Australian Government
Department of Agriculture, Fisheries and Forestry

SUBMISSION TO THE SENATE INQUIRY INTO THE OPERATION OF THE WINE-MAKING INDUSTRY

Executive summary

Australia has grown wine grapes since the 18th century. From humble beginnings, Australia has established a highly successful wine industry. In the 12 months to April 2005, Australia exported 665 million litres of wine with a value of $2.7 billion. Exports were 16.9 per cent (volume) and 12.3 per cent (value) higher than the previous 12 months.

Despite the wine industry's continuing success, its returns are declining. One of the reasons for this is increasing competition in international markets, which is putting downward pressure on wine and wine grape prices. A rapid increase in domestic plantings and two record vintages have resulted in wineries having larger than desired stock to sales inventories. These high inventories have created pressure to clear stock to make room for subsequent vintages, resulting in lower prices.

The 2004 termination by the Australian Government of the concessionary accelerated depreciation arrangements is expected to encourage market-driven rather than tax driven decisions by prospective and existing wine grape growers.

The current low prices are of concern and pose difficulties for grape growers. The pressure has reinforced a long-standing perception among wine grape growers that prices are set by winemakers, who can use their superior bargaining position to force prices down. However, low prices are a function of the market place and it is difficult to envisage how government intervention, such as a mandatory code of conduct could alter those fundamental market realities.

The Government is implementing legislative changes to introduce a collective bargaining notification scheme. This will provide small businesses with a speedier, simpler and more cost-effective means of obtaining immunity from *the Trade Practices Act 1974*, and allow them to negotiate collectively with big businesses.

The move by wine grape growers to establish a national body to represent them and mooted linkages with the Winemakers' Federation of Australia are positive developments. A single national representative body would ensure better coordination on the many issues in which winemakers and wine grape growers have shared interests. It also promises improved communications on issues, such as pricing where there are differing interests.

Australian wine grape industry

Australia planted its first wine grapes shortly after the First Fleet landed in 1788. Since then, the industry has experienced periods of boom, followed by plateauing of growth during which returns to wine grape growers fell.

Australia has had five identified boom periods and, during them, wine grape growers' returns have characteristically risen spectacularly. The fourth boom period ended in the mid-1980s with the Australian Government-financed vine-pull scheme. The average price of wine grapes from 1984-85 to 1986-87, for example, was $352 a tonne. From 1994-95 to 1996-97, it climbed to $610 a tonne[1].

However, even during boom periods, the price of grapes has varied. In 1978, for example, when governments controlled grape prices, the minimum prices of irrigated shiraz and cabernet sauvignon grapes in South Australia fell by 10 per cent and 7.5 per cent respectively.

Australia has a diverse wine grape growing and winemaking industry. It comprises independent wine grape growers, specialist wine makers and integrated grape growing and wine making operations.

In 2005, Australia's estimated 7,000 wine grape growers supplied 1,900 winemakers. The industry's geographic spread ranges from south east Queensland to Tasmania and southern Western Australia.

Australia's wine industry is a significant regional employer. In the 2001 census, 30,000 people identified themselves as directly employed in the wine industry. Because of its continued solid growth since 2001, it is reasonable to assume levels of employment in regional Australia have also grown.

Wine grape growers

Wine grape growers are not a homogenous group. A broad division is often drawn between wine grape production in the warm-inland (Murray Valley, Riverland and Riverina) and the cool climate regions (the rest of Australia, including the Barossa Valley, Hunter Valley and Margaret River).

ABARE surveyed wine grape producers in the Clare and Victorian Murray Valley regions in 2002-03, and in the Mudgee and Riverland regions in 2001-02. The surveys only provide a snapshot, but the studies suggest:

- average vineyard sizes are larger in cool climate regions
- average yields per hectare are greater in warm inland regions
- average prices per tonne are significantly higher in cool climate regions
- average rates of return (excluding appreciation of farm property) are better in warm inland regions.

Cool climate wines generated about 43 per cent of Australia's estimated 2005 harvest of 1.96 billion tonnes, but accounted for just 20 per cent of exports. Production has risen in the warm-inland and cool climate regions. Export sales growth has come from the popular premium and bulk wine categories, but the costs involved largely preclude cool climate growers from producing grapes for these categories.

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1 Values are in 1995-96 dollars, using the GDP deflator

There are significant economies of scale that can be realised in growing wine grape. A 2005 study by Primary Industries and Resources South Australia on the impact of current grape-pricing trends on the Riverland region included a survey of the costs of production for Riverland wine grape growers. The survey indicated the production cost, including an 8 per cent return on capital, was $763 a tonne for grape growers with less than 10 hectares (about 780 of 1300 growers). However, the cost for grape growers with properties between 171 and 600 hectares was only $330 a tonne.

Winemakers

The wine industry has rapidly expanded in recent years. Australia's 1,900 wineries — double the number in 1997 — sold 998 million litres of wine in 2003-4.

The largest 22 businesses account for 89 per cent of total sales. However, 32 per cent of Australian wineries have an annual crush of less than 20 tonnes of grapes, equivalent to less than 1,500 12-bottle cases.

Wine makers — like wine grape producers — can realise significant economies of scale. The Primary Industries and Resources South Australia study on the impact of grape-pricing trends on the Riverland region suggested that, at $550 a tonne for wine grapes, the total winemaking costs for a 500 tonne winery were about $4.40 a litre, including $0.73 to buy grapes. However, at 80,000 tonnes, they fell to about $0.95 a litre, with the cost of grapes unchanged. Packaging and overhead costs for wineries are on similar scales.

Scale is linked to the market segment a winery will target. Small wineries, for example, do not normally target the popular premium category. And large wineries face increased costs in making premium wines, reflecting the higher production costs of making premium wines.

The volume of wine sold is strongly linked to price. Lower-priced wines sell in much greater volumes than higher-priced ones. The Popular Premium ($3.50-$9.99 for a 750ml bottle) and Basic/Bulk (less than $3.49 for the same size bottle) categories make up about 84 per cent of the global market.

Industry analyst, KPMG, suggests that, for a $6.99 bottle of wine, the most a winery can afford to pay for grapes is $450 a tonne[2].

Wine Retailing – a changing world

Retail outlets have consolidated to the point where large supermarket chains dominate wine sales. Retail consolidation in the United Kingdom, for example, has left about 10 major retailers handling around 80 per cent of the off-premises sales (for consumption on non-licensed premises). Off-premises trade accounts for 80 per cent of all wine sales in the UK. Global alcoholic beverage companies, such as Constellation Brands Inc. (owner of the Hardy Wine Company) and Foster's Group, are emerging in response to pressure from large retailers chains that want to deal with a small number of sellers, each with large wine portfolios.

In Australia, the major supermarket chains, Coles and Woolworths, have recently emerged as major wine retail players. The two chains control 40 to 45 per cent of wine retail sales and are seeking to increase this share.

Winemakers are also likely to continue consolidating to achieve economies of scale and grow large enough to deal with the large retailers. Small-to-medium wine enterprises will face increasing

[2] A McPhee, What will the market let a winery pay for wine grapes?, presented at Outlook Conference 05, 1 Mar 2005, http://www.abare.gov.au/outlook/presentations/mcpheea.ppt#262,2,Agenda

challenges in their battle for retail shelf space, and are more likely to focus on direct wine sales, such as cellar door and mail order. To succeed, they will need to build brand loyalty and establish a point of difference.

Retail consolidation is one of the production consolidation drivers for continuing significant merger and acquisition activity in the Australian wine industry. This is leading to fundamental changes in market transactions and may accelerate pressure on the Government from sections of the industry to redress issues relating to perceived imbalances in market power.

Global supply and demand

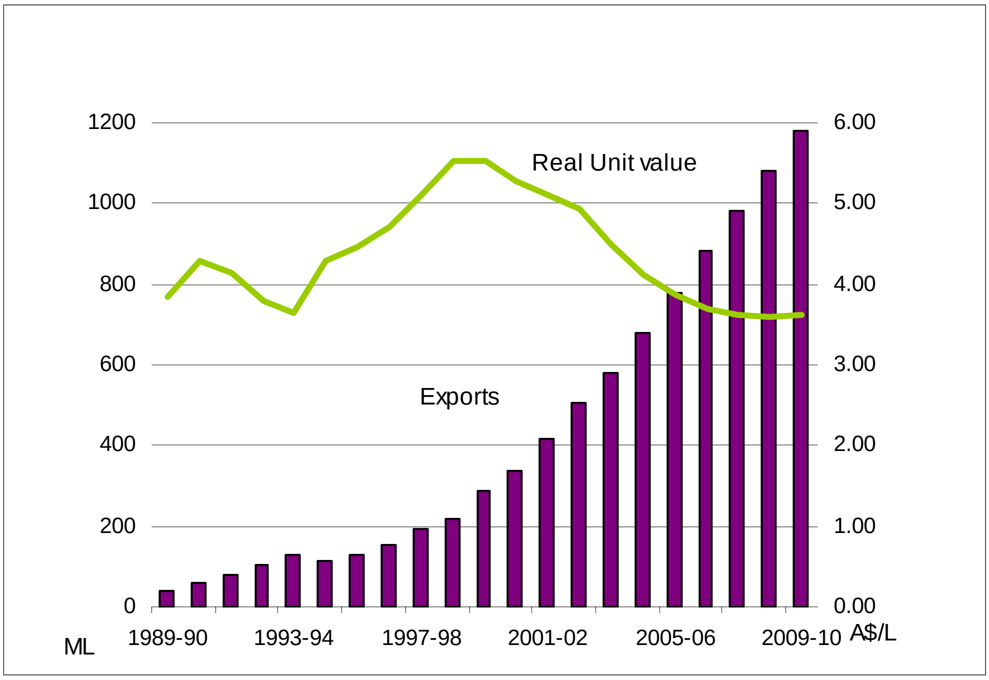
For almost a decade, the global wine market has experienced relatively steady volume growth, increasing by an average 0.6 per cent a year. This is expected to moderate to around 0.3 per cent a year over the medium term. However, over the past five years, growth in global wine grape supply has exceeded that of global demand. Global wine production in 2004 is estimated to have reached 28.7 billion litres, about 10 per cent more than the previous year. Production is expected to have surpassed world wine consumption by an estimated 5.7 billion litres.

At the same time, the world wine trade has grown at higher rates than the size of the global market. The main drivers are increasing competition in major importing countries, such as the United Kingdom, United States and Germany, and an increased share of the global wine trade by the emerging wine-producing countries, including Australia.

This combination of an excess wine supply and increased competition has the effect of driving prices down.

In the medium term, global demand for premium wine ($3.50-$9.99 a bottle), where Australia is well positioned, is projected to rise as consumption growth per person increases. By 2009-10, the projection for Australian exports is for them to increase from 584 million litres, valued at $2.5 billion, to about 1.2 billion litres (about $4.3 billion). Real unit value, however, which peaked at a high of $5.54 in 1999-2000, is expected to continue falling to $3.61 a litre in 2009-10.

Figure 1 Australian wine exports



Australian wine grape production

In Australia, vineyard areas have expanded rapidly over the past decade. The peak year was 1998-99 with more than 14,000 hectares of new plantings. Plantings averaged nearly 11,000 hectares a year from 1997-98 to 1999-2000. Since 2000, new plantings have slowed to an average 5,500 hectares a year between 2000-01 and 2003-04.

Australia's wine grape production over the past five years has almost doubled. It increased from about 1.1 million tonnes in 1999-2000 to about 1.9 million tonnes in 2004-05. In the medium term, the forecast rise in Australian wine grape production is about 12 per cent to more than 2 million tonnes (assuming average yields) by 2009-10.

The increase in Australia's wine grape production has been greater than the growth in wine sales. As a result, Australian winemakers have increased their inventories, and hold about 1,854 million litres of wine in stocks (Table 1).

Table 1: Beverage wine inventories

	Inventory at 30 June '000 L	% change	Annual sales '000 L
1997	815,558		487,984
1998	900,299	10.4	531,218
1999	1,089,583	21.0	564,498
2000	1,191,791	9.4	654,206
2001	1,376,884	15.5	723,146
2002	1,570,136	14.0	804,625
2003	1,581,843	0.7	921,121
2004	1,854,506	17.2	1,001,775

Source: Australian Bureau of Statistics, Cat No 1329.0

The wine industry commonly uses the stocks-to-sales ratio to indicate the balance between supply and demand. The comfort range (when it indicates a balance between supply and demand) will vary according to the nature of the stock – principally by quality and by red-versus-white – but 1.67 (that is, 1.67 years of sales in stock) is considered a desirable level across all wine holdings in the current operating environment.

More recently, key wine industry bodies have expressed concern that the official wine inventory statistics underestimate the current stock position. Details on inventories of Australian beverage wine are collected at 30 June only from winemakers who crush more than 400 tonnes a year and have had domestic wine sales of 250,000 litres or more in either of the previous two years. The stock position does not include inventories owned by winemakers with smaller crushes, and who predominantly sell wine for export, or who mainly undertake contract crushing.

Since 2001, the Australian Wine and Brandy Corporation's (AWBC) stocks-to-sales ratio has been consistently higher than the one calculated from official statistics, as it has included stocks held by winemakers the Australian Bureau of Statistics (ABS) has not captured.

Table 2: Comparison of stocks-to-sales ratio

Year	Stocks-to-sales ratio derived from ABS	Stocks-to-sales ratio – AWBC estimate*[3]
1999	1.93	1.93
2000	1.82	1.82
2001	1.90	1.98
2002	1.95	2.16
2003	1.72	1.96
2004	1.85	forecast 2.07

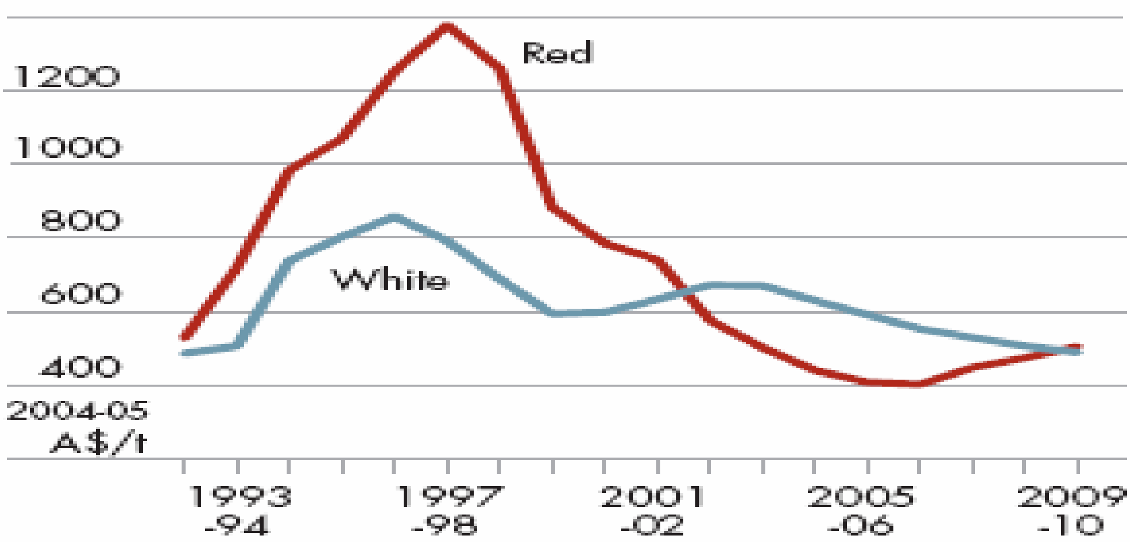
The larger-than-anticipated 2004 and 2005 vintages are expected to push the stocks-to-sales ratio higher than originally forecast. For 2004-05, the ratio is expected to stay well above 2. The prolonged period of high inventories has created pressure to clear stock in hand to make room for subsequent vintages, leading to lower prices on domestic and export markets.

Australian wine grape prices

In the short term, a combination of lower export values and above average yields are expected to lead to further price reductions for red and white wine grapes (Figure 1). The forecast fall for the Australian red wine grape indicator price is around 13 per cent to an average of about $439 a tonne. However, tighter supplies and improved demand from wineries are projected in a price recovery in the medium term (to 2007-08).

The Australian indicator price for white wine grapes forecasts a fall for the first time since 2001 of around 6 per cent to an average $629 a tonne in 2004-05. Overall, prices for red and white wine grapes are projected to converge by 2009-10, as the industry continues to mature and wine grape production growth stabilises.

Figure 2



Source: ABARE, Wine outlook to 2009-10

[3] Australian wine industry – supply and demand assessment 2004. L Stanford, 2004 Australian Wine and Brandy Corporation AGM December 2004

Information sources to guide supply management

The wine grape growing industry has increasing access to valuable high-quality information to help it and individual growers make decisions on supply side management. Through the *Australian Regional Winegrape Crush Survey*, for example, wine grape growers have access to supply and price data, as well as estimates of future supply and demand balances. The supply of information continues to improve. The recent introduction of price dispersion data to the *Australian Regional Winegrape Crush Survey* means that in addition to information on average price growers now have access to information on the spread of prices for key varieties.

The Australian Bureau of Statistics, ABARE and the AWBC produce a range of reports and statistics to assist grape growers in planning.

Supply side management – a commercial decision

Wine grape growers — through Wine Grape Grower's Australia (WGGA) — have proposed halting vineyard expansion unless the grower has the security of a contract to sell fruit for a pre-determined term and price. They also propose a ban on speculative vineyard developments (news release 17/02/05). Presumably, they have made these proposals because they believe current market mechanisms are failing to provide the necessary information to manage supply and demand.

Industry analysts have recognised for some time the danger of a supply/demand imbalance placing pressure on wine and wine grape prices. At the 1999 Wine Outlook Conference, for instance, ABARE reported "… large increases in plantings over recent years are forecast to result in record production in the outlook period. As there is little room for an increase in domestic consumption, the expected increase in Australian wine grape production is likely to be directed toward export markets. However, increases in world supply are expected to be greater than any increase in world demand, which is likely to result in lower Australian wine grape prices."

A year earlier, Osmond and Anderson observed, "Should the international prices of Australian wines fall, winemakers will inevitably pass the decline back to grape growers. Since the grape grower share of the pre-tax wholesale price of wine is currently at the top end of the usual 20-30 per cent range, the proportional decline in their returns could be considerable, perhaps as much as three times as large as any decline in wholesale wine prices."[4] The current fall in prices appears to add strength to this observation.

Given the inherent difficulties in matching supply and demand — that is the relatively long lag time between planting and production (three to five years) and the dynamics of the world wine market — the industry appears to have responded rationally to forecast and current market signals.

The Department concludes little evidence exists to support regulatory intervention in supply side management for wine grape production, or that an intervention could improve industry outcomes.

Representative bodies

Winemakers

The Winemakers' Federation of Australia (WFA) is the national representative body for winemakers. Its voluntary membership represents more than 95 per cent of the wine produced in Australia.

WFA has developed several policy documents that have been important in driving the industry. In 1996, WFA released *Strategy 2025*, a statement of the industry's objectives and goals over the next

[4] Osmond and Anderson, Trends and Cycles in the Australian Wine Industry, 1850 to 2000.

30 years. *Strategy 2025*, which provides a whole-of-industry vision for the future, focuses on Australia's resource requirements, market opportunities and competitiveness.

In 2000, WFA and the AWBC released *The Marketing Decade*. The document recast the *Strategy 2025* and sought to make all wine industry participants and stakeholders aware of the likely challenges and opportunities for the 10 years from 2000.

WFA released *Sustaining Success* — the Australian wine industry's environment strategy — in August 2002. WFA is now developing an industry research and development strategy.

Wine grape growers
Wine grape growers do not have a national representative body. The previous peak wine grape growers' body, the Wine Grape Growers' Council of Australia Inc., was wound up in early 2004, mainly because of its inability to effectively represent the interests of wine growing regions outside South Australia, the Murray Valley (NSW-Victoria) and the Riverina region.

An alternative organisation, Wine Grape Growers' Australia Inc., has been incorporated in Victoria. The three large inland regions established this organisation as the basis of a new peak body. It is working with the Australian Government, winemakers and a wide range of grape growers to establish a national representative body. The wine grape growing community appears to recognise the value of establishing an organisation that can represent the interests of wine grape growers from all Australian regions.

In 2004, in response to a submission from wine grape growers, the Australian Government agreed to fund — through the Industry Partnerships Program — the development of a business plan for a new peak national wine grape growers' organisation. The Government funded the project to facilitate better long-term management of the grape growing segment of the Australian wine industry to provide for a more efficient and united industry.

A national workshop on 30 May 2005 discussed a draft business plan. Industry representatives at the workshop agreed to form a broadly based national grape growers' organisation. Individual membership would be open to all wine grape growers in Australia, and the organisation financed primarily through voluntary membership fees.

The organisation will represent the interests of wine grape growers nationally by better positioning the wine grape growing sector and improving its economic prosperity. The draft business plan identifies three broad areas of work for the peak body:

- representation role and other dealings with government
- dealings with other segments of the wine industry and with other industries
- services to members of the organisation.

From an Australian Government perspective, a declared representative organisation would have a significant role mandated by legislation (Attachment A) in working with industry statutory authorities.

Regarding the proposition that a representative body might be funded through a mandatory levy, the Government's levy guidelines prevent statutory levies from being used to fund agri-political organisations. However, the Grape and Wine Research and Development Corporation and the AWBC could provide funding to a grape grower body for activities consistent with their legislated objectives.

A major issue for a wine grape growers' body will be its relationship with the WFA. Consultations on the proposed business plan identified a preference for a single industry representative body because the national issues confronting the industry are relevant to growers and wine makers.

A single national body will ensure better coordination on many matters where winemakers and grape growers have shared interests. It also promises better communications on issues, such as pricing and appropriate responses to it, where the views of wine grape growers and winemakers differ.

Sales of wine grapes

Code of Conduct

Wine grape growers have expressed interest in extending the Horticulture Code of Conduct, which is currently being developed, to cover wine grape price disputes. A key driver for the development of the Code is grower concerns about the lack of transparency in trade transactions. This arises, in many cases, because formal contracts do not record or underpin agreements. In the wine industry, wine grape growers and winemakers have cooperated through the Wine Industry Relations Committee (WIRC) to develop best practice models for contracts, and to assess grape quality and resolve disputes.

Wine grape prices have attracted considerable media attention this year, particularly growers' reactions to a low price offer from McGuigan Simeon. In 2004 and 2005, McGuigan Simeon offered significantly reduced prices for wine grapes. Using the dispute resolution process provisions in their contracts, which were based on the WIRC best practice model, 172 Riverland and Sunraysia growers referred the prices to an independent expert. The expert made a binding decision that increased the price, but not to the level sought by growers.

It is not clear that a mandatory code would make any difference to prices received by grape growers. A Code can and should only influence business practices within overall constraints ultimately dictated by prevailing market prices

Role of Government

While it is not the role of Government to interfere in the price setting role of markets it does have a role in addressing opportunities and threats that affect agricultural industries and in providing advice and assistance to help industries respond to these opportunities and threats. It develops policy frameworks to encourage industry competitiveness in the agricultural industries and also works closely with agricultural service provision bodies responsible for marketing and research and development, to achieve the Government’s objective of more globally competitive, self-reliant and innovative industries. The Government also provides industry-specific assistance programs to help industries adjust to new operating environments.

Taxation Policy

Following the 2004 Federal Budget, the Government terminated the concessionary accelerated depreciation arrangements available to eligible grape growers for capital expenditure incurred on establishing grapevines, where such grape growers were entitled to a depreciation deduction at an annual rate of 25 per cent on capital expenditure incurred on establishing their grapevines from the year of planting.

Subsequently, terms of depreciation for capital expenditure incurred on establishing grapevines were unified with existing graduated depreciation rates applicable to horticultural industries.

Sub-division 40-F of the *Income Tax Assessment Act 1997* provides an annual graduated depreciation rate of 13 per cent per annum for horticultural plants with an effective life of 13 to less than 30 years. The Commissioner of Taxation has determined the effective life for grapevines as being 20 years.

These tax reforms, which came into effect on 1 October 2004, are expected to have a significant impact on encouraging market-driven rather than tax-driven decision-making by prospective and existing grape growers. This is likely to have a notable effect on future investment and moderate medium to long term supply pressures in the Australian wine grape industry.

Unconscionable conduct

The Australian Competition and Consumer Commission (ACCC) has received complaints from wine grape growers about alleged unconscionable conduct by buyers including:

- setting unrealistic quality standards for produce, resulting in unduly low prices for wine grapes
- poor post-purchase handling and delivery practices of buyers, resulting in deterioration in grape quality for which buyers unfairly seek compensation from growers
- unexpectedly low payment in instances where contracts refer to average prices for particular regions
- amendments to contracts under implied threats by buyers to boycott individual growers if they do not accept new terms and conditions.

The wine growers' complaints are consistent with similar claims made by other primary producers in the horticultural industry.

The ACCC found — after investigating the complaints—that in many cases growers had not effectively used the review and mediation provisions of their contractual agreement before lodging a complaint with the commission. The ACCC also found complaints about the fairness of price and quality assessments were not always accurate. When the ACCC became informally involved, industry participants were generally willing to respond to concerns and adjust arrangements for ongoing or new contracts in ways that partly alleviated the concerns of growers and the commission.

The ACCC has also found that a lack of pricing transparency still exists in many areas of the market, which is causing uncertainty and confusion among wine grape growers. As growers are not always aware of differing cost structures, they often feel buyers have treated them unfairly[5].

Affected parties have several options if it appears likely they can prove a substantive case of unconscionable conduct . The ACCC may take action under the *Trade Practices Act 1974* (the TPA)[6] against a business or individual that has engaged in unconscionable conduct. The action it takes will depend on the ACCC's priorities and the nature of the conduct. However, while the

[5] J. Martin, Levelling the Playing Field, presented at the Mildura Settlers Club, 18 Nov 2004, http://www.accc.gov.au/content/index.phtml/itemId/550942

[6] The *Trade Practices Act 1974* (the TPA) seeks to enhance the welfare of Australian consumers by promoting upstream and downstream competition in markets, and fair trading across all goods and services sectors in the Australian economy.

ACCC has investigated allegations of unconscionable conduct in the wine industry, it has not instigated formal legal proceedings. Affected parties can also take action under common law.

Anti-competitive conduct and restrictive trade practices[7]

Authorisation and collective bargaining notification processes

Wine grape growers can seek immunity from certain anti-competitive provisions of the TPA through the existing authorisation process[8]. However, the ACCC has not received any applications for authorisation — for codes of conduct or collective bargaining — from the wine industry during the past five years.

The Dawson Committee Review into the Competition Provisions of the TPA (the Dawson Review)

The Dawson Review reported its recommendations to the Government in January 2003. Particularly relevant to primary producers was its recommendation for a streamlined notification regime to provide small businesses with a speedier, simpler and more cost-effective way of obtaining immunity from the TPA to negotiate collectively with big businesses.

The Government is implementing legislative changes to the competition law provisions of the TPA to introduce a collective bargaining notification scheme. Parliament is expected to pass the proposed amendments to the Act in August 2005.

The notification process will apply to collective bargaining arrangements involving contracts between a member of the collective bargaining arrangement and the target business. The value of the contract must be less than $3 million per business per annum.

Access to education and training on TPA compliance

The ACCC has an education and training program to provide industry and community training and support on issues related to implementing the TPA. The *ACCC Rural and Regional Program* is a key component. The commission also offers tailored specialty programs to meet industry requirements, where appropriate.

In 2001, the ACCC authorised industry-wide collective bargaining for the Australian dairy industry, subject to certain provisions to preserve industry competition following the farmgate deregulation of the fluid milk market in Australia. In 2003-04, to help dairy farmers take advantage of the new authorisation arrangements available to the industry, collective bargaining workshops were held in major dairying regions across Australia. The workshops involved 540 dairy farmer participants, the ACCC, the Department of Agriculture, Fisheries and Forestry, and Australian Dairy Farmers.

The ACCC has put on hold existing education and training programs pending the passage of the legislative amendments to the TPA arising from the Dawson Review.

Enhancing innovation and competitiveness

The Australian Government provides financial assistance through a number of programs to assist the wine industry meet the challenges it faces. For example:

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[7] The restrictive practices provisions contained in Part IV of the TPA (sections 45-50A) prohibit the anti-competitive conduct and restriction of competition in relation to price fixing arrangements; secondary boycotting; misuse of market power; exclusive dealing; resale price maintenance; and mergers.

[8] The authorisation process allows the ACCC to grant exemptions on public benefit grounds for conduct that may otherwise breach the competition provisions of the TPA. To grant authorisation, the ACCC must be satisfied that the benefit to the public from the proposed conduct will outweigh any detriment to the public constituted by any lessening of competition. This test is commonly referred to as the ‘net public benefit test’. Under the authorisation process, the onus lies on parties applying to the ACCC to prove that there is a net public benefit.

- The Government provides matching funds for eligible research and development activities through the GWRDC. In 2003-04, it provided $6.9 million to the GWRDC to fund research and development in the industry.

- Through the Cooperative Research Centre program, it provided $13.2 million over 7 years to fund the Cooperative Research Centre for Viticulture (CRCV) as Australia's leading viticultural research and development organisation.

- Through the Industry Partnerships Program, it funded in the development of a business plan for a new peak national wine grape growers' organisation.

- Through the Farm Business and Industry Partnership Programs the Government has spent over $750,000 on the WineSkills program to improve the business planning and wine marketing skills of small–to-medium sized wineries through the WineSkills program. WineSkills has attracted more than 830 participants from 650 wine businesses.

Conclusion

Wine grape growers have a long-standing perception that prices are set by winemakers, who can force them down because of their superior bargaining position. This perception has become more pronounced over the past few years because of the significant variation in wine grape prices between varieties and regions.

Much of the current evidence suggests winemakers and wine grape growers are experiencing pressure on their margins due to intense competition in key international markets, movements in the Australian dollar that affect relative competitiveness and abundant supplies of some wine grape varieties, particularly cabernet sauvignon.

The industry is expressing concerns about future falls in wine grape prices as it faces the likelihood of another record harvest in 2005.

The ACCC has received complaints from wine grape growers about alleged unconscionable conduct by buyers. The ACCC has found — after investigating them — that growers in many cases had not effectively used the review and mediation provisions of their contractual agreement before lodging their complaints.

Grape growers, understandably, are concerned by the current low prices. However, if their fundamental concern is with low prices (assuming behaviour does not contravene the Trade Practices Act), this is a market place function and cannot or should not be addressed through a mandatory code.

While wine grape growers can seek immunity from certain anti-competitive provisions of the TPA through the existing authorisation process, the ACCC advises it has not received any industry applications during the past five years.

The Government is implementing legislative changes to introduce a collective bargaining notification scheme to give small businesses a speedier, simpler and more cost-effective way to obtain immunity from the TPA to collectively negotiate with big businesses.

The move to establish a new national body to represent grape growers is a positive development, as are the mooted linkages to WFA. A single national representative body will ensure better coordination where winemakers and wine grape growers have shared interests. It also promises improved communications on issues such as pricing where the views of wine grape growers and winemakers differ.

Attachment A – Legislated roles for peak bodies

Three pieces of Commonwealth legislation provide for statutory authorities to work with peak industry bodies.

The *Australian Wine and Brandy Corporation Act 1980* provides for the Minister for Agriculture, Fisheries and Forestry to declare a national representative organisation to be a declared wine grape growers' organisation (section 5B). A declared organisation may

- apply for an injunction to restrain a person from engaging in conduct that contravenes Part VIB Division 3 of the Act (section 40L)
- apply to the Geographical Indications Committee (GIC) for the determination of a geographical indication (GI). The Act requires the GIC to consult with a declared wine grape growers' organisation when determining a GI. (Section 40 R and S)
- nominate a member to the GIC. (Schedule).

The *Primary Industries and Energy Research and Development Act 1989* (PIERD Act) provides the Minister with the power to declare one or more specified organisations to be representative organisations in relation to an R&D Corporation, in this case the Grape and Wine Research and Development Corporation (GWRDC). The PIERD Act then provides:

- that R&D Corporations may consult with representative organisations and may meet the expenses (other than travel expenses) reasonably incurred by the representative organisation in connection with the consultation (Section 15);
- that a representative organisation may require the R&D Corporation to hold an Annual General Meeting at which all levy payers have an opportunity to question Directors and vote on matters within the Corporation's responsibility (section 58)
- provides that the representative organisation may nominate a member of the selection committee that makes recommendations to the Minister on members of the R&D Corporation Board.

The grape research levy is imposed by the *Primary Industries Research (Levies) Act 1999*. Under Schedule 13(7) of the Act, the Minister — before approving a change to the amount of the Levy — must consider any recommendation made by an industry peak body. The present industry peak body is the WGGA. The Parliamentary Secretary has declared WGGA to be the/a peak body, subject to it establishing it would become a true national body.