



Response to the Consultation of the Food and Grocery Code of Conduct

Dear Dr Emerson,

Thanks for the opportunity to provide input to this review. Given our knowledge of supply chains within the horticultural sector, Fruit Growers Victoria (FGV) would also value the opportunity to engage directly with the review team as part of the process.

We are a member-based organisation that represents apple, pear and stone fruit producers across Victoria. Our industry produces around 90% of Australian pears, 50% of apples, and 75% of stone fruit grown in Australia.

FGV's view is that a major power imbalance between retailers and fruit producers exists, and is being abused without the likely prospect of sanction. Fruit producers are being forced to take prices for perishable food that is below the cost of production. This has long term implications for the viability of fresh food industries and Australia's capacity to be food self-reliant.

The imbalance of many sellers and too few buyers is a major driver of unethical, opportunistic behaviour from retailers. This dynamic is exacerbated by the perishable and seasonal nature of food production. Farmers are being forced into take it or leave it decisions when holding fruit that has limited shelf life.

This is being exploited through the current non-transparent tender processes in place currently. Supermarkets have all pricing information and growers have virtually none, relying on buyers' claims about market pricing without being able to test their voracity. We would be happy to elaborate on these tender arrangements if requested.

In our view, the Food and Grocery Code of Conduct should be mandatory, as should all industry codes that apply to relationships between food producers and buyers. Recent experience has demonstrated that voluntary codes of conduct have proven ineffective, with very few complaints being made, despite clear evidence of breaches. According to our members, supermarkets are frequently failing to act in good faith without sanction. Codes that can't be adequately enforced, or carry insufficient deterrence, are not working to meet their objective of protecting growers from unscrupulous behaviour.

The other major problem that needs addressing is the unwillingness of producers to report breaches. With limited buyer options, they are forced to acquiesce to poor conduct and maintain a relationship with the retailer. Any competition system needs to protect individual growers from being pitted against each other without clear information on which to make decisions.

The next iteration of regulation in this area should facilitate long-term contracting arrangements and opportunities for collaborative marketing arrangements between growers. There should also be a more transparent price offer reporting process, to be implemented by ACCC, and backed by reporting compliance requirements under the Code.

FGV has an intimate understanding of the supply chain processes that bring fruit from grower to supermarket. We would appreciate the opportunity to share those insights with your team directly.

Where issues are raised here that applies to other areas of policy directly beyond the code, we would be grateful if these could be conveyed in discussions you have.

Yours sincerely,

Mitchell McNab

Chairperson – Fruit Growers Victoria