

Terms of Reference for a Review of the Sugar Code of Conduct

The *Competition and Consumer (Industry Code—Sugar) Regulations 2017* (the Regulations) establish the Sugar Code of Conduct (the Code). The purpose of the Code is to regulate the conduct of growers, mill owners and marketers (of grower economic interest sugar) in relation to contracts or agreements for the supply of cane or the on-supply of sugar. This includes establishing a process for pre-contractual arbitration where the parties fail to agree to terms of contracts or agreements.

The Code also seeks to ensure that supply contracts between growers and mill owners guarantee a grower's choice of the marketing entity for the sale of sugar for which the grower bears the price exposure risk.

The Code came into effect on 5 April 2017. The Regulations require that a review of the operation of the Code must commence within 18 months of its commencement, therefore by 5 October 2018.

Terms of Reference

The review shall inquire into:

1. The effect that Commonwealth Government intervention by prescribing the Code has had on Australia's raw sugar export industry and whether it continues to be appropriate for the purposes of:
 - a. regulating the conduct of growers, mill owners and marketers of sugar in relation to contracts or agreements for the supply of cane or the on-supply of sugar;
 - b. ensuring that supply contracts between growers and mill owners have guaranteed the grower's choice of the marketing entity for the grower economic interest sugar manufactured from the cane the grower supplies;
 - c. requiring or providing for pre-contractual arbitration of the terms of agreements for the supply of cane or the on-supply of sugar if the parties fail to agree to those terms;
2. The current and future impacts on competition of the Code in relation to Australia's raw sugar export market, including for the supply of cane and marketing services of grower economic interest sugar;
3. The regulatory impacts of the Code on businesses in the raw sugar export supply chain;
4. The extent to which the Code has delivered a net benefit for the Australian community; and

5. Any other related matters.

The review will provide advice on whether the Code should:

- a) remain in operation without amendment; or
- b) remain in operation with amendment; or
- c) be repealed.