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Regulation of Australian Agriculture
Productivity Commission
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MELBOURNE VIC 8003

By email: agriculture@pc.gov.au

Regulation of Australian Agriculture Draft Report

The Australian Cane Farmers Association is pleased to respond to the Productivity Commission's draft report, *Regulation of Agriculture*. We do not support Draft Recommendation 11.2 and we make the following comments.

DRAFT RECOMMENDATION 11.2:

The Queensland Government should repeal the amendments made by the *Sugar Industry (Real Choice in Marketing) Amendment Act 2015*.

The *Sugar Industry (Real Choice in Marketing) Amendment Act 2015 (Qld)* does not reregulate the Qld sugar industry; rather it provides a framework for fairness and competition, in order to balance market power which naturally resides with mills. The Act does not determine any particular outcome, nor does it mention or favour any particular 'GEI sugar marketing entity'. The act, in amending the *Sugar Industry Act 1999 (Qld)*, provides for a grower and a mill to agree on matters of contract¹ and can only be invoked where agreement cannot be reached and a grower chooses to enter arbitration.²

Choice in marketing

The *Sugar Industry Act* provides that a grower who is not 'a related body corporate of the mill owner,'³ may have the discretion to appoint a 'GEI sugar marketing entity' for the grower's economic interest sugar.⁴

This is intended to provide to a grower, the discretion to independently determine their remuneration just as a mill already has the discretion to independently determine its remuneration. Prior to the *Sugar Industry (Real Choice in Marketing) Amendment Act 2015*,

¹ *Sugar Industry Act 1999 (Qld)*, ss. 33B(1), 33B(2)(b), 33B(2)(c).

² *Ibid.*, s. 33A.

³ *Ibid.*, s. 33B(1).

⁴ *Ibid.*, s. 33B(d)(2).

the discretion for a grower to independently determine their remuneration rested with the mill.

Mill – grower codependence

The *Sugar Industry Act* recognises the relationship of co-dependence between a grower and their mill, in a setting of natural monopoly and sets up a frame work for fairness, which cannot otherwise be provided for by existing competition legislation.

The Qld sugar industry operates on the long-standing convention that growers and mills as partners, share the risks and rewards from the sale of raw sugar.

The provisions for grower collective bargaining contained in the *Sugar Industry Act*⁵ do not adequately address the imbalance in market power, which is naturally in favour of mills. ‘A group of growers’ is made up of two or more growers who are separate business entities, will likely have different financial situations and risk profiles and so may not form a common line. These are pitted against a singular entity, which in some cases is a significant global business. While collective bargaining is necessary for growers to share information and negotiate contracts, in practice, it alone is not a sufficient countervailing power against a single-faced corporation which has significant resources to sit out a combined grower action.

It is not sufficient to make a case for co-dependence being an adequate model to solve matters of market power and to resolve deadlocks. The argument that mills will look after the best interests of their growers is not a competitive market solution but rather hints of ‘paternalism’ which the Oxford Dictionary defines as ‘the policy or practice on the part of people in authority of restricting the freedom and responsibilities of those subordinate to or otherwise dependent on them in their supposed interest’.⁶ Benevolence is not a suitable alternative to a contestable market.

Since the deregulation of raw sugar marketing in Qld from 2006, the effect has been a shift in market power from an industry-owned state-wide monopolist marketer to private regional monopsony mills. The growers’ line of sight through a marketer to the market comes at the discretion of their mill.

Investment and risk

Some mills have predicted a decline in future mill investment in the Qld industry if the *Sugar Industry (Real Choice in Marketing) Amendment Act 2015* remains active.

Growers, collectively have the greater part of the investment in the Qld raw sugar industry and this is reflected by the convention of the division of the revenue from the sale of raw

⁵ Ibid., s. 33.

⁶ Oxford Dictionary of English.

sugar. From that, growers also carry approximately two thirds of the risk and would like to have discretion to manage that risk, independently.

We are not aware of any significant examples of mills consulting with grower groups about what they would require in order to guarantee a continuing cane supply and for growers to continue to invest in the Qld sugar industry, long-term. It appears that some mills assume that growers will continue to grow sugarcane, notwithstanding. The future of mill investment in the Qld sugar industry should not come at the expense removing growers' discretion to independently determine their own risks and rewards and it should not come at the expense of grower investment, which cannot assumed.

Cane supply

A significant issue for mills is about how they will source a continuing cane supply into the future. An aging farmer population and a lack of new grower entrants, at present, demonstrates a need for confidence within the grower population. Productivity for a sugar mill relates to a consistent supply of sugarcane and grower confidence and participation in growing cane is essential to that. Growers are more concerned with profitability and their ability to make independent choices which affect profitability. In this regard the interests of mills and growers aren't always closely aligned. A converging factor here is that growers are offering commitment in return for choice.

Conclusion

The *Sugar Industry (Real Choice in Marketing) Amendment Act 2015* is a positive amendment to the *Sugar Industry Act 1999*. It provides a framework for fairness and competition in an industry with long standing arrangements that were put in place to address an imbalance of market power, which is naturally in favour of mills. This is now even more poignant considering the global context that Qld's sugarcane farmers must operate within. That is, operating at the end of global supply chains with little more than a Qld Act of Parliament and the discretionary goodwill of mills, who must answer to their shareholders and owners before the interests of Qld's sugarcane farmers. This act provides a framework where growers can continue to use their discretion to independently determine their own risks and rewards, through competitive means. It will enable increasing grower confidence, commitment and an improved cane supply.

Yours sincerely,

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