



Submission

**Domestic Organic Regulatory Framework:
Consultation regulation impact statement**

March 2022

Submission

Australian Grape & Wine commends the Department of Agriculture, Water and the Environment for recognising the problems facing organic producers as outlined in the Domestic Organic Regulatory Framework: Consultation regulation impact statement. We welcome the opportunity to share the views of the wine sector. In preparing this submission, we have consulted a range of stakeholders including several significant Australian organic wine producers. We have also promoted the opportunity to provide feedback amongst our entire membership base through our member news.

Based on feedback received, it is our understanding that a market failure does exist, and there would be significant support for a change away from status quo. The need to create a level playing field for organic producers at the same time as improving consumer confidence were seen as important issues that require resolve. A legislated, or government-endorsed definition of 'organic', a mandatory standard for domestic use, and the introduction of requirements for certification of organic products is supported.

Part 1

Do you agree with the problems listed above?

Consumer Confidence

It is quite apparent that additional rigour in the system would be supported by the majority of wine producers. Unsubstantiated organic claims have long been seen as a problem for the genuine organic producers making legitimate claims. While false claims are thought to have occurred on wine labels, the crux of the problem lies in claims made through other marketing and promotional material. There is currently very little consumer protection against this. Major retailers purchase a lion's share of wines consumed in Australia. These companies are becoming more interested in product authenticity and have the potential to play a complimentary role alongside regulation in stamping out misleading label claims. However label compliance alone, will not prevent the widespread verbal claims by producers claiming to be practicing organics, despite operating well outside any organic standard.

Trade and Market access

Organics is a growing area in all of Australia's key export markets and a way to differentiate products, build Australia's reputation and obtain a price premium. Australian wine does not have many equivalency arrangements with other trading nations at present however would welcome the opportunity to expand these. Exporting organic goods requires conformity assessments primarily because the standards vary considerably between countries. This may be burdensome for producers seeking multiple export markets due to the differences between various standards. It makes the auditing process complex and costly. Equivalency arrangements are unlikely to be possible with countries such as US where standards for wine processing are distinctly different, however for other trading nations, it is expected that having a domestic regulatory framework would be beneficial either now or in the future.

Confusion and costs

Confusion and costs relating to the current regulatory settings are a burden on the wine sector. Undergoing certification requires annual audits regardless of scale, which is expensive for small businesses. Furthermore, most certifying bodies also charge royalties for use of certification marks, adding another cost burden on organic businesses.

A single standard would address business concerns that there is no legislated definition of 'organic', at the same time as clearing up the confusion that results from the fact that there are different standards in use. The variety of logos available for use is not seen as a significant problem, however not all producers see benefit in carrying a certifiers logo on their products. Rather an organic producer reference number would be the optimal solution for wine producers. This should suffice for compliance purposes. This would allow certifiers to retain their respective logos, thereby preserving the value in their brands. It would also mean that use of certifier logos remains optional for producers. This would potentially help to offset any additional costs of a regulatory framework.

Part 2

Is there evidence of market failure with the current system that would justify government intervention?

Yes. There is not only differing requirements between certifying bodies within Australia, but more importantly there is no clear and definitive requirements placed on non-certified producers making organic claims. This impacts upon the competitive environment. It creates information asymmetries and confusion to the detriment of consumers, reducing trust and potentially detracting value from the organic market. Furthermore, organic producers are not operating on an even playing field due to different standards and insufficient compliance measures against false claims.

Part 3

Are there other factors to consider when describing the status quo? Integrity in labelling should be paramount in this decision making. Australia is well behind legislatively and should be a leader in this area given the linkage between organic production and the clean and green image that we pursue for Australian wine.

Are there other non-regulatory options which should be considered which address the policy problems? No

What organic products should be captured by a mandatory domestic organic standard (for example, fresh food, all food products, fibre, pet food, cosmetics or other non-prescribed goods)?

The scope of the mandatory domestic organic standard should include wine.

Which definition of organic (National Standard, AS 6000, or alternative) should be adopted as a suitable definition of organic?

Australian wine producers value their ability to provide input into the National Standard. It is our understanding that the National Standard is the most widely used standard and the only one that is freely available for producers and consumers to access. Furthermore, it is already in use as the export standard so maintaining this consistency would seem the most pragmatic approach. However, if AS 6000 could be made freely available and amended for consistency with the current export standard, then it is likely that wine producers would be satisfied with either approach.

Do you support a domestic organic standard covering the whole supply chain process, or splitting production/manufacturing and labelling aspects?

Whole supply chain.

Are there parts of the sector (e.g., non-food, or small operators) that should be exempt from a new regulatory framework for domestic organics?

No, all businesses should be subject to regulation.

Products that were produced and labelled prior to the legislation being in force should be the only exception.

If a mandatory standard was to be progressed, how essential is certification?

There were mixed views as to whether very small production facilities where costs are likely to be prohibitive should be exempt from the requirement for certification. Should this allowance be made, a very low value threshold should be set to determine this exemption. An alternative would be to require fewer audits or remote audits for smaller producers.

If exemptions were introduced, how might these work in practice?

There would need to be regulatory measures so that exempt producers maintain records to show compliance with the mandatory standard.

What exemptions should be in place for certification?

Certain additives and processing aids such as water, inert gases, tartaric acid and yeast that are already allowable in the standard, presumably would also be exempt. Producers under a certain threshold in terms of gross organic production, could be exempt from certification providing they are still required by law to comply with the standard and subject to compliance measures.

Is there value in a transition period for business? • If so, how long?

Yes, one year grace period plus the time taken for non-certified producers to go through the three-year certification and conversion period. After the grace period, it should be mandatory that those continuing to make organic claims are practicing organics and have commenced certification. Products (and product inputs) produced before the new legislation comes into force should be grandfathered.

Part 4

Do you think an education and awareness raising campaign would be a cost-effective solution to address consumer and business concerns?

This would be of some benefit but not a solution. Whether or not such an investment would be cost-beneficial is debateable.

Do you think an industry-led, voluntary, single standard is achievable, and would it be a solution to address consumer and business concerns?

A voluntary standard would not go far enough to address the overarching issue of dubious claims and declining confidence in the sector. Nor would it address the market failure concerns that producers making false claims are exploiting price premiums, to the detriment of compliant organic producers.

Could the non-regulatory options presented be combined and implemented, either with each or other or a mandatory domestic organics standard? The introduction of legislation should alleviate the requirement for the industry to invest resources in education of consumers to identify logos and distinguish between certified and non-certified good.

If so, which elements should be combined?

There would be benefit in government working with major retailers, businesses and consumers to raise awareness of the new compliance measures.

What would be the positive and/or negative impacts of a mandatory domestic organic standard on you or your business?

A mandatory standard would increase wine producers' confidence in the credibility of the market and their ability to gain a premium from producing organic products. It would create a level playing field for organic producers. Additional consumer confidence could potentially increase preparedness to pay. These positive impacts should outweigh the costs providing that any administrative burden or compliance costs are managed efficiently.

What are the positive and/or negative impacts of a mandatory domestic organic standard for Australian consumers?

The most significant positive impacts for wine would be increased consumer confidence and value placed on organic produce. A negative consequence would be loss of brand equity in the certification trustmarks if these were to be replaced by a generic national logo. Use of certifiers' individual logos should continue to be an option but not a mandate.

Are there positive or negative impacts of any options that are not described?

In the absence of any significant regulatory deterrence, there will always be loopholes in the system allowing consumers to be misled. For example, it is common for wine producers to certify only certain product lines, allowing other non-certified brands in their portfolio to piggy-back off the impression that their entire production is organic. Not all producers are sufficiently mindful of this type of misleading advertising. It needs to be clear that legislation applies to any kinds of misleading claims, not just those on labels.

As certification has not been mandatory to date, there are only a small number of certifiers. Therefore, any measure that enforces the use of a certifier's commercial logo could result in a significant market power imbalance in favour of certifiers. For those producers who have chosen not to display a logo, a potential negative consequence would arise if they were now forced to pay royalties to carry a logo.

On the other hand, the proposed alternative, a unified national logo, would lead to loss of brand equity for producers who have chosen to display a commercial certification logo that consumers have come to trust. To avoid either problem, proof of certification could instead be mandated through a unique code or identifier that consumers and/or compliance officers can refer to for proof, with commercial certifier logos remaining optional.



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Contact

For further information, please contact:

Tony Battaglione

Chief Executive

14-16 Brisbane Avenue, Barton ACT 2600

Tel +61 2 6239 8304

Email tony@agw.org.au

Anna Hooper

Manager, Industry Policy

National Wine Centre, Botanic Rd, Adelaide SA 5000

Tel +61 8 8133 4300

Email anna@agw.org.au

About Australian Grape & Wine

Australian Grape and Wine Incorporated (Australian Grape & Wine) is Australia's national association of winegrape and wine producers. Our activities focus on providing leadership, strategy, advocacy and support that serves Australian wine businesses now and into the future.

We represent the interests of the more than 2,500 winemakers and 6,000 winegrape growers working in Australia. Our role is to help forge a political, social and regulatory environment that enables profitable and sustainable Australian wine businesses. These businesses make a significant contribution to growing regional economies by driving growth in jobs, regional exports and food and wine tourism.

Australian Grape & Wine's voluntary membership represents over 75% of the national winegrape crush. We represent small, medium and large winemakers, and winegrape growers from across the country. We represent small, medium and large winemakers and winegrape growers from across the country. Policy decisions by the Australian Grape & Wine Board require 80% support, ensuring no single category can dominate the decision-making process and guaranteeing policy is only determined if it provides significant industry benefit. In practice, most decisions are determined by consensus.

Australian Grape & Wine is recognised as a representative organisation for winegrape and wine producers under the *Wine Australia Act 2013*, and is incorporated under the *SA Associations Incorporation Act 1985*. We work in partnership with the Australian Government to develop and implement policy that is in the best interests of winemakers and winegrape growers across Australia.