



## The Grocery Sector

- In recent years there has been considerable public discussion about whether the activities of the major supermarket chains are harming Australian farmers and grocery manufacturers.
- This consultation seeks stakeholders' views on the extent of these problems and whether they require regulatory intervention; as well as the likely value of the proposed Food and Grocery Code of Conduct.



### The Grocery Code

- Coles, Woolworths and the Australian Food and Grocery Council (AFGC) have provided a jointly developed **Food and Grocery Code of Conduct** (the Code) to the Australian Government.

### What does the Grocery Code do?

- Under Coles, Woolworths and the AFGC's proposal, any retailer that is a supermarket (or a wholesaler that supplies to a supermarket), could agree to 'opt-in' and become bound by the Code.
- The retailer would then need to deal with its direct suppliers in accordance with the Code, such as by ensuring that it offers all suppliers a contract in the shape of a 'grocery supply agreement' that conforms to the Code.
- It is important to note that contractual terms would still be subject to **negotiation** between each retailer and supplier.
  - The Code would allow retailers to ask suppliers to agree to **exemptions** that permit otherwise prohibited behaviour to occur provided that the retailer meets certain conditions.
- The Code sets out the requirements for retailers to ensure that any supplier complaints are heard, and provides mechanisms for **dispute resolution**.

### Opt-in prescribed industry code

- The proposed Code has been put forward as a voluntary industry code to be prescribed under the *Competition and Consumer Act 2010* (CCA).
  - This means that once a retailer 'opts-in' it will be legally bound by the requirements of the Code.
  - Being 'prescribed under the CCA' means that the Australian Competition and Consumer Commission (ACCC) and private parties can take enforcement action under the CCA.



## Which parts of the grocery supply chain would be covered?

- The proposed Code covers relationships between retailers and their direct suppliers. Any party that supplies to a supermarket through an intermediary, such as a processor or wholesaler, would not be covered by the Code.

## What are the key issues that the consultation paper is seeking feedback on?

- The Government is seeking feedback on the proposed Code to decide whether it should be taken forward into law. In particular, views are being sought on whether the proposed Code would be effective in addressing concerns in the grocery sector; whether the benefits of the Code outweigh the regulatory costs; and whether it should be prescribed as an opt-in or mandatory code.

## How can I have my say on this issue?

- Interested parties are invited to comment on the proposed Code. You can provide a written submission in response to the consultation paper, or simply leave a short comment, using the 'electronic submissions' option on the Treasury website <http://www.treasury.gov.au/ConsultationsandReviews/Consultations/2014/Improving-Relationships-Food-Grocery-Sector>.
- The closing date for comments and submissions is Friday, 12 September 2014.

## Where can I get more information?

- The consultation paper outlines all aspects of the proposed Code and can be accessed at <http://www.treasury.gov.au/ConsultationsandReviews/Consultations/2014/Improving-Relationships-Food-Grocery-Sector>.

## Can I make a confidential submission?

- Yes. Submissions can be provided in-confidence. Brief comments made through the webpage facility will not be made public.

## How will Treasury use the information provided in confidential submissions?

- Unless expressly advised otherwise, the Treasury will treat any information received in confidential submissions, including information that is commercially sensitive, as having been provided on a confidential basis.
- Brief comments made through the comments facility on the webpage are not considered as formal submissions, but will be used to inform the Government's policy decision making on this matter. The details and comments lodged through the comments facility will not be made public.
- Information provided in confidential submissions will not be published unless it is sufficiently aggregated and de-identified so as to maintain its confidentiality.