

## Collective bargaining

Collective bargaining is covered under Australia's Competition Policy which is contained in the Competition and Consumer Act 2010 (CCA 2010; replaced the Trade Practices Act 1974). Competition law defines the boundaries within which collective bargaining can operate and is administered by the Australian Competition and Consumer Commission (ACCC), which is an agency within Treasury. The ACCC can currently grant authorisation or notification of collective bargaining by farmers where there is a clear improvement in efficiency and broader public benefits are seen to be generated.

The competition provisions of the CCA 2010 are currently the subject of the Harper Competition Policy Review (Harper Review) which is the most comprehensive competition review in 20 years. The ACCC submission to the Harper Review included specific reference to collective bargaining with regard to primary producers. Recommended modifications that would benefit farmers included (i) greater flexibility in the notification process to encourage use by farmers, (ii) review of the maximum threshold to notify a collective bargaining process so as not to restrict small businesses and (iii) the provision for collective boycott. The ACCC has noted that these recommendations are not visible in the Competition Policy Draft Report September 2014, and the ACCC has indicated that it will continue to pursue its submission. Accordingly, the ACCC submission (November 2014) to the Harper Review Draft Report September 2014 emphasises that the original recommendations of the ACCC in relation to simplification of the authorisation and notification provisions, and collective bargaining and boycott provisions, are suitable for direct implementation by Government and "*should be progressed and implemented as soon as possible*". All of this links with the Agricultural Competitiveness Green Paper 2014 and the Agricultural Competitiveness Issues Paper 2014. Both of these documents make reference to potential changes in existing laws and regulations to address any market power imbalances.

It could be argued that the overarching need to consider change and/or modification of competition policy and laws in relation to agriculture and food is the low 'farm gate' return for the majority of agricultural commodities. This is a central theme in the Agricultural Competitiveness Green Paper 2014.

Farmers must be informed and engaged in the current national process if they are to optimally benefit from opportunities that may arise from Government direction and policy resulting, in part, from the Harper Review and the ACCC position in relation to farmers, and the role of the ACCC in administering the Competition and Consumer Act 2010.

The use of collective bargaining varies within the agriculture and food sector. This can be partly explained by the perceived benefits, and indeed need, of collective bargaining. Drivers of collective bargaining can include a time imperative in the production-harvest-marketing timeframe for perishable food (e.g. horticulture), defined harvest endpoint (e.g. fruit), and stringent processing requirements (e.g. dairy). The red meat sector does not face the first two imperatives to the same extent as horticulture and fruit which might partly explain the lower use of collective bargaining. Geographic distribution and industry structures are likely further reasons for limited use of collective bargaining in extensive livestock. The perceived benefits of collective bargaining in the dairy sector led to the recent release by Dairy Australia of Collective Bargaining for Dairy Farmers which is an informative document. This document is relevant to other agricultural sectors and sector-specific guides should also be considered.