

CODE MANAGEMENT COMMITTEE – SECRETARIAT

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CODE SECRETARIAT

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INTRODUCTION

This is the seventh Australian Wine Industry Code of Conduct Annual Report prepared by the Code Management Committee (CMC). This report covers the period from 1 July 2017 to 30 June 2018.

The Australian Wine Industry Code of Conduct

The Australian Wine Industry Code of Conduct ('the Code') was signed by representatives of the Winemakers' Federation of Australia (WFA) and Wine Grape Growers Australia (WGGA) (Now trading as Australian Vignerons - AV) on 19 December 2008. With the exception of Part 2 (Winegrape Purchase Agreements), the Code took effect on 1 January 2009. Part 2 took effect for all new agreements for the supply of wine grapes for the 2010 vintage onward.

The Code is voluntary; there are no joining fees or ongoing annual costs. The purpose of the Code is two-fold:

- To establish a common framework for Australian wine grape supply contracts; and
- To provide a dispute resolution system to manage price or quality assessment disputes.

The minimum requirements set out in the Code have been agreed by the lead industry organisations of both wine grape growers and winemakers.

Winegrape purchasers who are Signatories to the Code agree to be bound by the principles of the Code in their commercial dealings with wine grape growers. They also undertake to provide a grower with a copy of the Code whenever that grower signs a new Agreement.

The CMC acknowledges that signatories to the Code remain well below the target of half of the top 100 Australian wine producers (by tonnes processed) signing the code by the end of 2013.

During 2017 -18 the secretariat received two applications to become signatories to the Code – Feathertop Winery and Australia Food and Beverage Group Pty Ltd. As a result, our current signatories has increased from 41 to 43.

WFA and AV have agreed to publicise and promote the Code and its dispute resolution procedures, and to work to maximise its adoption within the industry. A register of signatories is maintained on the Australian Wine Industry Code of Conduct website (www.wineindustrycode.org/).

The Wine Industry Code Management Committee

The Code is overseen and administered by the Wine Industry Code Management Committee (CMC) jointly appointed by the Boards of the WFA and AV. It consists of six members, an independent Chair, supported by a Secretariat of two, with the assistance of a minute taker.

The composition of the CMC at 30 June 2018 was:

Members	Representing
Sam Holmes	Independent Chair
Fiona Anderson	Treasury Wine Estates
Stuart Andrew	Andrew and Dale
Jo Andrew	Australian Vignerons
Chris Byrne	Riverland Wine
Helen Strachan	Pernod Ricard Winemakers
Jason Duldig	Accolade Wines

CMC Secretariat

Tony Battaglione	Winemakers' Federation of Australia
Anna Hooper	Australian Vignerons
Damien Griffante	Winemakers' Federation of Australia
Sandy Davis	Minute Secretary

The Committee's responsibilities include acting as the custodian of the Code, monitoring and assessing the Code's performance, improving the Code, facilitating resolution of disputes over wine grape prices and vineyard downgrades and rejections, and determining alleged breaches of the Code. It is required to produce an annual report to be published by 30 September each year containing:

- A description of the nature and number of disputes received;
- Any comments it wishes to make about conduct or trends in the industry;
- A report on the operations of the Code, including the names of any parties removed from the Code; and
- A list all current signatories to the code and new signatories since the previous annual report.

In monitoring the Code, the Committee may recommend amendments to assist the Code's operation.

Secretariat to the Code

The Code Management Committee appoints a Secretariat to the Code (jointly funded by AV and WFA) to provide secretariat services to the Code's administration and to which the Committee may delegate any of its powers or duties under the Code.

The Accord Group was the appointed secretariat for the Australian Wine Industry Code from October 2017 until October 2018.

REPORT ON ACTIVITIES 2017-18

Meetings of the Code Management Committee

The Code Management Committee met regularly as planned during 2017-2018, holding four meetings either in person or via teleconference in August 2017, December 2017, February 2018 and May 2018.

Operation of the Code in 2017-18

Membership targets

As noted elsewhere in this report, membership targets were not met and this represents a major failing in the effectiveness of the Code. However, despite minimal promotion, two wine businesses became signatories in 2017-2018, highlighting its ongoing value and use to industry.

Signatories to the Code

There were 43 signatories to the Code as at 30 June 2018:

Accolade Wines
Australia Food and Beverage Group Pty Ltd
d'Arenberg Pty Ltd
Ballast Stone Estate Wines
Balnaves Vineyard Services Pty Ltd t/as Balnaves of Coonawarra
Bleasdale Vineyards Pty Ltd
Brown Brothers Milawa Vineyard Pty Ltd
Campbells Wines Pty Ltd
Cheviot Wine Group
Colbinabbin Estate Vineyard Management Pty Ltd
Cumulus Wines Pty Ltd
Difabio Estate Wines Pty Ltd
Dorrien Winemaking
Eden Road Wine Company t/as Eden Road Wines
Feathertop Winery
First Creek Wines
Fleurieu Vintners Pty Ltd t/as Boar's Rock
Fowles Wine
Fox Gordon Pty Ltd
Gemtree Vineyards Pty Ltd
Heartland Wines Pty Ltd
Henry Holmes Wines Pty Ltd
Kirrihill Wines Pty Ltd
Limestone Coast Wines Pty Ltd
Lion - Wine Pty Ltd
Lowe Wines

Oakridge Wines Pty Ltd
Pernod-Ricard Winemakers
Ramco Wine Group
Rusden Wines
Samarkan Pastoral Co Pty Ltd t/as Coombe Farm
Seppeltsfield Wines Pty Ltd
Serafino Wines
Shaw and Smith Pty Ltd
Shingleback Wine Pty Ltd
Tahbilk Pty Ltd on behalf of The Tahbilk Group
Tinlins Wines Pty Ltd
Treasury Wine Estates
Trentham Estate
Tyrrell's Vineyards Pty Ltd
Voyager Estate (WA)
Wirra Wirra Vineyards
Yalumba Wine Company

Enquiries

There have been 50 enquiries received during this period, which is significantly more than the 29 enquiries received in the 2016-17 period.

It should be noted that 36 enquiries related to the same pricing issue with a specific winegrape purchaser. A further 10 enquiries related to the same pricing issue with a different winegrape purchaser. There was also two enquiries relating to the same pricing issue with a further winegrape purchaser. This amounts to 48 enquiries relating to pricing issues with winegrape purchasers.

Nature of Disputes

One enquiry concerned a winegrape supplier who was financially penalised due to low colour readings. The grower had concerns that the test used was unfair due to inaccurate calibration. The winegrape purchaser would not agree to reimburse the difference in price but allowed the supplier to be released from their contract.

The second enquiry related to the contractual timeframe for raising issues in response to chemical tests by the winegrape purchaser. In this case, the timeframe was significantly shortened due to postage delays in notification of test results. We encouraged the grower to negotiate the contract terms directly with the purchaser, and to speak with their grower association for further assistance.

As mentioned above, 48 enquiries related to disputes over winegrape price with three different winegrape purchasers. The growers disputed that the prices offered by the purchaser were significantly lower than market price, as set out in the some purchase agreements. We encouraged the growers to issue notices of dispute in accordance with the Wine Code dispute resolution procedures. Some growers associations also assisted in coordinating this effort and communicating with growers in dispute. As far as we are aware, most, if not all, disputes were resolved by direct negotiation between the parties.

Requests for the Appointment of Independent Expert

One grower indicated a desire to appoint an independent expert in relation to their pricing

dispute, although this process was dealt directly between the parties.

Signatories

During this period, two applications to become a signatory to the Code were received – Feathertop Winery and Australia Food and Beverage Group Pty Ltd. As a result, the current signatories has increased from 41 to 43.

Comments

This period has continued on from the busy period in 2016-17. This 2017-18 year has topped last year's Code dispute activity and has seen the highest level of enquiries received by the Secretariat in the history of the Code.

It is encouraging that most enquirers were able to resolve their dispute through the early stages of the dispute resolution process outlined in the Code. It appears that the use of the Code is gaining significant traction through outreach by industry associations. The multiple applications to become signatories to the Code also support the ongoing utility of the Code.

OTHER ISSUES

Australian Competition and Consumer Commission (ACCC) Wine Industry Market Study

In July and August 2018, the ACCC invited wine grape growers to provide feedback about competition issues in their industry through an online survey. The questions related to:

- contracting practices
- competition among wine grape buyers
- reliability and transparency of pricing information
- quality assessment of wine grapes
- timing of payment
- the Australian Wine Industry Code of Conduct
- available mechanisms for dispute resolution
- collective bargaining.

The survey was conducted to help the ACCC better understand:

- how widespread any concerns and potential issues are among growers
- whether the concerns and potential issues are more prevalent in particular regions, or types of regions
- the effect of certain industry practices on growers.
- The survey was open to wine grape growers from 20 July 2018 to 20 August 2018.

On 26 September 2018, the results of the survey were published by the ACCC ([Wine Grape Grower Survey – Results Report](#)) along with an announcement that the ACCC would conduct a market study of the Australian wine grape industry.

The purpose of the market study is to complete an in-depth review of the industry and identify any market failures or trade practices issues that may be preventing the functioning of competitive markets or resulting in detriment to wine grape growers.

The market study will examine:

- the state of competition between winemakers and other purchasers of wine grapes
- bargaining power and risk allocation in the supply chain, particularly in relation to growers and winemakers
- issues around price and quality assessment
- contracting practices between growers and winemakers (including the timing of price notifications and payments)
- the effect of the existing voluntary industry code and dispute resolution processes, and
- the use of collective bargaining by growers.

The ACCC released an [issues paper](#) seeking submissions from growers, winemakers, retailers and others operating in the industry 2 November 2018.

Throughout 2017-18, the Code Management Committee was undertaking an assessment of the codes relevance and effectiveness with a view to continuous improvement. However, any action to update the code content has since been placed on hold until the ACCC reports on its market study and following consideration of its outcomes.

ACKNOWLEDGEMENTS

The Code Management Committee members would like to acknowledge the support and cooperation throughout the year of:

- The Accord Group;
- Winemakers' Federation of Australia; and
- Australian Vignerons

FINANCIAL REPORT

The financial report for 2017-18 is provided below:

TABLE 1: FINANCIAL REPORT FOR CODE OF CONDUCT FOR YEAR ENDED 30 JUNE 2018

WFA/AV Shared Expense

Accord Group Fee + Code Website hosting fee	\$4,536.28
Total Costs shared 50% WFA & AV	\$4,536.28

WFA Only Expense

Meeting costs	\$538.37
Additional WFA costs	\$6,000.00

Total	\$11,074.65
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