



27 July 2018

FGCreview@treasury.gov.au

Dear Professor Samuel,

Review of the Grocery Code of Conduct

The Australian Manufacturing Workers' Union (AMWU) represents over 70,000 workers who create, make and maintain in every city and region across Australia. We represent workers employed in Australia's growing food manufacturing industry.

This submission builds on the feedback previously provided by the AMWU to the 2014 review of the Grocery Code of Conduct (the Code). We note that the recommendations made in relation to the opt-in nature of the Code and the dispute resolution mechanism were not taken up at the time but have been identified as an issue in this review. A copy of the submission is attached.

The AMWU believes that the goals of the Grocery Code of Conduct (the Code) are critical to investment, capability and employment in this key future industry for Australia. The effect of the massive power imbalance in the grocery supply chain in Australia has a significant effect on the thousands of workers in the food manufacturing industry. As an industry primarily located in regional Australia, these facilities are often crucial parts of regional economic viability. This industry helps to improve the values of Australia's raw produce and turn it into the iconic products that Australian's find on the supermarket shelves.

The stated purpose of the Code is to "help to regulate standards of business conduct in the grocery supply chain" and "minimise disputes arising from a lack of certainty" among other things. If the Australian food manufacturing industry wants to continue to grow and provide the high quality, innovative products that Australians demand, improvement on both of these issues is vital. Without certainty, food manufacturing businesses find it difficult to provide good, stable, well paid jobs to their workers, let alone invest in the skills or capital, or retain experienced workers, all of which are drive productivity.

The unequal power relationship acknowledged in the Code means that many small and medium sized food manufacturing businesses are price takers. As such, the workers in their businesses are not able to meaningfully bargain for improvements in wages and conditions in their workplaces. That is because the organization that effectively sets their wages – through their ability to demand that the product these workers produce be provided at particular prices – are the retailers or large wholesalers at the top of the supply chain, not their employer.

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Given the impact of the power imbalance in Australia's grocery industry, the Code should be amended to include a requirement that payment of market-rate wages and conditions to employees in suppliers be considered as part of the "fair dealings" test or "good faith" test. The need for this change can be seen in the many recent examples of worker exploitation in the grocery supply chain. However, the impact of this power imbalance is felt much more widely than those well publicised examples. The erosion of conditions, the decade of real wage stagnation, the pervasive casualization and use of labour hire in this industry is all driven by the simple fact that food manufacturers in Australia are unable to set their own price for their own products.

The specific inclusion of market-rate wages and conditions in the proposed "fair dealings" test would help to meet two of the criteria set in the draft report. Specifically, it will "provide a test of fairness that can be readily applied to all types of retailer and wholesaler-supplier conduct" and "outline fundamental principles of fairness upon which all other provisions in the Code are to be interpreted." By requiring retailers or large wholesalers to consider the impact of their actions on the employees of their suppliers, the Code would be requiring them to take a wholistic view of their actions and shift the power to set wages back down the supply chain and allow workers to meaningfully bargain for improvements to their wages and conditions.

The AMWU proposes that the Model Fair Dealings provision should be amended at clause (1) (b) (v) to read:

- b) In determining whether a Retailer or Wholesaler has acted fairly, regard may be had to whether the Retailer or Wholesaler has:

...

- v. paid due regard to the interests of the Supplier, including the Supplier's need for certainty regarding the risks and costs of trading, **and the Supplier's need to attract, train and retain skilled workers and provide remuneration at market rates to those workers;**

This small change acknowledges the needs of a supplier as an employer as well as a provider of goods to the retailer or wholesaler. It will provide suppliers with the power they need to build efficient and productive businesses that are sustainable over the long term and give them the ability to attract and retain the skilled workers they need to operate productively and innovatively.

When read in conjunction with the rest of the Code, which aims to provide additional certainty and end predatory practices, this clause is the next logical step in building a cooperative and functional food industry in Australia. It will assist workers in the food manufacturing industry to invest in its greatest resources – its people – and build a sustainable and growing industry for both domestic and export markets, while providing good jobs for workers in regional and rural communities around Australia.

On the other hand, if the Code continues to ignore the impact that it has on workers, then they will continue to bear the brunt of any downward pressure from retailers and larger wholesalers. Without further reform to the power dynamic of this vital industry, good jobs will continue to go and exploitation of workers will continue to grow.

The time has come to acknowledge the impact that the structure of this industry has on workers and take bold steps to improve ensure that food manufacturing continues to be a source of good jobs in rural and regional towns for generations to come.

Yours sincerely,



PAUL BASTIAN
NATIONAL SECRETARY