AUSTRALIAN Grape & Wine

ACCC SUPERMARKETS INQUIRY
Issues Paper

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Background

About Australian Grape & Wine

Australian Grape and Wine Incorporated (Australian Grape & Wine) is Australia's national association of winegrape and wine producers, recognised as a representative organisation for winegrape and wine producers under the *Wine Australia Act 2013* and incorporated under the *SA Associations Incorporation Act 1985*. With offices in both Adelaide and Canberra, our role is to help forge a political, social and regulatory environment - in Australia and overseas - that enables profitable and sustainable Australian grape and wine businesses. To do this, our activities focus upon the objective of providing leadership, strategy, advocacy, and practical support. We represent small, medium and large winemakers and winegrape growers, with policy decisions taken by the Australian Grape & Wine Board requiring 80% support, ensuring no single category can dominate the decision-making process and guaranteeing policy is only determined if it provides significant industry benefit.

Winegrapes are grown in every state of Australia. There are over two thousand producers and approximately six thousand grape growers, a vast majority based in regional Australia; for some their businesses are also their family homes. The sector has traditionally been a leader amongst agricultural industries showcasing the regional and economy wide benefits of promoting locally grown and value-added production. Its businesses support employment of over 160,000 people in winegrape growing and production, regional exports and food and wine tourism, making a significant contribution to Australia's rural and regional economies and driving economic growth. Our strong connection to and reliance on the land makes us unique from other liquor industries.

Although there are several large players, most wine and winegrape producers fall under $10m turnover. Downstream of the supply chain, in the liquor retail industry the level of concentration is much higher.

Our Interest in this Inquiry

Ensuring fair and equitable pricing throughout the supply chain is essential for the ongoing prosperity of Australian grape and wine businesses. High concentration level in the wine retail sector gives rise to market power imbalances as producers undertake commercial negotiations with substantially larger businesses. Consolidation of liquor retail continues to increase and as it does, it continues to cause concern amongst wine producers. Any associated challenges impacting wine producers flow directly to growers.

Although we note that wine does not meet the definition of 'groceries' within the meaning of the Food and Grocery Code of Conduct that is referenced in the Ministerial Direction, the level of retail concentration and the competitive dynamics in the retail supply of wine are of similar concern. The recently announced Senate Select Committee on Supermarket Prices which was appointed to inquire into price setting practices and market power of major supermarkets has included wine within their scope.

Australian Grape & Wine welcomes the opportunity to share the experiences of the wine sector relating to competitiveness in Australian liquor retail markets.

Liquor Retailing

2.1 Competition Dynamics

2.1.1 Market Structure

Consolidation of liquor retail over the last two decades has changed and continues to change the operating environment for many wine producers. The four largest retailers (Endeavour Group, Coles, Metcash and Aldi) hold a market share of almost seventy per cent, with Endeavour (which includes Dan Murphy's and BWS) and Coles (which includes Liquorland, First Choice and Vintage Cellars) having fifty five per cent market share. [1] Successive acquisitions of smaller independent liquor retailers by larger chains commenced in the late nineties and led to a rapid growth in market share in a short space of time. Today's high concentration level in the liquor retail sector has been partly facilitated by the ease at which liquor retailers can acquire more retail establishments under the *Competition and Consumer Act 2010*.

Endeavour Drinks Group's retail liquor division comprises 264 Dan Murphy's stores, 1437 Beer Wines Spirits stores, as well as several others such as Jimmy Brings, Shorty's Liquor and 353 hotels. Endeavour also owns online wine businesses Langtons and Cellarmasters. Chief Executive, Steve Donohue, claimed in June 2023 that the group had considered 100 pub deals in the past twenty four months and purchased sixteen. [2] There have been several recent acquisition proposals in South Australia approved by the ACCC including The Beach Hotel, the Crown Inn, the Tower Hotel and the Whitehorse Inn all with co-located Cellarbrations bottle shops. The acquisition of the Beachfront Hotel in Rapid Creek, just north of Darwin, the Rye Hotel in Victoria and independent drive-through liquor store 'Thirsty Camel' were also recently investigated by the ACCC and not opposed. A key focus of the investigations has been on whether there will be an impact on competition between major retailers and other independent retailers in the local area. As these individual acquisitions don't tend to lead to lessening of competition on their own, there has been an accumulation of market power over time through a strategy of small serial acquisitions. Similarly, the impact of one acquisition on wine wholesale markets is insufficient to cause concern when assessed in isolation of the others. Thus, we welcome the sentiments in an article published in the Australian Financial Review that the ACCC intend to make it harder for big companies in concentrated and consumer-facing sectors such as retail and liquor to merge. [3]

A further challenge is vertical integration of major retailers into the grape and wine supply chain including ownership of vineyards as well as wine production, storage, and bottling facilities. Retailers can either grow and make wine themselves, purchase wine in bulk and then bottle it under their own brand or enter into private label arrangements with a supplier. The latest industry estimates are that supermarket own brands could account for as much as thirty five percent of the domestic wine market by volume, versus about five percent in New Zealand. [4] The Real Review's 'Who Makes My Wine', lists 240 brands owned by Endeavour and close to 100 by Coles. According to the recent Four Corners episode 21st February 2024, Coles claimed that it had 260 private label wines. While wineries across Australia are suffering hardship and domestic sales of Australian wine are on the decline, Endeavour posted a 2.5 per cent rise in sales across its liquor businesses to $11.9 billion for fiscal 2023. [5]

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[1] IBISWorld, Industry Report G4123 Liquor Retailing in Australia, IBISWorld, 2023, p. 10.
[2] https://www.afr.com/companies/retail/two-years-after-split-from-woolworths-endeavour-eyes-more-wine-buys-20230621-p5dif2
[3] Australian Financial Review (2nd February 2024) https://www.afr.com/policy/economy/the-accc-wants-to-block-these-mergers-20240202-p5f1y8
[4] Pers comms. Wine Australia (2024), based on various market research
[5] https://www.afr.com/companies/retail/food-and-drink-trump-gambling-growth-at-endeavour-20230814-p5dwfv

2.1.2 Price and non-price competition

Low pricing and margin erosion are common complaints throughout the supply chain. The margin squeeze situation is exacerbated when accompanied by inconsistent administrative reporting requirements and the imposition of specific production or logistical processes. Unforeseen requirements for wine producers to contribute to retailer trade spend have also been reported.

There have been reports of other practices that introduce uncertainty for wine producers such as de-listing products at short notice Both grape growers and wine producers suffer significant lead times and decisions regarding production often occur many months or even years before the product is sold. The ACCC Winegrape Market Study 2019 acknowledged the significant risk that winemakers bear in their dealings with buyers due to this lack of certainty regarding volumes and pricing, particularly where they suffer the risk of products being de-listed at short notice. There is little to prevent retailers substituting or giving preference to an own brand, private label, or imported product in preference to local brands.

Wine suppliers competing with-own branded products for shelf space are also prone to information asymmetries as they lack visibility over the domestic market. They have little insight when an alternative wine style or variety is taking off in the market nor about how their products are performing compared to others in the relevant category. This leads to bargaining power imbalances during pricing negotiations and when considering whether they wish to fund promotions, and it means they tend to bear a disproportionate share of demand side risk.

Retailers have significant visibility over consumer demand in the domestic market. They can interrogate search data and in-store sales data to act quickly on market signals to identify what inventory they should be holding and to be early movers when an alternative wine style or variety is taking off. Their respective customer loyalty programs provide them data relating to demographics and geodemographics of their consumers, purchasing patterns and other market insights that allow them to build stronger relationships with their customers. This type and extent of data is not available to their supplier competitors. This means that retailers' privately owned brands have a competitive advantage over other wine supplier brands who they compete with for shelf space. Retailers enjoy this advantage in parallel to an oversupplied market allowing them to respond quickly to market signals by purchasing bulk wine for their own branded products.

For non-proprietary brands, there is an expectation of year-round availability of each brand. Supply shortages have been associated with product de-listings. The retailers' own branded products are not subject to this risk. Retailers have data driven insights that provide for operational decision-making in real-time reducing costs associated with over-runs or product shortfalls. Meanwhile, evidence from wine producers suggests that the demand forecasting they receive from the retailers is often inaccurate. This can leave them with an excess of wine, which is not always suitable for an alternative channel.

2.3 Consumer Experiences

There are concerns that the large retailers use their market power to gain competitive advantage for their own brands. Retailers can do this by manipulating store layout and product placement and various other forms of choice editing. This accords strong potential to lead consumers towards choices they might not otherwise make. In doing so it denies equally efficient competitors of access to a sufficient customer base, meaning they battle to remain competitive. The negative impact on producers and consumers can snowball as private brands increase market share, competition dwindles and impacts on consumers escalate.

Wine Supply Chains

There are over one hundred and sixty different winegrape varieties grown in Australia in sixty-five Geographical Indications (regions) and within each combination different vineyards grow grapes of varying grades. Some degree of pricing ambiguity is broadly accepted, particularly in the ultra-premium and hard to get wine segment. The ability for producers to achieve significant profits from producing superior quality promotes innovation and generates healthy competition. However, towards the more commoditised end of the market pricing becomes more competitive and in turn more susceptible to competition issues.

Grapes can either be sold or processed into wine by the owner of those grapes or at a contract processing facility. Over the last six years, the percentage of grapes purchased has been about 66 per cent, with the remainder being made into wine by the owner of the grapes. This percentage fell slightly in 2023 to 63 per cent. [6] Based on levy payer data, there are 738 processing establishments and 2662 registered wine producers.

Wine can either be sold in bulk or as packaged product with the vast majority being packaged, predominantly in glass bottles. The average value per litre across all packaged and bulk domestic sales and export sales was $7.02 and $3.06 respectively in 2022–23. Packaging and logistics contribute a significant component to the total costs embedded in a typical bottle of wine. According to the latest Ciatti report, when sold in bulk, prices for the most common Australian varieties typically range from $0.35 to $1.50 per litre, although higher prices can be achieved for niche wine styles or varieties. [7] A substantial contraction of the wine export market followed the loss of the China market exacerbating the reliance of wine producers on the domestic market heightening their demand side risk.

The Australian domestic wine market is the largest single market for Australian wine, accounting for more than 40 per cent of all Australian wine purchased by volume. [8] On the domestic market, 61% of wine is sold by retailers and a further 10% through eCommerce which includes the major retailers' online orders for delivery or "click and collect". In terms of off-trade wine retailers' sales, Endeavour Group and Coles dominate the retail market, with a combined share of around 80 per cent of its value. Due to their ability to purchase large volumes, large liquor retailers often have lower than recommended retail prices. Although this might be good for consumers, it can make it difficult for smaller retailers and in some cases cellar doors and distributors to compete.

We estimate that approximately 35% of wine by value is sold via a distributor who on-sells to both on-premise and retail outlets, 10% is sold by the winery directly to consumer through cellar door sales or wine club and the remaining 55% being is sold directly to a retailer (ie. bypassing the distributor). [9]

A prevailing challenge for many agricultural businesses and especially those in the wine sector is that business must make production and sales decisions well in advance of information about price and market conditions. Capital assets are often owned and operated for a length of time before becoming profitable for the investor. For this reason, where a processor would need to make a significant capital investment to be able to manufacture a product, they may benefit from a long-term contract with a retailer, to facilitate a return on the investment. The same may apply in some processor-producer relationships where the producer needs to make similarly significant capital investments well in advance of gaining a return. The ACCC Perishable Agricultural Good Inquiry provides an excellent summary of agricultural supply chains, information failures, and the challenges for non-vertically integrated businesses. [10]

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[6] Wine Australia National Vintage Reports https://www.wineaustralia.com/market-insights/national-vintage-report
[7] Ciatti (2024) at Global Market Report March 2024
[8] Pers.comms Wine Australia (April, 2024).
[9] Australia Market Insights Report (2024)
[10] ACCC (2020) Perishable Agricultural Goods Inquiry Report p10 -12

Certain issues such as information asymmetries, lack of transparency for both consumers and producers and the inability of wine producers to compete on a level playing field could be addressed through an industry Code. Australian Grape & Wine recently submitted to the Independent Review of the Food & Grocery Code 2023-24 that there is strong justification for inclusion of wine under that Code. Winegrape growers are offered protection on matters unique to the wine sector that are not covered under Australian Consumer Law through the voluntary Code of Conduct for Australian Winegrape Purchases. We estimate that sixty to seventy per cent of Australian winegrapes processed are done so by Code signatories, and that this percentage is closer to 75 percent if only wineries above ten thousand tonne capacity are considered. Greater protection for wine producers could have positive flow through effects to growers.

3.1 Competition in the supply chain

Market power imbalances are almost certainly a significant contributing factor to the downward pressure on both wine and winegrapes.

With wine retail businesses now owning hundreds of different brands from both Australia and overseas, for many winemakers the retailers are now both their major customer and their major competitor. Australian Grape & Wine continues to field concerns from wine producers relating to the impacts of liquor retail consolidation and vertical integration on their businesses. The Endeavour Group’s Pinnacle Drinks business owns house brands in wine, spirits and beer, and has winemaking, storage, packaging and bottling facilities including sizeable Barossa producer Dorrien Estate and contract bottling services and packaging company, Vinpac. Paragon Wine Estates which is also part of Endeavour Group owns premium wineries such as Riddoch Wines, Chapel Hill, Krondorf and Joseph Chromy Wines. Recent winery acquisitions include the approximately $20 million assets of Cape Mentelle Winery from high profile Louis Vuitton Moet Hennessy subsidiary. In 2022 they purchased assets and brands of McLaren Vale producer Shingleback Wine and most recently Yarra Valley's Oakridge Wines' which also included the vineyards, winery, restaurant and cellar door. In an article published in the Financial Review in June 2023, it was claimed that Endeavour were continuing to look for opportunities to expand the portfolio, taking advantage of the number of distressed wine assets on the market. [11]

With today’s economic climate providing the wine retail oligopoly the ability to buy bulk wine on demand and at distressed prices for their own branded product, more and more winemakers report of an ongoing struggle to protect the brand values they have built over decades and the downward pressure on grape prices continues.

In correspondence received late last year, one producer estimated that the channel opportunity for branded suppliers has become fifty percent smaller since the rise of vertically integrated retailers.

[11] https://www.afr.com/companies/retail/two-years-after-split-from-woolworths-endeavour-eyes-more-wine-buys-20230621-p5dif2

3.2 Trading Arrangements

3.2.1 Trading Terms and Practices

In 2016, a Senate Inquiry into anti-competitive conduct in the retail wine industry raised many issues in wine retail markets. [12] There is little evidence that those issues have since been resolved.

Supply chain logistics contribute a significant component to the total costs embedded in a typical bottle of wine. Once again, retailers' own branded products have an advantage over competing wine producers for a range of reasons. Retailers have the power to impose logistical parameters and processes that must be abided by, or are difficult to avoid, creating a greater burden on non-proprietary suppliers. Furthermore, unlike other wine producers, a vertically integrated retailer can transfer, or create an internal sale, between their own branded wine and their retail store at a cost exclusive of marketing, distribution and storage. The implication of such an inconsistency would be inconsequential if it were not for the fact that it is permissible that they then calculate wine equalisation tax on that substantially deflated notional wholesale value.

There is potential that inclusion of wine in a strengthened Food and Grocery Code would assist in addressing imbalances in bargaining power between major supermarkets and their suppliers. However there remains the risk that, if left unchecked, additional regulation could prompt vertical integration and/or encouraged buyers to alter their trading practices to avoid transacting in parts of the supply chain that are covered under the Code, and further increases in buyers' own branded products. The ACCC submission to the Competition Review also called for various measures that we supported including to enhance market transparency, for government-led reforms relating to standardising green claims, and the need for consumers and small business to be well-informed. They also raised the potential for additional policy measures to increase price transparency and quality regulation frameworks in certain circumstances. [13] We also support the ACCC in their statement that reform of laws governing mergers and acquisitions is urgently needed to bring Australia in line with other developed economies.

3.2.2 Impact of Buyer Power

Imbalances in market power are likely to have an impact across the sector, albeit to varying degrees. For Australia's approximately 1500 wineries producing fewer than 50,000 cases, direct to consumer accounts for at least half their annual sales revenue. [14] These small producers often do not supply large retailers so may be exempt from any immediate challenges however these producers will face a glass ceiling in their growth once direct to consumer sales or to small independent bottle shops and restaurants reach a saturation point. Many will find they lack the ability to scale up sufficiently, or the systems required to meet the rigorous demands of major retail chains. Larger wine producers, including major international wine importers, may be less affected by market power than SMEs although the evidence is not clear.

De-listing products at short notice or unforeseen requirements for wine producers to contribute to retailer trade spends, inconsistent reporting requirements and the imposition of specific production or logistical processes have all been reported as evidence that buyer power is impacting trade. Issues relating to fear of retribution are also apparent across the supply chain meaning that businesses refrain from reporting their concerns or speaking out publicly. The problem occurs in parallel to a lack of faith that there will be anything to gain from raising a dispute.

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[12] ACCC (2016) at Australian grape and wine industry – Parliament of Australia (aph.gov.au)
[13] https://www.accc.gov.au/system/files/CompetitionReview-ACCCsubmission13February2024.pdf
[14] Wine Australia (2024) Australian wine market insights report January release

3.3 Margins and Price Transparency

Consumers are unable to easily identify buyer own branded wines as these products often have a look and feel reminiscent of those made by boutique wine businesses. As outlined, buyer own brands have a potentially unfair competitive advantage over other suppliers' brands and continue to grow their significant share of the domestic wine market.

Traditionally when own-branded products are sold in supermarkets, it is understood by the consumer that the supermarket has the ability to cut or eliminate costs in distribution, marketing and advertising and so associated savings will be reflected in the price. There are countless studies that show that consumers will pay a price premium, not just for quality but for brands they trust. Furthermore, products carrying supplier brands (as opposed to private and buyer owned brands) are generally also afforded a premium due to their association with quality and prestige. As the current environment lacks transparency, it is not providing for this price premium opportunity to be realised. Australian Grape & Wine would be interested to engage in further consultations about how this could be resolved.

Despite increasing input costs, there has been little evidence of price increases in wine. Since late 2020, inflation across all goods has been significant in Australia, reaching 7.8 per cent in March 2023 before starting to fall. The cost of grapes and wine have not reflected this trend. The average cost of the same basket of wines in September 2023 is less than 1 per cent higher than it was in March 2019. [15] Although the recent decision from the Chinese Ministry of Commerce (MOFCOM) to remove import duties on Australian wine products from Friday 29 March 2024 offers some hope, there is limited potential for Australian wine to regain its former sales volumes in this market. Furthermore, hard bargaining due to power imbalances will make it difficult for producers to increase their domestic prices if oversupply situation improves.

3.4 Other Factors

Today's low prices for both wine and winegrapes are largely a function of both global oversupply and a downturn in global wine consumption. According to IWSR data, global consumption declined by 3 per cent in 2022. The domestic market has also been shrinking at 3 per cent per year between 2018 and 2022. While this trend is set to continue, the share of imported wine in Australia is forecast to increase from 20 per cent to 23 per cent by 2027. [16] To optimise production efficiencies and spread costs, wineries around the world ideally operate at full capacity so oversupply is a function of both excess grapes and excess production capacity. Distressed production hits the low value tail of the market is heavily commoditised where Australian wines are readily substitutable with those from lower cost trading nations, some of which are also subsidised. Unprofitable markets for commercial wines have meant that some growers report that they are not recovering production costs. The sector is highly exposed to competition issues.

Many businesses throughout the supply chain are under unprecedented levels of economic stress. The wine sector is likely to continue to suffer from the dual issues of global oversupply and the aftermath of losing four years of sales to the substantial China export market for quite some time. The approximately six thousand small business operating in the market for winegrapes have tended to be hit first and hit the hardest.

The low profits are adding fuel to any concerns that risk is be ing unfairly allocated upstream.

[15] Wine Australia (2024) Australian wine market insights report January release
[16] IWSR (2023)

Contact

We would be delighted to discuss this submission further if required.

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