

# Australian Wine Industry --- CODE<sup>OF</sup> CONDUCT

## Introduction

A new Australian Wine Industry Code of Conduct was launched in December 2008. The Dispute Resolution aspects of the Code will apply immediately for signatories for the 2009 vintage. All elements of the Code will apply to new contracts and major variations of agreements between grapegrowers and wineries about the sale and purchase of wine grapes from the 2009 vintage and beyond.

The aim of the voluntary Code is two-fold: firstly to establish a common Australian wine grape supply contract framework and secondly, to provide a dispute resolution system to manage disagreements which exist over price or quality assessments.

The Code has been developed by Wine Grape Growers Australia (WGGA) and the Winemakers' Federation of Australia (WFA) in the interests of a sustainable Australian wine industry and follows a recommendation by a Federal Senate enquiry in 2005. The research and development of the Code has been supported by the Federal Government's Department of Agriculture, Fisheries and Forestry.

This document outlines the key elements of the Code and answers to the most commonly asked questions, along with advice on how to gain more information.

## Frequently Asked Questions

### **Why have an Australian Wine Industry Code of Conduct?**

The Code aims to improve the trading relationships between wine grape purchasers and growers by standardising the basic components of contracts and agreements and using a common dispute resolution procedure. Both WGGA and WFA believe that the Code will encourage openness, fairness and transparency in commercial agreements and minimize disputes over contracts.

### **Is the Code of Conduct compulsory?**

No it is voluntary but given the extensive consultation undertaken, it is expected that the Code will achieve a high level of industry uptake and cooperation. By ensuring that everyone knows where they stand, WGGA and WFA believe a non-legal system of dispute resolution will make for better long-term commercial relationships. Wine grape purchasers will be bound by provisions of the Code once they sign the Code. Naturally growers and wineries should seek legal advice if they are at all concerned about contracts.

### **How will wine grape purchasers and growers participate in the Code?**

Wine grape purchasers will be invited to become signatories to the Code by the WGGA and WFA. This will mean they are bound by its provisions – and are also expected to promote it to other growers and wineries. The Code sets out the minimum requirements for wine grape purchase agreements.

### **Do you expect a majority of wine grape purchasers to sign the Code?**

Percentage-of-crush Performance Targets have been set at 75% of the purchased crush to be covered by the Code in the first vintage after implementation and 85% of the purchased Australian grape crush in the second vintage.

### **Who will run the Code of Conduct?**

The Code has been developed by a joint WGGA-WFA working committee. However, in future it will be overseen by an independent three person Code of Conduct Administration Committee.

### **Has the Administration Committee been granted any powers to ensure compliance with the Code?**

The Committee has the ability to expel non-complying signatories and also publish their names in its Annual Report and on its website.

### **Will the Code apply to my existing contract?**

The Dispute Resolution elements of the Code will apply for signatories immediately for the 2009 vintage and all elements will apply to new contracts. Signatories commit to bringing existing contracts in line with the Code once any significant (material) change is made to a contract.

## Australian Wine Industry Code of Conduct In Brief

### Wine Grape Purchase Agreements

Contracts or wine grape agreements are the formal basis of the business relationship between grape growers and winemakers. While many wineries have developed similar contracts over the last decade, the Code of Conduct provides one standardised format for all Australian wineries and growers to follow. Details of all requirements are provided in the Code; following is an overview of key elements.

Under the Code each agreement for wine grape purchases must in future contain minimum provisions including the following:

- A statement that the parties to the Agreement agree that it is governed by the Australian Wine Industry Code of Conduct
- Details and signatures of all parties and vineyard details.
- A fixed price and / or a clear statement as to how the final price will be determined
- Where required, a schedule for Indicative Regional Price offers and negotiations
  - December 15 prior to vintage for Hunter Valley, Riverina, Murray Darling/Swan Hill and Riverland
  - January 15 prior to vintage for other regions
- A transparent provision for price adjustments such as bonuses or penalties
- Clearly stated terms of payment in line with industry standards – in most cases this will be:
  - One third at the end of the month following the month of delivery
  - One third at the end of June of year of delivery
  - Balance at end of September of year of delivery
- A specification of either area-based or tonnes-based purchasing
- Any quality standards including minimum requirements for maturity, purity and condition
- Grape assessment procedures if inconsistent with the publication *Wine Grape Assessment in the Vineyard & Winery*.
- Process for determining harvest time
- Costs and risk associated with freight
- Details on when change of ownership occurs
- Where it is appropriate force majeure clause clearly specified

- A prominent statement that the wine grape grower should seek independent legal, financial and taxation advice.
- A dispute resolution clause consistent with the Code
- A reasonable time for consideration of the contract (normally between 7 and 15 business days)

### Dispute Resolution

Disputes in the main occur over:

- a perceived inadequacy of the wine grape price
- an apparent failure to comply with specifications for wine grape maturity, purity or condition.

This results in either a price adjustments or a rejection of the wine grapes leading to sometimes lengthy and expensive disputes.

The Australian Wine Industry Code of Conduct provides a guide to help resolve disputes between the wine grape purchaser and the wine grape grower in a timely and cost efficient manner which it is hoped, will preserve ongoing commercial relationships.

The Code requires both parties to participate in the dispute resolution procedure and outlines a systemised way to manage the communication around the dispute. It also allows for the appointment of a mediator or Independent Expert who has final binding say over the outcome.

### Breaches of the Code

The Code outlines a procedure for when the Code is breached, providing guidelines about the process of complaint, reporting to the Administration Committee, timing of notification and response, judgement and how to remedy the breach. Penalties are also outlined and may include de-listing from the Code.

### Administration of the Code

The Code is administered by a Committee comprising 3 independent members: All 3 Members are jointly agreed and appointed by the Boards of both the WGGA and WFA. The Committee is supported by an independent secretariat jointly funded by WGGA and WFA.

## For more Information



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### Wine Grape Growers Australia

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Wine Grape Growers' Australia is the peak industry body for Australia's wine grape growers. Established in 2005 WGGA's mission is to represent the political and economic interests of the national wine grape sector through advocacy and dialogue with Government and with other wine industry bodies; the development and delivery of policies and programs that enhance the profitability and sustainability of Australia's wine grape growers; and provide services to its members – particularly wine grape market information and industry data that supports timely commercial decision making by growers.

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### Winemakers Federation Of Australia

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The Winemakers' Federation is the peak industry body representing Australia's wineries on all national and international issues. WFA exists to advance and protect the interests of Australia's winery operators. The Winemakers' Federation offers: influential representation of winery interests at national and international levels; a unified, independent and democratic structure (one winery – one vote irrespective of size, with all activities funded by voluntary member levies) and leadership on those issues and activities most critical to the industry's future.

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To download a full copy of the Code of Conduct visit  
[www.wgga.com.au](http://www.wgga.com.au) or [www.wfa.org.au](http://www.wfa.org.au)