CANEGROWERS
HERBERT RIVER

Herbert River District Cane Growers
Organisation Limited
ABN 55 106 007 925

11-13 Lannercost St (PO Box 410)
INGHAM QLD 4865
T: 07 4776 5350 F: 07 4776 5380
hroffice@canegrowers.com.au
www.canegrowers.com.au

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Submission to Productivity Commission's Draft Report on Regulation of Agriculture in Australia

1. CANEGROWERS Herbert River represents some 550 cane farming members who all supply two sugar mills in the Herbert River District some 110 kms north of Townsville north Queensland, both of which are owned by Wilmar Sugar Australia Limited, having been purchased from CSR Limited in 2010 as part of a sale of CSR's whole sugar business at the time.

2. CANEGROWERS Herbert River is part of the Queensland Cane Growers Organisation and wishes to support and endorse the submission lodged by CANEGROWERS. On our own behalf it is desired to make a submission on our own behalf.

3. This submission is primarily concerned with the Commission's draft recommendation 11.2 that the 2015 amendments to the Sugar Industry Act Queensland should be repealed.

4. We submit that a case study of first-hand experience with this matter as described herein supports retention of the reform made in 2015 as being in Australia's interests.

5. The body of the Draft Report has a heading on page 418 **Reregulation of sugar marketing in Queensland** which we submit is really inappropriate.

6. The Draft Report hasn't recognised that the Royal Commission of 1912 also considered the exploitation of growers by millowners and the desirability of establishing a stable labour intensive industry on the Queensland coast. There was a further Royal Commission (Terms of reference dated 15th December 1938 and majority report referenced by Section 42 of the Regulation of Sugar Cane Prices Acts) that featured in the determination of mill peaks which in turn were part of the system for determining price entitlements for sugar under an administered price through a Commonwealth Queensland Agreement.

7. The above arrangements entrenched a monopoly position for millowners with assigned suppliers under a system that provided recourse to dispute resolution. That was all progressively deregulated from the enactment of the 1991 Sugar Industry Act through to 2005.

8. Prior to deregulation of sugar marketing that took effect from the 2006 season, there was a collaborative marketing arrangement where sugar vested in the industry's single desk not for profit marketer who was charged with maximising benefits for distribution of proceeds to the industry by handling, marketing and shipping sugar delivered to bulk sugar terminals after the sugar cane crop had been processed at the sugar mills. A Heads of Agreement dated 1st March 2004 was signed by peak industry bodies with the Premier setting out a pathway to voluntary marketing arrangements by the 2006 season. A further Memorandum of Understanding was made with the Queensland Government signed on 13th October 2005 contained a clear commitment by the Australian Sugar Milling Council on behalf of its members to supporting QSL as the marketer of choice by its suppliers. Those documents were signed off by the peak industry bodies and the Queensland Premier as a background to the introduction of voluntary marketing arrangements.

9. Growers were authorised to collectively bargain with their millowners to arrive at cane supply and processing agreements that covered all of the terms for cane supply and payment whilst mills had a relationship with QSL for the supply of sugar for marketing.

10. QSL is owned by both growers and millowners. The sugar terminals are owned by Sugar terminals Limited a company which in turn is also owned by growers and millowners under a constitution that is designed to ensure that whilst shares are transferable they should be held by active growers and millowners who were allocated shares on the basis of how sugar proceeds were shared over 10 years to 1997.

11. Those marketing arrangements were based on an arrangement where each of the sugar millers entered into a Raw Sugar Supply Agreement with QSL and each mill had its own continuing relationship with its growers.

12. Grower reps asked CSR to investigate forward pricing opportunities in 2006. CSR responded and had a system prepared for implementation for the 2008 season.

13. Upon announcement of Wilmar's purchase of CSR's sugar business in 2010, Wilmar's undertakings to the Foreign Investment Review Board and to its cane suppliers at the time of purchasing the CSR sugar business were all supportive of continuing with the existing marketing arrangements.

14. The 2010 season was characterised by a severe La Nina weather pattern building which prevented approximately 25% of the sugar cane crop from being harvested. This occurred at a time when the marketer had over committed a substantial quantity of sugar for sale and forward pricing which resulted in marketing losses at the time which impaired the season's price outcomes significantly. There were practices in place that came in for rigorous review and reform in the aftermath of this season to better manage the risk of over-commitment.

15. Wilmar participated fully in the review and reform process after 2010 which saw new forward pricing policies and products offered by QSL as a result.

16. In 2013 Wilmar proposed to grower reps that Wilmar market its own share of the sugar make and additionally would offer growers a small premium over QSL's default pool price if growers would commit sugar to Wilmar to market.

17. This offer was declined by grower reps who could see significant risks with price transparency in view of the obvious conflicts of interest that Wilmar had. In the meantime a report commissioned by CANEGROWERS identified ownership of sugar as a critical issue in the new marketing scenario where a millowner with major conflicts of interest was proposing to market its own economic interest sugar.

18. Growers had no direct relationship with a sugar marketer. However in response to the issues of the day the term Grower Economic Interest sugar was defined in the Raw Sugar Supply Agreement as from and including the 2014 season. Wilmar marketed its own Mill Economic Interest sugar as from the 2014 season.

19. Wilmar's move on 3rd April 2014 to give notice to end the commitment to QSL without prior discussion with grower reps as was a requirement of the Collective Cane Supply Agreement caught grower reps by surprise and caused a major rift in high level relations ever since.

20. This unilateral move by Wilmar to completely disregard its previous undertakings highlighted an issue that the initial deregulation arrangements hadn't adequately covered – that being the need for grower choice in marketing Grower Economic Interest sugar.

21. Thus it can be seen that the 2015 amendments to the Sugar Industry Act were not a case of reregulating the industry but correcting an imbalance in arrangements that had not been foreseen in the 2004 – 2005 undertakings when one party unilaterally disregards clear undertakings and there is no recourse to dispute resolution undertakings.

22. The Queensland Parliament had the benefit of much wider input than the Queensland Productivity Commission in enacting the 2015 amendments to the Sugar Industry Act.

23. It is submitted with the greatest respect that the Productivity Commission's conclusion is erroneous and not fully cognisant of the circumstances under which the industry has operated where cane growers invest in preparing a crop for supply to a mill more than a year in advance of its actual harvest and supply, and receive their share of sugar proceeds progressively through advances as the sugar is shipped to customers and proceeds realized up to a year after its processing at the mill and delivery of sugar to the bulk sugar terminal.

24. Whilst the two parties, cane growers and sugar millers are mutually dependant in a somewhat symbiotic relationship it is not correct as the Commission suggests to say that millers have bought the sugar from the growers. That is not written anywhere in the legislation. It has been a matter for determination in the cane supply agreements. Until then the millowners own their mills and the growers own their cane.

25. The amendments to the sugar legislation have actually been pro competition. They have introduced some competitive tension between the millowner as a marketing entity and QSL.

26. It is respectfully submitted that the structural adjustment illustration in Box 11.1 comparing sugar yield with milk per cow over the period 1970-71 to 2012-13 is not a valid comparison. It will be observed that there was a step improvement in sugar yields as new land was introduced through the 1990s after the disastrous early wet season and flooding in 1991 but natural disasters and disease since then have taken their toll notwithstanding a commitment of the industry to shore up funding for its principal researcher since 2013. The attrition of dairy farms on the North Queensland Atherton Tablelands since deregulation of that industry has brought much grief to the economy of Tablelands shires as is well known throughout North Queensland. A slower rate of attrition of sugar cane farms is not really conclusive evidence of any failing of the marketing system at all.
27. We recognise that economic pressures will always drive farm owners to larger farm sizes over time. We submit that should not be helped by increasing support to multinational investors in sugar mills by taking away a grower's entitlement to choice of marketer for grower economic interest sugar.

28. In conclusion the Commission's Draft Report is seriously flawed, out of touch with the reality of the industry today and failing to grasp important relevant background. It has for all the reasons outlined above failed to recognise and understand the nature of the interests that have been built up by the sugar industry working together to produce a product in which each party, grower and millowner share and its draft recommendation regarding the Sugar Industry Act should be scrapped.

Submitted this 18th day of August 2016 for and on behalf of the members of CANEGROWERS Herbert River

Peter E Sheedy
MANAGER