

National  
Farmers  
Federation

# Market Price Transparency

ISSUES PAPER

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## **Competition issues aren't new for Australian agriculture. But the lack of competition across Australia's agricultural supply chains is a problem that's getting worse. For decades, market concentration across the Australian economy has increased.**

As market concentration has increased in Australia, farmers have had fewer places to buy inputs and fewer places to sell their products. Businesses are taking advantage of this with higher input prices, lower output prices, increased compliance costs, shifting the risk burden to farm businesses, and increasing uncertainty for farmers.

Reduced competition in the agricultural supply chain means farmers aren't receiving the incomes they should in an otherwise competitive market. This directly impacts their long-term competitiveness, profitability, and economic and environmental sustainability. In some cases, it leaves farmers unable to operate profitable businesses.

While several complex factors have contributed to rising market concentration in Australia, there are steps the Australian Government can take to address the issue and support farmers, small businesses, and consumers. This paper seeks to inform public debate and provide clear suggestions that Australian Government can take to promote positive outcomes for farmers and small businesses across Australia.

### **The Issue**

Price transparency refers to the information available to a farmer to accurately compare the price offered with product supply, demand, market conditions, and prices paid to other farmers. In other words, can a farmer know they are being offered a fair price for what the market demands?

In the agricultural supply chain, the lack of market price transparency is used against farmers. Increasing market concentration across the Australian economy has allowed businesses with a large market share to use their market power to exploit the lack of price transparency within the supply chain. Businesses with significant market share often leverage the lack of market price transparency to pay farmers and agricultural firms less for their produce than they would otherwise receive in a more competitive market. That is, a business will take advantage of a farmer's limited options to pay them less than they should for their product.

This occurs through a lack of price transparency, alternative markets or competitors within the supply chain, and data asymmetry in determining prices paid for produce. This has the greatest impact in perishable goods supply chains where produce must be sold within a specific period before it spoils or degrades in value.

Increased market concentration in the agricultural supply chain has created a situation where there are many sellers and only a few buyers. This situation provides wholesalers, distributors, retailers and other businesses with broad access to data on the price and volume offered for produce across the whole

supply chain. At the same time, farmers can only see their own data. This provides a significant commercial advantage to businesses that can leverage their asymmetric data to offer the price paid to farmers for the product.

This asymmetric information is compounded by a lack of transparency in how the 'market' price is determined. While numerous factors determine how a price is determined, farmers are not provided any information to determine how the price was set. For example, farmers cannot determine if the price they are offered is the lowest price offered, a weighted average, or determined by a supply and demand model that matches the elasticities of other similar agricultural products.

While the asymmetric information often disadvantages farmers, they are often required to accept the prices offered. For example, perishable products must be sold within a specific timeframe before they spoil or degrade in value. This reduces the farmers' bargaining power because products cannot be stored for long periods. Additionally, farmers face potential commercial retribution for their decisions regarding accepting or rejecting the market price.

This market price transparency is compounded by the increasing market concentration within the supply chain. The long-term reduction in available buyers now means that farmers have fewer options to sell their products. This has seen wholesalers and retailers refuse or delay price increases paid for products regardless of the increasing production costs.

## The Impact

At the highest level, a lack of market price transparency may mean that a farmer is paying more for their inputs and receiving less for their output. This squeeze between higher input prices and lower output prices reduces farm incomes. However, the impact of reduced farm incomes are often not seen because the impact is an absence of what would occur if farmers received fair prices. Reducing farm incomes means that investment, jobs, resilience and productivity are lower than what they would be if farmers received fairer prices.

Australian farmers operate in a highly seasonal and cyclical environment. The highs of a good season provide financial support for the depths of the low season. While farmers have developed sophisticated tools to manage these fluctuations, reduced prices and incomes can lower their ability to manage changes in production across seasons. That is, lower incomes in a good year may mean a smaller financial buffer in the following bad year.

Reduced incomes also reduce money available for on-farm investment. Farmers consistently explore new options for on-farm investment that increase their productivity, resilience and sustainability. Often, investments provide multiple benefits to the farm. However, a reduced farm income can delay this investment, meaning new technologies and innovations are either foregone or adopted more slowly.

With climate change set to increase the frequency and severity of natural disasters, including droughts and floods, it is essential that farmers can adequately recover and prepare during good seasons. By reducing financial buffers and on-farm investment, farmers may be more susceptible to the business impacts of these natural disasters.

Reduced incomes can also impact broader regional communities. Lower incomes can reduce the number of farm employees and make jobs more susceptible to disruption. As a significant employer in regional communities, the number and security of agricultural jobs can have broader-reaching impacts on regional communities.

Each of these activities has direct flow-on effects that reduce the dynamism of the agricultural supply chain and regional economies. This conduct substantially impacts the profitability, resilience and viability of farm businesses and competition in agricultural supply chains more broadly. Because farm businesses have lower incomes and cannot receive fair prices for their production, they cannot properly reinvest in long-term productivity-enhancing tools, infrastructure, and practices. This has a direct impact on:

- business growth through expansion of new initiatives or activities within the business;
- employment opportunities due to increased risk and uncertainty of farm business activities;
- diversification and the adoption of new commercial opportunities within a business; and,
- sustainability and environmental impact due to a lack of investment in new technologies and practices.

## Policy options

To address the lack of market price transparency in Australian agricultural supply chains, the NFF is putting forward several policy options for discussion and consideration. These options aim to increase fairness, transparency, and competitiveness across agricultural supply chains. Policy options include:

### 1. Mandatory Price Reporting and Disclosure

Require businesses in the agricultural supply chain, especially wholesalers and retailers, to disclose information used to determine pricing offers. This may include:

- how prices are determined;
- volumes offered;
- average pricing; and,
- any contractual terms.

This process will improve farmers understanding of the process purchasers use to determine the market prices, providing more transparency in decision-making. This would include providing clear guidelines and documentation to ensure process consistency and clarity. However, this scheme must be carefully designed to ensure the increase in price transparency does not come with unintended consequences.

Previous price transparency schemes have resulted in tacit price collusion, reducing the competitive outcomes intended through the policy. As such, the agricultural pricing scheme should focus on providing greater transparency to farmers to support their business decision-making without increasing awareness within retail competitors.

## **2. Price Reporting Platforms**

Develop and promote digital platforms that provide real-time market price information to farmers. These platforms can aggregate data from various sources to help farmers make informed decisions about when and where to sell their products.

The Australian Government has supported the development of these platforms in targeted agricultural industries, including dairy, wine and horticulture. These platforms provide a tool to collect, collate and communicate price information through online analytics platforms.

While these platforms offer a market-driven tool to support greater price transparency within agricultural industries, it is essential they have the right regulatory framework to ensure they function to provide long-term benefits. The development of these platforms may not have broad support along the supply chain. As such, there may be disincentives for some supply chain participants to not participate or not provide effective information. This would undermine the effective functioning of the online tools.

As such, the Australian Government should explore options of mandatory compliance to ensure long-term participation and compliance to ensure successful long-term application.

## **3. Fair Contract Terms**

The Australian Government and ACCC should strengthen legislation and regulation to ensure contracts in agricultural supply chains are fair, transparent and enforceable. This includes clear terms on pricing, delivery schedules, and dispute resolution mechanisms. This will ensure clarity and surety in the relationship between farmers and purchasers of goods. These changes should be additional to the unfair contract terms reforms implemented in 2022.

## **4. Access to assistance and justice mechanisms**

In addition to implementing fair contract terms, access to justice mechanisms must be easier to access for farmers and small businesses with lower barriers to challenge unfair contract terms or misconduct. Farmers and purchasers often have contracts; however, there is no effective mechanism to contest issues or breaches of the contract.

In the current system, unfair terms and compliance with contracts must be decided by courts. This adds a clear barrier for farmers to contest issues in contracts. Relying on the legal system as the sole avenue to contest contracts reduces the efficacy of existing unfair contract term legislation. It also allows the ongoing prevalence of unfair contract terms within the agricultural supply chain.

Not only does legal action provide a financial barrier to contesting contract issues, but it also exposes individuals to potential commercial retribution. As such, access to justice mechanisms should also include whistleblower protection. This would include protections for farmers and industry insiders who expose unfair or anti-competitive practices within the supply chain. This can encourage more individuals to come forward with information about market abuses.

These mechanisms may take the form of enforceable codes of conduct within agricultural industries with significant market concentration along the supply chain. Effective design of these codes may present clear options for dispute

resolution and whistleblower protection to provide farmers with confidence without adding significant cost burden on the supply chain. Easier access to dispute resolution mechanism can support farmers through better access to existing protections and better functioning of the existing regulatory framework.

The Dairy Code of Conduct provides an example of an appropriate avenue for dispute resolution between farmers and processors. The Dairy Code of Conduct provides clear guidance and framework for dispute resolution options and supports better information for farmers to decide how to address issues in the relationship with their supplier. This is supported by the positive role of the Australian Small Business and Family Enterprise Ombudsman providing information and support to farmers and small businesses.

This contrasts to the Food and Grocery Code. Under the Food and Grocery Code, supermarkets appoint their own Code Arbiter is responsible for investigating and resolving supplier complaints in relation to conduct regulated by the Code. However, the direct appointment of the Code Arbiter by the supermarket reduces farmers confidence that the complaints process will be fair and independent. The 2022 Independent Review of the Food and Grocery Code has suggested this may be responsible for the proportionally low number of complaints being brought to the Code Arbiters, compared with the number of informal complaints filtering through other avenues, including reports made to industry bodies.

## **5. Education and Training**

Understanding the market is an essential element of effectively navigating the complex environment of the agricultural supply chain. As such, training and education programs are important tools in supporting farmers. These programs could focus on supporting farmers to improve their negotiation skills and understanding of market dynamics. This can empower them to navigate price negotiations better.

This education and training should also extend to using and adopting price and risk management tools. Australian agriculture has been successful in the use of sophisticated price management tools. These include physical sales, forward contracts, futures, options, swap markets and index derivatives. While these tools have increased, their adoption is not even across the sector.

To support greater uptake and use of these tools, the Australian Government, in collaboration with industry, should develop and promote tools and strategies to increase the uptake of price management tools. These include tools that help farmers manage price risk, such as futures contracts or insurance products.

## **6. Promote the ACCC collective bargaining provision**

The collective bargaining ‘class exemption’ allows eligible small businesses to bargain collectively without breaching competition laws. While this exemption provides a model for farmer collaboration, its implementation has hindered effective uptake.

The ACCC should develop additional resources to help farmers and industry groups understand how to navigate the collective bargaining provision. As it stands, there is often confusion and apprehension about exploring the collective bargaining provisions. These concerns are due to concerns about inadvertent or accidental misconduct or cartel behaviour.

Increasing awareness of the collective bargaining provisions will provide more clarity and confidence in their use. This will support the formation and use of producer cooperatives that can collectively negotiate prices and contract terms on behalf of their members, giving farmers more bargaining power.

In addition, the Australian Government should increase the existing limit on businesses that can access this provision. As it stands, the exemption is capped at an aggregated turnover of \$10 million. This cap should be increased to allow a more effective uptake by farm businesses without distorting the policy's intention.

### **7. Increased ACCC powers to access data from supply chain companies**

The ACCC has an important role in monitoring and analysing markets. This often occurs through ongoing market studies that examine the operation of markets, sectors and industries. These studies provide a positive tool in identifying potential new and emerging competition issues and recommending potential policy solutions.

However, these market investigations are limited by the ACCC existing powers and ability to request information. Under current legislation, the ACCC can only compel companies and supply chain actors to provide information and documents if their investigation is directed by the Minister. If the study is instigated by the ACCC, there are no powers to compel companies to comply. This limits the ACCC's ability to respond to conduct thorough investigations with clear information and data from supply chain actors.

We recommend that the ACCC be granted broader powers to request, collect, and analyse data from all participants in the agricultural supply chain. This includes data related to pricing, procurement, distribution, and other relevant operational aspects. With increased data access, the ACCC can more proactively analyse industry and market data to identify patterns or practices that might indicate anti-competitive behaviour or a lack of price transparency. Periodic reports should be published to inform stakeholders, including farmers, about market conditions and potential areas of concern.

## **Conclusion**

These policy options aim to level the playing field for farmers, enhance market transparency, and mitigate the negative effects of information asymmetry and market concentration within Australian agricultural supply chains. Implementing a combination of these measures may be necessary to create a fairer and more competitive marketplace for agricultural producers.



National  
Farmers  
Federation

Leading  
Australian  
Agriculture

NFF House  
14-16 Brisbane Avenue  
Barton ACT 2600

Locked Bag 9  
Kingston ACT 2604

(02) 6269 5666  
[reception@nff.org.au](mailto:reception@nff.org.au)  
[nff.org.au](http://nff.org.au)



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