Submission to the Australian Federal Government consultative process on reform to the WET rebate eligibility criteria.

22/09/16

David Messum, Winemaker and Owner of Born & Raised Wines,

As a wine producer concerned with the future of our industry, I feel it important to participate in the consultation process regarding proposed changes to the Wine Equalisation Tax rebate, and in particular the definitions of 'eligible producer' under the act. My response to the Government's discussion questions are as follows:

1. **For rebatable wine, is the proposed definition of packaged and branded wine appropriate?**

   Yes, the definition of packaged and branded wine is appropriate.

   If a trademark approach is used, what types of trademarks should be permitted (e.g. exclusively licensed trademarks) and what would be the impact?

   Common law and registered trademarks should be permitted, licenced trademarks permitted unless they entitle one business or associated businesses access to multiple rebates.

2. **For eligible producers, how should a winery ownership and leasing test be applied? What should be the nature and extent of investment in the wine industry required to access the rebate, and how can this be implemented?**

   No asset tests, 'significant interest' or 'skin in the game' tests should be required. See below for further explanation. Any eligibility criteria based on asset levels introduces unnecessary complexity and regulation, will be difficult to implement and administer, will be easily circumvented, and will exclude a significant number of legitimate producers.

3. **What is the impact from a 1 July 2019 start date of the tightened eligibility criteria? How might this change from an earlier transition period?**

   If eligibility criteria must be tightened, the transition period should allow time for businesses to effectively restructure their operations to minimise disruption and to reflect the long lead times that are unique to the wine business. Typical timelines from production decision to commercial sale can easily be up 2 to 3 years.

While questions 1 and 3 are important issues, for my business and livelihood question 2 in particular is critical. I offer the following supporting information:

As the government's discussion paper has noted, there are many successful non-traditional business models operating in the Australian wine Industry today. The government's discussion paper goes some way to acknowledging this, but under any of these proposed alternative definitions my particular business model would still be ineligible.

Having worked in the wine and hospitality industries for over 15 years, I followed a life long dream to start my own wine brand in 2012. This wasn't taken lightly, the difficult cash flow from such a long lead time from harvest to sale required significant investment in time, money and my own winemaking education.

I personally make approx. 1200 dozen cases of wine a year under the Born & Raised Wines label. I purchase grapes from a number of growers in Heathcote, Sunbury and the King Valley (VIC). I choose sustainable vineyards that don't use pesticides and whilst not certified organic could very easily do so. My minimal intervention winemaking process follows the same philosophy from the vineyard, only adding minimal preservatives to what is essentially grapes and a lot of love and care. I make the wines in rented space at another winery, although I do own 25 barrels.

Coming from a business background I understand the principles of running a profitable business, starting anything that relies on government handouts in any form shouldn't be encouraged. However the wine business is unique and with some of the worlds most expensive production costs and taxation new disruptive business models, such as not owning a winery and the continued support of the WET rebate are essential in keeping the industry relevant and board line profitable.

My business injects approx. $80K into regional Victoria a year, supporting growers, from who I purchase premium grapes at an average of $1600 per tonne. This it should be noted is important. Why? Well the average cost per tonne of grapes in Australia is $650, whilst this is low due to the poorer quality regions fruit, it should be noted that small producers like myself are paying premium rates to struggling growers. If we become extinct from the removal of the WET rebate how will these growers continue? Simply sell fruit under cost to the big wine businesses ? If this occurs the industry will be on its knees within five years. I also support packaging suppliers, bottlers, the contract winemaking facilities where I make wine, cellar hands and casual works who pick, pack and prune the vines. The ripples from removing the small guys will be far greater than the seemingly small annual $80K regional investment.

Simply put my business and dream will be over if I am not eligible for the WET rebate. I'm in year four of my wine business and I'm still not breaking even, however I am getting close and there is positivity in the air.

Born & Raised Wines feature in James Hallidays's 2017 Wine companion, a first time entry as a four star winery and no wine reviews with less than 90points. I've been to the UK and New York and have interested parties in both to import my wines. You can drink my wines in some of Australia's best restaurants and bars. My brand has value in Social Media and the digital world, and we are introducing a younger generation to wine, food and conviviality with generosity yet without excessive consumption. I obviously think that the eligibility test for the WET rebate should not be bought it effect. If it is, my business will die, and that's a hard pill to swallow considering the huge amount of work that has gone into it.

However there is another consideration that should be highlighted. Australian wine has been in trouble for many a year, its reputation overseas is of high volume, poor quality rubbish. But the tide is turning; it is the small dynamic, artisan producers such as myself that are bringing life back to the segment. We don't make much, but what we do is a prime example of Wine Australia's overriding strategy of premiumisation both in export markets and domestically. The irony is that big producers want us out of the way, but it is this competition and youthful dynamism that is driving tangible growth in the industry.

The Government is ignoring state regional and national industry bodies, all of whom agree that there is no need for asset based eligibility criteria for the WET rebate.

Independent financial modelling undertaken by PWC for the Winemakers Federation of Australia has clearly demonstrated that almost all of the so called ‘rorting’ of the rebate and recuperation of lost taxation revenue can be remedied by simply eliminating the rebate for bulk and unbranded wine, and by tightening the rules regarding ‘associated entities’ claiming multiple rebates.[i] I, my regional association, state association and national industry body are all supportive of these measures.

I do not, however, support the recommendation of the Government’s Consultative group (Oct 2015) that

“The business owns or leases one out of three of a vineyard, winery (production facilities or fermentation facilities) or cellar door outlet” [ii]

Any imposition of ‘skin in the game’ or asset based eligibility criteria unfairly penalises younger and new entrants to the industry, who do not have the financial capacity to secure major leases and asset purchases.

The WET rebate has enabled many quality brands to emerge and contribute positively to the Australian wine landscape. These are the innovators, the ones who have been able to take risks with new styles, new varieties and new packaging. They have helped create a fertile and vibrant wine market that is necessary to capture the imagination of the next generation of educated wine consumers. Many of these producers could never have survived beyond the first few vintages given the ‘perfect storm’ of adverse market conditions seen in the wine industry over the past five years. Several of these young producers are now among Australia’s brightest stars, championed by domestic and international wine journalists and the world’s hottest restaurants and bars. They are the future of our wine industry, and if nurtured they will invest back in the industry, in vineyards, wineries, and other links in the supply chain.

Innovation in the wine industry should be encouraged and supported, particularly at a time when the industry desperately needs to shed its ‘commodity’ image and instead be known for quality, uniqueness, and driving new wine trends. Other agricultural industries are being actively encouraged to develop low-asset business models, and to utilise existing infrastructure. This is fundamentally efficient. The government however appears to be encouraging the wine industry to do the opposite.

As a long-term, committed wine producer, I implore you to remove the ‘lease or own a winery’ provisions and any associated physical asset-based criteria for eligibility for the WET rebate. Such changes will likely cause significant collateral damage to my business and to the future of our industry.

Sincerely,

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[i] PWC report to WFA, Appendix F: *Returning WET Rebate to Fairness and Original Policy Intent - Supporting Advice on the Impact to Government Revenue,* 2015, pp iii-vi

[ii] *Wine Equalisation Tax Rebate Consultative Group report* October 2015, p 5.