

Media Release

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ACCC Warns Growers to Scrutinise Contracts

Horticulture Australia Council (HAC), the peak national body representing horticultural industries, today applauded the clarification by the Australian Competition & Consumer Commission in warning growers against contracts which may not be compliant with the mandatory Horticulture Code of Conduct. The ACCC Chairman, Graeme Samuel, said today that representatives of some trader associations and individual traders may be attempting to circumvent the spirit and letter of the new mandatory Horticulture Code of Conduct.

Mr Samuel said that: "It is disappointing that some trader groups seem to be trying to undermine fundamental principles of the new code. We know that other traders have issued compliant agreements to their suppliers and are legally getting on with business under the new arrangements... Growers and traders should not use generic template agreements if they are non compliant with the horticulture code."

HAC and other grower organizations had alerted the ACCC to allegations from growers that many traders were presenting them with agreements which they believed were not Code-compliant.

HAC Chair, Stuart Swaddling, said today: "Luckily, the requirements of the Code are actually very simple, and many growers were able to spot the clauses at issue, even without independent legal advice."

"Growers are advised to be wary of:

- Contracts which nominate wholesalers as Merchants but require prices to be determined on sale or delivery – a Merchant arrangement means the produce is bought upfront by the trader;
- Any provision to reject produce once it is accepted under a Merchant transaction;
- A trader refusing to pay for produce they cannot sell, or charge handling fees under a Merchant agreement;
- Standard fixed prices which are clearly too low and do not accurately reflect the produce and market; bonus or marketing payments are risky and are not always in the best interest of both parties;
- The charging of Code compliance levies; and
- Merchant agreements which specify costs for things such as waste removal and produce stacking.

Mr Swaddling said "We encourage any grower who has been induced to enter into any agreement which may not be Code-compliant to contact the ACCC confidentially on the hotline: 1300 302 502.

"To assist the trading partners, we have developed template agreements; these have been 'vetted' by the ACCC, to ensure that growers and traders can be confident they are Code-compliant (and downloadable templates are available at: http://www.hac.org.au/code_of_conduct/)."

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