RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE

INQUIRY INTO THE AUSTRALIAN WINEGRAPE PURCHASES CODE OF CONDUCT

Hon Nicola Centofanti MLC

Leader of the Opposition in the Legislative Council

Shadow Minister for Regional South Australia
Shadow Minister for Primary Industries
Shadow Minister for Water Resources & the River Murray
Shadow Minister for Veterans Affairs

The adequacy of the voluntary Code of Conduct for Australian Winegrape Purchases (code), with reference to:

a. the structure of, and any inequities in, the Australian winegrape and wine processing market;
b. the nature and impact of current market and trading arrangements on the winegrape and wine processing industries;
c. the impact of the current market structure on employment conditions for workers in the supply chain;
d. the availability, transparency and accessibility of winegrape market price information and its effectiveness in forecasting winegrape prices and demand;
e. the effectiveness of the current administration of the code;
f. the adequacy of winegrape and wine industry representation at regional, state and national levels;
g. policy and regulatory options to improve market competition and address any inequities, including the potential benefits and limitations of a mandatory code, and the applicability of existing mandatory codes of conduct in other primary industries; and
h. any other related matters.

Hon Nicola Centofanti MLC
Dr Nicola Centofanti was born and raised in the Riverland area of South Australia and grew up on a property comprising of both citrus and grapes. The Riverland area is the fruit bowl of South Australia, and historically has produced around 25% of the national wine grape crush. Working as a local veterinarian for 15 years prior to entering politics, and living in the Riverland region has given Nicola the solid background knowledge that has led to her strong advocacy as the Shadow Minister for Primary Industries for South Australia, and Leader of the Opposition in the South Australian Legislative Council.

Introduction - Loss of value in the wine sector
The wine sector differs from other commodities in the complexity of value adding. Like other agricultural sectors there is significant value add in the stage downstream from the grower. Unlike other agricultural commodities, however, there is a very wide range of potential value in the product, in this case, wine grapes, that determines the value of the final wine. This complexity arises from growing conditions, both natural and those imparted by viticultural management, that can have a large impact on the value of the resulting wine. This makes the task of assessing the inherent value of the fruit offered for sale very challenging.

The region where the fruit is grown also has a strong influence on the final value of fruit sold for winemaking. While it is widely acknowledged that there are value differences between the inland and cool temperate regions of the wine sector, it is less commonly understood that there is a value derived from “marketability” of a wine region that has been derived from established reputation, before the flavour and soundness of the fruit is considered. This may seem unfair to growers of higher value fruit in the inland regions, but wine sold with a label from a cool or temperate region will usually command a higher sale price than that from an inland region.

The current loss of value in the wine sector has been a long time coming. Without a long history lesson, as this is well covered in Kym Anderson’s report[1], the impetus that was created from the initial “Strategy 2025” initiative, including accelerated depreciation for new vineyard plantings, saw Australia reach the critical mass of vineyards needed from the projected wine market in 2025 about 23 years early. This rapid expanse in vineyard area, coupled with a contraction in the consumption in commercial, or mid-tier value wines, has led to the current net oversupply of wine grapes, predominantly red wine and red wine grapes.

Much is made of the recent imbalance between supply and demand created by the sudden imposition of heavy tariffs by China on Australian wine and the sudden loss of market to that country. It could be argued, however, that the initial growth of the Chinese wine market acted as a smokescreen for the growing structural imbalance between supply and demand for Australian wine. During the expansion phase into China, wine was redirected from existing markets in the U.K. and North America where margins were constrained, to the Chinese wine market where the wine sale prices were much higher. At its peak this market had compound annual growth around 30% per annum and absorbed a lot of the increasing production of Australian wine, and provided good returns.

While the structural imbalance between supply and demand was a slow – moving trend, the sudden and significant market disruption caused by the imposition of the punitive tariffs to China was immediate and huge. The flow-on effect of the market shut down led to sudden oversupply of wine grapes, in particular red varieties, and especially Shiraz.

The net oversupply in the wine sector has led to the reduction in the sale price of Australian wine, and therefore the value of fruit that is used to make that wine. While the

---

1 Australia’s Wine Industry Crisis and Ways Forward: An Independent Review, Kym Anderson, July 2024

focus of this submission is on the Code of Conduct and the nature of commercial trading arrangements in the wine industry, it should be noted that there are two main reasons for loss of value in the wine sector that is being felt at present, those being:

- Loss of value from reduced demand through net oversupply of wine and fruit,
- Substandard commercial relationships where improvement of the Code of Conduct will help.

There has been a lot of public comment conflating the two separate issues, and there has also been a tendency to sheet home the entire blame for a lack of profitability on alleged unconscionable behaviour of wine companies, when the reality is that grape growers and wineries alike have both been hit by significantly difficult times.

There has been a lot of discussion about potential remedies to the current lack of sustainability in the wine sector. One solution proposed by some growers is that the Minister should issue a minimum price for wine grapes as stipulated in The Wine grapes Industry Act 1991. The Act reads:

> **5 -Indicative price**
>
> (1) The Minister may, by order, recommend a price (expressed as an amount per tonne) for wine grapes grown in the production area and sold to a processor.

However, it is unlikely that any Minister will do this for a number of reasons, and perhaps the most pertinent question is what price should a Minister choose? Some growers are advocating that “a sustainable price” should be recommended by the Minister, seemingly independent of the wine market – which is what naturally determines the value of wine grapes. Setting a price of $300 per tonne for inland fruit, for example, would provide certainty to growers, but would not be sustainable for a wine company to pay if making and selling a product on the current bulk wine market.

The structure of, and any inequities in, the Australian winegrape and wine processing market.

There are significant differences between the inland and temperate regions of the wine industry. Wine produced in inland or “warm” regions is predominantly produced by a small number of large wine companies. This market segment is dependent on efficiency of production, where large volume blends are produced with low margin, and often dispatched in bulk. The wine may be bottled at destination and sold to the consumer as a bottled, branded wine, but the market segment is predominantly low margin. Bulk wine is often sold either predominantly or totally on price, with less capacity to command brand value.

In contrast, the temperate part of the wine sector is dominated by bottled, branded product. There are bulk wine sales from all Australian wine regions, but this part of the market usually has higher value per volume and is sold on characteristics other than just price.

These differences manifest in the following ways for the warm inland sector:

- Fruit is often viewed as being homogeneous in warm inland regions, with less potential gain in value for producing higher quality fruit;
- The smaller number of larger wine companies leads to less competition between buyers for fruit. As times have become more difficult there has been some more consolidation in the wine sector leading to a smaller number of large companies.
- Small production margins lead to lower capacity for winemakers to be able to offer higher prices for higher value wines. It probably leads to greater conservatism in companies offering wine grape prices to protect against downward movement in bulk wine markets after the purchaser has committed to buying the fruit.
- With large, unbranded wine blends (or "parcels" of wine) containing fruit from many different growers the grower is less important to brand value, and there is capacity to substitute growers. There is less likely to be a valued relationship between growers and the wine company.

In all wine regions growers selling to a wine company have limited capacity to negotiate for a higher price. Wine grapes are perishable and as a supplier that can be readily substituted, especially during times of excess supply.

The total price paid in many wine grape supply contracts hinges on at least part of the value being derived from the following:

- fruit "quality" parameters, or characteristics that nominally influence wine flavour and value. These may be objectively measured parameters or subjective measures such as flavour.
- soundness characteristics, such as freedom from disease or blemish.

The assessment of these measures and therefore the determination relating to final value of the fruit is overwhelmingly the realm of the purchaser. There has been a deterioration in trust among wine grape sellers in the integrity and fairness of such measures. Many contacts have subjective or unclear methods of determining fruit value and therefore the final payment value.

As the final decision whether to purchase or reject fruit, or the decision relating to final price is the responsibility of the grape purchaser, the grape seller has limited power in the relationship. There is added instability in the purchasing relationship due to the timeliness of the negotiation prior to harvest of the fruit. Most winegrapes will have a time window of a few weeks where they will be at premium value, and if there is dispute about the value of the fruit, the fruit will deteriorate while that negotiation takes place.

A core requirement of wine grape purchase agreements under the Code of Conduct is the inclusion of a dispute resolution mechanism. This is essential, and may be improved with any measures that recognise and enable timely decision making.

What does raise questions is why there was such disparity in the average purchase value ($/T) paid for red varieties between different inland regions in the 2024 vintage. Historically the fruit between these regions has been regarded as homogeneous. This leads to focus on the influence of one large wine grape purchaser buying around half of the regional fruit production in the Riverland, and the impact on price. This negative impact is despite that much of the fruit purchased by the largest wine company is through CCW Cooperative, which effectively bargains collaboratively on behalf of the grower members. The difference in value paid may be influenced more by the end use (e.g. bulk wine vs bottled branded product) than by the capacity for price negotiation.

Region	Riverina	Murray Valley	Riverland
State	NSW	Vic / NSW	SA
Chardonnay	$392	$395	$366
Cabernet	$318	$240	$189
Shiraz	$313	$256	$200
Merlot	$333	$261	$183

Source: Wine Australia National Vintage Report 2024

In summary, there is a natural power imbalance with the downstream grape purchaser having greater capacity to negotiate with the upstream grape seller.

The nature and impact of current market and trading arrangements on the winegrape and wine processing industries.

A key attribute of the grape and wine market is the lag time between committing to a purchase price and the sale of the wine.

For a grower a region specified in the Code who may be receiving confirmation of a final price for their wine grapes on the second Wednesday of December, they would have spent between 65% and 90% of their annual growing expenses before knowing what their business return will be.

Similarly, bulk winemakers will often commit to a contract of sale some months before vintage, and then be vulnerable to price fluctuations in the wine market in the intervening period, often 8 – 12 months prior to the wine being ready for dispatch.

This contributes to the common payment terms for winegrape growers whereby the payment is made in thirds – one close to harvest and the second 2 payments being received on the 30th June and the 30th September.

Winemakers are similarly liable for upfront costs of production and other additives such as dry goods well before there is any income from wine sales. This applies not only to international sales of wine, but especially sales to large supermarket chains who now dominate the domestic wine scene.

The Code recommends that 30-day payment terms are the preferred option, and makes a general statement that later payments should be higher to include an interest component. Should a Mandatory Code be adopted, there may be a stipulation for shorter payment terms for growers, but this is likely to be reflected in the price offering. If payment in 30 days becomes mandatory it is likely to result in a reduction in the price to reflect the interest cost to the grape purchaser in funding those payment terms. It is likely that adoption of 30-day payment terms will create greater stress for smaller wine companies than large, and there is benefit for grape sellers in having more rather than less purchasers. If 30-day payment terms are to be adopted there should be careful consideration of possible unintended consequences.

It should be noted that terms of payment for wine grapes are defined in the Act, in Government Gazette Thursday 18th March 2004. The ability to offer payment outside the specified terms would technically be in breach of The Act.

In summary – there should ideally be greater certainty for both wine makers selling wine and grape growers committing to sale to a grape purchaser. While grape growers may receive greater certainty under the scope of this review, greater certainty in dealings between wine sellers and local wine buyers would conceivably provide flow-on benefits to growers in improving the viability of wine companies.

The availability, transparency and accessibility of winegrape market price information and its effectiveness in forecasting winegrape prices and demand;
There is currently a reasonable amount of information from various sources, including bulk wine sales reports on various bulk wine markets, and also through Wine Australia. The establishment of the wine marketing dashboard on the Wine Australia website improves access to market information, but it is debatable if the majority of growers

have the knowledge to access that. Many growers are unaware of the link between bulk wine value and the value of the wine grapes that make up that wine.

While the average bulk wine price may serve as a guide to the value of wine grapes, it only holds in the inland regions, where the wine grape value is viewed as being more homogeneous. The average bulk price does not serve as a good guide for grape value destined for bottled branded products. There is also a shortcoming in the lack of price transparency between the vine sale value and the value of the fruit contributing to the wine. As such many growers are receiving distorted market signals, which inhibits their capacity to make sound business decisions.

In Summary – While there is access to general market information, some growers may not have access to it or be unaware of the link between wine market data and the value of their crop. There is a role for representative organisations in disseminating this information.

There are benefits for all parties with more transparent information about market influences on the value of the fruit. While a code of conduct may not mandate such transparency there is a case that it should be encouraged as best practice.

The effectiveness of the current administration of the Code

The Code is being administered and operated well, the only shortcoming being that it is voluntary and has not achieved full industry coverage. It is disappointing that until recently all milestones of achieving numbers of signatory support have failed to be achieved. However, it should be noted that there has recently been an increase in support for the Code, and that the vast majority of the annual crush by volume is covered by the Code.

The Code is administered by the Management Committee, which sits under the national industry body Australian Grape and Wine and comprises members of growers and winemaker companies. In its current form it is limited in being only able to define minimum terms of trade as a guideline for winegrape growers.

The adequacy of winegrape and wine industry representation at regional, state and national levels.

There is a huge number of organisations in the Australian wine sector, including regional state and national advocacy organisations, marketing bodies, technical bodies and others. The effectiveness of the various representative bodies is a matter for the members to decide, but it should be noted that every organisation places an operational burden on the fee – paying members.

There has been some public allegation that the national body Australian Grape and Wine is inequitable due to the imbalance of representatives from the grape growing and winemaking community. It should be noted that grape grower interests are protected by the need for a majority of at least 80% as specified in Constitution of Australian Grape and Wine in the Constitution[2]:

> Directors at Board meetings will be determined by:
>
> (a) polling all votes cast in person or by proxy; and
> (b) a majority of at least 80% of the votes being cast in favour of the motion (subject to any other provision of this Constitution which requires a unanimous vote of the Directors).

Growers often become disengaged with representative organisations as trading conditions become more strained. Some grower representative organisations have, by the adversarial nature of previous business relationships, had an antagonistic relationship with wine producers and brand owners.

In Summary – There will be benefit in a review of all wine sector organisations across the Australian wine industry with a view to rationalising the total number to provide lower cost and better service to members. This work falls outside the scope of the Code of Conduct.

Policy and regulatory options to improve market competition and address any inequities, including the potential benefits and limitations of a mandatory code, and the applicability of existing mandatory codes of conduct in other primary industries.

At the inception of the Voluntary Code there was resistance among both grower and winemaker groups to the concept of a prescribed mandatory code. The core reasons were that the industry wanted to retain control over the industry code, and there were reservations about the implications should government organizations take control of the Code.

Comparison with the dairy industry, with producers and representatives satisfied with the mandatory code in their industry, suggests that mandatory codes do work. If a mandatory code sets a minimum standard of commercial behaviour that is acceptable to all parties without being onerous to administer and apply, then the overall outcome will be positive.

---

[2] https://www.agw.org.au/assets/role-and-mission/FINAL-Constitution-Australian-Grape-and-Wine-Incorporated-66792778.

Many of the undesirable commercial practices within the wine sector have been present for so long they may be ingrained. And hence resistance and change is difficult. The need for clearly defined standards for fruit soundness and value to be clearly defined in advance of the harvest season, should not require explanation, it should be expected in normal commercial practice.

SUMMARY

- The wine industry needs greater certainty along the supply chain but in particular for growers to be able to make better business decisions.
- There is a case for greater scrutiny of commercial dealings between wine sellers and the large supermarkets, in light of the market power the major companies have.
- The establishment of a mandatory code may have the capacity to ensure sound business practices where the voluntary code has had some, but incomplete success, but that will depend on not having a more onerous administration load on wine businesses that are currently doing it tough.
- Greater transparency between grape purchasers and sellers and a more complete understanding of the price influences will enable better business decisions, especially by growers.
- The work in the current voluntary code that stipulates clear soundness and fruit characteristics requirements in terms of the contract of purchase and supply should be preserved and strengthened.