CODE OF CONDUCT A NEW WAY TO DO BUSINESS

The Code of Conduct for the Australian wine industry has established a new way for doing business. Its purpose is to promote fairness and transparency in dealings between growers and winemakers and to establish a common grape supply contract framework which can be used throughout Australia.

And if there is a dispute over agreements between a grower and wineries about the sale and purchase of wine grapes, there is an in-built system for the resolution of disputes.

Under the code, disputes can be resolved without resort to the traditional legal system for a minimum cost.

The whole process is presided over by an independent Code Administration Committee whose task is to ensure a fair and open process.

The major organisations in the industry, the Wine Grape Growers Australia and the Winemakers' Federation of Australia, drew up the code following a Senate inquiry into the state of the Australian wine industry.

Both these organisations have endorsed the code, the creation of which has been supported by the Australian Department of Agriculture, Fisheries and Forestry. It costs nothing to join and it has a support service provided by the code secretariat.

New Agreements

The code's purpose is to sign up all of the winemakers throughout Australia to bring about a national approach to the buying and selling of wine grapes.

Signatories will follow the new provisions set out in the code. While growers are not signatories to the code, they will benefit from the new forms of agreement and the dispute resolution procedures.

With major problems arising in the industry, particularly the issue of oversupply and the major restructuring of the industry, the code sets out minimum requirements for agreements between winemakers and growers, as well as a simple and clear dispute resolution procedure.

In the past there may have been some agreements which were unfair to one of the parties. Under the code, these agreements will be phased out and replaced by those whose terms comply with the principles set out in the code.

The code framers, the Government and the signatories believe that if the code can provide a clear basis for their commercial dealings and for disputes to be resolved within it, then it will be an important step towards harmonious relations within the wine industry.

The code sets out to cover all of the important areas of transaction between growers and winemakers. As a minimum, grape purchase agreements must be in writing and conform to the principles of fairness and transparency listed in the code.

Importantly the agreements must be clear and concise and in plain English.
All of the parties involved in the agreement must be included and identified as well as when the agreement starts and when it finishes. All of the agreements must contain a fixed price or a clear statement about how the final price can be determined.

Among other things, the code deals in detail with:

- terms of payment
- tonnage and vineyard details
- wine grape standards, assessment and harvest
- delivery and freight
- acceptance and rejection
- title in winegrapes, and
- professional advice

All of these provisions are set out fully in the code which can be found on the web at www.wineindustrycode.org

Dealing with disputes

History shows that the main causes of disputes arise over the grape price, about the maturity, purity or the condition of the grapes or about rejection of the grapes. If a dispute does arise, there are steps in place to try to deal with it quickly.

While there are formal time limits for action to be taken under the code, there are shortcuts built into the code to get the matter moving.

The code is supported by The Accord Group as its secretariat and it is only a phone call away if a dispute is looming (tel. (02) 9264-9506). It may be that if the secretariat gets the phone call early enough, the matter can be resolved very quickly.

In other codes of conduct, an early intervention by the secretariat has been able to nip potential disputes in the bud.

However, not all disputes will be that simple. If it cannot be resolved at that stage, a Notice of Dispute must be sent to the secretariat with a fee of $250. Within a business day of receiving the notice, the secretariat will again try to resolve the dispute informally.

Independent Experts

If that does not happen but the parties can agree on a qualified independent expert, that person will begin to resolve the dispute.

If the parties cannot agree on a suitably qualified person, the Presiding Member of the Code Administration Committee will appoint one to deal with the dispute.

This Independent Expert will then set about resolving the dispute under the provisions of the code and make a decision which will be final and binding.

Independent Code Committee

The operation of the Code is overseen by the Code Administration Committee – an independent body consisting of the Presiding Member, Mr Bert Mowbray, two Committee members, Mr Ian Cox and Mr James Omond, and an alternate member, Mr John Dickie.

All members have had either extensive experience in the law (Mr Mowbray is a retired Federal Magistrate with experience in agriculture), experience in the wine industry or in the administration of other voluntary codes.

The code is not written in stone. It underwent a comprehensive review at the conclusion of the 2010 harvest and the subsequent recommendations are currently under consideration.

The code establishes the parameters for how business should be done between growers and winemakers. Properly embraced it can bring about a new way of doing business based on trust, fairness and openness.

Signing up will make a major contribution.

The code can be found on the web at www.wineindustrycode.org