

Chapter 3

Wine retail

3.1 This chapter considers the power and influence of retailers of Australian wine in domestic and export markets.

3.2 It is estimated that Woolworths and Wesfarmers collectively share just under 60 per cent of the domestic wine retail market.¹ Treasury Wine Estates provided an even higher estimate of 70 per cent in what they described as a 'virtual oligopsony among retailers'²—a market with a small number of buyers whose choices directly affect prices.³ The Department of Industry and Science explained that:

Woolworths owns the BWS and Dan Murphy's retail chains plus the Cellarmasters online outlet and the Langton's fine wine auction business. Wesfarmers owns the Liquorland, First Choice and Vintage Cellars retail chains.⁴

3.3 The committee heard that increasingly 'Costco, Metcash (Cellarbrations, IGA Liquor and Bottle-O stores), and the Aldi chain also have a significant presence in Australia's domestic retail liquor market.'⁵ Accolade Wines observed the introduction of Aldi in the UK as delivering 'lower prices to consumers... funded by further reduced margins to suppliers.'⁶

3.4 Other markets are beginning to emerge as an alternative to distribution through major retailers. *IBISWorld* has estimated that 6.9 per cent of sales will occur through niche downstream markets, such as direct to consumers (including cellar doors), online markets, caterers and businesses, in 2015–16.⁷

1 *IBISWorld* (Brooke Tonkin), *IBISWorld* industry report C1214: *Wine production in Australia*, July 2015, p. 7. See also Department of Industry and Science, *Submission 19*, p. 12.

2 Mr Roger Sharp, Director, Group Corporate Affairs, Treasury Wine Estates, *Committee Hansard*, 27 October 2015, p. 40. See also WineFoodTechMedia Group, *Submission 34*, p. 9.

3 Oxford University Press, *A Dictionary of Economics*, 2009, <http://www.oxfordreference.com/view/10.1093/acref/9780199237043.001.0001/acref-9780199237043-e-2189> (accessed 19 November 2015).

4 Department of Industry and Science, *Submission 19*, p. 12.

5 *Ibid.*

6 Accolade Wines, *Submission 26*, p. 19.

7 *IBISWorld* (Brooke Tonkin), *IBISWorld* industry report C1214: *Wine production in Australia*, July 2015, p. 16.

Private or own brands

3.5 Some retailers have dual roles as wholesalers and producers of wine. In particular, many submitters and witnesses discussed with concern the wine produced and sold under private or 'own brands' of key wholesalers Woolworths and Wesfarmers.⁸

3.6 The committee heard that private brands account for 'at least 16 per cent of domestic sales,'⁹ and may be as high as 18 per cent¹⁰ or 20–25 per cent.¹¹ By way of comparison, Wines of Western Australia estimated that private brand sales were only five per cent in 2005.¹²

3.7 The Australian Small Business Commissioner submitted that private brand development was 'likely to put further price and margin strain on growers and wine producers alike,' an issue of concern from a recent industry roundtable.¹³ The Department of Industry and Science submitted that private brands further concentrate market power, explaining that:

As in many industries where the retail market is controlled by a concentrated few businesses, producers are vulnerable to the decisions of those retailers. This is exacerbated by the fact that Woolworths and Wesfarmers now have established private brands.¹⁴

3.8 On the other hand, WGGGA told the committee that private brands were part of the solution in an oversupplied market, as they 'provide a viable route-to-market for fruit that may not find a home in wine company brands,' which can increase commercial opportunity for some producers.¹⁵

8 See, for example, Department of Industry and Science, *Submission 19*, p. 12; Mr Bruno Altin, *Submission 5*, p. 3; AGWA, *Submission 8*, p. 29; Mrs Virginia Tropeano, *Submission 9*, p. 5; Riverland Wine, *Submission 15*, p. 12.

9 Department of Industry and Science, *Submission 19*, p. 12 (Expert Report on the Profitability and Dynamics of the Australian Wine Industry, Centaurus Partners, August 2013).

10 Accolade Wines, *Submission 26*, p. 15.

11 Wines of Western Australia, *Submission 21*, p. 2.

12 Ibid.

13 See also Australian Small Business Commissioner, *Submission 23*, p. 6.

14 Department of Industry and Science, *Submission 19*, p. 12. See also Australian Small Business Commissioner, *Submission 23*, p. 6.

15 WGGGA, *Submission 30*, p. 20.

Labelling

3.9 The committee heard concerns that major retailers' private brands were labelled in a way that could mislead consumers.¹⁶ WFA Chief Executive Officer Mr Paul Evans reported that:

Concerns are raised with me reasonably regularly that the approach to labelling of the home brands of Coles and Woolworth is to visually come very close to branded producers.¹⁷

3.10 Submitters and witnesses called for larger retailers to label products in a way that allows consumers to make informed choices. WFA submitted that their consultation with industry 'has highlighted strong support' for clear marking of the private brands owned by retailers.¹⁸ This is support by the submission of WGGGA that:

Wine labelling should clearly distinguish between wine company brands and those belonging to retailers – so that wine companies can derive the benefit of promoting their value propositions and consumers can choose.¹⁹

3.11 Likewise, Mrs Virginia Tropeano argued that:

Truth in labelling is an issue which needs to be addressed by government so as consumers can clearly differentiate between wine produced and marketed by an actual winery and wines which have been purchased in bulk and labelled as a brand by retailers.²⁰

3.12 Treasury Wine Estates agreed with 'the need for there to be clear transparency for consumers to make informed decisions.'²¹

Recommendation 2

3.13 The committee recommends that the Government amend labelling requirements so that wine labels must declare whether wine is produced by an entity owned or controlled by a major retailer.

16 Clare Region Winegrape Growers Association and Clare Valley Winemakers Inc, *Submission 16*, p. 6; Accolade Wines, *Submission 26*, p. 15; Mr Brett Butcher, *Submission 27*, p. 1; Dindima Wines Pty Ltd, *Submission 31*, p. 2; WineFoodTechMedia Group, *Submission 34*, p.2; WFA, *Submission 41*, p. 57; Mrs Virginia Tropeano, *Submission 9*, p. 2; Riverland Wine, *Submission 15*, p. 12.

17 Mr Paul Evans, Chief Executive Officer, WFA, *Committee Hansard*, 27 October 2015, p. 22.

18 WFA, *Submission 41*, p. 57.

19 WGGGA, *Submission 30*, p. 20; Riverland Wine, *Submission 15*, p. 12.

20 Mrs Virginia Tropeano, *Submission 9*, p. 2.

21 Mr Roger Sharp, Director, Group Corporate Affairs, Treasury Wine Estates, *Committee Hansard*, 27 October 2015, p. 40.

Market share

3.14 Aside from the development of own brands, producers identify the large market share held by retailers in the wine industry as 'a major issue affecting... profitability'.²² Barossa Wine and Grape Association reported that 'patchy' profitability for its members can be attributed to a number of factors, including 'ruthless use of market power by major retailers.' They explain that the 'concentration of retail outlets gives wine producers little bargaining power in negotiating sales.'²³

3.15 Mr Marc Allgrove told the committee that major retailers are 'offering convenience, range and price with which few can compete.'²⁴ Like the South Australian Wine Industry Association,²⁵ Mr Allgrove submitted that the opportunity to enter the retail market is limited to only a few suppliers:

The conditions imposed by retailers chasing profits and shareholder returns have not only impacted profitability of individual operators but also limited the number of suppliers who are able to trade with them.²⁶

3.16 The committee heard examples of 'unconscionable commercial practices'²⁷ by retailers that flow from their dominance in the industry. WFA told the committee that commercial dealings in the wine industry are operating according to unfair practices:

The fragmentation of the wine industry and the relatively small scale of even its largest producers compared to the large wine retailers, has seen commercial agreements become commonplace that may otherwise be deemed unacceptable in other more consolidated sectors. These agreements sanction practices that are considered unfair by WFA and they may exist only because of the imbalance in power between wine retailer and wine supplier.²⁸

3.17 Examples of uncommercial practices included high marketing fees, lower margins, and variable or 'retrospective' pricing. Wines of Western Australia explained that producers pay for the opportunity to be sold or promoted, which leads to the situation where:

22 Department of Industry and Science, *Submission 19*, p. 12 (Expert Report on the Profitability and Dynamics of the Australian Wine Industry, Centaurus Partners, August 2013).

23 Barossa Wine and Grape Association and Regional Development Australia Barossa, *Submission 10*, p. 1.

24 Mr Marc Allgrove, *Submission 2*, p. 2.

25 South Australian Wine Industry Association Incorporated, *Submission 32*, p. 7.

26 Mr Marc Allgrove, *Submission 2*, p. 2.

27 Clare Region Winegrape Growers Association and Clare Valley Winemakers Inc, *Submission 16*, p. 1; Mr Warren Randall, Proprietor and Managing Director, Seppeltsfield Wine, *Committee Hansard*, 24 September 2015, p. 11.

28 Answer to question on notice, WFA, *Submission to the Review of the Competition Framework*, 10 June 2014, received 11 November 2015.

...if you want to go into a catalogue, you are required to stump up big, big money for them to sell your product. Then on top of that, you have to give them blue sky [more than 40 per cent of gross profit] in terms of margins.²⁹

Pricing concerns

3.18 Pricing of wine grapes is agreed in contracts between growers and producers, with final price set by fruit 'grade' and ultimate product line.³⁰ Treasury Wine Estates stated that this staged approach carries risk for both growers and producers, because:

...there is not always an obvious quality outcome until the grapes are converted into wine, with early commitments to final pricing consequently likely to be highly speculative and given the conservative uncertainty, potentially damaging to both grape grower and wine producer.³¹

3.19 The committee heard evidence that the speculative nature of pricing gives larger retailers considerable influence when setting price and margins. Wines of Western Australia told the committee that retailers achieve higher margins by passing additional costs on to growers and producers:

Every single administrative cost and every single possible operational cost, they try to pass on down the chain. The wineries and the growers are wearing a lot of the burden of the way that they operate their business.³²

3.20 WGA submitted that growers seldom profit from any cost savings, while lower prices for consumers continue to be prioritised:

...cost savings are not likely to be realised by the grower but are instead absorbed in increased margins to the more powerful players in the value chain – or lower costs to consumers.³³

3.21 Several submitters argued that the behaviour of retailers has contributed to the price of wine being 'too low'.³⁴ WFA Chief Executive Officer Mr Paul Evans told the committee that '[f]or the last six years the industry has not witnessed above-CPI retail

29 Mr Redmond Sweeny, President, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 1.

30 WFA, *Submission 41*,

31 Treasury Wine Estates, *Submission 35*, p. 3.

32 Mr Redmond Sweeny, President, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 2.

33 WGA, *Submission 30*, p. 16.

34 See, for example, Mr Paul Evans, Chief Executive Officer, WFA, *Committee Hansard*, 27 October 2015, p. 21; Treasury Wine Estates, *Submission 35*, p. 19; Wine Grape Council South Australia, *Submission 37*, p. 10; Riverland Wine, *Submission 15*, p. 12; WineFoodTechMedia Group, *Submission 34*, p. 9; Riverina Grape Wine Marketing Board, *Submission 33*, p. 9; WGA, *Submission 30*, p. 17; Accolade Wines, *Submission 26*, p. 19.

pricing increases, because of the discounting behaviour in the local retailers.³⁵ FARE submitted that because of 'heavy discounting':

The price of wine has fallen by 25 per cent relative to the consumer price index (CPI) since 1980. Wine can now be purchased for just 29 cents per standard drink.³⁶

3.22 WFA cited cleanskins 'advertised for prices ranging from '\$3.30 to \$5.90 per bottle', each containing 'roughly eight or nine standard drinks.'³⁷ Several submitters remarked on the fact that wine is the cheapest form of alcohol in Australia.³⁸

3.23 WGGA explained that widespread discounting by retailers does not reflect the fact that Australian wine has in fact improved over the past decades:

At the end of the day, the simplest answer to how we have undermined the perception of Australian wine is by discounting it... the fact is that quality has improved massively in the last 20 years... we continue to win awards overseas in international competitions—but the price has declined, and we continue to describe quality as price. For any grower that is massively confusing.³⁹

3.24 The actions of larger retailers have flow-on effects for smaller retailers, who are unable to match heavily discounted prices. By way of example, Mr Brett Butcher of the Yarra Valley submitted that:

We have been told by many smaller boutique bottle stores that if we do business with Coles or Woolworths we can no longer do business with them as Coles and Woolworths will demand the lowest price.⁴⁰

3.25 As well as for growers and producers, low wine prices are a significant concern for FARE, who submitted that:

...low alcohol prices contribute to increased consumption and harms. There is strong evidence to show that the lower the price of alcohol, the higher the levels of consumption.⁴¹

35 Mr Paul Evans, Chief Executive Officer, WFA, *Committee Hansard*, 27 October 2015, p. 21.

36 FARE, *Submission 22*, p. 8.

37 Mr Paul Evans, Chief Executive Officer, WFA, *Committee Hansard*, 27 October 2015, p. 21.

38 For example, WFA, *Submission 41*, p. 15; Mr Leo Pech, *Submission 13*, p. 12; FARE, *Submission 22*, p. 8.

39 Mr Lawrence Stanford, Executive Director, WGGA, *Committee Hansard*, 24 September 2015, p. 34.

40 Mr Brett Butcher, *Submission 27*, p. 1.

41 FARE, *Submission 22*, p. 4.

Addressing the market power imbalance

3.26 The committee heard few solutions to the problem of market concentration during this inquiry. South Australian Wine Industry Association submitted that 'it is difficult to understand what government can do to assist the industry deal with this issue.'⁴² Riverland Wine submitted that the wine industry's challenges 'are common with many primary producers of other crops.'⁴³ They argued that the structural problem of an 'oversupplied market' contributes to the retailers' 'ability to command margin at the producers' expense.'⁴⁴

3.27 WFA submitted that 'additional regulation would improve the competition process and enable consumers to make informed choices.'⁴⁵ They recommended a Productivity Commission reference to 'conduct analysis of the domestic wine market and the impact of retail consolidation on margins and profitability for wine businesses.'⁴⁶

3.28 The Department of Industry and Science, while discussing R&D Tax Incentive, Entrepreneurship Infrastructure Programme and Industry Growth Centres, did not discuss measures to assist industry in overcoming this particular challenge to profitability.⁴⁷

Competition Policy Review

3.29 The committee heard from some witnesses that competition policy reform would assist in addressing the imbalance between producers and large retailers.⁴⁸ Professor Geoffrey Lewis from the Clare Region Winegrape Growers Association discussed the final report of the Competition Policy Review conducted by Professor Ian Harper, arguing that:

We need good competition law in this country. We do not have it. Professor Harper has made recommendations.... clearly with some of them the government can act.⁴⁹

42 South Australian Wine Industry Association Incorporated, *Submission 32*, p. 7.

43 Riverland Wine, *Submission 15*, p. 4.

44 Riverland Wine, *Submission 15*, p. 5.

45 WFA, *Submission 41*, p. 57.

46 WFA, *Submission 41*, p. 58.

47 Department of Industry and Science, *Submission 19*, p. 12.

48 Barossa Wine and Grape Association and Regional Development Australia Barossa, *Submission 10*, p. 3; WFA, *Submission 41*, p. 58; Professor Geoffrey Lewis, Committee Member, Clare Region Winegrape Growers Association, *Committee Hansard*, 24 September 2015, p. 67.

49 Professor Geoffrey Lewis, Clare Region Winegrape Growers' Association, *Committee Hansard*, 24 September 2015, p. 67.

3.30 Likewise, WFA President Mr Tony D'Aloisio AM told the committee that the Australian Competition and Consumer Commission (ACCC) could play a greater role:

We think there should be greater vigilance from the ACCC. A lot of the recommendations that Harper made went in that direction, and we would support those.⁵⁰

3.31 WFA and the South Australian Wine Industry Association both called for section 46 of the *Competition and Consumer Act 2010* to be amended to prohibit conduct by those with substantial market power that has the likely effect of lessening competition.⁵¹ Further, WFA made the following specific recommendation about the practice of retrospective pricing:

...that the Government's response to the Harper Review enable a determination to be made of whether retailers' demands on retrospective pricing support from suppliers, in fact constitutes a misuse of market power.⁵²

Recommendation 3

3.32 The committee recommends that in responding to the Competition Policy Review's Final Report, the Government specifically consider commercial agreements between growers and producers of wine and the major retailers.

Code of conduct

3.33 The committee heard that voluntary codes of conduct govern some relationships between growers, producers and major retailers. An example is 'the Good Wine Buyer and Supplier Principles which WFA co-signed with Woolworths Liquor Group.'⁵³ WFA advised the principles include measures such as:

...ensuring things like contracts are in writing, outlining proper information, issues around how negotiations are for particular promotions, disallowing unilateral changes to commercial agreements.⁵⁴

3.34 The committee also heard that the Woolworths Liquor Group 'is changing... education and training for its staff' towards improving relationships with the wine sector.⁵⁵

3.35 The WFA *Actions for Industry Profitability 2014–16* recommends 'closer industry ties with the national wine retailers to help grow the category domestically.'

50 Mr Tony D'Aloisio AM, President, WFA, *Committee Hansard*, 27 October 2015, p. 22.

51 South Australian Wine Industry Association, *Submission 32*, p. 10; WFA, *Submission 41*, p. 57.

52 WFA, *Submission 41*, p. 57.

53 Mr Tony D'Aloisio AM, President, WFA, *Committee Hansard*, 27 October 2015, p. 14.

54 Mr Tony D'Aloisio AM, President, WFA, *Committee Hansard*, 27 October 2015, p. 3.

55 Mr Tony D'Aloisio AM, President, WFA, *Committee Hansard*, 27 October 2015, p. 14.

As one of the 43 actions listed as a 'blueprint to lift the profitability of Australian wine businesses,' WFA stated that to 'maximise open and fair domestic competition':

WFA will work with the national wine retailers and competition regulator on fairness, transparency and equity in the domestic wine market. The outcome will be a more sustainable domestic marketplace for industry where companies can grow share through quality, innovation and investment.⁵⁶

3.36 WFA reported that retailers have 'responded positively' to a proposal to collaborate on shared issues through a standing industry working group, including to 'progress discussions over a set of agreed principles and practices'.⁵⁷

3.37 Despite this, Clare Region Winegrape Growers Association and Clare Valley Winemakers submitted that actions taken so far have had little effect on price or culture, explaining:

There are already government initiatives underway to address claims of unconscionable conduct by the two main players: Woolworths and Coles, and to put a regulatory framework in place such as the Food and Grocery Industry Code of Conduct to protect smaller suppliers. However, there appears to have been little impact on the behaviour of the major retailers, and certainly no discernible improvement in wine prices.⁵⁸

3.38 The committee encourages increased collaboration between the wine and retail sectors, including through the proposed industry working group.

Delivery

3.39 The committee heard evidence that selling directly to consumers is 'the most effective and profitable strategy' to increase the market share of smaller producers.⁵⁹ Selling direct from rural and regional settings comes with challenges, however, including the inbuilt cost and unreliability of delivery. This was illustrated by Ms Robyn Lewis from WineFoodTechMedia Group, based in Tasmania, who stated that:

One of the big problems is the price and difficulty of getting wine sent direct—and Australia Post is one of the leading providers.⁶⁰

56 Additional information from WFA, *Actions for Industry Profitability 2014–16*, received 19 May 2015, p. 6.

57 Additional information from WFA, *Actions for Industry Profitability 2014–16*, received 19 May 2015, p. 27.

58 Clare Region Winegrape Growers Association and Clare Valley Winemakers Inc, *Submission 16*, p. 6.

59 Ibid.

60 Ms Robyn Lewis, Chief Executive Officer, WineFoodTechMedia Group, *Committee Hansard*, 25 September 2015, p.5.

3.40 Ms Lewis described the 'near monopoly' of Australia Post on freighting wine from small producers and the 'fundamental problem... that they cannot guarantee delivery'.⁶¹

3.41 As a partial remedy to this problem, Wine Tasmania advised that they have been working with Australia Post:

...on an arrangement whereby the combined delivery quantity of all members of Wine Tasmania is taken into account to provide a subsidised rate for everyone to access.⁶²

3.42 Despite their efforts, Wine Tasmania reported 'it has been difficult for us to get some sort of outcome'.⁶³

3.43 In a different jurisdiction, Wines of Western Australia advised that they 'have an industry agreement with Australia Post' including negotiated rates.⁶⁴

3.44 To facilitate certain wine export sales, Margaret River Wine Association reported that Australia Post will establish a pilot distribution arrangement with Chinese e-commerce company the Alibaba Group (Alibaba.com) which will simplify exports from the region to China. The committee heard that, if successful in Margaret River, the arrangement could be rolled out from 'another 10 to 12 Australian fine wine regions' and to Japan and South Korea. Chief Executive Officer Mr Nick Power explained that:

What that will mean for the Australian fine wine regions—with Margaret River being the pilot—is that a consumer in China will be able to directly order wine from a cellar door in Margaret River... You have an Australian story there that is just going to build, not only for Margaret River, but also for the whole Australian wine industry.⁶⁵

3.45 Wine Tasmania called for 'support to help producers to claim from and comply with' the Tasmanian Freight Equalisation Scheme,⁶⁶ including 'education and

61 Ms Robyn Lewis, Chief Executive Officer, WineFoodTechMedia Group, *Committee Hansard*, 25 September 2015, p. 5.

62 Ms Sheralee Davies, Chief Executive Officer, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 27.

63 Ibid.

64 Mr Larry Jorgensen, Chief Executive Officer, Wines of Western Australia, *Committee Hansard*, 27 October 2015, p. 10.

65 Mr Nick Power, Chief Executive Officer, Margaret River Wine Association, *Committee Hansard*, 27 October 2015, p. 30.

66 Wine Tasmania, *Submission 11*, p. 10; Department of Human Services, *Tasmanian Freight Equalisation Scheme*, <http://www.humanservices.gov.au/business/services/centrelink/tasmanian-freight-equalisation-scheme/> (accessed 4 November 2015).

some online tools.⁶⁷ The committee heard that 'some producers are choosing not to claim back against the freight equalisation scheme because of the compliance and the paperwork involved.' Other producers engage providers who 'do all that paperwork for you', charging rates of up to 40 per cent of the subsidy.⁶⁸ Wine Tasmania suggested that the compliance program would be better located elsewhere than Centrelink.⁶⁹

Recommendation 4

3.46 The committee recommends Australia Post review its approach to wine delivery in each Australian state and territory with a view to developing harmonised agreements across Australia.

Responsible Service of Alcohol qualifications

3.47 The committee heard that differences in liquor licensing laws between states and territories create a financial and administrative burden for wine producers. Because state-based responsible service of alcohol qualifications are not universally recognised, those who travel interstate to promote their wine are required to acquire 'four or five different responsible service of alcohol accreditations.'⁷⁰ In some cases, this requires additional travel to complete locally-based courses.

3.48 Mutual recognition of qualifications is available between Victoria and South Australia. The South Australian Wine Industry Association stated that:

The Victorian licensing authority is now willing to recognise South Australian responsible service of alcohol qualifications when undertaking tasting events in Victoria, which allows some cost savings for South Australian wine businesses, not having to undertake a Victorian course or to update their qualification prior to visiting that market.⁷¹

3.49 The committee supports a collaborative, national approach to marketing Australia wine, and notes WFA's recommendation to:

Develop either a single national RSA accreditation scheme or provide for mutual recognition of existing state qualifications, between all of the states and territories, to facilitate wines reaching new domestic consumers.

67 Ms Sheralee Davies, Chief Executive Officer, Wine Industry Tasmania Ltd, *Committee Hansard*, 25 September 2015, p. 28.

68 Ibid.

69 Ibid.

70 Mr Jeremy Dineen, Chief Winemaker and General Manager, Josef Chromy Wines, *Committee Hansard*, 25 September 2015, p. 16.

71 Mr Brian Smedley, Chief Executive, South Australian Wine Industry Association, *Committee Hansard*, 24 September 2015, p. 54.

3.50 In particular, the committee is of the view that industry would benefit from responsible service of alcohol qualifications being mutually recognised between Australian states and territories.

Recommendation 5

3.51 The committee recommends that the Commonwealth Government, through the Council of Australian Governments (COAG), work with states and territories to establish mutual recognition arrangements for responsible service of alcohol qualifications.