National Farmers Federation

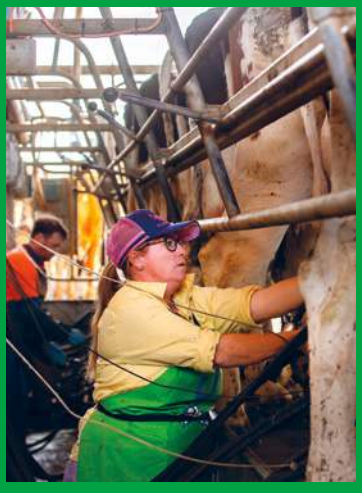
NFF Competition Policy

Competition reform needed to protect farmers

Australia's current competition policy framework does not adequately protect farmers. Farmers are subject to unfair and anti-competitive commercial practices Current legislation fails to prohibit such behaviours. The effect Is the unfair diminishing of the profitability and viability of some farm businesses.

Current competition law has proven ineffective at protecting farmers from harmful behaviour and forced them to accept commercial terms that transfer risks and responsibilities that should be held elsewhere. In some cases this leaves farmers unable to operate profitable businesses.

Commercial arrangements in perishable food supply chains hinder the long-term productivity growth of the industry by deterring productivity-enhancing investments made by farm businesses. Often these investments will not be made because the producer's supply arrangements leave the farm business too uncertain of its future revenue or provides the farm business with such a small portion of revenue that such investments are not viable.



The issue

Current competition provisions provide few protections to farmers from these flawed commercial arrangements. The primary goal of the competition policy framework is to promote consumer benefit rather than the fair treatment of suppliers, such as farmers. Outside of poorly defined and impractical unconscionable conduct provisions, there is little protection for farmers from the exercise of undue power by large supply chain actors. Misuse of market power provisions have very little applicability for unwanted behaviours within perishable food supply chains.

Key points

- Existing competition law has proven ineffective at protecting farmers from harmful supply chain behaviour.
- The failures of competition policy have brought into question the viability of some agriculture industries.
- To overcome these failures, the Federal Government must reform unconscionable conduct provisions, create a mandatory code of conduct for perishable food supply chains, strengthen unfair contract terms protections and institute a regular ACCC review of key agriculture supply chains.

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The solution

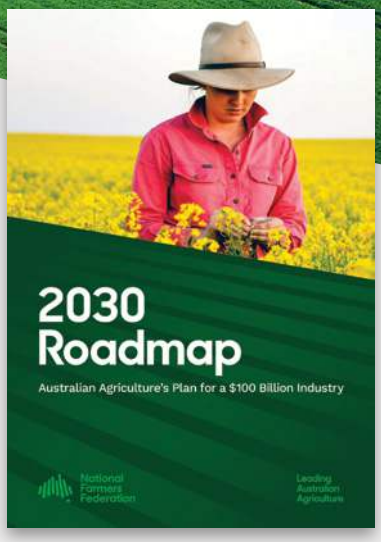
To safeguard Australian farmers from unfair trading practices and enhance the competitiveness of perishable food markets, thereby improving the outcomes for farm businesses and consumers, the NFF recommends:

1. An amendment of section 21 of the *Australian Competition and Consumer Act 2010* to specify characteristics which determine whether a behaviour is unconscionable.
2. The introduction of a Mandatory Code of Conduct for all commodities examined by the ACCC.
3. Prohibitions on the use of unfair contract terms be strengthened.
4. That the ACCC consider instituting a regular review of perishable food supply chains.

Farmer focus

Simone is a fruit grower. She sells her fruit to a wholesaler who then sells it on to a retailer. The wholesaler and retailer meet on Monday each week to discuss prices for the week. Simone is not informed of the price until Friday, which is when she is required to pack her fruit for shipping. The price is often lower than the market price for that week, but the implicit threat of having the retailer cease buying her produce forces her to sell for the below-market price. Even if she wanted to sell into an alternate supply chain, she does not have the time to switch her produce into that supply chain.

More alarmingly, Simone often gets a call from her wholesaler on a Friday night or Saturday morning that the retailer no longer wants the order at the agreed price and quantity and will be cancelling the order and puts in a new order at a lower price. This cancellation and reordering practice usually coincide with a competing retailer releasing their catalogue of weekly specials.



The NFF has a goal for agriculture to be a $100 billion industry by 2030. The *2030 Roadmap* is a plan developed by the NFF to guide the sector to this goal.

Road Aspiration 1.2

Our value chain provides a competitive connection to global markets and delivers clear market signals to guide paddock-to-plate investment.

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