



TASMANIAN FARMERS & GRAZIERS ASSOCIATION

SUBMISSION NO. 8 Horticultural Code and Farm Gate to Plate

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

By email: arff.reps@aph.gov.au

Dear Committee Secretary,

The Tasmanian Farmers and Graziers Association (TFGA) is the leading representative body for Tasmanian primary producers. TFGA members are responsible for generating approximately 80% of the value created by the Tasmanian agricultural sector.

With our purpose being to promote the sustainable development of Tasmanian primary industries, the TFGA is committed to ensuring that the agriculture sector in Tasmania is profitable and sustainable. We are also committed to promoting the vital contribution the agricultural sector makes to the environmental, social and economic fabric of the Tasmanian community.

We therefore welcome the opportunity to make comment on the Competition and Consumer Amendment (Horticultural Code of Conduct) Bill 2011.

The TFGA has long fought for the fundamental issue of transparency in trading in the horticulture industry to be appropriately addressed. A robust Horticulture Code of Conduct is critical for the long term future of the horticulture industry. Unfortunately, whilst the introduction of the Code was a welcome advancement, its implementation and enforcement have left much to be desired.

We support policy which brings transparency to the marketplace and we strongly endorse the intent of the proposed Bill. However, some content of the Bill requires further consideration and possible clarification or amendment.

The TFGA refers the Committee to the submission by the Horticulture Taskforce (HTF) which provides a detailed response to the proposed Bill. TFGA fully endorses their submission.

Specifically, and from a Tasmanian perspective, we strongly contend that the following ACCC recommendations should be rejected in any review of the Code:

- ACCC recommendation 3: *Amend the Horticulture Code to require a merchant to provide a grower, before delivery, with either a firm price or a formula for calculating price.* This is unacceptable. Any agreed method to calculate price must be by reference to the amount received by the merchant for the sale of the produce to a third-party purchaser.

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- *ACCC recommendation 5: Amend the Code to require that if a Merchant does not reject produce within 24 hours of physical delivery, the produce is deemed to be accepted.* This is unacceptable. The Code already stipulates that terms of trade must be spelled out by traders. At best, this arbitrary timeline could lead to unnecessary confusion; at worst, it opens a loophole for traders to flout other aspects of the code.
- *ACCC recommendation 6: Amend the Code to enable a Merchant to deduct the cost of any services that are supplied to prepare the produce for resale as part of the price amount.* This is unacceptable. Growers are entitled to be able to clearly identify returns for their product; and negotiate any other value-adding services separately.
- *ACCC Recommendation 7: Amend the Code to only permit an Agent to recover their commission for services performed under an Agency agreement as a deduction from amounts paid by a third-party purchaser.* This is unacceptable. It overturns standard agency law; and the issue of payment for services should be addressed through normal contractual arrangements and business practices.

We would of course be more than happy to provide further comment should this be required.

Yours sincerely

Jan Davis

Chief Executive Officer

15 December 2011