



**FMA**  
FRESH MARKETS  
AUSTRALIA

## Horticulture Code of Conduct – impacts on small business

*Without properly functioning Central Wholesale Markets,  
Australia's fresh fruit and vegetable supply chain would collapse.*

**40,000  
tonnes of fresh  
produce/week  
does not comply  
with the Code**

**2,000  
semi-trailerloads  
of F&V/week  
should be  
returned to  
non-compliant  
growers**

**Code is  
inflexible and  
anti-competitive**

### CODE OF CONDUCT IMPACTS ON SMALL BUSINESS

The Mandatory Horticulture Code of Conduct is inflexible and anti-competitive and discriminates against the primarily small family businesses that operate as fruit and vegetable wholesalers across Australia.

The Code of Conduct demands methods of operation that are inconsistent with how growers and wholesalers do business, and how they want to do business.

Based on feedback from growers and wholesalers, it is evident that the costs of complying with the Code's commercially-naïve rules and onerous paperwork outweigh any proposed benefits to growers or wholesalers.

In the FMA's experience, the Code of Conduct is irrelevant to nearly all growers, who don't like to operate under the Code of Conduct and the majority don't want to use Horticulture Produce Agreements (HPAs).



### WHOLESALE CARRY THE BURDEN

The real challenge for wholesalers is that the Code of Conduct burdens wholesalers with responsibility for all the red tape paperwork.

The Australian Competition and Consumer Commission turns a blind eye to growers who pick and choose if and when they want to operate under the Code – and who face no penalty for non-compliance.

There are no requirements placed on growers under the Code, other than to have a HPA in place prior to trading.

While Australia's fresh fruit and vegetable growers have up to eight channels to market\* for their produce, only two of those channels are burdened by the Mandatory Horticulture Code of Conduct. (\*Regulatory Impact Statement Figure 2.4).

Why does the Code discriminate against the small business wholesale channel?



## A REALITY CHECK

For the large number of growers who don't like to operate under the Code of Conduct and don't want to use Horticulture Produce Agreements (HPAs), their non-compliance attracts no penalty from the regulator and puts all the responsibility on the wholesaler.

A grower can resist signing a HPA and thereby force a wholesaler to operate in breach of the Code.

Despite the ACCC being aware of this conundrum, it has not taken action against any grower to enforce the Code.

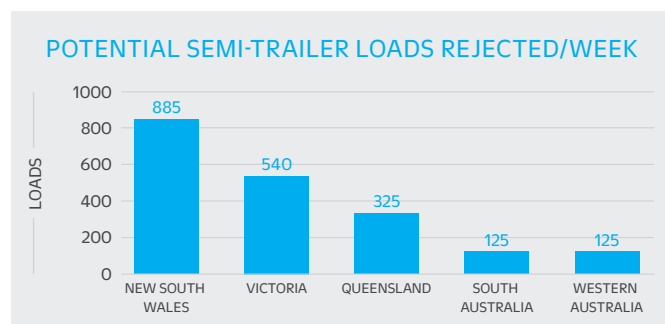
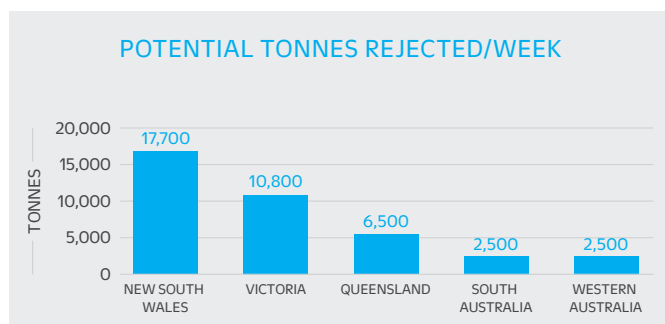
The reality is that while a wholesaler may (in fact, should) refuse to accept produce from a grower without an executed HPA, they will, generally, continue to accept produce from their main grower suppliers as to do otherwise would be tantamount to business suicide.

For this (and other) reasons, the Code is commercially impractical and the massive wastage from its proper application would be unconscionable.

If the Code of Conduct was followed to the letter, wholesalers across Australia would be forced to return or reject about 40,000 tonnes (2,000 semi-trailer loads) of fresh fruit and vegetables every week received from growers who refuse to sign HPAs or who choose to operate outside the strict requirements of the Code.



- In NSW, this would be 17,700 tonnes (885 semi-trailer loads) of fresh fruit and vegetables rejected every week
- In Victoria – 10,800 tonnes (540 semi-trailer loads) of fresh fruit and vegetables rejected every week
- In Queensland – 6,500 tonnes (325 semi-trailer loads) of fresh fruit and vegetables rejected every week
- In South Australia – 2,500 tonnes (125 semi-trailer loads) of fresh fruit and vegetables rejected every week
- In Western Australian – 2,500 tonnes (125 semi-trailer loads) of fresh fruit and vegetables rejected every week



phone 07 3915 4222  
 fax 07 3915 4221  
 email [fma@freshmarkets.com.au](mailto:fma@freshmarkets.com.au)

Level 2, Fresh Centre, Brisbane Markets, 385 Sherwood Road, Rocklea Q 4106  
 PO Box 70, Brisbane Markets, Queensland 4106

[freshmarkets.com.au](http://freshmarkets.com.au)

The Australian Chamber of Fruit & Vegetable Industries Limited t/a



**FMA** | FRESH MARKETS AUSTRALIA