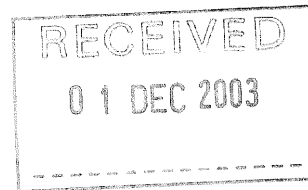


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1 December 2003

Senate Economics Committee Inquiry
Chair Senator Ursula Stephens
c/o Secretary Dr Sarah Bachelard
The Senate
Parliament House
Canberra ACT 2600



Fax: 6277 5719

Dear Senator Stephens,

Senate review of the Trade Practices Act

The NSW Farmers' Association is concerned about the inability of the *Trade Practices Act* to prevent the use of market power in contract poultry, in light of the recent National Competition Council (NCC) push to deregulate the Poultry Meat Industry.

The NCC recommendation to dismantle NSW poultry meat industry regulation is the latest action, that on the surface, seeks to benefit the consumer.

This is puzzling, as the Government-commissioned review of the *Poultry Meat Industry Act* in 2001 concluded that the Act only delivered a net public cost equivalent of 1% (or 3c/ kg) of the retail price of poultry meat.

However, dismantling the legislation would strip away an important tool that has always served to check the market power imbalance that exists in the industry.

Your inquiry into the *Trade Practices Act* has highlighted the potential abuses of market power in concentrated markets.

For example, in the fresh food industry, Woolworths and Coles control 70% of the market, while in poultry production, Inghams Bartters and Baiada's have a combined market share of 60%.

Such concentrated market power has contributed to NSW poultry grower returns declining by 16% between 1999 and 2002. In contrast, poultry meat processors revenues increased by 47% between 1995 and 2001.

Such market concentration has created an environment where the 'unconscionable conduct' provisions of the *Trade Practices Act* have become an important tool in preventing the abuse of market power.

Nevertheless, in the poultry meat industry it has become readily apparent that successful prosecution through such provisions has become so difficult that growers are reluctant to pursue this option.

Such experiences in the contract poultry industry are likely to increase as contract agriculture is becoming more common, as demonstrated by recent trends in the pork and horticulture sectors.

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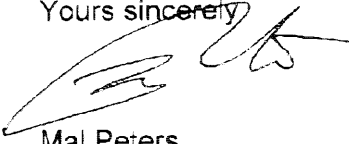
In the absence of strong competition at wholesale and retail level, those without market power must have strong legislated rights and protections.

To achieve this objective, the NSW Farmers Association believes that there must be:

- an effective provision in the *Trade Practices Act* that prevents the abuse of market power
- effective fair trading provisions, for the whole fresh food chain;
- effective or otherwise enforceable/ mandatory codes of conduct;
- a simpler, less expensive and more timely notification process for collective bargaining among small business, in particular within contract agriculture.

If you require any further information on this issue, please don't hesitate to contact the Association.

Yours sincerely



Mal Peters
President