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To Whom It May Concern:

Re: Horticultural Award and Piece work rates

I am writing on behalf of our own family horticultural business and I believe I also write on behalf of most horticultural employers in Australia, who, like us, are trying to meet all our responsibilities under the current Horticultural Award.

I write in support of the current regulations around piecework.

I am genuinely concerned about the current application to make changes. The piecework arrangements allowed under the Horticulture Award provide incentive and reward for effort compared to a flat hourly rate which is unrelated to actual productivity. There are strict guidelines around how piecework agreements can be structured, with the result that half the employees working on a particular task will be earning more than if there were paid hourly. The slower workers, whilst still having a job, will earn less. However, if these slower workers had to be paid hourly, it would mean they would not have a job. This is because horticultural producers are operating in a competitive market with very tight margins. They are paid per kg or per package of produce, not per hour of time that went into providing the produce to market.

If a floor price is included in a piecework arrangement, it removes incentive and reward for effort which are the two cornerstones of piecework. It will also exclude a whole demographic of slower

workers. These slower workers do not have to stay under current arrangements if they find they are not suited to the work. Piecework allows us to attract and retain workers. We cannot have an incentive for good productivity without a disincentive for poor productivity. It just does not work to have a hybrid arrangement.

The Award as it currently stands is clear. The employer must be able to show at any time that an average competent worker is earning at least 15% above the hourly award rate when they are being paid on piecework. Perhaps there needs to be more emphasis on prosecuting non-compliant employers, rather than a knee-jerk reaction to the perhaps 5% who are not doing the right thing and, in the process, penalising the 95% of employers in our industry who are seeking to abide by the Award.

May I give you some historical perspective? My grandfather first bought our original farm in 1930 and for many years, up until the mid 1990's, we only grew apples and raised beef cattle. In 1995 we started planting cherries which proved to be a particularly good move in terms of our business remaining viable.

I grew up on the orchard and picked apples from an early age. The industry mainly employed locals in those days and people would come on weekends and during their holidays to help harvest the apples. We as growers, also had professional pickers who would travel around Australia helping to harvest the fruit. For a fruit grower, harvesting the crop has always been the most expensive part of the growing cycle on a \$/ha basis.

Harvest work was always done on piecework. This was always agreed to be the fairest way of payment for work performed, both for employer and employee. It was understood that the farmer was generally a price taker. Prices for produce were normally decided by factors outside the farmer's control. The principle of supply and demand was always in operation. The farmer needed to make a profit because otherwise there would be no jobs in rural communities. Harvest operations are the most expensive part of the farming calendar, and the farmer has to operate within a budget. He also had to pay a competitive rate in order to attract and retain pickers.

From an employee perspective, reward for effort was a definite requirement to attract and retain workers in a reasonably physical and repetitive job. It is a basic requirement that people who can

pick more bins/kgs/buckets etc will be paid more. The farmer can not attract workers if this is not the case. Piecework was always open ended. The more people picked, the more they earned. There was never any subsidising of slow workers, only reward for productivity and improvement.

Slower workers understood that they were slow for maybe 3 possible reasons:

1. They had a bad attitude, were unteachable, really did not want to be there and consequently, they knew they did not deserve to earn as much as faster workers.
2. They were trying but genuinely realised they were not cut out for the work. Their skills and abilities were in other areas. They could choose to stay or leave, but they did not expect the farmer to subsidise their lack of productivity because they understood this wasn't possible if the farmer was to continue in business.
3. The slower pickers understood they were slower and not earning as much money as more experienced pickers, because they were in training. They were learning new skills and they were prepared to keep trying until they became proficient. They did not expect the farmer to pay for their training period. This is comparable to trade apprentices being paid a lower wage while they are learning or jobs that require university training - the training period is paid for by the person in training. The rewards come later. It was never expected that the farmer should have to pay or subsidise a picker's training period because it was the farmer cannot pass on additional costs to consumers and where else would the money come from?

This is how it has worked for many years and it has been self-regulating in many ways. Farmers had to pay a reasonable piecework rate to be competitive and attract and retain workers. They had to manage their own orchards regarding pruning, pest, and disease management so that the crop could be picked efficiently and economically and was attractive to pickers. Farmers could also keep a lid on their costs and had the possibility of making a profit and staying in business and continuing to create full time jobs in regional areas, as well as the short-term casual jobs.

Good workers were rewarded for their efforts. They had incentive to engage in a physical, repetitive job out in the elements. They could earn well above the award hourly wage at any

given time. Slower workers could either leave and try their hand at something else or stay and become experienced and productive. There was an incentive at this end to do one or the other.

Fast forward to 2021. Lucaston Park Orchards now primarily grows raspberries, cherries and apples. We organise all our harvesting on piecework. We set the rates to attract and retain productive workers. Productive workers can always earn well above the award hourly rates. For example, our best pickers have been earning up to \$540 per day picking cherries and up to \$420 per day picking apples. We pay all our workers the same piecework rate. We do not subsidise slower workers as this would remove the financial incentive to improve.

Harvesting is still the most expensive season of the farm calendar. We need to manage harvesting costs to ensure our farm continues to be profitable and be able to support all the families which currently rely on it for their livelihood.

We are currently harvesting apples, for which we pay \$42 per bin. At this rate, we are meeting the requirements of the Horticultural Award 2020 and many of our pickers are earning well in excess of the award requirements. We do not cap their earnings as this would completely remove incentives for productivity. We do not subsidise any slow workers as this again would remove incentive for improvement as well as being grossly unfair to most of the pickers. If we did this, effectively we would be paying more per bin to slower workers and less to productive workers. How could this be fair and reasonable to all involved?

What pickers earn each day is purely and simply a result of their productivity, not a result of employers treating and paying them differently.

As employers we must operate our business in what is now a tight labour market. So, our piecework rates must be competitive with other orchards seeking to attract and retain pickers. Our piecework rates must achieve what the Horticultural Award stipulates i.e., that the average competent worker has to be able to earn 15% above the award hourly rate.

We can do all this and make a profit if we are careful because our harvesting costs are still based on a per kg cost, and we are ultimately paid per kg. At \$42 per bin, productive workers can pick 8-10 bins per 8-hour day. Slow workers, or new workers or workers with a bad attitude may only

be able to pick 3 bins per day. If we were forced to pay these slow workers at the hourly award rate, we would be paying them \$198.40 for 3 bins which in effect is \$66.13 per bin. How can this be fair to pay slower workers more than productive workers? How is this going to help with overall productivity? And where is the extra money going to come from?

We cannot add the extra cost onto what our product sells for. Already we are operating on very slim margins. We would have to stop operating because we can no longer make a profit. If anyone thinks we can take it off the productive workers to give it to non-productive workers, then with all due respect, that person does not understand how hard it is to attract and retain people in harvest work in 2021. And if we penalise productive workers, we will lose our productive workers, our crops will rot on the trees and our full-time staff will no longer have jobs.

If there needs to be a trade-off, to keep the existing arrangements, then the 88-day farm work requirement to extend Working Holiday Visas should be scrapped. When it was first introduced, it appeared to be a good thing to help farmers. However now it is apparent that it can put backpackers in a vulnerable situation with unscrupulous employers who have no intention of doing the right thing under the Award.

In a tight labour market, farmers who are doing the right thing will be more likely to attract and retain workers. Employers who are not doing the right thing will be prosecuted and will find themselves out of business because they will no longer have employees. To a large degree, it will be self-regulating.

The answer to recurring issues on a minority of farms is not to disincentivise payment for work and increase our costs of production and make Australian farmers even less competitive. The answer is to prosecute wrongdoers and remove the 88-day requirement, so backpackers are no longer vulnerable to exploitation.

I am concerned that the people who will ultimately be making the decisions regarding the submission, do not comprehend how any changes will impact employees and employers. If the changes being suggested are implemented, the ramifications would be profoundly serious.

In summary, I plead with you to leave the Horticultural Award as it now stands.

1. Push for scrapping the 88-day requirement to work on farms in order to extend working holiday visas.
2. Encourage prosecution of non-compliant operators.
3. Do not do anything to penalise the majority because of a minority, who will not abide by the rules no matter what the rules say.
4. Understand that the answer to the small amount of non-compliance, is not more rules.

Should you have any questions or if you seek further information. I can be contacted on [REDACTED] or email lucastonparkorchards@gmail.com .

Yours sincerely,

Andrew Griggs