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Grocery Code Review Secretariat  
Market Conduct and Digital Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Via email: [GroceryCodeReview@treasury.gov.au](mailto:GroceryCodeReview@treasury.gov.au)

The Australian Lot Feeders' Association (ALFA) welcomes the opportunity to make a submission regarding the Interim Report - Food and Grocery Code of Conduct Review 2023-24.

ALFA is the Peak Industry Council representing 349 accredited cattle feedlots, with approximately 1.2 million cattle on feed. The feedlot industry makes up to 47% of the cattle slaughtered in Australia and contributes to over 35% of Australia's total beef exports. As a key contributor to a trade-exposed industry, up-stream supply chain operators, such as meat processors, retailers, and exporters, rely heavily on the feedlot industry for the supply and export of high quality, safe, grain-fed beef to feed families in Australia and abroad.

ALFA notes that the Interim Report includes 'Firm Recommendations' and 'Draft Recommendations', and that 15 Consultation Questions have been issued for consideration and feedback. Before providing this feedback, ALFA makes the following general comments.

ALFA's industry consultation indicates that our members have positive relationships and robust commercial arrangements with supermarkets, which are often characterised as partnerships.

Supermarkets typically employ forward contracting systems, offering feedlot suppliers clear and transparent grid prices, fostering security and enabling effective cost and margin management throughout cattle feeding periods. Notably, the two parties undergo open consultation, with feedlot operators retaining the autonomy to accept or reject the proposed commercial terms. Crucially, many of our members who supply the domestic trade boast longstanding relationships with supermarkets spanning decades, underscoring the efficacy of these partnerships.

Discussions with ALFA members indicate no evidence of market failure in supermarket engagement with feedlot suppliers. Positive testimonials from our members underscore the effectiveness of current practices.

ALFA raises a concern that the action of making the code mandatory should not have any unintended consequences that jeopardise these current arrangements or result in an overlay of regulatory requirement that moves current processes to more arduous processes due to red tape obligations, or add unnecessary cost.

Response to Consultation Questions:

**1. Are there any other protections that should be included in the Code for suppliers that sell to a supermarket via another entity?**

ALFA considers the aspect of selling via another entity to a supermarket adds a layer of complexity for the Code to deal with. However, a supplier should be afforded protection if another entity is the direct contact. The review outlines that poor conduct by aggregators and processors is/may already be covered by other industry codes. The review does not mention if these other industry codes are mandatory or not. The Code should be complimented/supplemented by other industry codes where these operate effectively.

**2. Are there reasons why the good faith obligation should not be extended to suppliers? Please detail your reasons, including any case studies that might demonstrate your concerns.**

ALFA supports that the good faith obligation be extended to suppliers. As the review outlines, the action/intention of good faith is the cornerstone principle setting expectation regarding the action of engaging in an agreement/contract. ALFA has no specific case studies, however feedback from members is that their interaction with supermarkets has been positive with some members having relationships in the time frame of 20 years.

**3. Do the dispute-resolution arrangements outlined in this Interim Report allow for low-cost and quick resolution of complaints without fear of retribution? Provide reasons for your response.**

ALFA considers the dispute-resolution arrangements outlined may provide/allow for low cost and quick resolution of complaints. ALFA considers that the role of 'Code Supervisor' may contribute to the success of complaint resolution as the provision of early and accurate advice to suppliers is a critical element to avoid/address confusion, assist decision making and streamline resolution arrangements. However, ALFA cautions against establishing a system that adds unnecessary cost to the supply chain.

**4. Are there alternative or additional mechanisms that could improve dispute resolution under a mandatory Code?**

ALFA has no further suggestions for alternative or additional mechanisms.

**5. What minimum standards of conduct, if any, should be specified in the Code that should not have exceptions? If exceptions are provided for, how should these be limited? Please provide examples to support your views.**

ALFA provides no further suggestions.

**6. Will the reasonableness consideration operate more effectively if the Code is mandatory and there are penalty provisions? If not, which of the reasonableness exceptions should be refined and how? Please provide reasons for your response.**

Any movement to make the Code mandatory may potentially enhance the effectiveness of the reasonableness consideration. However, it's essential to recognise that simply introducing penalties may not be a panacea for ensuring compliance or fostering fairness in the food and grocery sector.

If reasonableness exceptions were to be considered in the Code they should be limited, clearly defined, and subject to scrutiny to prevent abuse or exploitation. They should only be invoked in situations where deviation

*from the standard terms is justified and necessary to address legitimate business concerns, while still upholding the overall fairness and integrity of the contract.*

**7. Do any of the obligations under the Code need strengthening to better protect suppliers?**

*Following discussion with members, ALFA finds no evidence of market failure in supermarkets' engagement with feedlot suppliers. Positive testimonials from our members underscore the effectiveness of current practices. ALFA in a general sense supports the aspect of strengthening the obligations under the Code to better protect suppliers. Lot feeders, being fresh produce suppliers, must navigate the complexities of the supply chain and access resources to enhance their competitiveness and sustainability.*

**8. What additional protections are needed specifically for suppliers of fresh produce? Please provide examples of specific conduct that should be addressed in relation to fresh produce.**

*Concerning lot feeders, supermarkets typically employ forward contracting systems, offering feedlot suppliers clear and transparent grid prices, fostering security and enabling effective cost and margin management throughout feeding periods. Notably, the two parties undergo open consultation, with feedlot operators retaining the autonomy to accept or reject the proposed commercial terms. Crucially, many of our members who supply the domestic trade boast longstanding relationships with supermarkets spanning decades, underscoring the efficacy of these partnerships.*

**9. What additional obligations or mechanisms could be used to ensure ordering practices relating to fresh produce that do not pass most of the risk onto suppliers or result in excess wastage?**

*ALFA suggests the following and notes the below comments may already be in practice in some sectors: -*

*Retailers and suppliers could collaborate on demand forecasting to better align ordering practices with anticipated customer demand. By sharing data and insights, both parties can make more informed decisions, reducing the risk of over or under-ordering.*

*Incorporating waste reduction targets into the Code can provide retailers with clear goals to strive towards. By setting targets for reducing wastage of fresh produce and reporting on progress, retailers can be held accountable for their ordering practices.*

*Requiring retailers to provide transparency in their ordering practices, such as sharing order quantities and frequency, can help suppliers better anticipate demand and plan accordingly. This transparency may also facilitate more effective collaboration between retailers and suppliers.*

**10. Should the grocery supply agreement provide greater transparency around price, such as the process that supermarkets use to determine price? Please provide details to support your views.**

*ALFA supports price transparency; however, we suggest that there is currently adequate transparency levels in the red meat and livestock supply chain. There is considerable industry and commercial price information available to assist decision making. Feedback from members again as mentioned above outlines the two parties being supermarkets and lot feeders undergo open consultation, with feedlot operators retaining the autonomy to accept or reject the proposed commercial terms. Crucially, many of our members who supply the domestic trade boast longstanding relationships with supermarkets spanning decades, underscoring the efficacy of these partnerships.*

**11. What other recommended protections in respect of contracted prices and volumes are appropriate? Provide details to support your views.**

*ALFA provides no further advice, given the current forward contract practice provides clarity.*

**12. What level of penalties should apply to breaches of the Code? Please provide reasons.**

*ALFA considers that any penalty when imposed be proportionate to the severity of the breach and the harm caused to suppliers. Minor infractions may warrant lower penalties, while serious or repeated breaches that have a significant impact on suppliers' livelihoods or market dynamics may require more substantial penalties.*

*ALFA recommends that penalties should be subject to periodic review and adjustment based on feedback from stakeholders, changes in market dynamics, and evolving regulatory priorities. This allows for continuous improvement in the effectiveness of enforcement mechanisms and ensures that penalties remain aligned with the objectives of the code.*

*Penalties should allow for flexibility to take into account mitigating factors, such as the retailer's cooperation in resolving the breach, remedial actions taken to address the harm caused, or external factors beyond their control. This allows for a nuanced approach to enforcement that encourages cooperation and remediation.*

**13. Which provisions, obligations, or requirements should be subject to the highest penalties? Please provide reasons.**

*ALFA considers the following 'in general' aspects could be situations where penalties should have a high consideration: -*

*Breaches related to payment terms, such as delaying payments to suppliers or unilaterally changing payment terms without notice, should be subject to high penalties. Timely payment is crucial for suppliers to maintain cash flow and sustain their operations. Significant penalties for payment delays or discrepancies can deter retailers from exploiting their bargaining power to the detriment of suppliers' financial stability.*

*Breaches involving coercion or retaliation against suppliers for exercising their rights under the Code, such as raising concerns or participating in dispute resolution processes, should be met with higher penalties. Protecting suppliers from retaliation is critical for maintaining a culture of transparency and accountability and safeguarding their ability to advocate for their interests without fear of reprisal.*

*Violations of provisions related to contractual integrity, including unilateral changes to contract terms, unfair contract terms, or failure to provide adequate notice of contract changes, should be subject to significant penalties. Ensuring stability and predictability in contractual relationships is essential for fostering trust and fairness in the supply chain.*

*Penalties should be escalated for repeated or systemic breaches of the code, where retailers engage in a pattern of non-compliance that harms multiple suppliers or persists over time. Higher penalties for repeat offenders can send a strong message that persistent violations will not be tolerated and encourage retailers to proactively address compliance issues.*

**14. Is 50 penalty units an appropriate amount for infringement notices issued under the Code? Should there be any differentiation in infringement notice amounts according to the provision contravened?**

*ALFA understands that in general context an infringement notice fine is usually 10% of the fine amount for a specific listed breach in a legislative act.*

**15. Does the Code adequately require covered businesses to keep information and documents for the purposes of recording their compliance and any disputes raised under the Code?**

*ALFA notes concerns raised in the review around documents recording code obligations that are likely kept as ordinary business records. ALFA further notes the suggestion that such records could be added to the Code's record keeping obligations. ALFA supports the identification of records that should be required to demonstrate recording of compliance and dispute management and requiring such records to be kept for a certain time frame, however this should be outcomes based and not prescribe the form kept.*

Thank you for your attention to this matter, and for considering ALFA's submission. Should you have any questions, please contact [policy@feedlots.com.au](mailto:policy@feedlots.com.au) or 02 9290 3700.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Michael Lancaster', with a stylized, cursive script.

Michael Lancaster  
**General Manager Policy**  
**Australian Lot Feeders' Association**