

**Senate Standing Committee on Economics**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Additional Estimates – 25–26 February 2009

**Question: aet 86**

**Topic: Horticulture Code #2**

**Hansard Page: E25-26 (26 February 2009)**

**Senator BOSWELL asked:**

**Senator BOSWELL**—...How effective has these activities been, bearing in mind the wide noncompliance with the code throughout the horticultural industry?

**Mr Ridgway**—The compliance works undertaken since the code has been introduced have varied from the initial stages of a focus on education, then moving into more compliance tools by working with the traders who have contravened requirements of the code and, more recently, to a court based outcome. Our understanding is that the message about the code is increasingly being heated, certainly by the wholesalers, and the capacity and the will of the ACCC to take court based action is needed, and has also gotten through to that sector.

**Mr Samuel**—You need also to keep in mind, Senator, in this context some of the analysis that was undertaken of the horticultural code was part of the grocery inquiry.

**Senator BOSWELL**—I am coming to that.

**Mr Samuel**—There is a chapter on that, but it is worth observing that during the course of that inquiry, the information that was coming to us was very mixed and in some cases quite contradictory as to the desire of growers in particular to abide by or to adhere to the provisions of the code.

**Senator BOSWELL**—Have you taken any court action or any action on this?

**Mr Cassidy**—Yes, we have.

**Senator BOSWELL**—How many times?

**Mr Ridgway**—We have had one court based outcome to date. Federal Court proceedings in Darwin against Grove & Edgar found that there had been breaches of the horticulture code.

**Mr Samuel**—There have also been a number of matters that have been resolved through the process of section 87B on undertakings, which is, if you like, the next stage down.

**Senator BOSWELL**—How many of those have there been?

**Mr Samuel**—We might have to take that on notice to give you the exact number.

**Answer:**

Since the commencement of the Horticulture Code of Conduct on 14 May 2007 to 6 April 2009 the ACCC has accepted six Section 87B undertakings from growers and traders for breaches of the Horticulture Code.

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These include: Karragullen Cool Storage Pty Ltd, Scamonte Ventures Pty Ltd trading as Scalzi Produce WA, Brimcove Pty Ltd trading as Etherington, A Giumelli & Sons (1989) Pty Ltd, Erceg Holdings Pty Ltd and Atkinson Produce trading as Murray Bros.