

## HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS

### REVIEW OF THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION ANNUAL REPORT 2017

**2QON:** Horticulture Code of Conduct: Farm based grower-packers and supply line

Hansard p. 9

Mr BUCHHOLZ: ...My question to the ACCC is this: in the code, why didn't they identify farm-based grower-packers as a legitimate supplier in the produce industry, when it is the biggest supply line?

Mr Bezzi: I was just going the say that I do have responsibility for agriculture but and I am aware, exactly as Mr Sims says, that there are issues around some of the interpretation of the code. I think we would have to take on notice the exact circumstances that you have put forward.

#### **Answer:**

Under the Code, businesses operating as grower-packers can be defined as a both growers and wholesalers, depending on the circumstances. Specifically, a business would be defined as:

- a grower where it supplies produce the business has grown directly to other wholesalers; and
- a wholesaler (either a merchant or agent) where growers supply produce they have grown to the business for sale to third parties.

If a wholesaler decides to trade as an agent, this means that ownership (and therefore certain risks) does not pass to the wholesaler and brings other implications such as application of GST on the agency services they provide. If a wholesaler decides to operate as a merchant, ownership of produce (and therefore certain risks) passes to the wholesaler on delivery, without the same GST obligations as an agent.