

How the ACCC Can Help Berry Growers in Small Business

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Running a berry farm is no small feat. Between managing staff and supply chains, navigating complex contracts, and meeting customer expectations, Australian small business growers face daily challenges that go well beyond the berry patch. That's where the Australian Competition and Consumer Commission (ACCC) steps in.

The ACCC, Australia's competition watchdog, has long recognised the importance of small business in the Australian economy and that includes growers like you. In fact, small business remains one of the ACCC's enduring priorities. With the recent launch of their new **small business** web hub, berry growers now have a practical, centralised portal designed to make it easier to understand and uphold both your rights and responsibilities in a competitive market.

The ACCC's updated small business hub offers a wealth of practical resources tailored specifically to the needs of small operators, including farmers. One of the most valuable tools on the site is the **small business toolkit**, which provides clear, accessible guidance on topics that matter like how to spot and challenge unfair contract terms. This issue is currently a major enforcement priority for the ACCC, and one many growers may encounter when negotiating with larger retailers, suppliers or service providers.

The toolkit helps you understand your rights and responsibilities under the **Competition and Consumer Act 2010** and the **Australian Consumer Law**, so you can make sure you're doing the right thing when dealing with customers, competitors, and suppliers.

Growers who feel they've been treated unfairly can easily report their concerns through the ACCC's **Infocentre**. This reporting system is designed to be

straightforward and responsive, helping you raise red flags about misleading conduct, supplier pressure tactics, or other problematic business practices. While making a report to the ACCC helps provide benefits to consumers and small business, unfortunately they do not use it to help you directly resolve your individual issue with another business as the ACCC doesn't investigate individual complaints, unless these relate to a mandatory code of conduct.

The ACCC is responsible for enforcing the **Food and Grocery Code of Conduct** which from 1 April 2025 is mandatory for large grocery businesses, meaning that all suppliers to large grocery businesses are automatically covered now by this code. The businesses currently matching the 'large grocery business' definition include Aldi, Woolworths, Coles and Metcash.

The code sets up a framework for grocery supply agreements (which must now all be in writing) between a supplier and a large grocery business for the supply of all grocery products including fresh produce.

A grocery supply agreement is not just the principal agreement and documents made under that agreement. It includes all contracts or agreements between a large grocery business and a supplier that relate to the supply of groceries, including purchase orders, freight or promotion agreements.

A grocery supply agreement must be in writing. Failure to comply with this obligation will make the large grocery business liable to civil penalties. A grocery supply agreement must set out:

- any delivery requirements
- the circumstances in which the large grocery business can reject groceries
- when suppliers will be paid, and circumstances in which payment may be withheld or delayed
- the duration of the agreement, if the agreement is intended to operate for a limited time
- any quantity and quality rules
- the circumstances in which the agreement may be terminated

Large grocery businesses that fail to comply with any component of the code may now be liable to substantial civil penalties.

If a supplier has a dispute, they can contact the large grocery business about it directly. A supplier can also:

- contact the large grocery business's code mediator
- ask the code supervisor to review the code mediator's process in investigating and resolving the complaint, if the supplier isn't satisfied with the outcome
- seek mediation or arbitration of the dispute
- seek independent legal advice at any time

Suppliers may seek information about the code and available dispute resolution processes from the code mediator appointed by the large grocery business.

If you see any potential non-compliance with the code, you can also report it to the ACCC. They are always interested to hear from suppliers about their experiences under the Food and Grocery Code of Conduct.

While it is not a dispute resolution body, the ACCC welcomes information from suppliers about their experiences under the code. If a potential breach is identified, the ACCC can investigate and may take enforcement action where appropriate. Find out more at www.accc.gov.au/business/industry-codes/food-and-grocery-code-of-conduct/enforcement-of-the-food-and-grocery-code

The ACCC also works extensively behind the scenes through advocacy and education, helping improve overall market fairness for businesses like yours. The new small business hub also holds updates on recent developments affecting small businesses and easy access to industry codes of conduct relevant to farming and food production, including the Horticulture Code of Conduct.

Berry growers operate in a fast-moving, competitive environment, where changes in regulation, pricing pressure, or supplier terms can catch you off guard. The ACCC's small business hub can help you stay ahead of these challenges. Bookmark it, visit regularly, and make it your go-to source for updates and guidance that apply to your business.

For more detail, visit the ACCC's small business page at www.accc.gov.au/business/small-business and explore the article '**What We Can and Can't Do for Small Business**' at www.accc.gov.au/about-us/accc-role-and-structure/service-charter/what-we-can-and-cant-do-for-small-business.

You can also view the full Food and Grocery Code of Conduct at www.accc.gov.au/business/industry-codes/food-and-grocery-code-of-conduct

If you run a small business or advise small businesses, it's a good idea to keep up with all the latest news and events by joining the ACCC's Small Business Information Network (SBIN) at www.accc.gov.au/about-us/news/sign-up-to-newsletters/small-business-information-network

The ACCC exists to ensure a fairer, more transparent playing field, giving small business berry growers the tools to thrive, compete, and grow.

The Australian Competition and Consumer Commission (ACCC) are Australia's national competition, consumer, fair trading and product safety regulator.

Find out more at acc.gov.au