

12 February 2016

Manager  
Competition Policy Unit  
Treasurer

Dear Manager

**Re: Options to strengthen the misuse of market power law – Discussion Paper**

Growcom, as the peak industry body for horticulture in Queensland, would like to lend our support to the submission made by the National Farmers' Federation (NFF) on this issue.

The fruit and vegetable sector is characterised by a large number of small suppliers trading in a highly perishable product. It is estimated that at least 60% of horticultural produce is sold to consumers via the two major supermarkets. As such, the limited competition within the supermarket sector has a significant impact on our growers who are price takers. Whilst we appreciate the development and implementation of protections such as the new Food and Grocery Code we still consider healthy competition is the best mechanism to ensure the growers are fairly treated and reasonable prices for consumers in the long-term.

As per the NFF submission, we contend that the current situation whereby dominant companies misuse market power stifles innovation and growth along the whole supply chain and ultimately results in less choice and higher prices for consumers.

Growcom has long held the position that Section 46 (here within s46) of the *Competition and Consumer Act 2010* (CCA) should be amended to replace the existing purpose test with an 'effects' test. This would shift the onus of consideration from what a company's purpose of conduct was, to what effect that conduct had on any given marketplace. This amendment would bring Australia into line with our international counterparts. As such we support the implementation of the Harper review recommendations in full or as per the NFF submission an amended version of Option E to include the 'take advantage of' provision.

Please contact me on (07) 3620 3844 or at [rmackenzie@growcom.com.au](mailto:rmackenzie@growcom.com.au) if you would like to discuss this issue further.

Yours sincerely,



Rachel Mackenzie  
Chief Advocate

