

Russell Cant
Director Horticulture Exports
Plant Export Operations

Date 12th March 2013

Dear Russell Cant.

In regard to your phone call and email to me 1-3-13.
For whatever unknown reason, I am unable to find the email which I sent to HorticultureExportsProgramAct@daff.gov.au, in response to the form letter I received from you titled "Annual Charge For Registered Establishments 2012-2013," dated 27-11- 12.

However Mr Cant please note that since that email was only an abbreviated version of concerns contained in my letter sent to you 15-2-13 it is evasive quibbling to suggest that such a "communication problem" is any reason for you to delay addressing yourself to the issues raised; that is that your department's many-fold increase in export fees and charges are exorbitant and inequitable and have been arrived at by improper means.

Prior to illustrating and analysing those improper means I will reiterate my circumstances.

Mystere Orchards is a small single family business. Non-the less it is one of the largest lime producers in South Australia. And it was us who personally initiated the first SA lime exports to New Zealand.

Even though we might only export 6-10 pallets of fruit to New Zealand a year it is an essential component in making the whole business economically viable.

Because of the very high quality of our product we are able to satisfy small niche markets which non-the less provide wider market appreciation of Australian products in general. Even though we may be a small family business there are many similar small businesses constituting a clearly identifiable "INDUSTRY GROUP" even without having any formal organisation. Similar circumstances are common across all Australian farm industries.

STAKEHOLDER CONSULTATION

Quite contrary to the assertion by your INDUSTRY ADVICE NOTICE 2012/25 that these changes will be "*developed using objective data;*" it, and the COST RECOVERY IMPACT STATEMENT, clearly and ironically shows the dysfunctional and deceitful basis of the changes to horticulture export fees and charges.

It is stated that, "*The new fees and charges have been subject to an extensive process of consultation.*"

That is a falsehood.

There can be little doubt that the whole basis of your department's new cost recovery policy is founded on the deliberate exclusion of the interests of stakeholders such as Mystere Orchards and similar small businesses contrary to it's defined duties.

I have never been consulted on these matters and I am unaware of any other local similar sized niche producers of high quality export fruit who have been consulted directly by representatives of your department or the various industry group representatives providing input to the Joint AQIS – Horticulture Industry Ministerial Task Force.

A particularly blatant example of how contrived has been the exclusion of any consultation of small business is in the behaviour of Citrus Australia and the SA Citrus Industry Development Board while they were sitting on the Joint AQIS- Horticulture Industry Ministerial Task Force.

Despite Citrus Australia sitting on the MINISTERIAL TASK FORCE for nearly 3 years;
Despite the fact that the Citrus Australia named representative to the MTF lives on the same road as Mystere Orchards, in Cooltong;
Despite the Citrus Australia representative to the MTF knowing that Mystere Orchards is one of the largest local lime producers and exporter;
Despite the fact that in past years I was selected to accompany this same person, (among others) on two separate trips to various countries in Asia, and the USA to help develop SA citrus industry marketing opportunities;
Despite all of these things, neither Citrus Australia nor their named representative to the MTF has made any attempt to consult with Mystere Orchards on these matters or to advise me that such processes were taking place.

Similarly, in regard to one of the SA Citrus Industry Development Board's representatives to the MTF, in past years I was selected to accompany that person on a trip to the USA to help develop SA citrus industry opportunities and yet neither he nor any-one from that organisation has made any effort to consult with me on these matters or advise me that such things were taking place.

As a well known and active member of the SA citrus industry I have also had much previous contact with the other SA Citrus Industry Development Board's representative to the MTF and yet he has made no effort to consult with me on these matters.

It is difficult to escape the conclusion that the advice provided by Citrus Australia and the SA Citrus industry Development Board to the Minister, and your department was little more than contrived deceit through omission.

Therefore, since the BEAL REPORT recommends that, "*Business groups should be consulted in developing cost recovery arrangements,*" and since your own document states that you "**must comply**" with that particular BEAL REPORT recommendation, it seems clear to me that your department has not complied with its duty in this matter.

Similarly, with regard to the "AUSTRALIAN GOVERNMENT COST RECOVERY GUIDELINES 2005", you "**must comply**" with its requirements to consult with, "**industry and small business**" and yet it seems clear to me that your department has not done so.

It also is difficult to escape the question as to whether there was any collusion from your department in this selective exclusion of small industry inputs to the Ministerial Task Force.

So much for your department piously proclaiming that the Horticulture Export Program budget is "**developed using objective data**".

With enough irony to choke a horse, Citrus Australia released a statement, (5-2-13), regarding the new fees which, with a slightly desperate air about it, states, "This is not an attempt to try and consolidate or force small business out"... Ha!

That statement is entirely contrary to the truth contained in a statement saying the exact opposite which is one of the main findings in the COST RECOVERY IMPACT STATEMENT for the HORTICULTURE EXPORT PROGRAM, which Citrus Australia's inputs helped create and which it has vigorously supported.

Considering the possibility that Citrus Australia may have put forward false representations to the MTF, as purported consultations with, and on behalf of, local small businesses such as described, is it possible that it may be in breach of it's duties under the Trade Practices Act, Sec. 53,(d), (False Representations)?

In the circumstances described above I find it difficult to believe that the SA Citrus Industry Development Board has not made statements to the MTF that are "**false or misleading in a material particular (whether by reason of the inclusion or omission of a particular)...**" and so, in breach of its duties under SEC. 22 of the (SA) Citrus Industry Act 2005. (False or misleading information.)

Just as a matter of interest;

Is it an offence or contempt of Parliament to mislead a Minister as a participant of a Ministerial Task Force or can anyone dish up any self-serving rubbish they like?

EFFICIENCIES and EQUITABLE DISTRIBUTION OF COSTS

As with the misrepresentations regarding "stakeholder consultation", the whole foundation of your department's propositions about achieving savings through increased efficiencies is false and is based entirely upon the exclusion from it's considerations of concerns from sections of the industry which it is duty bound to include.

Firstly is your department's establishment of a 3 tiered system of payments for the '**Registered Establishment Charge**', and the contention that this structure addresses the only relevant "differentiation" of businesses paying this charge.

That is a falsehood.

Mr Cant, the most relevant differentiation between businesses paying this charge **is the range of different sizes of businesses within each tier.**

I note your department's feeble attempt to mask the range of different sizes within the export tier by purporting to average the requirements of service documentation of that tier.

Any simplistic averaging in *any* study of so few groups which vary from one another by hundreds-fold, is statistically and analytically meaningless and can only be born of unprofessional ignorance or dishonest intent.

As in my case, and in similar other cases, your department inspectors visit my establishment once per year, and including the time for their return journey, and their inspection for registration spend less than two hours for which I have been charged \$550.

(Therefore if you do not think that \$550 per two hours is an efficient return for your department's inspections Mr Cant then there is something very wrong with your department's operations and your perspective on your responsibilities.)

You now propose to charge me **\$8,530** for two hours work by your department's inspector to register my small family business to export 6-8 pallets of fruit and then charge the same amount to large corporations who export hundreds of times more fruit than I do and whose facilities are proportionally larger and require proportionally greater inspection services from your department.

It is self-evident that your department's contention that the new fees and charges are in any way equitable for companies within each of the tiers is quite untrue.

The dishonesty of that contention is openly illustrated in your department's "COST RECOVERY IMPACT STATEMENT for the HORTICULTURE EXPORT PROGRAM", which says that much of the cost "efficiencies" are due to an estimated reduced demand for Horticulture Export Certification activities "**...based on a 20% reduction in the number of establishments registered with the department at July 2011.**" Which among other things will be because "**...some participants are not likely to renew their registration as a result of the new rates of charge!**"

Simply put, your department is admitting that it will make much of it's savings by imposing inequitable and exorbitant fees selectively on small businesses to force them out of business and so reduce demand on your services.

COST EFFECTIVENESS and UNDERMINING OF OBJECTIVES

Mr Cant it seems clear that your department has not consulted within those small business groups mentioned above whose reduced activity or cessation of business you identify as providing much of your anticipated "efficiencies". Neither does it appear that they have collected data from such businesses so as to calculate the typical costs of the cessation of such business activities to their local economies and to the State economies and revenue and to the Federal economy and revenue.

Without analysis of such data your department can not have any legitimate basis enabling them to comply with their duties in regard to assessing "**cost effectiveness**" and "**assess whether adopting cost recovery would undermine the objectives of the activity.**" as required by the AUSTRALIAN GOVERNMENT COST RECOVERY GUIDELINES 2005.

So where is that data and analysis Mr Cant?

All of this is a classic case of a dysfunctional bureaucracy that has lost any grasp of it's supposed reason for existence. Truly, the tail trying to wag the dog.

Other than your department the only other people who seem to benefit will be the large corporations whose "key industry representatives" supplied the MTF with their apparently flawed submissions that were so readily and uncritically embraced by your department for it's own purposes.

Mr Cant my strong feelings are that the preferred system would be a continuation of a local departmental inspector to independently maintain the integrity of the Annual premises registration and documentation including produce inspections at your department's "Fee For Service" rate of \$36.00 per quarter hour.

Regards,

Michael and Tanya Punturiero