

Australian Chicken Growers' Council Limited

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President Mike Shaw

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**Submission to the Department of Treasury
On the
HARPER REVIEW of COMPETITION POLICY: FINAL
REPORT
26 MAY, 2015**

The Australian Chicken Growers Council (ACGC) represents the interests of contract meat chicken and turkey growers nationally through its six state grower organisations.

These are:

- New South Wales Farmers Association Poultry Meat Group
- Queensland Chicken Growers Association,
- South Australian Poultry Meat Group.
- Tasmanian Chicken Growers Association
- Victorian Farmers Federation Chicken Meat Group
- West Australian Broiler Growers Association.

The ACGC welcomes the opportunity to comment on the final report of the Harper Review into competition policy. Competition policy is of significant interest to chicken growers as small business owners in a vertically integrated system. We commend the review for recognising some of the inherent issues in the current arrangements and the subsequent recommendations ensuring their rectification is a priority. The ACGC is widely supportive of the recommendations made by the Harper Review and have further outlined our views on specific recommendations in the comments below.

Recommendation 1 – Competition Principles

The ACGC supports the promotion of a set of principles to help guide the development of policy at a federal, state and local government level to ensure that it is of a competitive nature. We would suggest however, that any set of principles should take into account community benefits that come from fostering industry activity. Keeping in mind that low prices for consumers do not necessarily translate into good competitive practice for industry and may have a longer term anti-competitive impact on the economy.

Recommendation 19 — Electricity and gas

Given that electricity and gas make up a large proportion of growers input costs, the ACGC is highly supportive of measures that ensure a competitive and transparent gas and

electricity market. A competitive market and lower electricity and gas prices would, in turn, allow the industry to pass on more competitive costs to consumer

Recommendation 30 — Misuse of market power

Chicken growers by the nature of the industry in which they operate often find themselves in interactions with processors who can clearly exercise greater market power. Therefore, the ACGC believes it is extremely important that mechanisms be put in place to ensure that companies with market power are not misusing it. This may be possible by using an 'effect test' as has been suggested in the report and ACGC would be supportive of this recommendation.

Recommendation 38 — Authorisation and notification

We would be supportive of measures to simplify the notification and authorisation processes. Increasing the flexibility of the notification process as well as allowing for the inclusion of future members will decrease the regulatory burden on organisations to have to reapply each time there is a change to the negotiating group. The ACGC would also note that any anti-competitive consequences that may arise from promotion of flexibility of the notification process as is recommended, may be outweighed by the potential public benefit.

Recommendation 43 — Australian Council for Competition Policy — Establishment

The ACGC would be supportive of the development of such a council to ensure that current government competition policy remains relevant and any unforeseen anti-competitive impacts of legislation are promptly identified. It would be important to ensure the Council were to remain an advisory body only and that all legislative and regulatory decision remain with the ACCC.

Recommendation 51 – ACCC Governance

The ACGC believes that the ACCC should have a clearer focus on and responsibility to small and medium sized agri businesses. Within this, the ACCC should be resourced appropriately to better understand the issues facing the agribusiness sector as it contains distinctive market structures.

Recommendation 53 — Small business access to remedies

As small businesses that regularly engage in interactions of unequal market power, it is essential that growers are presented with access to mechanisms whereby disputes can be resolved. The ACGC is supportive of a pathway to meaningful dispute resolution that supports our members.

Recommendation 54 — Collective bargaining

ACGC supports sensible reform that seeks to provide greater flexibility to small business in the collective bargaining process, including the nomination and authorisation process of future members and counterparties with whom any group seeks to collectively negotiate with. A key concern with the current arrangements is that farmers can be authorised to collectively bargain but there is nothing to compel a processor to negotiate with the collective group. Where a company has contract farmers which have little or no competition or alternative market opportunities, processors have the capacity to practice “exclusionary conduct” i.e. deny individual farmer the right to join the collective on the basis that they will only offer individual contracts. Another concern relates to dispute resolution and ACGC supports the consideration of a boycott provision to be granted with appropriate conditions to provide balance in the market place without contravening the law. Similarly issues relating to common terms and end dates for contracts which are important for the proper operation of the collective bargaining process. The provision for common terms should be incorporated in the authorisation process. In the absence of such measures, in practice a series of individual farmers can be coming out of contract sequentially who have no safeguard from the collective group provisions therefore negating the intent of collective bargaining. Finally, ACGC supports efforts being taken to raise awareness of the exemption process for collective bargaining within the small business community.

Industry Codes & Supermarkets

ACGC maintains support for a mandatory supermarket Code of Conduct to monitor and improve relationships across the food supply chain. This should be pursued as it would ensure the capacity to regulate the conduct between participants in the industry in a transparent manner.

Decisions made by supermarkets to impose systems on their suppliers based on achieving greater market penetration can have adverse effects on the farming system supplying the product. The decision for example by Coles and Woolworths to require that all chicken

supplied to them for their home brand products must be RSPCA Farming System accredited, has taken the control of welfare away from the state and federal regulators and placed it in the hands of a commercial entity.

The ACGC would be happy to provide any further feedback the Department might require.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gary Sansom', with a long horizontal flourish extending to the right.

Gary Sansom
ACGC Executive Officer