent and nature of any market failure in the Australian grape and wine industry supply chain;

b) the extent to which federal and state legislative and regulatory regimes inhibit and support the production, processing, supply chain logistics and marketing of Australian wine;

c) the profitability of wine grape growers, and the steps industry participants have taken to enhance profitability;

d) the impact and application of the wine equalisation tax rebate on grape and wine industry supply chains;

e) the extent to which grape and wine industry representation at regional, state and national level effectively represents growers and winemakers with respect to equity in the collection and distribution of levies;

f) the work being undertaken by the Australian Grape and Wine Authority pertaining to levy collection information;

g) the power and influence of retailers of Australian wine in domestic and export markets;

h) the adequacy and effectiveness of market intelligence and pricing signals in assisting industry and business planning;

i) the extent to which the Australian grape and wine industry benefits regional communities both directly and indirectly through employment, tourism and other means; and

j) any related matters.

Conduct of the inquiry

1.2 The inquiry was advertised on the Australian Parliament House website, the Australian Senate's Twitter account and the committee's website. The committee also directly invited submissions from government departments, organisations and individuals within Australia's grape and wine industry. On 13 August 2015, the Senate granted an extension of time for reporting by 12 February 2016.

1.3 The committee received 41 submissions which are listed in Appendix 1 and are available on the committee's website. The committee held public hearings in Adelaide on 24 September, Launceston on 25 September and Swan Valley on 27 October 2015. Appendix 2 provides details of the persons and organisations who gave evidence at the hearings.

Acknowledgement

1.4 The committee thanks the organisations and individuals who provided evidence to the inquiry. The committee particularly acknowledges those who travelled some distance to attend the hearings.

Outline of the report

1.5 This chapter discusses the extent to which the wine industry benefits regional communities, the profitability of grape growers and the extent and nature of any market failure in the Australian grape and wine industry supply chain.

1.6 Chapter 2 considers the impact and application of the wine equalisation tax rebate on grape and wine industry supply chains.

1.7 Chapter 3 considers the power and influence of retailers of Australian wine in domestic markets.

1.8 Chapter 4 considers the work of the Australian Grape and Wine Authority (AGWA) and the role of export markets, pricing signals and market intelligence to assist industry.

1.9 Chapter 5 considers grape and wine industry representation at regional, state and national level, including the code of conduct that operates between winemakers and winegrape growers.

Value of the industry

1.10 Australia's grape and wine industry strongly contributes to the Australian economy. Winemakers' Federation of Australia (WFA) estimated that the industry contributed $1.77 billion in 2013–14, stating 'most of which is reinvested in regional Australia.[1] IBIS*World* provided a similar estimate of $1.6 billion for 2014–15, at an estimated 0.08 per cent of Australia’s gross domestic product.[2]

1.11 The first Australian vineyards were established in the early 1800s, but today these vineyards represent only 0.9 per cent of the industry. Most Australian vineyards are new, with 40.5 per cent of businesses having been established between 1990 and

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1 WFA, *Submission 41*, p. 7.

2 Ms Brooke Tonkin, *IBISWorld* industry report C1214: *Wine production in Australia*, July 2015, pp 34–35.

1999 and 31.3 per cent between 2000 and 2014.[3] In 2015, the Australian Food and Grocery Council's State of the Industry Report reported that 1 852 individual businesses listed wine manufacturing as their primary purpose.[4]

1.12 Wine Grape Growers Australia (WGGA) reported that there were 6 200 growers of grapes (for all uses) in Australia in 2012.[5] That year, grapes contributed approximately $1 billion to the economy, an equivalent contribution to sugar cane. Of that total, winegrapes contributed $880 million, making them the tenth most valuable crop in Australia. When converted to wine, the economic value of winegrapes is significantly higher.[6]

1.13 Australia's winemakers and growers include small, medium and large enterprises. WGGA submitted that compared to grower businesses, winemaking or wine company businesses are generally larger and more diversified; they are more likely to undertake both growing and production and be part of a group of companies.[7]

1.14 The largest 18 winemaking businesses all crush in excess of 20 000 tonnes of grapes per year.[8] However, data provided by the University of Adelaide suggests that winemakers are crushing increasingly fewer grapes. In 1998, 29.4 per cent of Australia's winemakers crushed less than 20 tonnes. By 2014, this had increased to 39.1 per cent.[9]

1.15 The wine industry provides indirect economic benefits including through tourism and employment. AGWA advised that in 2013 the industry generated a further $50 billion in economic value add.[10] WFA estimated this includes $8.2 billion in tourism expenditure.[11] By way of example, Wine Tasmania told the committee that:

> …it is important to recognise, in looking at the value of the Tasmanian wine industry, that it is not just the farm gate value of grapes and not just

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3 Professor Kym Anderson AC and Nanda R. Aryal, *Growth and cycles in Australia's wine industry: A statistical compendium, 1843 to 2013*, Wine Economics Research Centre, University of Adelaide, February 2015, p. 226.

4 Australian Food and Grocery Council, State of the Industry 2015, p. 16.

5 Mr Lawrence Stanford, Executive Director, WGGA, *Committee Hansard*, 24 September 2015, p. 38.

6 WGGA, *Submission 30*, p. 3.

7 WGGA, *Submission 30*, p. 10.

8 Department of Agriculture, *Submission 29*, p. 6.

9 Professor Kym Anderson AC and Nanda R. Aryal, *Growth and cycles in Australia's wine industry: A statistical compendium, 1843 to 2013*, Wine Economics Research Centre, University of Adelaide, February 2015, p. 221.

10 AGWA, *Submission 8*, p. 24.

11 WFA, *Submission 41*, p. 8.

> the marketing of wine but all of these other things that the wine industry brings to the economy of Tasmania.[12]

1.16 Wine production directly employs around 16 186 people in Australia.[13] AGWA advised that in 2012 the industry provided a further 7 500 jobs in grape growing.[14] Wine is the 'fifth largest agricultural exporting sector' in Australia and Australian wines are available in over 100 countries.[15]

1.17 With the exception of the Northern Territory, wine production occurs in all Australian jurisdictions. The majority of winemakers are located in Victoria (773), followed by South Australia (720), New South Wales/Australian Capital Territory (484), Western Australia (379), Tasmania (117) and Queensland (100). The Northern Territory has not produced wine since 2007, according to 2013 research by Professor Kym Anderson AC.[16]

1.18 South Australia, New South Wales and Victoria are the leading states for wine production. ABS data establishes that 46 per cent of grapes were produced in South Australia, followed by 31 per cent in New South Wales/Australian Capital Territory and 20 per cent in Victoria.[17] IBIS*World* predicts that South Australia will in 2015–16 continue to produce the highest volume of wine (32.3 per cent) but Victoria (26.7 per cent) may overtake New South Wales (18.5 per cent).[18] South Australia's Riverland 'is the largest single wine producing region in Australia', and 'the wine industry is the largest single wealth generator' in the region.[19]

1.19 The committee heard from WFA that there are over 65 distinct wine producing regions across Australia.[20] The three warm inland regions—the Riverland in South Australia, the Riverina in New South Wales and the Murray Valley in Victoria—account for 60 per cent of wine grape production. Most other wine regions

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12 Ms Graeme Lynch, Chair, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 23.

13 WFA, *Submission 41*, p. 63.

14 AGWA Authority, *Submission 8*, p. 24; see also WFA, *Submission 41*, p. 7.

15 WFA, *Submission 41*, p. 8.

16 Professor Kym Anderson AC and Nanda R. Aryal, *Growth and cycles in Australia's wine industry: A statistical compendium, 1843 to 2013*, Wine Economics Research Centre, University of Adelaide, February 2015, p. 295.

17 Australian Bureau of Statistics, 1329.0.55.002: *Vineyards Estimates 2014–15*, 'Table 1: Vineyards production, area and number of businesses – Australia, States and Territories– 2014-15'.

18 Ms Brooke Tonkin, *IBISWorld* industry report C1214: *Wine production in Australia*, July 2015, p. 3.

19 Mr Chris Byrne, Executive Officer, Riverland Wine, *Committee Hansard*, 24 September 2015, pp 41–42.

20 WFA, *Submission 41*, p. 8.

are considered cool climate, including the Barossa Valley in South Australia, the Hunter Valley in New South Wales and Margaret River in Western Australia.[21]

1.20 Production costs, grape characteristics, yield and price all vary significantly between warm and cool climate regions. The committee heard that warm inland regions have 'higher water, fertiliser and herbicide costs', but lower labour and contract costs due to the use of mechanical harvesting systems. Warm regions typically produce 'significantly more grapes per hectare' which allows for 'spreading production costs' and typically receive lower prices. For example, the Department of Agriculture submitted that the average price for chardonnay grapes from Tasmania was $2 560 per tonne in 2013–14 compared with $245 per tonne from the Riverland.[22]

1.21 Australia's four largest wine producers—Accolade, Pernod Ricard Australia, Treasury Wine Estate and Casella Wines Pty Ltd—will collectively account for 39.3 per cent of industry revenue in 2015–16. The University of Adelaide estimated that in 2013 these wine producers generated over 40 per cent of the value of domestic sales.[23] While substantial, this is a reduction from the 1996 level of 50 per cent.[24] IBIS*World* has concluded that for wine producers, market concentration is low.[25]

A 'structural mismatch of supply and demand'

1.22 The Australian wine industry had tripled in size between 1991 and 2007[26] in what was described to the committee as 'the longest sustained boom in an industry.'[27] A 2005 inquiry by this committee observed that the 30 year targets set by the WFA in 1996 were achieved in only a decade.[28] The total area of grapevines planted increased from 62 454 hectares in 1995 to a peak of 166 197 hectares in 2008.[29]

21 Department of Agriculture, *Submission 29*, p. 5.

22 Department of Agriculture, *Submission 29*, p. 5.

23 Professor Kym Anderson AC and Nanda R. Aryal, *Growth and cycles in Australia's wine industry: A statistical compendium, 1843 to 2013*, Wine Economics Research Centre, University of Adelaide, February 2015, p. 22.

24 Professor Kym Anderson AC and Nanda R. Aryal, *Growth and cycles in Australia's wine industry: A statistical compendium, 1843 to 2013*, Wine Economics Research Centre, University of Adelaide, February 2015, p. 221.

25 Ms Brooke Tonkin, *IBISWorld* industry report C1214: *Wine production in Australia*, July 2015, p. 20.

26 WFA, *Submission 41*, p. 8.

27 Accolade Wines, *Submission 26*, p. 2.

28 Senate Rural and Regional Affairs and Transport References Committee, *The operation of the wine-making industry*, October 2005, p. 2.

29 Professor Kym Anderson AC and Nanda R. Aryal, *Growth and cycles in Australia's wine industry: A statistical compendium, 1843 to 2013*, Wine Economics Research Centre, University of Adelaide, February 2015, p. 152.

1.23 The committee heard that the 2005–06 financial year was a watershed for industry profitability. A 'record harvest' of 1.93 million tonnes was achieved in 2004–05 and sales increased on both the domestic and export markets.[30] From 2005 onwards, the volume of grapes crushed steadily declined, to approximately 1.7 million in 2014.[31] A 'supply and demand imbalance' in the wine industry was acknowledged in 2005–06.[32]

1.24 Submitters and witnesses were divided over whether the industry had experienced 'market failure'. On the one hand, WGGA submitted that industry's delayed recovery is the result of market inefficiency:

> The wine sector has failed to adjust to supply and demand imbalance since it was widely acknowledged to exist in the industry by 2005-06… Prima facie, this is evidence of market failure.[33]

1.25 It was argued to the contrary that 'market failure' as a label is inaccurate.[34] Accolade Wines submitted that the price shift was an effective market response, as:

> …low grape prices in some wine regions in Australia are not the result of market failure, but are in fact the result of an efficient market, in economic terms, reflecting changes in demand and competing sources of supply.[35]

Impact

1.26 The repercussions of a 'structural mismatch of supply and demand' have been amplified in more recent years.[36] By 2009, Australia was producing 20–40 million cases a year more wine than it was selling, according to a joint statement issued by industry representative bodies.[37] Since 2009, demand for Australian wine has fallen even further due to a variety of international factors, including:

- the high Australian dollar
- economic turbulence in overseas markets
- an oversupply of grapes within the European Union

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30 Australian Bureau of Statistics, *1329.0: Australian wine and grape industry, 2004–05*, p. 3.

31 Department of Agriculture, *Submission 29*, p. 3.

32 WGGA, *Submission 30*, p. 3.

33 WGGA, *Submission 30*, p. 3. See also AGWA, *Submission 8*, p. 19.

34 For example, WFA, *Submission 41*, p. 13; Mr Marc Allgrove, *Submission 2*, p. 1.

35 Accolade Wines, *Submission 26*, p. 2.

36 WFA, *Submission 41*, p. 8. See also Mr Warren Randall, Proprietor and Managing Director, Seppeltsfield Wine, *Committee Hansard*, 24 September 2015, pp 12–13.

37 WFA, WGGA, Australian Wine and Brandy Corporation, Australian Wine Research and Development Corporation, *Wine Restructuring Action Agenda*, Supporting report, p. 2, http://wgga.com.au/wp-content/uploads/WRAA-supporting-101109.pdf, (accessed 18 November 2015).

- competition with new low-cost producers (including Chile, Argentina and South Africa)[38], and
- a decline in consumer interest in Australian wine in key international markets including the United Kingdom and the United States.[39]

1.27 The committee heard consistent evidence about recent challenges for growers and winemakers, leading to industry downsizing.[40] Increasing supply has been accompanied by falling profits for winemakers.[41] By 2014, an estimated 84 per cent of producers were not covering their variable costs, up from 77 per cent in 2012.[42] In contrast, over the past six years United States and New Zealand producers received positive returns.[43] WFA estimated that up to 70 per cent of total current Australian wine grape production may be uneconomic,[44] expressing the following commitment to restored profitability:

> This era of sustained poor profitability has placed enormous pressure on grape growers and winemakers alike and unsurprisingly has created tensions in the industry – tensions we are committed to resolving through measures that support the restoration of profitability for all.[45]

1.28 The committee heard that grape growers are particularly affected by market risk, and particularly the price risk inherent in an oversupplied market.[46] The committee heard that without 'price determination systems based on quality attributes':

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38 Professor Kym Anderson AC and Nanda R. Aryal, *Growth and cycles in Australia's wine industry: A statistical compendium, 1843 to 2013*, Wine Economics Research Centre, University of Adelaide, February 2015, p. 24; Ms Brooke Tonkin, *IBISWorld* industry report C1214: *Wine production in Australia*, July 2015, p. 6.

39 WFA, *Submission 41*, p. 9.

40 Ms Victoria Angove, Director, Angove Family Winemakers, *Committee Hansard,* 24 September 2015, p. 19; Mr Warren Randall, Proprietor and Managing Director, Seppeltsfield Wine, *Committee Hansard,* 24 September 2015, p. 12; AGWA, *Submission 8,* pp 8, 25; Riverland Wine, *Submission 15,* p. 4–6; Department of Industry and Science, *Submission 19,* p. 8; South Australian Wine Industry Association, *Submission 32,* pp 3, 8; Treasury Wine Estates, *Submission 35,* pp 1–3, WFA, *Submission 41,* pp 7–9.

41 Professor Kym Anderson AC, Wine Economics Research Centre Wine Policy Brief No 11, '*How to return Australia's wine industry to growth? Lessons from previous cycles'*, University of Adelaide, April 2015, p. 15.

42 WFA, *Submission 41*, p. 14.

43 Professor Kym Anderson AC and Nanda R. Aryal, *Growth and cycles in Australia's wine industry: A statistical compendium, 1843 to 2013*, Wine Economics Research Centre, University of Adelaide, February 2015, p. 34.

44 Additional information from WFA, *Actions for Industry Profitability 2014–16*, received 19 May 2015, p. 23.

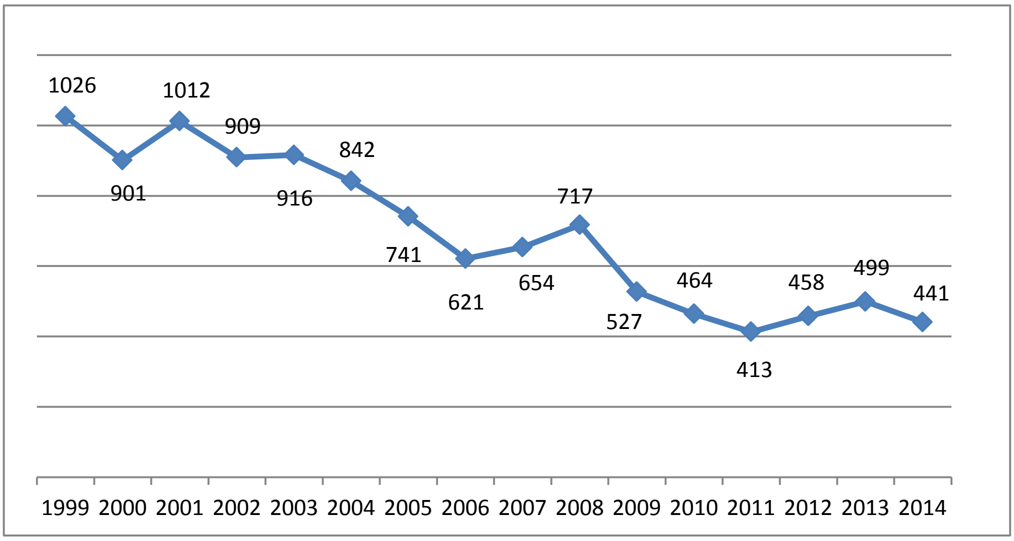
45 WFA, *Submission 41*, p. 9.

46 WGGA, *Submission 30*, p. 10.

> A grower's grapes… may be downgraded, not because of quality problems, but because purchasing wine companies may have filled their quotas for grapes at matching price points.[47]

1.29 Indeed, despite a reported quality increase,[48] grape growers have seen prices steadily decline to a historic low of an average $413 per tonne in 2011, down from $1 026 per tonne in 1999.[49] WGGA likened the 2014 grape price to that of 'thirty years ago, at a time when the industry fortunes were so low that a vine pull was enacted'. They calculated that the average grower in Australia 'has not met cost of production in the last to five to six years.'[50]

1.30 Figure 7: Average $AUD grape wine price per v/t: 1999–2014[51]



1.31 Grower representative organisations in the Murray Valley and Clare regions both told the committee that low prices have had a marked impact in their regions:

> Over the past two years, the exodus of growers in the Murray-Darling and Swan Hill regions has been at a rate we have not experienced before. Net vine removals in 2014–15 exceeded 1,400 hectares. Over the same period, 100 growers left our industry, and we are expecting more as a consequence of wine grape prices this year being among the lowest in 10 years.[52]

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47 WGGA, *Submission 30*, p. 9.

48 Mr Lawrence Stanford, Executive Director, WGGA, *Committee Hansard*, 24 September 2015, p. 34.

49 AGWA, *Submission 8*, p. 26.

50 WGGA, *Submission 30*, pp 15–16.

51 Professor Kym Anderson AC and Nanda R. Aryal, *Growth and cycles in Australia's wine industry: A statistical compendium, 1843 to 2013*, Wine Economics Research Centre, University of Adelaide, February 2015, p. 152.

52 Mr Michael Stone, Executive Officer, Murray Valley Winegrowers, *Committee Hansard*, 24 September 2015, p. 28.

> …everybody is doing it tough. Even those who are doing relatively well are certainly not returning cost of capital. If you are cash positive, you are doing well.[53]

1.32 Not all regions have been equally affected. Warm inland regions in particular have seen the most significant price decline, where it was reported in 2014 that prices were below the cost of production.[54] The oversupply experienced in many regions is the inverse for Tasmania, which Wine Tasmania described as 'a sellers' market'. They stated 'we would actually like to have more grapes.'[55] The committee heard that in Tasmania, 'the industry can grow threefold over the next five years,' pursuing internal growth and investment from interstate and overseas.[56]

1.33 Wines of Western Australia told the committee that despite a 30 per cent downturn in the most recent vintage, 'grape prices in Western Australia over the past five years have been trending upwards.'[57] The committee heard there is more flexibility in that market to diversify businesses and respond to industry trends:

> We have already seen that there is capital still available in Western Australia to change structure of vineyards. So we are seeing clonal improvement and we have seen variety changes, to realign vineyards into better marketable positions.[58]

1.34 The committee also heard of 'big ticket items happening to increase tourism' in the Margaret River region of Western Australia, including funding for an airport.[59]

Industry recovery

1.35 The committee heard evidence of qualified optimism for the industry.[60] Conditions for most winemakers and growers will improve in the next five years as

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53 Professor Geoffrey Lewis, Committee Member, Clare Region Winegrape Growers Association, *Committee Hansard*, 24 September 2015, p. 66.

54 Department of Agriculture, *Submission 29*, p. 5.

55 Ms Sheralee Davies, Chief Executive Officer, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 25.

56 Mr Graeme Lynch, Chair, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 23.

57 Mr Colin Bell, Chief Executive Officer, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 4.

58 Ibid.

59 Mr Redmond Sweeny, President, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 10.

60 See, for example, Mr Andreas Lee Clark, Executive Officer, AGWA, *Committee Hansard*, 24 September 2015, p. 6; Ms Victoria Angove, Director, Angove Family Winemakers, *Committee Hansard*, 24 September 2015, p. 19; Mr Chris Byrne, Executive Officer, Riverland Wine, *Committee Hansard*, 24 September 2015, p. 42; Mr John Griffiths, President, Swan Valley & Regional Winemakers Association, *Committee Hansard*, 27 October 2015, p. 47.

the industry rebalances, according to the Department of Industry and Science.[61] They cited IBIS*World* forecasts that over the next five years revenue will increase to $6.1 billion in 2019–2020.[62] The Wine Australia Price Dispersion Survey shows that, the national average purchase price in 2015 was up 5 per cent from the 2014 average, and is now $463 per tonne.[63] Nevertheless, WFA submitted recovery would take time:

> This oversupply is likely to continue even under the most optimistic projections of demand growth for the domestic and international markets and will continue to see downward pressure over the long term on grape prices.[64]

1.36 The University of Adelaide saw 'potential for return to at least normal levels of profitability', provided industry participants are willing to undertake 'major adjustments', collaborate and invest for the long term.[65] WGGA warned against 'sole reliance on demand growth', arguing that:

> … such an emphasis has the potential to create another up-cycle that will solicit lead to yet another cycle of overproduction such as that currently being experienced.[66]

1.37 Their submission calls for better commercial practices and improved 'grower-winery relations,' as well as a quality-based price determination structure.[67] The Australian Small Business Commissioner submitted that objective measures developed by the Australian Wine Research Institute are used internationally, and that:

> …adoption by the Australian wine industry for the purpose of incentivising better quality and fit-for-purpose fruit appears to be one way which could avoid and resolve the number of wine grape price disputes.[68]

61 Department of Industry and Science, *Submission 19*, p. 7.

62 Ms Brooke Tonkin, *IBISWorld* industry report C1214: *Wine production in Australia*, July 2015, p. 8.

63 WFA, *Submission 41*, Appendix B, p. 1.

64 WFA, *Submission 41*, p. 59.

65 Professor Kym Anderson AC and Nanda R. Aryal, *Growth and cycles in Australia's wine industry: A statistical compendium, 1843 to 2013*, Wine Economics Research Centre, University of Adelaide, February 2015, p. LI.

66 WGGA, *Submission 30*, p. 4.

67 WGGA, *Submission 30*, pp 4–7.

68 Australian Small Business Commissioner, *Submission 23*, p. 8.

Chapter 2

Wine equalisation tax rebate

2.1 This chapter considers the impact and application of the wine equalisation tax rebate on grape and wine industry supply chains.

2.2 Alcohol has attracted various customs and excise duties in Australia since before federation. Colonial administrators raised revenue through imposing 'sin taxes' on goods such as tobacco and most alcohol.[1] Since then, state and federal governments have applied different levels of tax to alcohol according to product type, value and packaging, alcohol content and size of producer.[2]

2.3 In the 2014–15 financial year, the Australian Government collected $6 billion in alcohol taxation receipts, which was approximately 0.4 per cent of GDP. Of that, wine contributed approximately $792 million or 13.2 per cent, at 0.05 per cent of GDP.[3]

2.4 Wine has a history of being taxed differently to other alcohol.[4] The excise duty applied more broadly including to beer and spirits was only briefly applied to wine between 1970 and 1972 and removed due to its political unpopularity.[5] In 1974, wholesale sales tax at 10 per cent was specifically applied to wine and increased by successive governments, reaching 41 per cent in 1997.[6]

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1 Sam Reinhardt and Lee Steel, 'A brief history of Australia’s tax system', Paper presented to 22nd APEC Finance Ministers’ Technical Working Group Meeting, Vietnam, 15 June 2006, http://archive.treasury.gov.au/documents/1156/HTML/docshell.asp?URL=01_Brief_History.asp (accessed 8 November 2015).

2 FARE, *Submission 22*, p. 6. Wholesale sales tax, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Completed_inquiries/pre1996/q_balance/report/c03/

3 Australia Parliament Parliamentary Budget Office, *Alcohol taxation in Australia*, report 3 of 2015, pp 1–2.

4 *Australia's future tax system – Report to the Treasurer*, part 2 volume 2, p. 431, http://taxreview.treasury.gov.au/content/downloads/final_report_part_2/AFTS_Final_Report_Part_2_Vol_2_Consolidated.pdf (accessed 10 November 2015).

5 Professor Kym Anderson, 'Excise and Import Taxes on Wine, Beer and Spirits: An International Comparison, presented 8–9 February 2010 at Adelaide Convention Centre, p. 6, https://www.adelaide.edu.au/wine-econ/events/2030workshop/pubs/AndersonTaxes_WC0210.pdf (accessed 8 November 2015).

6 Australian Government The Treasury, *Wine equalisation tax rebate: Discussion paper*, August 2015, p. 3.

2.5 The wine equalisation tax (WET) came into effect in 1999 alongside the GST, replacing wholesale sales tax.[7] Under the *A New Tax System (Wine Equalisation Tax) Act 1999* (WET Act) as introduced, wholesale and distributor sales of wine and grape products attracted a sales tax of 29 per cent of their wholesale value.[8]

2.6 The Australian National Audit Office notes the 'considerable complexity in calculating the wine tax.'[9] In effect, the rate was intended to continue the wholesale sales tax:

> The rate of WET of 29 per cent was designed so that it would, with the addition of 10 per cent GST, be equivalent to the WST rate of 41 per cent. This ensured that both the retail price of wine and the revenue from wine tax remained relatively stable.[10]

2.7 The Department of Industry and Science submitted that the WET 'generally applies to the last wholesale sale (usually between the wholesaler and the retailer) although it may apply in other circumstances.'[11]

Cellar door rebate scheme

2.8 A 14 per cent rebate 'for cellar door and mail order sales up to a wholesale value of $300 000 per annum' was introduced alongside the GST.[12] The cellar door rebate was established 'to provide assistance to small and medium sized winemakers and to promote tourism in regional areas through increased incentives to open cellar doors.'[13] The supplementary explanatory memorandum stated:

> The Government's policy objective is to assist winemakers who make retail sales directly to unlicensed people from the cellar door or via mail order and who use their product in application to own use.[14]

2.9 In most Australian states, the cellar door rebate supplemented state government cellar door subsidies of around 15 per cent,[15] although the committee has

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7 Mr Ken Helm AM, *Submission* 25, p. 1.

8 Department of Industry and Science, *Submission 19*, p. 11.

9 Australian National Audit Office, *Administration of the Wine Equalisation Tax,* Audit Report No. 20 2010, 14 December 2010, p. 28.

10 The Hon Peter Costello, Treasurer, A New Tax System (Wine Equalisation) Bill 1999, 24 March 1999, p. 4182 in Australian Government The Treasury, *Wine equalisation tax rebate: Discussion paper*, August 2015, p. 3.

11 Department of Industry and Science, *Submission 19*, p. 11.

12 WFA, *Submission 41*, p. 32; Supplementary Explanatory Memorandum, Indirect Tax Legislation Amendment Bill 2000, paragraph 2.46.

13 WFA, *Submission 41*, p. 33.

14 Supplementary Explanatory Memorandum, Indirect Tax Legislation Amendment Bill 2000, paragraph 2.25.

heard that the Western Australian subsidy has since been repealed[16] and Tasmania never provided one.[17]

WET rebate scheme

2.10 The WET rebate replaced the cellar door rebate from 1 October 2004, allowing some producers to 'fully offset' the WET they paid on wine. The new scheme enabled producers to claim:

> (a) for wholesale sales, 29 per cent of the price for which the wine is sold (excluding wine tax and GST).
>
> (b) for retail sales and AOUs [applications to own use], 29 per cent of the notional wholesale selling price of the wine.[18]

2.11 The rebate was initially limited to $290 000 per financial year,[19] allowing each eligible producer to sell wine valuing $1 million before paying WET.[20]

2.12 Rural and regional Australia was a particular focus of the new scheme, as stated in the explanatory memorandum:

> Around 90% of wine producers will be able to fully offset their WET liability by accessing the new rebate. In particular, small wine producers in rural and regional Australia will benefit significantly, receiving around 85% of rebate benefits.[21]

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15 Supplementary Explanatory Memorandum, Indirect Tax Legislation Amendment Bill 2000, paragraphs 2.1–2.2.

16 Mr Redmond Sweeny, President, Wines of Western Australia, *Committee Hansard,* 27 October 2015, p. 11.

17 Mr Jeremy Dineen, Chief Winemaker and General Manager, Josef Chromy Wines, *Committee Hansard,* 25 September 2015, p. 15.

18 Australian Tax Office, *Wine equalisation tax: operation of the producer rebate for other than New Zealand participants*, WETR 2009/2, https://www.ato.gov.au/law/view/document?LocID=%22WTR%2FWT20092%2FNAT%2FATO%22&PiT=99991231235958 (accessed 10 November 2015). See also Department of Industry and Science, *Submission 19,* p. 11.

19 Revised Explanatory Memorandum, Tax Laws Amendment (Wine Producer Rebate and Other Measures) Bill 2004, paragraph 1.5.

20 Parliamentary Library, Bills Digest, *Tax Laws Amendment (2006 Measures No. 3) Bill 2006 and New Business Tax System (Untainting Tax) Bill 2006*, 8 August 2006, p. 26.

21 Revised Explanatory Memorandum, *Tax Laws Amendment (Wine Producer Rebate and Other Measures) Act 2004*, paragraph 1.6.

2.13 For the first time, producers of cider, perry and sake became eligible for the rebate, recognising their contribution to regional economies.[22] The Department of Agriculture submitted that in addition to being registered for GST in Australia:

> Eligibility for the producer rebate requires a person to be a producer of wine; that is, they must:
>
> - manufacture the wine from grapes, other fruit/vegetables or honey produced or purchased; or
> - provide the grapes, other fruit, vegetables or honey to a contract winemaker to be made into wine on their behalf.[23]

2.14 The maximum WET rebate was increased to $500 000 from 1 July 2006, lifting the 'effective WET-free threshold' to $1.7 million.[24] The increase reflected a 2006–07 Budget commitment to provide 'enhanced assistance' to the wine industry.[25] The Treasurer's media release described the increase as 'additional support for small and medium sized wine producers', stating that '[w]ine producers form an important part of regional Australia and provide significant employment and tourism benefits.'[26]

2.15 The WET rebate scheme was extended to include New Zealand producers from 1 July 2005.[27] Submitters considered that this was done 'in line with Australia's bilateral trade obligations'.[28] The New Zealand producer rebate is discussed further below.

2.16 The 2004–05 Budget estimated the initial cost of the rebate at $90 million per year, increasing to $100 million in 2007–08.[29] At the time of the increase, additional revenue implications of the increased WET rebate were expected to be $25 million in 2006–07 and up to $35 million in 2009–10.[30] The relevant Bills Digest commented 'it

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22 Supplementary Explanatory Memorandum, *Tax Laws Amendment (Wine Producer Rebate and Other Measures) Act 2004*, paragraph 1.6.

23 Department of Agriculture, *Submission 29*, p. 10.

24 Explanatory Memorandum, *Tax Laws Amendment (2006 Measures No.3) Act 2006*, p. 10; WFA, *Submission 41*, p. 33.

25 Australian Government, Budget Paper No. 2: Budget Measures 2006-07, p. 37.

26 The Hon Peter Costello MP, Treasurer, *Increase in Wine Equalisation Tax (WET) Producer Rebate*, Media Release No. 35, 9 May 2006.

27 Explanatory Memorandum, Tax Laws Amendment (2005 Measures No. 4) Bill 2005, paragraph. 4.4.

28 FARE, *Submission 22*, p. 8; WFA, *Submission 41*, p. 33.

29 Australian Government, Budget Paper No. 1: Budget Measures 2004–05, p. 2–5. Budget Paper No. 2: Budget Measures 2004–05, p. 39.

30 Australian Government, Budget Paper No. 2: Budget Measures 2006-07, p. 37;

is unclear whether this projection includes the expansion of the rebate to the New Zealand wine producers.'[31]

2.17 The committee has heard evidence that WET rebates paid may have exceeded Treasury estimates since as early as 2005–06. WFA provided calculations that suggest that instead of the $90 million forecast,[32] the Government made $134 million in rebate payments in 2005–06. By 2006–07, instead of the forecasted $90 million plus $25 million,[33] there were closer to $200 million in payments.[34] The Department of Agriculture submitted that in 2013–14, approximately $300 million in rebate payments were made,[35] and WFA estimates $340 million for 2014–15.[36]

2.18 WFA described an 'average annual increase of 12%' in WET rebates paid, which contrasts with the downturn in revenue collected from wine tax.[37] For example, the Department of Industry and Science estimates that '[r]evenue was down from a high of $7.65 billion in 2006-07 to a forecast $5.6 billion in 2014-15.'[38]

Treasury Tax White Paper

2.19 In May 2015, the Government announced it would ask the Treasury to prepare a discussion paper on the operation of the WET rebate as part of the Tax White Paper process. The Assistant Treasurer reported that:

> Growers and producers have raised concerns whether the current operation of the WET rebate is continuing to meet the original policy intent.[39]

2.20 The WET Rebate Discussion Paper was released by the Treasury in August 2015, calling for submissions to the Government's appointed WET Rebate Consultative Group which includes representatives of the Treasury, WFA, WGGA, Wines of Western Australia and leading industry representatives.[40]

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31 Parliamentary Library, Bills Digest, *Tax Laws Amendment (2006 Measures No. 3) Bill 2006 and New Business Tax System (Untainting Tax) Bill 2006*, 8 August 2006, p. 26.

32 Australian Government, Budget Paper No. 1: Budget Measures 2004–05, p. 2–5. Budget Paper No. 2: Budget Measures 2004–05, p. 39.

33 Australian Government, Budget Paper No. 2: Budget Measures 2006-07, p. 37.

34 WFA, *Submission 41*, pp 34–5.

35 Department of Agriculture, *Submission 29*, p. 10.

36 WFA, *Submission 41*, p. 35.

37 WFA, *Submission 41*, Appendix G, p. 40.

38 Department of Industry and Science, *Submission 19*, p. 7.

39 The Hon. Josh Frydenberg MP, Assistant Treasurer, *Wine Equalisation Tax rebate discussion paper*, Media release, 5 May 2015, http://jaf.ministers.treasury.gov.au/media-release/022-2015/ (accessed 18 November 2015).

40 Australian Government The Treasury, *Wine Equalisation Tax Rebate*, http://www.treasury.gov.au/ConsultationsandReviews/Consultations/2015/Wine-Equalisation-Tax-Rebate, (accessed 12 November 2015).

2.21 The group will consider submissions and provide advice to the Government on options for reform, and has indicated that a 'Green Paper' will be released in the second half of 2015.[41]

2.22 Wine Tasmania told the committee that there are 'many issues that are not necessarily canvassed' in the discussion paper.[42]

Criticism of the wine equalisation tax

2.23 Some contributors to this inquiry expressed dissatisfaction with the current taxation arrangements for wine.[43] National peak body Wine Grape Growers Australia told the committee that 'the high domestic tax regime is an impediment to industry profitability.'[44] Representing growers and producers, Wine Tasmania urged the committee to consider 'the overarching structure of wine tax.'[45] In a 2010 Audit Report, the Australian National Audit Office noted that there is 'considerable complexity' in calculating the tax on wine,[46] and this complexity was remarked upon by some submitters.[47]

2.24 The committee heard economic and health policy arguments that wine sales should be taxed based on a volumetric basis whereby tax is calculated on the alcohol content of products rather than their value. Treasury Wine Estates argued that the current basis for calculating wine tax disadvantages producers of premium wines who pay more tax than producers of cheaper wines. They argued for 'a flat volumetric tax within the current WET regime.'[48] Director of Group Corporate Affairs Roger Sharp told the committee '[i]t is just nonsensical to us that you have a tax system which effectively penalises you as you produce a more premium product', stating that:

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41 Australian Government The Treasury, *Wine equalisation tax rebate: Discussion paper*, August 2015, p. 1.

42 Mr Graeme Lynch, Chair, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 21.

43 See, for example, Mr Leo Pech, *Submission 13*, p. 12.

44 Mr Victor Patrick, Chairman, WGGA, *Committee Hansard*, 24 September 2015, p. 33.

45 Ms Sheralee Davies, Chief Executive Officer, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 22.

46 Australian National Audit Office, *Administration of the Wine Equalisation Tax,* Audit Report No. 20 2010, 14 December 2010, p. 28.

47 FARE, *Submission 22*, p. 19; South Australian Wine Industry Association Incorporated, *Submission 32*, p. 4; Treasury Wine Estates, *Submission 35*, p. 18; WFA, *Submission 41*, pp 17, 53.

48 Mr Roger Sharp, Director, Group Corporate Affairs, Treasury Wine Estates, *Committee Hansard*, 27 October 2015, p. 34.

> …ultimately the future success and profitability of Australian wine will be achieved by producing higher quality, more premium wines rather than more mass, commoditised grape juice.[49]

2.25 Differently, the not-for-profit Foundation for Alcohol Research and Education (FARE) argued for 'a new wine tax system… based on public policy principles that acknowledge the harmful nature of alcohol'.[50] They submitted that replacing the WET with an excise would increase government revenue and reduce the rate of alcohol consumption and alcohol-related harms.[51] As well as conducting 'benefit cost analysis' in 2012, FARE submitted that:

> …nine separate government reviews have recommended overhauling the wine taxation system, including the Henry Review which determined that reforming the WET was a matter of urgency for the Australian Government.[52]

2.26 Of the reports cited by FARE, only the Australia's Future Tax System (Henry review) panel of 2009 found that the 'the wine equalisation tax, currently designed as a value-based revenue-raising tax, is not well suited to reducing social harm.'[53] The report recommended transition to a volumetric tax on alcohol, converging over time to a single rate.[54]

2.27 Different to the Henry review, the 1995 Committee of Inquiry into the Winegrape and Wine Industry had recommended a 'composite tax' with value-based and volume-based components,[55] and the 2011 Western Australian Education and Health Standing Committee report recommended that state and federal governments negotiate on 'introducing a tiered volumetric tax in addition to a minimum retail price per standard drink.'[56]

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49 Mr Roger Sharp, Director, Group Corporate Affairs, Treasury Wine Estates, *Committee Hansard*, 27 October 2015, p. 39.

50 FARE, *Submission 22*, p. 19.

51 FARE, *Submission 22*, p. 11.

52 FARE, *Submission 22*, p. 4; Australia's future tax system review, *Report to the Treasurer*, December 2009, p. 443, http://taxreview.treasury.gov.au/content/downloads/final_report_part_2/AFTS_Final_Report_Part_2_Vol_2_Consolidated.pdf (accessed 6 November 2015).

53 Australia's future tax system review, *Report to the Treasurer*, December 2009, p. 442, http://taxreview.treasury.gov.au/content/downloads/final_report_part_2/AFTS_Final_Report_Part_2_Vol_2_Consolidated.pdf (accessed 6 November 2015).

54 Australia's future tax system review, *Report to the Treasurer*, December 2009, p. 431, http://taxreview.treasury.gov.au/content/downloads/final_report_part_2/AFTS_Final_Report_Part_2_Vol_2_Consolidated.pdf (accessed 6 November 2015).

55 Committee of Inquiry into the Winegrape and Wine Industry, *Winegrape and wine industry in Australia*, June 1995, pp 21–2, http://www.pc.gov.au/research/completed/wine-grape/winegrap.pdf (accessed 9 November 2015).

56 Parliament of Western Australia Education and Health Standing Committee, *Alcohol: Reducing the Harm and Curbing the Culture of Excess* (report no. 10, 38th Parliament), 2011, p. 188.

2.28 Rather than recommending a volumetric tax, other reviews cited by FARE recommend further consideration of the basis for wine taxation. For example, the Australian National Preventative Health Agency's 2012 report found that 'the current operation of the Wine Equalisation Tax is of concern and requires reappraisal.'[57] Likewise, the 2003 House of Representatives Standing Committee report recommended the Commonwealth 'investigate the social benefits' of calculating tax based on alcohol content.[58]

2.29 In responding to the Henry review and the National Preventative Health Taskforce's report of the same year,[59] the Government stated it would not 'change alcohol tax in the middle of a wine glut and where there is an industry restructure underway'.[60] The industry restructure referred to is the *Wine Restructuring Action Agenda* launched by national industry organisations in 2009, and activities and future priorities released in December 2010.[61]

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57 Australian National Preventative Health Agency, *Exploring the Public Interest Case for a Minimum (Floor) Price for Alcohol*, May 2013, p. 74. http://health.gov.au/internet/anpha/publishing.nsf/Content/minimum-price-final-report (accessed 9 November 2015). See also Parliament of Victoria Drugs and Crime Prevention Committee, Inquiry into strategies to reduce harmful alcohol consumption (Final report, vol. 1), p. xxix http://www.parliament.vic.gov.au/images/stories/committees/dcpc/alcoholharmreduction/DCPC-Report_Alcohol_Vol1_2006-03.pdf (accessed 9 November 2015).

58 House of Representatives Standing Committee on Family and Community Affairs, *Road to recovery: Report on the inquiry into substance abuse in Australian communities,* August 2003, p. 117, http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_representatives_Committees?url=fca/subabuse/report.htm (accessed 9 November 2015). See also National Preventative Health Taskforce, 'Alcohol: reshaping the drinking culture in Australia' (Chapter 4), *Australia: the healthiest country by 2020: National Preventative Health Strategy – the roadmap for action*, 2009. http://www.preventativehealth.org.au/internet/preventativehealth/publishing.nsf/Content/nphs-roadmap (accessed 10 November 2015).

59 National Preventative Health Taskforce, 'Alcohol: reshaping the drinking culture in Australia' (Chapter 4), *Australia: the healthiest country by 2020: National Preventative Health Strategy – the roadmap for action*, 2009. http://www.preventativehealth.org.au/internet/preventativehealth/publishing.nsf/Content/nphs-roadmap (accessed 10 November 2015).

60 The Hon. Wayne Swan, MP, Deputy Prime Minister and Treasurer and the Hon. Kevin Rudd, MP, Prime Minister, 'Stronger, fairer, simpler: a tax plan for our future', Media Release 028, 2 May 2010, http://ministers.treasury.gov.au/DisplayDocs.aspx?doc=pressreleases/2010/028.htm&pageID=003&min=wms&Year (accessed 9 November 2015); Department of Health and Ageing, *Taking Preventative Action - the Government's response to the report of the National Preventative Health Taskforce*, 11 May 2010, p. 97, http://www.health.gov.au/internet/preventativehealth/publishing.nsf/Content/taking-preventative-action (accessed 9 November 2015).

61 Wine and Grape Growers Australia, *Wine industry must continue to focus on transition*, December 2010, http://wgga.com.au/archives/642 (accessed 12 November 2015).

2.30 The committee heard qualified support for a volumetric tax on wine from some submitters.[62] However, more submitters were opposed to a volumetric tax, arguing it would be detrimental to producers or to the industry at large. Murray Valley Winegrowers submitted that local growers are 'fearful of taxation changes that could place them in an even more precarious financial position,' specifically referring to the recommendations of the Australia's Future Tax System review.[63] Treasury Wine Estates submitted that 'a single volumetric tax for all forms of alcohol is not appropriate because of the unique structure of the wine industry.'[64] Accolade Wines submitted that:

> A change to a volumetric tax would penalise and directly inhibit the sustainability of our $2 billion export industry that directly and indirectly employs up to 60,000 people, mainly in regional Australia.[65]

2.31 Arguing to the contrary, FARE submitted that 'claims about job losses within the wine industry as a result of changes to a volumetric tax are greatly exaggerated.'[66]

2.32 A number of submitters and witnesses were opposed to a volumetric tax on wine on the grounds that its likely impact was uncertain.[67] WFA argued that 'modelling on the impact on the industry has not been done.'[68] The committee notes that WFA expressed a proactive approach to addressing health policy concerns, including a commitment to 'continue critical analysis into the link between price and at-risk consumption and incorporate the findings into its advocacy on alcohol tax issues.'[69]

Criticism of the WET rebate

2.33 In this section, the committee critically evaluates the WET rebate, considering evidence that the rebate:

- inhibits much-needed wine industry restructure;

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62 Mr Jeremy Dineen, Chief Winemaker and General Manager, Josef Chromy Wines, *Committee Hansard*, 25 September 2015, p. 16; Mr Redmond Sweeny, President, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 12; Pernod Ricard Winemakers, *Submission 28*, p. 3; Mr Nick Power, Chief Executive Officer, Margaret River Wine Association, *Committee Hansard*, 27 October 2015, p. 29.

63 Murray Valley Winegrowers Inc, *Submission 6*, pp 7–8.

64 Treasury Wine Estates, *Submission 35*, p. 7.

65 Accolade Wines, *Submission 26*, p. 9.

66 FARE, *Submission 22*, p. 14.

67 For example, Accolade Wines, *Submission 26*, pp 9–11; Wine Grape Council South Australia, *Submission 37*, p. 6; Riverland Wine, *Submission 15*, p. 17.

68 Mr Paul Evans, Chief Executive Officer, WFA, *Committee Hansard*, 27 October 2015, p. 22. See also WFA, *Submission 41*, Appendix A, p. 41.

69 WFA, *Submission 41*, p. 13; Mr Paul Evans, Chief Executive Officer, WFA, *Committee Hansard*, 27 October 2015, p. 21.

- is subject to unlawful claims or rorting;
- subsidises bulk wine and erodes the value of premium Australian wine;
- is increasingly paid to major wine retailers;
- discourages mergers in the industry; and
- supports international producers at the expense of local producers.

Distorting the market

2.34 Some witnesses argued that the WET rebate is holding the wine industry back. Treasury Wine Estates told the committee that:

> There is an agreement—I think reasonably broad agreement—around sections of the industry that the status quo on things like the rebate is simply not sustainable moving forward and not in the industry's best interests.[70]

2.35 Their submission was that '[c]urrent wine tax arrangements actively distort the market, preventing necessary restructuring and sustaining structural oversupply.'[71]

2.36 Similarly, Pernod Ricard Winemakers told the committee that:

> The current WET rebate is another major factor inhibiting industry restructure, as it subsidises producers who would otherwise not be able to compete in a free market, artificially alters business models to maximise qualification of the rebate, and restricts consolidation of the industry.[72]

2.37 Further, the South Australian Wine Industry Association expressed concern that the rebate has 'unintended consequences' and its application was 'likely to be driving outcomes which are not providing the necessary support for the industry.'[73]

2.38 Treasury Wine Estates recommended 'major reform, or removal of the current WET Rebate, and a move to a category based volumetric model of taxation,' which is discussed further below.[74]

2.39 Even from those who support retaining the rebate, the committee heard that the rebate as currently structured is distorting the market and having a negative effect

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70 Mr Roger Sharp, Director, Group Corporate Affairs, Treasury Wine Estates, *Committee Hansard,* 27 October 2015, pp 39–40.

71 Treasury Wine Estates, *Submission 35,* p. 6.

72 Pernod Ricard Winemakers, *Submission 28,* p. 3.

73 South Australian Wine Industry Association, *Submission 32,* pp 4–5.

74 Treasury Wine Estates, *Submission 35,* p. 1.

on the price of Australian wine, including overseas.[75] For example, the Riverina Wine Grape Marketing Board expressed a view that 'the WET rebate is subsidising cheap wine in the market' and that 'once we get that subsidy out of the way, wine should return to its correct value.'[76]

2.40 The committee heard from a number of submitters and witnesses that WET rebates are critical to the profitability of many businesses.[77] For example, Wines of Western Australia noted that in response to a 2011 survey, ninety five per cent of their members 'responded that the WET rebate was critical to the profitability of their business and sustainability.'[78] Clare Region Winegrape Growers Association and Clare Valley Winemakers told the committee that without the income from the WET rebate, 'the smaller organisations… would suffer the most.'[79] Similarly, Wine Tasmania said that the total removal of the rebate would have a significant impact on individual Tasmanian producers many of whom are 'under the threshold' of the maximum rebate payable. Chief Executive Officer Sheralee Davies explained that:

> …should the rebate be removed in full our small wine businesses would go from effectively paying no net tax to paying 29 per cent on the high value

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75 Ms Anita Poddar, Head of Corporate Affairs, Accolade Wines, *Committee Hansard,* 24 September 2015, p. 16; Mr Nick Waterman, Managing Director, Yalumba Wine Company, *Committee Hansard,* 24 September 2015, p. 20; Mr Marc Allgrove, Partner, Evans & Ayers Wine Business Consulting, *Committee Hansard,* 24 September 2015, p. 20; Mr Brian Simpson, Chief Executive Officer, Riverina Wine Grape Marketing Board, *Committee Hansard,* 24 September 2015, p. 49; Professor Geoffrey Lewis, Committee Member, Clare Region Winegrape Growers Association, *Committee Hansard,* 24 September 2015, p. 62; Mr Roger Sharp, Director, Group Corporate Affairs, Treasury Wine Estates, *Committee Hansard,* 27 October 2015, p. 40; Mr John Griffiths, President, Swan Valley & Regional Winemakers Association, *Committee Hansard,* 27 October 2015, p. 46; Riverland Wine, *Submission 15,* p. 5; Mr John Ward, *Submission 38,* p. 1.

76 Mr Brian Simpson, Chief Executive Officer, Riverina Wine Grape Marketing Board, *Committee Hansard,* 24 September 2015, p. 52.

77 Department of Industry and Science, *Submission 19*, p. 11; Mr Leo Pech, *Submission 13*, p. 9; WFA, *Submission 41*, Appendix G, 11 September 2015, p. 58; Mr Michael Stone, Executive Officer, Murray Valley Winegrowers, *Committee Hansard*, 24 September 2015, p. 31; Mr John Griffiths, President, Swan Valley & Regional Winemakers Association, *Committee Hansard,* 27 October 2015, p. 46; Wine Tasmania. *Submission 11*, pp 12–13; Accolade Wines, *Submission 26*, pp 3, 11–12 and 15, Mr Ken Helm AM, *Submission 25*, p. 1; Mr Redmond Sweeny, President, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 11; Ms Sheralee Davies, Chief Executive Officer, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 22.

78 Mr Redmond Sweeny, President, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 11.

79 Professor Geoffrey Lewis, Committee Member, Clare Region Winegrape Growers Association, *Committee Hansard*, 24 September 2015, p. 64.

> of our wine. We know Tasmanian wine is amongst the highest value in the country so the impact would be severe.[80]

2.41 Arguing to the contrary, FARE described the WET rebate as 'a form of corporate welfare that supports otherwise unprofitable business to continue operating.'[81]

'Rorting'

2.42 A large number of submitters and witnesses stated that the WET rebate is subject to deliberate unlawful claims or 'rorting', which is increasing the cost of the rebate without tangible benefits to its intended recipients.[82] While evidence received of rorting or 'double-dipping' is largely anecdotal, the committee heard that the rebate is routinely paid to claimants who are not themselves growers or producers, to the value of up to $61 million.[83] That Australian National Audit Office has stated:

> A number of schemes have arisen in recent years where grape growers are attempting to improperly access the producer rebate, while some wholesalers and retailers have also been inventive in minimising the amount of wine tax paid. Some of these schemes are within the provision of current legislation but have the potential to erode revenue, contrary to the original intent of the tax.[84]

2.43 Key examples of 'contrived arrangements' are outlined in the Taxpayer Alert series produced by the Australian Tax Office (ATO).[85] In particular, the ATO

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80 Ms Sheralee Davies, Chief Executive Officer, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 22.

81 FARE, *Submission 22*, p. 11.

82 Mr Roger Sharp, Director, Group Corporate Affairs, Treasury Wine Estates, *Committee Hansard*, 27 October 2015, p. 35; FARE, *Submission 22*, pp 11, 17; Treasury Wine Estates, *Submission 35*, p. 13; Mr John Ward, *Submission 38*, p. 1; WFA, *Submission 41*, p. 40; Ms Virginia Tropeano, *Submission 9*, p. 4; Wines of Western Australia, *Submission 21*, p. 5; WineFoodTechMedia Group, *Submission 34*, Attachment 2; Mr Warren Randall, Proprietor and Managing Director, Seppeltsfield Wine, Barossa Valley, South Australia, *Committee Hansard*, 24 September 2015, p. 16; Mr Brian Simpson, Chief Executive Officer, Riverina Wine Grape Marketing Board, *Committee Hansard*, 24 September 2015, p. 53; Professor Geoffrey Lewis, Committee Member, Clare Region Winegrape Growers Association, *Committee Hansard*, 24 September 2015, p. 66; Mr Stuart Bryce, *Committee Hansard*, 25 September 2015, pp 8– 9; Ms Francine Austin, *Committee Hansard*, 25 September 2015, p. 12; Mr Graeme Lynch, Chair, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 25.

83 WFA, *Submission 41*, Appendix A, p. 42.

84 Australian National Audit Office, *Administration of the Wine Equalisation Tax*, Audit Report No. 20 2010, 14 December 2010, p. 13.

85 Australian Taxation Office, *Taxpayer Alert TA 2013/2: Wine equalisation tax (WET) producer rebate schemes*, 8 October 2013, https://www.ato.gov.au/law/view/document?DocID=TPA/TA20132/NAT/ATO/00001 (accessed 16 November 2015).

described situations where a wine producer who has already claimed the maximum $500 000 establishes 'linked entities' to claim additional WET rebates. The committee understands that linked entities are used to either:

- buy additional grapes from the grower and have the producer manufacture the grapes into wine, then sell the wine back to the producer and claim a WET rebate on that sale; or
- buy bulk wine from that producer and 'blend' the wine (therefore qualifying as producers themselves), then sell the wine on to further linked entities and claim a rebate on the sales.[86]

2.44 The ATO lists a number of features of concern about these arrangements including whether the entities are in fact eligible producers under the WET Act, whether WET liability or rebate entitlement should be adjusted to reflect 'non-arm's length transactions' and whether the anti-avoidance provisions in the GST Act apply which incur penalties such as repaying up to 75 per cent of the tax avoided.[87] WFA stated that they can work with the ATO to eliminate uncommercial arrangements.[88]

2.45 To minimise rorting, Wines of Western Australia submitted in favour of removing the 'quoting system' which allows rebates to be paid to producers or linked entities that have not themselves paid WET.[89] By 'quoting' the ABN of the entity that will pay WET on the final sale, producers and entities are able to qualify for rebates on sales between them without paying WET.[90] WFA told the committee that quoting is 'a widespread practice among grape growers who produce contract-made bulk wine'. They submitted that they 'do not know how widespread the practice is… to purchase wine for blending or to supplement their own production.'[91]

2.46 Wines of Western Australia proposed that as an alternative to quoting, producer rebates should only be received for WET paid. This would require distributors to notify producers of the exact amount of sales tax paid during a given

86 Australian Taxation Office, *Taxpayer Alert TA 2013/2: Wine equalisation tax (WET) producer rebate schemes*, 8 October 2013, https://www.ato.gov.au/law/view/document?DocID=TPA/TA20132/NAT/ATO/00001 (accessed 16 November 2015).

87 Ibid.

88 WFA, *Submission 41*, p. 41; WFA, *Submission 41*, Appendix G, p. 15.

89 Wines of Western Australia, *Submission 21*, p. 5.

90 Australian Taxation Office, *Taxpayer Alert TA 2013/2: Wine equalisation tax (WET) producer rebate schemes*, 8 October 2013, https://www.ato.gov.au/law/view/document?DocID=TPA/TA20132/NAT/ATO/00001 (accessed 16 November 2015).

91 WFA, answer to question on notice, 27 October 2015 (received 11 November 2015).

period.[92] WFA stated that they would consider a proposal to remove the quoting system if it was proven effective and workable:

> In regards to the proposal to allow the rebate to be paid only on wine where the WET (tax) has been paid, if the details of such a proposal clearly demonstrated that it met the criteria of delivering the original policy intent of the rebate and led to sustainable profitability and was easier to administer, then WFA would consider it closely.[93]

2.47 The committee notes that Treasury Wine Estates and Pernod Ricard Winemakers have argued against tying the rebate to the amount of WET paid, including because such an arrangement:

> …links the rebate only to domestic sales and ignores export performance, which is two thirds of Australian production and offers the greatest growth opportunities.[94]

2.48 The committee heard support for the audit, compliance and policing activities of the ATO in relation to the WET rebate, which led to the recovery of $47.8 million in fines and adjustments in 2013-14.'[95] This includes publishing public rulings by the Taxation Commissioner on the intended application of the rebate.[96]

Bulk wine industry

2.49 The committee heard that the producer rebate has unintended consequences in subsidising the production of bulk wines which then flood the market and lead to an overall reduction in price. Bulk wine is defined as wine sold in containers greater than 25 litres.[97] Accolade Wines argued that contrary to the intention of the WET rebate, producers of bulk and unbranded wines have a competitive advantage:

> The availability of the rebate on bulk and unbranded wine has served to drive down wine prices as producers seek margin by claiming the [WET] rebate on grapes processed and sold as bulk and unbranded wine, which then is available as retailers' own brands in competition with branded wine

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92 Wines of Western Australia, *Submission 21*, p. 5.

93 WFA, answer to question on notice, 27 October 2015 (received 11 November 2015).

94 Additional information from Treasury Wine Estates and Pernod Ricard Winemakers, *Using the Wine Equalisation Tax rebate to build a stronger and more profitable Australian wine industry: Submission to Discussion Paper*, received 30 September 2015, p. 3.

95 WFA, *Submission 41*, Appendix G, p. 15; Murray Valley Winegrowers Inc, *Submission 6*, p. 9.

96 For example, Australian Tax Office, *Wine equalisation tax: operation of the producer rebate for other than New Zealand participants*, WETR 2009/2, https://www.ato.gov.au/law/view/document?LocID=%22WTR%2FWT20092%2FNAT%2FATO%22&PiT=99991231235958 (accessed 10 November 2015).

97 WFA, *Submission 41*, Appendix D, p. 10.

> producers who have the additional costs of supporting their brands through marketing and promotion.[98]

2.50 Ms Virginia Tropeano submitted that 'if the WET rebate is found to be contributing to the low prices paid for bulk wine then it is restricting the ability of the industry to clear the wine glut and restructure.'[99]

Retailers receiving the WET rebate

2.51 While the power and influence of retailers is discussed further in Chapter 3, the committee has heard that the WET rebate provides an unfair commercial advantage to major retailers who purchase bulk wine from growers to produce their 'house brand products'.[100] Wine Grape Growers Australia submitted that:

> The ability of major retailers to capture the value of the WET Rebate is a key part of the unintended consequences of WET rebates in the current operating environment.[101]

2.52 Mr Warrick Duthy of Clare Valley Winemakers described major retailers as 'one of the greatest beneficiaries of the rebate'.[102] Riverland Wine explained that this leads to the situation where:

> …retailers and large wine buyers trade with the rebate included. Winemakers in the Riverland region often field calls from companies seeking wine, and quoting two prices; one with and one without the rebate.[103]

2.53 Wines of Western Australia stated that reform of the WET rebate 'is not the silver bullet, but what that will do is provide fairer industry dynamics' by putting a stop to 'the ratcheting down of the price points through the major retailers.[104]

Merged entities

2.54 The committee heard that the availability of the WET rebate could be discouraging mergers among small businesses, contributing to the unprofitability of

98 Accolade Wines, *Submission 26*, p. 15.

99 Ms Virginia Tropeano, *Submission 9*, p. 4.

100 Mr John Ward, *Submission 38*, p. 1.

101 WGGA, *Submission 30*, p. 18.

102 Mr Warrick Duthy, Committee Member, Clare Valley Winemakers Inc, *Committee Hansard*, 24 September 2015, p. 62.

103 Riverland Wine, *Submission 15*, p. 9.

104 Mr Redmond Sweeny, President, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 8.

the industry.[105] To assist small to medium businesses 'who believe that their future lies in consolidation'[106] WFA submit that the Government could:

> Introduce transitional rebate measures for merged claimants, phasing out at 25% per year over four years to encourage industry consolidation by enabling merged entities to continue to claim the rebates they accessed when separate so that this loss of benefit does not impede consideration of mergers.[107]

2.55 The committee notes that WFA submitted this proposal to the Government's WET Rebate Discussion Paper on 11 September 2015.[108] PwC modelling commissioned by WFA suggested that despite the initial outlay, encouraging consolidation 'would save the Commonwealth $31 million to the end of 2018–19'.[109]

New Zealand producers

2.56 The Henry review of 2009 found that the WET rebate is not contributing effectively to regional economies, reporting that:

> The assistance provided by the WET rebate is poorly targeted. It benefits wine produced outside rural and regional Australia, including wine produced overseas… Spending targeted at rural assistance is likely to deliver significantly better value for money to the community.[110]

2.57 In particular, a number of submitters and witnesses asked Government to reconsider paying the WET rebate to New Zealand producers.[111] The extension of the rebate to New Zealand producers in 2006 was described to the committee as

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105 Australia's future tax system review, *Report to the Treasurer*, December 2009, p. 438, http://taxreview.treasury.gov.au/content/downloads/final_report_part_2/AFTS_Final_Report_Part_2_Vol_2_Consolidated.pdf (accessed 6 November 2015).

106 WFA, *Submission 41*, p. 45.

107 WFA, *Submission 41*, p. 6.

108 WFA, *Submission 41*, Appendix G.

109 WFA, *Submission 41*, Appendix F, p. 14.

110 Australia's future tax system review, *Report to the Treasurer*, December 2009, p. 438, http://taxreview.treasury.gov.au/content/downloads/final_report_part_2/AFTS_Final_Report_Part_2_Vol_2_Consolidated.pdf (accessed 6 November 2015).

111 Mr Graeme Lynch, Chair, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 25; Mrs Virginia Tropeano, *Submission 9*, p. 4; Mr Redmond Sweeny, President, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 8; FARE, *Submission 22*, p. 9; Treasury Wine Estates, *Submission 35*, p. 6; WFA, *Submission 41*, p. 47; Mr Nick Power, Chief Executive Officer, Margaret River Wine Association, *Committee Hansard*, 27 October 2015, p. 26; Mr John Griffiths, President, Swan Valley & Regional Winemakers Association, *Committee Hansard*, 27 October 2015, p. 46; Professor Geoffrey Lewis, Committee Member, Clare Region Winegrape Growers Association, *Committee Hansard*, 24 September 2015, p. 62.

'unfair',[112] 'absurd'[113] and 'laughable'.[114] Treasury Wine Estates estimated that in 2015-16, Australia paid $25 million in rebates to New Zealand producers,[115] and Seppeltsfield Wine estimated even higher at $30 to $35 million.[116]

2.58 New Zealand wine performs strongly in the Australian market. Australia imports more wine from New Zealand than from any other country, at a value of almost $335 million per year.[117] The Department of Industry and Science submitted that 'of the 15 per cent of wine imported' into Australia, New Zealand wines make up '53 per cent by value and 64 per cent by volume.'[118] Since the extension of the rebate in 2006–07, wine imported into Australia has increased by 7.1 per cent.[119]

2.59 The committee heard evidence that the WET rebate has contributed to the growth of the New Zealand wine industry at the expense of local industry. They cite as an example 'New Zealand Sauvignon Blanc, which in 2013 accounted for one in every ten bottles of wine sold in Australia'.[120] Clare Winegrape Growers Association and Clare Valley Winemakers suggested that New Zealand producers are selling bulk wine to supermarkets:

> There is a reasonable amount of evidence to suggest that our Kiwi cousins have benefited from the rebate, particularly in sales of bulk wine and other branded wine that has ended up really being sold directly to supermarkets, which has made it incredibly difficult to compete from a small winery perspective.[121]

2.60 WFA suggested there is 'potential in the future for other countries to also argue for equal treatment' which would require further outlay from Australia on WET rebates paid overseas.[122] After New Zealand, the top countries of origin for wine

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112 Mr Nick Power, Chief Executive Officer, Margaret River Wine Association, *Committee Hansard*, 27 October 2015, p. 26.

113 Mr Redmond Sweeny, President, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 8.

114 Mrs Virginia Tropeano, *Submission 9*, p. 4.

115 Treasury Wine Estates, *Submission 35*, p. 6.

116 Mr Warren Randall, Proprietor and Managing Director, Seppeltsfield Wine, *Committee Hansard*, 24 September 2015, p. 16.

117 Accolade Wines, *Submission 26*, p. 6.

118 Department of Industry and Science, *Submission 19*, p. 10.

119 Department of Agriculture, *Submission 29*, p. 4.

120 Clare Region Winegrape Growers Association and Clare Valley Winemakers Inc, *Submission 6*, p. 2.

121 Mr Warrick Duthy, Committee Member, Clare Valley Winemakers Inc, *Committee Hansard*, 24 September 2015, p. 61.

122 Mr Paul Evans, Chief Executive Officer, WFA, *Committee Hansard*, 27 October 2015, p. 20.

imports into Australia are France, Italy, Spain and Chile.[123] Their recommendation, supported by a number of witnesses and submitters, was to:

> Abolish the separate NZ scheme because it affords NZ producers a commercial advantage over Australian and other foreign country claimants...[124]

2.61 In considering this recommendation, the committee is mindful of Australia's international obligations. At the time the rebate was extended to New Zealand producers, the Minister for Revenue and Assistant Treasurer the Hon. Mal Brough MP stated the 'measure demonstrates the close economic relationship shared by Australia and New Zealand.'[125] Under the *Australia and New Zealand Closer Economic Relations Trade Agreement of 1983* (CER), neither country may impose levies, taxes and charges to imported goods from the other country above those applying to domestic goods.[126]

2.62 Removing the rebate from New Zealand producers could be considered contrary to the objectives of the CER, including to:

> … eliminate barriers to trade between Australia and New Zealand in a gradual and progressive manner … [and] to develop trade between New Zealand and Australia under the conditions of fair competition.[127]

2.63 It could also give rise to international backlash, particularly from New Zealand and also from other WTO countries to whom Australia could be considered to have obligations under the *General Agreement on Tariffs and Trade 1994* (GATT).[128] Measures available to New Zealand to enforce Australia's obligations under the CER are consultative in nature.[129] Nevertheless, the committee is mindful that:

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123 Department of Agriculture, *Submission 29*, p. 6.

124 WFA, *Submission 41*, p. 6.

125 The Hon. Mal Brough MP, Minister for Revenue and Assistant Treasurer, Tax Laws Amendment (2005 Measures No. 4) Bill 2005 (second reading speech), *House of Representatives Hansard*, 23 June 2005, p. 17.

126 Department of Foreign Affairs, *Australia & New Zealand Closer Economic Relations Trade Agreement, and Exchange of Letters* (ATS 1983 No. 2), entry into force 1 January 1983, Article 7.2, http://dfat.gov.au/trade/agreements/anzcerta/Documents/anzcerta1.pdf (accessed 12 November 2015); WFA, *Submission 41*, Appendix E2, p. 7.

127 Department of Foreign Affairs, *Australia & New Zealand Closer Economic Relations Trade Agreement, and Exchange of Letters* (ATS 1983 No. 2), entry into force 1 January 1983, Article 1(c) and (d).

128 Signed at Marrakech, Morocco, 15 April 1994 and entered into effect on 1 January 1995.

129 Parliamentary Library, Bills Digest No. 9 2004–05, Tax Laws Amendment (Wine Producer Rebate and Other Measures) Bill 2004, 28 July 2004, p. 8.

> If New Zealand decided to take action, the consultations under the CER or the dispute resolution under the GATT may become an expensive and embarrassing exercise for Australia.[130]

Reforming the WET rebate

2.64 A large number of submitters stated that the WET rebate had strayed from its original policy intent which was to support smaller and rural and regional producers, and should be reformed.[131] Informed by the criticisms identified above, the committee in this section considers proposals to place a cap on the maximum WET rebate payable or to tighten eligibility requirements, as well as removing the rebate altogether.

Capping the rebate

2.65 The committee heard that reducing the maximum amount payable to producers as WET rebates could have the dual impact of preventing rorting, reducing the cost of the rebate and supporting smaller producers. Treasury Wine Estates and Pernod Ricard Winemakers explained that the majority of producers claim less than $100 000 per year and would arguably be equally supported by a lesser maximum rebate of $150 000.[132] Indeed, the committee heard that in 2011–2012, only 501 producers of the total 1 912 claimed more than $100 000, receiving over 20 per cent of rebate paid.[133] Treasury Wine Estates and Pernod Ricard Winemakers explained that without affecting the bulk of the industry, it would:

> …immediately impact those businesses which have structured themselves to maximise their rebate entitlement and whose production may be actively

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130 Parliamentary Library, Bills Digest No. 9 2004–05, Tax Laws Amendment (Wine Producer Rebate and Other Measures) Bill 2004, 28 July 2004, p. 13.

131 Mr Tony D'Aloisio AM, President, WFA, *Committee Hansard*, 27 October 2015, p. 14; Mr Roger Sharp, Director, Group Corporate Affairs, Treasury Wine Estates, *Committee Hansard*, 27 October 2015, p. 38; Ms Anita Poddar, Head of Corporate Affairs, Accolade Wines, *Committee Hansard*, 24 September 2015, p. 11; Professor Geoffrey Lewis, Committee Member, Clare Region Winegrape Growers Association, *Committee Hansard*, 24 September 2015, p. 62; Mr Jeremy Dineen, Chief Winemaker and General Manager, Josef Chromy Wines, *Committee Hansard*, 25 September 2015, p. 16; Mrs Virginia Tropeano, *Submission 9*, p. 4l; Wine Tasmania, *Submission 11*, pp 4, 13; Riverland Wine, *Submission 15*, p. 10; FARE, *Submission 22*, pp 5, 9, 11, 20–23; Accolade Wines, *Submission 26*, pp 3, 15;

132 Additional information from Treasury Wine Estates and Pernod Ricard Winemakers, *Using the Wine Equalisation Tax rebate to build a stronger and more profitable Australian wine industry: Submission to Discussion Paper*, received 30 September 2015, p. 3.

133 WFA, *Submission 41*, Appendix A, p. 86. No further facts on the change in the number of producers are available since the discontinuation of the ABS 1329.0 publication.

contributing to both surplus production and diminished profitability within the commercial wine segment.[134]

2.66 The WET Rebate Discussion Paper called for submissions on what a maximum new rebate could be if the cap was reduced. Suggesting that 'behavioural changes' may flow from a reduced cap, the paper acknowledges that a reduction would not entirely address the problem of 'double-dipping' or rorting, as it:

> …would not address the incentive that currently exists for large producers to structure their winemaking businesses into multiple entities. For example, for a producer who is currently claiming $300 000 per year, there would be an incentive to split its business across two entities to maintain its $300 000 yearly entitlement.[135]

2.67 The paper also considered whether the rebate could be provided as a proportion of WET paid, for example at 60 per cent, capped at a set maximum. This would reduce the amount paid to all producers who receive less than the maximum. The paper noted, however, that for a proportionate reduction of this kind 'the impact would primarily be borne by smaller producers.'[136]

Tightening eligibility for the rebate

2.68 Professor Geoffrey Lewis of the Clare Region Winegrape Growers Association told the committee that the WET rebate:

> …was not to support bulk wine production or to support New Zealand production; it was there to support rural communities and the wine industry through tourism and cellar doors and to maintain the health of the industry.[137]

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134 Additional information from Treasury Wine Estates and Pernod Ricard Winemakers, *Using the Wine Equalisation Tax rebate to build a stronger and more profitable Australian wine industry: Submission to Discussion Paper*, received 30 September 2015, p. 3.

135 Australian Government The Treasury, *Wine equalisation tax rebate: Discussion paper*, August 2015, p. 27.

136 Ibid.

137 Professor Geoffrey Lewis, Committee Member, Clare Region Winegrape Growers Association, *Committee Hansard*, 24 September 2015, p. 62.

2.69 To level the playing field, a large number of submitters and witnesses[138] supported a recommendation by WFA to:

> Remove eligibility for the WET rebate from bulk, unpackaged, unbranded [wine] and wine for the private label of retailers and from wine that is not a finished product fit for retail sale….[139]

2.70 The committee heard that changing eligibility for bulk and unbranded wine could lessen the impact of 'virtual wineries'[140] and 'traders'[141], including 'those that have arranged to access multiple rebates'. It would so by limiting their access to 'what is, in effect, subsidised fruit.'[142]

2.71 To more closely align the WET rebate to this original purpose, WFA recommended tighter conditions on eligibility.[143] WFA President Mr Tony D'Aloisio AM stated that '[c]laimants should have regional investments such as business premises, local liquor licences and they should employ people.'[144] Mr Jeremy Dineen of Josef Chromy Wines similarly argued that:

> …the rebate itself should be tied to capital invested in the wine industry, and specifically to capital invested in production assets—so vineyards

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138 Mr Chris Byrne, Executive Officer, Riverland Wine, *Committee Hansard*, 24 September 2015, p. 44; Mr Warrick Duthy, Committee Member, Clare Valley Winemakers Inc, *Committee Hansard*, 24 September 2015, p. 61; Professor Geoffrey Lewis, Committee Member, Clare Region Winegrape Growers Association, *Committee Hansard*, 24 September 2015, p. 66; Mr Stuart Bryce, *Committee Hansard*, 25 September 2015, p. 12; Mr Graeme Lynch, Chair, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, pp 21 and 25; Mr Redmond Sweeny, President, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 3; Mr Nick Power, Chief Executive Officer, Margaret River Wine Association, *Committee Hansard*, 27 October 2015, p. 25; Mr Roger Sharp, Director, Group Corporate Affairs, Treasury Wine Estates, *Committee Hansard*, 27 October 2015, p. 35; Mr John Griffiths, President, Swan Valley & Regional Winemakers Association, *Committee Hansard*, 27 October 2015, p 47; Ms Anita Poddar, Head of Corporate Affairs, Accolade Wines, *Committee Hansard*, 24 September 2015, p. 11; Mr Warren Randall, Proprietor and Managing Director, Seppeltsfield Wine, *Committee Hansard*, 24 September 2015, p. 11; South Australian Wine Industry Association Incorporated, *Submission 32*, p. 6; Mr Chris Byrne, Executive Officer, Riverland Wine, *Committee Hansard*, 24 September 2015, p. 45; Mr John Griffiths, President, Swan Valley & Regional Winemakers Association, *Committee Hansard*, 27 October 2015, p. 46.

139 WFA, *Submission 41*, Appendix D, p. 10.

140 WGGA, *Submission 30*, p. 17; Mr Tony D'Aloisio AM, President, WFA, *Committee Hansard*, 27 October 2015, p. 14; FARE, *Submission 22*, p. 18.

141 Mr Warren Randall, Proprietor and Managing Director, Seppeltsfield Wine, *Committee Hansard*, 24 September 2015, p. 11.

142 Mr Tony D'Aloisio AM, President, WFA, *Committee Hansard*, 27 October 2015, p. 14.

143 WFA, Submission 41, p. 31.

144 Mr Tony D'Aloisio AM, President, WFA, *Committee Hansard*, 27 October 2015, p. 14.

> and/or wineries. I think that then removes a large percentage of the rorting that can happen.[145]

2.72 The committee heard from WFA that based on their proposal, 'reforms on the WET rebate offer the government in excess of $200 million in savings over the forward estimates.'[146]

Removing the rebate

2.73 As well as changing the WET rebate in the short term, the committee heard support for the rebate to be phased out altogether in the longer term. For example, Treasury Wine Estates submitted 'that reforms could go further including eventual outright abolition of the WET Rebate.'[147] Their submission to the Treasury Re:think discussion paper in June 2015 included a recommendation to 'abolish the WET rebate over the longer term, and as an immediate step, implement the package of reforms to the WET Rebate proposed by the WFA.'[148]

2.74 Removing the WET rebate was also supported by Pernod Ricard Winemakers, who submitted that they have several times:

> …called for the abolition of the WET rebate. This remains our preference, as it is simpler and does not encourage wine businesses to artificially manipulate their business model to maximise their rebate. Government support for regional development and cellar door wine tourism can be provided directly to intended recipients, avoiding the present situation which sees foreign winemakers qualifying for rebates.[149]

2.75 For peak body Wine Grape Growers Australia, it was a 'democratic matter' to support broad reform of the WET rebate, because the majority of represented growers do not produce wine and are therefore not eligible for the rebate. Instead, those growers are disadvantaged by the effect that the rebate has on the price of their product:

> Ninety-two per cent of our constituency will never have the hope of being able to gear up to convert their grapes to wine—the grapes they cannot sell to wine companies—in order to get the WET rebate. So, given the degree to which the WET rebate is driving down benchmark prices, because people are trading off the sales price for the WET rebate they receive, clearly they are losers.[150]

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145 Mr Jeremy Dineen, Chief Winemaker and General Manager, Josef Chromy Wines, *Committee Hansard,* 25 September 2015, p. 16.

146 Mr Tony D'Aloisio AM, President, WFA, *Committee Hansard,* 27 October 2015, p. 14.

147 Treasury Wine Estates, *Submission 35,* p. 6.

148 Treasury Wine Estates, *Submission 35,* Attachment 1, p. 5.

149 Pernod Ricard Winemakers, *Submission 28,* p. 3.

150 Mr Lawrence Stanford, Executive Director, WGGA, *Committee Hansard,* 24 September 2015, p. 38.

2.76 Treasury Wine Estates and Pernod Ricard Winemakers stated that instead of the WET rebate, in future 'a direct grant may also provide a way of better targeting intended recipients.'[151]

Impact of reform

2.77 The committee consistently heard that any savings from WET rebate reform should be reinvested in local industry to offset the financial impact on small businesses, including growers. Treasury Wine Estates recommended that:

> …savings delivered through major reforms to the WET Rebate could be delivered to help fund such transitional support. Additionally, consideration should be given by Government to incremental reductions in the WET Rebate in order to facilitate a smooth transition.[152]

2.78 The committee heard that those who would need support include an estimated '300 independent growers who have redesigned their businesses based on the WET rebate', comprising only eight per cent of growers overall but half of those who are considered independent growers.[153] Wine Grape Growers Australia appealed 'for those grower businesses to be incorporated into a transition process so that they are not burnt in the process.'[154]

2.79 The committee heard a variety of proposals for transitional measures to support those affected by WET rebate reform. Treasury Wine Estates suggested that grants for re-training and 'exit schemes' work well if designed correctly to help 'participants exit the industry with dignity.'[155] Mr Nick Waterman from Yalumba Wine Company expressed support for measures to 'assist regional growers to redeploy the use of their land where it is not profitable for them to continue to grow grapes.'[156] WFA told the committee that they would encourage grape growers to 'redirect their bulk to the export markets'.[157]

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151 Additional information from Treasury Wine Estates and Pernod Ricard Winemakers, *Using the Wine Equalisation Tax rebate to build a stronger and more profitable Australian wine industry: Submission to Discussion Paper*, received 30 September 2015, p. 3.

152 Treasury Wine Estates, *Submission 7*, p. 7.

153 Mr Lawrence Stanford, Executive Director, WGGA, *Committee Hansard,* 24 September 2015, p. 38.

154 Mr Lawrence Stanford, Executive Director, WGGA, *Committee Hansard,* 24 September 2015, p. 38.

155 Mr Roger Sharp, Director, Group Corporate Affairs, Treasury Wine Estates, *Committee Hansard,* 27 October 2015, p. 35. See also Mr John Griffiths, President, Swan Valley & Regional Winemakers Association, *Committee Hansard,* 27 October 2015, p. 49.

156 Mr Nick Waterman, Managing Director, Yalumba Wine Company, *Committee Hansard,* 24 September 2015, p. 25.

157 Mr Tony D'Aloisio AM, President, WFA, *Committee Hansard,* 27 October 2015, p. 15.

2.80 The WFA proposal to reinvest WET rebate savings into marketing Australian wine is discussed further in Chapter 4.

Committee view

2.81 The committee has heard persuasive evidence that the WET rebate is working against the profitability of the Australian wine industry, and agrees with industry representative bodies that urgent reform is required. The bulk of witnesses and submitters agreed that the original policy intent of the rebate is no longer being realised as the rebate is paid to entities without ongoing capital in the Australian wine industry.

2.82 The committee has heard that the rebate's distorting effect is an ongoing threat to the sustainability of the grape and wine industry and to Australia's international position as a premium producer. Accordingly, the committee is of the view that widespread rorting and misapplication of the WET rebate are best addressed by a phased removal of the rebate in its entirety, while providing targeted industry assistance to those genuine recipients whose commercial viability depends on the rebate.

2.83 Considerable savings would result from phased removal of the rebate, and the committee highlights the importance of sensitive redeployment of that funding to assist growers and producers in adjusting their business models or making a transition out of the industry. At the same time, the committee urges the Government to undertake comprehensive reform of wine taxation so that the Australian industry remains competitive.

Recommendation 1

2.84 The committee recommends that the Government phase out the current Wine Equalisation Tax (WET) rebate over five years, allocating the savings to a structural adjustment assistance program for the industry including an annual grant to genuine cellar door operators to support their continued operation.

Chapter 3

Wine retail

3.1 This chapter considers the power and influence of retailers of Australian wine in domestic and export markets.

3.2 It is estimated that Woolworths and Wesfarmers collectively share just under 60 per cent of the domestic wine retail market.[1] Treasury Wine Estates provided an even higher estimate of 70 per cent in what they described as a 'virtual oligopsony among retailers'[2]—a market with a small number of buyers whose choices directly affect prices.[3] The Department of Industry and Science explained that:

> Woolworths owns the BWS and Dan Murphy's retail chains plus the Cellarmasters online outlet and the Langton's fine wine auction business. Wesfarmers owns the Liquorland, First Choice and Vintage Cellars retail chains.[4]

3.3 The committee heard that increasingly 'Costco, Metcash (Cellarbrations, IGA Liquor and Bottle-O stores), and the Aldi chain also have a significant presence in Australia's domestic retail liquor market.'[5] Accolade Wines observed the introduction of Aldi in the UK as delivering 'lower prices to consumers… funded by further reduced margins to suppliers.'[6]

3.4 Other markets are beginning to emerge as an alternative to distribution through major retailers. IBIS*World* has estimated that 6.9 per cent of sales will occur through niche downstream markets, such as direct to consumers (including cellar doors), online markets, caterers and businesses, in 2015–16.[7]

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1 IBIS*World* (Brooke Tonkin), *IBISWorld* industry report C1214: *Wine production in Australia*, July 2015, p. 7. See also Department of Industry and Science, *Submission 19*, p. 12.

2 Mr Roger Sharp, Director, Group Corporate Affairs, Treasury Wine Estates, *Committee Hansard*, 27 October 2015, p. 40. See also WineFoodTechMedia Group, *Submission 34*, p. 9.

3 Oxford University Press, *A Dictionary of Economics*, 2009, http://www.oxfordreference.com/view/10.1093/acref/9780199237043.001.0001/acref-9780199237043-e-2189 (accessed 19 November 2015).

4 Department of Industry and Science, *Submission 19*, p. 12.

5 Ibid.

6 Accolade Wines, *Submission 26*, p. 19.

7 IBIS*World* (Brooke Tonkin), *IBISWorld* industry report C1214: *Wine production in Australia*, July 2015, p. 16.

Private or own brands

3.5 Some retailers have dual roles as wholesalers and producers of wine. In particular, many submitters and witnesses discussed with concern the wine produced and sold under private or 'own brands' of key wholesalers Woolworths and Wesfarmers.[8]

3.6 The committee heard that private brands account for 'at least 16 per cent of domestic sales,'[9] and may be as high as 18 per cent[10] or 20–25 per cent.[11] By way of comparison, Wines of Western Australia estimated that private brand sales were only five per cent in 2005.[12]

3.7 The Australian Small Business Commissioner submitted that private brand development was 'likely to put further price and margin strain on growers and wine producers alike,' an issue of concern from a recent industry roundtable.[13] The Department of Industry and Science submitted that private brands further concentrate market power, explaining that:

> As in many industries where the retail market is controlled by a concentrated few businesses, producers are vulnerable to the decisions of those retailers. This is exacerbated by the fact that Woolworths and Wesfarmers now have established private brands.[14]

3.8 On the other hand, WGGA told the committee that private brands were part of the solution in an oversupplied market, as they 'provide a viable route-to-market for fruit that may not find a home in wine company brands,' which can increase commercial opportunity for some producers.[15]

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8 See, for example, Department of Industry and Science, *Submission 19*, p. 12; Mr Bruno Altin, *Submission 5*, p. 3; AGWA, *Submission 8*, p. 29; Mrs Virginia Tropeano, *Submission 9*, p. 5; Riverland Wine, *Submission 15*, p. 12.

9 Department of Industry and Science, *Submission 19*, p. 12 (Expert Report on the Profitability and Dynamics of the Australian Wine Industry, Centaurus Partners, August 2013).

10 Accolade Wines, *Submission 26*, p. 15.

11 Wines of Western Australia, *Submission 21*, p. 2.

12 Ibid.

13 See also Australian Small Business Commissioner, *Submission 23*, p. 6.

14 Department of Industry and Science, *Submission 19*, p. 12. See also Australian Small Business Commissioner, *Submission 23*, p. 6.

15 WGGA, *Submission 30*, p. 20.

Labelling

3.9 The committee heard concerns that major retailers' private brands were labelled in a way that could mislead consumers.[16] WFA Chief Executive Officer Mr Paul Evans reported that:

> Concerns are raised with me reasonably regularly that the approach to labelling of the home brands of Coles and Woolworth is to visually come very close to branded producers.[17]

3.10 Submitters and witnesses called for larger retailers to label products in a way that allows consumers to make informed choices. WFA submitted that their consultation with industry 'has highlighted strong support' for clear marking of the private brands owned by retailers. [18] This is support by the submission of WGGA that:

> Wine labelling should clearly distinguish between wine company brands and those belonging to retailers – so that wine companies can derive the benefit of promoting their value propositions and consumers can choose.[19]

3.11 Likewise, Mrs Virginia Tropeano argued that:

> Truth in labelling is an issue which needs to be addressed by government so as consumers can clearly differentiate between wine produced and marketed by an actual winery and wines which have been purchased in bulk and labelled as a brand by retailers.[20]

3.12 Treasury Wine Estates agreed with 'the need for there to be clear transparency for consumers to make informed decisions.'[21]

Recommendation 2

3.13 The committee recommends that the Government amend labelling requirements so that wine labels must declare whether wine is produced by an entity owned or controlled by a major retailer.

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16 Clare Region Winegrape Growers Association and Clare Valley Winemakers Inc, *Submission 16*, p. 6; Accolade Wines, *Submission 26*, p. 15; Mr Brett Butcher, *Submission 27*, p. 1; Dindima Wines Pty Ltd, *Submission 31*, p. 2; WineFoodTechMedia Group, *Submission 34*, p.2; WFA, *Submission 41*, p. 57; Mrs Virginia Tropeano, *Submission 9*, p. 2; Riverland Wine, *Submission 15*, p. 12.

17 Mr Paul Evans, Chief Executive Officer, WFA, *Committee Hansard*, 27 October 2015, p. 22.

18 WFA, *Submission 41*, p. 57.

19 WGGA, *Submission 30*, p. 20; Riverland Wine, *Submission 15*, p. 12.

20 Mrs Virginia Tropeano, *Submission 9*, p. 2.

21 Mr Roger Sharp, Director, Group Corporate Affairs, Treasury Wine Estates, *Committee Hansard*, 27 October 2015, p. 40.

Market share

3.14 Aside from the development of own brands, producers identify the large market share held by retailers in the wine industry as 'a major issue affecting… profitability'.[22] Barossa Wine and Grape Association reported that 'patchy' profitability for its members can be attributed to a number of factors, including 'ruthless use of market power by major retailers.' They explain that the 'concentration of retail outlets gives wine producers little bargaining power in negotiating sales.[23]

3.15 Mr Marc Allgrove told the committee that major retailers are 'offering convenience, range and price with which few can compete.'[24] Like the South Australian Wine Industry Association,[25] Mr Allgrove submitted that the opportunity to enter the retail market is limited to only a few suppliers:

> The conditions imposed by retailers chasing profits and shareholder returns have not only impacted profitability of individual operators but also limited the number of suppliers who are able to trade with them.[26]

3.16 The committee heard examples of 'unconscionable commercial practices'[27] by retailers that flow from their dominance in the industry. WFA told the committee that commercial dealings in the wine industry are operating according to unfair practices:

> The fragmentation of the wine industry and the relatively small scale of even its largest producers compared to the large wine retailers, has seen commercial agreements become commonplace that may otherwise be deemed unacceptable in other more consolidated sectors. These agreements sanction practices that are considered unfair by WFA and they may exist only because of the imbalance in power between wine retailer and wine supplier.[28]

3.17 Examples of uncommercial practices included high marketing fees, lower margins, and variable or 'retrospective' pricing. Wines of Western Australia explained that producers pay for the opportunity to be sold or promoted, which leads to the situation where:

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22 Department of Industry and Science, *Submission 19*, p. 12 (Expert Report on the Profitability and Dynamics of the Australian Wine Industry, Centaurus Partners, August 2013).

23 Barossa Wine and Grape Association and Regional Development Australia Barossa, *Submission 10*, p. 1.

24 Mr Marc Allgrove, *Submission 2*, p. 2.

25 South Australian Wine Industry Association Incorporated, *Submission 32*, p. 7.

26 Mr Marc Allgrove, *Submission 2*, p. 2.

27 Clare Region Winegrape Growers Association and Clare Valley Winemakers Inc, *Submission 16*, p. 1; Mr Warren Randall, Proprietor and Managing Director, Seppeltsfield Wine, *Committee Hansard*, 24 September 2015, p. 11.

28 Answer to question on notice, WFA, *Submission to the Review of the Competition Framework*, 10 June 2014, received 11 November 2015.

> …if you want to go into a catalogue, you are required to stump up big, big money for them to sell your product. Then on top of that, you have to give them blue sky [more than 40 per cent of gross profit] in terms of margins.[29]

Pricing concerns

3.18 Pricing of wine grapes is agreed in contracts between growers and producers, with final price set by fruit 'grade' and ultimate product line.[30] Treasury Wine Estates stated that this staged approach carries risk for both growers and producers, because:

> …there is not always an obvious quality outcome until the grapes are converted into wine, with early commitments to final pricing consequently likely to be highly speculative and given the conservative uncertainty, potentially damaging to both grape grower and wine producer.[31]

3.19 The committee heard evidence that the speculative nature of pricing gives larger retailers considerable influence when setting price and margins. Wines of Western Australia told the committee that retailers achieve higher margins by passing additional costs on to growers and producers:

> Every single administrative cost and every single possible operational cost, they try to pass on down the chain. The wineries and the growers are wearing a lot of the burden of the way that they operate their business.[32]

3.20 WGGA submitted that growers seldom profit from any cost savings, while lower prices for consumers continue to be prioritised:

> …cost savings are not likely to be realised by the grower but are instead absorbed in increased margins to the more powerful players in the value chain – or lower costs to consumers.[33]

3.21 Several submitters argued that the behaviour of retailers has contributed to the price of wine being 'too low'.[34] WFA Chief Executive Officer Mr Paul Evans told the committee that '[f]or the last six years the industry has not witnessed above-CPI retail

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29 Mr Redmond Sweeny, President, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 1.

30 WFA, *Submission 41*,

31 Treasury Wine Estates, *Submission 35*, p. 3.

32 Mr Redmond Sweeny, President, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 2.

33 WGGA, *Submission 30*, p. 16.

34 See, for example, Mr Paul Evans, Chief Executive Officer, WFA, *Committee Hansard*, 27 October 2015, p. 21; Treasury Wine Estates, *Submission 35*, p. 19; Wine Grape Council South Australia, *Submission 37*, p. 10; Riverland Wine, *Submission 15*, p. 12; WineFoodTechMedia Group, *Submission 34*, p. 9; Riverina Grape Wine Marketing Board, *Submission 33*, p. 9; WGGA, *Submission 30*, p. 17; Accolade Wines, *Submission 26*, p. 19.

pricing increases, because of the discounting behaviour in the local retailers.'[35] FARE submitted that because of 'heavy discounting':

> The price of wine has fallen by 25 per cent relative to the consumer price index (CPI) since 1980. Wine can now be purchased for just 29 cents per standard drink.[36]

3.22 WFA cited cleanskins 'advertised for prices ranging from '$3.30 to $5.90 per bottle', each containing 'roughly eight or nine standard drinks.'[37] Several submitters remarked on the fact that wine is the cheapest form of alcohol in Australia.[38]

3.23 WGGA explained that widespread discounting by retailers does not reflect the fact that Australian wine has in fact improved over the past decades:

> At the end of the day, the simplest answer to how we have undermined the perception of Australian wine is by discounting it… the fact is that quality has improved massively in the last 20 years… we continue to win awards overseas in international competitions—but the price has declined, and we continue to describe quality as price. For any grower that is massively confusing.[39]

3.24 The actions of larger retailers have flow-on effects for smaller retailers, who are unable to match heavily discounted prices. By way of example, Mr Brett Butcher of the Yarra Valley submitted that:

> We have been told by many smaller boutique bottle stores that if we do business with Coles or Woolworths we can no longer do business with them as Coles and Woolworths will demand the lowest price.[40]

3.25 As well as for growers and producers, low wine prices are a significant concern for FARE, who submitted that:

> …low alcohol prices contribute to increased consumption and harms. There is strong evidence to show that the lower the price of alcohol, the higher the levels of consumption.[41]

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35 Mr Paul Evans, Chief Executive Officer, WFA, *Committee Hansard*, 27 October 2015, p. 21.

36 FARE, *Submission 22*, p. 8.

37 Mr Paul Evans, Chief Executive Officer, WFA, *Committee Hansard*, 27 October 2015, p. 21.

38 For example, WFA, *Submission 41*, p. 15; Mr Leo Pech, *Submission 13*, p. 12; FARE, *Submission 22*, p. 8.

39 Mr Lawrence Stanford, Executive Director, WGGA, *Committee Hansard*, 24 September 2015, p. 34.

40 Mr Brett Butcher, *Submission 27*, p. 1.

41 FARE, *Submission 22*, p. 4.

Addressing the market power imbalance

3.26 The committee heard few solutions to the problem of market concentration during this inquiry. South Australian Wine Industry Association submitted that 'it is difficult to understand what government can do to assist the industry deal with this issue.'[42] Riverland Wine submitted that the wine industry's challenges 'are common with many primary producers of other crops.'[43] They argued that the structural problem of an 'oversupplied market' contributes to the retailers' 'ability to command margin at the producers' expense.'[44]

3.27 WFA submitted that 'additional regulation would improve the competition process and enable consumers to make informed choices.'[45] They recommended a Productivity Commission reference to 'conduct analysis of the domestic wine market and the impact of retail consolidation on margins and profitability for wine businesses.'[46]

3.28 The Department of Industry and Science, while discussing R&D Tax Incentive, Entrepreneurship Infrastructure Programme and Industry Growth Centres, did not discuss measures to assist industry in overcoming this particular challenge to profitability.[47]

Competition Policy Review

3.29 The committee heard from some witnesses that competition policy reform would assist in addressing the imbalance between producers and large retailers.[48] Professor Geoffrey Lewis from the Clare Region Winegrape Growers Association discussed the final report of the Competition Policy Review conducted by Professor Ian Harper, arguing that:

> We need good competition law in this country. We do not have it. Professor Harper has made recommendations…. clearly with some of them the government can act.[49]

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42 South Australian Wine Industry Association Incorporated, *Submission 32*, p. 7.

43 Riverland Wine, *Submission 15*, p. 4.

44 Riverland Wine, *Submission 15*, p. 5.

45 WFA, *Submission 41*, p. 57.

46 WFA, *Submission 41*, p. 58.

47 Department of Industry and Science, *Submission 19*, p. 12.

48 Barossa Wine and Grape Association and Regional Development Australia Barossa, *Submission 10*, p. 3; WFA, *Submission 41*, p. 58; Professor Geoffrey Lewis, Committee Member, Clare Region Winegrape Growers Association, *Committee Hansard*, 24 September 2015, p. 67.

49 Professor Geoffrey Lewis, Clare Region Winegrape Growers' Association, *Committee Hansard*, 24 September 2015, p. 67.

3.30 Likewise, WFA President Mr Tony D'Aloisio AM told the committee that the Australian Competition and Consumer Commission (ACCC) could play a greater role:

> We think there should be greater vigilance from the ACCC. A lot of the recommendations that Harper made went in that direction, and we would support those.'[50]

3.31 WFA and the South Australian Wine Industry Association both called for section 46 of the *Competition and Consumer Act 2010* to be amended to prohibit conduct by those with substantial market power that has the likely effect of lessening competition.[51] Further, WFA made the following specific recommendation about the practice of retrospective pricing:

> …that the Government's response to the Harper Review enable a determination to be made of whether retailers' demands on retrospective pricing support from suppliers, in fact constitutes a misuse of market power.[52]

Recommendation 3

3.32 The committee recommends that in responding to the Competition Policy Review's Final Report, the Government specifically consider commercial agreements between growers and producers of wine and the major retailers.

Code of conduct

3.33 The committee heard that voluntary codes of conduct govern some relationships between growers, producers and major retailers. An example is 'the Good Wine Buyer and Supplier Principles which WFA co-signed with Woolworths Liquor Group.'[53] WFA advised the principles include measures such as:

> …ensuring things like contracts are in writing, outlining proper information, issues around how negotiations are for particular promotions, disallowing unilateral changes to commercial agreements.[54]

3.34 The committee also heard that the Woolworths Liquor Group 'is changing… education and training for its staff' towards improving relationships with the wine sector.[55]

3.35 The WFA *Actions for Industry Profitability 2014–16* recommends 'closer industry ties with the national wine retailers to help grow the category domestically.'

50 Mr Tony D'Aloisio AM, President, WFA, *Committee Hansard,* 27 October 2015, p. 22.

51 South Australian Wine Industry Association, *Submission 32,* p. 10; WFA, *Submission 41*, p. 57.

52 WFA, *Submission 41*, p. 57.

53 Mr Tony D'Aloisio AM, President, WFA, *Committee Hansard,* 27 October 2015, p. 14.

54 Mr Tony D'Aloisio AM, President, WFA, *Committee Hansard,* 27 October 2015, p. 3.

55 Mr Tony D'Aloisio AM, President, WFA, *Committee Hansard,* 27 October 2015, p. 14.

As one of the 43 actions listed as a 'blueprint to lift the profitability of Australian wine businesses,' WFA stated that to 'maximise open and fair domestic competition':

> WFA will work with the national wine retailers and competition regulator on fairness, transparency and equity in the domestic wine market. The outcome will be a more sustainable domestic marketplace for industry where companies can grow share through quality, innovation and investment.[56]

3.36 WFA reported that retailers have 'responded positively' to a proposal to collaborate on shared issues through a standing industry working group, including to 'progress discussions over a set of agreed principles and practices'.[57]

3.37 Despite this, Clare Region Winegrape Growers Association and Clare Valley Winemakers submitted that actions taken so far have had little effect on price or culture, explaining:

> There are already government initiatives underway to address claims of unconscionable conduct by the two main players: Woolworths and Coles, and to put a regulatory framework in place such as the Food and Grocery Industry Code of Conduct to protect smaller suppliers. However, there appears to have been little impact on the behaviour of the major retailers, and certainly no discernible improvement in wine prices.'[58]

3.38 The committee encourages increased collaboration between the wine and retail sectors, including through the proposed industry working group.

Delivery

3.39 The committee heard evidence that selling directly to consumers is 'the most effective and profitable strategy' to increase the market share of smaller producers.[59] Selling direct from rural and regional settings comes with challenges, however, including the inbuilt cost and unreliability of delivery. This was illustrated by Ms Robyn Lewis from WineFoodTechMedia Group, based in Tasmania, who stated that:

> One of the big problems is the price and difficulty of getting wine sent direct—and Australia Post is one of the leading providers. [60]

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56 Additional information from WFA, *Actions for Industry Profitability 2014–16*, received 19 May 2015, p. 6.

57 Additional information from WFA, *Actions for Industry Profitability 2014–16*, received 19 May 2015, p. 27.

58 Clare Region Winegrape Growers Association and Clare Valley Winemakers Inc, *Submission 16*, p. 6.

59 Ibid.

60 Ms Robyn Lewis, Chief Executive Officer, WineFoodTechMedia Group, *Committee Hansard*, 25 September 2015, p.5.

3.40 Ms Lewis described the 'near monopoly' of Australia Post on freighting wine from small producers and the 'fundamental problem… that they cannot guarantee delivery'. [61]

3.41 As a partial remedy to this problem, Wine Tasmania advised that they have been working with Australia Post:

> …on an arrangement whereby the combined delivery quantity of all members of Wine Tasmania is taken into account to provide a subsidised rate for everyone to access.'[62]

3.42 Despite their efforts, Wine Tasmania reported 'it has been difficult for us to get some sort of outcome'.[63]

3.43 In a different jurisdiction, Wines of Western Australia advised that they 'have an industry agreement with Australia Post' including negotiated rates.[64]

3.44 To facilitate certain wine export sales, Margaret River Wine Association reported that Australia Post will establish a pilot distribution arrangement with Chinese e-commerce company the Alibaba Group (Alibaba.com) which will simplify exports from the region to China. The committee heard that, if successful in Margaret River, the arrangement could be rolled out from 'another 10 to 12 Australian fine wine regions' and to Japan and South Korea. Chief Executive Officer Mr Nick Power explained that:

> What that will mean for the Australian fine wine regions—with Margaret River being the pilot—is that a consumer in China will be able to directly order wine from a cellar door in Margaret River… You have an Australian story there that is just going to build, not only for Margaret River, but also for the whole Australian wine industry.[65]

3.45 Wine Tasmania called for 'support to help producers to claim from and comply with' the Tasmanian Freight Equalisation Scheme, [66] including 'education and

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61 Ms Robyn Lewis, Chief Executive Officer, WineFoodTechMedia Group, *Committee Hansard,* 25 September 2015, p. 5.

62 Ms Sheralee Davies, Chief Executive Officer, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 27.

63 Ibid.

64 Mr Larry Jorgensen, Chief Executive Officer, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 10.

65 Mr Nick Power, Chief Executive Officer, Margaret River Wine Association, *Committee Hansard*, 27 October 2015, p. 30.

66 Wine Tasmania, *Submission 11*, p. 10; Department of Human Services, *Tasmanian Freight Equalisation Scheme,* http://www.humanservices.gov.au/business/services/centrelink/tasmanian-freight-equalisation-scheme/ (accessed 4 November 2015).

some online tools.'[67] The committee heard that 'some producers are choosing not to claim back against the freight equalisation scheme because of the compliance and the paperwork involved.' Other producers engage providers who 'do all that paperwork for you', charging rates of up to 40 per cent of the subsidy.[68] Wine Tasmania suggested that the compliance program would be better located elsewhere than Centrelink.[69]

Recommendation 4

3.46 The committee recommends Australia Post review its approach to wine delivery in each Australian state and territory with a view to developing harmonised agreements across Australia.

Responsible Service of Alcohol qualifications

3.47 The committee heard that differences in liquor licensing laws between states and territories create a financial and administrative burden for wine producers. Because state-based responsible service of alcohol qualifications are not universally recognised, those who travel interstate to promote their wine are required to acquire 'four or five different responsible service of alcohol accreditations.'[70] In some cases, this requires additional travel to complete locally-based courses.

3.48 Mutual recognition of qualifications is available between Victoria and South Australia. The South Australian Wine Industry Association stated that:

> The Victorian licensing authority is now willing to recognise South Australian responsible service of alcohol qualifications when undertaking tasting events in Victoria, which allows some cost savings for South Australian wine businesses, not having to undertake a Victorian course or to update their qualification prior to visiting that market.[71]

3.49 The committee supports a collaborative, national approach to marketing Australia wine, and notes WFA's recommendation to:

> Develop either a single national RSA accreditation scheme or provide for mutual recognition of existing state qualifications, between all of the states and territories, to facilitate wines reaching new domestic consumers.

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67 Ms Sheralee Davies, Chief Executive Officer, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 28.

68 Ibid.

69 Ibid.

70 Mr Jeremy Dineen, Chief Winemaker and General Manager, Josef Chromy Wines, *Committee Hansard*, 25 September 2015, p. 16.

71 Mr Brian Smedley, Chief Executive, South Australian Wine Industry Association, *Committee Hansard*, 24 September 2015, p. 54.

3.50 In particular, the committee is of the view that industry would benefit from responsible service of alcohol qualifications being mutually recognised between Australian states and territories.

Recommendation 5

3.51 The committee recommends that the Commonwealth Government, through the Council of Australian Governments (COAG), work with states and territories to establish mutual recognition arrangements for responsible service of alcohol qualifications.

Chapter 4

The role of AGWA and the export market

4.1 This chapter considers the role of the Australian Grape and Wine Authority (AGWA) and the importance of research and development and data collection for the wine industry. In considering the role of AGWA in promoting Australian wine in the export market, the committee was struck by the small amount that Australia spends compared with other countries.

Australian Grape and Wine Authority (AGWA)

4.2 The wine industry is served at the national level by AGWA, known as Wine Australia. AGWA was created by legislation on 1 July 2014, merging the Grape and Wine Research and Development Corporation and the Wine Australia Corporation.[1] The merger followed a formal submission from WFA and WGGA calling for a 'unified whole-of-industry strategy.'[2]

4.3 AGWA is a body corporate with perpetual succession, with six to eight appointed directors including a Chair. AGWA is required to produce an annual report and hold an annual general meeting of the grape and wine industry.[3] Its first five year strategic plan was released in July 2015, based on industry consultation and submissions.[4] In the Strategic Plan 2015–2020, AGWA forecasts projected income of between $36.4 and 36.6 million per year over the forward estimates.[5]

4.4 AGWA funds research and development (R&D) activities for the wine industry and maintains a register of Australian wine exports. Executive Officer Mr Andreas Clark told the committee AGWA has had successes during its first 15 months of operation, stating:

> …we realised operational savings of about $1 million; we have invested in a range of new projects to quickly deliver value for the wine community… we have increased our in-market engagement with events in UK, Europe,

1 The Wine Australia Corporation was formerly the Australian Wine and Brandy Corporation.

2 Explanatory memorandum to the Grape and Wine Legislation amendment (Australian Grape and Wine Authority) Bill 2013, Primary Industries (Customs) Charges Amendment (Australian Grape and Wine Authority) Bill 2013 and Primary Industries (Excise) Levies Amendment (Australian Grape and Wine Authority) Bill 2013, pp 1–2.

3 *Australian Grape and Wine Authority Act 2013*, Parts IV and IVB.

4 AGWA, *Submission 8*, p. 7.

5 AGWA, *Strategic Plan 2015–2020*, https://www.wineaustralia.com/en/About%20Us/~/media/AGWA%20Strategic%20Plan%202015-2020.ashx, accessed 25 November 2015, p. 25.

> US, Japan, Canada, South Korea, India, Mexico, Germany, Poland, Taiwan, Hong Kong, Macau, Malaysia, Singapore and Denmark.[6]

Levy collection

4.5 AGWA collects three levies under the *Primary Industries Levies and Charges Collection Act 1991* —the grape research levy from growers and the wine grapes levy and wine export charge from winemakers.[7] Industry levies amounted to $17.2 million in 2012–13, including $11.6 million of wine grape levies, $3.4 million of research levies and $2.2 million of export charges.[8] The Government matches the amount collected in research levies and on the promotion component of the wine grapes levy.[9]

4.6 In addition to levy-based income, AGWA funds its regulatory activities on a cost-recovery basis, charging licence application and renewal fees to become a levy payer or exporter and product registration, export certificate and shipping fees. It conducts 'user-pays' activities including market entry programs, retail promotions and master classes.[10]

4.7 Submitters including AGWA discussed the high administrative cost of levy collection.[11] AGWA stated that collection costs are more than $700 000 per annum, even after a recent change to the collection of the wine export charge. From 1 September 2015, AGWA will collect the export charge alongside the wine grape and grape research levies, where the Department of Agriculture previously collected the charge. It was estimated that this will save $500 000 to $600 000 per annum.[12]

4.8 AGWA submitted that it has 'ongoing discussions with the Department' about reducing levy collection costs and that recent initiatives have already achieved $515 0000 in savings, including:

> …the removal of nil returns, better use of electronic returns, an awareness and education program for levy payers, and the introduction of a better-targeted compliance method.[13]

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6 Mr Andreas Clark, Executive Officer, AGWA, *Committee Hansard*, 24 September 2015, p. 2.

7 Department of Agriculture, *Submission 29*, p. 8.

8 WFA, *Submission 41*, p. 49–50.

9 WFA, *Submission 41*, p. 49.

10 AGWA, *Submission 8*, p. 10; AGWA, *Strategic Plan 2015–2020*, https://www.wineaustralia.com/en/About%20Us/~/media/AGWA%20Strategic%20Plan%202015-2020.ashx, accessed 25 November 2015, p. 25.

11 WGGA, *Submission 30*, p. 19; Accolade Wines, *Submission 26*, p. 18; Clare Region Winegrape Growers Association and Clare Valley Winemakers Inc, *Submission 16*, p. 7; Riverland Wine, *Submission 15*, p. 12; Accolade Wines, *Submission 26*, p. 18.

12 AGWA, *Submission 8*, pp 21–22.

13 AGWA, *Submission 8*, p. 21.

4.9 AGWA attributed remaining costs to the 'large number of collection points (processing facilities or wineries)', and has not 'identified any other opportunities to reduce levy collection costs' without amendment 'to dramatically reduce the number.'[14]

4.10 It was AGWA's submission that 'peak representative bodies should consider whether the levy structure is optimal'.[15] AGWA submitted that its levies must be 'spent for the purpose for which they were raised' which 'restricts our ability to respond as needed to demand and to deliver appropriate activities.'[16]

4.11 Some witnesses called for review of wine levy collection,[17] including on the grounds that it imposes an 'unfair burden' on some industry participants. It was submitted that growers from warm inland regions should not pay the same as those from cool climate regions who receive higher prices for their grapes.[18] On the other hand, the committee heard that those in cool climate regions 'believe the inequity is not so great' due to their higher production costs and risk of crop reduction.[19]

Structure of AGWA

4.12 The committee heard limited discussion of a proposal to 'privatise' AGWA, convert it into an industry body or delegate its functions to representative organisations.[20] AGWA told the committee the statutory model is not a natural fit, as:

> …there are a range of obligations placed upon us which work for a public service organisation but are more difficult to apply to an organisation such as ours, which is quite small and which has a global operation as well.[21]

4.13 It was the view of Wine Tasmania that an industry-owned model may enhance engagement and the strategic use of levies, explaining that:

> …with a statutory body managing that, the representatives on that body and perhaps the particular interests of that body may not really reflect fully what the industry needs.[22]

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14 AGWA, *Submission 8*, p. 23.

15 AGWA, *Submission 8*, p. 5.

16 AGWA, *Submission 8*, p. 5.

17 WGGA, *Submission 30*, p. 19; Ms Virginia Tropeano, *Submission 9*, p. 4; Riverland Wine, *Submission 15*, p. 2; WGGA, *Submission 30*, p. 19; Riverina Wine Grapes Marketing Board, *Submission 33*, p. 13.

18 Ms Virginia Tropeano, *Submission 9*, p. 4.

19 Wine Grape Council of South Australia, *Submission 37*, p. 7.

20 WGGA, *Submission 30*, p. 19; Riverland Wine, *Submission 15*, p. 12.

21 Mr Andreas Clark, Executive Officer, AGWA, *Committee Hansard*, 24 September 2015, p. 4.

4.14 These views were balanced by support for maintaining AGWA as a statutory authority, provide it is well-resourced. WFA President Mr Tony D'Alosio AM told the committee:

> Australian Grape and Wine Authority is an important part of the wine industry... We think it is right to have that. We think the policies and plans they have announced are correct and they do deliver. There have been good examples of good programs that they can run. Our assessment is that they need money and support.[23]

4.15 AGWA acknowledged that the statutory model allows for integration of its regulatory functions, and queried whether these could be performed within an 'industry-owned corporation.'[24]

Committee view

4.16 Noting its recent establishment, the committee does not consider that AGWA should be restructured at this stage. The committee encourages industry to contribute to the development of future strategic and operational plans for AGWA so that any future representative and levy collection structure operates efficiently and is responsive to industry needs.

Research and development (R&D)

4.17 The committee heard strong support for the government to continue matching the research levy, currently paid by growers at $2 per tonne of grapes crushed, as well as the R&D component of the wine grapes levy which is paid by growers at a portion of $5 per tonne.[25] AGWA estimated it would receive $11.5 million in R&D levy funds before the government's contribution is added.[26]

4.18 AGWA explained that its R&D strategy spans short and long term projects and targets both growing and winemaking activities. They described their:

> …supply-chain approach to RD&E investments… aimed at increasing the sector’s long-term profitability and sustainability, which has benefits for all levy payers and the wider community. Our investments range from both short and long term applied R&D to blue-sky research where success is less assured.[27]

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22 Mr Graeme Lynch, Chair, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 26. See also Ms Sheralee Davies, Chief Executive Officer, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 26.

23 Mr Tony D'Aloisio AM, President, WFA, *Committee Hansard*, 27 October 2015, p. 20. See also Wine Tasmania, *Submission 11*, p. 13.

24 Mr Andreas Clark, Executive Officer, AGWA, *Committee Hansard*, 24 September 2015, p. 4.

25 WFA, *Submission 41*, p. 17.

26 Department of Agriculture, *Submission 29*, p. 8.

27 AGWA, *Submission 8*, p. 12.

4.19 AGWA uses its R&D budget to commission work from research providers including Australian Wine Research Institute, Commonwealth Scientific and Industrial Research Organisation and the National Wine and Grape Industry Centre.[28] The work of the Australian Wine Research Institute was praised by some witnesses.[29] For example, Mr Jeremy Dineen of Josef Chromy Wines told the committee that the quality of the Institute's work 'has been one of the single biggest factors in our competitive and technical advantage' for over 50 years.[30]

4.20 AGWA R&D activities supplement those available to winemakers directly under the R&D Tax Incentive. In 2012–13, the tax incentive was distributed to 29 winemaking companies to provide for a total of $29 million of R&D expenditure.[31] The Department of Industry submitted that industry is able to access further 'largely untapped' new programmes that 'offer a number of mechanisms to the industry to support its efforts to tackle some of the issues it faces.'[32]

4.21 The committee heard examples of R&D being undertaken to grow wine industry profitability. Wine Tasmania told the committee that it uses R&D funding to plan for and anticipate future growth, stating:

> …our partnerships with the department of primary industries in Tasmania, the university and TIA—the Tasmanian Institute of Agriculture—are to do some more research into how we look at evening out and improving better predictability of yields and better yields, determining what is the right space to yield.[33]

4.22 Likewise, Ms Victoria Angove of Angove Family Winemakers told the committee that R&D prepares wine businesses for future challenges, noting that:

> …climate change is an issue for every agricultural business… it highlights the importance of research and development and what we can do to ensure that our agricultural crops, including the vineyards, are best suited to deal with the challenges of climate change.[34]

4.23 Given its significance to future business planning, the committee heard that industry would not support 'a redistribution of levy funding to marketing at the

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28 AGWA, *Submission 8*, p. 8.

29 For example, Australian Small Business Commissioner, *Submission 23*, p. 7.

30 Mr Jeremy Dineen, Chief Winemaker and General Manager, Josef Chromy Wines, *Committee Hansard*, 25 September 2015, p. 16.

31 Department of Industry and Science, *Submission 19*, p. 27.

32 Department of Industry and Science, *Submission 19*, p. 3.

33 Mr Graeme Lynch, Chair, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 23.

34 Ms Victoria Angove, Director, Angove Family Winemakers, *Committee Hansard*, 24 September 2015, p. 25.

expense of R&D'.[35] The importance of future-focussed R&D is a theme of WFA's 'roadmap for recovery' document *Actions for Industry Profitability 2014–16*. Consultations undertaken by WFA had:

> …highlighted the important role of innovation and increased productivity for the Australian wine sector given the on-going challenges it faces particularly as a high-cost producer.[36]

4.24 Further, WFA submitted that industry participants should have a voice in the allocation of R&D funding:

> It is important that industry play a role in setting AGWA's R&D priorities and that these priorities are used to guide the expenditure of Government-matched industry levies.[37]

Committee view

4.25 The committee notes the significance of R&D and data collection in fostering intelligent business practices in the wine industry. In particular, the committee has heard evidence that future-focussed R&D will be integral to industry recovery from oversupply. The committee encourages AGWA to consult widely with industry in order to invest in targeted R&D in both warm and cool climate regions, with a particular focus on growing the business of smaller growers and producers.

Recommendation 6

4.26 The committee recommends that Government continue to match the grape research levy and wine grapes levy income collected by the Australian Grape and Wine Authority.

Data collection

4.27 The committee heard that there is currently a 'data void'[38] or 'data intelligence gap' in the grape and wine industry.[39] Better access to improved data was a priority for witnesses and submitters.[40] AGWA Executive Officer Mr Andreas Clark argued that better information leads to better commercial decision-making, stating:

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35 WFA, *Submission 41*, p. 52.

36 WFA, *Submission 41*, Appendix 40, p. 17.

37 WFA, *Submission 41*, p. 49.

38 WineFoodTechMedia Group, *Submission 34*, p. 3.

39 Australian Small Business Commissioner, *Submission 23*, p . 6.

40 Ms Anita Poddar, Head of Corporate Affairs, Accolade Wines, *Committee Hansard*, 24 September 2015, p. 11; Wines of Western Australia, *Submission 21*, pp 7–9; Australian Small Business Commissioner, *Submission 23*, p . 6; Accolade Wines, *Submission 26*, p. 20; WGGA, *Submission 30*, pp 11–12; WineFoodTechMedia Group, *Submission 34*, pp 2–4; South Australian Government, *Submission 36*, p. 4; WFA, *Submission 41*, p. 9.

> We fundamentally believe that the industry needs comprehensive information and insights into a range of data—whether it is production that is supply based or demand based—to make informed decisions. We believe there are significant gaps at the moment in that information base.[41]

4.28 Commercial arrangements between growers and winemakers would be simplified if data collection improved, the committee heard. WFA submitted that:

> … the provision of better information relating to supply and demand throughout the season would assist growers make better business decisions and remove the need for indicative pricing. Such information would best be provided by the Australian Wine and Grape Authority and/or a well-respected and independent research organisation such as ABARES.[42]

4.29 The committee heard evidence in favour of industry-owned data collection by AGWA.[43] AGWA has requested mandatory collection powers to assist in the development of 'an industry-owned national grape and wine database'.[44] They aim to improve the quality of data while at the same time reducing the burden of data collection on industry.[45] WGGA submitted in support of this function, stating:

> AGWA needs to be granted the legislative authority to make the provision of data by individual operators mandatory combined with the necessary assurances of comprehensive privacy and confidentiality.[46]

4.30 Wine industry data collection to date has been conducted primarily by the Australian Bureau of Statistics (ABS). The committee notes the continued intention of ABS to continue its 'legislated statistical leadership role'.[47] ABS submitted that 'there are sources of data which are not being used to their statistical potential,' for example, 'administrative records obtained through the process of collecting levies.'[48] They also noted that satellite or drone imagery and associated analytical tools can assess vineyard health and growth potential, including identifying regional trends.[49]

4.31 ABS data collection has reduced since 2012–13 alongside 'a shift to becoming a user-pays organisation.'[50] ABS submitted that their last Vineyards Census was

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41 Mr Andreas Clark, Executive Officer, AGWA, *Committee Hansard*, 24 September 2015, p. 2.

42 WFA, *Submission 41*, p. 61.

43 WGGA, *Submission 30*, p. 12.

44 Mr Andreas Clark, Executive Officer, AGWA, *Committee Hansard*, 24 September 2015, p. 3.

45 Ibid.

46 WGGA, *Submission 30*, p. 12. See also South Australian Wine Industry Association, *Submission 32*, p. 7.

47 ABS, *Submission 24*, p. 5.

48 Ibid.

49 ABS, *Submission 24*, pp 5–6.

50 Australian Small Business Commissioner, *Submission 23*, p. 6.

conducted in 2012–13.[51] Their website stated the census is now biennial and AGWA will fund the 2015 and 2017 iterations.[52] The Australia Small Business Commissioner considered the reduction 'had an effect on individuals being able to make informed business practice decisions.'[53]

Committee view

4.32 The committee acknowledges the need for a return to a reliable, annual source of industry data, and encourages Government to ensure this is appropriately funded.

4.33 The committee has not heard significant evidence to justify providing AGWA with powers and funding to collect wine industry data when the ABS has historically performed this function to a high standard. Rather, the committee encourages ongoing consultation between Government and industry to ensure data collection is prioritised.

Recommendation 7

4.34 The committee recommends that Government give further consideration to the roles of the Australian Grape and Wine Authority and the Australian Bureau of Statistics in wine industry data collection.

Recommendation 8

4.35 The committee recommends that funding be allocated so that the production of the Vineyards Census is resumed on an annual basis.

Export market

4.36 Exports account for approximately a third of sales of Australian wine. In 2014–15, the export market generated $1.85 billion.[54] Wine exports make a further indirect contribution to tourism revenue and national pride, as WFA submitted:

> Wine is a truly value-added Australian Export. No other commodity carries its Australian heritage in quite the same way as a bottle of wine. Australians are rightly proud of their wine industry and how it has managed to take on the Old World and produce wines of exceptional quality across all price points.[55]

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51 ABS, *Submission 24*, p. 5.

52 ABS, *Vineyards*, http://www.abs.gov.au/ausstats/abs@.nsf/products/AB1EF401A9A4CA51CA2570F30010359A?OpenDocument (accessed 26 November 2015).

53 Australian Small Business Commissioner, *Submission 23*, p. 6.

54 AGWA, *Wine Export Approval Report March 2015*, May 2015.

55 WFA, *Submission 41*, p. 62.

4.37 Australia's main export markets are the United States, the United Kingdom, China and Canada.[56] WFA reported that Australia saw a rise of 3.6 per cent in volume and 3.9 per cent in value for the year ending March 2015.[57] Of Australia's approximately 2573 winemakers, the three largest, Accolade, Pernod Ricard Australia and Treasury Wine Estate, account for the majority of wine exports.[58]

4.38 Despite recent pessimism, there are 'positive signs of recovery' for Australia's export market.[59] Wine Australia's *Export Report September 2015* reported 'the strongest rate of growth since export value peaked in October 2007' in the 12 months to 30 September 2015 after the value of wine exports rose 8 per cent to $1.96 billion.[60] WFA submitted that the favourable exchange rate, free trade agreements and renewed interest from North America all augur well for Australia wine exports.[61]

4.39 Australia is the fifth largest wine exporter by volume in the world, but in some markets including the USA we rank as low as tenth in average value.[62] Mr Warren Randall from Seppeltsfield Wine recalled that Australia has recently fallen behind Chile as a leading wine exporter.[63] WGGA attributes the drop to quantity rather than quality, telling the committee that:

> Brand Australia was flavour of the month during the 1990s. We saw massive interest from the United Kingdom, the United States—it was front and centre of the consumer's perception in those places. But I believe that the industry in general probably focused too much on volume development and not enough on quality development.[64]

4.40 The relatively low value of Australian wines overseas may be influenced by our modest international marketing spend. The committee heard that Australia invests considerably less than many European nations in wine promotion, which puts our

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56 IBIS*World* (Brooke Tonkin), *IBISWorld* industry report C1214: *Wine production in Australia*, July 2015, p. 17.

57 WFA, *Submission 41*, p. 8.

58 Anderson, K., *Growth and cycles in Australia's wine industry: A statistical compendium, 1843 to 2013*, University of Adelaide, February 2015, 'Executive summary', p. xxxvii.

59 AGWA, *Submission 8*, p. 27.

60 Wine Australia, *Australian wine export value sees strongest growth since 2007*, 16 October 2015, http://www.winecompanion.com.au/news/news-articles/2015/october/australian-wine-export-value-sees-strongest-growth-since-2007 (accessed 29 October 2015).

61 WFA, *Submission 41*, p. 7. See also Adam Gartrell, 'Free trade deals fuel hopes of a new wine export boom', *Sydney Morning Herald*, 11 October 2015, http://www.smh.com.au/federal-politics/political-news/free-trade-deals-fuel-hopes-of-a-new-wine-export-boom-20151009-gk57l8.html (accessed 29 October 2015).

62 AGWA, *Submission 8*, p. 28.

63 Mr Warren Randall, Proprietor and Managing Director, Seppeltsfield Wine, *Committee Hansard*, 24 September 2015, p. 12.

64 Mr Victor Patrick, Chairman, WGGA, *Committee Hansard*, 24 September 2015, p. 33.

industry at a commercial disadvantage, including at home. AGWA received approximately 1 per cent of Italy's wine marketing budget in additional funding from between 2009 to 2013, as AGWA reported:

> Over the period 2009 to 2013 Wine Australia received $2.1 million. That was additional support for marketing activities over and above the industry revenue from levies or user-pay charges. That was equivalent to about 1.4 million euros. Over the same period of time Italy received 189 million euros; France, 141 million euros; Spain, 117 million euros; and Portugal 38 million euros.[65]

4.41 The extent to which Australia's wine regions have capitalised on export opportunities varies. The University of Adelaide reports that 'South Australian wineries have always been the most export focused', processing approximately 70 per cent of Australia's total export volume.[66] In Western Australia, 2005 was the 'key turnaround point' for export growth which peaked at 30 per cent. The committee heard the Western Australian exports are now 'down to 15' per cent.[67]

AGWA's role in exports

4.42 AGWA plays a central role in the Australian wine export market. Since its commencement in July 2014, AGWA has issued export licences and permits to exporters, maintaining the register of protected geographical indicators and advising local producers on international wine composition and labelling requirements.[68]

4.43 AGWA estimated that it would receive $5.7 million in 2015–16 from the Wine Export Charge and the promotion component of the wine grapes levy. This amounts to approximately 15 per cent of AGWA's income.[69] They submitted that:

> With this market development funding we will maintain our market development staff in Australia, the United Kingdom, North America and China, and conduct around 70 core market development activities.[70]

4.44 AGWA submitted that its market development staff 'provide knowledge, insights and assistance' to producers looking to explore and develop export markets.[71]

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65 Mr Andreas Clark, Executive Officer, AGWA, *Committee Hansard*, 24 September 2015, p. 4.

66 Professor Kym Anderson AC, *Growth and cycles in Australia's wine industry: A statistical compendium, 1843 to 2013*, University of Adelaide, p. XLV.

67 Mr Redmond Sweeny, President, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 3.

68 Department of Agriculture, *Submission 29*, p. 7.

69 AGWA, *Strategic Plan 2015–2020*, https://www.wineaustralia.com/en/About%20Us/~/media/AGWA%20Strategic%20Plan%202015-2020.ashx (accessed 25 November 2015), p. 8.

70 AGWA, *Submission 8*, p. 10.

71 AGWA, *Submission 8*, p. 10.

4.45 Clare Valley representatives proposed that 'AGWA's role should be one of oversight to ensure that funding allocated is spent on relevant, appropriate activities that are likely to be effective.'[72]

Export Market Development grants

4.46 Separate from funding administered by AGWA, the committee heard that some wine businesses benefit from the overseas marketing support provided by the Export Market Development Grants (EMDG) scheme.[73] The scheme was described to the committee as 'generous and relatively easy to qualify for', noting that it is open to a wide range of businesses, not just the grape and wine industry.[74]

4.47 The EMDG scheme reimburses small and medium businesses for up to half of the cost of 'eligible export promotion over $15 000.'[75] The Government's commitment to EMDG grants peaked in 2009–10 at 4 675 recipients and payments of $198.1 million. They fell to $116.1 million and 2 445 recipients in 2013–14.[76]

4.48 The results of a review of the EMDG scheme were tabled on 19 August 2015, finding that the grants are 'integral to the success of Australia's international businesses' and recommending a progressive increase to the scheme's budget allocation.[77] Austrade received $137.9 million for the EMDG scheme for 2015–16, and it was recommended that this be increased over the next three years to $175 million in grants to 4 000 claimants, including additional administered funding.[78]

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72 Clare Region Winegrape Growers Association and Clare Valley Winemakers Inc, *Submission 16*, p. 7.

73 Mr Jeremy Dineen, Chief Winemaker and General Manager, Josef Chromy Wines, *Committee Hansard*, 25 September 2015, p. 17; Mr Roger Andrew Sharp, Director, Group Corporate Affairs, Treasury Wine Estates, *Committee Hansard*, 27 October 2015, p. 34; Mr Graeme Lynch, Chair, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 24.

74 Clare Region Winegrape Growers Association and Clare Valley Winemakers Inc, *Submission 16*, p. 7.

75 Department of Industry and Science, *Submission 19*, p. 21.

76 Austrade, *Annual Report 2014–15*, p. 14.

77 The Hon Andrew Robb AO MP, 'Export grants vital to Australia's trade, jobs and growth', Media release, 20 August 2015.

78 Austrade, *Certainty and confidence—exports and jobs for a changing global economy: Review of the Export Market Development Grants scheme*, 30 June 2015 (tabled 19 August 2015), http://www.austrade.gov.au/Export/Export-Grants/review (accessed 26 November 2015).

4.49 In addition to the EMDG scheme, witnesses argued that the wine industry would benefit from 'more direct, targeted marketing support' for individual producers.[79] WFA explained that EMDG does not support ongoing activity, as:

> People can only make so many applications and then they run out. There is an opportunity to refresh that and allow them to make the applications as well as looking at increasing that grant.[80]

Marketing Australian wine

4.50 The necessity of repositioning Australian wine in the global marketplace was commented on by several witnesses and submitters.[81] WFA submitted that 'structural reform and an impactful, strategic marketing effort' are required to restore Australia's 'reputation as a producer of quality and premium wines.'[82] In the absence of such reform, WFA warned that the industry 'risks loss of global competitiveness.'[83]

4.51 Most witnesses and submitters were in support of AGWA receiving additional funding to market Australian wine overseas.[84] WFA Chief Executive Officer Mr Paul Evans explained that the system of funding marketing only based on levy collection has a structural flaw, explaining that:

> …the way our marketing spend is currently funded is a levy on exports. Of course that puts you in a bind: when your exports are at their lowest the levy from the exporters is also at its lowest, so you cannot dig yourself out of the hole.[85]

4.52 As noted above, Australia's additional marketing spend is a fraction of that spent by European competitor nations. To put AGWA's funding into perspective,

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79 Clare Region Winegrape Growers Association and Clare Valley Winemakers Inc, *Submission 16*, p. 7. See also Mr Tony D'Aloisio AM, President, WFA, *Committee Hansard,* 27 October 2015, p. 14; Mr Roger Andrew Sharp, Director, Group Corporate Affairs, Treasury Wine Estates, *Committee Hansard*, 27 October 2015, p. 34.

80 Mr Tony D'Aloisio AM, President, WFA, *Committee Hansard,* 27 October 2015, p. 14;

81 AGWA, *Submission 8*, p. 4; Treasury Wine Estates, *Submission* 35, p. 3; Mr Graeme Lynch, Chair, Wine Industry Tasmania Ltd, *Committee Hansard,* 25 September 2015, p. 25; Ms Victoria Angove, Director, Angove Family Winemakers, , *Committee Hansard,* 24 September 2015, p. 19; Mr Larry Jorgenson, Chief Executive Officer, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 11; Mr Warrick Duthy, Committee Member, Clare Valley Winemakers Inc, *Committee Hansard,* 24 September 2015, p. 63

82 WFA, *Submission 41*, p. 7.

83 WFA, *Submission 41*, p. 7.

84 WFA, *Submission 41*, p. 53; Treasury Wine Estates, *Submission 35,* p. 8;Wines of Western Australia, *Submission 21*, p. 6; Mr Graeme Lynch, Chair, Wine Industry Tasmania Ltd, *Committee Hansard,* 25 September 2015, p. 26; Riverland Wine, *Submission 15,* p. 7.

85 Mr Paul Evans, Chief Executive Officer, WFA, *Committee Hansard,* 27 October 2015, p. 19. See also Mr John Griffiths, President, Swan Valley & Regional Winemakers Association, *Committee Hansard*, 27 October 2015, p. 46.

winemaker Treasury Wine Estates submitted that its private marketing activity eclipses the combined AGWA spend on R&D, regulatory and marketing activity.[86]

4.53 As well as requesting an increase in funding, witnesses and submitters sought more input into AGWA's marketing spend.[87] The committee heard that a 'combination' or 'twofold' approach is necessary, supporting both national and region-specific marketing.[88]

4.54 Wines of Western Australia submitted that 'the user pays system remains unpopular and creates disunity as it is perceived to cater to large companies only.'[89] They suggested that levies themselves could be more equitably distributed.[90] Clare Valley representatives called for more targeted levy-based funding specific to their region, and more inclusive marketing activities by AGWA, because:

> Despite paying a levy… smaller producers arguably receive very little net benefit from either the overall “brand Australia” marketing initiatives or the user-pays activities that they cannot afford.[91]

4.55 Differently, Treasury Wine Estates argued that given its limited resources, 'AGWA should not provide support at the regional level within the domestic market.' They submitted:

> TWE has strong reservations about using scarce funds for education and other domestic activity to compete with imports. Trying to change consumer behaviour in these areas could soak up the entire AGWA marketing budget with very little appreciable outcome.[92]

4.56 Marketing to follow free trade agreements was popular among witnesses and submitters.[93] Treasury Wine Estates Director Mr Roger Sharp proposed that Australia would benefit from targeted promotion in new markets:

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86 Treasury Wine Estates, *Submission 35*, p. 8.

87 Wine Tasmania, *Submission 11*, p. 14.; Ms Victoria Angove, Director, Angove Family Winemakers, *Committee Hansard*, 24 September 2015, p. 19.

88 Mr Stuart Bryce, *Committee Hansard*, 25 September 2015, p. 11; Mr Jeremy Dineen, Chief Winemaker and General Manager, Josef Chromy Wines, *Committee Hansard*, 25 September 2015, p. 17; Mr John Griffiths, President, Swan Valley & Regional Winemakers Association, *Committee Hansard*, 27 October 2015, p. 46; Mr Graeme Lynch, Chair, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 24.

89 Wines of Western Australia, *Submission 21*, p. 6.

90 Wines of Western Australia, *Submission 21*, p. 6.

91 Clare Region Winegrape Growers Association and Clare Valley Winemakers Inc, *Submission 16*, p. 7.

92 Treasury Wine Estates, *Submission 35*, p. 8.

93 Mr Peter Hackworth, Executive Officer, Wine Grape Council of South Australia, *Committee Hansard*, 24 September 2015, p. 56; Treasury Wine Estates, *Submission 35*, p. 8.

> …in many cases the Australian wine category is competing in markets with major competitor nations such as New Zealand and Chile, which already have tariff-free access. A burst of marketing activity after the signing of an FTA would greatly assist the industry to make the most of positive developments in Australia's trading relationships.[94]

4.57 Noting that Western Australian wine exports have dropped to 15 per cent, submitters requested AGWA appoint an export development officer based in Perth to address 'shortfall and resourcing' issues.[95] Wines of Western Australia proposed that in line with their Strategic Plan, the officer would help the next 50 'hero brands' get 'market access – to open those doors that are difficult for small companies to open.'[96]

Committee view

4.58 The committee was surprised to learn that Australia invests far less than competitor nations in growing demand for its wine in international markets. The committee notes evidence that the lack of promotion has had a negative impact on the sales and reputation of Australian wine. On balance, submitters and witnesses were positive about the marketing assistance provided by AGWA and the Export Market Development Grants Scheme. Some called for more targeted and strategic use of funding by those programs, and many called for a boost to their funding.

4.59 The committee encourages AGWA to work towards more even distribution of the marketing spend across the wine industry. In particular, the committee encourages AGWA to explore further opportunities for smaller producers to participate in user-pays activities on a discounted basis. The committee would support a regional partnership approach between smaller and larger producers in terms of shared marketing and promotional opportunities.

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94 Mr Roger Sharp, Director, Group Corporate Affairs, Treasury Wine Estates, *Committee Hansard*, 27 October 2015, p. 34. See also Accolade Wines, *Submission 26*, p. 7.

95 Mr Redmond Sweeny, President, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 1; Mr Nick Power, Chief Executive Officer, Margaret River Wine Association, *Committee Hansard*, 27 October 2015, p. 30.

96 Mr Redmond Sweeny, President, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 10.

Recommendation 9

4.60 The committee recommends that Government commit to increasing export demand for Australian wine by considering whether current opportunities for industry participants to increase exports through the Australian Grape and Wine Authority and the Export Market Grants Development Scheme are fully optimised or would benefit from redesign.

Recommendation 10

4.61 The committee recommends that the government significantly increase its funding to wine export market development.

Chapter 5

Industry representative organisations

5.1 This chapter considers grape and wine industry representation at regional, state and national level, including the code of conduct that operates between winemakers and winegrape growers.

5.2 Wine Federation of Australia (WFA) and Wine Grape Growers Australia (WGGA) are the two national organisations currently declared under the *Australian Grape and Wine Authority Act 2013*, representing winemakers and growers respectively.[1] The Act requires that at least one representative organisation be declared from the two industries. Representative organisations are funded largely through the collection of voluntary membership levies and project funding.[2]

5.3 WFA submitted that it has more than 370 winemaker members of the total of approximately 2 500 in Australia,[3] representing approximately 80 per cent of the national crush. Small, medium and large winemakers are represented through membership committees with an equal voice on the WFA Board, with an 80 per cent majority required for Board decisions in order to maximise consensus.[4]

5.4 Representing Australian winegrape growers, WGGA provided an estimate that 3 700 of the total 6 200 growers have 'direct involvement in the organisation.'[5] Its executive committee is comprised of a non-voting executive director and independent chair, and eight voting members with representation across the Australian states and the Riverland, Riverina and Murray Valley regions.[6]

5.5 Beneath WFA and WGGA, various state and regional representative organisations operate independently based on voluntary contributions from their winemaker and grower members.[7] An illustration of the layered approach to industry

1 AGWA, *Submission 8*, p. 8; *Australian Grape and Wine Authority Act 2013* (Commonwealth), sections 5A–5BA.

2 Accolade Wines, *Submission 26*, p. 16.

3 Professor Kym Anderson AC and Nanda R. Aryal, *Growth and cycles in Australia's wine industry: A statistical compendium, 1843 to 2013*, Wine Economics Research Centre, University of Adelaide, February 2015, p. 295.

4 WFA, *Submission 41*, p. 7; Mr Tony D'Aloisio AM, President, WFA, *Committee Hansard*, 27 October 2015, p. 13.

5 WGGA, *Submission 30*, p. 3.

6 WGGA, Constitution of Wine Grape Growers Australia Incorporated, November 2014, http://wgga.com.au/wp-content/uploads/2015/02/WGGA-Constitution-NOV-2014.pdf (accessed 25 November 2015), p. 6.

7 Accolade Wines, *Submission 26*, p. 17.

representation is at figure 1, representing South Australia.[8] Larger winemakers can be members of several organisations across states and regions.[9]

5.6 Some submitters commented that the number of industry representation bodies leads to confusion and waste.[10] Wine Tasmania submitted that the two national bodies 'have extremely limited resources and are struggling to galvanise the industry and be relevant across all segments.'[11] Accolade Wines expressed concern that while 'the industry organisations generally function well':

> …the multitude of representational levels is not an effective use of industry resources... We strongly support WFA and the state and regional organisations, but encourage them to avoid duplication of effort.[12]

5.7 The committee heard only limited evidence of a lack of support for the work of individual representative organisations. Riverland Wine submitted that the efficacy of WGGA was challenged by a lack of resources:

> WGGA currently does not have enough human or financial resource to effectively cope with the challenges and tasks that confront the organisation and wine grape growers nationally. This is despite the application and ability of the Executive Officer. There is no point in an organisation merely existing; if it is unable to achieve core goals then it has no reason to exist.[13]

5.8 Further, the South Australian Government submitted that because WGGA is primarily funded by South Australian growers, 'mechanisms are needed' to increase its representation of growers in other jurisdictions.[14]

5.9 Mr Warren Randall from Seppelstfield Wine told the committee that 'WFA is not supported by the majority of Australian winemakers.'[15] WineFoodTechMedia Group reported that WFA membership is 'skewed towards those producing higher volumes', but noted that 'smaller producers have representation via their State bodies' or through the small producers subcommittee.[16]

5.10 The committee heard evidence that witnesses and submitters are actively considering ways to streamline industry representation. South Australian Wine

8 Wine Grape Council of South Australia, *Submission 37*, Appendix 3.

9 See, for example, Accolade Wines, *Submission 26*, p. 17.

10 South Australian Wine Industry Association, *Submission 32*, p. 6.

11 Wine Tasmania, *Submission 11*, p. 13.

12 Accolade Wines, *Submission 26*, p. 17.

13 Riverland Wine, *Submission 15*, p. 11.

14 Ibid.

15 Mr Warren Randall, Proprietor and Managing Director, Seppeltsfield Wine, *Committee Hansard*, 24 September 2015, pp 11, 16.

16 WineFoodTechMedia Group, *Submission 34*, p. 4.

Industry Association submitted that work 'is underway at state and national levels' towards a 'more integrated industry representation model'.[17] WFA President Mr Tony D'Aloisio AM told the committee that in the longer term, WFA and WGGA could merge, stating that 'just as we have one statutory body, we should have one industry body – but that is quite a way off'.[18]

Code of Conduct

5.11 Collaboration between the national representative organisations culminated in the commencement of the Australian Wine Industry Code of Conduct (the Code) in January 2009.

5.12 The Code is voluntary and 'opt-in' for winegrape purchasers, who are then bound by its provisions in their dealings with growers.[19] Signatories agree to adhere to minimum standards in those dealings, including on contract, pricing methods and notification, payment terms and dispute resolution procedures.[20]

5.13 Governance of the Code has changed significantly since 2009. At commencement, the Code was administered by an independent committee of three, and subsequently four, appointed part-time members with commercial experience.[21] In 2011, the tenure of appointed members was not renewed because of 'costs associated with the Code considering the low uptake and low number of disputes'.[22] The Code Management Committee, on which WFA and WGGA have equal representation, assumed responsibility for its operation.[23]

5.14 Reviews of the Code were to be conducted at intervals of not less than three years, a requirement that does not appear to have been strictly observed. An independent review by Mr Neill Buck reported in 2010 with recommendations on coverage targets, simplification and administration of the Code.[24] An internal review

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17 South Australian Wine Industry Association, *Submission 32*, p. 7.

18 Mr Tony D'Aloisio AM, President, WFA, *Committee Hansard*, 27 October 2015, p. 21. See also Riverland Wine, *Submission 15*, p. 11.

19 Australian Small Business Commissioner, *Submission 23*, p. 5.

20 Murray Valley Winegrowers, *Submission 6*, p. 4.

21 Australian Wine Industry Code of Conduct Management Committee, *Annual Report 2009*, p. 5.

22 Australian Wine Industry Code of Conduct Management Committee, *Annual Report 2010–11*, p. 6.

23 Australian Wine Industry Code of Conduct Committee, *Australian Wine Industry Code of Conduct*, http://www.wineindustrycode.org/online_code.html (accessed 13 November 2015)

24 Australian Wine Industry Code of Conduct Management Committee, *Annual Report 2010–11*, p. 6.

was reported as having concluded in December 2014, resulting in an amendment providing additional time to resolve disputes under the Code.[25]

5.15 Responsibility for promoting the Code is share by signatories and representative bodies. WFA explained the promotional role they share with WGGA:

> The two representative bodies, WFA and WGGA, have agreed to publicize and promote the Code and its dispute resolution procedures, and to work to maximize its adoption within the industry.[26]

5.16 While figures are not available in all reports, the 2012–13 annual report of the Code Management Committee recorded an expense of $42.19 by WFA on promotion of the Code.[27]

Low uptake

5.17 Many submitters and witnesses expressed concern about low uptake of the voluntary Code.[28] Of the approximately 2 500 wine producers in Australia only 41 are signatories, and only around 40 per cent of wine production is covered.[29] In 2014–15 there was only one new signatory.

Signatories to Australian Wine Industry Code of Conduct

Financial year	Number of signatories	% Total crush
2008-09	3	25%
2009-10	6	37%
2010-11	7	31%
2011-12	8	31%
2012-13	33	37%
2013-14	40	40%
2014-15	41	40%

Source: Australian Wine Industry Code of Conduct annual reports 2009 to 2014–15.[30]

25 Australian Wine Industry Code of Conduct Management Committee, *Annual Report 2014–15*, p. 6.

26 WFA, *Submission 41*, p. 29.

27 Australian Wine Industry Code of Conduct Management Committee, *Annual Report 2012–13*, p. 10.

28 Australian Small Business Commissioner, *Submission 23*, p. 5.

29 Ms Vicki Watson, *Submission 1*, p. 1; Murray Valley Winegrowers Inc, *Submission 6*, p. 4; Department of Agriculture, *Submission 29*, p. 6; Australian Small Business Commissioner, *Submission 23*, p. 5.

30 Australian Wine Industry Code of Conduct, *Annual reports*, http://www.wineindustrycode.org/Reports.html (accessed 24 November 2015).

5.18 The committee heard that performance targets set for the number of signatories to the Code by 31 December 2012 and 31 December 2013 were not met, and have not been updated in the Code itself. By 2012, the Code was to sign a quarter of the top 100 wine producers by tonnes processed and half by 2013. The committee notes that annual reports produced by the Code Management Committee do not directly report against these targets, quoting a percentage of the total crush rather than a percentage of the top producers.

5.19 The committee heard evidence that low uptake is leading to inconsistency and unfairness in transactions between winemakers and growers.[31] The Riverina Wine Marketing Board submitted that the Code has had little effect in the region, where transactions frequently contradict its terms.[32] Murray Valley Winegrowers described a commercial advantage that has emerged for those who do not sign, stating:

> Not only does this failing expose growers to unethical and unregulated treatment, it imposes certain standards on signatories that nonsignatories are able to ignore. For example, the requirement on signatories to publicise indicative prices leaves others able to "piggyback" on those, and to experiment with their own brand of dispute resolution.[33]

5.20 Further examples of inconsistency with the Code include agreements that are not in writing or are 'vague on trading terms,' that lack dispute resolution mechanisms and contain payment terms that can 'extend over eight months.'[34] Riverland Wine submitted that the Code had fostered an unhelpful practice whereby stipulating the latest date for price notification in the Code had created a 'default announcement date', providing less notice to growers than previously.[35]

5.21 Explanations for low uptake of the Code varied between sectors and regions. Wine Tasmania told the committee that there would be 'minimal' take-up of the Code in Tasmania because it is a 'sellers' market' where 'quite a lot of people are happy to pay what they need to pay.[36] Differently, key proponent WGGA described the lack of signatories to the Code as 'symptomatic of the lack of trust in the wine sector.'[37] WFA submitted that 'continued promotion of the code and its benefits to the sector' would improve its uptake, committing to 'increase this substantially in 2016.'[38]

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31 WGGA, *Submission 30*, p. 5; South Australian Government, *Submission 36*, p. 3.

32 Riverina Grape Wine Marketing Board, *Submission 33*, p. 16.

33 Murray Valley Winegrowers, *Submission 6*, p. 4.

34 Ibid. See also Treasury Wine Estates, *Submission 35*, p. 4.

35 Riverland Wine, *Submission 15*, p. 14.

36 Mr Graeme Lynch, Chair, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 24.

37 WGGA, *Submission 30*, p. 5.

38 WFA, *Submission 41*, p. 30.

Considering a mandatory code

5.22 Development of the Code followed a 2005 recommendation of this committee to make a mandatory code of conduct prescribed under the then *Trade Practices Act 1974* (now *Competition and Consumer Act 2010*). The committee reasoned:

> …it is unlikely that a voluntary code would be enough to protect growers with weak bargaining power. The more ethical winemakers would presumably follow the code; the less ethical would not. Given the strong evidence of poor business relations and exploitation of growers by some winemakers, the committee thinks that a mandatory code is justified.[39]

5.23 Responding in 2006, Government did not support the recommendation, instead supporting efforts of WFA and WGGA to develop a voluntary code.[40]

5.24 The committee heard renewed support for a mandatory code from some submitters and witnesses to this inquiry.[41] Mr Brian Simpson of the Riverina Wine Grape Marketing Board told the committee that a mandatory code would 'remedy the situation in which 'growers deliver fruit without even knowing what price they are going to get.'[42] Significantly, WGGA told the committee that:

> Our constituents are saying clearly that they want a mandatory code. Mandatory codes have the positive that everyone is in them, but of course the downside is inflexibility and more basic terms.[43]

5.25 In place of a standalone wine industry code, some submitters and witnesses including WGGA proposed the mandatory *Horticulture Code of Conduct* be amended to cover winegrape sales.[44] Arguing to the contrary, WFA submitted that applying the horticultural equivalent would have unintended consequences for the wine industry.[45]

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39 Senate Rural and Regional Affairs and Transport References Committee, *The operation of the wine-making industry*, October 2005, p. 58.

40 Government response to the Senate Rural and Regional Affairs and Transport References Committee, *The operation of the wine-making industry*, 22 June 2006.

41 Riverina Grape Wine Marketing Board, *Submission 33*, p. 6; Ms Vicki Watson, *Submission 1*, p. 1.

42 Mr Brian Simpson, Chief Executive Officer, Riverina Wine Grape Marketing Board, *Committee Hansard*, 24 September 2015, p. 52.

43 Mr Lawrence Stanford, Executive Director, WGGA, *Committee Hansard*, 24 September 2015, p. 35.

44 South Australian Government, *Submission 36*, p. 3; Mr Michael Stone, Executive Officer, Murray Valley Winegrowers, *Committee Hansard*, 24 September 2015, p. 30; Mr Lawrence Stanford, Executive Director, WGGA, *Committee Hansard*, 24 September 2015, p. 35.

45 WFA, *Submission 41*, p. 29.

5.26 More submitters and witnesses argued for the voluntary code to be maintained, provided it is more broadly adopted.[46] Accolade Wines submitted that:

> We strongly hold that a voluntary code, regularly reviewed and agreed by winemaker and grapegrower organisations and broadly adopted by industry is the most effective mechanism to ensure good conduct within the industry.[47]

5.27 The Australian Small Business Commissioner submitted that 'if the whole industry abided by the Code, there would be significant improvements in relationships between growers and purchasers.'[48]

5.28 Consistent with views heard by this committee, and in particular the different positions taken by WFA and WGGA, the Australian Small Business Commissioner reported 'no consensus' on a mandatory code. After convening an industry roundtable in March 2015, the Commissioner noted there were 'significant issues to resolve' among participants. Their submission recognised a mandatory code as 'an appropriate action' only in the absence of increased support for the Code.[49]

5.29 The committee heard that there is some scope for amendment of the existing, voluntary Code to improve its operation and uptake. Based on roundtable outcomes, the Australian Small Business Commissioner called for review of the Code and the 'indicative pricing provisions' which are considered too prescriptive by some producers.[50] These recommendations were supported by Treasury Wine Estates.[51]

Committee view

5.30 At this stage, the committee is persuaded of the value of a voluntary and industry-owned code of conduct. The committee does not consider that the Code has yet achieved its potential as a fair dealing framework that is truly responsive to industry. This is illustrated by evidence that inconsistent application of the Code can lead to perverse outcomes for growers. The committee is disappointed with the low levels of uptake of the Code and the perceived lack of cooperation between the two national representative organisations.

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46 Accolade Wines, *Submission 26*, p. 13; Pernod Ricard Winemakers, *Submission 28*, p. 4; Mr Michael Stone, Executive Officer, Murray Valley Winegrowers, *Committee Hansard*, 24 September 2015, p. 30; Mr Chris Byrne, Executive Officer, Riverland Wine, *Committee Hansard*, 24 September 2015, p. 42.

47 Accolade Wines, *Submission 26*, p. 13.

48 Australian Small Business Commissioner, *Submission 23*, p. 5.

49 Ibid.

50 Ibid.

51 Treasury Wine Estates, *Submission 35*, p. 4.

5.31 The committee noted with concern the move away from an independent administration committee and the recent delay in meeting the requirement that the Code be reviewed triennially by 30 June of the relevant year.

5.32 The committee encourages careful review of the Code and renewed commitment to boosting its industry coverage. If newly agreed targets are not met after two years, the committee considers that a mandatory code should be reconsidered by Government.

Recommendation 11

5.33 **The committee recommends an independent review of the Australian Wine Industry Code of Conduct, to report to Government before 30 June 2016.**

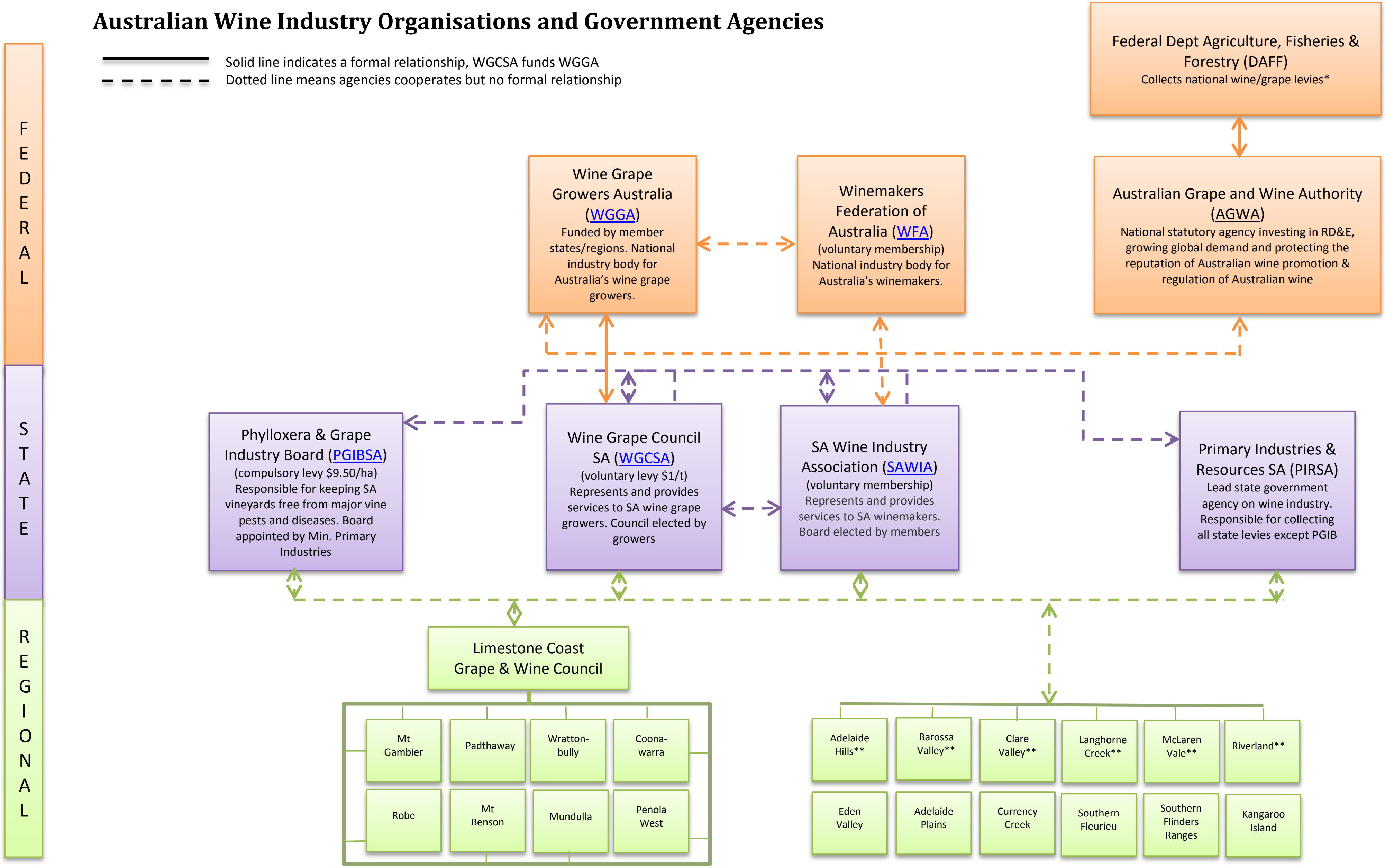
Recommendation 12

5.34 **The committee recommends that if targets for increase uptake of the Australian Wine Industry Code of Conduct are not met, the Government, in consultation with representative organisations for growers and winemakers, reconsider the development of a mandatory code before the end of 2017.**

Senator Glenn Sterle

Chair

Figure 1: Wine Grape Council of South Australia, *Submission 37*, Appendix 3.



*The Department of Agriculture, Fisheries and Forestry collects three national levies:

- **Wine Grapes Levy** collected from wine processors. Funds are collected on a sliding scale of $5-9.20/t. Of the money collected 497.6 cents/tonne goes to AGWA for research, 2.4 c/tonne to Plant Health Australia for plant biosecurity and the rest to AGWA for export regulation, data collection and wine marketing.
- **Grape Research Levy**, $2/tonne charged to all producers (i.e. growers and wineries that grow their own fruit). 198.4 cents/tonne goes to AGWA for research, 1.6 cents/tonne to Plant Health Australia.
- **Wine Export Charge**, $0.2% by value on exported wines (rate decreases for FOB sales over $20m). Distributed: 100% WAC. Levy used to promote Australian wines internationally

** Funded by a voluntary levy under the SA Primary Industries Funding Scheme Act (refer Appendix Two for details)

Dissenting report of Senator Sean Edwards and Senator the Hon Bill Heffernan

1.1 The Parliament has a history of sporadic interventions into the wine industry via the public inquiry platform as a result of industry pressure over the last two decades. The genesis for these was the move to a GST, the replacement of a wholesale sales tax and the equitable transition for all stakeholders when ultimately the tax system in Australia changed to a GST system in 2000. A further focus then turned to the mounting oversupply of wine grapes in the early 2000s.

1.2 The inquiry by this committee into the operation of the wine-making industry some 11 years ago in 2005 came up with four recommendations.[1] Upon review of its findings, much of it covered similar ground to this one about oversupply of wine grapes with the main additions in this report being WET rebates and the consolidation of domestic retail customers for Australian wine producers.

1.3 Few of the collective recommendations from the 2005 report have contributed to either government or industry policy since that time. Further, since then there has been a continued oversupply of wine grapes as a result of stubbornly high exchange rate in mature overseas markets over the last six to eight years. Compounding this locally over the same period of time appears to be the negative impact of the broad access to the WET rebate which has encouraged new participants to the industry with little more than trading expertise/capacity. The original intent of the rebate has likely been lost however it is now structurally ingrained in the economy of the wine supply chain. This is not sustainable. Additionally the consolidation of retail outlets to two large companies in the twelve years from mid-30 per cent to now mid-70 per cent requires further investigation to test if this has led to market failure.

1.4 Australian wine consumers are the highest taxed of any wine-producing nation in the world. The rebate accessibility criteria should be reformed to target its original function: to serve as an economic stimulus for legitimate producers with genuine investment in the production of wine grapes or the vinification of wine with a tangible and real investment of either or both.

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1 Senate Regional and Rural Affairs and Transport References Committee, *Operation of the wine-making industry*, 13 October 2005, pp ix–xii.

Recommendation 1

1.5 We recommend that WET reform be considered outside of the Government's Tax White Paper process so as to relieve it of those time constraints and to avail Treasury of an opportunity for full and thorough exploration of the issue.

Recommendation 2

1.6 We recommend that in the interests of the WET rebate scheme's integrity, formal definitions be created to differentiate 'winemaker' and 'wine trader' and that:

- **(a) wine traders be made immediately ineligible;**
- **(b) winemaker rebate eligibility be reduced to a maximum of $150 000 over a period of five years with a commencement date of 1 July 2017.**

Recommendation 3

1.7 We recommend concurrent with the reduction of the WET rebate applicable for wine producers, that increased funding be available to wine producers via a marketing grant for which Australian Grape and Wine Authority–approved marketing activities qualify, ramping up to a maximum of $150 000 per annum in the final year of the WET rebate wind back period to assist each wine producer support Wine Australia's export marketing activities in addition to any existing arrangements for development of foreign export markets through other government agencies.

Recommendation 4

1.8 We recommend in respect to the merger of eligible wine producer entities during the WET rebate wind back period that eligibility of entities be maintained until the final year whereby the ultimate combined entity would qualify for a single rebate.

1.9 This avoids a situation where an existing winemaker would suffer sudden value erosion in the entity's market value in any merger with another wine producer arising out of its ineligibility for the WET rebate scheme once purchased by and merged with another WET rebate eligible entity. Not doing so would immediately devalue winemakers' assets and demotivate rationalisation of the sector given the WET rebate has become structural in revenues since its application in 2004.

Recommendation 5

1.10 We recommend that in accordance with Senate Standing Order 25(2)(a) the Economics Committee undertake an inquiry into the performance of the Australian Competition and Consumer Commission with respect to its role in the prevention of the misuse of market power by certain retailers in dealing with the wine industry.

Senator Sean Edwards **Senator the Hon Bill Heffernan (Deputy Chair)**

Dissenting report of the Australian Greens

1.1 The Australian Greens would like to acknowledge the committee's work on this inquiry into the grape and wine industry. The report provides a useful summary of many of the issues with the current supply chain structure and we support a number of its recommendations.

1.2 The Greens believe that the Government should transition from the current WET to a volumetric tax calculated on the alcohol content of wine products rather than their value. It is our view that small wine producers should continue to receive a form of sales rebate to acknowledge their important contribution to regional economies.

1.3 As a value-based tax, the WET encourages the production of high volume and low quality wine. As is noted in the report, a procession of government reviews have recommended the abolition of the WET in its current form because of the perverse incentives it creates.[1] Accordingly, we do not support the Recommendation 1—which in our view is the principle recommendation of the report—as the retention of the WET is implicit in it. This is not to say that we support retaining the current WET rebate which, as is detailed in the report, is being rorted in many cases,[2] including in subsidising the production of bulk and unbranded wine.[3]

Recommendation 1

1.4 We recommend that the Government immediately phase out WET rebates for producers of bulk and unbranded wine.

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1 Including Australia's future tax system review, Report to the Treasurer, December 2009, p. 442, http://taxreview.treasury.gov.au/content/downloads/final_report_part_2/AFTS_Final_Report_Part_2_Vol_2_Consolidated.pdf; Australian National Preventative Health Agency, *Exploring the Public Interest Case for a Minimum (Floor) Price for Alcohol*, May 2013, p. 74. http://health.gov.au/internet/anpha/publishing.nsf/Content/minimum-price-final-report.

2 See, for example, Treasury Wine Estates, *Submission 35*, p. 13; WFA, *Submission 41*, p. 40; Wines of Western Australia, *Submission 21*, p. 5; Mr Warren Randall, Proprietor and Managing Director, Seppeltsfield Wine, Barossa Valley, South Australia, *Committee Hansard*, 24 September 2015, p. 16; Mr Brian Simpson, Chief Executive Officer, Riverina Wine Grape Marketing Board, *Committee Hansard*, 24 September 2015, p. 53; Professor Geoffrey Lewis, Committee Member, Clare Region Winegrape Growers Association, *Committee Hansard*, 24 September 2015, p. 66; Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 25.

3 See, for example, WFA, *Submission 41*, Appendix D, p. 10; Accolade Wines, *Submission 26*, p. 15; Ms Virginia Tropeano, *Submission 9*, p. 4.

1.5 The shift to a volumetric based tax is supported by many in the wine industry, including Treasury Wine Estates and Pernod Ricard Winemakers who are positively disposed towards a volumetric tax.[4] A volumetric tax would help transition the industry towards quality and higher value price points. The fact that no comprehensive Treasury modelling has been done—or made public, at least—on a volumetric based tax on is deficient and unfortunate.

1.6 To counter the impact of a shift to a volumetric tax, the Greens strongly believe that small wine producers should continue to be eligible for a wholesale or cellar door rebate. Small producers should be no worse off under any new tax arrangements. The committee was presented with ample evidence that a form of rebate is essential to the viability of many small wine producers.[5] These local producers are large employers and are fundamental to the economy in many regional communities. Again, the Treasury has either not undertaken or not released any modelling of the impact of the withdrawal of the existing rebate scheme on small wine producers, or the establishment of an alternative rebate scheme.

Recommendation 2

1.7 We recommend that the Treasury model the sectoral impacts of various volumetric-based taxes on wine, considering producer size, type and locational data. This analysis should be used as the basis for any compensation or readjustment scheme necessary during a transition to a volumetric tax on wine.

Recommendation 3

1.8 We recommend that the Government work with wine industry stakeholders to design and determine eligibility for a rebate scheme for small wine producers to accompany the introduction of a volumetric tax on wine.

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4 Mr Roger Sharp, Director, Group Corporate Affairs, Treasury Wine Estates, *Committee Hansard*, 27 October 2015, p 34, 39; Pernod Ricard Winemakers, *Submission 28*, p. 3.

5 See, for example, Mr Leo Pech, *Submission 13*, p. 9; WFA, *Submission 41*, Appendix G, 11 September 2015, p. 58; Mr Michael Stone, Executive Officer, Murray Valley Winegrowers, *Committee Hansard*, 24 September 2015, p. 31; Mr John Griffiths, President, Swan Valley & Regional Winemakers Association, *Committee Hansard*, 27 October 2015, p. 46; Wine Tasmania. *Submission 11*, pp 12–13; Accolade Wines, *Submission 26*, pp 3, 11–12 and 15, Mr Ken Helm AM, *Submission 25*, p. 1; Mr Redmond Sweeny, President, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 11; Ms Sheralee Davies, Chief Executive Officer, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 22.

Recommendation 4

1.9 We recommend that the Government introduce a volumetric tax on wine and set a timetable to phase it in.

Senator Peter Whish-Wilson
Australian Greens Senator for Tasmania

Dissenting report of Senator Nick Xenophon

The Wrath of Grapes

Enough is enough

1.1 The Australian wine industry, including grape growers and wine producers, faces an existential crisis.

1.2 Successive Winemakers' Federation of Australia (WFA) Vintage Reports have set out the parlous state of an industry that is both iconic and the economic lifeblood of regional communities around the nation.

1.3 As noted in the report, a mismatch of supply and demand has been accompanied by falling profits for wine makers. By 2014, an estimated 84 per cent of producers were not covering their variable costs, up from 77 per cent in 2012. This is in stark contrast to the United States and New Zealand producers receiving positive returns over the past six years.

1.4 The WFA estimates that up to 70 per cent of total current Australian wine and grape production maybe uneconomic. Further, the WFA Vintage Reports in recent years paint an even bleaker picture, particularly for the warmer inland regions. These regions, including the Riverland, Sunraysia and Riverina have been hit hard by a perfect storm of factors that have driven up to 90 per cent of the industry in those regions into unprofitability.

1.5 The dithering of successive Governments over the unintended consequences of the WET rebate scheme, an anaemic export push for Australian wine, and the supermarket duopoly have all hit the sector hard.

1.6 The inquiry, which I co-sponsored with my colleague Senator the Hon Anne Ruston, now the Assistant Minister for Agriculture and Water Resources, was a critical opportunity to set out in a non-partisan manner the scope of the problems facing the sector, the urgent need for reform, and above all a pathway for recovery and renaissance of this great industry.

1.7 Tragically, the opportunity to set out an urgent pathway forward has been lost, with some of the key recommendations of the report failing, in my view, to reflect the weight and gravity of the evidence presented.

1.8 It appears that obvious, sensible, measured recommendations for reform and recovery have been ignored.

1.9 The great fear I have is that the views of the major parties expressed through this committee will give cover to the Government to either avoid taking urgent remedial action now, or worse, pursue options that will hasten the demise of many hundreds of family enterprises, whether grape growers or wine producers.

1.10 Putting the squeeze on these smaller and medium players will mean an incalculable diminution and loss of social and entrepreneurial capital amongst grape growers and wine makers, profoundly impacting on regional communities and their economies. In turn, the forced consolidation this will bring will mean a loss of diversity and vibrancy in this iconic industry.

1.11 I commend the committee in the consultative and fair way this inquiry was conducted and the professionalism of the secretariat. The submissions obtained, the evidence heard and the summary of the evidence in the report has been a most useful exercise. I take issue with some of the recommendations which, in my view, are fundamentally at odds with the weight of evidence presented to the inquiry.

Wrong Way, Go Back

1.12 The report's first recommendation is as follows:

> The committee recommends that the Government phase out the current Wine Equalisation Tax (WET) rebate over five years, allocating the savings to a structural adjustment assistance program for the industry including an ongoing grant to genuine cellar door operators to support their continued operation.

1.13 Respectfully, this recommendation is misconceived, goes against the weight of the evidence, and is dangerously counterproductive.

1.14 The weight of the evidence provided to the inquiry is set out in the report. It includes the glaring apparent problems with the WET rebate including;

- Morphing way beyond its original purpose to deliver long term benefits to industry, assist smaller wine makers and boost tourism in regional Australia;
- The anomalous WET rebate for New Zealand wine producers, costing between $25 million and $35 million per year. This, in effect, subsidises New Zealand wine makers with our money to undercut and hurt Australian wine makers and grape growers;
- Evidence of wide spread rorting that occurs, the multiple-transactions, the deals done on bulk and unbranded wine, all of which were never intended when the scheme was established; and
- These negative effects include pushing the price of wine grapes down, putting smaller wineries under unfair pressure, and consolidating the power of large retailers.

1.15 The reform proposal presented by key industry players, led by the WFA, were measured, sensible and urgently needed. In summary these proposal are to:

- Keep the WET rebate in line with the original policy intent of delivering long-term benefits to industry and tourism in regional Australia;
- Stop the rebate going to unintended recipients and shut down the schemes;

- Phase out the WET rebate on bulk and unbranded wine over four years to advance strong brands that command consumer loyalty and profitable margins to reinvest back into regional Australia;
- Abolish the separate New Zealand rebate arrangements that provide preferential treatment to NZ wine producers and replace it with a level playing field for all claimants, irrespective of nationality;
- Encourage winery consolidation, where appropriate, by introducing transitional WET rebate measures that allow the separate rebate entitlements of the merging entities to be phased down to one entitlement over four years;
- Return $44m of government savings from these reforms to industry to boost marketing of Australian wine to grow export demand; and
- Provide industry support to assist those impacted by the changes.

1.16 The WFA has conservatively estimated that their plan would have delivered net savings to the Commonwealth of at least $234 million over the next four years. My principal criticism of the WFA proposal was that the $44 million proposed for marketing may not be enough given we have a lot of catching up to do in building up world export markets.

1.17 These above proposals were in effect, initially put to then Treasurer Joe Hockey and to Assistant Treasurer the Hon Josh Frydenberg MP. The parlous state of the sector and representations across a broad sector of industry was the impetus for the Treasury's WET rebate discussion paper, which, after seemingly unnecessary delay was released in August 2015.

1.18 The discussion paper spelt out the problems with the rebate, including the rorting (with a virtual ‘how to’ guide as to ways to rort the system) and made a compelling case for reform.

1.19 Inexplicably, the Government is yet to announce its reform package despite the palpable urgency of the situation. Harvest has already started and it may well be the last harvest for an increasing number of wine grape growers.

1.20 The brutal reality is that there are increasing parts of Australia’s iconic wine sector that are struggling to survive.

1.21 The apparent increase in wine and grape prices compared to last year’s vintage harvest mask the increased cost of production since then – especially water.

1.22 To suggest, as the report does, that the WET rebate be phased out and replaced with a specific grants program for some smaller wineries is throwing the baby out with the bath water.

1.23 The most credible pathway to reform is that set out by the WFA and other key stakeholders. It was a broad consensus position reached that is fairer and more effective than any other proposals put to the committee.

1.24 Exports are the key to dealing with the supply demand imbalance.

1.25 Now is the time to seize the opportunity with the lower Australian dollar and recently negotiated free trade agreements to turbo-charge our sales of Australian wines to the world (although I am a trenchant critic of many clauses in free trade agreements, particularly their impact on our manufacturing sector, I acknowledge there is an upside for wine exports to some markets).

1.26 Australia's efforts to showcase, promote and sell Australian wine to world has been largely anaemic. Our lack of appropriate presence in international wine expos and trade shows has been largely embarrassing.

1.27 Our competitors have left us for dead in terms of their marketing push and results for their producers.

1.28 I make the following recommendations:

Recommendation 1

1.29 Keep the WET rebate in line with the original policy intent of delivering long-term benefits to industry and tourism in regional Australia;

Recommendation 2

1.30 Stop the rebate going to unintended recipients and shut down the schemes;

Recommendation 3

1.31 Phase out the WET rebate on bulk and unbranded wine over four years to advance strong brands that command consumer loyalty and profitable margins to reinvest back into regional Australia;

Recommendation 4

1.32 Abolish the separate New Zealand rebate arrangements that provide preferential treatment to NZ wine producers and replace it with a level playing field for all claimants, irrespective of nationality;

Recommendation 5

1.33 Encourage winery consolidation, where appropriate, by introducing transitional WET rebate measures that allow the separate rebate entitlements of the merging entities to be phased down to one entitlement over four years;

Recommendation 6

1.34 Return $44m of government savings from these reforms to industry to boost marketing of Australian wine to grow export demand.

Recommendation 7

1.35 Provide industry support to assist those impacted by the changes.

Going Down, Down, Down – The Effect of the Duopoly on the Wine Retail Sector

1.36 Chapter 3 of the report fairly sets out the concentration of the Coles/Woolworths duopoly in a domestic wine retail market of 60 per cent, and the increasing push for private brands.

1.37 The private brands push unambiguously puts 'further price and margin strain on growers and wine producers alike' according to the Australian Small Business Commission. With private brand sales going from an estimated 5 per cent in 2005 to up to 20-25 per cent now, this is a disturbing trend.

1.38 I support the report's recommendation that the Government amend labelling requirement so that wine labels must declare where the wine is produced by an entity owned or controlled by a major retailer.

1.39 But we need to go further to allow small wine makers to grow and flourish. A strong effects test in our competition laws is needed to ensure abuses of market power do not occur. That test should not be fettered by the 'substantial lessening of competition' proviso as set out in the Harper Review.

1.40 Further, having divestiture powers in our competition laws as I proposed in the Competition and Consumer Amendment (Misuse of Market Power) Bill 2014 would lead to a change of culture or behaviour amongst some larger corporation in the way that they deal with smaller companies.

1.41 In addition, the codes of practice need to be overhauled and strengthen to give a real right of redress to growers and wine producers alike.

Recommendation 8

1.42 I recommend an effects test in respect of abuses of market power.

Recommendation 9

1.43 I recommend divestiture laws as a penalty in cases of abuse of market power.

Recommendation 10

1.44 I recommend an overhauled and strengthened mandatory code of practice to provide protection to growers and wine makers from unconscionable practices and abuses of market power.

Senator Nick Xenophon
Senator for South Australia

Appendix 1
Submissions received

Submission Number	Submitter
1	Ms Vicki Watson
2	Mr Mark Allgrove
3	Ms Norina De Stefani
4	Ballabourneen Wine Co
5	Mr Bruno Altin
6	Murray Valley Winegrowers Inc.
7	Wine Studies Research Network
8	Australian Grape and Wine Authority (Wine Australia)
9	Mrs Virginia Tropeano
10	Barossa Grape & Wine Association and Regional Development Australia Barossa
11	Wine Tasmania
12	Viticultural Society of the Canberra District Inc
13	Mr Leo Pech
14	Ms Sarah Yates
15	Riverland Wine
16	Clare Region Winegrape Growers Association and Clare Valley Winemakers Inc
17	Mr Peter Kindred
18	Ms Jocelyn Bail
19	Department of Industy and Science
20	Office of the NSW Small Business Commissioner
21	Wines of Western Australia
22	Foundation for Alcohol Research and Education
23	Australian Small Business Commissioner
24	Australian Bureau of Statistics
25	Mr Ken Helm AM
26	Accolade Wines

27	Mr Brett Butcher
28	Pernod Ricard Winemakers
29	Department of Agriculture
30	Wine Grape Growers Australia
31	Dindima Wines Pty Ltd
32	South Australian Wine Industry Association Incorporated
33	Riverina Wine Grapes Marketing Board
34	WineFoodTechMedia Group
35	Treasury Wine Estates
36	South Australian Government
37	Wine Grape Council of South Australia
38	Mr John Ward
39	Mr William Jones
40	Peter Eichinger
41	Winemakers' Federation of Australia

Additional information received

- Additional information from Mr Paul Evans, Chief Executive Officer, *Winemakers' Federation of Australia: Actions for Industry Profitability 2014-2016*, received 19 May 2015.
- Additional information from Mr Paul Evans, Chief Executive Officer, Winemakers' Federation of Australia: *Expert Report on the Profitability and Dynamics of the Australian Wine Industry*, received 19 May 2015.
- Additional information from Mr Paul Evans, Chief Executive Officer, *Winemakers' Federation of Australia: 2014 Vintage Report*, received 19 May 2015.
- Additional information from Austrade: *Export market development grants – at a glance: updated information about the EMDG scheme*, received 26 May 2015.
- Additional information from Austrade: *Export market development grants in brief – for expenditure occurred in 2014-15*, version current as of April 2015, received 26 May 2015.
- Additional information from Mr Julian Allport, received 25 September 2015.
- Additional information from Treasury Wine Estates: *Using the Wine Equalisation Tax rebate to build a stronger and more profitable Australian wine industry*, received 30 September 2015.
- Additional information from Treasury Wine Estates: *WET Rebate fact sheet*, received 30 September 2015.
- Additional information from Australian Grape and Wine Authority: *Export reports (September 2015)*, received 6 November 2015.

Questions on notice

- Answers to questions taken on notice on 24 September 2015. Received on 30 September 2015, from Wine Grape Growers Australia.
- Answers to questions taken on notice on 24 September 2015. Received on 20 October 2015, from Angove Family Winemakers.
- Answers to questions taken on notice on 27 October 2015. Received 6 November 2015, from Treasury Wine Estates.
- Answers to questions taken on notice on 27 October 2015. Received 11 November 2015, from Winemakers' Federation of Australia.

Tabled documents

Adelaide, Thursday 24 September 2015

- Tabled by Mr Andreas Clark, Executive Officer, Australian Grape and Wine Authority:
  - Opening statement: Mr Andreas Clark.
  - Graphic of promotion spend in the European Union and Australia.
- Tabled by Mr Anita Poddar, Head of Corporate Affairs, Accolade Wines. Opening statement Ms Anita Poddar.
- Tabled by Ms Victoria Angove, Director, Angove Family Winemakers.

  Opening statement Ms Victoria Angove.
- Tabled by Wine Grape Growers Australia, Mr Lawrence Stanford, Executive Director. Presentation about the future of the wine industry by Dr Robert Smiley and Albert Vontz IV.

Swan Valley, 27 October 2015

- Tabled by Mr Larry Jorgensen, Chief Executive Officer, Wines of Western Australia. Key points and introductory information.
- Tabled by Mr Paul Evans, Chief Executive Officer, Wine Federation of Australia.
  - Paper on international comparison of alcohol excise taxes: Professor Kym Anderson AC and Nanda Aryal,
  - Letters of support from state wine industry associations.
- Tabled by Mr Nick Power, Chief Executive Officer, Margaret River Wine Association, Margaret River Wine Export Approval Report.

Appendix 2

Public hearings and witnesses

24 September 2015, Adelaide, SA

- ALLGROVE, Mr Marc, Partner, Evans & Ayers Wine Business Consulting
- ANGOVE, Ms Victoria, Director, Angove Family Winemakers
- BYRNE, Mr Chris, Executive Officer, Riverland Wine
- CLARK, Mr Andreas, Executive Officer, Australian Grape and Wine Authority
- DUTHY, Mr Warrick, Committee Member, Clare Valley Winemakers Inc.
- ENGLEFIELD, Mr Brian, Chairman, Murray Valley Winegrowers
- HACKWORTH, Mr Peter, Executive Officer, Wine Grape Council of South Australia
- LEWIS, Professor Geoffrey, Committee Member, Clare Region Winegrape Growers Association
- PATRICK, Mr Victor, Chairman, Wine Grape Growers Australia
- PODDAR, Ms Anita, Head of Corporate Affairs, Accolade Wines
- RANDALL, Mr Warren, Proprietor and Managing Director, Seppeltsfield Wine, Barossa Valley, South Australia
- SAS, Mr Alex, Chief Viticulturalist, Accolade Wines
- SIMPSON, Mr Brian, Chief Executive Officer, Riverina Wine Grape Marketing Board
- SMEDLEY, Mr Brian, Chief Executive, South Australian Wine Industry Association
- STANFORD, Mr Lawrence, Executive Director, Wine Grape Growers Australia
- STONE, Mr Michael, Executive Officer, Murray Valley Winegrowers
- TODD, Mr Keith, General Manager, Global Operations, Accolade Wines
- WATERMAN, Mr Nick, Managing Director, Yalumba Wine Company
- WEEKS, Mr Andrew, Business Manager, Riverland Wine

25 September 2015, Launceston, TAS

- ALLPORT, Mr Julian, Winemaker and Owner, Moores Hill Estate
- AUSTIN, Ms Francine, Private capacity
- BRYCE, Mr Stuart, Private capacity
- DAVIES, Ms Sheralee, Chief Executive Officer, Wine Industry Tasmania Ltd
- DINEEN, Mr Jeremy, Chief Winemaker and General Manager, Josef Chromy Wines
- LEWIS, Ms Robyn, Chief Executive Officer, WineFoodTechMedia Group
- LYNCH, Mr Graeme, Chair, Wine Industry Tasmania Ltd
- WILSON, Associate Professor Damien, Private capacity

27 October 2015, Swan Valley, WA

- BELL, Mr Colin, Chief Executive Officer, Wines of Western Australia
- BURGMAN, Ms Cecelia, Global Public Affairs and Corporate Responsibility Manager, Treasury Wine Estates
- D'ALOISIO, Mr Tony, AM, President, Winemakers' Federation of Australia
- EVANS, Mr Paul, Chief Executive Officer, Winemakers' Federation of Australia
- GRIFFITHS, Mr John, President, Swan Valley & Regional Winemakers Association
- JORGENSEN, Mr Larry, Chief Executive Officer, Wines of Western Australia
- PEARSE, Mr Bruce, Vice President, Margaret River Wine Association
- POWER, Mr Nick, Chief Executive Officer, Margaret River Wine Association
- SHARP, Mr Roger Andrew, Director, Group Corporate Affairs, Treasury Wine Estates
- SWEENY, Mr Redmond, President, Wines of Western Australia
- TAYLOR, Mr Peter Eric, Director, Wine Production, Australia and New Zealand, Treasury Wine Estates