

Media Release

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Code of Conduct - ACCC Warns on 'Backdated' Contracts

Horticulture Australia Council (HAC), the peak national body representing horticultural industries, today welcomed the prompt action of the Australian Competition & Consumer Commission in warning traders against avoiding their obligations under the mandatory Horticulture Code of Conduct.

The Code of Conduct will commence on 14 May 2007, and every trading relationship will need to be covered by compliant written agreements from this date.

However, HAC and other grower organizations have previously alerted the ACCC to allegations from growers that many traders were attempting to induce (even coerce) growers into signing up to agreements which were not Code compliant, before the official 'cut-off' date of December 14th 2006.

HAC Chair, Stuart Swaddling, said today: "It appears that a significant number of traders are now going even further than this – they are attempting to con growers into signing up to non-compliant contracts 'backdated' to 13th December."

"The ACCC's announcement clearly indicates that traders who induce growers, by whatever means, into signing up to such agreements risk contravening the Code. The ACCC has also warned that: "Traders cannot choose to 'opt out' of their legal obligations" under the Code."

The ACCC has indicated that it regards "very seriously" any attempts to deliberately disregard the Code, and is currently investigating the complaints which have been received. Traders who induce growers into entering into such contracts also risk engaging in misleading or deceptive conduct if they wrongly give the impression to growers that they will not enjoy the benefits delivered by the Code.

Mr Swaddling said "We encourage any grower who has been induced to enter into a pre-dated agreement to contact the ACCC confidentially on the hotline: 1300 302 502.

"We also advise growers to draft their own agreements prior to negotiations with their trader(s), utilizing the templates (for Terms of Trade/Horticulture Produce Agreements), which clearly outline the minimum requirements of any agreement under the Code (available at: http://www.hac.org.au/code_of_conduct/.)

If presented with a draft agreement by a trader, we strongly recommend 'matching' this against the templates. If still unsure, growers should seek independent advice, or call the ACCC hotline." Mr Swaddling said.

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