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Regulation of Agriculture
Productivity Commission
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SUBMISSION TO THE PRODUCTIVITY COMMISSION

Inquiry into the Regulation of Agriculture – Draft report

1. About AUSVEG

AUSVEG is the National Peak Industry Body representing the interests of Australian vegetable and potato growers. We represent growers around Australia and assist them by ensuring the National Vegetable Levy and the National Potato Levy are invested in research and development (R&D) that best meets the needs of the industry.

AUSVEG also makes representations on behalf of vegetable and potato growers to ensure their interests and concerns are effectively communicated to all levels of government, in the public sphere, and throughout relevant areas of the private sector.

2. Queries

For more information regarding this submission please contact AUSVEG National Manager – Public Affairs Jordan Brooke-Barnett

Yours sincerely

Simon Bolles
Interim CEO

3. Preamble

While over-regulation does pose a threat to the Australian horticulture industry, there are many areas in which regulation provides vital protection for Australian growers. This is particularly pronounced when growers are expected to deal with a significant unbalance of negotiating power when dealing with supermarkets in Australia. There have been well-documented issues of unconscionable conduct by the supermarkets including past issues with the imposition of the Woolworths marketing levy for the Jamie Oliver campaign and recent \$10 million in fines to Coles. AUSVEG feel this is only the tip of the iceberg, however, as issues with supermarkets tend to be underreported due to the significant power imbalance between these companies and hardworking Australian farmers.

Biosecurity laws ensure that Australia remains free of many damaging and destructive plant pests and diseases, bolstering the reputation of Australian vegetables both domestically and overseas, which is also supported by Australia's excellent food safety systems.

Importantly, competition policy and regulation of trading relationships between Australian growers and other members of the supply chain are intended to protect growers from misuses or abuses of market power.

With growers acting as price takers in many trading relationships, largely due to the lack of market power held by individual growing operations compared to their larger and more coordinated trading partners, strong and effective regulation in this regard is critical to ensure growers are shielded from unfair treatment.

AUSVEG is adamant that an ongoing lack of independent whistleblower protections means that growers who are treated unfairly cannot be confident that they will be protected against commercial consequences if they speak out against trading partners who may be breaching competition regulations.

This has unfortunately led to the inaccurate perception – including in the Commission's draft report – that the trading landscape is free of these breaches, which in turn leads to suggestions that current regulations in this area are performing well.

AUSVEG also disputes the Commission's belief regarding country of origin labelling that "mandatory disclosure should only be required if it can be demonstrated that it provides higher net benefits compared to voluntary disclosure".

Given the ongoing benefits to consumers of Australia's mandatory country of origin labelling system, and the potential benefits to be seen from recent reforms to the system, suggesting a change which could undermine the effectiveness of this labelling regime appears entirely counter-productive.

4. Responses to specific findings and regulations

4.1 Draft recommendations 6.2 and 6.3

The Australian Pesticides and Veterinary Medicines Authority should make greater use of international evidence in its assessments of agricultural and veterinary chemicals (including by placing greater reliance on assessments made by trusted comparable international regulators). Reforms currently underway in this area should be expedited.

The Australian, state and territory governments should expedite the implementation of a national control-of-use regime for agricultural and veterinary chemicals (which includes increased harmonisation of off-label use provisions), with the aim of having the regime in place in all states and territories by the end of 2018.

The APVMA is already significantly involved in utilisation of overseas data and overseas schemes. The reforms currently underway are highlighting this area, amongst others, to better expedite chemical registrations in Australia – hopefully while preserving the quality scientific basis of our processes.

As the Commission is likely aware, Australian state and territory governments have been contemplating a national control-of-use regime for agvet chemicals. This is a difficult point, as growers across different states naturally have particular preferences for using and understanding the system currently in place in their individual states. Implementing a national control-of-use regime may speed up access of chemicals to Australia; however, it would also create confusion for growers and frustration for others, and require an extremely large amount of education activity.

With this in mind, AUSVEG could act as a valuable resource in education around any possible harmonisation scheme, especially for small- to medium-sized vegetable growing operations.

4.2 Information request 6.1

How well does the regulatory framework for technologies and agvet chemicals perform? Are the institutional arrangements and regulatory objectives underpinning the OGTR and APVMA appropriate and up to date? What improvements could be made?

The regulatory arrangements and objectives of both the OGTR and APVMA are appropriate and up to date. It must be noted that the APVMA has recently undergone a significant restructure, on 1 July 2014, and they have not had sufficient time to implement all changes and modifications due to backlog of chemical registrations and permits. There must be time allowed for the APVMA to appropriately transition to the new model and design, without significant modifications and engagement by the Government during this transitional period.

4.3 Information request 7.1

Participants raised concerns about farm trespass, particularly as trespass can increase biosecurity risks. What strategies could be used to discourage farm trespass? Are existing laws for trespass sufficiently enforced in relation to farm trespass?

AUSVEG understands that the Commission is largely interested in the topic of farm trespass as a response to concerns by livestock producers about activists investigating issues of animal welfare.

However, the mechanical transmission of plant pests and diseases is obviously an area of massive concern for the Australian vegetable industry and broader horticulture industry. With some vegetable-growing operations spanning multiple paddocks in separate locations, it is extremely difficult for some growers to maintain the integrity of their land.

In cases of notifiable pest outbreaks, properties may be attributed a 'linked status' if trespassers are known to have travelled directly from a quarantined property. The 'linked' land will ultimately come under a quarantine arrangement, regardless of a pest detection on that property. The Cucumber green mottle mosaic outbreak in the Northern Territory, during 2014/15, is one example of such a situation. This particular virus outbreak also demonstrated how easily a pest may travel throughout a region in a short period of time.

The potential ramifications of pest and disease spread are far reaching. They include increased input costs, loss of market access (domestic and international), unmarketability of a crop due to disease symptoms, reduced land productivity, flooding of the domestic market with produce of international origin, and of course quarantine.

It is the view of AUSVEG that existing trespass laws are not sufficiently enforced. It is imperative that property owners can adequately control movement of people and vehicles on their production areas in particular. The Commonwealth may consider further communication to property owners regarding their rights under the current legislation and the appropriate process for addressing a trespass situation. The Commonwealth, or States, may also consider increasing fines for trespass in sensitive production areas at risk from plant pests, such as the Fruit Fly Exclusion Zone.

4.4 Information request 9.1

The Commission is seeking information on whether the new country of origin labelling system would deliver higher net benefits to the community as a voluntary system rather than as a mandatory system.

AUSVEG firmly believes that Australia's country of origin labelling system will best serve the community if it continues to be implemented as a mandatory system.

The fundamental principle behind Australia's food labelling system is that consumers deserve the right to make informed decisions about their food purchases. This includes information about the country of origin of their food, which some consumers use as a proxy for information about a food product's safety or quality – reducing Australia's country of origin labelling to a voluntary system would run the risk of undermining its effectiveness for consumers looking for this information about their food purchases.

This is particularly true for food products with ingredients from countries with poor reputations for either food safety or quality. Under a mandatory system, manufacturers are required to disclose this information; under a voluntary system, it is likely that manufacturers using these ingredients will opt not to include country of origin labelling information to obscure their origin.

AUSVEG disputes the Commission’s belief that “mandatory disclosure should only be required if it can be demonstrated that it provides higher net benefits compared to voluntary disclosure”. Given the obvious benefits to consumers of mandatory country of origin labelling, and the fact that the system is currently mandatory (and therefore a move to voluntary labelling would be a change to the status quo), the burden of proof should be reversed. A voluntary country of origin labelling system should only be considered if it can be proven that there would be higher net benefits from moving to a voluntary system.

4.5 Draft finding 11.2

Existing competition regulation and oversight is adequate for managing the risk of supermarkets abusing market power in their dealings with farm businesses and wholesale merchants.

Suggestions to amend exemptions that allow collective bargaining under section 45 of the Competition and Consumer Act 2010 (Cwlth) are unlikely to increase collective bargaining by farm businesses.

AUSVEG strongly disputes the finding that existing competition regulation and oversight is adequate for managing the risk of supermarkets abusing market power in their dealings with farm businesses and wholesale merchants.

There continues to be strong and consistent anecdotal evidence suggesting that supermarkets are misusing their market power in their dealings with vegetable growers to unfairly manipulate the terms of trade.

A perceived lack of documented evidence should not be taken as an indication that these misuses do not take place. Instead, it must be acknowledged that alongside the misuses of market power there is the threat of commercial or financial consequences if a grower is identified as speaking out about ill treatment at the hands of a retailer.

Consequently, AUSVEG believes that not only is the Commission’s finding inaccurate, but that greater independent whistleblower protections should be implemented for growers looking to speak out about potential misuses of market power to allow for the development of a more accurate understanding of trading relationships between growers and their buyers.