kpm

**Farm Produce Marketing Review Committee**

# Queensland Farm Produce Marketing Act 1964

Public Benefit Test

December 1998

KPMG Management Consulting

*This report contains 61 pages*

Report_December.doc

# Contents

# 1 Introduction

KPMG Management Consulting (KPMG), in association with Macarthur Agribusiness, have been retained by the Farm Produce Marketing Review Committee (FPMRC) to undertake a Public Benefit Test (PBT) on the Queensland *Farm Produce Marketing Act 1964* ('the Act'). This report details the results of this PBT review.

The PBT review has been undertaken in accordance with the Queensland Treasury Public Benefit Guidelines and in the spirit of the Competition Principles Agreement between the Commonwealth Government and State Governments.

The content of this report includes:

- Chapter 2 presents the Public Benefit Test methodology which was utilised in this review;
- Chapter 3 outlines the Australian and Queensland fruit and vegetable industries, highlighting the relative importance of this industry to Queensland on a regional basis;
- Chapter 4 reviews the objectives of the Act, including an analysis of how the act restricts competition and imposes anti-competitive behaviour within the industry;
- Chapter 5 reviews what regulations are currently in place on the fruit and vegetable industry in other Australian States;
- Chapter 6 outlines the consultation process and identifies key issues relating to major stakeholder which were highlighted during public consultation;
- Chapter 7 presents an analysis of the regulatory change options identified by the FPMRC, including reviewing the 'without change' scenario;
- Chapter 8 presents the PBT analysis and associated sensitivity scenarios;
- Chapter 9 outlines the non-valued impacts of the proposed regulatory change options; and
- Chapter 10 concludes as the net benefits of moving from the 'without change' state to the 'with change' state.

Various supporting appendices present detailed summaries of the consultation phase, public submissions received and a copy of the FPMRC Issues Paper.

# 2 Public Benefit Test Methodology

## 2.1 Competition Principles Agreement

The Competition Principles Agreement ('the Agreement'), endorsed by members of the Council of Australian Governments (COAG) in April 1995, commits the Queensland Government to undertake a review and reform by the year 2000 all State legislation that restricts competition.

The Agreement requires that legislation should not restrict competition unless it can be demonstrated that the benefits to the community as a whole outweigh the costs of such restriction(s), and that the objectives of the legislation can only be achieved by restricting competition.

In endorsing the Agreement, Governments agreed that:

- The objectives of legislation will be clarified;
- The nature of the restriction will be identified;
- The likely effects of the restriction on competition and the economy generally will be analysed;
- The costs and benefits of the restriction will be assessed and balanced;
- Alternative means for achieving the same result will be considered;
- Any new anti-competitive legislation must conform to the net public benefit principle; and
- Retained anti-competitive legislation must be reviewed at least once every ten years to determine if it is still required.

In assessing the costs and benefits of particular legislation, COAG agreed that the following matters, where relevant, be taken into account:

- Government legislation and policies relating to ecologically sustainable development;
- Social welfare and equity considerations, including community service obligations;
- Government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;
- Economic and regional development, including employment and investment growth;
- Interests of consumers generally, or of a class of consumers;
- The competitiveness of Australian business; and
- The efficient allocation of resources.

To fulfil its commitments under the Agreement, and to promote regulatory reform, the Queensland Government is undertaking a review of the Queensland Farm Produce Marketing Act 1964.

To comply with the Agreement, the review must determine whether the powers and activities provided for with the Act create a net public benefit and whether the objectives of the legislation are being achieved in the manner that least restricts competition.

Further, the Act was amended in 1995 to include a 'sunset' provision that scheduled the legislation to expire in December 1999. Consequently this review is also being conducted in accordance with this provision and with the intention of addressing commercial issues relevant to the industry.

## 2.2 Queensland Treasury Public Benefit Test Guidelines

Queensland Treasury has prepared Guidelines to assist Queensland State Government Departments to undertake Public Benefit Tests of legislation within their jurisdiction. Specifically, the Queensland Treasury Public Benefit Test Guidelines (the Guidelines) outline the steps associated with conducting a Public Benefit Test and how to present the results in a consistent and appropriate manner for consideration by Cabinet.

The steps required to undertake a Public Benefit Test, as outlined in the Guideline, include:

Step 1 Identification and description of a realistic 'without change' or 'base' state.

Step 2 Identification and description of a realistic 'with change' or 'alternative' state.

Step 3 Identification of all major impacts of moving from the 'without change' to the 'with change' state.

Step 4 Valuation of impacts.

Step 5 Detailed assessment of non-valued impacts.

Step 6 Timing, aggregation and presentation of results.

Key issues and requirements associated with each of the Public Benefit steps include:

Step 1
- Clarification of objectives of the legislation.
- Identification of nature and relevance of the restrictions on competition.
- Description of the market structures which operate under the existing regulatory arrangements.

Step 2
- Describing the proposed change to the existing regulatory arrangements.
- Identification of future situation and its impact on market structures.

Step 3
- Compare the 'without change' and the 'with change' states to assess the impact of moving from one state to another.

Step 4
- Quantify the market structures and economical / financial status of impacted groups in the 'without change' and 'with change' states, and identify the size and direction of change.

Step 5
- Qualitatively identify and outline those impacts which have not been able to be valued in monetary terms, noting, where possible, magnitude and timing issues of potential impacts.

Step 6
- Define the time profile of each impact.
- Determine the present value of total impacts on a global and group basis, incorporating sensitivity analysis.

In summary, the Public Benefit Test completed for the Act, has incorporated all of the above steps and has considered each of the key issues as identified by Queensland Treasury.

## 2.3 Scope of Work Completed

The Minister for Primary Industries established the FPMRC and an industry based Reference Group to review the Act.

The commencement of the review of the Act was advertised in a number of Queensland papers. The advertisement highlighted that interested parties could seek a copy of an Issues Paper, entitled *Review of Farm Produce Marketing Act 1964*, which is contained in Appendix A, and make a written submission. The Issues Paper outlined the background to the review, detailed the restrictive provisions of the legislation, provided a range of examples of some alternatives to the existing regulatory framework and invited submissions from interested parties to the Farm Produce Marketing Review Committee.

The Farm Produce Marketing Review Committee, together with industry representatives, also conducted a series of public meetings at Mareeba, Innisfail, Ayr, Bowen, Rockhampton, Bundaberg, Binjour, Stanthorpe, Gatton, Gympie, Nambour, Caboolture, Mt. Tamborine and Brisbane. The consultation process was comprehensive and stakeholders and interested parties were afforded the opportunity to submit their views with respect to the operations of the Act.

In completing this PBT, KPMG and Macarthur Agribusiness:

- Reviewed the legislation to identify the anti-competitive provisions;
- Attended several public meetings and consulted with individual industry associations and growers;
- Undertook a survey of compliance costs with commercial sellers;
- Discussed options for reform with the FPMRC;
- Completed financial modelling to determine net quantitative economic benefits of each reform option;
- Identified non-valued impacts for each reform option;
- Recommended which reform option should be adopted based on quantitative and qualitative impacts.

## 2.4 Vote of Thanks

KPMG and Macarthur Agribusiness would like to take this opportunity to thank individuals and organisations for their assistance in the review process, especially :

- Members of the FPMRC and industry based reference group;
- Staff from the Queensland Department of Primary Industries (DPI), Queensland Treasury, Brisbane Market Authority, Brismark and the Queensland Fruit and Vegetable Growers (QFVG); and
- Individuals and organisations who contributed during the consultation process.

## 2.5 Warranties and Disclaimer

The statements and opinions in this report are given in good faith but rely upon information from the sources identified in this report and discussions with relevant stakeholders and industry experts. The report also draws upon the resources of KPMG and Macarthur Agribusiness. The report prepared by KPMG relies on information presented by Issues Paper. KPMG disclaim any liability for information presented within the Issues Paper.

Neither KPMG Management Consulting nor Macarthur Agribusiness have any pecuniary interest that could reasonably be regarded as being capable of affecting their ability to give an unbiased opinion in relation to the matter. KPMG Management Consulting and Macarthur Agribusiness will receive a professional fee for the preparation of this report.

# 3 The Fruit and Vegetable Industry

## 3.1 Introduction

The Queensland fruit and vegetable industry consists of a series of linked sectors, including:

- Fruit and vegetable growers, who produce fruit and vegetables;
- Commercial sellers, who purchase fruit and vegetables and then on-sell these products primarily within the domestic market;
- Exporters, who purchase fruit and vegetables and then on-sell these products within the international market;
- Manufacturing sector, which uses fruit and vegetables in food processing.

Following these sectors are retailers, with consumers the final link in the chain. There is little vertical integration of activities between these sectors.

## 3.2 The Fruit and Vegetable Industry

### 3.2.1 The Australian Industry

The Australian continent, with its large climatic and soil variations, has enabled the development of an extensive horticultural sector capable of producing a full range of temperate and tropical produce. Our locality in the southern hemisphere enables Australia to supply 'out-of-season' fresh produce to northern hemisphere countries.

The fruit and vegetable industry is an important industry in each State of Australia, and covers a wide range of climatic conditions. The fruit and vegetable industry is generally located in irrigated areas where the availability of water tends to offset the climatic variations and allows produce to be supplied with a greater certainty in terms of quantity and quality.

The following table presents the volume (by tonnes) of fruit and vegetables grown in Australia during 1996-97 by State of production.

**Australian Fruit and Vegetable Production by State, 1996-97 (tonnes)**

| | NSW | Vic | Qld | SA | WA | Tas |
|---|---|---|---|---|---|---|
| Fruit | 631,319 | 772,803 | 432,321 | 653,739 | 105,903 | 59,504 |
| Vegetables | 410,196 | 773,911 | 603,526 | 435,609 | 306,762 | 472,972 |
| Total | 1,041,515 | 1,546,714 | 1,035,847 | 1,089,348 | 412,665 | 532,476 |

Source: ABS, Cat. 7113.0

Vegetable and fruit production (in terms of tonnage) increased significantly in Australia during 1996-97. Specific crops that recorded major change are outlined in the following table.

| **Changes in Specific Fruit and Vegetable Production, Australia 1995-6 and 1996-97** | | | |
|---|---|---|---|
| Crop | 1995-96 ('000 tonnes) | 1996-97 ('000 tonnes) | % Change |
| Pear | 156.0 | 167.6 | 7.4% |
| Mango | 27.2 | 32.4 | 19.0% |
| Peach | 60.4 | 72.1 | 19.4% |
| Banana | 220.0 | 199.6 | -9.3% |
| Orange | 422.1 | 522.6 | 18.2% |
| Apple | 280.1 | 353.1 | 36.0% |
| Grape (1) | 55.8 | 62.3 | 11.6% |
| Apricot | 21.6 | 25.9 | 19.8% |
| Potato | 1,308.1 | 1,286.1 | -1.7% |
| Tomato | 370.9 | 393.1 | 6.0% |
| Carrot | 249.9 | 257.4 | 3.0% |
| Onion | 244.5 | 196.5 | -19.6% |

(1) Table and other grapes only.
Source: ABS, Cat. 7113.0

The fruit and vegetable industry is Australia's second largest rural industry after the meat industry, with a gross value of production (ex farmgate) in excess of $4 billion. Key points associated with the value of fruit and vegetable production in Australia during 1996/97 include:

- The gross value of fruit and nuts produced in Australia in the 1996/97 season was $2,423 million;
- All States recorded increases in the gross value of production, with NSW recording the largest increase over the previous year (26%);
- Victoria continues to be the largest producer (by value) of fruit and vegetables in Australia, recording $610 million, or just over 25% of the gross value of fruit and nuts;
- The gross value of vegetables also increased to $1,668 million;
- Tasmania experienced the most significant increase in gross value of vegetables, increasing 14%.
- Queensland remains the largest contributor to the Australian vegetable industry, with 27% of value of production ($454 million).

Exports are of less significance relative to output than is the case with other large rural industries such as meat and grain, although exports have been growing strongly since the early 1990s. Despite this increase in exports, the majority of Australia's fruit and vegetable production is sold on the domestic market. The following table presents the top four export fruit and vegetables in terms of tonnage, value and export destination.

| **Selected Fruit and Vegetable Exports, Australia 1996/97** | | | |
|---|---|---|---|
| Fruit / Vegetable | Total exports (tonnes) | Export Value ($'000) | Major Markets (% of $ value) |
| Oranges | 87,908 | 79,907 | Malaysia (25%), Singapore (61%) USA (13%) |
| Grapes | 21,702 | 45,545 | Singapore (25%) Indonesia (20%) Malaysia (17%) |
| Apples | 30,745 | 34,892 | Singapore (30%) Malaysia (26%) Indonesia (8%) |
| Pears & Quinces | 19,909 | 23,432 | Singapore (19%) Malaysia (9%) Indonesia (5%) |
| Asparagus | 4,797 | 30,602 | Japan (95%) Singapore (2%) Hong Kong (1%) |
| Carrots | 42,817 | 28.848 | Malaysia (42%) Singapore (27%) Hong Kong (14%) |
| Cauliflower | 18,815 | 24,318 | Malaysia (53%) Singapore (39%) Hong Kong (5%) |
| Onions | 55,203 | 22,667 | Japan (25%) Germany (20%) Hong Kong (9%) |
| Source: The Australian Horticulture Statistics Handbook 1996/97 edition | | | |

### 3.2.2 The Queensland Industry

Queensland is responsible for approximately 19 percent (by value) of Australia's fruit production and 27 percent (by value) of Australia's vegetable production. Fruit and vegetable production is Queensland's third largest agricultural industry, after beef and sugar, with annual production increasing by over $200 million since the early 1990s, to close to $900 million in 1996-97.

The following table presents the value of fruit and vegetable production in Queensland by Statistical Division.

| **Value of Fruit and Vegetable Production in Queensland 1996/97** | | | |
|---|---|---|---|
| Statistical Division | Fruit | Vegetables | Total Horticulture |
| Brisbane and Moreton | $ 77,174,923 | $ 146,191,604 | $ 223,366,527 |
| Wide Bay-Burnett | $ 93,446,128 | $ 71,796,000 | $ 165,242,127 |
| Darling Downs | $ 44,517,996 | $ 70,980,403 | $ 115,498,399 |
| South West | $ 3,379,767 | $ 2,897,610 | $ 6,277,377 |
| Fitzroy | $ 22,923,416 | $ 5,864,489 | $ 28,787,905 |
| Central West | $ 4,906 | - | $ 4,906 |
| Mackay | $ 834,562 | $ 525,750 | $ 1,360,311 |
| Northern | $ 30,716,285 | $ 132,240,381 | $ 162,956,666 |
| Far North | $ 175,420,363 | $ 17,903,817 | $ 193,324,180 |
| North West | $ 11,613 | - | $ 11,613 |
| Queensland | $ 448,429,958 | $ 448,400,054 | $ 896,830,012 |
| Source: ABS, Cat. No 7113.3 | | | |

From the above analysis it appears that there are two key fruit and vegetable growing regions in Queensland, the South-east corner, incorporating Brisbane, Moreton, Darling Downs and Wide Bay-Burnett statistical divisions and North Queensland, incorporating the Northern and Far North statistical divisions. The regional nature of the industry ensures the distribution of revenues across the State, as well as contributing to regional employment and development.

| **Gross Value of Major Fruit and Vegetable Crops Grown in Queensland 1996/97** | |
|---|---|
| Crop | Gross Value |
| Bananas | $140,600,000 |
| Tomatoes | $111,900,000 |
| Mandarins | $56,700,000 |
| Mangoes | $54,900,000 |
| Potatoes | $52,300,000 |
| Pineapples | $39,300,000 |
| Lettucces | $29,500,000 |
| Capsicum, Chilles, Peppers | $28,600,000 |
| Beans | $27,800,000 |
| Apples | $26,800,000 |
| Melons - Rock & Cantaloupe | $25,400,000 |
| Avocadoes | $24,700,000 |
| Strawberries | $22,000,000 |
| Melons - Water | $18,000,000 |
| Pumpkins | $15,600,000 |
| Macadamia Nuts | $15,520,000 |
| Total - Top 8 Fruit and Vegetable Crops by Value | $689,620,000 |
| Total - Fruit and Vegetable Production, Queensland | $896,300,000 |
| Source: ABS, Cat.7113.3 | |

Key points associated with the above analysis include :

- The major fruit and vegetable crops account for about 77% of total GVP for fruit and vegetables in Queensland.
- The Far North is the major fruit producing region in both tonnes of fruit produced and value of production. Other main fruit producing regions include Wide Bay Burnett, Moreton and Brisbane, the Darling Downs and Fitzroy.
- In all five key regions, the principal four fruit crops grown are bananas, pineapples, mandarins and apples.
- The principle vegetable growing regions in Queensland are Brisbane and Moreton, Northern, Darling Downs, Wide Bay-Burnett, and the Far North statistical divisions.
- The dominant crop in each of the principal vegetable growing regions, with the exception of the Brisbane and Moreton region, is either potatoes, tomatoes or melons.
- The Brisbane and Moreton region accounts for 32 percent (by value) of the State's vegetable crop. This may be due to a number of factors, including:
  - The perishable nature of the crop, therefore grown close to major markets for distribution;
  - Small holdings are ideal for intensive vegetable production; and
  - The nature of high land value in this region dictates that any production that occurs must be intensive.

## 3.3 Market Characteristics

While there are several sectors that play a distinct role within the fruit and vegetable industry, exporters and the manufacturing sector have a relatively minor impact in relation to the operations of the Act. Therefore, for this analysis we have primarily concentrated on the impacts of the Act to fruit and vegetable growers, commercial sellers, with some comment on the role of the retail sector and final consumer.

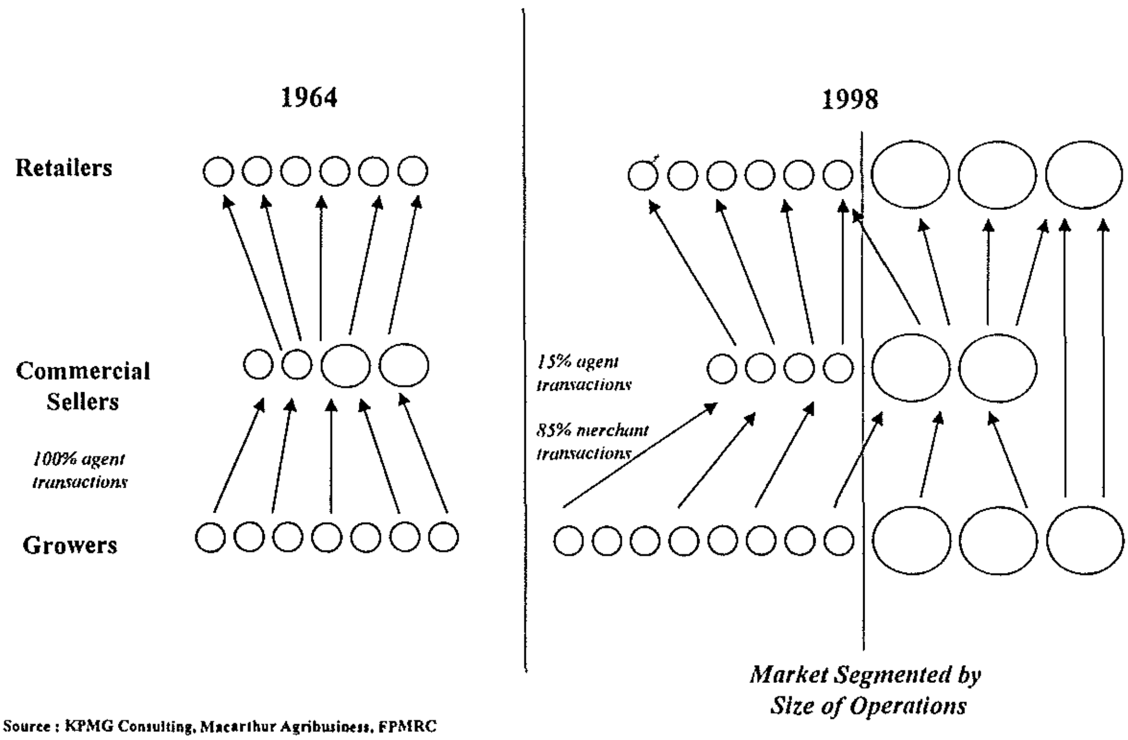
### 3.3.1 Structure

The structure of the fruit and vegetable industry has changed significantly over the past 34 years since the Act was introduced in its current form. The diagram on the following page highlights the structural differences between the industry today and the industry as it was in 1964.

That is, in 1964 (and up until recent years) the industry has been characterised by a large number of small fruit and vegetable growers providing product to a small number of small to medium sized commercial sellers, who in turn sold fruit and vegetables to a large number of retailers. All transactions between fruit and vegetable grower and commercial seller were agent transactions – where produce is sold on behalf of growers, and the agent does not take legal ownership of the produce.

Today, the industry is more complex. While growers are still providing produce to commercial sellers, they are also selling directly to retailers. Further, merchant transactions (or a variation of it) – where the commercial sellers buys produce from a grower, and then re-sells the produce for profit - is now the most common form of transaction.

## Queensland Fruit and Vegetable Market Structure




Source : KPMG Consulting, Macarthur Agribusiness, FPMRC

The above diagram depicts changes in the fruit and vegetable market structure over the past 34 years. The fruit and vegetable market is now more diversified than previously, with the retail sector directly impacting on the dynamics of the industry. Direct purchasing from the grower, exertion of market power and adoption of differing terms of trade arrangements have all impacted on how fruit and vegetable growers sell their produce.

Further, the Issues Paper has also identified a significant trend in recent years for an increasing volume of farm produce being transacted beyond the scope of the Act. Industry sourced estimates indicate that between 52% and 80% of farm produce is being transacted in Queensland beyond the scope of the legislation.

**Farm Produce Sales in Queensland by Category**

| Category | % of Farm Produce Sales |
|---|---|
| Growers direct to processors | 4% to 7% |
| Growers direct to export | 5% to 8% |
| Growers direct to supermarkets | 15% to 25% |
| Growers direct to other retailers | 3% to 5% |
| Growers direct to interstate markets | 25% to 35% |
| Growers direct to commercial sellers | 20% to 48% |

Source: Review of Farm Produce Marketing Act 1964, Issues Paper, 1998

While the above analysis indicates that supermarkets are accounting for between 15% to 25% of direct farm produce sales, anecdotal evidence suggests they purchase about 70% of all fruit and vegetable produce in Queensland through purchasing from commercial sellers and interstate markets.

In conclusion, there has been a significant change in the structure of the fruit and vegetable market in Queensland over the past 30 years, especially in relation to issues of concentration and market power. Therefore, it would appear prima facie, the Act is not meeting its original objective of providing cover to growers.

### 3.3.2 The Market

Growers and commercial sellers both agree on the importance of maintaining a strong central market within the fruit and vegetable industry.

That is, the existence of a central market is paramount for the existence of commercial sellers. The less reliance there is on the central market, the smaller the role there is for commercial sellers within the broad fruit and vegetable marketing chain.

The growers require a central market for various reasons. Firstly, the existence of the central market is viewed as providing a price setting mechanism for selling. Secondly, it provides an alternative distribution chain for growers to sell produce other than to retailers or interstate.

Finally, retailers also require a central market. Again, it provides a price setting mechanism for direct transactions with growers. It also provides the opportunity for retailers to purchase produce where they have no direct source, or 'top up' direct supplies of fruit and vegetables.

Other characteristics of the broader fruit and vegetable industry are:

- Prices for fruit and vegetables are highly dependent on demand and quality;
- The industry is relatively labour intensive, but highly productive in terms of land utilisation.
- Farms are generally located in irrigation areas.
- Fruit and vegetables are generally highly perishable and are largely sold for fresh sale, therefore farms have also tended to be in close proximity to metropolitan areas;
- Quality assurance and food standards increasingly dominate the interaction between retailers, wholesalers and growers;
- There are three main types of transactions that are part of the fruit and vegetable industry business practices – agent, merchant and 'pseudo-merchant/agent'. An agent transaction occurs when a commercial seller receives produce on behalf of a grower (the principal), and then sells this produce on behalf of the principal to best advantage. A merchant transaction occurs where a commercial seller buys produce from a grower to allow resale by the seller. A 'pseudo-merchant/agent' transaction is a transaction where the price is not necessarily agreed to with the grower within the specified time period, and the commercial seller determines the type of transaction on the basis of the price determined with the retailer and maximising profit; and

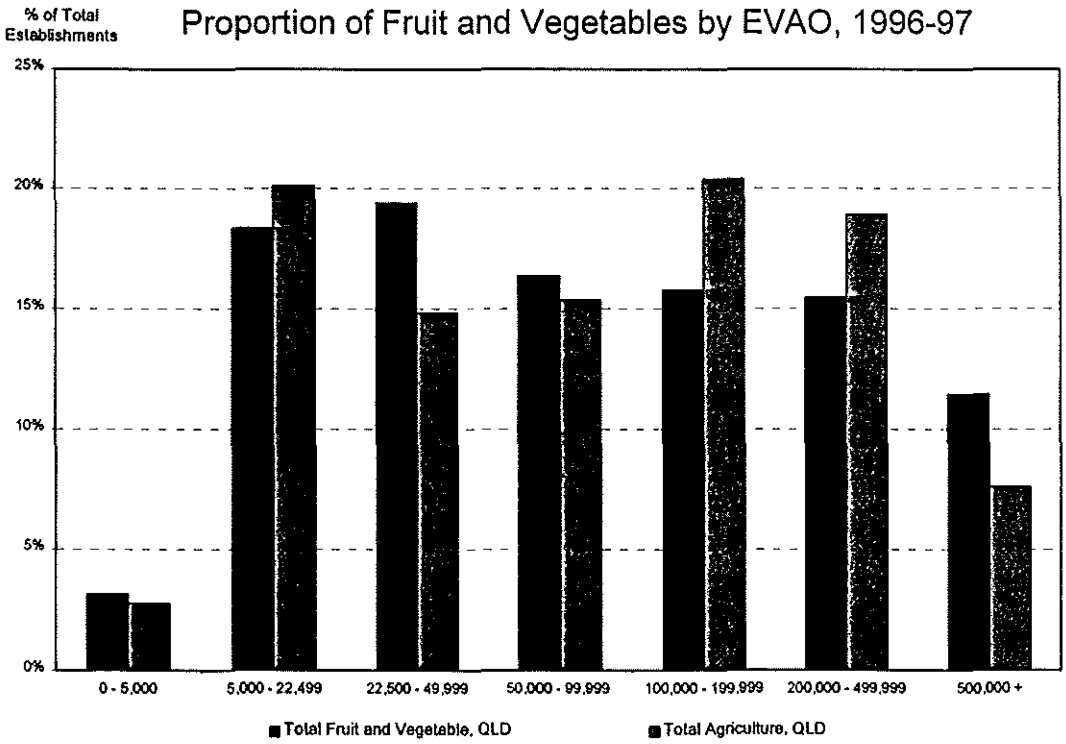
- The importance of the Brisbane Market to growers is variable, with many growers favouring the Sydney and Melbourne Market's as there is less price volatility, higher prices and greater depth.

### 3.3.3 Fruit and Vegetable Growers

There are more than 3,500 farm enterprises involved in fruit and vegetable production in Queensland, with the majority family owned and operated.

Fruit and vegetable production has a far greater proportion of smaller area establishments than other agricultural activities, with 78 percent of fruit and vegetable establishments less than 100 hectares, of which almost three quarters are under 50 hectares. This is consistent with the intensive nature of horticulture, with the extensive broadacre grain, cotton and livestock activities, for example, requiring larger areas for viability.

The following chart presents the number of fruit and vegetable businesses in Queensland by size of operations (as measured by economic value of agricultural operations, EVAO). Also presented is the number of agricultural businesses in Queensland by size of operations.




The chart above highlights that the profile of fruit and vegetable businesses in Queensland differ slightly to the general profile of Queensland agricultural businesses. That is, there is a higher proportion of small to medium businesses in the fruit and vegetable industry as compared to the broader agricultural sector, while the fruit and vegetable industry also has a lower proportion of medium to large businesses than the broader agricultural sector. Further, the fruit and vegetable industry has a higher proportion of very large businesses as compared to the broader agricultural sector.

The following table presents key financial ratios of fruit and vegetable businesses in Queensland with an estimated value of agricultural operations greater than $22,500 per annum.

**Key Financial Ratios Associated with Fruit and Vegetable Production in Queensland**

| | 1994-95 | | 1995-96 | | 1996-97 | |
|---|---|---|---|---|---|---|
| Key Ratios / Statistics | Fruit | Veg. | Fruit | Veg. | Fruit | Veg. |
| EBTDA (1) % of Turnover | 19.8% | 16.9% | 25.5% | 19.9% | 14.0% | 20.9% |
| ROI (2) | 6.1% | 8.1% | 8.3% | 8.2% | 4.4% | 7.7% |
| Debt/Assets | 19.3% | 18.3% | 17.0% | 23.6% | 16.1% | 20.2% |
| Interest Coverage | 5.14 | 8.2 | 6.24 | 5.43 | 4.47 | 6.26 |
| Interest as % of Turnover | 4.8% | 2.3% | 4.86% | 4.5% | 4.02% | 3.98% |
| Expenses as % of Turnover | 52.2% | 57.6% | 51.3% | 54.6% | 57.5% | 52.7% |
| Average Enterprise Net Worth | $765,000 | $675,700 | $768,50 | $759,500 | $844,400 | $897,900 |
| No. of Businesses | 1,461 | 1,214 | 1,65 | 1,067 | 1,744 | 1,120 |

(1) Earnings before taxation, depreciation and amortisation.
(2) Return on investment
Source: ABS, Cat. No 7507.0, KPMG Management Consulting, Macarthur Agribusiness

From the above analysis, it appears:

- Both gross profit and return on investment for fruit enterprises has fluctuated over the past three years, while expenses associated with running the business appears to range between 50% to 60% of turnover.
- Fruit growers debt to asset ratio is falling, indicating industry participants are increasing their assets or re-investing into the industry.
- The average enterprise net worth is increasing indicating the industry is experiencing new investment activity.
- In contrast to the fruit industry, EBDTA in the vegetable industry has been consistently trending upwards over the past three years.

The following table summarises key comparative ratios of fruit and vegetable businesses and total agricultural businesses in Queensland over the past three financial years. That is, it compares the relative performance of the fruit and vegetable industry of a particular indicator against the relative performance of the broader agricultural industry in Queensland.

| **Key Financial Ratios of Fruit and Vegetable Businesses As compared to Total Agricultural Businesses in Queensland** | | | |
|---|---|---|---|
| Key Ratios / Statistics | 1994/95 | 1995/96 | 1996/97 |
| Turnover | 1.27 | 1.29 | 1.23 |
| Purchases and selected expenses | 1.24 | 1.25 | 1.20 |
| Gross Operating Surplus | 1.09 | 2.00 | 0.94 |
| Total Interest Paid | 0.74 | 0.89 | 0.72 |
| Cash Operating Surplus | 1.03 | 1.22 | 1.01 |
| Total Value of Assets | 0.64 | 0.64 | 0.67 |
| Gross Indebtedness | 0.77 | 0.84 | 0.75 |
| Net Indebtedness | 0.80 | 0.92 | 0.67 |
| Net Worth | 0.62 | 0.61 | 0.65 |
| Source: ABS, Cat. No. 7507.0, KPMG Management Consulting, Macarthur Agribusiness | | | |

From the above analysis, it appears:

- Fruit and vegetable grower record on average between 20% to 30% higher turnover than other agricultural businesses in Queensland, however they also record between 20% to 25% greater production expenses.
- The fruit and vegetable industry records consistently higher return on investment than the broader agricultural industry as a whole. This is due to lower investment (total value of assets) required to produce similar net profit (cash operating profit) in the horticulture industry.
- The level of net indebtedness of the fruit and vegetable industry has been consistently lower than the total agricultural industry, with debt levels in 1996/97 falling to their lowest levels in three years.

Finally, we have analysed the performance of fruit and vegetable businesses in Queensland relative to fruit and vegetable businesses in Australia. The following table presents this analysis.

| **Key Financial Statistics of Fruit and Vegetable Businesses in Queensland As compared to All Fruit and Vegetable Businesses in Australia** | | | |
|---|---|---|---|
| Key Ratios / Statistics | 1994/95 | 1995/96 | 1996/97 |
| Turnover | 1.39 | 1.29 | 1.39 |
| Purchases and selected expenses | 1.57 | 1.44 | 1.46 |
| Gross Operating Surplus | 1.15 | 1.17 | 1.11 |
| Total Interest Paid | 1.11 | 1.40 | 1.24 |
| Cash Operating Surplus | 1.05 | 1.16 | 1.10 |
| Total Value of Assets | 1.25 | 1.25 | 1.26 |
| Gross Indebtedness | 1.26 | 1.43 | 1.37 |
| Net Indebtedness | 1.34 | 2.06 | 1.97 |
| Net Worth | 1.25 | 1.21 | 1.23 |
| Source: ABS, Cat. No. 7507.0, KPMG Management Consulting, Macarthur Agribusiness | | | |

From this analysis it is shown:

- Queensland fruit and vegetable growers have recorded turnover 30% to 40% above the Australian average for the past three years;
- In order to achieve this higher turnover, Queensland fruit and vegetable growers incurred additional expenses of between 45% and 60% than the Australian average, suggesting Queensland growers are operating at a point beyond the marginal revenue / marginal cost equilibrium;
- Queensland fruit and vegetable growers typically have a higher gross value of assets than other fruit and vegetable growers in Australia, although they have nearly double the value of net debt as compared to other fruit and vegetable growers.
- In summary, while the fruit and vegetable industry in Queensland appears to be relatively profitable in comparison to other agricultural based industries in Queensland and the wider Australian fruit and vegetable industry, the profile of growers within the industry is not homogeneous. These differences in organisational size, type of fruit or vegetable produced and location to market indicate that individual growers differ greatly, thereby characterising the industry as heterogeneous.

### 3.3.4 Farm Produce Commercial Sellers

A total of 99 licensed farm produce commercial sellers are actively trading fruit and vegetables in Queensland, of which 58 are located within the Brisbane Markets. A summary of the value of farm produce transacted by licensed commercial sellers (agent and merchant) over the past three years is presented in the following table.

**Value of Fruit and Vegetables Traded in Queensland by Licensed Commercial Sellers (1) $ million**

| | 1995/96 | | 1996/97 | | 1997/98 (f) | |
|---|---|---|---|---|---|---|
| Commercial Sellers Located | Merchant | Agent | Merchant | Agent | Merchant | Agent |
| Within Brisbane Markets | $369.8m | $60.7m | $391.7m | $41.4m | $427.0m | $33.6m |
| Outside Brisbane Markets | $75.1m | $44.4m | $101.9m | $47.5m | $93.6m | $67.7m |
| Total | $444.9m | $105.1m | $493.6m | $88.9m | $520.6m | $101.3m |

(f) – forecast
(1) – includes produce from Queensland and other Australian States.
Note: No distinction has been made between merchant, agent and 'pseudo-merchant agent transaction due to a lack of data.
Source : Queensland Dept. of Primary Industries

| Statistical Summary of Value of Fruit and Vegetable Traded in Queensland by Licensed Commercial Sellers | | | |
|---|---|---|---|
| | 1995/96 | 1996/97 | 1997/98 (f) |
| % of all transactions within Brisbane Markets | 78% | 74% | 74% |
| % of all transactions outside Brisbane Markets | 22% | 26% | 26% |
| % of all transactions merchant | 81% | 85% | 84% |
| % of all transactions agent | 19% | 15% | 16% |
| % of Brisbane Market transactions merchant | 86% | 90% | 93% |
| % of Brisbane Market transactions agent | 14% | 10% | 7% |
| % of Non Brisbane Market transactions merchant | 63% | 68% | 58% |
| % of Non Brisbane Market transactions agent | 37% | 32% | 42% |
| (f) – forecast<br>Source : KPMG Management Consulting | | | |

This analysis reveals that:

- The Brisbane Markets captures about 70% to 80% of all commercial sellers transactions in Queensland;
- By far the largest type of transaction are merchant transactions, representing between 80% to 85% of the value of all transactions; and
- Licensed commercial sellers located outside of the Brisbane Markets tend to have a higher proportion of agent transactions than do commercial sellers located within the Brisbane Markets.

# 4 The Legislation

## 4.1 Objectives of the Legislation

The Legislation, which was the forerunner to the Act, was originally enacted in 1917 to provide a mechanism by which to supervise and control farm produce agents. Over time the Act has recorded various amendments which has resulted in increased control and supervision of the activities of farm produce agents and merchants.

The first reading speech of the Bill in 1964 identified the intention of the Act was to:

> *" ... to provide a means for ensuring that the grower who consigns farm produce to an agent for sale or commission receives due prompt payment of the proceeds of sale";*

While the second reading of the Bill further clarified the Act's aim of protecting growers in their commercial dealings with wholesalers:

> *" It would appear to be generally accepted that there are many deficiencies in the existing Acts (those preceding the Farm Produce Marketing Act) which react to the disadvantage of the grower. As I mentioned in my introductory speech, we are endeavouring to eliminate these deficiencies (with the introduction of the Farm Produce Marketing Act 1964)".*

The Issues Paper identifies the intention of the Act is to offer growers of 'farm produce' a degree of protection in their dealings with commercial sellers by providing for the investigation of complaints relating to commercial transactions by the Registrar of farm produce of commercial sellers and requiring commercial sellers:

- Be licensed;
- Provide the appropriate fidelity bond to be held by the Registrar;
- Maintain prescribed accounting records, including a Farm Produce Account;
- Pay growers within the time prescribed (10 working days for merchant transactions and 15 working days for agent transactions);
- Have the Farm Produce Account audited each year;
- Submit books and records for inspection by the DPI officers on request; and
- Re-negotiate merchant trading agreements with growers each year.

Throughout various amendments to the Act, the underlying basis for its existence has been to provide a degree of surety to fruit and vegetable growers in Queensland for payment of their produce. That is, the purpose of the Act is to essentially provide confidence for growers to market their produce through commercial sellers.

The Act was amended in 1995 to include a 'sunset' provision that scheduled the legislation to expire in December 1999. Consequently this review is being conducted in accordance with this provision and with the intention of addressing commercial issues relevant to the industry.

## 4.2 Scope of the Act

The scope of the Act only relates to licensing farm produce commercial sellers throughout Queensland. Farm produce commercial sellers are defined as farm produce merchants and / or farm produce agents who sell farm produce other than by retail, and are basically wholesalers.

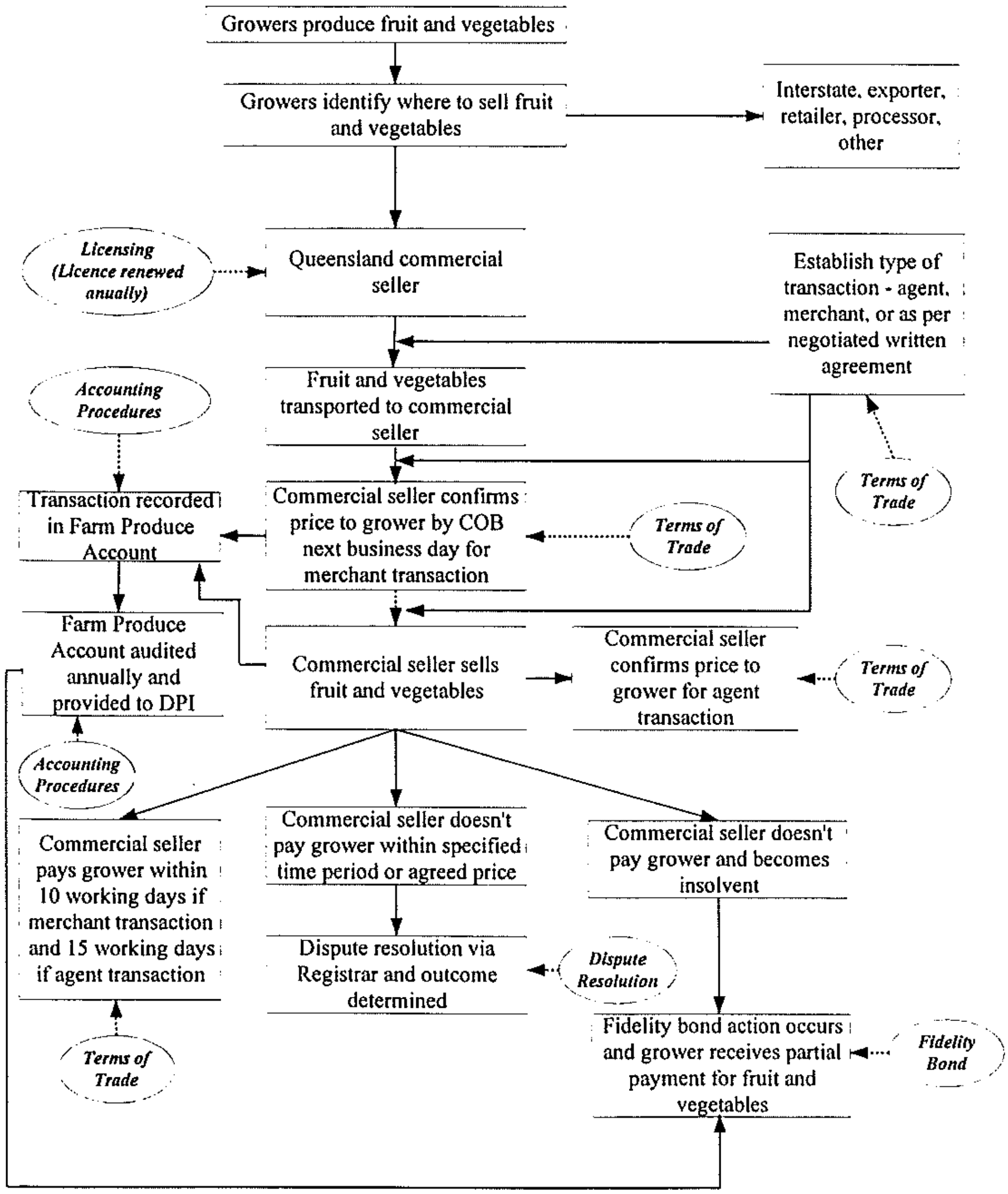
As noted previously in Section 3.3.1, the Issues Paper has identified a significant trend in recent years for an increasing volume of farm produce being transacted beyond the scope of the Act. Industry sourced estimates indicate that between 52% and 80% of Queensland farm produce is being transacted beyond the scope of the legislation.

Prima facie, this suggests that the Act is not providing the level of cover to growers it was originally intended to provide as the majority of transactions now fall outside of its scope.

## 4.3 Fruit and Vegetable Marketing under the Farm Produce Marketing Act

The following diagram depicts the process by which fruit and vegetable growers and Queensland commercial sellers interact to market fruit and vegetables. The analysis also identifies at what stages of this process the Act impacts on the business relationship between growers and commercial sellers.

**Fruit and Vegetable Marketing under the Farm Produce Marketing Act 1964**



## 4.4 Restrictions to Competition

The Issues Paper notes the key areas where the Act restricts competition include requiring commercial sellers to:

- Be licensed;
- Abide by prescribed terms of trading;
- Lodge a fidelity bond; and
- Meet administrative costs of compliance, including maintaining the Farm Produce Account and submitting audited statement of the account each year to DPI.

That is, the Act is viewed as anti-competitive as it requires commercial sellers to incur costs that are not incurred by other participants in the industry, such as retailers, exporters or processors. Growers and the State Government initially justified these restrictions on the marketing system for farm produce on the following grounds:

- Growers have limited time to negotiate with commercial sellers due to the perishability of the produce;
- Commercial sellers have the potential to exert market power over smaller growers;
- The industry comprises a large number of small, geographically diverse growers and a small number of medium to large, geographically concentrated sellers;
- Market prices for fruit and vegetables are considered volatile, fluctuating significantly over small time periods;
- Monitoring the market by growers is seen as difficult; and
- The use of commercial sellers is seen as necessary for growers to maximise their financial benefits.

## 4.5 Market Failure and Regulation

Market failure occurs when the mechanism by which a competitive economy allocates resources operates inefficiently. In adjusting the market mechanism to allocate resources efficiently, it is assumed that net benefits will accrue to the economy as a whole, albeit generating both winners and losers. Economists generally accept market failure may be remedied through government intervention, usually through regulation.

The essence of regulation is the explicit replacement of competition with governmental orders as the principal institutional device for assuring good performance. Government, via the regulatory agency, determines through licensing who shall be permitted to operate within the market, and generally imposes limitations on their ability to compete. Through this action, the two prime requirements for competition, freedom of entry and independence, are deliberately replaced (Kahn, 1988, pp.20-21).

Market failure is generally linked to issues of:

- *Externalities*: is an effect of one economic agent on another that is not taken into account by normal market behaviour, and generally occurs when all costs associated with resources utilised in production are not accurately incorporated into the pricing of the product. These impacts may cause a misallocation of resources due to the divergence between private and social marginal cost.
- *Public goods*: goods and services that are provided by the Government for the benefit of all or most of the population. Unlike private goods, there is no direct link between the consumption of a social product and payment for it, while consumption of a public good by an individual provides benefits on a non-exclusive basis. Social products are not paid for by an individual consumer buying it in the market place, but rather through general taxation receipts.
- *Asymmetry of information*: the basic market model assumes that information about the prices and quality of goods and services is easily accessible and available at little or no cost. In reality however, this is not the case, which can result in inefficient market outcomes.
- *Natural monopolies*: a situation where economies of scale are so significant that costs are only minimised when the entire output of an industry is supplied to a single producer so that supply costs are lower than under conditions of perfect competition and oligopoly.

It can be argued that asymmetry of information existed at the time of establishing the legislation, however with the advent of improved communication technology and greater diversity within the fruit and vegetable industry, this justification no longer holds. Further, the issues identified in Section 4.2, including perishability, geographic diversity and price volatility, are not considered pure economic justifications for regulation.

Market power is a legitimate reason for regulation, however growers have the opportunity to counter this threat through either:

- Increasing the size of their own operations;
- Establishing cooperatives, joint packing houses, etc, to collectively market their produce; or
- Sell their produce outside the scope of the Act, including direct to retailers, processors, exporters or interstate.

The change in market characteristics and availability of other means to address market failure has resulted in a diminished role for the Act.

If there are no economic grounds for regulation, there still appears to be a continuing role for Government within the industry, however it is one of education rather than intervention. That is, due to diversity of business practices and commercial acumen, there would appear to be a role for Government in providing (or subsidising) training to growers on how to successfully manage their business interests. This would also enable whatever asymmetry of information problems that still remain to be resolved.

# 5 Fruit and Vegetable Industry Regulation in Other Australian States

## 5.1 Introduction

This purpose of this chapter is to review what, if any, fruit and vegetable industry regulation occurs in other States of Australia. Comparable legislation to the Queensland Farm Produce Marketing Act 1964 has applied in New South Wales and Victoria, while no legislative controls have been introduced in Tasmania, South Australia or Western Australia.

## 5.2 Victoria

The Victorian fruit and vegetable industry was previously regulated under the Farm Produce Wholesale Act 1990 until it was repealed on 1 January 1998.

The operations of the Farm Produce Wholesale Act was previously administered by the Melbourne Market Authority (who had assumed this responsibility on 1 January 1997). The legislation provided a dispute resolution mechanism through a Registrar, licensed commercial sellers and bond protection to growers.

In response to the unregulated environment, the Melbourne Market Authority introduced a non-statutory voluntary scheme called 'Farmpay' at the beginning of 1998. The aim of this scheme is to provide consignor growers with improved security and confidence in consigning produce to Melbourne Markets and assist in facilitating grower payments.

Farmpay is a voluntary scheme and applies to merchant and agent transactions for produce delivered to Farmpay Wholesalers in Victoria. The scheme operates in the following manner:

- Commercial sellers sign an agreement with the Melbourne Market Authority to become an accredited Farmpay Wholesaler. Farmpay Wholesalers also take out a bond equivalent to 100% of an average 21 day trading cycle on an annual turnover of up to $10 million. Growers must receive payment from commercial sellers within 21 days, unless the grower agrees in writing to extend the terms of trade arrangements.
- Growers are to receive payment for produce from a Farmpay Wholesaler within 21 days. If this payment is not made, the grower must notify the registrar of non-payment within the next 14 days – if this notice of non-payment does not occur within the stipulated 14 day period, Farmpay does not cover the grower for any loss. If any other disputes arise between growers and Farmpay Wholesalers, the Farmpay Registrar will investigate the matter further and attempt to resolve the dispute.
- As at early September 1998 there were 36 accredited Farmpay Wholesalers selling approximately 60% of the value of fruit and vegetables sent to the Melbourne Market.
- Farmpay is administered and financially supported by the Melbourne Market Authority. That is, wholesalers are required to:
    - Purchase an indemnity bond / bank guarantee equivalent to 100% of an average 21 day trading cycle on an annual turnover of up to $10 million (capped at $577,000);

- Lodge appropriate documentation with the third party independent registrar of the scheme;
- Pay an annual fee of $3,000, of which half is spent on marketing and promotion, and half is spent on administration costs;
- On acceptance into the scheme, the Farmpay Wholesaler is reimbursed the cost of the indemnity bond / bank guarantee from the Melbourne Market Authority. The Authority has suggested as the scheme becomes more accepted within the growing community, growers will be encouraged to pay for the benefits provided; and
- Wholesalers who now join the scheme are also required to pay an additional one-off $1,000 late joining fee.

That is, all costs are borne by wholesalers and the Melbourne Market Authority. Growers do not pay any direct costs for the scheme, however they receive most of the benefits.

The Melbourne Market Authority has indicated they are pleased with how the scheme is operating. Based on discussions with the Melbourne Market Authority, while growers had some initial discomfort with changing the terms of trade arrangements from payment within 10 days in the regulated state to payment within 21 days in the non-regulated state, growers now consider these arrangements as acceptable. This reinforces the viewpoint that change from current industry norms can occur and be accepted by the broader industry.

## 5.3 New South Wales

Prior to 1 July 1997 activities between commercial sellers and growers in New South Wales was regulated by the Farm Produce Act 1983. This legislation stipulated terms of trading arrangements, required New South Wales merchants and agents to be licensed, and hold bonds / indemnities to compensate growers for non-payment.

The Farm Produce Act 1983 was repealed at the end of June 1997 due to the following perceived problems with the legislated industry structure:

- The defined methods of trading under the Farm Produce Act 1983 no longer reflected the types of transactions being undertaken between growers and wholesalers;
- The Farm Produce Act 1983 was unable to prevent unlicensed wholesalers from continuing to trade; and
- There was a general uncertainty and misunderstanding among growers and wholesalers regarding their rights and obligations under the Farm Produce Act 1983.

In response to repealing the legislation, an industry-based voluntary scheme, Prompt Pay, was established in an attempt to provide security in commercial transactions for growers. Prompt Pay was developed in consultation with growers, wholesalers and the broader industry, and is administered by the New South Wales Chamber of Fruit and Vegetable Industries.

Prompt Pay accredits certain wholesalers that are deemed to have an acceptable financial position. These wholesalers then agree to the industry terms of trade, which include:

- Payment within 21 days from the end of the week of delivery;
- Dispute resolution through an independent conciliator; and

- Notification to Prompt Pay growers of wholesalers who do not meet payment deadlines.
- Since its inception Prompt Pay recorded relatively poor take-up from both wholesalers and growers as it was perceived to be expensive. The cost to growers for membership was originally a one-off $50 registration fee and $1 per consignment, plus insurance of $1 per $1,000 of net return to the grower, up to a maximum of $10 per week. Depending on the volume of transactions, the cost of membership to wholesalers of Prompt Pay ranged between $1,250 and $6,000. That is, in contrast to Farmpay, Prompt Pay requires costs to be shared by both growers and wholesalers.
- The benefits of the scheme for the grower is the identification of accredited commercial sellers, dispute resolution and access to insurance in the event of non-payment.
- Due to this relatively poor take-up the scheme has been restructured, and from 1 November 1998 it will no longer offer insurance cover – one of the key aspects of the original scheme. Further, the cost to growers have also reduced – the one-off $50 registration fee remains, however transaction fees will now be capped at $5 per week. Wholesalers will also pay an additional administration service fee of between $500 to $1,000 per annum. The impact of this restructure remains to be seen.

## 5.4 Western Australia

There has been no legislation operating in Western Australia similar to Queensland's Farm Produce Marketing Act 1964. However, some provisions within the Perth Market Act provide for the security of growers in agent transactions.

That is, in addition to the existing laws governing agent transactions, the Perth Market Act details what records wholesalers must keep and provide to growers and empowers the Perth Market Chief Executive Officer to inspect transaction records. There are no legislative arrangements for terms of trade, dispute resolution or insurance cover within the Perth Market Act. Further, there are no provisions for merchant transactions between growers and wholesalers.

The Perth Market Authority is now examining establishing a credit insurance protection scheme for growers. The proposed scheme will involve willing wholesalers from the Central Trading Area at Market City being assessed as to their credit worthiness. This assessment is to be conducted by the Insurer and written Credit Limits will be agreed on all Insured Wholesalers. It is expected Insured Wholesalers will contribute to the scheme, however the level of contribution is yet to be determined.

The proposed scheme is to be based on 'user pays' principles and will offer comprehensive cover to Participating Growers, with payment of claims being settled within 30 days after a debt has been confirmed by the 'Administrator'. Premiums will be based on Participating Grower's estimated and actual credit sales through the scheme, with an adjustment at the end of each annual period if actual sales exceed the estimate.

The following joining fees and contribution rates have been forecast.

| | Joining Fee | Contribution Rate |
|---|---|---|
| Wholesaler | $250 | 0.05% |
| Grower | $200 | 0.18% |

The joining fee is a once off payment while there is continuous membership, while the contribution rate is based on the percentage of produce sold.

Each Participating Grower will be required to have agreed terms of trade in place with the Insured Wholesaler it deals with. The Insurer requires Participating Growers to report any accounts that are not paid by the Insured Wholesaler within 28 days of sale of the product. Failure to report an overdue account may prevent any claim a Participating Grower may hav the event of an insolvency of an Insured Wholesaler.

## 5.5 South Australia

The South Australian fruit and vegetable industry have not been regulated under governmen legislation similar to Queensland's Farm Produce Marketing Act 1964. Rather, the South Australian fruit and vegetable industry have adopted a self-regulatory system administered b the South Australian Chamber of Fruit and Vegetable Industry (wholesalers association) anc South Australian Farmers Federation (growers association).

The South Australian Chamber of Fruit and Vegetable Industry considers this self- regulatoı system has been instrumental in the State Government not adopting legislation to regulate th industry.

This self-regulatory system provides a mechanism for dispute resolution. If either a wholes: or grower have a dispute, they firstly contact their respective industry associations, who the review the complaint. If a resolution cannot be achieved in the first instance, a tribunal of 3 growers and 3 wholesalers review the complaint and decide an outcome. The tribunal has o been required for dispute resolution on two occasions.

The industry accepted terms of trade payment schedule in South Australia is 21 days from purchase of produce if merchant transaction and sale of produce if agent transactions, howe individual arrangements between growers and wholesalers may differ.

## 5.6 Summary

It appears that the fruit and vegetable industry in all states except Queensland is not regulate Government legislation. Rather, the industry operates in a total 'market forces' environmen South Australia, near total 'market forces' environment in Western Australia and non-statut regulated environments in New South Wales and Victoria.

The recent changes in the regulatory environment associated with fruit and vegetable wholesaling in New South Wales and Victoria has followed the broader economic approach of minimalist government intervention. In both instances, a voluntary industry scheme has been established to provide a mechanism to protect growers and wholesalers. It should be noted that where a full 'user pays' system has been adopted, such as Prompt Pay in New South Wales, a poor take-up by growers occurred. This suggests that growers do not value these schemes enough to actively make a specific contribution to their success.

The consequences of other States in Australia adopting a non-Government regulated environment for the fruit and vegetable industry does not seem to be oppressive as the marketing of fruit and vegetables appears to be operating effectively. Further, while the fruit and vegetable industry in South Australia and Western Australia may be smaller in value than the fruit and vegetable industry in Queensland, the 'market forces' environment in which these States operate appears to work well.

# 6 Public Consultation and Submissions

## 6.1 Introduction

A crucial component of the conduct of a Public Benefit Test is the consultation with parties that have an interest in the legislation under review. This is required so as the views of all stakeholders are taken into consideration when assessing whether or not any restrictive provisions contained within the legislation or alternative options provide a net public benefit.

## 6.2 Stakeholders

The stakeholder groups affected by the Act include:

- ***Fruit and vegetable growers***: those individuals and businesses currently undertaking fruit and vegetable growing activities;
- ***Licensed commercial sellers***: any individual or organisation who are currently licensed under the Act as a commercial seller;
- ***Queensland Government Department of Primary Industries***: the Queensland State Government agency responsible for the administration of the Act;
- ***Fruit and vegetable industry associations***: those organisations established to provide assistance to individuals and businesses within the fruit and vegetable industry, including Brismark (commercial sellers association) and QFVG (growers association);
- ***Retailers***: individuals or organisations that purchase fruit and vegetables and then on-sell these products primarily to final consumers;
- ***Exporters***: those individuals or organisations that purchase fruit and vegetables and then on-sell these products within the international market;
- ***Manufacturers***: any individuals or organisations that use fruit and vegetables in food processing;
- ***Consumers***: individuals who purchase fruit and vegetables, either fresh or processed, for consumption.

The main stakeholders affected by the Act are growers, commercial sellers, and the DPI, as other sectors, such as retailers, exporters and processors, fall outside the scope of the Act. Consumers are also relatively unaffected by the operations of the Act as it appears any cost of compliance is trapped within the grower and commercial seller sectors.

Clearly, the interests of a number of these groups could be directly or indirectly affected by changes to the existing legislation. This report details the likely impacts on specified stakeholders and provides comments in respect to groups of stakeholders that might be affected by changes to the existing legislation.

## 6.3 Fruit and Vegetable Growers

The consultation program highlighted the broad range of business skills currently existing in the fruit and vegetable growing industry in Queensland, with some growers having limited business skills, while others have already implemented systems to ensure they succeed in today's competitive environment.

While this diversity exists, the level of business professionalism exhibited by growers, especially smaller growers, appears low. That is, growers need to take an increased participatory role in managing transactions of their produce, in particular, they need to improve their risk management and marketing skills.

Business professionalism could be improved between growers and wholesalers through the greater use of written contracts and electronic funds transfer (direct deposit) of funds from the sale of produce. Currently, growers primarily consider price and commercial arrangements with wholesalers as important, while wholesalers consider demand/margins and product quality as important.

- In addition to this issue of business acumen, other characteristics of the fruit and vegetable growing sector includes:
  - Fruit and vegetable enterprises have traditionally been family owned businesses. This still dominates, however, more corporate enterprises are now involved in the industry;
  - Market forces bias against small growers acting independently, especially in relation to information on quality and prices;
  - Large producers, or producers with market power (such as cooperatives, packing houses), are prepared to seek alternative terms of trade; and
  - Growers value the concept of farm-gate price. That is, they value knowing what price they are receiving for their produce before it leaves the farm.

With respect to the Act, key issues identified by the growers include :

- The relevance of the Act (perceived or actual) is greater for the smaller grower, and is influenced by the perishability and type of product grown – seasonality, speciality and demand impacts;
- Growers believe they indirectly pay the cost of compliance by wholesalers under the Act;
- The Act has served to mask aspects of trading which has resulted in inflexible trading arrangements, confusion on transaction types and incorrect cost transference;
- There are problems with the timing of effecting transactions and ownership of produce; and
- The provisions of the Act has served to provide a benchmark for industry practices, such as terms of trade, and has had a perceived deterrent effect in terms of resolution of disputes.

Consultation has identified that growers value having the following provisions in place as a means to achieve risk minimisation, including:

- A process for resolving disputes involving an independent third party;
- An adequate level of fidelity cover to ensure payment of monies in the event of default;

- A standard in place for terms of trade, especially time of payment;
- An accreditation system, or code of practice, for wholesalers to provide some level of business assurance.

These provisions have been identified by growers as beneficial to their business operations, however most growers acknowledge these provisions could be provided in a non-statutory manner. Therefore, in terms of the NCP review that is currently being undertaken, this means that reform options incorporating non-Government regulation would be seen as acceptable by some growers as long as some mechanism(s) existed to assist growers in achieving risk minimisation.

## 6.4 Commercial Sellers

The objective of licensed commercial sellers of fruit and vegetables is to buy and sell produce at a profit. Consultation has indicated commercial sellers prime concern is to establish good commercial relationships between themselves and growers, so as ensure supply of quality produce to their customers. They believe competition exists at present between themselves that provide benefits to growers, external to the provisions of the Act.

Commercial sellers view the Act as anti-competitive and discriminatory, especially relative to other participants in the market and other states. They believe the fidelity bond and administrative requirements of the Act makes operating as a commercial seller in Queensland more costly than other markets, and growers are the group primarily benefiting from these statutory requirements.

Specifically, commercial sellers believe:

- They should not be paying to insure growers' risk;
- Most growers do not understand the Act;
- A user pays system is more equitable in today's business environment; and
- A party independent from the transaction could provide for dispute resolution.

## 6.5 Major Retailers

Major retailers, primarily supermarket chains, are increasingly becoming active within the fruit and vegetable industry, impacting on industry dynamics in the process. During the consultation phase growers and commercial sellers alike highlighted that they often experience 'market power' pressures by retailers. Anecdotal evidence of these market power pressures include:

- Retailers require the highest quality produce from growers in direct purchasing, however the price paid to growers for the produce is usually determined by the price achieved that day in the central market. This means retailers are receiving the highest quality produce but are paying prices based on average quality. This practice is effectively establishing a two-tier quality structure that does not compensate growers for higher quality produce.

- Retailers return produce due to over-ordering on their behalf. Commercial sellers are effectively forced to accept this produce back or retailers invoke a 'holiday' from purchasing fruit and vegetables from them. That is, if a commercial seller does not accept this produce, retailers refuse to purchase any further fruit and vegetables from them for periods up to 1 month.

While the practices identified above may not be wide spread within the industry, it appears major retailers are evoking market power pressure within the fruit and vegetable industry.

## 6.6 Stakeholder Input

A summary of the key issues identified in the consultation process and contained in the written submissions is presented in Appendix B.

# 7 Analysis of Regulatory Change Options

## 7.1 Introduction

This chapter presents options for reform of the current regulatory state. Prior to establishing the options for reform, the current state is analysed with respect to the impact regulation has on stakeholders.

## 7.2 Cost of Compliance of the Act

### 7.2.1 Commercial Sellers

A survey on the cost of compliance of the Act to commercial sellers was undertaken in November 1998. A sample survey was undertaken of 20 commercial sellers – 10 located within the Brisbane Market, 10 located outside of the Brisbane Market - of which 10 responded. In the absence of any other information, the results of the survey provide a guide for estimating the cost of compliance of the Act for commercial sellers.

A summary of the information received from the survey is presented in the following table.

**Annual Costs of Compliance of the Farm Produce Marketing Act 1964**
**By Turnover of Commercial Sellers Operations**

| Size of Commercial Seller by Turnover | \$0 - \$5m | \$5m – \$10m | \$10m + |
|---|---|---|---|
| Annual Costs of Compliance | | | |
| License fees | 225 | 278 | 281 |
| Fidelity bond | 1,800 | 1,667 | 2,094 |
| Accounting fees | 1,405 | 3,047 | 4,437 |
| Other administration fees | 9,611 | 20,920 | 16,985 |
| Computer costs | 2,625 | 12,833 | 6,428 |
| Terms of trade (6 days) | 7,180 | 22,691 | 58,864 |
| Total costs | 22,846 | 57,836 | 89,089 |
| Net Margin on Turnover of Commercial Sellers (1) | 389,614 | 1,152,299 | 2,623,729 |
| Compliance costs as a % of net Margin on Turnover of Commercial Sellers | 5.86% | 5.02% | 3.40% |

(1) This item represents agency commission fees and margin between purchasing fruit and vegetables from growers and on-selling to third parties, such as retailers.
Source: KPMG Management Consulting

The above table reveals that the estimated cost of compliance of the Act for commercial sellers represents about 3.4% to 5.9% of the net margin on turnover of commercial sellers.

Commercial sellers claim these costs are captured solely within their sector, and they are unable to pass these costs either down the marketing chain to growers through lower prices, or up the marketing chain to retailers through higher prices. However, it has also been suggested that the removal of the current legislative framework would increase competition in the long run, resulting in higher prices and improved service quality to growers as commercial sellers compete for supply of produce.

Further, it should be noted that net margin on turnover of commercial sellers does not represent gross profit to commercial sellers. Gross profit to commercial sellers is equal to this item less operational costs such as staff wages, rent, administration, etc.

As identified by the primary market research, one of the single largest cost of compliance for commercial sellers relates to the terms of trade arrangements within the Act. This relates to the difference in payment schedules between when the commercial seller is required to pay growers as per the provisions in the Act, and the payment schedule commercial sellers may adopt if no legislative provisions were in place.

That is, commercial sellers in Queensland are currently required to pay growers within 10 working days of a merchant transaction occurring, 15 working days if it is an agency transaction. In comparison, commercial sellers operating within the guidelines of Prompt Pay (the New South Wales industry code of conduct) and Farmpay (the Melbourne Market Authority code of conduct) pay growers within 21 days from the end of the week of delivery, or 21 days irrespectively. Therefore, commercial sellers in Queensland are effectively funding up to 11 days of working capital for growers when compared with interstate arrangements.

However, discussions with industry representatives has indicated that the 11 day difference in payment schedules does not apply to all transactions, and for the purposes of this analysis 8 days is considered to be more appropriate.

### 7.2.2 Queensland Government Department of Primary Industries

The Issues Paper indicates the DPI incurs approximately $150,000 per annum to administer and maintain the Act. Of this amount, it has been estimated that licensing represents 30% (or $45,000), dispute resolution 20% (or $30,000), fidelity bond 20% (or $30,000) and accounting procedures 30% (or $45,000).

### 7.2.3 Fruit and Vegetable Growers

Fruit and vegetable growers incur no direct cost as a result of the legislative requirements of the Act, however as noted previously, they firmly believe they do pay for commercial sellers compliance costs via lower prices for produce. Further, they consider that any change to the current regulatory environment will not provide additional benefits to them as any financial gains will be captured in either the commercial sellers or retail sectors.

This argument discounts the possibility of deregulation increasing competition within the commercial seller sector, potentially providing higher prices and improved service quality to growers.

### 7.2.4 Summary

Our analysis has indicated that the majority of costs of compliance are trapped within the commercial seller and grower sectors, with the Queensland Government also incurring specific administration costs. It appears little or no costs are passed up the marketing chain to retailers or consumers because the market price is determined at the retailer-commercial seller nexus, not the commercial seller-grower nexus.

Further, it is not possible to compare prices paid to growers in regulated and non-regulated states to determine whether or not commercial seller compliance costs are passed onto growers via lower prices as many other factors influence price, including supply, demand, seasonality, etc.

## 7.3 The Without Change State

The without change is characterised by the current requirements of the Act. **For the purposes of this analysis it has been assumed that the Act will continue to operate in perpetuity, and the 'sunset' clause will not be invoked.**

That is, the Act currently requires commercial sellers to:

- Be licensed;
- Provide the appropriate fidelity bond to be held by the Registrar;
- Maintain prescribed accounting records, including a Farm Produce Account;
- Pay growers within the time prescribed (10 working days for merchant transactions and 15 working days for agent transactions);
- Have the Farm Produce Account audited each year;
- Submit books and records for inspection by the DPI officers on request; and
- Re-negotiate merchant trading agreements with growers each year.

For each of these requirements there are positive and negative impacts for the key stakeholders. These direct and indirect impacts can be either efficiency or income effects. A comparison of the 'without change' and 'with change' (total deregulation) states was used to arrive at the following Impact Matrix for this option.

**Impact Matrix**

| Impact | Growers | Commercial Sellers | DPI |
|---|---|---|---|
| Negative Impacts (costs) | | 1. Commercial sellers are required to pay annual licence fees. Cost to sector has been estimated at $24,600 per annum.<br>2. Commercial sellers are required to pay Queensland growers within 10 working days, while it appears the industry standard in other states is 21 days. Based on average daily turnover, payment difference of 8 days and interest costs of 8%, the cost to the industry has been estimated at $1,931,900 per annum.<br>3. The average cost of providing fidelity cover has been estimated at approximately $176,500 to the commercial seller sector.<br>4. The average cost of accounting fees for maintaining and auditing the Farm Produce Marketing Account is approximately $1,500 for smaller commercial sellers and $4,000 for medium to large commercial sellers. The total cost to the commercial seller sector is $243,400. | 1. DPI incur an administrative cost associated with commercial seller licensing of approximately $45,000 per annum. This is offset by receipt of license fees of $24,600 per annum.<br>2. DPI incur an administrative cost associated with dispute resolution of approximately $30,000 per annum.<br>3. DPI incur an administrative cost associated with fidelity bond cover of approximately $30,000 per annum.<br>4. DPI incur an administrative cost associated with accounting procedures of approximately $45,000 per annum. |

**Impact Matrix**

| Impact | Growers | Commercial Sellers | DPI |
|---|---|---|---|
| Positive Impacts (benefits) | 1.Licensing allows growers to minimise search costs and provides for the efficient transfer of information to growers.<br>2.The Act provides a 'no' cost mechanism for growers to resolve disputes with commercial sellers. Between 1993 and 1997, approximately 32 disputes were resolved per annum, with an average annual value to growers of $44,800.<br>3. Payments of funds within 10 working days provides growers the opportunity to reduce working capital requirements they would otherwise require if terms of trade were adopted similar to fruit and vegetable industry standards in other states.<br>4.The Act provides for securing growers against bankruptcy of commercial sellers up to $100,000, less service fees. Average payout to growers from the last 4 bankruptcies in Queensland was $91,300, while the average amount claimed was $279,100 – payout ratio of 32.7%. | 1.Through utilising the dispute mechanism scheme commercial sellers do not incur additional costs, such as legal fees. | |

Efficiency impacts relate to the efficient use of economic resources including land, labour and capital. An efficiency impact may be positive where a direct benefit is gained by a sector from an action undertaken by another party. A negative efficiency impact occurs where the direct benefit of an action is not fully captured by the initiating sector. For example, licensing provides positive efficiency impacts to growers as they are not required to incur any direct costs, but benefit by minimising potential information and search costs associated with identifying appropriate commercial sellers.

Income impacts refer to implicit income transfers. A positive income impact occurs when income is received, while a negative income impact occurs when income is paid. For example, licensing provides a negative income impact to commercial sellers and DPI as they are required to incur an actual cost due to the statutory requirements. However, expenses incurred by the DPI are partially subsidised by commercial licensing fees; ie: there is an income transfer from commercial sellers to DPI.

As noted in section 3.4, commercial sellers have suggested that all of the financial costs of compliance they are required to pay are trapped within their sector as they do not have the opportunity to pass these expenses to grower via lower prices for fruit and vegetables. In saying this, commercial sellers also indicated any change in the current regulatory state which produce positive financial impacts for their sector would allow them to pay higher prices for fruit and vegetables. This contrasting statement suggests that some costs are currently passed on to the growers.

While this may be the case in reality, it is difficult to exactly ascertain what proportion of the compliance costs are passed onto growers. In the absence of this information, in the quantitative analysis we have assumed no direct or indirect financial costs borne by commercial sellers are passed to growers.

In addition to these specific impacts, the survey of compliance costs has revealed that commercial sellers also incur other administrative costs, such as administration time (using average annual salary costs as proxy expenses), stationary, bank charges associated with maintaining the separate Farm Produce Account, communication costs and computer software costs. The survey has estimated these costs of compliance to the commercial seller sector to be approximately $1.79 million per annum.

## 7.4 The With Change State

The FPMRC initially considered various options for reform and presented these within the Issues Paper. These options included:

A Allow the current legislation to expire and as a consequence, leave market forces to prevail after 1999.

B Allow the current legislation to expire in 1999, but develop an agreed non-statutory arrangement and/or code of practice (similar to Farmpay or Prompt Pay) between growers and commercial sellers to take its place as adopted in Victoria and New South Wales.

C Allow the current legislation to expire in 1999 but develop an agreed statutory (requiring new legislation) arrangement between growers and commercial sellers.

D Extend the current legislation in its current form for a further 5 years with the intention of phasing out the anti-competitive provisions by the end of the 5 year period.

E Extend the current legislation for 5 years and expand its coverage to include direct sales from growers to larger retailers, processors and the food service sector.

Following the consultation phase and receipt of submissions from interested parties, the FPMRC subsequently re-examined the above reform options and condensed them into three scenarios. These scenarios are presented in the following options matrix.

| **Revised Options for Reform** | | | |
|---|---|---|---|
| | Modified Statutory | Non-statutory | Market Forces |
| Licensing | Licensing<br>Or<br>Industry Accreditation | Industry Accreditation | X |
| Dispute Resolution | Registrar<br>Or<br>Independent 3rd Party | Non Statutory | X |
| Terms of Trade | X<br>Or<br>Extend Coverage | Code of conduct | X |
| Fidelity | X<br>Or<br>Increase Protection | Industry sponsored scheme | X |
| Wholesaler Accounting Procedures | Maintain Procedures | Code of conduct | X |
| X = no mechanism exists<br>Source: FPMRC. KPMG Management Consulting, Macarthur Agribusiness | | | |

The Modified Statutory reform option in some cases contains two options per impact. Given this, we have broken the Modified Statutory reform option into two, Modified Statutory A and Modified Statutory B. The Modified Statutory A reform option incorporates licensing, registrar for dispute resolution, no terms of trade arrangements, no fidelity cover, and wholesaler accounting procedures. The Modified Statutory B reform option incorporates industry accreditation, independent third party dispute resolution, extended terms of trade coverage, increased fidelity bond protection, and wholesaler accounting procedures.

Details of each element included in the revised options are outlined below:

| | |
|---|---|
| Licensing | The Act requires all commercial sellers to be licensed to operate in Queensland. There is an annual licensing fee to be paid to the DPI, who in turn administer the other requirements of the Act. |
| Industry Accreditation | Industry accreditation would provide a non statutory voluntary mechanism of certifying commercial sellers. It is anticipated commercial sellers would pay an accreditation fee to an industry body, who would then administer the scheme. |
| Registrar | The Act identifies a State Government public servant as the registrar of the legislation. The registrar is empowered by the legislation to resolve disputes that may arise between growers and commercial sellers on issues that fall within the Act. |
| Independent third Party | An independent third party dispute resolution mechanism provides the opportunity for growers and commercial sellers to resolve problems as they arise in a non-Government environment. The independent third party may be an individual or organisation with a legal or accounting background, and is usually a 'user pays' service. |
| Extend Coverage | At present, the Act only regulates actions between growers and commercial sellers, not actions between growers and retailers, exporters and processors. An option for reform is to extend the coverage of the Act to include these other sectors, the primary impact of which will be in terms of trade arrangements. |
| Increase Protection | Current fidelity bond coverage is limited to $100,000, including payment of external audit costs. The Issues Paper has identified the size of the average bankruptcy over the past few years as $279,100, while the average payout was $91,300, indicating a payout ratio of 32.7%. Increasing the fidelity bond to appropriate trading levels will increase protection to growers, at the same time increasing costs to commercial sellers. |
| Maintain Procedures | The Act requires commercial sellers to maintain a farm produce account, keep appropriate financial records and have these records independently audited each year. |

| | |
|---|---|
| Non Statutory Dispute Resolution | Non statutory dispute resolution is essentially the same as independent 3rd party dispute resolution, except operated by an industry body on a 'user pays' system. Again, this mechanism provides the opportunity for growers and commercial sellers to resolve problems as they arise in a non-Government environment. |
| Code of Conduct for Terms of Trade | A code of conduct for the industry would outline preferred industry objectives and business practices, such as terms of trade and accounting procedures. Experience has suggested while codes of conduct are useful in developing the 'spirit' in which an industry would like to operate, they can not force an individual or organisation to adopt non-profit maximising behaviour. |
| Industry Sponsored Fidelity Scheme | A fidelity bond scheme funded by the industry that provides insurance cover to growers. No costs would be borne by commercial sellers. |

The impacts of moving to each of the revised reform options from the current 'without change' state are presented in the following tables. As some reform options involve industry associations and retailers, processors and exporters, these two sectors are now incorporated within the impacts matrix. In most cases, the direct impacts of the 'with change' options will be either transfer effects from one sector to another, or net efficiency gains or losses from changing from the current state.

Where growers incur a negative income impact, there is likely to be a corresponding negative efficiency impact as growers will now be required to undertake an administrative activity which is currently performed by some other sector. This will require growers to allocate time and resources into this administrative activity, potentially impacting on the efficiency of the actual production processes. In contrast, where growers incur a positive income impact, there is also likely to be a corresponding positive efficiency impact as growers will now not be required to undertake some administrative activity, transferring this responsibility to another sector.

As with growers, other sectors will also record positive and negative efficiency impacts due to changes in the current regulatory state. Again, where a sector records a negative income impact, there is likely to be a negative efficiency impact for the same reasons identified above. Further, where a sector records a positive income impact, there is likely to be a positive efficiency impact associated with this change.

Where possible, efficiency impacts have been identified, and cost transfers noted. However, much of these efficiency impacts are non-valued, but for the purposes of this analysis should be identified as existing.

As discussed in section 3.3, the market structure has changed over time, with the majority of transactions now occurring outside of the scope of the Act. Each of the reform options presented describes changes in the operating environment within the market. However, we note that none of the reform options, due to their nature, will result in changes to the current market structure.

**With Change Direct Impacts Matrix - Modified Statutory A**

| Impact | Growers | Commercial Sellers | DPI | Industry Association | Retailers, Processors, Exporters, etc. |
|---|---|---|---|---|---|
| Licensing – As Is | **No change** | **No change** | **No change** | **No change** | **No change** |
| Dispute Resolution – As Is | **No change** | **No change** | **No change** | **No change** | **No change** |
| Terms of Trade – Commercial Terms | **(-) income impact** Growers will now be required to increase their working capital requirements that had been subsidised by previous terms of trade arrangements. Any savings to commercial sellers will be cost transfer to growers. | **(+) income / efficiency impact** Commercial sellers are likely to change their terms of trade to current industry accepted standards, ie: 21 days. This will reduce working capital requirements, resulting in direct financial savings. | **No change** | **No change** | **No change** |
| Fidelity Bond – No Cover | **(-) income impact** Growers will now either lose fidelity payments or self-insure against loss. Any savings to commercial sellers will be a cost transfer to growers to the maximum of the previous benefit to growers, $91,300. | **(+) income impact** Commercial sellers will no longer be required to pay fidelity bond costs, saving the industry about $167,000 per annum. | **(+) income impact** Administration costs reduce | **No change** | **No change** |
| Wholesaler Accounting Activities – As Is | **No change** | **No change** | **No change** | **No change** | **No change** |

Source : KPMG Management Consulting, Macarthur Agribusiness

**With Change Direct Impacts Matrix - Modified Statutory B**

| Impact | Growers | Commercial Sellers | DPI | Industry Association | Retailers, Processors, Exporters, etc. |
|---|---|---|---|---|---|
| Licensing – Industry Accreditation | **(-) income / efficiency impact** Growers will now be required to invest time and funds into identifying appropriate commercial sellers. At minimum, commercial seller industry savings will be transferred to growers as information / search costs. | **(+) income impact** Anticipate voluntary take-up of 75%. Non take-up primarily non-Brismark commercial sellers. Industry savings of $6,150 per annum. | **(+) income impact** Administration costs reduce | **(-) income impact** Industry will now incur administration costs for accreditation scheme. Anticipate efficiency gains moving from public to private sector, plus savings generated due to reduced take-up. Assumed cost is administration time cost of $30,000, plus $5,000 communication costs. | **No change** |
| Dispute Resolution – Independent 3rd Party | **(-) income impact** Assume independent third party system would operate as 'user pays' scheme. If cost of proposed scheme now $100 per hour, and average time for resolution 5 hours, the cost of scheme per annum is $16,000. Net benefit to growers is now $28,800. Assume all costs borne by growers, but commercial sellers may incur some costs. | **No change** | **(+) income impact** Administration costs reduce | **No change** Nil financial effect as user pays system. | **No change** |

| With Change Direct Impacts Matrix - Modified Statutory B (cont) | | | | | |
|---|---|---|---|---|---|
| Impact | Growers | Commercial Sellers | DPI | Industry Association | Retailers, Processors, Exporters, etc. |
| Terms of Trade – Extend Coverage | **(+) income impact** Increasing coverage of current terms of trade enjoyed by growers from commercial sellers to cover all transactions will allow further reduction in working capital requirements (through either overdraft or equity) of the grower. The magnitude of these benefits is assumed to equal the cost of increasing coverage. | **No change** | **No change** | **No change** | **(-) income / efficiency impact** If 34% of the value of Queensland's fruit and vegetables are already covered by the Act, the remaining 66% (or $594 million), will be require other sectors to pay growers within 10 working days. Maximum cost to other sectors has been estimated at $2.1 million per annum. |
| Fidelity Bond – Increase Protection | **(+) income impact** Growers will now be covered for total loss. Additional benefit to industry is $187,800. | **(-) income impact** Proposed scheme is insurance cover of 5% of turnover, to a maximum of $500,000. Total cost to industry $492,000 per annum - increase of $315,000. | **No change** | **No change** | **No change** |
| Wholesaler Accounting Activities – As Is | **No change** | **No change** | **No change** | **No change** | **No change** |
| Source : KPMG Management Consulting, Macarthur Agribusiness | | | | | |

| **With Change Direct Impacts Matrix - Non Statutory** | | | | | |
|---|---|---|---|---|---|
| Impact | Growers | Commercial Sellers | DPI | Industry Association | Retailers, Processors, Exporters, etc. |
| Licensing – Industry Accreditation | **(-) income / efficiency impact** Growers will now be required to invest time and funds into identifying appropriate commercial sellers. At minimum, commercial seller industry savings will be transferred to growers as information / search costs. | **(+) income impact** Anticipate voluntary take-up of 75%. Non take-up primarily non-Brismark commercial sellers. Industry savings of $6,150 per annum. | **(+) income impact** Administration costs reduce | **(-) income impact** Industry will now incur administration costs for accreditation scheme. Anticipate efficiency gains moving from public to private sector, plus savings generated due to reduced take-up. Assumed cost is administration time cost of $30,000, plus $5,000 communication costs. | **No change** |
| Dispute Resolution – Non Statutory | **(-) income impact** Assume independent third party system would operate as 'user pays' scheme. If cost of proposed scheme now $100 per hour, and average time for resolution 5 hours, the cost of scheme per annum is $16,000. Net benefit to growers is now $28,800. Assume all costs borne by growers, but commercial sellers may incur some costs. | **No change** | **(+) income impact** Administration costs reduce | **No change** Nil financial effect as user pays system. | **No change** |

| With Change Direct Impacts Matrix - Non Statutory (cont) | | | | | |
|---|---|---|---|---|---|
| Impact | Growers | Commercial Sellers | DPI | Industry Association | Retailers, Processors, Exporters, etc. |
| Terms of Trade – Code of Conduct | **(-) income impact** Growers will now be required to increase their working capital requirements that had been subsidised by previous terms of trade arrangements. Any savings to commercial sellers will be cost transfer to growers. | **(+) income / efficiency impact** Commercial sellers are likely to change their terms of trade under non-legislative code of conduct to current industry accepted standards,ie: 21 days. | **No change** | **No change** | **No change** |
| Fidelity Bond – Industry Sponsored Scheme | **(+) income impact** Growers will now be covered for total loss. Additional benefit to industry is $187,800. | **(+) income impact** Industry administered scheme will transfer costs away from commercial sellers to industry association. Savings to commercial sellers industry of about $176,000 per annum. | **(+) income impact** Administration costs reduce | **(-) income impact** Industry body required to fund premium. Anticipate some economies of scale in premium due to lower risk profile, such that premium reduced from $492,000 to $400,000. | **No change** |

**With Change Direct Impacts Matrix - Non Statutory (cont)**

| Impact | Growers | Commercial Sellers | DPI | Industry Association | Retailers, Processors, Exporters, etc. |
|---|---|---|---|---|---|
| Wholesaler Accounting Activities – Code of Conduct | **No change** | **(+) income impact** While a code of conduct may stipulate the provision of maintaining accounts for inspection when required, it is anticipated some costs imposed by the Act, such as audit fees, would be reduced. | **(+) income impact** Administration costs reduce. Assume direct transfer of costs to industry association | **(-) income impact** Industry will now incur administration costs for code of conduct. Anticipate efficiency gains moving from public to private sector, plus savings generated due to reduced take-up. Assumed annual cost to industry association is $30,000. | **No change** |
| Source : KPMG Management Consulting, Macarthur Agribusiness | | | | | |

| With Change Direct Impacts Matrix - Market Forces | | | | | |
|---|---|---|---|---|---|
| Impact | Growers | Commercial Sellers | DPI | Industry Association | Retailers, Processors, Exporters, etc. |
| Licensing – No Provision | **(-) income / efficiency impact** Growers will now be required to invest time and funds into identifying appropriate commercial sellers. At minimum, commercial seller industry savings will be transferred to growers as information / search costs. | **(+) income impact** No regulated licensing or industry accreditation will save commercial sellers sector all costs of compliance, ie: $24,600 per annum | **(+) income impact** Administration costs reduce | **No change** | **No change** |
| Dispute Resolution – No Provision | **(-) income impact** Growers have potential to lose current benefit of $44,800. | **(-) income impact** Commercial sellers may now be required to purchase legal assistance in order to respond to any common law dispute. | **(+) income impact** Administration costs reduce | **No change** | **No change** |

**With Change Direct Impacts Matrix - Market Forces (cont)**

| Impact | Growers | Commercial Sellers | DPI | Industry Association | Retailers, Processors, Exporters, etc. |
|---|---|---|---|---|---|
| Terms of Trade – Commercial Terms | **(-) income impact** Growers will now be required to increase their working capital requirements that had been subsidised by previous terms of trade arrangements. Any savings to commercial sellers will be cost transfer to growers. | **(+) income /efficiency impact** Commercial sellers will change their terms of trade to current industry accepted standards, ie: 21 days. This will reduce working capital requirements, resulting in direct financial savings. | **No change** | **No change** | **No change** |
| Fidelity Bond – No Provisions | **(-) income impact** Growers will now either lose fidelity payments or self-insure against loss. Any savings to commercial sellers will be a cost transfer to growers. | **(+) income impact** Commercial sellers will no longer be required to pay fidelity bond costs, saving the industry about $176,000 per annum. | **(+) income impact** Administration costs reduce | **No change** | **No change** |

| With Change Direct Impacts Matrix - Market Forces (cont) | | | | | |
|---|---|---|---|---|---|
| Impact | Growers | Commercial Sellers | DPI | Industry Association | Retailers, Processors, Exporters, etc. |
| Wholesaler Accounting Activities – No Provisions | **No change** | **(+) income impact** Assumed savings of 85% of total costs as 15% of total costs remain reflecting agency transactions and Public Trustee Act requirements of maintaining separate trust accounts. This could fall to 0% of no agency transactions occurred. | **(+) income impact** Administration costs reduce. Assume direct transfer of costs to industry association | **No change** | **No change** |
| Source : KPMG Management Consulting, Macarthur Agribusiness | | | | | |

The following assumptions have been made regarding other costs of compliance to commercial sellers (specifically administration costs, stationery, bank charges, communication costs and computer software costs) moving from the 'without change' regulatory state to the 'with change' options:

- Modified Statutory A: assumed the costs to commercial seller reduce by 10% reflecting a reduction in administration time required to deal with terms of trade or fidelity bond issues. However, it is assumed these costs will be transferred to the growers through both direct financial costs and efficiency loss costs relating to increased information / search costs;
- Modified Statutory B: no change as there is no measurable impact to commercial seller;
- Non Statutory: due to changes in licensing (now accreditation) and fidelity cover (industry sponsored), it is assumed costs to commercial sellers of these additional administration costs are reduced by 20%, however again these costs are transferred to growers in the form of direct financial costs and efficiency loss.
- Market Forces: as there is no requirement for the commercial seller to provide the services nominated within the Act, it is assumed significant administration time costs, stationery costs, communication costs and computer software costs would be reduced. It has been assumed these cost savings would amount to 50%, however these costs would be transferred to the grower - primarily through additional search costs as there is now no licensing / accreditation scheme.

# 8 Public Benefit Test Analysis

## 8.1 The Net Benefit Equation

In determining the net benefit from retaining the existing arrangements it is necessary to assess the net effects from deregulation. The net effect of regulatory change can be shown in the following equation:

$$NB = \sum (\Delta Y_g, \Delta Y_c, \Delta Y_q, \Delta Y_i, \Delta Y_o)$$

where :

$NB$ = net benefit of regulatory change;

$\Delta Y_g$ = net income and efficiency impacts of regulatory change in the grower sector;

$\Delta Y_c$ = net income and efficiency impacts of regulatory change in the commercial sellers sector;

$\Delta Y_q$ = net income and efficiency impacts of regulatory change in the government sector;

$\Delta Y_i$ = net income and efficiency impacts of regulatory change in the industry association sector; and

$\Delta Y_o$ = net income and efficiency impacts of regulatory change in the industry association sector.

Where $NB < 0$, there is a net public benefit from retaining the existing arrangements, however if $NB > 0$, there is a net public benefit from changing the current regulatory arrangements.

The net benefit equation is essentially a partial equilibrium model. Partial equilibrium analysis assumes the changes in the price level of a particular industry of the economy, in this case the fruit and vegetable industry, has a negligible effect on the general price level such that any possible feedback effects can be safely ignored for purposes of analysing the market. That is, partial equilibrium analysis assumes each subsector is a self-contained entity within the broader economy.

## 8.2 Net Benefit of Regulatory Change

Essentially, the net benefit measure is the net present value of the change in income of the various impacted sectors over time. The Queensland Treasury Guidelines indicate a minimum period in which to base the analysis on is 10 years, while the maximum time period is 50 years. Further, the guidelines indicate the timing of the changes between the 'without change' and 'with change' states need to be clearly identified.

For the purposes of this analysis, we have utilised a 20 year time period using a real discount rate of 3.2%. This discount rate was determined using the Fisher effect equation which states the nominal rate of interest is expressed as the sum of the real interest rate and the rate of inflation. That is,

$$i_n = i_r + \Pi$$

where :

$i_n$ = nominal interest rate

$i_r$ = real interest rate

$\Pi$ = inflation

Commonwealth Government 10 year bond interest rates as at 15 December 1998 were 4.8% and Commonwealth Treasury estimates of underlying inflation were 1.6% at September 1998, indicating a current real interest rate of 3.2%.

The options identified by the FPMRC did not indicate any protracted change process, therefore all 'with change' states were assumed to occur from 1 January 2000 – the day after the execution of the current 'sunset' clause.

The following table presents estimates of the net benefit measure by reform option and stakeholder group.

**Net Benefit NPV Calculations by Reform Option and Stakeholder Group, 1998**
**$'000**

| Sector | Mod. Statutory A | Mod. Statutory B | Non Statutory | Market Forces |
|---|---|---|---|---|
| Growers | -$33,292.4 | $21,752.2 | -$31,375.8 | -$45,053.2 |
| Commercial Sellers | $33,408.1 | -$1,991.0 | $37,756.4 | $47,011.7 |
| DPI | $438.2 | $438.2 | $1,533.6 | $1,533.6 |
| Industry Associations | $0 | $0 | -$6,791.8 | $0 |
| Retails, Processors, Exporters, etc | $0 | -$22,210.6 | $0 | $0 |
| Net Benefit NPV | $554.0 | -$2,011.2 | $1,122.3 | $3,492.1 |

NPV = net present value
Source: KPMG Management Consulting, Macarthur Agribusiness

We note that the Modified Statutory B 'with change' option recorded negative benefits suggesting it should not be considered. This option recorded such an outcome as a result of increasing the cost of compliance for commercial sellers and retailers, processors and exporters, while no equal and opposite gain was recorded by growers, DPI and other sectors.

The results indicate the majority of reform options considered will produce positive NPV values, although the overall net impact in NPV terms is small. It must be noted this analysis has not incorporated any potential long run impacts associated with increased competition as a result of deregulation. These impacts on price and service quality are likely to occur where the current restrictive practices were removed, even though the industry structure remains unchanged.

While there are minimal net impacts overall in the other three reform options, there are however important distributional effects. If the market forces scenario were adopted, in net present value terms growers are anticipated to incur a reduction in benefits of up to $45 million, while commercial sellers are anticipated to receive increased benefits of up to $47 million.

In summary, it appears the Market Forces with change option provides the greatest benefit to all sectors, although it also provides the largest distributional effects. No weighting of the relative importance of the stakeholder groups have been incorporated within this analysis.

## 8.3 Social and Regional Impacts

The above analysis presents the impacts of regulatory change in pure economic, net present value terms. While the analysis indicates that there are economic benefits from regulatory change, additional analysis is required to determine what, if any, social impacts may occur.

Fruit and vegetable growers have been identified as the key recipient of the financial distributional impacts. The following table presents the annual cost to growers of the proposed regulatory change.

**Annual Costs to Fruit and Vegetable Grower Sector of Regulatory Change**
**$'000**

| | Mod. Statutory A | Mod. Statutory B | Non Statutory | Market Forces |
|---|---|---|---|---|
| Annual Cost to Grower Sector of Regulatory Change | -$2,188.1 | $178.9 | -$2,295.7 | -$2,948.5 |
| Value of Fruit and Vegetable Production in Queensland (1996/97) | $896,300.0 | $896,300.0 | $896,300.0 | $896,300.0 |
| Annual Cost to Grower Sector of Regulatory Change as % of the Value of Fruit and Vegetable Production in Queensland (1996/97) | 0.2% | 0.0% | 0.3% | 0.3% |

Source: KPMG Management Consulting, Macarthur Agribusiness

The anticipated cost to the fruit and vegetable growers sector of regulatory change ranges from 0.0% of the value of fruit and vegetable production to growers for Modified Statutory B reform option to 0.3% of the value of fruit and vegetable production to growers for Market Forces reform option. In comparison, the current cost of compliance of the current legislation for the commercial sellers sector is between 3.4% and 5.9% of commercial sellers revenue. This suggests that regulatory change is likely to be a significantly less financial cost to fruit and vegetable growers than the current financial costs of compliance borne by commercial sellers. Therefore, the social impacts associated with these regulatory changes are likely to be minor for growers, however regulatory change will result in a more equitable distribution of cost than currently experienced.

Regions are likely to be impacted non-uniformly as the distribution of fruit and vegetables to marketing sources (Queensland commercial sellers, interstate, retailers, exporters, processors, etc) is not consistent. That is, those regions which have a higher propensity to utilise Queensland commercial sellers will bear a higher cost of regulatory change than those regions who market their produce interstate or direct to retailers, exporters and processors.

## 8.4 Sensitivity Analysis

We have undertaken a sensitivity analysis of the above outcomes to determine the relative responsiveness to impacts identified in the reform options. Each sensitivity analysis is presented in the following paragraphs.

### 8.4.1 Dispute Resolution

The key assumption incorporated within this sensitivity analysis is that the costs of user-pays dispute resolution increase by 100%. The impact of this assumption is presented in the table below.

**Sensitivity Analysis : User Pays Dispute Resolution**
**Net Benefit Calculations by Reform Option and Stakeholder Group, 1998**
**$'000**

| Sector | Mod. Statutory A | Mod. Statutory B | Non Statutory | Market Forces |
|---|---|---|---|---|
| Growers | -$33,292.4 | $21,518.5 | -$31,609.5 | -$45,053.2 |
| Commercial Sellers | $33,408.1 | -$1,991.0 | $37,756.4 | $47,011.7 |
| DPI | $438.2 | $438.2 | $1,533.6 | $1,533.6 |
| Industry Associations | $0 | $0 | -$6,791.8 | $0 |
| Other Sectors | $0 | -$22,210.6 | $0 | $0 |
| Net Benefit | $554.0 | -$2,244.9 | $888.7 | $3,492.1 |
| Source: KPMG Management Consulting, Macarthur Agribusiness | | | | |

This sensitivity analysis reveals that increasing the user-pays component of dispute resolution option has a minor effect on both net benefit and distribution impacts, with growers the main sector affected.

### 8.4.2 Industry Sponsored Fidelity Scheme

The key assumption incorporated within this sensitivity analysis is that no economies of scale in premium costs would be achieved by industry sponsored fidelity bond scheme. That is, the proposed premium costs incurred by commercial sellers under the increased coverage assumption would in aggregate be the same cost incurred by an industry sponsored fidelity scheme. The impact of this assumption is presented in the table below.

**Sensitivity Analysis : Industry Sponsored Fidelity Scheme**
**Net Benefit Calculations by Reform Option and Stakeholder Group, 1998**
**$'000**

| Sector | Mod. Statutory A | Mod. Statutory B | Non Statutory | Market Forces |
|---|---|---|---|---|
| Growers | -$33,292.4 | $21,752.2 | -$31,375.8 | -$45,053.2 |
| Commercial Sellers | $33,408.1 | -$1,991.0 | $37,756.4 | $47,011.7 |
| DPI | $438.2 | $438.2 | $1,533.6 | $1,533.6 |
| Industry Associations | $0 | $0 | -$8,131.8 | $0 |
| Other Sectors | $0 | -$22,210.6 | $0 | $0 |
| Net Benefit | $554.0 | -$2,011.2 | -$217.6 | $3,492.1 |
| Source: KPMG Management Consulting, Macarthur Agribusiness | | | | |

The 'without change' analysis assumes an industry sponsored fidelity scheme (under the assumption of increased coverage) would incur a premium of $400,000 per annum, while the aggregate cost of fidelity bond insurance to commercial sellers under the same assumption is estimated at $490,000 – a discount of about 20%.

However, the above the sensitivity analysis indicates that if no economies of scale in premium costs for an industry association insurance scheme were available, that is the annual premium is equal to $490,000, the non statutory reform option would be unacceptable as it records negative net benefits.

Further analysis reveals that if the industry scheme were to achieve economies of scale in premium costs of 3% over current fidelity bond costs ($490,000), the net benefit of the regulatory change would be zero. This indicates that if economies of more than 3% could be achieved then there would be positive net benefits in adopting this reform option.

### 8.4.3 Costs Transferred to Growers

One of the main assumptions of this analysis is that costs of compliance are captured within the commercial sellers sector, with no leakage up or down the marketing chain. This assumption has been presented by the commercial seller sector, while growers believe in the end they are the one's who pay for the cost of compliance through lower prices.

This sensitivity analysis presents net benefits of changing the current regulatory environment to one of the identified options assuming that 50% of costs are currently transferred from commercial sellers to growers. Further, it also assumes that proposed costs to retailers, processors and exporters will also be 50% transferred to growers.

**Sensitivity Analysis : Cost Transferred to Growers**
**Net Benefit Calculations by Reform Option and Stakeholder Group, 1998**
**$'000**

| Sector | Mod. Statutory A | Mod. Statutory B | Non Statutory | Market Forces |
|---|---|---|---|---|
| Growers | -$16,588.3 | $9,651.4 | -$12,497.6 | -$21,547.4 |
| Commercial Sellers | $16,704.1 | -$1,991.0 | $18,878.2 | $23,505.9 |
| DPI | $438.2 | $438.2 | $1,533.6 | $1,533.6 |
| Industry Associations | $0 | $0 | -$6,791.8 | $0 |
| Other Sectors | $0 | -$11,105.3 | $0 | $0 |
| Net Benefit | $554.0 | -$2,011.2 | $1,122.3 | $3,492.1 |

Source: KPMG Management Consulting, Macarthur Agribusiness

This sensitivity indicates that if some costs are currently transferred from commercial sellers to growers, the impact of any regulatory change will still produce the same magnitude of net benefits, however the magnitude of distributional impacts will be lower than originally forecast.

Therefore, while growers may argue that they are paying for the current legislation in some form so why should regulatory reform occur, it has been shown net benefits do still arise to the community as a whole and the distributional impacts are lower than first anticipated.

## 8.5 Conclusions

While the net benefit measure generated by our partial equilibrium analysis provides a broad indication of impacts of reform it does not fully highlight the total net benefit of any regulatory change. This analysis does not incorporate any political or equity impacts or adjustment costs which may alter the quantified net benefit values.

However, the above analysis does provide some insight into the distributional impacts of regulatory change. In general commercial sellers will be better off through the removal of costs associated with regulation, while there are significant costs identified as impacting on the growing sector from the legislation. In scenarios where other arrangements similar to the Act are put in place, growers in the main bear the costs of these systems and procedures.

Reviewing the annual costs to growers from regulatory reform as a proportion of the value of fruit and vegetable production suggests only minor social impacts are likely to occur for growers, however regulatory change will result in a more equitable distribution of cost than currently experienced. Further, regional impacts are not anticipated to be uniform as those regions which have a higher propensity to utilise Queensland commercial sellers will bear a higher cost of regulatory change than those regions who market their produce interstate or direct to retailers, exporters and processors.

In summary it appears any regulatory reform option will result in efficiency gains.

# 9 Assessment of Non-Valued Impacts

## 9.1 Introduction

This section of the report reviews primary and secondary impacts which were identified in the PBT process but were unable to be quantified or valued in monetary terms.

## 9.2 Primary Impacts

### 9.2.1 Licensing Issues

The Act, through licensing provisions, enables growers to identify commercial sellers in which to undertake business. That is, licensing provides a least cost search mechanism for growers to identify commercial sellers of 'reputable' business character. Where government regulated licensing is not in place, it was suggested during the consultation phase that growers would incur additional information search costs, ranging from telephone expenses to travel costs, in order to identify appropriate commercial sellers. Even if an industry accredited scheme were to occur, some additional search costs would still be required as it is expected not all commercial sellers would participate in such a scheme.

Our previous analysis has assumed these additional information search costs would at minimum be equal to the cost of licensing currently borne by commercial sellers – transfer of costs from commercial sellers to growers. This estimate is considered relatively conservative, however we are unable to calculate the magnitude of the likely full impact.

### 9.2.2 Terms of Trade

The Act requires commercial sellers to identify the sale price to a grower of their fruit and vegetables produce by the close of business of the next business day. This requirement provides a mechanism for growers to determine where to send their produce in order to maximise their revenue.

Therefore, altering the current terms of trade arrangements will result in growers needing to be more pro-active in establishing prices in the various markets. For example this information could be provided by *Market Information Services (MIS)*, a private sector fruit and vegetable wholesale market reporting service which currently operates in all of the major central markets in Australia. However, information is provided by MIS on a fee for service basis, although their information is widely disseminated through the media. While costs are available for this service, it is difficult to estimate what proportion of growers will utilise the service, and components of the service will they purchase.

In any case, the likely impact of removing this component of the terms of trade requirement is higher information search costs for growers.

### 9.2.3 Wholesaler Accounting Procedures

Commercial sellers are required to maintain and independently audit certain transaction based accounts. These accounts provide base information in any dispute resolution and fidelity bond matter. Where this requirement of the Act was repealed, growers would be required to find alternative information sources from which to base any action against commercial sellers. Therefore, it is anticipated the growing sector is likely to incur additional accounting costs in order to establish alternative information sources. However, it is difficult to establish how many growers currently have an accounting system that could readily provide the relevant information. Further, of those growers who don't currently have an accounting system, what proportion would establish new accounts solely in response to the Act being repealed.

While this issue has been identified as a potential cost it is our opinion that these costs are likely to be minor as most growers would already have a system of accounts or transactions information which could be utilised in dispute resolution action.

However, in any case, the likely impact of repealing the Act would be increased accounting / information costs for growers.

## 9.3 Secondary Impacts

In addition to the primary impacts identified previously, secondary impacts are also likely to occur as a result of a change in the regulatory framework. For example, while a change in the licensing provisions may have an influence on stakeholders directly impacted by the provisions, this change may also indirectly influence other regulated areas such as dispute resolution, terms of trade, etc.

### 9.3.1 Modified Statutory A

We have identified limited secondary impacts in this 'with change' as most impacts have been considered in the valuation process. The identified secondary impact relates to changing terms of trade conditions. That is, by increasing the terms of trade to industry standards, there is an increased probability of business failure by growers as a result of poor cash flow management. This will be an overall net cost to the growers sector.

### 9.3.2 Modified Statutory B

The areas of dispute resolution and terms of trade are anticipated to cause secondary impacts in this 'with change' state. These impacts include:

- Some commercial sellers may take the view that industry control does not carry the same 'weight' as statutory control, therefore some commercial sellers may alter their terms of trade in their favour. This will reduce costs to the commercial sellers sector, while at the same time increasing costs to the growers in the same order of magnitude; and
- Increasing the coverage of current terms of trade arrangements to incorporate retailers, exporters and processors is anticipated to result in additional accounting and administration charges to these other sectors, reflecting increased frequency and volume of payment transactions rather than increase value of overall transactions.

### 9.3.3 Non Statutory

This 'with change' state could cause the following secondary impacts:

- Potential grower failure due to poor cash flow management as a result of increased terms of trade; and
- Decreased coverage of current terms of trade conditions as there is no statutory dispute resolution mechanism.

### 9.3.4 Market Forces

There is anticipated to be broad reductions in administration charges within the commercial seller sector in this 'with change' state. However, as noted previously, these savings to commercial sellers will essentially be an income transfer from the growers sector as they incur additional information and search costs. Further, secondary impacts relating to potential grower failure and reduced terms of trade coverage also hold in this scenario.

# 10 Conclusion

To fulfil its commitments under the Competition Principles Agreement and to promote regulatory reform, the Queensland Government commissioned a Public Benefit Test of the Queensland Farm Produce Marketing Act 1964. The Act was amended in 1995 to include a 'sunset' provision that scheduled the legislation to expire in December 1999. Consequently this review is also being conducted in accordance with this provision and with the intention of addressing commercial issues relevant to the industry.

This review has primarily concentrated on the impacts of the Act to fruit and vegetable growers, commercial sellers, with some comment on the role of the retail sector and final consumer.

The structure of the fruit and vegetable industry has changed significantly over the past 34 years since the Act was introduced in its current form, especially in relation to issues of concentration and market power. Industry sourced estimates indicate that between 52% and 80% of farm produce is being transacted in Queensland beyond the scope of the legislation. Therefore, it would appear prima facie, the Act is not meeting its original objective of providing cover to growers.

Key issues identified in the review include:

- Growers and commercial sellers both agree on the importance of maintaining a strong central market within the fruit and vegetable industry.
- The profile of growers within the industry is not homogeneous.
- The Act is viewed as anti-competitive as it requires commercial sellers to incur costs that are not incurred by other participants in the industry, such as retailers, exporters or processors.
- There appears little economic justification in claiming regulation of the fruit and vegetable industry in Queensland is warranted on grounds of market failure.
- Growers in New South Wales and Victoria have indicated through their actions that changing the terms of trade arrangements from payment within 10 days in a regulated state to payment within 21 days in a non-regulated state is acceptable.
- Where a full 'user pays' system has been adopted, such as Prompt Pay in New South Wales, a poor take-up by growers occurred. This suggests that growers do not value these schemes enough to actively make a specific contribution to their success.
- Most growers acknowledge the key provisions of the Act could be provided in a non-statutory manner.
- Commercial sellers believe competition exists at present between themselves that provide benefits to growers, external to the provisions of the Act.
- Major retailers, primarily supermarket chains, are increasingly becoming active within the fruit and vegetable industry, impacting industry dynamics in the process.
- Consumers are also relatively unaffected by the operations of the Act as it appears any cost of compliance is trapped within the grower and commercial seller sectors.

Economic analysis of the direct impacts of regulatory change using a partial equilibrium model indicate there would be a net public benefit (a positive NPV) from adopting either a Modified Statutory A, Non Statutory or Market Forces 'with change' state, albeit minor. However, efficiency effects from changes in the current regulatory state have been shown to be minimal, while distributional effects are estimated to be significant. Further, it has also been shown that if some costs are currently transferred from commercial sellers to growers, the impact of any regulatory change will still produce the same magnitude of net benefits

Non-quantifiable impacts were also considered in addition to the valuing the direct impacts. Our analysis concluded that growers were most likely to incur net expenses additional to those already valued primarily as a result of increase search and information costs. Further, secondary impacts were also likely to have a negative overall effect on growers and marginal positive effect on commercial sellers.

In summary, regulatory change is likely to be a significantly less financial cost to fruit and vegetable growers than the current financial costs of compliance borne by commercial sellers. That is, the social impacts associated with these regulatory changes are likely to be minor for growers, however regulatory change will result in a more equitable distribution of cost than currently experienced.