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Fair Work Act 2009
FAIR WORK COMMISSION

s. 156: 4 Yearly Review of Modern Awards

AM2014/196 and AM2014/197

Common issue proceedings – Casual and Part-time employment

AWU SUBMISSIONS AND EVIDENCE IN REPLY

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BACKGROUND

1. On 19 June 2015 a Full Bench of the Fair Work Commission (the Commission) issued Directions regarding the '4 yearly review of modern awards – Casual employment and Part-time employment' proceedings.

2. The Directions require parties seeking a variation to file a draft determination by 17 July 2015 and written submissions and witness evidence by 12 October 2015.

3. The Directions require parties wishing to reply to the variations sought to file submissions and evidence by 22 February 2016.

4. The AWU is a party seeking variations <u>and</u> a party replying to variations in these proceedings.

<u>AWU variations sought</u>

5. The AWU has previously filed draft determinations and material in support of variations to the following awards:

   - *Alpine Resorts Award 2010*[1]; and
   - *Horticulture Award 2010*[2]

<u>Unique situation with the *Alpine Resorts Award 2010*</u>

6. The two principal organisations for the *Alpine Resorts Award 2010*, the AWU and the Australian Ski Areas Association (ASAA), have subsequently reached agreement for a number of variations that would resolve the AWU's claim regarding overtime entitlements for casual employees and also a claim made by the ASAA concerning part-time employment.[3] Both of these claims are currently before the Full Bench in these proceedings.

7. The agreement between the AWU and the ASAA also potentially has implications for the Australian Council of Trade Unions (ACTU) claim regarding casual minimum engagement in the *Alpine Resorts Award 2010*.

8. On this basis, it may be necessary for these claims to be dealt with in a different manner to the other variations being sought in these proceedings.

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[1] See https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/common/AM2014196-197-subWS-AWU-211015.pdf

[2] See https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/AM2014231-sub-AWU-141015.pdf

[3] See https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/AM2014198-report-071215.pdf

ACTU and other union claims

9. Subject to the submission above regarding the *Alpine Resorts Award 2010*, the AWU supports the following variations sought by union parties in these proceedings:

   - ACTU: Casual conversion and minimum engagements for casual and part-time employees - Numerous awards[4];

   - Australian Manufacturing Workers Union (AMWU)[5]: Rest break entitlements for casuals - *Manufacturing and Associated Industries and Occupations Award 2010, Food, Beverage and Tobacco Manufacturing Award 2010, Sugar Industry Award 2010* and the *Oil Refining and Manufacturing Award 2010*;

   - Shop, Distributive and Allied Employees Association (SDA)[6]: Casual overtime and penalty rates - *Hair and Beauty Industry Award 2010*;

   - Rail, Tram and Bus Union Australia (RTBU)[7]: Casual overtime and penalty rates - *Rail Industry Award 2010*;

   - United Voice[8]: Part-time minimum engagement - *Wine Industry Award 2010*; and

   - AMWU, Vehicle Division[9]: Hours of work - *Vehicle Manufacturing, Repair, Services and Retail Award 2010.*

Variations sought by employer parties

10. The AWU is an interested party in relation to a number of variations being sought by employer parties in these proceedings.

11. The submissions and evidence below concern the following variations:

[4] See https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/common/AM2014196-197-sub-ACTU-230715.pdf
[5] See https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/common/AM2014-196-197-sub-AMWU-170715.pdf
[6] See https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/common/AM2014197-corr-SDA-170715pdf.pdf
[7] See https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/AM201496-197-draftdet-RTBU-191015.pdf
[8] See https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/common/AM2014196-197-corr-UV-170715.pdf
[9] See https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/AM2014196and197-corr-AMWU-170715.pdf

- National Farmers' Federation (NFF)[10]: Reduced minimum engagement for casual and part-time dairy operators - *Pastoral Award 2010*;

- South Australian Wine Industry Association Incorporated (SAWIA)[11]: Reduced casual minimum engagement – *Wine Industry Award 2010*;

- Australian Industry Group (AIG)[12] and Recruitment and Consulting Services Association (RCSA)[13]: Removal of requirement to notify casuals of conversion entitlements – Numerous awards;

- Master Builders Australia (MBA)[14] and the Housing Industry Association (HIA)[15]: Calculation of casual loading – *Building and Construction General On-site Award 2010*;

- Business SA[16]: Part-time roster flexibility – *Nursery Industry Award 2010*; and

- AIG[17]: Drafting issues – Numerous awards.

12. The AWU is opposed to all of these variations for the reasons set out below.

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[10] See https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/common/AM2014196-197-corr-NFF-170715.pdf

[11] See https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/common/AM2014197-corr-SAWIA-170715.pdf

[12] See https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/common/AM2014196and197-corr-AIG-170715.pdf

[13] See https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/common/AM2014197-corr-RSCA-170715.pdf

[14] See https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/common/AM2014196-197-corr-MBA-170715.pdf

[15] See https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/common/AM2014196-197-corr-HIA-170715.docx.pdf

[16] See https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/common/AM2014196-197-corr-BusSA-170715.pdf

[17] https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/common/AM2014196and197-corr-AIG-170715.pdf

NFF CLAIM – MINIMUM ENGAGEMENT FOR CASUAL AND PART-TIME DAIRY OPERATORS: *PASTORAL AWARD 2010*

Background

13. The NFF are seeking to reduce the minimum engagement for casual and part-time employees who work as "dairy operators" from three hours to two hours.

14. Dairy operators fall within Part 4 – Broadacre Farming and Livestock Operations of the *Pastoral Award 2010* (Pastoral Award).

15. A general summary of the current classification structure for dairy operators appears below along with the current minimum hourly rate of pay:

- Dairy Operator Grade 1A (Farm and Livestock Hand Level 1): Less than 12 months' experience = $17.29 per hour;

- Dairy Operator Grade 1B (Farm and Livestock Hand Level 3): More than 12 months' experience = $18.04 per hour;

- Dairy Operator Grade 2 (Farm and Livestock Hand Level 5): 2 years' experience = $18.80 per hour;

- Senior Dairy Operator Grade 1 (Farm and Livestock Hand Level 7): Co-ordination of farm process etc. = $20.13 per hour; and

- Senior Dairy Operator Grade 2 (Farm and Livestock Hand Level 8): Supervise and maintain dairy farm etc. = $21.63 per hour.

16. The NFF's claim will apply across all skill levels in the dairy industry because all classifications are referred to as a "dairy operator".

Current conditions

17. The current minimum hourly rates of pay for dairy operators range from $17.29 per hour to $21.63 per hour.

18. The following other conditions currently apply to dairy operators under the Pastoral Award:

- Ordinary hours can be worked on any day of the week to a maximum of 152 hours over a four week period[18];

[18] Clause 30.1 and 30.2

- No penalty rates are paid for work on the weekend[19];

- There are no shift work loadings payable for work early in the morning or in the evening[20];

- All overtime is paid for at the rate of time and half except on Sundays when the rate is double time[21], unless this entitlement is forfeited because the employer is not informed of the overtime within 2 weeks or the next payment date[22]; and

- Work on public holidays is paid at the rate of double time[23].

19. The Full Bench would be well aware that the conditions outlined above are far from generous for employees in comparison with other modern awards.

20. This is despite the difficult working conditions, as described in the Statement of Susan Wearden filed by the NFF:

> *Milking cows is a unique pastime and requires staff to have both an aptitude and desire for working with cows, early mornings, often dirty, split shifts and other tasks that may not appeal to many.*[24]

21. It is therefore entirely unsurprising that there is a "significant and chronic skills shortage in the dairy industry in all States".[25]

22. This situation has led to the dairy industry seeking access to overseas workers[26] because "the ongoing demand for skilled workers... cannot be met domestically".[27]

23. In this context, the NFF's claim to reduce conditions in this industry even further via a casual and part-time minimum engagement of only two hours will inevitably be self-defeating in terms of addressing the existing skills shortage.

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[19] Clause 30 and 31
[20] Clause 30 and 31
[21] Clause 31.2
[22] Clause 31.4
[23] Clause 32
[24] Statement of Susan Wearden – first page, second paragraph from the bottom
[25] Dairy Australia letter to Scott McDine (AWU National Secretary) dated 23 November 2015. The letter and its "Attachment A" are attached to this submission and marked "Dairy Australia material"
[26] Dairy Australia letter to Scott McDine (AWU National Secretary) dated 23 November 2015. The letter and its "Attachment A" are attached to this submission and marked "Dairy Australia material"
[27] NFF submission dated 12 October 2015 at [22]

That is, unless the overall goal is simply to employ more overseas workers on lower conditions.

Evidence

24. The NFF's evidence raises more questions than answers about the length of time it takes for milking operations.

25. This is unsurprising given their own admission that "the average time it takes to do milking varies, depending on the season, the number of cows and the technology employed on the farm".[28]

26. This is consistent with the evidence from the AWU's witnesses.[29]

27. The following reasonably obvious criticisms can be made regarding the NFF's evidence:

(i) "Attachment A" and "Attachment B" are marketing documents for seminars seemingly held nearly 10 years ago[30];

(ii) The witness evidence concerns:

- A 480 cow operation in South-East Victoria with 2 employees whose employment status is unclear[31];
- An 1100 cow operation in Victoria with 6 full-time and 8 casual employees;[32]
- A person who no longer works in the industry[33];
- A 450 cow operation in Tasmania with 1 full-time and 1 casual employee[34];
- A 180 cow operation in NSW with 3 casual employees, 2 part-time employees and 1 school-based trainee[35];

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[28] NFF submission dated 12 October 2015 at [33]
[29] See Statement of Kim Shepherd at [5] and Statement of Mark Bell at [7]
[30] Both Attachments state: "Find out the secret to saving time in your dairy. Attend *Shorter Milking Secrets*, CowTime's 2007 Shed Shake-up, coming to your region soon".
[31] Statement of Noel Campbell at [1] and [8]
[32] Statement of Simon Fiddelaers at [6] and [8]
[33] Statement of Nicole Jolley at [1]
[34] Statement of Cheryl McCartie at [5] and [6]
[35] Statement of Leigh Shearman at [2] and [3]

- A 200 cow operation in Northern Victoria with 1 full-time employee[36]; and

- A 350 cow operation in Victoria with a full-time trainee, "one regular milker" and a pool of 3 casuals[37].

  This comprises evidence from 6 of the approximately 6,000[38] dairy farms in Australia or 0.001% of farms;

(iii) The data on milking times from the CowTime program is now over 6 years old and was collected from only around 100[39] of the 8,055[40] farms in existence in around 2009 (0.012%). No information is provided about the location of the farms or the number of employees working on the farms.

In any event, the data suggests the average milking time across the three types of dairy is 2.60 hours in the morning and 2.42 hours in the afternoon. This is exclusive of "vat cleaning, shed or yard".[41] This hardly suggests there is a pressing need for a minimum engagement period of only 2 hours; and

(iv) The only evidence about the current use of part-time employees in the whole industry is a reference to two part-time employees being used in the Statement of Leigh Shearman[42].

<u>The effect of a 2 hour minimum engagement</u>

28. The ACTU has sourced expert evidence regarding costs associated with attending employment including child-care, transport and uniforms.[43]

29. This evidence is extremely relevant in terms of assessing whether a minimum engagement period of only 2 hours forms part of a fair and relevant safety net of terms and conditions in the dairy industry.

[36] Statement of Anne Wearden at [1] and [2]
[37] Statement of Susan Wearden on page 1
[38] NFF submission dated 12 October 2015 at [18]
[39] NFF submission dated 12 October 2015 at [34]
[40] NFF submission dated 12 October 2015 at [28] – calculated by adding the number of farms from each state
[41] See the asterisk under the table in the NFF submission dated 12 October 2015 at [34]
[42] Statement of Leigh Shearman dated 12 October 2015 at [3]
[43] See 'Supplementary Report: Casual and Part-time Employment in Australia' co-authored by Professor Markey, Dr McIvor and Dr O'Brien at page 62 onwards

30. Specifically, the ACTU submissions refer to the current Newstart Allowance work-day rate being equivalent to $52.34 for a single person with no children and $56.33 for a single person with dependent children.[44]

31. If a 2 hour minimum engagement is introduced for dairy operators, the minimum guaranteed daily earnings would be:

Classification	2 hours at part-time rate	2 hours at casual rate
Dairy Operator 1A (FLH 1)	$34.58	$43.22
Dairy Operator 1B (FLH 3)	$36.08	$45.10
Dairy Operator 2 (FLH 5)	$37.60	$47.00
Senior Dairy Operator 1 (FLH7)	$40.26	$50.33
Senior Dairy Operator 2 (FLH8)	$43.26	$54.08

32. This indicates the supervisor of a dairy farm (Senior Dairy Operator Grade 2) would be the only employee fortunate enough to earn more than the equivalent Newstart Allowance work-day rate for 2 hours of work.

33. In these circumstances, it is difficult to imagine why employees would seek 2 hours of work "with cows, early morning, often dirty"[45] in preference to receipt of the Newstart Allowance.

<u>Job creation</u>

34. Interestingly, the NFF submissions suggest the current three hour minimum engagement period has acted "as a barrier to job creation"[46] and is a "disincentive to job creation"[47].

35. These assertions are completed contradicted by the evidence of a skills shortage in the dairy industry.

36. Dairy Australia recently wrote to the AWU as part of stakeholder consultation related to their application for access to skilled overseas workers for dairy farmers. A copy of the letter and a supporting literature review is attached to these submissions and marked "1- Dairy Australia material".

[44] ACTU Submission dated 19 October 2015 at [100] and [101]
[45] Witness Statement of Susan Wearden
[46] NFF submission dated 12 October 2015 at [39]
[47] NFF submission dated 12 October 2015 at [44]

37. The overwhelming theme of the literature review is that the dairy industry struggles to recruit and then retain skilled workers.

38. This problem is not going to be fixed by letting the child of a neighbour work for less than 3 hours after school to get some "extra cash".[48]

39. All available evidence suggests there is no problem with job creation in the dairy industry - the problem is finding suitable people to fill the jobs.

40. In this context, the NFF's attempt to reduce employment conditions in the dairy industry even further does not make any sense and will not help the industry to address its current skills shortage.

Enterprise agreements

41. We have not been able to identify many enterprise agreements covering dairy farms on the Commission's website.

42. However, the two that we did locate had minimum shift lengths of 3 hours[49] and 4 hours[50] respectively.

43. It is difficult to comprehend why an employer would agree to a higher minimum engagement period (4 hours) than that currently specified in the Pastoral Award if the 3 hour minimum engagement is such a problem for the industry.

Conclusion

44. The evidence filed by the NFF does not come close to establishing that it is *necessary* to reduce the minimum engagement period for casual and part-time employees in the dairy industry.

45. At its highest, the witness evidence suggests:

- It is taking Noel Campbell "longer to feed the calves" and this is impacting on "workload and lifestyle";[51]

- For Simon Fiddelaers, the current situation isn't impacting the "farm family personally" but it "costs more for milking";[52]

[48] See Statement of Anne Wearden at [6] to [8]
[49] See clause 7.2 of the *Macquarie Agricultural Services Dairy Division Enterprise Agreement 2010*
[50] See clause 11.1.3 of the *ICM Dairy Agreement 2009 - 2012*
[51] See Statement of Noel Campbell at [13]

- Nicole Jolley, who no longer works in the industry, thinks a 3 hour engagement period isn't "plausible"[53];

- Cheryl McCartie's family don't "have as much time off anymore";[54]

- Leigh Shearman's family could save "$6,000 each year";[55]

- The decision regarding whether or not to give a child who lives next door some work after school is causing Anne Wearden a degree of emotional stress;[56] and

- Susan Wearden feels the three hour minimum engagement "works against the efficiency of our business" and thinks "a two hour minimum would [be] much more suitable for the dairy industry".[57]

46. The conditions for employees in the dairy industry are already sub-standard for a developed country like Australia.

47. These conditions should not be reduced further via a reduction in the minimum engagement for casual and part-time employees on the basis of the preferences and opinions of a few farmers and an individual who doesn't even work in the industry any more.

Attachments

"1 - Dairy Australia material"

"2 - Statement of Kim Shepherd"

"3 – Statement of Mark Bell"

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[52] See Statement of Simon Fiddelaers at [12]
[53] See Statement of Nicole Jolley at [10]
[54] See Statement of Cheryl McCartie at [13]
[55] See Statement of Leigh Shearman at [10]
[56] See Statement of Anne Wearden at [10]
[57] See Statement of Susan Wearden on page 2

SAWIA CLAIM – MINIMUM ENGAGEMENT FOR CASUAL EMPLOYEES: *WINE INDUSTRY AWARD 2010*

Background

48. Clause 13.3 of the *Wine Industry Award 2010* (Wine Award) currently prescribes a minimum payment of four hours' work to casual employees on each occasion they are required to attend work.

49. The South Australian Wine Industry Association Incorporated (SAWIA) is seeking a variation which would reduce the minimum required payment to 2 hours' work.

The history of the current award provision

50. A review of the award modernisation documents for the Wine Award reveals that the casual minimum engagement period was one of the issues that the Award Modernisation Full Bench was specifically required to decide.

51. The SAWIA submitted a draft Wine Industry Award 2010 on behalf of the SAWIA, the AWU and United Voice on 6 March 2009[58].

52. Whilst most provisions were agreed between these parties, the casual minimum engagement was not.

53. Clause 13.8 of the draft indicates the AWU and United Voice sought a minimum casual engagement of 4 hours and SAWIA a minimum engagement of 3 hours.

54. On 22 May 2009 the Award Modernisation Full Bench issued a Statement[59] and an Exposure Draft for the Wine Industry Award 2010.

55. The Exposure Draft issued by the Australian Industrial Relations Commission contained exactly the same clause 13.3 as currently appears in the Wine Award.

56. Given the parties had not agreed on the casual minimum engagement, the Award Modernisation Full Bench obviously had to consider this issue and formed a preliminary view – which ultimately did not change – that the minimum payment period should be 4 hours. Further evidence that the Full

[58] Available here in Word format: http://www.airc.gov.au/awardmod/fullbench/industries/awardmodindustry.cfm?award=liquor_manufacturing

[59] *Award Modernisation – Statement* [2009] AIRCFB 450

Bench carefully considered this issue can be derived from the fact that the wording they used differed from that proposed by the parties in their draft award.

57. The Statement issued by the Full Bench confirms: "The draft largely reflects a draft award submitted by the South Australian Wine Industry Association Incorporated, the AWU and the LHMU".[60]

58. The wording of clause 13.3 obviously then remained unaltered when the Wine Award was issued along with the Full Bench's Decision on 4 September 2009. There is no discussion of the casual minimum engagement in the Decision.[61]

59. We submit this history indicates a very deliberate decision was made by the Award Modernisation Full Bench to prescribe a casual minimum payment of 4 hours' work per engagement instead of the 3 hours sought by the SAWIA.

60. This is significant given the 4 yearly review proceeds "on the basis that *prima facie* the modern award being reviewed achieved the modern awards objective at the time it was made".[62]

61. Therefore, to succeed with this claim, the SAWIA is required to demonstrate what has changed between 2009 and 2015 to warrant a different conclusion to that reached on the casual minimum engagement by the Award Modernisation Full Bench in 2009.

62. This arises because "previous Full Bench decisions should generally be followed, in the absence of cogent reasons for not doing so".[63]

The SAWIA case

63. The reasons for the SAWIA claim are outlined from page 12 to 16 of its submissions dated 12 October 2015.

64. In summary, the reasons identified are:

- Additional casual jobs could be provided in cellar door sales if the minimum engagement was only 2 hours;

[60] *Award Modernisation – Statement* [2009] AIRCFB 450 at [109]
[61] *Award Modernisation – Decision* [2009] AIRCFB 826 at [148] to [150]
[62] *4 yearly review of Modern Awards – Preliminary Jurisdictional Issues* [2014] FWCFB 1788 at [60] (3)
[63] Ibid at [60] (3)

- There is a financial risk associated with having to cancel work due to heavy rain but still being required to pay casual employees for 4 hours' work;

- Some tasks in the cellar take 2 hours of less so extra casual employees could be hired to perform these tasks; and

- The 4 hour minimum engagement is higher than that in other awards such as the *Horticulture Award 2010*.

<u>Cellar door sales</u>

65. SAWIA's own evidence suggests that cellar doors are already overwhelmingly being staffed by casual employees:

- The affidavit of Steven Todd refers to their cellar door being staffed by 4 casual employees[64];

- The affidavit of Anthony Grundel refers to total employment of 12 full-time employees and 8 casual employees (with an additional 3 casual employees during vintage season)[65];

- The affidavit of Rhys Robinson refers to their cellar door being staffed by 1 permanent employee and 4 casual employees[66];

- The affidavit of Richard van Ruth refers to employing 6 casual staff in their cellar door[67];

- The affidavit of Kirsty Balnaves refers to total employment of 10 permanent employees and 14 casual employees (with an additional 5 casual employees in vintage season)[68];

- The affidavit of Fred Peacock refers to the employment of 4 permanent employees and 18 casual employees during harvest[69]; and

- The affidavit of Samantha Robinson refers to their cellar door being staffed by a rotating roster of four casuals[70].

[64] Affidavit of Steven Todd at [5]
[65] Affidavit of Anthony Grundel at [5]
[66] Affidavit of Rhys Robinson at [6]
[67] Affidavit of Richard van Ruth at [4]
[68] Affidavit of Kirsty Balnaves at [7]
[69] Affidavit of Fred Peacock at [6]
[70] Affidavit of Samantha Robinson at [5]

66. Therefore, the argument that a reduced minimum engagement period is *necessary* to create additional casual employment opportunities in cellar doors lacks merit.
67. The SAWIA's own evidence suggests casual employment is already being over-utilised in cellar doors, particularly given they appear to have standard opening hours which could allow for more permanent engagements.[71]

Rainfall

68. The SAWIA's argument regarding the financial risk for wineries arising from having to pay casual employees for four hours' work during harvest when they may be sent home prior to working four hours because of heavy rain appears to be poorly timed.

69. The focal point for the SAWIA's argument is clearly Tasmania.[72]

70. However, rainfall in Tasmania has been significantly below average since 1996.[73]

71. The ABC has recently reported on the lack of rainfall in Tasmania in 2015 and 2014.[74]

72. Further, Figure 3 on page 8 of the SAWIA's submissions indicates Tasmania accounted for only 0.5% of the total grape crush in Australia in 2015.

73. AWU witnesses who organise wine industry workers in Victoria, New South Wales and Western Australia have all indicated rainfall is a non-existent problem in the industry.[75]

74. The SAWIA's argument about financial risk arising from rainfall cannot be taken seriously in this context.

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[71] See Affidavit of Steven Todd at [4], Affidavit of Anthony Grundel at [6], Affidavit of Richard van Ruth at [5], Affidavit of Kirsty Balnaves at [9] and Affidavit of Samantha Robinson at [5].

[72] This is based on the following statement on page 13 of the SAWIA submission dated 12 October 2015: "For example, in regions with cool climates where the weather may be more variable such as Tasmania, pruning and harvest work may not be able to be undertaken in heavy rain"; the affidavit of Jeremy Dineen who is from Tasmania refers to concern about rainfall at [8]; the affidavit of Rhys Robinson who is from Tasmania refers to concern about rainfall at [9] and the affidavit of Fred Peacock who is from Tasmania refers to concerns about rainfall at [9]

[73] See Bureau of Meteorology 'State of the Climate' found here: http://www.bom.gov.au/state-of-the-climate/ There is a section on 'Rainfall'

[74] See http://www.abc.net.au/news/2016-01-06/average-20-per-cent-drop-in-rainfall-for-tasmania/7071158

[75] See Statement of Adam Algate at [4] and [5], Statement of Ron Cowdery at [5] to [7] and Statement of Mahmut Melkic at [5] and [6]

Some tasks take 2 hours or less to complete

75. SAWIA's submissions refer to wine industry employers reporting that some jobs of short duration (up to 2 hours of work) arise in the cellar during vintage. Examples identified are sampling grape juice and the washing and cleaning of production facilities.[76]

76. The SAWIA's evidence in support of this argument is flimsy at best.

77. For example, the affidavit of Steven Todd seemingly suggests the minimum engagement for all casual employees in the wine industry should be reduced because his business recently implemented a new work health and safety system and the training didn't take a full 4 hours to complete.[77]

78. The affidavit of Kirsty Balnaves complains of having to pay overtime to existing staff to wash down machinery and equipment for 1 -2 hours at the end of a shift during the vintage period. It appears the preference would be to send the existing staff member home and have a casual employee come in for a 2 hour shift.[78]

79. The safety net of employment conditions for an entire industry cannot be reduced because a few employers from the industry can identify tasks which take less than 4 hours to complete.

Other awards

80. Pages 5 to 12 of the SAWIA submissions contain a range of general data about the wine industry which is apparently "both unique and complex in nature"[79] and "characterised by a diverse set of people".[80]

81. The submissions subsequently claim there are other industries with "similar operational requirements and/or skills sets as required by employees in the various streams of the wine industry".[81]

82. The SAWIA then notes that 6 other modern awards have casual minimum engagements below 4 hours.

83. The SAWIA association cannot have it both ways.

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[76] SAWIA submission dated 12 October 2015 on page 13
[77] Affidavit of Steven Todd at [5] and [6]
[78] Affidavit of Kirsty Balnaves at [17]
[79] SAWIA submissions dated 12 October 2015 on page 11
[80] SAWIA submissions dated 12 October 2015 on page 11
[81] SAWIA submissions dated 12 October 2015 on page 13

84. There is a long history of separate award regulation for the wine industry in Australia. The SAWIA accepted during award modernisation that the primary reference points for the modern award should be the *Wine Industry – AWU – Award 1999* and the *Wine and Spirit Industry (South Australia) Award*:

> *Previously SAWIA acknowledged that the Wine Industry – AWU – Award will be the starting point for the creation of a modern award covering the wine industry. However consultation with the two applicable unions, the Australian Worker's* (sic) *Union (AWU) and Liquor Hospitality and Miscellaneous Union (LHMU) has seen the starting point be a combination of the Wine Industry – AWU – Award and the Wine and Spirit Industry (South Australia) Award (NAPSA).*[82]

85. It is disingenuous for the SAWIA to claim now in 2016 that the minimum engagement period for casuals should be reduced by reference to other modern awards.

86. In addition, the *Manufacturing and Associated Industries and Occupations Award 2010* and the *Food, Beverage and Tobacco Manufacturing Award 2010* are conspicuously absent from the list of six comparable awards contained on page 13 and 14 of the SAWIA's submissions. This is despite there being obvious overlap in terms of the duties performed under these awards and some streams of the Wine Award. We assume these two awards have been omitted because they have casual minimum engagement periods of 4 hours.[83]

87. We also note the majority decision in *Stevedoring Industry Award 2010* [2015] FWCFB 1729 stated the following in relation to a claim to significantly reduce penalty rates in the stevedoring industry as part of the 4 yearly review of awards predominantly on the basis of conditions in other modern awards:

> *On such a significant issue, it is just too simplistic to argue that the level of penalty rates should be reduced in the absence of such probative evidence and on the basis that the existing level of penalty rates in the Award are above those applying in other modern awards.*[84]

<u>The effect of a 2 hour minimum engagement</u>

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[82] See SAWIA submission dated 6 March 2009 on page 13, found here: http://www.airc.gov.au/awardmod/fullbench/industries/awardmodindustry.cfm?award=liquor_manufacturing

[83] See clause 13.2 of the *Food, Beverage and Tobacco Manufacturing Award 2010* and clause 14.2 of the *Manufacturing and Associated Industries and Occupations Award 2010*

[84] *Stevedoring Industry Award 2010* [2015] FWCFB 1729 at [161]

88. The ACTU has sourced expert evidence regarding costs associated with attending employment including child-care, transport and uniforms.[85]

89. This evidence is extremely relevant in terms of assessing whether a minimum engagement period of only 2 hours forms part of a fair and relevant safety net of terms and conditions in the wine industry.

90. Specifically, the ACTU submissions refer to the current Newstart Allowance work-day rate being equivalent to $52.34 for a single person with no children and $56.33 for a single person with dependent children.[86]

91. If a 2 hour minimum engagement is introduced in the Wine Award, the minimum guaranteed daily earnings would be:

Classification	2 hours at casual rate
Grade 1	$43.85
Grade 2	$45.75
Grade 3	$47.65
Grade 4	$50.33
Grade 5	$53.48

92. This table demonstrates that only a Grade 5 casual employee would earn more than the equivalent Newstart Allowance work-day rate for a 2 hour shift.

93. Grade 5 is generally a supervisory level under the classification structure in Schedule B of the Wine Award and the cellar door sales stream ends at Grade 4.

Conclusion

94. The reality is that whilst the wine industry has suffered from issues such as oversupply and the low Australian dollar in recent years, forecasts suggest it "should begin to show signs of recovery over the next five years".[87]

95. In addition, AWU officials have reported increased casualisation in the wine industry in recent years.[88]

[85] See 'Supplementary Report: Casual and Part-time Employment in Australia' co-authored by Professor Markey, Dr McIvor and Dr O'Brien at page 62 onwards

[86] ACTU Submission dated 19 October 2015 at [100] and [101]

[87] See IbisWorld Industry Report C1214 'Wine Production in Australia' – page 4 Executive Summary. A copy of the report is attached and marked "1 – Ibis Report"

[88] See Statement of Adam Algate at [12] and [13] and Statement of Mahmut Melkic at [7]

96. The Commission should be reluctant to make any changes to the Wine Award that will promote the use of casual employment in this context.

97. These factors and the lack of merit in the case presented by the SAWIA should lead the Commission to reject this variation.

Attachments

"4 – Ibis Report"

"5 - Statement of Adam Algate"

"6 – Statement of Ron Cowdery"

"7 – Statement of Mahmut Melkic"

AIG and RCSA CLAIM – REMOVAL OF REQUIREMENT TO NOTIFY CASUAL EMPLOYEES OF CONVERSION ENTITLEMENTS: NUMEROUS AWARDS

Background

98. The Australian Industry Group (AIG) and the Recruitment and Consulting Services Association (RCSA) are seeking variations to a lengthy list of awards to remove the current requirement for employers to notify casual employees of their conversion entitlements.

99. The AWU has an interest in a number of these awards including:

- *Alpine Resorts Award 2010*
- *Building and Construction General On-site Award 2010*
- *Cement and Lime Award 2010*
- *Concrete Products Award 2010*
- *Cotton Ginning Award 2010*
- *Food, Beverage and Tobacco Manufacturing Award 2010*
- *Manufacturing and Associated Industries and Occupations Award 2010*
- *Plumbing and Fire Sprinklers Award 2010*
- *Quarrying Award 2010*
- *Sugar Industry Award 2010*
- *Textile, Clothing, Footwear and Associated Industries Award 2010*
- *Timber Industry Award 2010*
- *Vehicle Manufacturing, Repair, Services and Retail Award 2010*
- *Waste Management Award 2010*
- *Wine Industry Award 2010*

100. The AWU is opposed to all of these variations.

101. The submissions below are not exhaustive as they are intended to supplement those made by the ACTU and other unions in opposition to these claims.

AIG submissions

Missing the point

102. The AIG's decision to pursue this case and their submissions in support of it confirm the organisation is still viewing industrial relations from the reasonably simplistic perspective of maximising numerical flexibility for employers.

103. This is highlighted by their submission at paragraph [12]:

Flexible workplace relations arrangements are fundamental to the improved productivity that is so important to Australia's national competitiveness and our capacity to further improve Australian living standards. Employers need more flexibility to employ casual and part-time employees.[89]

104. The Expert Report by Professor Markey and Dr McIvor filed by the ACTU in these proceedings highlights that employer groups frequently focus upon "numerical flexibility" related to flexibilities derived from casual employment and that "evidence that numerical flexibility necessarily delivers gains in productivity is scant, and indeed much of the evidence runs in the opposite direction".[90]

105. The Expert Report goes on to highlight statistical evidence demonstrating that casual employees are provided with less workplace training than permanent employees.[91]

106. The provision of training to employees is linked to improved "functional flexibility" which is "the ability of firms to reallocate labour in their internal labour markets, relying on training that allows personnel to carry out a wider range of tasks".[92]

107. The Expert Report refers to a study from Norway which indicated productivity and wages were negatively affected by numerical flexibility, while positive effects were observed with functional flexibility.[93]

108. The Export Report concludes:

All of this runs in direct contradiction of employer claims, implying that Australia's relatively flexible labour markets may need more, not less regulation if productivity and wages (rather than merely the enhancement of managerial prerogative) are indeed the goal.[94]

109. The failure of employer associations to see the bigger picture in terms of improved economic performance as opposed to simply focusing on more

[89] AIG submissions dated 14 October 2015 at [12]
[90] Expert Report by Professor Markey and Dr McIvor on page 16
[91] Expert Report by Professor Markey and Dr McIvor on page 18
[92] Expert Report by Professor Markey and Dr McIvor on page 16
[93] Expert Report by Professor Markey and Dr McIvor on page 17
[94] Expert Report by Professor Markey and Dr McIvor on page 17

power and control for employers was also demonstrated in the annual leave common issue proceedings.

110. In that case, the Australian Chamber of Commerce and Industry (ACCI) relied on research indicating that the taking of annual leave is critical to preventing burnout and poor health and assists in maintaining job safety and satisfaction. They also referred to arbitral decisions which accepted the taking of leave increases productivity as a result of a more balanced and rested workforce.[95]

111. AIG and ACCI also referred to excessive leave accruals creating substantial contingent liabilities for businesses giving rise to cash flow problems when leave is paid upon termination.[96]

112. However, when the Commission developed a model award term directed at reducing annual leave balances which included scope for <u>an employee to require</u> that leave be granted in very confined circumstances, all the benefits of leave being taken were forgotten by the employer groups who responded with a flurry of concerns about employer's losing control over when leave is taken.[97]

113. As the Full Bench ultimately pointed out that "it is important that the debate on this issue be seen in its broader context".[98]

114. AIG seemingly misses the broader context on the casual conversion issue too when they make the argument that because conversion rates have been reasonably low, the requirement to notify employees of conversion rights should be removed.[99]

115. Given the improved functional flexibility that can be derived from casual conversion, it is likely to actually be in the interests of AIG's members to improve the current conversion statistics.

116. This is particularly the case when the current conversion entitlements are generally only activated after an employee has been working regularly for at least 6 months. Hence a significant degree of numerical flexibility is retained by employers.

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[95] See *4 yearly review of modern awards – Annual leave* [2015] FWCFB 3406 at [61]

[96] Ibid at [62]

[97] See *4 yearly review of modern awards – Annual leave* [2015] FWCFB 5771 at [98] to [109]

[98] Ibid at [133]

[99] AIG submissions dated 14 October 2015 at [60]

117. Similarly, instead of viewing the need to "keep track of the length and pattern of service of each casual employee" as an "onerous regulatory burden"[100] – employers should be encouraged to monitor this data regardless of award notification obligations because their business is likely to derive functional flexibility improvements from converting long-term casual employees to permanent employment.

118. The Export Report concludes:

> *The "flexibility" associated with casual employment is also unlikely to deliver gains in productivity for the economy, in spite of employer contentions to the contrary. The marginalisation and lack of training associated with casual employment undermines productivity and innovation, and the example of the highly casualised University sector indicates these may also undermine certain aspects of service deliver. Casual employment also undermines organisational commitment.*[101]

119. On this basis, the Commission should provide genuine assistance to AIG members via rejecting their claim to remove the requirement to notify employees of casual conversion entitlements in the listed awards.

120. The removal of this requirement is likely to further reduce casual conversion rates and this is not an outcome that is actually in the interests of employers in Australia.

The notoriety of casual conversion entitlements

121. AIG attempt to characterise existing casual conversion rights as being as widely known and understood as annual leave and parental leave entitlements.[102]

122. This characterisation should be rejected by the Commission for the following reasons.

123. Firstly, there are minimum annual leave and parental leave entitlements prescribed in the National Employment Standard (NES) which operate as a safety net for all National system employees.

124. In contrast, minimum casual conversion entitlements are not prescribed in the NES and existing entitlements vary from award to award.

[100] AIG submission dated 14 October 2015 at [84]
[101] Expert Report by Professor Markey and Dr McIvor on page 40
[102] AIG submissions dated 14 October 2015 at [75]

125. This is emphasised by the fact that the AIG and RCSA claim does not extend across all modern awards.

126. Secondly, "annual leave provisions began appearing in awards in the 1930s".[103]

127. It is not reasonable to compare the notoriety of annual leave entitlements that have been in existence for nearly a century to a casual conversion notification entitlement that first appeared in 2000.[104]

128. Thirdly, there is a degree of inevitably that a pregnant woman will consider parental leave entitlements. This is because it would be extremely unlikely that a pregnant woman in Australia in 2016 would not have some time off around the time they give birth.

129. In contrast, it is entirely plausible that a casual employee would go on working as usual beyond the conversion notification period without giving any thought to whether they have casual conversion entitlements.

RCSA submissions and evidence

RCSA submissions

130. The RCSA's submission refers at paragraph [4] to "the almost non-existent rate of conversion".[105]

131. This submission is subsequently contradicted by other RCSA evidence.

132. For example, the RCSA Survey which is "Attachment CF4" to their submission indicates that 37% of employer respondents had employees who elected to become permanent after being informed of their conversion rights.

133. We have not previously encountered the figure of 37% being described as representing a "non-existent" proportion.

[103] See 'Background Paper' prepared by the Commission for the annual leave common issue proceedings found at: https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/common/AM201447_backgroundpaper_300514.pdf

[104] *Clerks (SA) Award* [2000] SAIRComm 41

[105] RCSA submission dated 12 October 2015 at [4]

134. Further, the effect of the RCSA's submission at paragraph [27] is that the requirement to notify employees of conversion rights, in circumstances whereby few employees take up the option to seek conversion, "acts as a barrier to this category of employment". It is unclear whether this is referring to a barrier to casual employment or permanent employment. Either way, the submission does not make sense.

135. The RCSA submission at paragraph [36] quotes the Australian Government's 10 principles for policy makers to "cut red tape".

136. These principles are obviously not relevant to the 4 yearly reviews of modern awards. For example, it is unclear how the Commission would produce a 'Regulation Impact Statement' (Principle 4) or "work closely with their portfolio Deregulation Units throughout the policy making process" (Principle 10).

137. The RCSA submit at paragraph [37] that the notification requirement has "apparently no benefit for employers or employees". Given 37% of respondent employers to the RCSA Survey had casual employees who elected to convert to permanent employment, a number of employees (and potentially employers for the reasons set out in the ACTU's Expert Report) have clearly benefitted from the notification process.

138. The RCSA's submission refers at paragraph [46] to casual conversion "imposing artificial permanent employment".

139. To the contrary, casual conversion after 6 or 12 months of regular employment actually puts an end to "artificial casual employment" based on the common law definition of casual employment.[106]

<u>RCSA evidence</u>

140. Attachment "JB 1" to the Statement of Jan Baremans which is a pro forma letter used to notify employees of their conversion entitlements raises some concern about potential contraventions of s 345 of the *Fair Work Act 2009*.

141. Specifically, the statement "there would be no guarantee of more frequent or consistent work" if a casual employee converts to permanent employment could constitute a misrepresentation about the relevant employee's workplace rights.

[106] The relevant decisions are examined in the ACTU submissions dated 19 October 2015 from [26] to [59]

142. This arises because it is false to suggest that conversion to full-time or part-time employment would not provide a guarantee of more consistent work. This is precisely what it would achieve.

143. We note the Statement of Carly Fordred refers to RCSA representing approximately 3,000 company and individual members.[107]

144. This means the maximum amount of RCSA members that bothered to complete any one of the RCSA survey questions was 0.0093%. This is based on 28 respondents completing questions 2, 3 and 4.

145. One would expect a higher response if there was really a significant problem with the current casual employment provisions in awards.

146. The statements of Jan Baremans[108], Adele Last[109] and Stephen Noble[110] describe the respective processes their businesses have implemented to ensure they comply with the current notification requirements.

147. These processes look entirely manageable for labour hire businesses that employ 470[111], 600[112] and 250[113] employees respectively.

148. This is particularly the case given the business of a labour hire company is essentially only managing its employees – they do not produce any other goods or services.

<u>Conclusion</u>

149. The variations sought by AIG and RCSA would almost inevitably reduce current casual conversion rates. This is not an outcome that is in the interests of the Australian economy.

150. The submissions and evidence relied upon by AIG and RCSA do not establish that the variations are in any way *necessary* for the modern awards objectives to be met.

[107] Statement of Carly Fordred at [3]
[108] Statement of Jan Baremans at [7]
[109] Statement of Adele Last at [12]
[110] Statement of Stephen Noble at [12]
[111] Statement of Jan Baremans at [5]
[112] Statement of Adele Last at [8]
[113] Statement of Stephen Noble at [5]

MBA and HIA CLAIM – CALCULATION OF CASUAL LOADING: *BUILDING AND CONSTRUCTION GENERAL ON-SITE AWARD 2010*

Background

151. Master Builders Australia (MBA) and the Housing Industry Association (HIA) have both proposed variations to the manner in which the casual loading is calculated under the *Building and Construction General On-site Award 2010* (On-site Award).

152. The MBA's variation appears directed at requiring the casual employment rate of pay to be calculated with reference to the weekly hire hourly rate specified in clause 19.3 (b) of the On-site Award.

153. The HIA's proposed variation also appears directed at requiring the casual employment rate to be calculated with reference to the weekly hire hourly rate. However, it extends further by also seeking that the 25% casual loading only be applied to the minimum classification rate prescribed in clause 19.1 – as opposed to the ordinary time hourly rate.

154. The AWU is opposed to these variations for the reasons set out below.

The daily hire or weekly hire rate

The current approach

155. We don't accept there is sufficient ambiguity regarding the calculation of casual rates in the On-site Award to justify the variations proposed by the MBA and HIA.

156. As Senior Deputy President Watson noted in the 2012 Transitional Review of awards: "the 25% applies to the rate otherwise applicable..."[114]

157. This means it is necessary to firstly determine whether the employee falls within the definition of a "daily hire employee" in clause 11 of the On-site Award. This category of employment is confined to a tradesperson or labourer via the wording at the commencement of clause 11.

158. If the employee meets the definition of a "daily hire employee" in clause 11, their rate is determined according to the formula in clause 19.3 (a).

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[114] *Master Builders Australia Limited* [2013] FWC 4576 at [187]

159. If the employee does not meet the definition of a "daily hire employee" in clause 11, their rate is determined according the formula in clause 19.3 (b).

160. The submissions and evidence filed by MBA and HIA do not establish sufficient problems with this existing regime to justify the variations sought.

Merits

161. We don't accept the approach described above results in double-dipping for casual employees who meet the "daily hire" definition because they receive follow the job loading and casual loading as claimed by the MBA[115] and HIA.[116]

162. Casual employees under the On-site Award receive a 25% loading which was recognised by the Award Modernisation Full Bench as the appropriate minimum standard in Australia.[117]

163. Under clause 14.5 of the On-site Award, the casual loading is paid as compensation for "annual leave, personal/carer's leave, community service leave, notice of termination and redundancy benefits and public holidays not worked".

164. Significantly, the 25% casual loading is not paid as compensation for the follow the job loading specified in clause 19.3 (a) of the On-site Award or any other allowances.

165. The follow the job loading is paid in recognition of the specific circumstances of the construction industry, an industry whereby periods of employment are often affected by gaps between the completion of a building or construction job and the commencement of the next one.

166. This same disability does not often arise in other industries which also have the same 25% casual loading as the On-site Award.

167. The 25% casual loading is paid for the loss of standard permanent employee entitlements such as paid leave, secure employment and redundancy benefits.

[115] See MBA submission dated 11 November 2014 at [3.9]
[116] See HIA submission dated 12 October 2015 at [6.3.13]
[117] *Award Modernisation* [2008] AIRCFB 1000 at [50]

168. The follow the job loading is compensation for the additional disabilities which arise in the construction industry associated with the availability of work being linked to the commencement and completion of projects.

169. Hence there is justification for the payment of the standard 25% casual loading <u>and</u> a follow the job loading to compensate for the specific nature of the construction industry.

170. It is also apparent that the variation would amount to a significant change and the MBA and HIA have failed to provide probative evidence in support of the variation.

<u>Application of the casual loading to the "ordinary time hourly rate"</u>

<u>The current approach</u>

171. The claim at paragraphs [6.3.6] to [6.3.8] of the HIA submissions dated 12 October 2015 that the current approach regarding all-purpose allowances in the On-site Award is not clear is disingenuous given the consent position reached regarding the current definition of "ordinary time hourly rate" during the 2012 Transitional Review.[118]

172. Whilst it is arguable that clause 14.5 of the On-site Award could be expressed in clearer terms in relation to what rate the 25% loading is applied to, there is no real doubt that the intent is for the 25% loading to be applied to the "ordinary time hourly rate".

173. Any doubt about this intent is effectively removed by the wording in clause 14.6 of the On-site Award. This clause prescribes that the casual time and a half rate is 175% of the "ordinary time hourly rate" and the casual double time rate is 225% of the "ordinary time hourly rate".

174. It is obvious that the 175% and 225% rates in clause 14.6 include the 25% casual loading which is paid in addition to the permanent penalty or overtime rates.

175. It is therefore absurd to suggest that the 25% casual loading would be calculated using the "ordinary time hourly rate" for the purposes of calculating penalty and overtime rates under clause 14.6 but then on some other basis for the standard ordinary hours rate in clause 14.5.

[118] *Master Builders Australia Limited* [2013] FWC 4576 at [187]

176. Further, the undesirability of such an outcome has already been accepted by the 4 yearly review Full Bench.[119]

Effect of HIA's variation

177. There are a number of significant problems with the variation proposed by HIA.

178. The On-site Award currently defines the "ordinary time hourly rate" for various types of employment in clause 3.

179. The definition refers to a rate calculated under clause 19.3 (a) for daily hire employees and clause 19.3 (b) for weekly hire employees.

180. The HIA proposal is to insert a method for calculating a casual employee's hourly rate as a new clause 19.3 (c).

181. However, there is no corresponding proposal to define the "ordinary time hourly rate" for a casual employee in clause 3.

182. This is likely to mean that a user will interpret the proposed new clause 19.3 (c) as the "ordinary time hourly rate" for a casual employee.

183. Given the HIA have not proposed any variation to the existing clause 14.6, there is a significant possibility the user would then pay a casual employee 175% of the rate in the new clause 19.3 (c) for time and a half and 225% of that rate for double time.

184. These rates would be significantly higher than those which currently apply under the On-site Award because the employee would receive 175% or 225% of the rate derived from the new clause 19.3 (c) which already includes the casual loading.

185. It is also not a good indication about the simplicity of HIA's variation when their only witness, Annica Cloete, appears to have made an error in Annexure B to her affidavit in terms of explaining how the calculations would work if HIA's variation is approved.

186. Step 4 of this document refers to a casual employee receiving a "25% additional loading on ordinary hours worked and all-purpose allowances".

[119] *4 yearly review of modern awards* [2015] FWCFB 6656 at [108]

187. This statement is seemingly incorrect given the variation is directed at confining the calculation of casual loading to the classification rate and not all-purpose allowances.

Merits

188. The submissions from HIA indicate they have not fully grasped the effect of the 4 yearly review Full Bench Decisions regarding the "ordinary hourly rate" on 13 July 2015[120] and the calculation of casual loadings on 30 September 2015.[121]

189. On 13 July 2015 the Full Bench confirmed:

> *We are not persuaded to depart from established practice in relation to the operation of all purpose payments and how they interact with an employee's rate of pay. Definitions of 'all purpose' and 'ordinary hourly rate of pay' will be inserted into all affected awards based on the wording in paragraphs [35] and [91]. Any issues as to whether a particular payment is payable for all purposes, and, in particular, whether an allowance should be added to a minimum rate before calculating a penalty or loading, will be dealt with on an award-by-award basis. Ultimately the resolution of these issues will turn on the construction of the relevant award and the context in which it was made.*[122]

190. On 30 September 2015 the Full Bench determined the following:

> *We consider that the preferable approach is to permit reconsideration, on an award-by-award basis during the course of the 4-yearly review, as to whether any existing allowance should retain its "all purpose" designation or should be payable on some different basis.*
>
> *The general approach will remain as expressed in the exposure drafts, namely that the casual loading will be expressed as 25% of the ordinary hourly rate in the case of awards which contain any all purpose allowances, and will be expressed as 25% of the minimum hourly rate in awards which do not contain any such allowances.*[123]

[120] *4 yearly review of modern awards* [2015] FWCFB 4658
[121] *4 yearly review of modern awards* [2015] FWCFB 6656
[122] *4 yearly review of modern awards* [2015] FWCFB 4658 at [47]
[123] *4 yearly review of modern awards* [2015] FWCFB 6656 at [109] and [110]

191. It is reasonably clear that the Full Bench has determined the general approach across awards will be for all purpose allowances to be added prior to calculating penalties and loadings – including casual loadings.

192. However, the Full Bench has indicated there will still be scope to consider on an award-by-award basis whether "any existing allowance should retain its 'all purpose' designation".[124]

193. This means a party may argue, for example, that a tool allowance should not actually be payable for all purposes – that is, the tool allowance should not be added to the minimum classification rate before calculating <u>any</u> loadings and penalties.

194. Contrary to this approach, the HIA is still arguing that a number of allowances including the industry allowance, special allowance, tool allowance and underground allowance should still be payable for all purposes in relation to overtime, shift loadings and weekend penalties rates[125] but should not be payable on that basis when calculating the casual loading.

195. The argument repeatedly relied upon by the HIA is that the effect of the all purpose calculation is that a casual employee receives a higher allowance amount than a full-time or casual employee.

196. This argument was squarely before the 4 yearly review Full Bench prior to the 30 September 2015 Decision[126] and seemingly rejected, given the Decision confirmed the general approach will be that the casual loading is calculated on the "ordinary hourly rate".

197. In any event, the argument is conceptually flawed. The additional amount paid to a casual employee is their casual loading – not a higher allowance entitlement.

198. The logical extension of HIA's argument would be that shift workers and weekend workers should not receive a higher allowance amount than a day worker and nor should an employee working overtime.

199. This cannot be right because it would be contrary to the entire purpose of identifying an allowance as payable for all purposes - which is to distinguish

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[124] *4 yearly review of modern awards* [2015] FWCFB 6656 at [109]

[125] This follows because HIA has not sought to vary the definition of

[126] *4 yearly review of modern awards* [2015] FWCFB 6656 at [109]

it from other allowances that are simply added to the earnings of a worker as opposed to being applied to a compounding effect.

Conclusion

200. The variations proposed by MBA and HIA would not make the On-site Award simpler or easier to understand.

201. To the contrary, the HIA's variation would actually make the award even more complicated.

202. The ultimate goal of the variations is to reduce conditions under the On-site Award and a sufficient case to justify a reduction to the existing safety net has not been presented.

BUSINESS SA 'CLAIM' – REDUCED NOTICE REQUIREMENT TO ALTER PART-TIME ROSTERS: *NURSERY INDUSTRY AWARD 2010*

Background

203. On 17 July 2015 Business SA filed a draft determination for the *Nursery Industry Award 2010* (Nursery Award) the effect of which would be to allow an employer to alter the roster of a part-time employee in the case of a genuine emergency by providing notice "as soon as practical".

204. Clause 10.3 (i) (i) of the Nursery Award currently allows a part-time employee's roster to be altered in the case of an emergency by giving 48 hours' notice in writing.

205. It is unclear whether the Business SA proposal would still require the notice to be given in writing.

The claim should be dismissed

206. Business SA has not filed any submissions or evidence in support of the variation.

207. We submit the variation does not fall into the category of being "self-evident" such that it could be "determined with little formality".[127]

208. The variation would have significant implications for part-time employees in this industry because it would potentially allow their employer to cancel a shift minutes before it starts on the basis of a "genuine emergency" – a term which is not defined.

209. Whilst the hours would have to be worked on another day, the disruption caused by having a shift cancelled with no guaranteed notice period is significant.

210. On this basis, the claim must be dismissed because Business SA has not advanced a sufficient case to justify a variation of this nature.

[127] *4 Yearly Review of Modern Awards: Preliminary Jurisdictional Issues* [2014] FWCFB 1788 at [60] (3)

AIG DRAFTING ISSUES: NUMEROUS AWARDS

Casual conversion

211. AIG's submissions from [288] to [325] identify alleged substantive changes made to casual conversion entitlements during the process of creating exposure drafts from the existing modern awards.

212. The AWU has an interest in a number of the identified awards.

213. Whilst some of AIG's criticisms appear overly pedantic, we are generally not opposed to the exposure drafts being amended to reflect the wording in the current awards.

214. This position is subject to general changes to existing casual conversion clauses emerging from these common issue proceedings.

Payment of casual loading

215. Paragraphs [327] to [329] of AIG's submissions concern the interaction of casual loadings with overtime and penalty rates in the *Salt Industry Award 2010* and the *Wool Storage, Sampling and Testing Award 2010.*

216. The argument AIG is making for these awards has been replicated in the 4 yearly reviews of modern awards for a number of other awards which have very similar wording.

217. For example, the following current awards have a consolidated clause which prescribes overtime, shift loading and penalty rates:

- *Salt Industry Award 2010*: clause 23;
- *Wool Storage, Sampling and Testing Award 2010*: clause 25;
- *Hydrocarbons Industry (Upstream) Award 2010*: clause 26; and
- *Oil Refining and Manufacturing Award 2010*: clause 24.

218. The consolidated clause in all of these awards also contains the following words under the sub-heading - 'Method of calculation':

(a) When computing overtime payments, each day or shift worked will stand alone.

(b) Any payments under this clause are in substitution of any other loadings or penalty rates.

219. AIG has repeatedly relied on this wording to argue that the casual loading, which in all cases is prescribed in an entirely different clause of the award, is not payable when overtime is worked (and in some cases in addition to penalty rates) because the payments in the respective overtime and penalty rate clauses "are in substitution of any other loadings or penalty rates" – including the casual loading.

220. The obvious and fatal flaw in AIG's argument is that it would result in a casual employee working on afternoon shift receiving a total loading of only 15%.

221. This would arise because apparently the 15% afternoon shift loading is "in substitution of any other loadings or penalty rates" and hence the 25% casual loading would not be payable.

222. This outcome is manifestly absurd and could not have been intended.

223. The purpose of the words relied upon by AIG is simply to confirm that an employee only receives one of the overtime or penalty rates prescribed in the relevant clause at a time.

224. For example, an employee working overtime does not receive shift loadings or weekend penalty rates and an employee working shift work on the weekend receives the weekend penalty rates but not the shift loadings.

225. This essentially gives effect to the test case decision in *re Shift Workers Case 1972* which determined shift loadings would generally not be paid in additional to weekend penalty and overtime rates.

226. In these circumstances, AIG's submissions should be seen for what they are – an opportunistic "try-on" to reduce the current safety net for award-reliant casual employees.

Stephen Crawford
SENIOR NATIONAL LEGAL OFFICER

The document at Attachment 1 has been removed following the request below from the National Farmers' Federation

From: Sarah McKinnon [mailto:SMcKinnon@nff.org.au]
Sent: Tuesday, 1 March 2016 1:04 PM
To: AMOD
Cc: Stephen Crawford
Subject: AM2014/196 and 197 - casual and part-time common issue proceedings

Dear Vice President Hatcher,

The NFF has today reviewed material filed by the Australian Workers' Union (AWU) in the above proceedings on 22 February 2016.

Included in the material filed by the AWU is a letter from Dairy Australia which is clearly marked "In confidence" and which contains an express request that it not be disclosed to any third party.

We have advised the AWU of our objection to the material being made publicly available in this fashion, despite direct requests to the contrary.

We respectfully request that Attachment 1 to the AWU submission of 22 February be removed from the Commission's website pending further consideration of how it should be treated for the purposes of the proceedings. The AWU has advised the NFF that it does not object to this course.

Yours sincerely,

Sarah

Sarah McKinnon|General Manager, Workplace Relations and Legal Affairs| National Farmers' Federation

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"2 - Statement of Kim Shepherd"

Fair Work Act 2009
FAIR WORK COMMISSION

s. 156: 4 Yearly Review of Modern Awards

AM2014/196 and AM2014/197

Common issue proceedings – Casual and Part-time employment

Pastoral Award 2010

STATEMENT OF KIM SHEPHERD

I, Kim Shepherd, c/- 26 Happy Valley Road, Ovens in Victoria, employed as a union organiser STATE as follows:

Background

1. I am employed by The Australian Workers' Union, Victorian Branch (AWU) as an Organiser and am based in Wangaratta.

2. I grew up on a dairy farm and have visited three or four different dairy farms in North East Victoria during my employment with the AWU.

3. Part of my role with the AWU involves assisting members who work in the dairy industry.

4. I am aware of the NFF's claim to reduce the casual and part-time minimum engagement for dairy operators in the *Pastoral Award 2010* from three hours to two hours and provide this statement in response.

Milking operations

5. The amount of time for a milking process varies significantly depending on the following factors:

   - The number of cows;
   - The number of people involved;
   - The machinery used; and
   - Other duties.

6. For example, I have visited a dairy at Nagambie which milks over 1000 cows at a time. This type of enterprise is obviously run a lot differently to a smaller scale dairy farm which only has 50 or so cows.

7. I find the claim that there is not three hours' of useful work for employees to perform per engagement very hard to believe.

8. In addition to the actual milking process, there are a number of other associated tasks including:

   - Cleaning and sterilising the equipment, this is time consuming and involves taking some of the machinery apart to clean inside; and
   - Inspecting the cows for disease. This is a very important job and sufficient care needs to be taken to make sure nothing is missed.

9. From my experience, it should not be at all difficult to find more than 3 hours' work per engagement for a part-time or casual employee working on a dairy farm.

Employee preferences

10. I have spoken to numerous employees in the dairy industry during the course of my duties with the AWU and have never come across an employee who has complained about having to work at least 3 hours per engagement.

SIGNED:

KIM SHEPHERD

DATE: 19/2/2016

"3 - Statement of Mark Bell"

Fair Work Act 2009
FAIR WORK COMMISSION

s. 156: 4 Yearly Review of Modern Awards

AM2014/196 and AM2014/197

Common issue proceedings – Casual and Part-time employment

Pastoral Award 2010

STATEMENT OF MARK BELL

I, Mark Bell, c/- 685 Spencer Street, West Melbourne in Victoria, employed as a union organiser STATE as follows:

Background

1. I am employed by The Australian Workers' Union, Victorian Branch (AWU) as an Organiser and am based in Ballarat and Bendigo

2. I lived on a dairy farm near Scone in New South Wales with my grandparents from the age of around 8 to 14.

3. I also worked on a number of dairy farms as an adult including farms that had over 300 cows.

4. I have been informed about the NFF's claim to reduce the casual and part-time minimum engagement for dairy operators in the *Pastoral Award 2010* from three hours to two hours and provide this statement in response.

Milking operations

5. I can't believe the NFF are claiming that there isn't enough work associated with the milking process to keep a part-time or casual employee occupied for three hours.

6. The milking process itself will use up most of the 3 hour minimum period.

7. Then after the milking process is finished there are a number of other tasks that have to be completed. These include:

   - Getting the cows back out into the paddock;

- Getting feed out for the cows;
- Hosing the yards and milking area; and
- Pulling apart the milking gear and then cleaning and sterilising it.

8. All these tasks have to be undertaken after every milking or there will be an infestation of flies.

9. From my experience on dairy farms, there shouldn't be any problem finding well in excess of 3 hours' work for an employee around every milking.

SIGNED:

Mark Bell

MARK BELL

DATE: 18/02/2016

IBISWorld

WHERE KNOWLEDGE IS POWER

Room to breathe: A depreciating Australian dollar should improve export competitiveness

IBISWorld Industry Report C1214
Wine Production in Australia

April 2015

Brooke Tonkin

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About this Industry

Industry Definition

The Australian Wine Production industry purchases grapes and other key ingredients to process into wine, port and wine-based alcoholic beverages. These products are packaged in bottles or casks and sold to wine merchants and retail outlets. This industry also includes the production of other alcoholic beverages, such as cider, not categorised elsewhere.

Main Activities

The primary activities of this industry are

- Carbonated wine production
- Wine production
- Sparkling wines production
- Fortified and unfortified wine production
- Winemaking residue collection
- Wine-based fruit drink production
- Cider production
- Sherry production
- Perry production
- Mead production

The major products and services in this industry are

- Ciders
- Other alcoholic beverages
- Red wines
- Sparkling wines
- White wines

Similar Industries

A0131 Grape Growing in Australia
Firms in this industry grow or sun dry grapes.

F3606a Liquor Wholesaling in Australia
This industry wholesales beer, wine and spirits.

G4123 Liquor Retailing in Australia
Operators in this industry retail beer, wine and spirits for consumption off the premises only.

H4520 Pubs, Bars and Nightclubs in Australia
Hotels, bars or similar establishments sell alcoholic beverages for consumption on and off the premises (e.g. from bottle shops located at such premises).

Additional Resources

For additional information on this industry

www.abs.gov.au
Australian Bureau of Statistics

www.wineaustralia.com
Australian Grape and Wine Authority

www.wfa.org.au
Winemakers' Federation of Australia

Industry at a Glance

Wine Production in 2014-15

Key Statistics Snapshot

Revenue	Annual Growth 10-15	Annual Growth 15-20
$5.6bn	-2.6%	1.8%
Profit	**Exports**	**Businesses**
$334.9m	$1.9bn	1,852

Market Share

Treasury Wine Estates Limited 14.8%

Pernod Ricard Pacific Holding Pty Ltd 9.3%

Accolade Wines Holdings Australia Pty Limited 8.4%

Casella Wines Pty Limited 6.8%

p. 25

Key External Drivers

Alcohol consumption

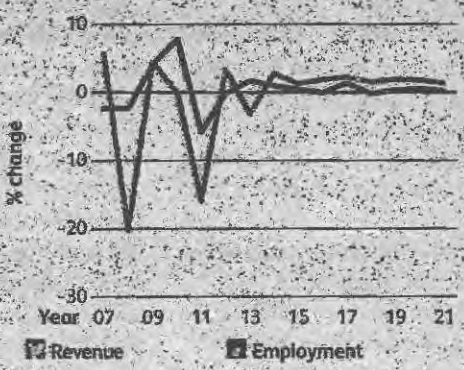
Demand from liquor retailing

Demand from pubs, bars and nightclubs

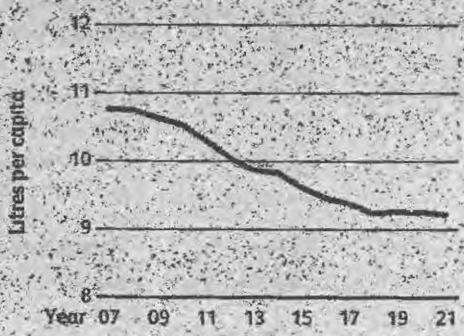
Trade-weighted index

Domestic price of wine grapes

Revenue vs. employment growth

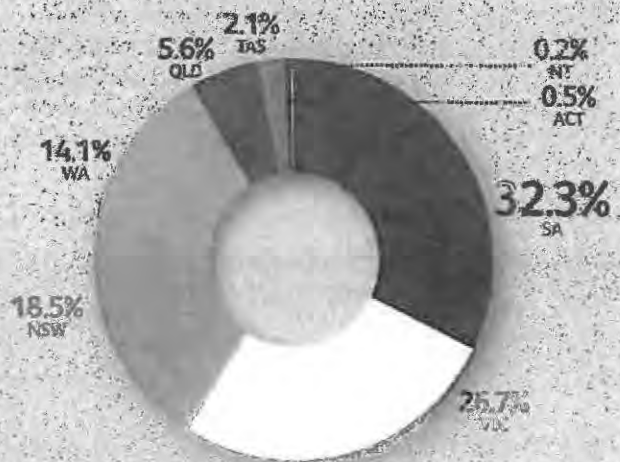


Alcohol consumption



SOURCE: WWW.IBISWORLD.COM.AU

Wine production



SOURCE: WWW.IBISWORLD.COM.AU

Industry Structure

Life Cycle Stage	Mature	Regulation Level	Medium
Revenue Volatility	High	Technology Change	Medium
Capital Intensity	Medium	Barriers to Entry	Medium
Industry Assistance	Medium	Industry Globalisation	High
Concentration Level	Low	Competition Level	High

FOR ADDITIONAL STATISTICS AND TIME SERIES SEE THE APPENDIX ON PAGE 34

Industry Performance

Executive Summary | Key External Drivers | Current Performance
Industry Outlook | Life Cycle Stage

Executive Summary

Difficult trading conditions have plagued the Wine Production industry over the past five years. Volatile demand from key export markets, a soaring Australian dollar for much of the period and rising competition from low-cost overseas wine producers have all hurt wine exports. In the domestic market, producers have been forced to contend with changing consumer preferences and have lost bargaining power to retailers. Additionally, an oversupply of wine grapes – and the resulting oversupply of wine – has pushed prices downwards and squeezed margins. The booming popularity of ciders has helped to offset falling international demand for Australian wines, with savvy marketing driving substantial growth in demand for cider.

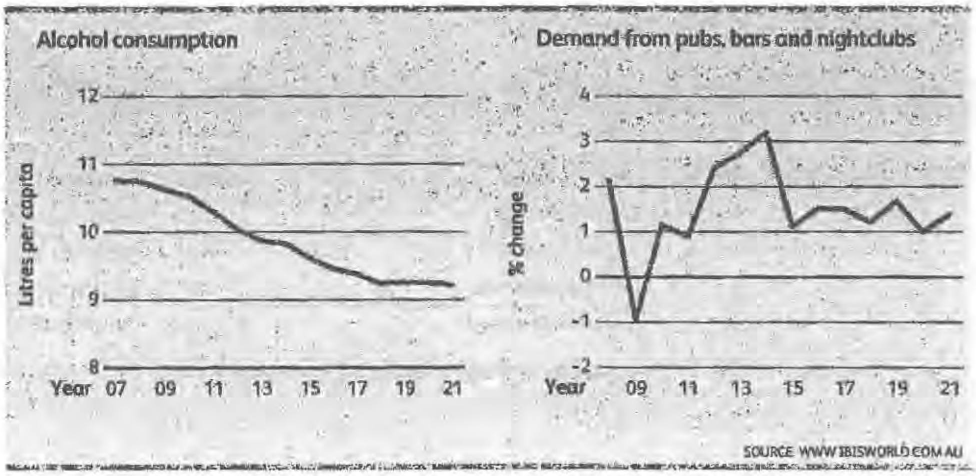
Wine producers craft grapes and other inputs into a range of alcoholic beverages. Many producers, including the industry's largest players and smaller independent wineries, are vertically integrated and grow the grapes they use for wine production. Other producers purchase grapes under contract from individual growers. This structure has contributed to the chronic oversupply of wine in the market, as producers have continued converting all grape supplies into wine. Producers have belatedly tried to address the problem over the past five years, by writing down assets, closing down wineries and destroying vines. Industry revenue is forecast to decline by an annualised 2.6% over the five years through 2014-15, to reach $5.6 billion.

While the industry faces a long and painful process before the market returns to balance, conditions are expected to be less challenging in 2014-15. The anticipated depreciation of the Australian dollar will improve the competitiveness of exports, better positioning them in overseas markets. Consequently, industry revenue is expected to rebound slightly in 2014-15, with 1.3% growth forecast.

The industry should begin to show signs of recovery over the next five years. Industry operators are anticipated to shift production towards premium wines, while Asian export markets will play an increasingly important role in the industry's future. Vertically integrated winemakers are likely to work on producing single-vineyard wines and focus more on cellar-door and online sales. Over the five years through 2019-20, industry revenue is forecast to grow at an annualised 1.8%, to reach $6.1 billion.

Key External Drivers

Alcohol consumption
Alcohol consumption is closely correlated with consumption of wine, cider and other beverages produced by the industry. Higher alcohol consumption typically translates into



SOURCE: WWW.IBISWORLD.COM.AU

Industry Performance

Key External Drivers continued

higher industry demand, although this depends on the consumption levels of other alcoholic beverages, such as beer and spirits. A number of factors have moderated Australian alcohol consumption, including growing health consciousness, anti-drink-driving campaigns and enforcement of laws regarding alcohol consumption. Alcohol consumption is expected to fall in 2014-15, threatening demand for industry products.

Demand from liquor retailing
The Liquor Retailing industry is one of the most important markets for winemakers. The Wine Production industry relies heavily on orders from retailers. Generally, increased demand from retailers translates into higher sales for the industry. Demand from liquor retailing is expected to increase over 2014-15, in line with growth in the number of liquor retailing outlets throughout Australia.

Demand from pubs, bars and nightclubs
Pubs, bars and nightclubs are key buyers of industry products, so manufacturers need to establish good relationships with these establishments. Increased demand from these markets typically translates into boosted revenue. However, falling demand is detrimental to revenue growth. Demand from pubs, bars and nightclubs is expected to increase over 2014-15, representing an opportunity for the industry.

Trade-weighted index
Currency exchange rates affect the competitiveness of Australian wines in export markets. An appreciation of the Australian dollar increases the price of wine in export markets, reducing price competitiveness and softening demand. Conversely, a lower Australian dollar improves the competitiveness of Australian exports and typically strengthens demand. The trade-weighted index is forecast to fall in 2014-15.

Domestic price of wine grapes
Wine grapes are the major input and purchase cost for the Wine Production industry. Higher wine grape prices translate into higher purchase costs for wine makers, negatively affecting profit margins. Conversely, falling wine grape prices result in purchase costs and improved profitability. The domestic price of wine grapes is projected to rise in 2014-15, as the Grape Growing industry recovers from a glut of grape production.

Current Performance

The Wine Production industry has been facing challenging conditions over the past five years, including a major oversupply of wine, a shift in consumer preferences towards cheaper wine and a collapse in demand from key export markets. Although a minor recovery in global markets is anticipated in 2014-15, challenges are expected to persist, with low export sales to key UK and US markets. Over the five years through 2014-15, industry revenue is projected to post an annualised decline of 2.6%, to total $5.6 billion. This includes forecast growth of 1.3% for 2014-15, on the back of improved export earnings.

Wine glut

The majority of producers in the industry are vertically integrated, including the largest industry players and small independent wineries. These producers own vineyards and grow their own grapes to produce wine. This has contributed to the structural oversupply of wine in Australia, which is the most challenging issue facing the industry. In November 2009, the Winemakers' Federation of Australia, Wine Grape Growers Australia, the Australian Wine and Brandy Corporation, and the Grape and Wine Research and Development Corporation

Industry Performance

Wine glut continued

(now called the Australian Grape and Wine Authority) released a joint statement, highlighting the structural oversupply of wine and wine grapes in Australia and the need for producers to take steps to reduce production.

The research noted that at least 20.0% of Australian grape-bearing vines were in surplus and 17.0% of vineyard capacity was uneconomic. Additionally, the research asserted that Australia was producing 20 to 40 million cases of wine per year more than was in demand. Previously, the industry had avoided the full effects of this problem by exporting excess wine. However, falling demand in export markets, due to the persisting high Australian dollar over much of the past five years, reduced wine exports. This contributed to a supply glut in the domestic market.

Over the past five years, the oversupply of wine has led to heavy price discounting, as producers have tried to move excess stock. This has hindered revenue growth over the period, as consumers have paid lower prices for their favourite low-value wines or switched to discounted higher quality wines. Discounted products that made it to export markets have also devalued the Australian brand internationally. For example, Treasury Wine Estate's brand value in the United States plummeted in July 2013, following announcements of $40.0 million worth of wine discounting and the destruction of $35.0 million worth of wine to alleviate excess supply.

> An oversupply of wine has prompted heavy price discounting over the past five years

Global markets

Wine exports have declined over the past five years, as key UK and US export markets have suffered recessions and the strong Australian dollar has eroded export competitiveness. While cheap Australian wines dominated the UK market 10 years ago, several new low-cost producers have entered the market since then. Wine producing countries such as New Zealand, Argentina, Chile and, more recently, South Africa, have taken advantage of their lower costs and rising popularity to supplant Australian wines in major wine-consuming markets. Competition has also increased from producers in France, Italy and Spain, as these countries benefit from their iconic status as winemakers. Australian producers have responded by trying to improve the reputation of Australian wine and increasing sales of higher value wines through intense marketing. Furthermore, domestic producers are increasingly targeting Asian markets, particularly China. Australia is the second-largest importer of wine to China, after France.

Imports have increased over the past five years, fuelled by the high Australian dollar for much of the period and soaring demand for New Zealand sauvignon blanc. Sauvignon blanc and, to a lesser extent, pinot noir from New Zealand's Marlborough region have flourished in the Australian market over the past five years. This has been underpinned by savvy marketing of fruity wines mainly targeted at female drinkers. During 2011, eight of the 10 top-selling white wines in Australia were Marlborough sauvignon blancs. However, the tide appears to be turning, with sales of locally produced semillon sauvignon blanc and pinot gris growing strongly over the past couple of years. Additionally, imports of other alcoholic beverages – especially cider – have increased over the period.

Industry Performance

Supermarket power

A major concern for wine producers is the increasing dominance of Woolworths and Wesfarmers in downstream liquor retailing. Woolworths and Wesfarmers have aggressively increased their presence in the liquor retailing market over the past five years, expanding the number of their various chain stores such as Dan Murphy's, BWS, Liquorland and First Choice. Their combined share of the Australian alcohol retailing market is estimated to stand at just under 60.0%. Woolworths and Wesfarmers' dominance of liquor retailing has given them significant bargaining power over wine producers. The market-wide discounting by these two operators has contributed to limited wholesale price growth over the past five years. The supermarket chains have also exploited their market power to reduce shelf space for branded products and push their own private-label and control-label wines.

Other alcoholic beverages

While traditional wine sales have struggled, the situation has been more favourable for other alcoholic beverages included in the industry. Sparkling wines and ciders have been the biggest winners, especially as the higher consumption of cider during summer months has made it increasingly popular with younger drinkers. As a result, cider is expected to be the fastest growing product segment within the industry. Sparkling wines have benefited from the growing popularity of champagne. Champagne and sparkling wines have transformed from a traditionally celebratory drink to a more widely consumed beverage, while retaining an image of sophistication. Over the past five years, this shift brought more sparkling wines and champagne into the hands of casual drinkers.

Profit and employment

Price discounting and falling sales (in value terms) have hit profit margins hard over the past five years. Domestic wine prices have come under pressure due to an oversupply in the market and heavy discounting by supermarket liquor retailers. Margins have taken a hit, as export sales have dropped due to the dire economic conditions in key markets and the high Australian dollar over much of the period. Asset divestment, such as Treasury Wine Estate's destruction of $35.0 million worth of excess wine in 2013, has further hurt industry profitability over the period.

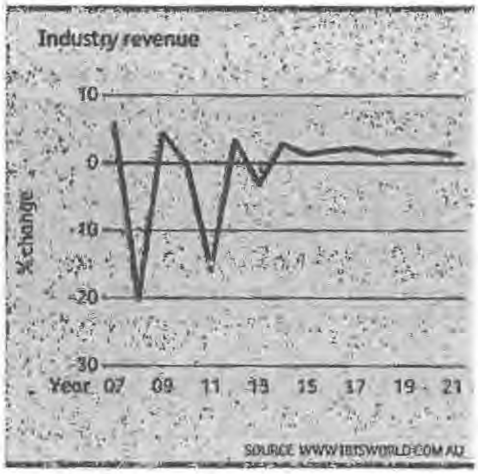
Industry employment has fallen marginally over the past five years, due to establishments being closed in an attempt to combat the industry's oversupply issue. Both Treasury Wine Estates and Accolade Wines have slowly reduced their workforces over the past five years, cutting costs and closing wineries in a reaction to oversupply and falling profitability and sales. New technologies have also lowered the labour requirements for the production of many wines.

> New technologies have lowered the need for labour, reducing employment numbers

Industry Performance

Industry Outlook

Trading conditions for wine producers are expected to gradually improve over the next five years. Producers have slowly started to address the wine oversupply problem by reducing production and closing wineries, although there is still some distance to go before the industry regains balance. Industry growth will likely remain moderate in the immediate future, as the lingering oversupply of wine and sluggish global economy take a toll on exports. Weak price growth will constrain domestic revenue growth and profitability. In the longer term, some producers will move towards premium wines, which will bode well for their profitability. Over the five years through 2019-20, industry revenue is forecast to increase by an annualised 1.8%, to reach \$6.1 billion.



Dealing with oversupply

The oversupply of wine in Australia is expected to remain the biggest issue facing the industry over the next five years. Despite slowly falling wine production volumes, total wine produced plus total stock is still almost double total demand (i.e. domestic demand plus exports). Clearly, this cannot last. The oversupply continues to encourage heavy price discounting, devaluing the Australian wine brand internationally and weighing on prices and profit margins received by domestic winemakers.

Historically, many small producers have been hesitant to leave the industry, as wine production is a way of life rather than just a revenue-driven business. The removal of vine plantings and the exit of mid-tier producers, particularly in areas surrounding the Murray-Darling Basin, remain the only viable solutions to the oversupply in the domestic wine market. Producers need to move away from the low-cost, high-volume model favoured during the past decade and focus on improving Australia's reputation for producing fine wines. Over the next five years, establishment numbers are expected to decline as low-value wine makers scale back production.

Turning the corner

Conditions in the Wine Production industry are expected to improve during 2015-16. Nevertheless, growth will continue to be constrained by weak prices and the slow recovery from oversupply. In the domestic market, heavy discounting and ongoing excess wine supply will limit revenue growth. Efforts to reduce the oversupply will be beneficial in the long term, but not enough to put upward pressure on prices over most of the next five years. Consumers have become accustomed to discounted prices and may be unwilling to accept higher prices, shifting to lower cost branded and private-label wine instead. Growth in private-label wine will continue to take market share from mid-tier producers of low-cost wine. Some wine producers will lessen the effects of this competition by focusing on moving up the value chain and directing marketing and promotions at establishing premium brands, which will help to improve their profitability.

Industry Performance

The global landscape

Export revenue growth depends on the opening up of emerging export markets. Australia's free trade agreements with Japan, South Korea and China, all signed in 2014, will gradually eliminate tariffs and should help boost exports to these emerging markets. However, competition in export markets is expected to be intense as wine producers in other countries become more reliant on exports. Exports are anticipated to account for a larger proportion of revenue over the next five years, although global demand for Australian wines is anticipated to remain weak compared with historical highs. Australia is expected to lose some share of international trade while demand conditions in major importing nations (such as the United States, the United Kingdom and Germany) remain poor.

Two of the most prominent export markets, the United Kingdom and the United States, are becoming more polarised in terms of wine preferences, which represents another challenge to the industry. While American consumers generally prefer fuller, richer wines and are happy to drink wines with higher alcohol content, consumers in the United Kingdom are shifting towards more subtle, lighter varieties with more finesse. These diverging preferences present a difficult decision for producers as to whether they should produce a variety of wines to appeal to both markets, or concentrate on one export market. This decision may be further complicated by a relative abundance or scarcity of the necessary types of grape.

Improving profitability

Industry profit is expected to grow moderately over the five years through 2019-20. Improvements in profitability are likely to be realised as wine inventories are sold down and the industry returns to balance. Small decreases in production, along with some increases in price, will allow producers to expand their margins while controlling costs. Wine grape prices are expected to increase over the next five years, although the increase will have only a moderate effect on the costs of production. However, this will likely encourage mid-tier wine producers that are not vertically integrated to scale back production over the next five years, helping to alleviate the industry's oversupply problem. Some growth in profit margins is also likely to arise from an emphasis on exporting higher value premium wines and rationalisations leading to cost savings.

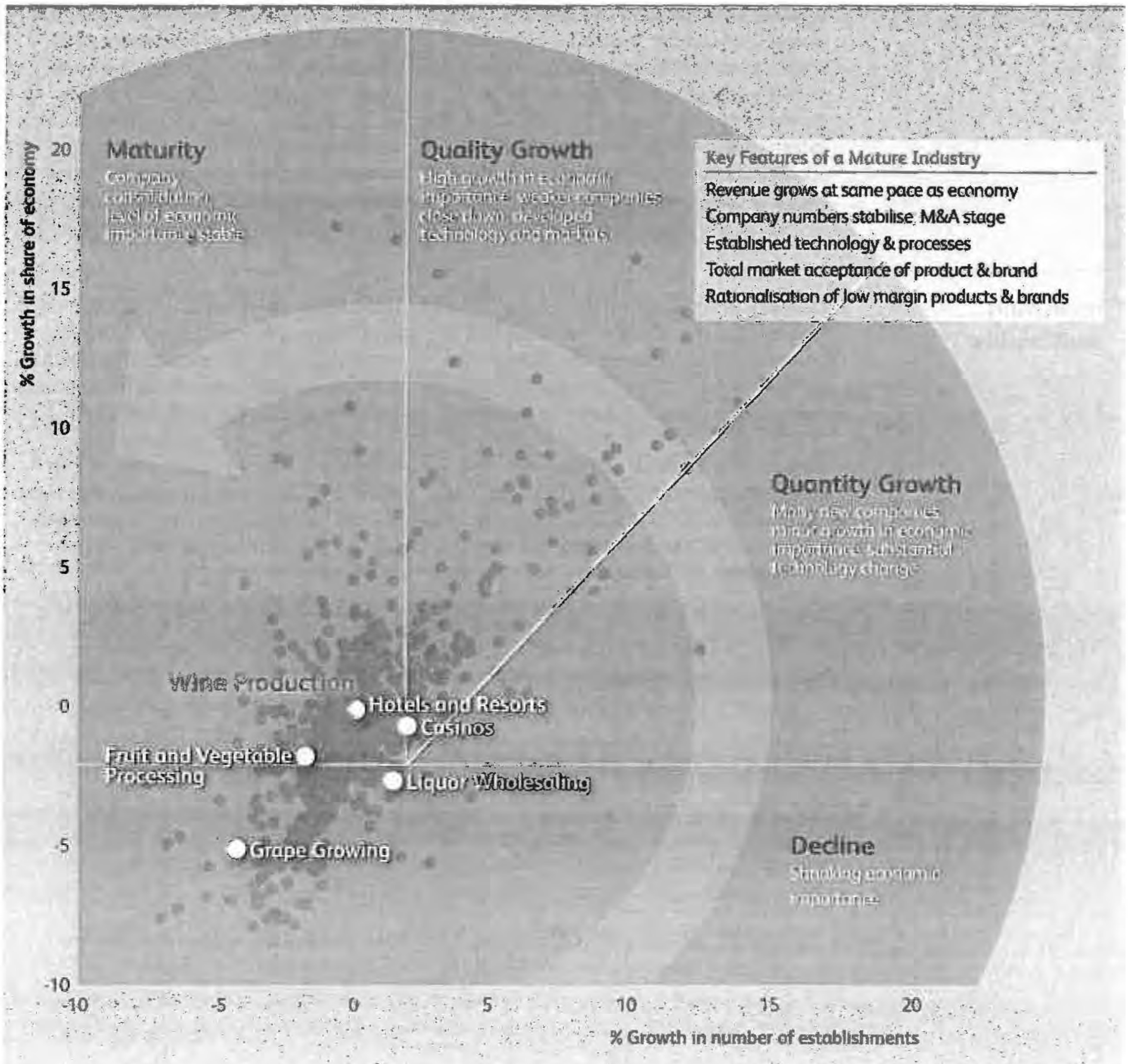
Industry Performance

Life Cycle Stage

Export earnings have fallen, due to weakening demand for Australian wine

Cider represents a strong growth opportunity

The industry faces strong competition as many producers flood the world market



SOURCE: WWW.IBISWORLD.COM.AU

Industry Performance

Industry Life Cycle

This Industry is Mature

The industry is expected to be in the mature phase of its life cycle. Industry value added, a measure of the industry's contribution to the economy, is forecast to increase at an annualised 2.5% over the 10 years through 2019-20. In comparison, GDP is forecast to increase an annualised 2.7% over the same period. The industry's lower growth over the period is largely attributable to its ongoing recovery from weakened export demand and an oversupply of grapes.

With many wineries reporting losses in the five years through 2014-15, evidence suggests that small and medium-size industry players have struggled to control costs sufficiently to remain competitive. This has had a negative effect on industry value added. Although cider remains the fastest growing segment within the industry, the segment is not big enough to have any substantial effect in propelling industry growth.

Export sales are estimated to decline by an annualised 4.8% over the five years through 2014-15. Exports have been adversely affected by the persisting high Australian dollar over much of the period and competition from emerging producers, particularly South Americans. The high value of the Australian dollar over much of the past five years has meant that Australian wines are not able to compete profitably at lower pricepoints. Despite this, the geographic spread of export sales has continued to grow, with Ireland, Canada, Germany and Asian markets accounting for an increased share of Australian wine sales. The geographic spread of production facilities has continued, following vineyard operation's shift into cooler regions.

Over the next five years, the Australian dollar is forecast to fall, boosting export opportunities. This is expected to be aided by growing Asian markets that are likely to demand more Australian wines. Some new products and brands have entered the market. Many have been aimed at attracting the female market, especially as other alcoholic beverages such as sparkling wines and cider continue to grow in popularity.

Products & Markets

Supply Chain | Products & Services | Demand Determinants
Major Markets | International Trade | Business Locations

Supply Chain

KEY BUYING INDUSTRIES

F3606a	**Liquor Wholesaling in Australia** Liquor wholesalers purchase wine from producers.
G4123	**Liquor Retailing in Australia** Liquor retailers are a key direct market for wine producers.
H4401	**Hotels and Resorts in Australia** Minibars in hotel rooms and in-house bars and restaurants are usually licensed to sell wine, which means these establishments form an important market for wine producers.
H4520	**Pubs, Bars and Nightclubs in Australia** Pubs, taverns and bars purchase a significant quantity of bottled wine from producers for sale to consumers.
R9201	**Casinos in Australia** Casinos with bars are a market for wine producers.

KEY SELLING INDUSTRIES

A0131	**Grape Growing in Australia** The Wine Production industry purchases grapes, its most important major raw material, from the Grape Growing industry.
C1140	**Fruit and Vegetable Processing in Australia** Ascorbic and citric acids are inputs required for some wine types. These require fruit processed from growers.
C1161	**Flour and Grain Mill Product Manufacturing in Australia** This industry produces yeast, which is an input into wine making.
C1521a	**Paperboard Container Manufacturing in Australia** Containers are required to store and transport the wine bottles along the supply chain.
C2010	**Glass and Glass Product Manufacturing in Australia** Glass bottles are essential for storing wine and preserving the quality over significant time periods, and for transport to markets.

Products & Services

Wine accounts for the overwhelming majority of industry production and revenue. Wine production is expected to account for about 92.2% of industry revenue, while other alcoholic beverages within the industry account for the remainder.

Red wines

Australian red wines are among some of the most prestigious and widely consumed red varieties in the world. Despite similar production volumes between red and white grapes, red grapes contribute a greater proportion of industry revenue due to the higher price they attract. This is because the production process for creating red wines is relatively more complicated and cost-intensive than for white wines, adding to the cost of red wines. However, the proportion of industry revenue derived from red wine sales has fallen over the past five years, due to increased production and sales in other segments.

Shiraz is projected to be the leading grape variety planted in Australia, accounting for almost one-quarter of all grapes produced. Australia is renowned for producing some of the best shiraz in the world. Traditional shiraz-producing regions include the Barossa Valley, Clare Valley and McLaren Vale in South Australia, Heathcote in Victoria, and the Margaret River region in Western Australia. The varied range of production sites, in addition to the full-bodied and fruity flavour of the wine produced, has aided the ongoing popularity of shiraz.

Cabernet sauvignon is the second-largest red wine variety produced in Australia, accounting for an estimated 14.0% of total grapes produced. Despite its large production volume, its high

Products & Markets

Products & Services continued

tannin levels and strong taste have led many drinkers to switch to lighter red varieties. Merlot has grown to represent about 6.6% of total grapes produced. The production of merlot has grown healthily over the past five years, retaining its popularity due to its relatively lower tannin levels and easy drinking taste compared with heavier varieties.

White wines

While the production of white wine grapes accounts for half of total grapes produced, white wine grapes make up only 38.8% of industry revenue. This is largely due to the relative ease of producing white wines compared with red varieties, making white wines cheaper by comparison. However, white wines have remained popular among Australian drinkers and export markets. Consequently, the white wines segment has remained stable as a proportion of revenue over the past five years.

Chardonnay is the second most common grape produced in Australia, representing about one-quarter of total grapes produced. Chardonnay has recently declined in popularity, with many young and female drinkers opting for lighter and more fashionable white wines such as sauvignon blanc and pinot gris, which represent some of the fastest growing white wine types. Chardonnay production is forecast to slow over the long term as drinkers switch to other white varieties.

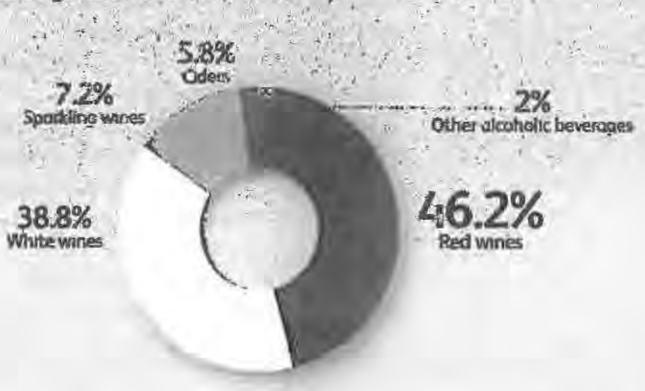
Sauvignon blanc is the second-largest white variety to be produced in Australia, accounting for approximately 5.2% of grapes produced. Domestic sauvignon blanc production has increased steadily, as surging demand for the popular New Zealand sauvignon blanc has prompted local wineries to try to emulate their success, making it the fastest growing white wine variety in Australia.

Other prominent white grape varieties include colombard and semillon, which represent a growing proportion of grapes being produced. This is largely due to the overproduction of red grapes and the growing popularity of the lighter, and easier to drink, white wines.

Sparkling wines

The sparkling wines segment has grown over the past five years, as consumers have begun to change their perception of sparkling wines from a traditionally celebratory drink, reserved for special occasions, to an everyday alcoholic beverage that can be consumed with meals or as a casual drink. This trend has been spurred on by the growing popularity of French champagnes, which are often viewed as a more premium and sophisticated beverage, and are increasingly substituted for regular red or white wines. IBISWorld expects this trend to continue over the coming years as industry operators

Products and services segmentation (2014-15)



Total $5.6bn

SOURCE: WWW.IBISWORLD.COM.AU

Products & Markets

Products & Services continued

respond to growing demand for sparkling wines and champagne.

Ciders

The Australian cider market is estimated to account for approximately 5.8% industry revenue. This segment has expanded as a share of revenue over the past five years, and is the industry's fastest growing product segment. The popularity of cider has grown due its image as a refreshing alternative to beer, aided by savvy marketing and promotion. However, domestic cider producers face intense competition from imported ciders as more than one-quarter of all cider consumed in Australia is imported. This suggests that while the domestic consumption of cider has grown, Australian production has failed to cater for total domestic demand of this beverage.

Other alcoholic beverages

Other alcoholic beverages in the industry include similar fermented fruit-based varieties such as fortified and unfortified niche wines, which include varieties such as sherry, mead and perry. Demand for niche wines and other alcoholic beverages is expected to have remained fairly stagnant over the past five years, accounting for only a small portion of industry revenue. These niche varieties have struggled to gain popularity due to the expanding range of red and white wines in the industry.

Demand Determinants

As an export-intensive industry, trends in key export markets such as the United Kingdom and United States significantly influence industry demand.
Nevertheless, domestic factors have an important role in determining wine consumption and demand.

Discretionary income

In general, higher discretionary income allows consumers to spend more on non-essential products, including wine. It can also serve to shift consumers from low-price to high-price products. Higher incomes have facilitated more meals being eaten away from home, increasing demand for wine from restaurants. Consumer confidence levels generally determine the level of discretionary spending.

Prices and exchange rates

The favourable movement in wine prices relative to beer prices has encouraged wine consumption in Australia. In part, this resulted from the relatively favourable tax treatment of wine.

The increasing proportion of exports for the industry means that exchange rates are an important determinant of demand, as are income and general economic conditions in key overseas markets.

Consumer trends

Wine, cider and other alcoholic beverages produced by the industry are close substitutes for beer and spirits. Consequently, demand for industry products depends on its appeal relative to spirits and beer. Consumer preferences are influenced by marketing and beverage taste. Additionally, perception of trends in wines, such as a trend towards lighter wines for young female drinkers, affects how wine is consumed.

Health and consumption

Wine drinking in moderation has often been seen as an alternative to other alcoholic beverages, with its consumption often used as a digestive or sleep aid. On the other hand there are many negative aspects of drinking beer and spirits, such as the higher calorific content in beer and the stronger alcoholic content of spirits. As a result, consumers may choose wine over beer and spirits.

Products & Markets

Major Markets

Both domestic and export markets represent important revenue generating sources for the industry. Wine manufacturing has suffered from oversupply problems over the past five years, which have yet to be properly addressed. However, Australian wines continue to be popular alcoholic beverages with both domestic and international consumers.

Export markets

The majority of industry revenue is derived from export markets. Exports have declined as a share of revenue over the past five years, due to global oversupply, a high Australian dollar over much of the period, and the resulting lack of global demand. However, the industry remains export oriented, with exports accounting for 33.9% of industry revenue in 2014-15. The major destinations for exported wines are the United Kingdom, the United States, China, Canada and New Zealand. Export markets are particularly important for larger companies, making up a relatively greater proportion of their sales.

Domestic wholesale wine merchants

Domestic wholesale wine merchants are a vital market for the industry. Wholesalers distribute wine to liquor retailers, pubs, restaurants and other hospitality venues. This market also distributes to supermarkets, though this is usually restricted to niche wines. The wholesale market has declined as a proportion of industry revenue over the past five years, due to consolidation in liquor retailing. Large retail chains, such as those owned by Woolworths and Wesfarmers, have increasingly avoided the wholesale market through wholesale bypass and private-label wines.

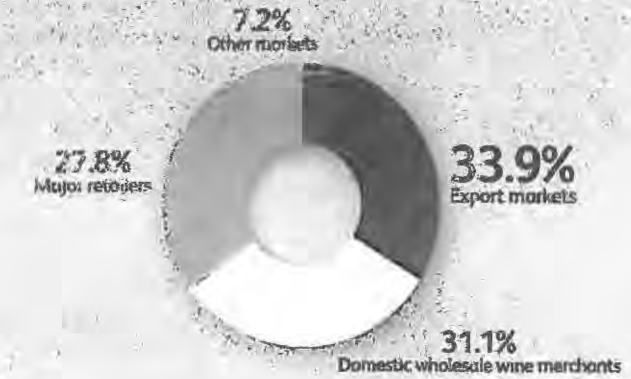
Major retailers

Major retailers are those included in a national liquor retailing network. Downstream liquor retailing is becoming more consolidated, leading to an increasing proportion of direct to retailer sales over the past five years. Wesfarmers' portfolio includes Liquorland, Vintage Cellars and First Choice Liquor, while Woolworths has BWS, Cellarmasters and Dan Murphy's. The purchasing power of these retailers has grown significantly and their rising share of the retail liquor market explains the increasing sales direct to retailers rather than through wholesalers.

Other markets

Other markets consist of a number of other niche downstream markets, such as direct-to-consumers, online markets, caterers and businesses. Overall, other markets have remained a stable proportion of industry revenue over the past five years. Direct online purchases of wine are increasing, a method of delivery

Major market segmentation (2014-15)



Total $5.6bn

SOURCE: WWW.IBISWORLD.COM.AU

Products & Markets

Major Markets continued

which bypasses retailers. These are undertaken both by wineries as part of their direct-to-consumers sales and by wholesalers to expand their distribution network. Some major industry players have their own direct sales distribution through mail orders or site visitations to bypass wholesalers.

About one million people visit winery cellar doors each year in South Australia alone. While cellar-door sales make up a small proportion of overall sales, they are a particularly important market for smaller producers and premium wine manufacturers. While larger manufacturers make proportionally fewer sales at the cellar door, many large wineries maintain a presence in this market. For example, Treasury Wine Estates has a number of wineries open to the public, often accompanied by a restaurant or cafe where wines can be purchased on site, which helps to promote brand awareness.

International Trade

Level & Trend
Exports in the Industry are High and Decreasing
Imports in the Industry are Medium and Steady

Australia consumes less wine on a per capita basis than many other wine-producing nations. On a per capita basis, Australians drink approximately 30 litres of wine per year, which is a significantly lower level of consumption than France, Portugal and Italy, all of whom are expected to consume more than 50 litres per capita. Of the major wine-producing nations, only Chile has lower consumption relative to its level of production, consuming less than 20 litres per person but exporting more than 60% of its manufactured wine. Thus, international markets are important for Australian producers, given its moderate consumption of wine and small domestic market.

Australia currently has two wine-specific trade agreements. The agreement between Australia and the European Community on Trade in Wine and Protocol allows Australia improved access to European markets in exchange for the phasing out of European wine for wine produced in Australia. The Mutual Acceptance Agreement between Australia, New Zealand, Chile, Argentina, Canada and the United States ensures that Australian wine can be marketed in the participating countries, so long as it meets Australian winemaking standards. This agreement assures that signatory countries will not use differences in production standards as a technical barrier to trade in wine. In 2014-15 the Australian Wine Production industry will record exports worth an estimated $1.9 billion and competing imports totalling an estimated $773.0 million.

Exports

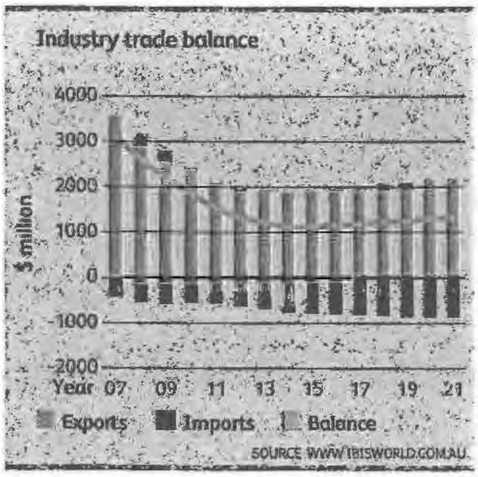
Exports have fallen during the past five years, declining at an annualised 4.8% to account for a 33.9% share of revenue. By value, the top wine export destinations are the United States, the United Kingdom, China and Canada. The value of wine exported from Australia has fallen for a number of reasons, mostly notably the oversupply of cheap Australian wines. Increased competition in the global wine market, the rising Australian dollar and the global economic downturn have all been factors weighing down industry exports over the five year period. During the past decade, a number of relatively new wine producing countries such as Chile and South Africa have emerged to challenge Australian wine in its key export markets. These countries generally produce wine at much lower cost than Australian wine, enabling them to sell it to markets in Europe and North America for a lower price. Australian wine exports have been a victim of changing consumer tastes, with UK drinkers now preferring lighter wines rather than full-bodied Australian shiraz and chardonnay. Compared with other wine-producing nations, Australia is the fifth-highest wine producer and fourth-largest exporter by volume (third-largest exporter by value). Other top wine exporting nations are France, Italy and Spain.

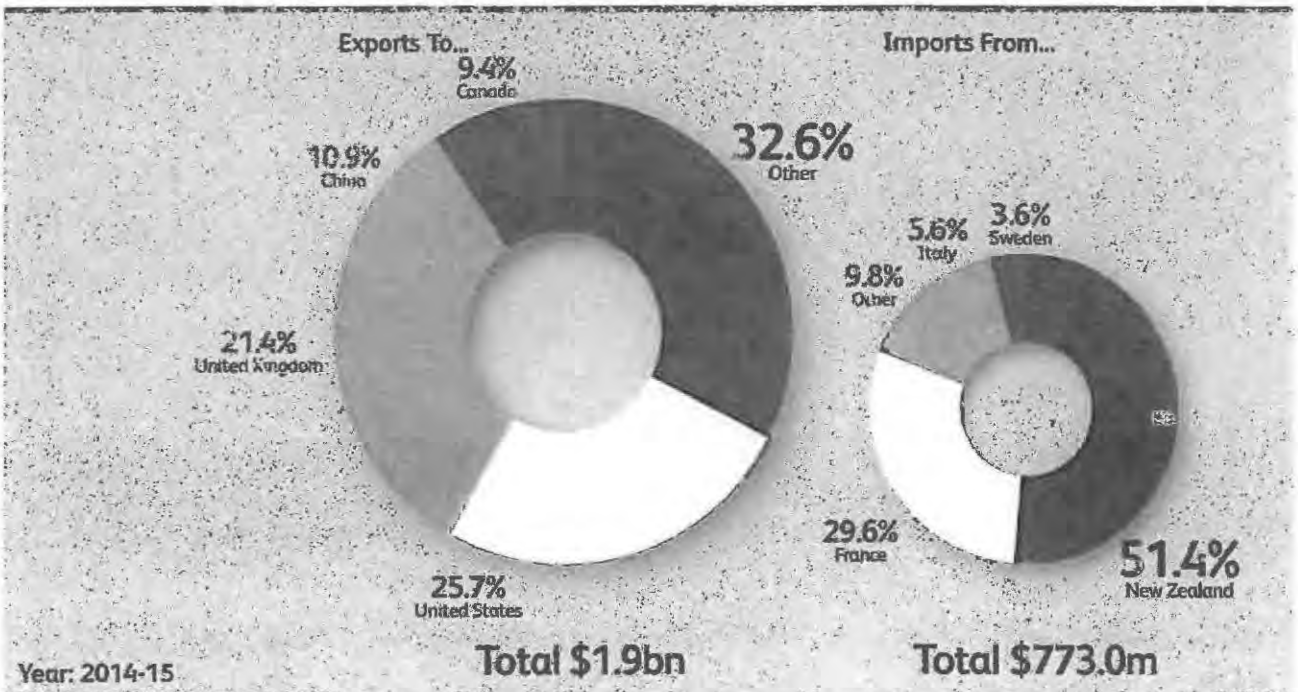
Products & Markets

International Trade continued

Imports

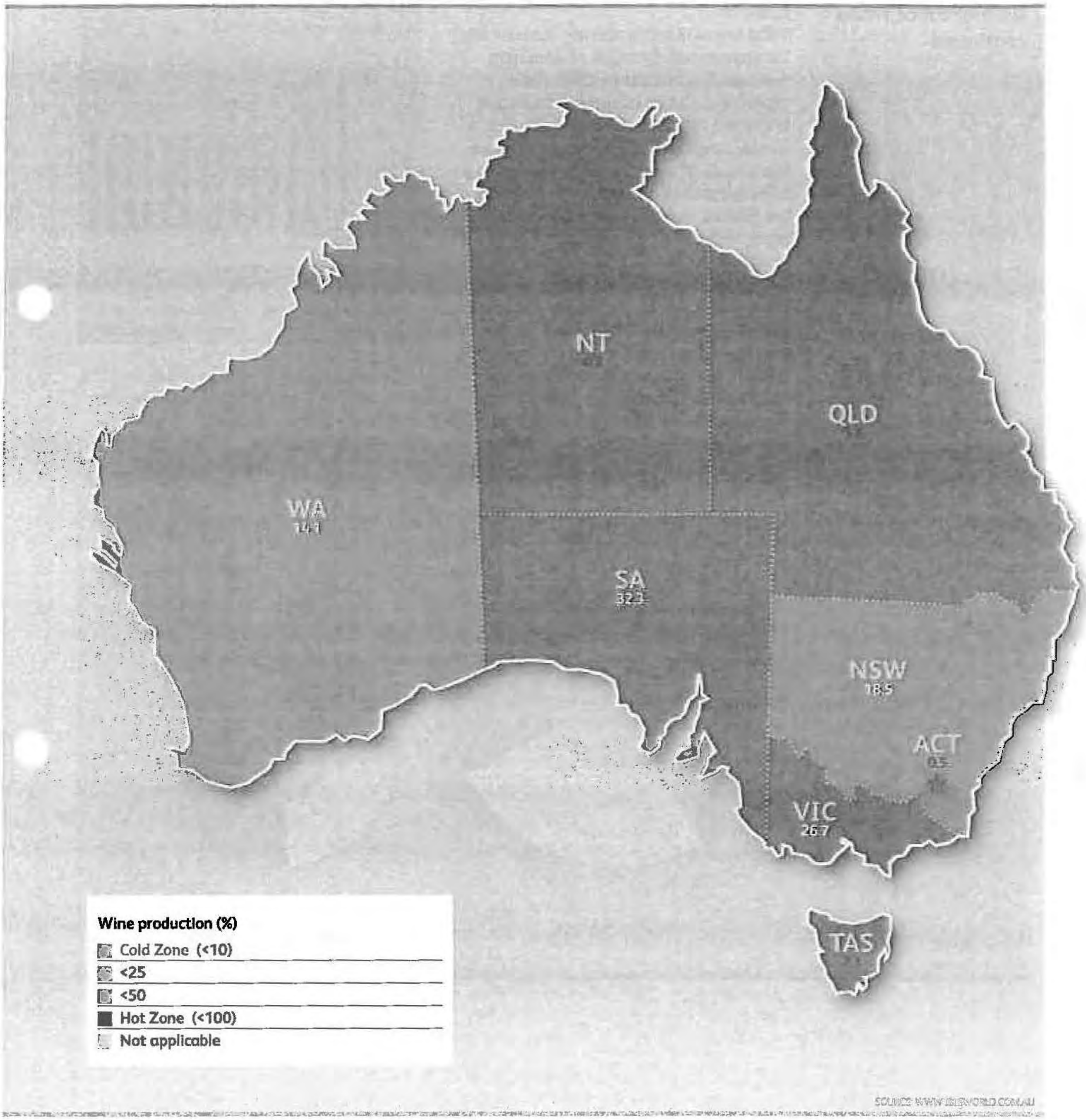
Wine imports are moderate, accounting for approximately 17.3% of domestic demand. In contrast to Australia's prominence as an exporter, the nation imports a relatively low level of foreign wines. Despite this, imports have more than doubled over the past decade. The high Australian dollar for the majority of the period, changing consumer preferences and fluctuation in domestic production have all played a part in this, the biggest contributing factor has been the ongoing rise in popularity of the New Zealand sauvignon blanc. New Zealand wine now accounts for more than half of all imports, with sauvignon blanc making up the lion's share of this. France has traditionally been a source of imports due to the popularity of vintage wines and the Bordeaux wine region. Italy and Sweden are also notable importers.





Products & Markets

Business Locations 2014-15



Products & Markets

Business Locations

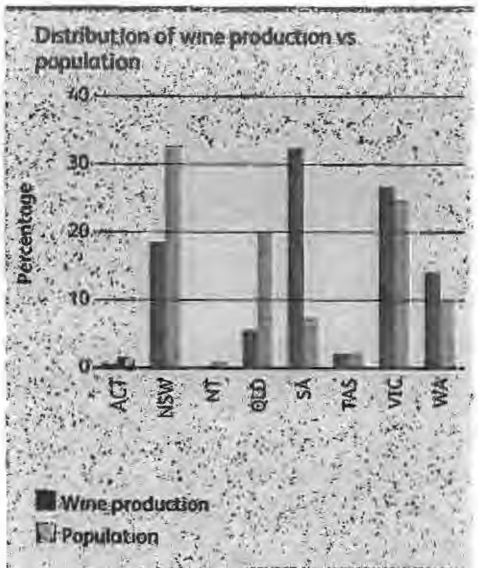
The geographic spread of the industry is closely correlated with the distribution of wine grape production. Wine production facilities are often located at or near vineyards to limit transport costs and ensure the freshest grapes are crushed. South Australia and Victoria tend to produce a higher proportion of premium wines than other states. New South Wales produces a higher proportion of low unit value wines. For the cider segment, a large proportion of establishments lie in Victoria and New South Wales.

South Australia dominates the Wine Production industry. In South Australia, wineries are concentrated in the south-east of the state, throughout the world famous Barossa Valley, Clare Valley, Coonawarra, Eden Valley and Adelaide Hills regions. The Barossa is Australia's most famous wine region and home to some of the world's most praised shiraz.

Victoria is the second most important region in the country. Victorian wineries are mostly located in the warm, high rainfall regions along the Murray River, where much of Australia's cheaper, bulk wines are produced. The state's major table wine producing regions are the Yarra Valley, Mornington Peninsula, Heathcote, Western District, Rutherglen and Beechworth.

A long belt of NSW wineries begins in the damp, grape growing environment of the Hunter Valley and continues across the Great Dividing Range through Orange and Forbes, and on to Griffith in the Murrumbidgee Irrigation Area. The Hunter Valley was one of the first wine grape growing regions to be cultivated in Australia, in the early 1800s. Hunter Valley semillon is world class, while the cooler climate also produces distinctive shiraz and chardonnay.

In Western Australia, the grape growing regions south of Perth have become popular for winery development. The most famous is Margaret River, but Frankland and Mount Barker also contain wineries. To the north of Perth are the Bindoon and Swan Valley winemaking regions.



SOURCE: WWW.IBISWORLD.COM.AU

Competitive Landscape

Market Share Concentration | Key Success Factors | Cost Structure Benchmarks
Basis of Competition | Barriers to Entry | Industry Globalisation

Market Share Concentration

Level
Concentration in this industry is Low

The four largest Australian wine producers collectively account for 39.3% of industry revenue. This represents a low level of market share concentration. Industry concentration was highest following the acquisition of Southcorp by Foster's Group (now Treasury Wine Estates) during the early 2000s. However, concentration in the industry has changed as major producers have purchased and then divested certain production facilities. Larger industry players are also expected to be the hardest hit due to the oversupply of grapes. Over the past five years, market share concentration has decreased as major players fall in size and cider makers and other alcoholic beverage makers enter the industry.

Key Success Factors

IBISWorld identifies 250 Key Success Factors for a business. The most important for this industry are:

Economies of scale
Wine producers with larger production facilities can achieve lower average costs, which can in turn facilitate lower pricing, increased marketing expenditure or capital investment.

Economies of scope
Manufacturers that produce a range of wine varieties, wine brands and other beverages can achieve efficiencies in activities such as distribution, marketing and administration.

Establishment of export markets
Strong ties to export markets have been a critical growth factor for players during the weak domestic conditions of the past five years.

Financial structure of the company
The extent of a company's debt and the way in which it is financed will affect its ability to acquire new assets and ensure healthy cashflows.

Supply contracts in place for key inputs
Contracts will ensure a steady stream of grapes for specific varieties that are produced into wine.

Production of goods currently favoured by the market
An ability to switch production for a market that has ever-changing tastes is critical to success. Industry wine-tasting awards are an effective means of marketing wines with an appealing taste.

Cost Structure Benchmarks

Cost structures can vary according to the level of vertical integration. Expenses depend on the extent to which wineries and cider makers produce their own grapes and other fruits. Some producers concentrate on selling low-margin bulk wine to other firms that bottle and brand the product themselves. Producers that sell their own branded wine to wholesalers, retailers and through their own cellar-door or other direct sales (e.g. direct mail) will tend to produce higher profit margins relative to those that do not (direct sales produce higher margins than sales through wholesalers and retailers).

Profitability
Profit margins vary immensely, according to the type of product and the size of the producer. Typically, major wine producers benefit from their economies of scale. However, smaller wineries can enjoy substantial margins on premium, niche products. Chronic oversupply of wine over the past five years has contributed to heavy discounting through the supply chain, as producers and retailers have attempted to reduce excess wine stocks. Furthermore, the high Australian dollar for the majority of the period negatively affected the competitiveness of Australian wine in

Competitive Landscape

Cost Structure Benchmarks continued

foreign markets, leading to price discounting overseas as well. Consequently, profit margins have fallen over the past five years.

Purchases

Although they vary from year to year and are subject to variations in key input prices, industry purchases accounted for an estimated 62.7% of revenue in 2014-15. Purchases costs include containers and other packaging materials; wine for blending, fortification or distillation; grape juice and grape spirit; sugar; and other purchases. Grapes, the most important production input, are predominantly grown and harvested specifically by wineries for the purpose of wine production.

Wages

Labour costs account for an estimated 18.1% of revenue in 2014-15. Wages have grown as a proportion of total revenue over the past five years. This growth was mostly due to falling revenue, but also because of the labour intensiveness of various functions in wine and cider production, such as the upkeep and maintenance of vineyards and manufacturing processes.

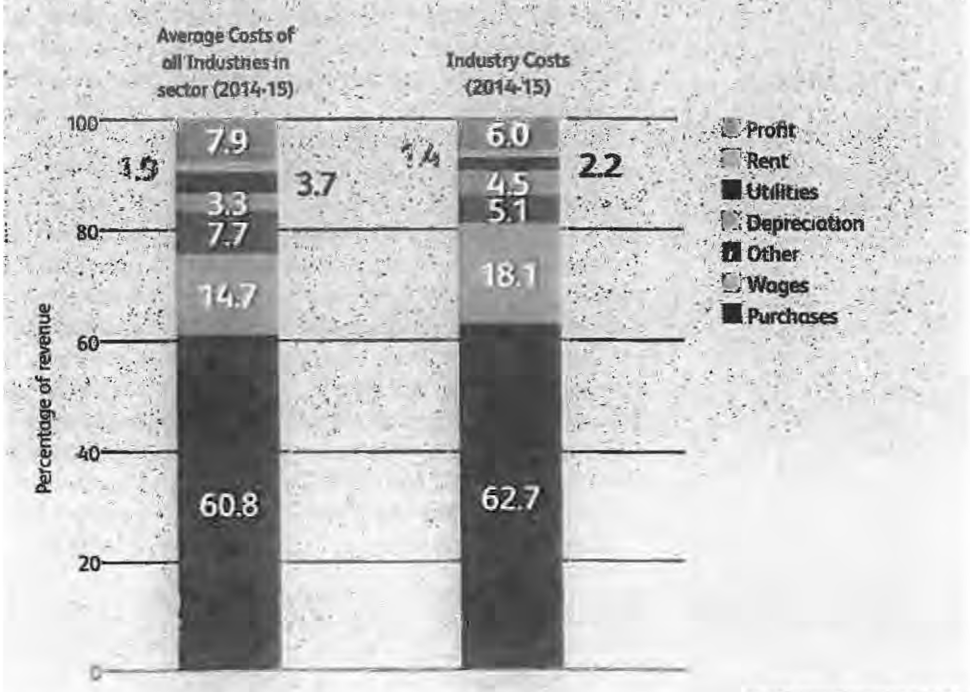
Depreciation

Depreciation remains at about 4.5% of revenue. This is a little higher than other beverage production industries such as Beer Manufacturing, chiefly due to the greater costs involved in wine maturation equipment and storage. However, recent downgrades in production volumes, have caused manufacturers to divest certain product machinery.

Rent, utilities and other costs

Rent costs are minor for the industry. Producers own most property, plant and equipment used in wine production, meaning they are reflected in depreciation expenses. Utility costs relate to operating expenses, particularly electricity for powering machinery and temperature controlled storage facilities. Rising energy costs over the past five years have contributed to increased

Sector vs. Industry Costs



Competitive Landscape

Cost Structure Benchmarks continued

utility costs as a share of revenue.

The most significant other cost to wine producers is marketing costs. The largest companies in the industry that sell branded products can spend between 5.0% and 10.0% of annual revenue on marketing, but the industry as a whole spends close to 3.0% of revenue. This is likely to have grown over the past five years, since promotional spending on Australian wineries has increased (especially in the United Kingdom and the United States) following efforts to rebuild Australian wine brand equity as Australian wines flood international markets. Other crucial costs include administrative costs and general selling expenses.

Basis of Competition

Level & Trend
Competition in this industry is High and the trend is Increasing

Competition is high and increasing due to the expansion of global wine production. Wine producers are subject to rising competition from cleanskin wines and falling margins due to the increasing distribution power of supermarkets.

Internal competition

Producers of wine in the mid- to high-price bottled products range compete on the basis of quality and branding. The quality (taste) of the wine is a basis of competition for individual brands, winemakers and enterprises. A wine with an appealing taste to the consumer can encourage repeat purchases and build loyalty to the brand and winemaker. Wine shows and awards are an important means for promoting the quality of particular wines. Marketing and branding activities can also contribute to consumer perceptions of quality.

By volume, industry sales are dominated by bulk wines, which compete primarily on the basis of price. IBISWorld estimates that wine bottles under $8 account for 37% of industry revenue and 65% of volume sales. Given the importance of price, the size of a wine production enterprise is playing an increasingly important role in competition due to economies of scale and scope. The size of an enterprise will also contribute to determining access to markets and distribution channels.

Australian wineries have a competitive advantage over their international rivals due to a concentration of professional expertise, favourable climatic conditions, industry research cooperation and low-cost supply of grapes (due to access to land, water and capital). The industry also benefits from the network of related industries including tourism and hospitality. Australia's reputation as a high-quality producer is a major selling point in overseas markets.

Major buyers include international retail groups and it can be important to promote products among this group. Treasury Wine has built a global direct wine sales business and acquired a major US winery to build distribution channels globally and in the United States. However, at the niche end, small premium wineries can compete successfully with just a cellar door and small selection of specialty distributors.

External competition

External competition is increasing with more premium beer brands, which compete directly against wine and cider. Wine faces competition from spirits and, to a lesser degree, non-alcoholic beverages, while cider and other alcoholic beverages face stronger competition from traditional beer and ready-to-drink alcoholic beverages. However, the growing popularity of cider and sparkling wines have partially offset this trend.

Competitive Landscape

Barriers to Entry

Level & Trend
Barriers to Entry in this industry are Medium and Increasing

Historical increases in both enterprise and establishment numbers according to wine demand suggest low to medium barriers to entry. However, the level of market saturation already achieved by the industry's largest players, mid-tier firms and small independent wineries make successful entry by new players difficult. New entrants will find it more difficult to achieve the scale and distribution networks necessary to compete against the industry's largest players.

Capital requirements are significant, although operation on a small scale is possible. As some large wine companies divest parts of their operations, these become available for purchase by any potential new entrants. Any new entrant will require superior financial management skills and industry-specific knowledge to be successful.

Branding is now imperative for success in the industry, especially for cider makers, being a relatively new product. The variety of wine brands in the Australian industry has rocketed, with consumers typically choosing a brand that they are familiar with, seeking reliability of quality and a consistent taste. The widening array of existing brands available domestically and abroad represents an increasing barrier to entry. Early movers have an advantage over later entrants. Early participants in each product segment have established brand awareness.

The persisting oversupply of wine grapes has also been a barrier to entry over the past five years. Excessive wine grape production during the 2000s contributed to a supply glut of wine. The wine supply chain is yet to properly recover from this glut, which has negatively affected wine prices and industry revenue over the period. This has discouraged new wine producers from entering the market.

Barriers to Entry checklist	Level
Competition	High
Concentration	Low
Life Cycle Stage	Mature
Capital Intensity	Medium
Technology Change	Medium
Regulation & Policy	Medium
Industry Assistance	Medium

SOURCE: WWW.IBISWORLD.COM.AU

Industry Globalisation

Level & Trend
Globalisation in this industry is High and the trend is Increasing

Industry globalisation is significant in the Australian Wine Production industry. Key operators in the industry have heavy ties with foreign-owned enterprises and are largely exposed to shifts in international markets and foreign enterprises, especially with large multi-discipline beverage manufacturers such as Lion and SABMiller's Foster's Group making inroads through cider manufacturing.

Foreign ownership in the Australian Wine Production industry is high. For instance, Accolade Wines is wholly owned by US-based Constellation Brands, Inc. Pernod Ricard Pacific Holding is the Australian subsidiary of France-based spirits and wine giant Pernod Ricard. French company Moet et Chandon invested $10 million to establish a winery in the Yarra Valley, VIC. Other major French producers (e.g. Bollinger and Roederer) are also expanding their activities in Australia. In addition, the Belgian company Kreglinger, a commodities trader, joined the Australian industry by paying $30.6 million for the small Tasmanian wine producer, Pipers Brook Vineyard. Lion is 100% owned by Japanese brewer Kirin.

Major players in the Australian Wine Production industry are active investors globally. Industry participant Treasury Wine Estates owns wineries in California. Its US winemaking segment, Beringer Blass Wine Estates, has about 6.0% market share of the US wineries industry. Furthermore, Constellation Brands and Pernod Ricard have wine production establishments throughout the world. Constellation Brands is the largest winemaker in the world, with 7.0% share of global revenue.

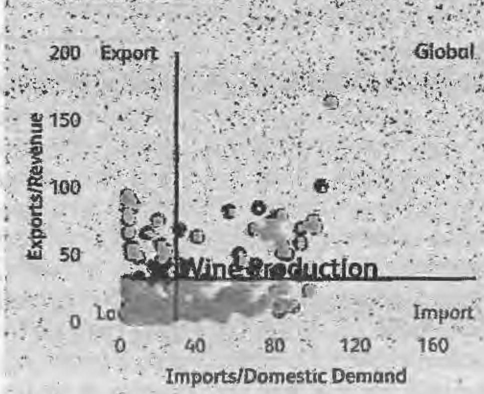
Competitive Landscape

Industry Globalisation continued

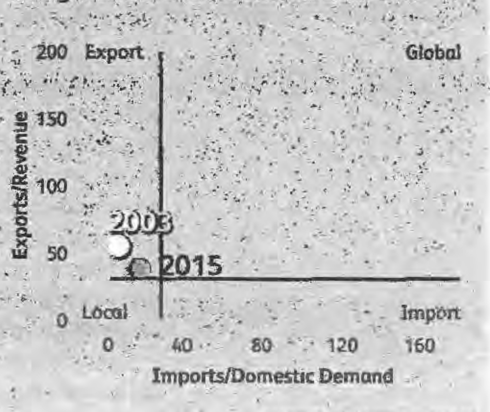
Combating the increasing level of globalisation is the growth of large domestic retailers like Woolworths and Wesfarmers. Along with its purchase of Dorrien Estate Winery in 2011, Woolworths has plans to expand its private liquor offering, particularly in wine production, through the proposed takeover Barossa Valley Estate, one of the many closing vineyards in Australia. However, these plans fell through, with Barossa Valley Estate sold to the Delegat's Group, the New Zealand producers of the Oyster Bay wine brand.

- International trade is a major determinant of an industry's level of globalisation
- Exports offer growth opportunities for firms. However there are legal, economic and political risks associated with dealing in foreign countries
- Import competition can bring a greater risk for companies as foreign producers satisfy domestic demand that local firms would otherwise supply

Trade Globalisation



Going Global: Wine Production 2003-2015



SOURCE: WWW.IBISWORLD.COM.AU

Major Companies

Treasury Wine Estates Limited | Pernod Ricard Pacific Holding Pty Ltd
Accolade Wines Holdings Australia Pty Limited | Casella Wines Pty Limited | Other Companies

Player Performance

Treasury Wine Estates Limited
Market share: 14.8%

Industry Brand Names
Yarra Ridge
Wolf Blass
Ro[illegible] Estate
Mildara
Lindeman's Wines
Penfolds

Treasury Wine Estates Limited (TWE) is an Australian-owned producer and distributor of wine with global operations. The company was renamed in 2011 following the Foster's Group decision to separately list its wine and beer assets in 2010. After its demerger from the Foster's Group, TWE became one of the world's largest wine producers, with 56 wineries across Australia, the United States, New Zealand and Italy. The company's brands include Penfolds, Lindeman's, Wolf Blass, Rosemount Estate, Beringer Vineyards, Matua and Castello di Gabbiano.

In September 2010, Foster's Group rejected a US$2.5 billion offer for its wine business from New York-based private equity firm Cerberus Capital Management. Another takeover bid of more than $3.0 billion, made by private-equity firm Kohlberg Kravis Roberts, was rejected in March 2014. A number of other potential buyers have also expressed interest in a takeover, including LVMH (a luxury goods brand), Constellation Brands (the world's largest wine seller) and Bright Food (a Chinese food group). However, TWE has rejected a number of bids, including a $3.4 billion bid from private equity suitors in September 2014, as the company is holding out for a higher price.

TWE attributes much of its success to its diverse operations across the globe. The strategic placement of operations throughout various regions allows TWE to hedge performance between regions. TWE's general trend towards premiumisation, along with its luxury and boutique wines throughout Asia and the United States, has contributed to its strengthening position as a global wine manufacturer. In mid-2013, TWE purchased the Tasmanian White Hills vineyard, which formerly belonged to Brown Brothers. This strategic acquisition is expected to further strengthen the company's scale of operations. However, the company was forced to destroy $35.0 million worth of wine in 2013, due to much lower demand from US markets than was forecast.

Treasury Wine Estates Limited – industry segment performance*

Year	Revenue ($ million)	(% change)
2009-10	602.1	N/C
2010-11	664.4	10.3
2011-12	782.4	17.8
2012-13	822.2	5.1
2013-14	805.7	-2.0
2014-15	824.3	2.3

*Estimate

SOURCE: IBISWORLD

Financial performance

The company has embarked on a strategy to boost sales of its premium wines within the Australian and North American markets. This strategy has already proved successful, with global sales volumes falling and net sales revenue per case increasing. Despite this, growth in the emerging Asian market began to show signs of slowing due to oversupply in 2013-14, contributing to the company's revenue decline that year.

The company's revenue has grown since TWE's creation in 2009-10, largely due to its diversified operations around

Major Companies

Player Performance continued

the world, which involve manufacturing and distribution to avoid clustering and overcapacity. The Australian industry segment maintains a strong market position through the steady demand for many of its industry-leading products, especially the Penfolds range, which has been both a domestic and international hit. However, oversupply of Penfolds in popular markets such as China has caused a wave of heavy price discounts that have hurt TWE profit margins.

Over the past five years, the company has outperformed the overall industry. The company's industry-specific revenue is projected to grow at an annualised 6.5% over the five years through 2014-15. In volume terms, there was strong growth for most brands including Penfolds, Yellowglen, Annie's Lane, Wynns Coonawarra Estate, Devil's Lair and Pepperjack. This was partly offset by a fall in volume sales for Rosemount Estate, Lindeman's and Wolf Blass. The change in brand mix was due to shifting sales, marketing expenditure and some out-of-stock wines during peak periods.

Player Performance

Pernod Ricard Pacific Holding Pty Ltd
Market share: 9.3%
Industry Brand Names
Jacob's Creek
Wyndham Estate
Richmond Grove
Morris Wines
Brancott Estate
Stoneleigh
Gramp's
Trilogy

Pernod Ricard Pacific Holding Pty Ltd is the Australian subsidiary of France-based spirits and wine giant Pernod Ricard SA. In 1847, Johann Gramp, a Bavarian immigrant, planted the vineyard that would mark the beginning of Orlando Wines. In 1989 and 1990, Pernod Ricard acquired both Orlando Wines and Wyndham Estates and merged the two entities into Orlando Wyndham Group (OWG). This entity was absorbed into the company's new wine brand company, Premium Wine Brands, when it was created in 2010. The company then went on to change its name to Pernod Ricard Winemakers in 2013.

In addition to owning a large range of local wines, Pernod Ricard Winemakers owns four brands and wineries: Jacob's Creek (one of Australia's most renowned wine brands), Wyndham Estate, Brancott Estate and Stoneleigh. The Jacob's Creek sparkling range, launched in 1998, is a popular sparkling wine range in Australia, New Zealand, Japan and the United Kingdom. The company maintained the price position of Jacob's Creek in an environment of price-cutting by competitors, which has allowed it to retain brand equity and value growth. Furthermore, Pernod Ricard Winemakers has been looking to new markets in China, Japan, Scandinavia and the United States. In October 2010, the Pernod Ricard group restructured its global operations, bringing its premium wine labels together under the management of what was then known as Premium Wine Brands.

Financial performance
Pernod Ricard Winemakers has

Pernod Ricard Pacific Holding Pty Ltd – financial performance

Year	Revenue ($ million)	(% change)	EBIT ($ million)
2009-10	631.9	-8.3	-28.2
2010-11	511.6	-19.0	-38.7
2011-12	511.7	0.0	-26.7
2012-13	492.4	-3.8	-51.2
2013-14	511.6	3.9	-28.5
2014-15*	516.9	1.0	N/A

*Estimate

SOURCE: ANNUAL REPORT AND IBISWORLD

Major Companies

Player Performance continued

struggled with the oversupply of grapes and the strong dollar for much of the past five years. The company stated that the wine glut and global financial crisis created some of the most difficult conditions the Wine Production industry had ever recorded. Pernod Ricard Winemakers is expected to underperform relative to the industry over the five years through 2014-15. Over the five year period, revenue is projected to decline by an annualised 3.9%. The company's revenue trended downwards over the four years through 2012-13, as conditions deteriorated both at home and abroad. Profit before tax slumped by more than 40.0% over the period, as wine prices declined and the stronger Australian dollar ate into export revenue. Over the next five years, a focus towards premiumisation is expected to help lift revenue and profit levels, with revenue expected to grow in 2014-15 as a result.

Player Performance

Accolade Wines Holdings Australia Pty Limited
Market share: 8.4%

Industry Brand Names
Hardys
Echo Falls
Tintara
Houghton

Accolade Wines Holdings Australia Pty Limited was founded in 1853 as Hardy Wine Company. The Adelaide winery grew to become the largest in South Australia. In 2003, after being acquired by Constellation Brands, Inc. (CBI), the company renamed itself Constellation Australia and incorporated both Constellation Wines Australia and Europe (CWAE), which held the Australian, UK and South African wine assets formerly owned by US-based wine producer CBI. In January 2011, CBI agreed to sell 80.0% of CWAE to Sydney-based CHAMP Private Equity for $230.0 million. CBI retained a 20% interest in the company. In July 2011, the company changed its name to Accolade Wines.

Accolade Wines owns a number of wineries in Australia including Hardys, Stanley Wines, Houghton Wines, Renmano, Omni, Banrock Station, Brookland Valley and Emu Wines. Formerly the largest wine producer in Australia, Accolade has chosen to focus on its assets in the United States, where it is attempting to improve profitability by entering the premium wine market.

In early 2010, the company made 40 staff redundant at its South Australian bottling headquarters as it shifted more of its production to the United Kingdom to cope with the global wine slump. It also announced 30 redundancies at its Tintara winery, marking the second round of redundancies for the year. In 2012, Accolade Wines and Treasury Wine Estates (TWE) reached a bottling agreement, whereby TWE will bottle wine for Accolade in Australia and Accolade will bottle for TWE in the UK market. During 2012, the company cut 175 jobs as a result of the bottling deal with TWE.

Accolade Wines Holdings Australia Pty Limited – financial performance

Year	Revenue ($ million)	(% change)	EBIT ($ million)
2009-10**	614.6	N/C	-258.6
2010-11	666.2	8.4	-29.2
2011-12	438.7	-34.1	22.5
2012-13	415.5	-5.3	-15.2
2013-14	456.9	10.0	34.4
2014-15*	466.5	2.1	N/A

*Estimate **Year end February

SOURCE: ANNUAL REPORT AND IBISWORLD

Major Companies

Player Performance continued

Financial performance

Company revenue for Accolade Wines is forecast to contract by 5.4% annualised over the five years through 2014-15, underperforming the overall industry. The four years through 2012-13 were characterised by challenging economic conditions in both the local economy and key export markets, and the oversupply of grapes in Australia lowered wine prices and profitability. Revenue growth was recorded in 2010-11, though this was due to a longer financial year as the company changed its reporting date. Accolade Wines underwent heavy restructuring in 2011-12, forming strategic partnerships with other wine producers. Lay-offs and divestments in that year are expected to have caused the 34.1% decline in revenue. However, this also contributed to the company's first recorded profit in over five years. A projected depreciation of the Australian dollar over the two years through 2014-15 is expected to stimulate revenue growth and improve profitability, which has fluctuated over the past five years.

Player Performance

Casella Wines Pty Limited
Market share: 6.8%
Industry Brand Names
Yellow Tail

Casella Wines Pty Limited is a family-owned winery established in Australia in 1965 in the Riverina region of New South Wales. The family enterprise traces its roots back to Italy, where the Casella family has been making wine since 1820. The company, headquartered in Yenda, NSW, now employs over 560 people, with operations solely in Australia. In November 2014 Casella Wines bought out Peter Lehmann Wines, a family-run business in South Australia's Barossa Valley for about $57 million.

Casella Wines brands include Yellow Tail, Yendah, Mallee Point and Crate 31. The company is one of Australia's largest exporters of wine. In particular, Yellow Tail is one of the most widely exported and consumed wines outside of Australia. The company also operates Australia Quality Vines, the largest commercial vine nursery in the Riverina region.

Casella Wines is best known for its Yellow Tail brand's market penetration in the US wine market, where it has historically performed well. Since launching in 2001, Yellow Tail has grown to become the highest selling imported wine in the United States. Recession in the United States (its key market) and a high Australian dollar at times have created problems for the company over the past five years. However, Casella has performed relatively well in the face of difficult conditions, largely due to Casella's increased efforts in marketing and brand positioning operations.

Financial performance

Casella Wines, like many other Australian wine producers, continues to face overcapacity and has been hindered by the strong Australian dollar over much of the past five years. As a result, revenue is

Casella Wines Pty Limited – financial performance

Year	Revenue ($ million)	(% change)	EBIT ($ million)
2009-10	410.9	N/C	20.9
2010-11	412.6	0.4	68.0
2011-12	343.7	-16.7	-30.2
2012-13	346.2	0.7	-5.0
2013-14*	367.3	6.1	N/A
2014-15*	381.4	3.8	N/A

*Estimate

SOURCE: ANNUAL REPORT AND IBISWORLD

Major Companies

Player Performance continued

projected to decline at an annualised 1.5% over the five years through 2014-15, underperforming the overall industry. This is anticipated to be due to the significant focus on export markets over the period, especially in the struggling UK and US markets. Revenue began to fall following the global financial crisis as exports to the United States dramatically dropped. This further exacerbated the already over-productive industry by increasing manufacturers' wine stocks.

Casella Wines was able to maintain profitability over the three years through 2010-11. However, ongoing poor conditions in export markets are expected to have finally taken a toll on the company's profitability over the two years through 2012-13. The expected depreciation of the Australian dollar over the two years through 2014-15 and the company's Peter Lehmann Wines acquisition are likely to have driven the return to growth.

Other Companies

In addition to the major players, there are several medium-size companies, including De Bortoli Wines, McWilliam's, and Samuel Smith & Son. There are also many smaller firms, which crush less than 100 tonnes of grapes annually and account for between 2.0% to 4.0% of wine production. Smaller producers include Zilzie Wines, Kingston Estate Wines and Tyrrell's Wines. With the growing popularity of cider in the Australian market, cider producers have also grown in market share over the past five years.

Many of the firms in the industry are small family businesses. However, the ownership of wineries has tended to move away from family-owned firms towards ownership by public companies. This has allowed consolidation of infrastructure and maximised cost and marketing synergies. IBISWorld expects that many of these smaller companies have performed better than industry major players due to their flexibility and niche specialisations.

Since the 1990s, some wineries have been divesting their fixed assets, particularly their vineyards. This has released capital, which can be used in the core business of making and selling wine. One example of this is the Challenger Wine Trust (formerly Beston Wine Industry Trust), which holds vineyards purchased from Brian McGuigan Wines and Grant Burge Wines.

Australian Vintage Limited

Estimated market share: 4.1 %

Australian Vintage Limited (AVL) is an Australia-owned and ASX-listed integrated winemaking business. It is the second-largest vineyard owner in Australia. Headquartered in Parkside, SA, the company employs more than 700 people. After its incorporation in 1991, the wine producer engaged in several acquisitions. The company was created by the merging of Brian McGuigan Wines Ltd and Simeon Wines Ltd. Formerly known as McGuigan Simeon Wines Limited, the company changed its name in 2008 to Australian Vintage Limited to better reflect a unified business rather than a collection of merged entities. The company has three main wineries in South and south-east Australia, which operate all year round. Its Buronga Hill winery in New South Wales is one of the largest wineries in Australia and produces most of the company's wines. Its Hunter Valley, NSW, and Barossa Valley, SA, wineries produce premium and boutique vintages, but at much smaller capacities. AVL is forecast to earn approximately $230 million in 2014-15.

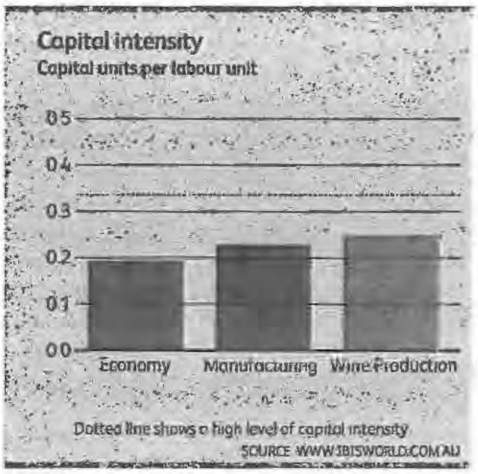
Operating Conditions

Capital Intensity | Technology & Systems | Revenue Volatility
Regulation & Policy | Industry Assistance

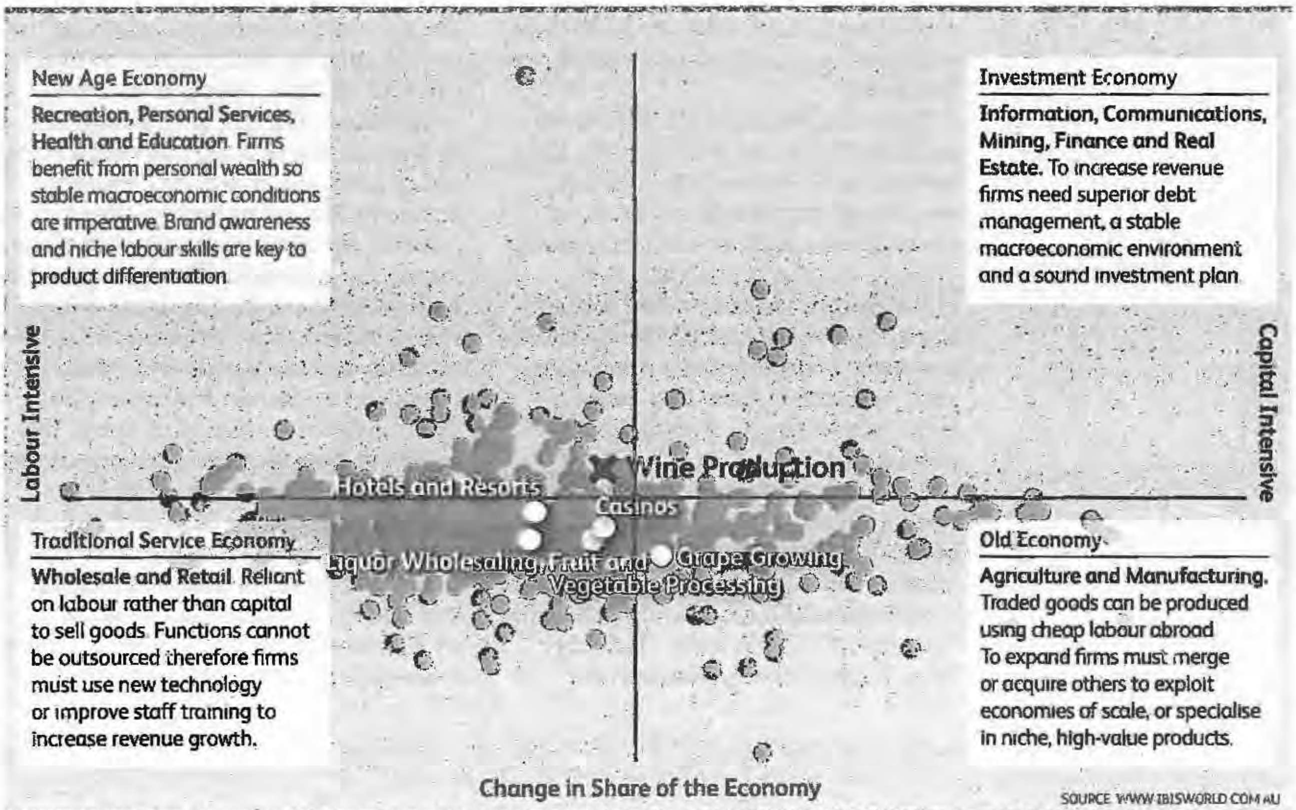
Capital Intensity

Level
The level of capital intensity is Medium

The Wine Production industry in Australia exhibits a medium level of capital intensity. IBISWorld uses wage costs and depreciation costs from the Cost Structure Benchmarks section to represent labour and capital investment respectively. For every dollar paid on labour, the average wine producer spends an estimated $0.25 on capital investments. Unlike other beverage industries, wine production requires significantly higher levels of labour in order to pick and process grapes into wine. The level of vertical integration, particularly backward integration, affects capital intensity. Ownership of vineyards tends to increase capital intensity, as does ownership of winemaking facilities, as winemakers have varying reliance on the use of bulk wine. Bulk wine producers tend to have a higher level of capital intensity, due to investment in winemaking machinery, lower staff requirements in packing and selling, and lower selling prices. The different production requirements for industry products, including the fortification of wine, cider making and the manufacture of other alcoholic beverages, have contributed to intensification of capital within the industry.



Tools of the Trade: Growth Strategies for Success



Operating Conditions

Technology & Systems

Level
The level of Technology Change is Medium

Technological changes affecting the industry have resulted from improved knowledge and application of biotechnology to provide better quality control and greater product consistency. Technological development in the industry takes the form product or process innovations. Product innovations include changes made to the product, including packaging, while process innovation refers to changes to the process of producing the wine.

Product Innovation

An important development in packaging has been the introductions of a single serve bottle with a lid that functions as a cup. The product is aimed at the events and food service market, where the convenience of giving customers a bottle and glass in one motion would be of most benefit.

The screw-top lid has gained acceptance in the Australian market place. While screw tops have been associated with lower quality wines, there is growing recognition that high-quality products can be sold with screw tops, and this will reduce the incidence of cork taint in wine. The technology for this innovation is not new, but the uptake has been slow due to resistance from winemakers and consumers.

Process Innovation

A key area of technological development is in wastewater development. As an intensive water user, the industry applies a number of principles to conserve water and reduce the harmful effects of wastewater on the environment. These principles include segregation of different strength waste streams, reduction in the amount of cleaning agent used in washing equipment and cleaning chemicals with low sodium levels. The organics and salts are an issue for wastewater. Larger firms such as De Bortoli have switched from sodium cleaning agents to higher-cost potassium-based products, which can be absorbed by crops such as hay and barley.

Another change on the horizon is the use of a new grape inspection platform that can receive an entire fruit bin and mete out its contents for inspection. This automates the process of metering out grapes for sorting, thereby reducing labour requirements. The process is also expected to improve quality, as consistent delivery of grapes will allow more-efficient inspection for bad grapes and other unwanted material.

Reverse osmosis has been trialled to reduce the effects of smoke taint on wines produced from vineyards exposed to smoke. Smoke taint can reduce the quality of the wine and results in volatile compounds from the smoke being present in the wine. The process of reverse osmosis may be adopted by wineries in the medium term.

Revenue Volatility

Level
The level of Volatility is High

The Wine Production industry exhibits high revenue volatility. Changing demand in export markets and fluctuating wine production are major determinants of revenue movements. Falling demand in export markets, which historically absorbed the majority of excess wine supply, has created problems for the Wine Production industry over the past decade. Reduced exports have forced excess supply onto the domestic market, depressing prices. Additionally, fluctuations of exchange rates and changes in consumer tastes have affected export wine prices and general consumption of wine in overseas markets.

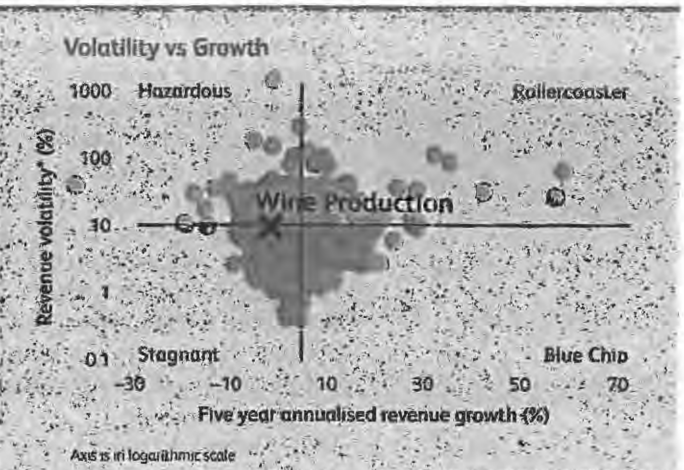
Strong competition for retail sales is forcing Australian winemakers to reduce prices, which is adding to revenue uncertainty and hampering domestic demand growth. Production and prices are affected by the supply of grapes, which is affected by weather and soil conditions, disease and plagues. Earnings fluctuate due to changing input prices, changes in supply of grapes and restructuring costs.

Operating Conditions

Revenue Volatility continued

A higher level of revenue volatility implies greater industry risk. Volatility can negatively affect long-term strategic decisions, such as the time frame for capital investment.

When a firm makes poor investment decisions it may face underutilised capacity if demand suddenly falls, or capacity constraints if it rises quickly.



SOURCE: WWW.IBISWORLD.COM.AU

Regulation & Policy

Level & Trend
The level of Regulation is Medium and the trend is Steady

Wine producers are required to follow a number of regulations. In broad terms, these include labelling issues, export regulations and food standards legislation. The two most significant areas of regulation relate to exports and labelling.

Exports

Wine producers wishing to export have to obtain an export licence from the Australian Wine and Brandy Corporation (AWBC), which is responsible for regulating exports to maintain the quality of wine exported from Australia. The AWBC defines geographical boundaries to be used in labelling to further establish the reputation of wine regions in Australia. Furthermore, it undertakes some negotiation on behalf of Australian growers to reduce barriers to trade with other countries. The regulation of wine exports is primarily to ensure the quality of Australian product marketed overseas and is justified on the basis that improved perception of Australian wine stimulates demand, the positive effects of which can be felt across the industry.

Furthermore, Australia has a number of wine trading agreements and the AWBC is charged with ensuring that Australian wine exports comply.

Labelling

The AWBC runs a label integrity program to check that labelling claims are correct. Labelling must be truthful in terms of what varieties of gapes are used and what regional zones are referred to on the label. It maintains graphical indicators, which are used by producers in their labelling. For a wine to be labelled as being from a particular geographical area, 85% of the fruit that goes into making the wine must be from that area. This protects the reputation of wine producing regions from harmful claims that a low-quality products may be produced in that area. This system was introduced in response to the agreement to cease using European place names in product labels in return for greater market access in Europe. As a result, winemakers are required to maintain records attesting to the integrity of the vintage.

Operating Conditions

Industry Assistance

Level & Trend
The level of Industry Assistance is Medium and the trend is Steady

The Wine Production industry receives a medium level of industry assistance. While the industry receives a lower amount of direct government assistance, numerous associations and industry bodies help promote Australia's image as a wine producing country.

Tariffs on wines have fallen since 1988. All tariffs on wine are now set at 5.0% (except for a concession rate of 4.0% for developing countries). For some varieties, there is also a flat charge per litre, which varies according to the type of wine and its alcoholic content. In addition to tariff protection, a number of industry bodies assist producers or facilitate the operation of the industry.

As wine is the country's 12th-largest exporting industry, there is substantial support from government. The Australian Wine and Brandy Corporation and the Australian Grape and Wine Authority are two Australian Government bodies established to assist industry growth and international competitiveness.

The Winemakers' Federation of Australia (WFA) is the peak body of the Wine Production industry. It represents the interests of wine producers, provides advocacy for producers and promotes the industry to government and financial communities. The WFA, established in 1990, represents winemakers both domestically and overseas and is funded by voluntary levies.

Further assistance is available to producers through various state-based industry associations. Additionally, the Australian Trade Commission provides assistance to businesses looking to export through its New Exporter Development Program and through export development grants for existing and new exporters.

Key Statistics

Industry Data

	Revenue ($m)	Industry Value Added ($m)	Establishments	Enterprises	Employment	Exports ($m)	Imports ($m)	Wages ($m)	Domestic Demand ($m)
2005-06	7,236.3	1,317.0	1,970	1,308	15,600	3,536.7	338.0	963.6	4,037.6
2006-07	7,648.4	1,346.1	1,998	1,713	15,233	3,550.1	428.6	975.6	4,526.9
2007-08	6,104.1	1,202.5	1,959	1,814	14,875	3,162.1	546.3	862.0	3,488.3
2008-09	6,371.0	1,019.4	1,989	1,789	15,499	2,785.8	579.2	944.8	4,164.4
2009-10	6,368.0	1,299.1	2,058	1,848	16,707	2,413.3	561.0	914.6	4,515.7
2010-11	5,360.9	1,128.2	2,042	1,868	15,733	2,091.5	551.1	857.9	3,820.5
2011-12	5,539.9	1,553.5	2,020	1,882	15,708	1,952.1	630.3	929.8	4,218.1
2012-13	5,364.7	1,575.5	2,030	1,874	15,970	1,909.6	677.8	952.0	4,132.9
2013-14	5,512.0	1,593.9	2,042	1,867	16,122	1,868.1	760.8	977.6	4,404.7
[illegible]	5,592.0	[illegible]	[illegible]	[illegible]	16,186	[illegible]	[illegible]	1,010.0	4,464.4
2015-16	5,683.5	1,635.9	1,957	1,812	16,175	1,940.8	790.9	1,026.7	4,533.6
2016-17	5,808.9	1,643.6	2,010	1,848	16,389	1,989.1	805.1	1,060.1	4,624.9
2017-18	5,894.1	1,681.5	1,981	1,826	16,354	2,059.8	825.0	1,076.8	4,659.3
2018-19	6,003.0	1,660.1	1,989	1,844	16,403	2,097.9	857.5	1,085.9	4,762.6
2019-20	6,108.8	1,670.7	1,999	1,852	16,489	2,160.4	862.4	1,108.5	4,810.8
Sector Rank	16/177	14/177	9/177	8/177	9/177	10/169	61/168	11/177	34/168
Economy Rank	200/776	214/775	254/776	219/775	210/775	21/211	67/207	190/775	43/207

Annual Change

	Revenue (%)	Industry Value Added (%)	Establishments (%)	Enterprises (%)	Employment (%)	Exports (%)	Imports (%)	Wages (%)	Domestic Demand (%)
2006-07	5.7	2.2	1.4	31.0	-2.4	0.4	26.8	1.2	12.1
2007-08	-20.2	-10.7	-2.0	5.9	-2.4	-10.9	27.5	-11.6	-22.9
2008-09	4.4	-15.2	1.5	-1.4	4.2	-11.9	6.0	9.6	19.4
2009-10	0.0	27.4	3.5	3.3	7.8	-13.4	-3.1	-3.2	8.4
2010-11	-15.8	-13.2	-0.8	1.1	-5.8	-13.3	-1.8	-6.2	-15.4
2011-12	3.3	37.7	-1.1	0.7	-0.2	-6.7	14.4	8.4	10.4
2012-13	-3.2	1.4	0.5	-0.4	1.7	-2.2	7.5	2.4	-2.0
2013-14	2.7	1.2	0.6	-0.4	1.0	-2.2	12.2	2.7	6.6
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
2015-16	1.8	2.5	-3.3	-2.2	-0.1	2.7	2.3	1.7	1.6
2016-17	2.2	0.5	2.7	2.0	1.3	2.5	1.8	3.3	2.0
2017-18	1.5	2.3	-1.4	-1.2	-0.2	3.6	2.5	1.6	0.7
2018-19	1.8	1.3	0.4	1.0	0.3	1.8	3.9	0.8	2.2
2019-20	1.8	0.6	0.5	0.4	0.5	3.0	0.6	2.1	1.0
Sector Rank	84/177	94/177	89/177	93/177	75/177	101/169	95/168	19/177	78/168
Economy Rank	495/776	544/775	555/776	534/775	465/775	124/211	113/207	202/775	101/206

Key Ratios

	IVA/Revenue (%)	Imports/Demand (%)	Exports/Revenue (%)	Revenue per Employee ($'000)	Wages/Revenue (%)	Employees per Est.	Average Wage ($)	Share of the Economy (%)
2005-06	18.20	8.37	48.87	463.87	13.32	7.92	61,769.23	0.11
2006-07	17.60	9.47	46.42	502.09	12.76	7.62	64,045.17	0.10
2007-08	19.70	15.66	51.80	410.36	14.12	7.59	57,949.58	0.09
2008-09	16.00	13.91	43.73	411.06	14.83	7.79	60,958.77	0.07
2009-10	20.40	12.42	37.90	381.16	14.36	8.12	54,743.52	0.09
2010-11	21.04	14.42	39.01	340.74	16.00	7.70	54,528.70	0.08
2011-12	28.04	14.94	35.24	352.68	16.78	7.78	59,192.77	0.10
2012-13	29.37	16.40	35.60	335.92	17.75	7.87	59,611.77	0.10
2013-14	28.92	17.27	33.89	341.89	17.74	7.90	60,637.64	0.10
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
2015-16	28.78	17.45	34.15	351.38	18.06	8.27	63,474.50	0.10
2016-17	28.29	17.41	34.24	354.44	18.25	8.15	64,683.63	0.10
2017-18	28.53	17.71	34.95	360.41	18.27	8.26	65,843.22	0.10
2018-19	27.65	18.00	34.95	365.97	18.09	8.25	66,201.30	0.09
2019-20	27.35	17.93	35.37	370.48	18.15	8.25	67,226.64	0.09
Sector Rank	88/177	99/168	32/169	109/177	68/177	117/177	95/177	14/177
Economy Rank	481/775	109/207	49/211	337/775	400/775	315/775	347/775	214/775

Figures are inflation-adjusted 2015 dollars. Rank refers to 2015 data.

SOURCE: WWW.IBISWORLD.COM.AU

Jargon & Glossary

Industry Jargon

CELLAR-DOOR SALES Direct-to-public sales made by wineries.

PERRY An alcoholic beverage made by fermenting pears.

WINERIES Independent, vertically integrated wine producers that grow grapes and produce wine in a small, localised area.

IBISWorld Glossary

BARRIERS TO ENTRY High barriers to entry mean that new companies struggle to enter an industry, while low barriers mean it is easy for new companies to enter an industry.

CAPITAL INTENSITY Compares the amount of money spent on capital (plant, machinery and equipment) with that spent on labour. IBISWorld uses the ratio of depreciation to wages as a proxy for capital intensity. High capital intensity is more than $0.333 of capital to $1 of labour; medium is $0.125 to $0.333 of capital to $1 of labour; low is less than $0.125 of capital for every $1 of labour.

CONSTANT PRICES The dollar figures in the Key Statistics table, including forecasts, are adjusted for inflation using the current year (i.e. year published) as the base year. This removes the impact of changes in the purchasing power of the dollar, leaving only the 'real' growth or decline in industry metrics. The inflation adjustments in IBISWorld's reports are made using the Australian Bureau of Statistics' implicit GDP price deflator.

DOMESTIC DEMAND Spending on industry goods and services within Australia, regardless of their country of origin. It is derived by adding imports to industry revenue, and then subtracting exports.

EMPLOYMENT The number of permanent, part-time, temporary and casual employees, working proprietors, partners, managers and executives within the industry.

ENTERPRISE A division that is separately managed and keeps management accounts. Each enterprise consists of one or more establishments that are under common ownership or control.

ESTABLISHMENT The smallest type of accounting unit within an enterprise, an establishment is a single physical location where business is conducted or where services or industrial operations are performed. Multiple establishments under common control make up an enterprise.

EXPORTS Total value of industry goods and services sold by Australian companies to customers abroad.

IMPORTS Total value of industry goods and services brought in from foreign countries to be sold in Australia.

INDUSTRY CONCENTRATION An indicator of the dominance of the top four players in an industry. Concentration is considered high if the top players account for more than 70% of industry revenue. Medium is 40% to 70% of industry revenue. Low is less than 40%.

INDUSTRY REVENUE The total sales of industry goods and services (exclusive of excise and sales tax); subsidies on production; all other operating income from outside the firm (such as commission income, repair and service income, and rent, leasing and hiring income); and capital work done by rental or lease. Receipts from interest royalties, dividends and the sale of fixed tangible assets are excluded.

INDUSTRY VALUE ADDED (IVA) The market value of goods and services produced by the industry minus the cost of goods and services used in production. IVA is also described as the industry's contribution to GDP, or profit plus wages and depreciation.

INTERNATIONAL TRADE The level of international trade is determined by ratios of exports to revenue and imports to domestic demand. For exports/revenue: low is less than 5%; medium is 5% to 20%; and high is more than 20%. Imports/domestic demand: low is less than 5%; medium is 5% to 35%; and high is more than 35%.

LIFE CYCLE All industries go through periods of growth, maturity and decline. IBISWorld determines an industry's life cycle by considering its growth rate (measured by IVA) compared with GDP; the growth rate of the number of establishments; the amount of change the industry's products are undergoing; the rate of technological change; and the level of customer acceptance of industry products and services.

NONEMPLOYING ESTABLISHMENT Businesses with no paid employment or payroll, also known as nonemployers. These are mostly set up by self-employed individuals.

PROFIT IBISWorld uses earnings before interest and tax (EBIT) as an indicator of a company's profitability. It is calculated as revenue minus expenses, excluding interest and tax.

VOLATILITY The level of volatility is determined by averaging the absolute change in revenue in each of the past five years. Volatility levels: very high is more than ±20%; high volatility is ±10% to ±20%; moderate volatility is ±3% to ±10%; and low volatility is less than ±3%.

WAGES The gross total wages and salaries of all employees in the industry. Benefits and on-costs are included in this figure.

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"5- Statement of Adam Algate"

Fair Work Act 2009
FAIR WORK COMMISSION

s. 156: 4 Yearly Review of Modern Awards.

AM2014/196 and AM2014/197

Common issue proceedings – Casual and Part-time employment

Wine Industry Award 2010

STATEMENT OF ADAM ALGATE

I, Adam Algate, c/- 159 Lime Avenue, Mildura in Victoria, employed as a union organiser STATE as follows:

Background

1. I am employed by The Australian Workers' Union, Victorian Branch (AWU) as an organiser.

2. I have responsibility for assisting AWU members in North West Victoria including at the following wineries:

   - Wingara Wines;
   - Zilzie Wines;
   - Treasury Wine Estates (Karadoc Winery);
   - Treasury Wine Estates (Lake Cullulleraine Vineyards);
   - Treasury Wine Estates (Pomona Vineyard);
   - Qualia Wines;
   - Buronga Hills;
   - Accolade Wines (Stanley Winery); and
   - Merbein Packaging Winery.

3. I am aware of the claim to reduce the casual minimum engagement from 4 hours to 2 hours and make this statement in response to that claim.

Rainfall

4. I have never come across employees at a winery being sent home after they start work due to rainfall.

5. I'm sure this has happened before but it would be an extremely infrequent event in the areas I look after.

Minimum engagement

6. I have negotiated enterprise agreements at a number of the sites listed above in recent years.

7. The 4 hour minimum engagement period has never been raised by employers as a problem they wanted to address in bargaining.

8. The 4 hour minimum engagement period for casuals has been included in the following agreements:

   - *Australian Vintage Limited – Buronga Hill Winery Enterprise Agreement 2013*: clause 14; and

   - *Australian Vintage Limited (ABN: 78 052 179 932) Merbein Packaging Winery, Warehouse and Clerical Enterprise Agreement 2014*: clause 13.2.2 (c).

9. In the *Qualia Wine Services Pty Ltd Enterprise Bargaining Agreement 2015* the 4 hour minimum engagement for casuals is included, but an employee can agree to a lesser period: clause 19.

10. It seems unlikely that the 4 hour minimum engagement for casual employees is such a significant problem for employers when it has never been raised as an issue at all the sites I look after.

11. None of my members have ever expressed a willingness to work less than 4 hours on a shift and I would be very surprised if this ever happened.

12. I have noticed the wine industry become increasingly casualised in recent years and am concerned that allowing casuals to be engaged for less than 4 hours on a shift would further accelerate the decline of permanent employment by making casual employment too attractive.

13. A few years ago I would have estimated that around 90% of the workers at the wineries I look after were permanently employed. I think it would now be around 50% permanent and 50% casual.

SIGNED:

ADAM ALGATE

DATE: 18-02-2016

"6 - Statement of Ron Cowdery"

Fair Work Act 2009
FAIR WORK COMMISSION

s. 156: 4 Yearly Review of Modern Awards

AM2014/196 and AM2014/197

Common issue proceedings – Casual and Part-time employment

Wine Industry Award 2010

STATEMENT OF RON COWDERY

I, Ron Cowdrey, c/- 103 Banna Avenue, Griffith in New South Wales, employed as a union organiser STATE as follows:

Background

1. I am employed by The Australian Workers' Union, Greater New South Wales Branch (AWU) as a Union Organiser.

2. I am responsible for recruiting and servicing AWU members in the South West Region of New South Wales. I am based at an office in Griffith.

3. The AWU has members at a number of wineries within this region including:

   - Casellas;
   - De Bortoli;
   - McWilliams; and
   - Warburn Estate

4. I am providing this statement in response to the SA Wine Association's claim to reduce the casual minimum engagement from 4 hours to 2 hours.

Weather factors

5. The Association has mentioned the financial risk of having to pay casual employees during harvest for 4 hours when they may not be able to work for this full period because of weather events.

6. Last time I checked it doesn't rain much out here.

7. Plus the farmers and wineries are watching the weather closely and they would almost always know in advance of any rainfall. This means they could normally cancel work before anyone comes in.

Casual engagement

8. My experience of the wine industry has been that there is normally a permanent workforce which is supplemented by casuals who are brought in specifically for the harvest period. Around here, this is normally from around January to March.

9. Casuals predominantly work 12 hour shifts during harvest so the 4 hour minimum engagement doesn't arise as an issue.

10. None of our members who work as casuals have ever expressed an interest in working for less than 4 hours on a shift.

SIGNED:

RON COWDERY

DATE: 18|2|16

α 7 – Statement of Mahmut Melkic 1

Fair Work Act 2009
FAIR WORK COMMISSION

s. 156: 4 Yearly Review of Modern Awards

AM2014/196 and AM2014/197

Common issue proceedings – Casual and Part-time employment

Wine Industry Award 2010

STATEMENT OF MAHMUT MELKIC

I, Mahmut Melkic, c/- Level 3, 25 Barrack Street, Perth in Western Australia, employed as a union organiser STATE as follows:

Background

1. I am employed by The Australian Workers' Union, West Australian Branch (AWU) as a Union Organiser.

2. Part of my role involves servicing members working for wineries in the Margaret River region of Western Australia.

3. I have also previously worked for the AWU in Victoria for a number of years and had responsibility for the wine industry over there.

4. I am aware of the South Australian Wine Industry Association's (Association) claim to reduce the casual minimum engagement in the *Wine Industry Award 2010* from 4 hours to 2 hours and make this statement in response.

Rainfall

5. The Association has referred to the financial risk associated with a 4 hour minimum engagement because workers may have to be sent home as a result of weather events and not be able to work the full 4 hours.

6. From my experience in Victoria and Western Australia, stoppages of work due to rainfall or other weather events are extremely uncommon and this couldn't seriously be claimed to be an important factor for employers.

Cellar door employees

7. I have noticed the wine industry become increasingly casualised in recent years

8. Most of the cellar door workers I have met in Western Australia have been employed on a casual basis so I don't understand the Association's argument that reducing the minimum engagement will allow more casual employees to be hired instead of the work being performed by existing employees.

Employee preferences

9. None of the casual employees working in the wine industry that I have spoken with in Victoria or Western Australia have indicated they would like to work less than 4 hours on a shift.

10. Many of the employees I speak with in Western Australia are having accommodation expenses deducted from their pay by their employer so they would end up hardly making any money if they don't get at least 4 hours' work.

SIGNED:

MAHMUT MELKIC

DATE: