



Australian Wine Industry

CODE^{OF} CONDUCT

Code Management Committee

ANNUAL REPORT 2019-2020

September 2020

CODE MANAGEMENT COMMITTEE – SECRETARIAT

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INTRODUCTION

This is the ninth Australian Wine Industry Code of Conduct Annual Report prepared by the Code Management Committee (CMC). This report covers the period from 1 July 2019 to 30 June 2020.

The Australian Wine Industry Code of Conduct

The Australian Wine Industry Code of Conduct ('the Code') was signed by representatives of the former Winemakers' Federation of Australia (WFA) and Wine Grape Growers Australia (WGGA) on 19 December 2008. With the exception of Part 2 (Winegrape Purchase Agreements), the Code took effect on 1 January 2009. Part 2 took effect for all new agreements for the supply of wine grapes for the 2010 vintage onward.

WFA and WGGA (at that time trading as Australian Vignerons) at their respective Annual General Meetings on 14 November 2018 passed a Special Resolution to form a single incorporated association to be named Australian Grape and Wine Incorporated (Australian Grape & Wine). The new organisation assumed ownership and oversight over the Code.

In September 2019, the ACCC released its Winegrape Market Study. The ACCC recommended a number of amendments aimed at strengthening the Code, along with a significant increase in uptake by winemakers. A new Code Management Committee was convened in September 2019 with equal representation from both winemakers and grapegrowers.

Secretariat to the Code

The Code Management Committee appoints a Secretariat to the Code to provide secretariat services to the Code's administration and to which the Committee may delegate any of its powers or duties under the Code.

The Accord Group was the appointed secretariat for the Australian Wine Industry Code from October 2018 until October 2019.

REPORT ON ACTIVITIES 2019-20

Meetings of the Code Management Committee

In 2019-20 reporting period, the Code Management Committee met regularly for the purpose of undertaking a comprehensive review of the Code. The draft was sent to Finlaysons Lawyers for advice and legal editing. The Code is now in draft form for potential approval and adoption in September 2020.

The Code Management Committee have worked to a timeline that will see an amended Code of Conduct available for the 2021 vintage.

The Code will remain a non-prescribed voluntary code; there are no joining fees or ongoing annual costs. The purpose of the Code is three-fold:

- provide a framework to support fair and equitable dealings between buyers and sellers of Grapes;
- provide an effective, practical and equitable dispute resolution process for raising complaints and resolving disputes arising between Winemakers and Growers; and
- improve Grower–Winemaker relations in a manner consistent with commentary of the ACCC in its Final Report dated September 2019 resulting from its Wine Grape Market Study.

The amendments that will be put forward by the CMC will be approved by a Sub-committee of the Australian Grape & Wine board with equal representation from both winemakers and grapegrowers.

Winegrape purchasers who are Signatories to the Code agree to:

- a) adopt and be bound by the provisions of the Code in their dealings with Growers;
- b) acknowledge that the Committee may publish their names as Signatories; and
- c) provide the Grower with a copy of the Code (in either hardcopy or electronic form) prior to entering into a new Agreement (with the exception of a verbal Agreement).

The Code will set out transitional provisions so that:

- (a) signatories to the 2008 Code automatically become Signatories to this Code, unless they notify the Committee to the contrary within a one month period;
- (b) winemakers comply with the Code from July 2021; and
- (c) all Signatories (including signatories to the 2008 Code) make a written offer to their Growers to amend their existing agreements so that they are consistent with the Code, within three months (and with effect no later than from 31 December 2021).

The Wine Industry Code Management Committee

The Code is overseen and administered by the Wine Industry Code Management Committee (CMC) jointly appointed by the Board of Australian Grape & Wine. It consists of eight members, an independent Chair, supported by a Secretariat of two, with the assistance of a minute taker. Both Riverina and Murray Valley Wine regions were invited to have representatives attend each meeting as observers. The composition of the CMC at 30 June 2019 was:

Members	Representing	Member type
Peter Hayes	Independent Chair	
Fiona Anderson	Treasury Wine Estates	Winemaker
Chris Byrne	Riverland Wine	Grower
Jim Caddy	Inland Wine Regions Alliance	Grower
Jason Duldig	Accolade Wines	Winemaker
Luke Edwards	Casella Family Wines	Winemaker
Byron Hodgkinson (from Jan 2020)	Pernod Ricard Winemakers	Winemaker
Ben Rose	Performance Viticulture	Grower
Tim Swaine (until Jan 2020)	Pernod Ricard Winemakers	Winemaker
Andrew Weeks	Weeks Consulting	Grower

CMC Secretariat

Tony Battaglione	Australian Grape & Wine
Anna Hooper	Australian Grape & Wine

Observers

Paul Derrico	Murray Valley Winegrowers'
Brian Simpson	Riverina Winegrape Growers

The Committee's responsibilities include acting as the custodian of the Code, monitoring and assessing the Code's performance, improving the Code, facilitating resolution of disputes over winegrape prices and vineyard downgrades and rejections, and determining alleged breaches of the Code. It is required to produce an annual report to be published by 30 September each year containing:

- A description of the nature and number of disputes received;
- Any comments it wishes to make about conduct or trends in the industry;
- The number of Disputes notified to the Secretariat and/or resolved under the provisions of the Code;
- The number of Signatories who have breached the Code;
- A list all current signatories to the code and new signatories since the previous annual report.

In monitoring the Code, the Committee may recommend amendments to assist the Code's operation.

Operation of the Code in 2019-20

Signatories

During this period, there were no further applications to become a signatory to the Code. This was not unexpected given that the fact that the Code was undergoing a comprehensive review. As a result, there are currently 42 signatories to the Code.

Signatories to the Code

Accolade Wines
Australia Food and Beverage Group Pty Ltd
d'Arenberg Pty Ltd
Ballast Stone Estate Wines
Balnaves Vineyard Services Pty Ltd t/as Balnaves of Coonawarra
Bleasdale Vineyards Pty Ltd
Brown Brothers Milawa Vineyard Pty Ltd
Campbells Wines Pty Ltd
Cheviot Wine Group
Colbinabbin Estate Vineyard Management Pty Ltd
Cumulus Wines Pty Ltd
Difabio Estate Wines Pty Ltd
Dorrien Winemaking
Eden Road Wine Company t/as Eden Road Wines
Feathertop Winery
First Creek Wines
Fleurieu Vintners Pty Ltd t/as Boar's Rock
Fowles Wine
Fox Gordon Pty Ltd
Gemtree Vineyards Pty Ltd
Heartland Wines Pty Ltd
Henry Holmes Wines Pty Ltd
Kirrihill Wines Pty Ltd
Limestone Coast Wines Pty Ltd
Lowe Wines
Oakridge Wines Pty Ltd
Pernod-Ricard Winemakers
Ramco Wine Group
Rusden Wines
Samarkan Pastoral Co Pty Ltd t/as Coombe Farm
Seppeltsfield Wines Pty Ltd
Serafino Wines
Shaw and Smith Pty Ltd
Shingleback Wine Pty Ltd
Tahbilk Pty Ltd on behalf of The Tahbilk Group
Tinlins Wines Pty Ltd
Treasury Wine Estates
Trentham Estate
Tyrrell's Vineyards Pty Ltd
Voyager Estate (WA)
Wirra Wirra Vineyards
Yalumba Wine Company

The CMC acknowledges that signatories to the Code must be significantly increased, over the next 12 months with particular focus on wineries with processing capacity above 10 000 tonnes. Australian Grape & Wine will undertake a membership drive for signatories prior to vintage 2021. A register of signatories is maintained on the Australian Wine Industry Code of Conduct website (www.wineindustrycode.org/).

Enquiries

There were eight enquiries received during the period, which is significantly less than the 34 enquiries received in the 2018-19 period.

Nature of Disputes

All enquiries were related to pricing issues and notices of dispute were addressed to three different winegrape purchasers in accordance with the Code dispute resolution procedure.

Requests for the Appointment of Independent Expert

There was one request for the appointment of an independent expert to assist with resolving the dispute, however the matter was withdrawn before the expert was appointed.

Comments

This period has seen less enquiries than the busy periods in 2017-18 and 2018-19. Hopefully, this indicates either less dispute activity or that parties have been able to resolve disputes through direct negotiation without resorting to the Code.

It seems that most enquirers are already aware of the Code and dispute resolution options available to them. It is encouraging that suppliers elect to commence dispute resolution under the Code and can generally resolve their dispute in the early stages of process. The challenge we face is promoting and persuading more purchasers to sign up to the Code so the dispute resolution procedures can be even more effective.

Related Work

The ACCC recommendations extended beyond the Code to the provision of supporting material that will improve transparency in both pricing mechanisms and in how quality assessments for the purpose of affecting price or rejection decisions are conducted.

Australian Grape & Wine has worked closely with the Australian Wine Research Institute (AWRI), Wine Australia and the ACCC to ensure that required response to the recommendations have been actioned.

A major part of the Code Review is to ensure growers are able to access market information independently from winemakers to assess prices. Wine Australia has developed a number of market reports tailored specifically for growers aimed at providing an indication of short to medium term price trends by variety and region. The reports are available on the Wine Australia website and growers are also able to sign up to receive these reports by email.

Australian Grape & Wine is working closely with AWRI who have commenced work on development of Industry Endorsed Standard Procedures for winegrape and wine assessments, the priority being reference methods for sugar, acidity and colour as well as validation of secondary methods for these measurements. Completion of this work is on track to occur prior to finalisation of the new Code. AWRI are also in the process of developing protocols for sampling in vineyards, weighbridge and wineries including protocols for the assessment of material other than grapes (MOG) and pest and disease. Once complete, these will be referenced in the Code.

Further work that will occur over the next 12 months includes:

- Industry guidance reflecting current best practice for winegrape and wine assessments;
- Delivery of workshops across Australia aimed at promoting uptake of the Code and use of best practice; and
- Tools and training for third party experts in Australia to assess the validity of testing and sampling;

Acknowledgements

The Code Management Committee members would like to acknowledge the support and cooperation throughout the year of:

- The Accord Group
- Australian Grape and Wine Incorporated
- Finlaysons Lawyers
- ACCC
- AWRI
- Wine Australia

Financial Report

The financial report for 2019 -20 is provided below:

TABLE 1: FINANCIAL REPORT FOR CODE OF CONDUCT FOR YEAR END 30 JUNE 2020

Accord Group Fee + Code Website hosting fee	\$4,500.00
Domain Hosting Fee	\$21.77
Meeting Costs	\$2,075.60
Travel for industry consultation	\$747.38
Legal Fees	\$9,774.00
Total	<u>\$17,118.75</u>