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Submissions to the sunseting review of the Competition and Consumer (Industry Code—Sugar) Regulations 2017 (the Code).

AgForce Cane Limited (AgForce)

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Prepared by: Sam Forzisi *on behalf of the AgForce Cane Board Limited.*

Prepared for: *Department of Agriculture Fisheries and Forestry*

AGFORCE THE LEADING VOICE FOR QUEENSLAND PRODUCERS

AgForce is a peak organisation representing Queensland's cane, cattle, grain and sheep, wool & goat producers. The cane, beef, broadacre cropping and sheep, wool & goat industries in Queensland generated around \$11.2 billion in on-farm value of production in 2022-23. AgForce is the leading voice for Queensland producers and strives to ensure the long-term growth, viability, competitiveness and profitability of these industries. Over 6,000 farmers, individuals and businesses provide support to AgForce through membership. Our members own and manage around 55 million hectares, or a third of the state's land area. Queensland producers provide high-quality food and fibre to Australian and overseas consumers, contribute significantly to the social fabric of regional, rural and remote communities, as well as deliver stewardship of the state's natural environment.

Submission

AgForce Cane Limited (AgForce), the President and Board of Directors, together with our producer-members representatives welcomes the opportunity to provide feedback on the review of the Competition and Consumer (Industry Code—Sugar) Regulations 2017 (the Code) and appreciates the opportunity to contribute to the Department of Agriculture, Fisheries and Forestry's consultation process and continued engagement.

Yours Faithfully,

Chris Punzell
AgForce Cane President



Executive Summary

AgForce supports the remaking of the Code with targeted amendments.

The Code continues to provide certainty for the sugarcane industry and is an important framework supporting Good Faith negotiations, Grower Economic Interest (GEI) arrangements, Cane Supply Agreements (CSAs), On-Supply Agreements (OSAs), and pre-contractual arbitration mechanisms that assist parties to resolve disputes before agreements are executed.

AgForce considers the Code has delivered a net benefit to the Australian sugar industry, as identified in the 2021 review, and should NOT be allowed to sunset.

While the Code remains fit for purpose in relation to traditional sugar supply and marketing arrangements, it was developed at a time when the Australian sugar industry was principally focused on raw sugar production and export markets.

However, the sugarcane industry seeks diversification, and globally the future of sugarcane sector is increasingly trending toward low carbon liquid fuels, renewable fuels, ethanol, sustainable aviation fuel (SAF), renewable diesel, bioenergy, biomass (bagasse) and other sugarcane-derived processing opportunities.

The Code does not currently contemplate these emerging supply pathways or associated contractual arrangements.

AgForce therefore supports targeted amendments to ensure that the same principles of pre-contractual negotiation and arbitration currently available for traditional sugar markets are available where sugarcane is supplied into alternative manufacturing and processing pathways and markets.



AgForce Recommendations for the Code:

1. Remake the Competition and Consumer (Industry Code—Sugar) Regulations 2017 with amendments.
2. Retain all existing Code provisions, including Good Faith obligations, GEI provisions, CSA arbitration provisions, OSA arbitration provisions and associated pre-contractual dispute resolution mechanisms.
3. Expand the purpose of the Code to recognise sugarcane supplied into markets other than the traditional raw sugar market.
4. Expand the scope of the Code to provide equivalent pre-contractual negotiation and arbitration mechanisms for sugarcane supply arrangements where sugarcane is supplied for manufacture or processing into products destined for markets other than the traditional raw sugar market.
5. Expand the scope of the Code to provide equivalent pre-contractual negotiation and arbitration mechanisms for marketing and on-supply and offtake arrangements relating to sugarcane-derived products and alternative end markets, including access to information necessary to support informed negotiations.
6. Include mechanisms that provide parties with sufficient information to negotiate supply, marketing, on-supply or offtake arrangements relating to sugarcane-derived products and emerging market opportunities.
7. Review and modernise definitions within the Code and consider inclusion of additional entities including processors, refineries, manufacturers, buyer agents and offtake partners.
8. Retain the existing arbitration framework and not introduce mandatory mediation as a prerequisite to arbitration.
9. Improve access, pathways and reduce costs for recognised producer representative organisations to obtain collective bargaining authorisations and exemptions.
10. Rename the Competition and Consumer (Industry Code—Sugar) Regulations 2017 as the Competition and Consumer (Industry Code—Sugarcane) Regulations.



A. Is the Code Still Necessary?

AgForce members believe the Code remains necessary and continues to perform an important function within the Australian sugarcane industry.

The sugarcane industry retains several characteristics that justify the existence of a mandatory industry code, including regional concentration of milling infrastructure, limited alternative processing options, high capital investment requirements and the perishable nature of harvested sugarcane.

These characteristics create circumstances where bargaining power may become uneven and where an independent framework remains necessary to support fair negotiations.

The 2021 Post-Implementation Review (PIR) concluded that the Code had delivered a net benefit to the Australian sugar industry and that the benefits of the Code outweighed its costs.

AgForce considers that allowing the Code to sunset would remove an important dispute resolution framework and increase the risk of future unresolved commercial deadlocks that historically affected the sugar industry. For these reasons,

AgForce recommends remaking of the Code and does NOT support allowing the Code to sunset.



B. What Effect Has the Code Had?

AgForce has consulted with members, stakeholders and the original architects of the code, and concludes the Code has largely achieved its intended purpose and has worked well.

The Code focuses on process rather than commercial outcomes. It does not seek to determine prices, revenues or commercial returns. Instead, it provides a framework that supports fair negotiation and agreement making. The fundamental purpose of the code is to support:

- Good Faith negotiations,
- Grower marketing choice, protecting Grower Economic Interest (GEI sugar) arrangements,
- provide access to pre-contractual dispute resolution mechanisms,
- improved pathway surrounding Cane Supply Agreements (CSA) and On-Supply Agreements (OSA),
- address bargaining power imbalances, and
- encouraged commercial resolution before disputes escalate.

AgForce members and stakeholders reiterate the Code has provided certainty and confidence for producers and industry participants by establishing defined processes for negotiating agreements and resolving disputes.

The fact industry has seen relatively few disputes that have progressed to arbitration demonstrates the framework is functioning as intended and continues to encourage commercial resolution between parties. The removal of the Code's framework weakens the industry's dispute-resolution capacity and increases the risk of unresolved commercial deadlocks that historically affected the sugarcane industry.

The effectiveness of the Code is therefore demonstrated not by frequent arbitration, but by the agreements reached without requiring formal intervention.

AgForce considers the Code's intended objectives as relevant today, as when established in 2017. These views were supported by previous code reviews, the 2018 Independent Review and the 2021 Post-Implementation Review. Both concluded that the Code continued to provide important benefits to the industry; further the 2021 review concluded that the Code delivered a net benefit to the Australian sugar industry.

AgForce recommends the Code retain all existing provisions, and be allowed to operate into the future.



C. Could the Code Be Improved?

Future Sugarcane Markets

The Code assumes sugarcane is supplied for manufacture into raw sugar destined for domestic or export sugar markets only, and no other markets will exist.

The sugarcane industry and governments are increasingly pursuing diversification opportunities involving, low carbon liquid fuels, ethanol, sustainable aviation fuel (SAF), renewable diesel, bioenergy, biomass (bagasse) processing and other sugarcane-derived products¹.

The Queensland Sugarcane Bioenergy Industry Review² and emerging Commonwealth and State Government renewable fuel and feedstock policies demonstrate that future growth opportunities for the industry may increasingly arise from sugarcane-derived manufacturing pathways beyond traditional sugar production³.

These future supply chains may involve products, entities and relationships not contemplated by the current Code, including processors, refineries, manufacturers, buyer agents, offtake partners, and other market participants involved in the manufacture, process, marketing or sale of sugarcane-derived products.

AgForce recommends the code be remade with targeted amendments necessary to ensure the Code remains relevant to the future needs of the sugarcane industry.

Expansion of Code's Purpose:

AgForce is not seeking to regulate commercial outcomes, ownership rights, revenue-sharing arrangements or product pricing. Rather, AgForce's position is that where sugarcane is supplied for manufacture into products destined for markets other than the traditional raw sugar market, producers should have access to equivalent pre-contractual negotiation and arbitration mechanisms to those currently available under the Code.

The future diversification of the sugarcane industry should not result in the loss of access to fair negotiation frameworks simply because the end use of sugarcane changes.

AgForce recommends the purpose of the Code expand to recognise sugarcane supplied into markets other than the traditional raw sugar market.

¹ Australian Government (2026). Clean Energy Finance Corporation. [Refined Ambitions – how Australia can become a low carbon liquid fuel powerhouse](#)

² Queensland Government (2026). Primary Industries and Resources Committee: *Inquiry into Sugarcane Bioenergy Opportunities in Queensland Report No. 16, 58th parliament*

³ Australian Government (2026). Department of Agriculture, Fisheries and Forestry: [National Bioenergy Feedstock Strategy](#)



Supply Agreements

The current Code provides mechanisms relating to Cane Supply Agreements and associated disputes.

AgForce recommends expanding the scope of the Code to provide equivalent pre-contractual negotiation and arbitration mechanisms for sugarcane supply arrangements where sugarcane is supplied for manufacture into products destined for markets other than the traditional raw sugar market.

This would ensure producers retain access to pre-contractual negotiation and arbitration mechanisms where sugarcane industry and new markets evolve to supply for purposes other than the traditional raw sugar market.

Marketing, On-Supply and Offtake Arrangements

The current Code provides mechanisms relating to On-Supply Agreements and associated disputes.

AgForce recommends expanding the scope of the Code to provide equivalent pre-contractual negotiation and arbitration mechanisms for marketing, on-supply and offtake arrangements relating to sugarcane derived products and alternative end markets.

This recommendation recognises that future sugarcane industries may involve different contractual relationships and market participants other than those contemplated under the current framework.

Informed Negotiation

AgForce recommends including mechanisms that provide parties with sufficient information to negotiate supply, marketing, on-supply or offtake arrangements relating to sugarcane-derived products and emerging market opportunities.

The objective is not to regulate commercial outcomes, pricing, ownership rights or revenue-sharing arrangements. Rather, it is to support informed negotiations and effective dispute resolution where sugarcane is supplied into alternative manufacturing pathways and end markets.

Definitions

AgForce recommends a review of existing definitions within the Code to ensure they remain appropriate for future industry structures.

Proposed definitions for review: *"Mill", "Marketer", "Party", "Cane Supply Agreement" and "On-Supply Agreement", and consideration of additional definitions including "Processor", "Refinery", "Manufacturer/ing", "Buyer Agent" and "Offtake Partner" to ensure the Code remains fit for purpose as industry entities evolve.*



Arbitration Framework

The current arbitration framework has demonstrated its value and continues to provide an effective mechanism for resolving disputes where commercial negotiations fail.

AgForce recommends retaining prerequisite to arbitration and does not support introducing mandatory mediation. Additional procedural steps may increase costs, delay outcomes and reduce the effectiveness of the existing framework.

Collective Bargaining

AgForce notes that collective bargaining authorisations continue to be recognised under competition law as an appropriate mechanism to address bargaining power imbalances and reduce transaction costs in circumstances where participants are negotiating with counterparties.⁴

The equivalent collective bargaining accessibility, authorisations and exemptions should be available to recognised producer organisations acting on behalf of members, including reduced administrative barriers, costs and duplication for representative bodies acting on behalf of producers

AgForce recommends that Government improve access, pathways and reduced costs for recognised producer representative organisations to obtain collective bargaining authorisations and exemptions

⁴ Commonwealth of Australia: Australian Competition & Consumer Commission (ACCC) (2024). [Application for authorisation to engage in collective bargaining conduct](#)



D. What Has Been AgForce's Experience of the Code?

Feedback received from producers and stakeholders, indicates continued support for the retention of the Code.

Members generally regard the Code as an important safeguard that promotes fair negotiation and provides confidence that disputes can be independently resolved where agreement cannot be reached.

AgForce's experience is that the value of the Code extends beyond those occasions where arbitration is formally utilised. The existence of the framework encourages constructive negotiations and supports commercial agreement making across the industry.

Members have highlighted the importance of ensuring the Code remains relevant to future industry developments, particularly as industry and governments pursue opportunities in renewable fuels, sustainable aviation fuel, ethanol and other sugarcane-derived products.

AgForce believes the Code should remain practical, principles-based and focused on negotiation and dispute resolution, while evolving to accommodate future sugarcane supply arrangements and emerging market opportunities.

AgForce recommends the code be renamed from Competition and Consumer (Industry Code—Sugar) Regulations 2017; to the Competition and Consumer (Industry Code—Sugarcane) Regulations.

Post-Contract Dispute Resolution

AgForce notes that while existing cane supply agreements contain dispute resolution pathways, including mediation and arbitration; feedback experiences from producers, other representative organisations and stakeholders suggest these mechanisms may not always provide a practical or cost-effective means of resolving technical, operational, testing, audit, measurement, verification or service-related disputes.

AgForce believes there may be merit in examining whether more accessible dispute resolution options, such as independent expert determination or an industry-based dispute resolution mechanism, could assist in resolving these matters efficiently while preserving existing arbitration rights, which may result in improved material outcomes for all parties.



Conclusion

AgForce considers the Code, remains necessary, has worked and provides a practical and effective framework for supporting good faith negotiations, addressing bargaining power imbalances and resolving disputes before they escalate.

The 2021 Post-Implementation Review confirmed the Code has delivered a net benefit to the Australian sugar industry. AgForce therefore supports the remaking of the Code with targeted amendments rather than allowing it to sunset.

As the sugarcane industry continues to evolve and pursue new opportunities in renewable fuels, bioenergy and other sugarcane-derived products, the Code presents an opportunity to build on its existing success by ensuring its principles remain relevant to future supply chains and market arrangements.

AgForce looks forward to continuing to work collaboratively with industry and government to ensure the Code remains practical, effective and fit for purpose for the next generation of Australian sugarcane producers.

Should you have any questions or require further information, please contact Sam Forzisi, AgForce Cane Policy Director, by email: forzisi@agforceqld.org.au or on mobile: 0499 960 006.

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