

To Deputy President Kovacic

Sent via email: chambers.kovacic.dp@fwc.gov.au

Re: AM2014/196 and 2017/197 - Casual and Part-Time Employment – Horticulture.

Dear Mr Kovacic,

I am a fruit grower and owner of a fruit packing facility in the Goulburn Valley.

I have only recently taken a full time position on the family orchard, having previously been employed as a Legal Practitioner for 15 years. Due to the growth of our family orchard, and also the evolving nature of the horticulture industry, I made the decision to bring some of my skills to the family business. We fully acknowledge that farming is not just about producing crops!

Having come from a completely different industry, I have been adjusting to the very unique nature of Horticulture. The Horticulture Industry is different than other industries because:

- It is seasonal based and highly unpredictable. Unlike other farming sectors, the 'seasonal' nature of horticulture is quite extreme. The seasons are affected by weather, growing conditions, crop numbers, demand and the market. As I have seen, no seasons are alike. Whereas some seasons may see an abundance of work at one time of the year, or one particular type of fruit or variety commanding a huge workforce, the next year can completely change.
- The transient nature of many employees. Many of the employees in the Horticulture Industry are holidaying while they work, or are just wanting to work for short periods while they continue with their travels.
- Sometimes the demand for employees can be overwhelming due to the season.
- There are new and very strong overseas challenges to our markets
- The market for skilled full-time Horticulture employees is on the rise, with new industry and positions being created.

In this submission, I would like to discuss each of the above differences in the Horticulture Industry and highlight why a proposal for overtime loading rates for casual staff should not apply to this particular Industry.

SEASONAL BASED NATURE OF HORTICULTURE

The most obvious difference between Horticulture and other industry, including many other farming industries is its unpredictable seasonal nature. This not only effects when work is available, but how much work is available at particular times of the year. To better explain, having completed my first full season on the orchard, I was amazed at how a weather event can completely change work hours and earning capacity for employees. This time last year, our irrigation system was effected by a mechanical failure which lead to severe frost damage in our apricots and plum varieties. Our crop numbers were down some 90%. From the point of view of staff employment, this meant that our 3 orchard hands who would usually be employed to thin the fruit buds, had no thinning work. Those same 3 workers and another couple who would usually pick for 4 full days of work had no work, and we had 2 pickers with about a half a day's work. In addition, whereas it might take us one week to pack this fruit, it was a less than 1 day of employees in the packing shed. Harvest can be effect by weather, but also disease and sometimes, unknown factors. For some unexplained reason, crops of Granny Smith apples were down significantly last year. There was no explanation. However, the majority growers just noted that their apples did not crop. It was unpredicted and unexpected.

So with ups and downs in production and seasonal work, employees in effect need to stockpile their hours. They will do some extra while the harvest is good and abundant, but understand there will be periods of down time when this is not the case.

Any proposal to introduce overtime, will mean that farmers and packhouses, will ensure that their staff do not work more than 304 hours over an 8 week period. I understand that this is a presumption on my behalf. I can only speak from what we will do as a business and from what others have told me they will do. I have spoken to other packhouses and farmers who have all indicated to me that they will have to follow the same path. The reality from our business point of view, and profit figures and sales prices, we cannot pay overtime. As such, we will restrict staff hours, so that they are not working more than 304 per 8 weeks. This will mean having to employ more staff, it will cost us more administratively and mean additional training. However the additional cost of training will be far less than penalty rates. From my knowledge of the industry, my discussions with other businesses, this will be the new norm for Horticulture. Any suggestion, that employers will just pay the extra rate instead, is not realistic. Farm expenses make it impossible to have higher wage rates.

The result of the reduced hours for staff during “peak times” will be a significant disadvantage for staff as well. The general nature of Horticulture, due to its fluctuating nature, is that staff are able to earn more while the ‘going is good’, and then have enough in the bank if the harvest is light, or the work dries up. If the overtime rates are introduced, and farmers reduce staff hours, then there will be no ability to earn extra to cover quiet periods. It appears obvious that it will be extremely unfair on employees as they will not have the opportunity to accumulate additional wages.

There is the argument, that working more than 304 hours over an 8 week period, should be rewarded with overtime rates as it is more hours than the standard working week. The only difference with Horticulture is that there is no standard working week, as the next 8 weeks, might see no work available at all. Again, my point is that there is no real ‘standard week’ even over different years. So if there is a hail storm during Pink Lady harvest this year, there may be no Pink Lady Apples to harvest this year, but next year at the same time they may be an abundance. This year we are hoping that our early apricots and plums will be in full production, but again, we do not know. So just like the say for farmers, ‘you have to make hay while the sun is shining’, the same can be said for employees.

The reality is, that introducing overtime rates, will not see employees earn more, it will just see workplaces, restrict how many hours employees can work during a week. Of this I am absolutely certain. In the end, this will harm employee’s ability to earn, but also employer’s productivity.

TRANSIENT NATURE OF EMPLOYEES

Traditionally, Horticulture has employed transient workers. Some are holiday makers on their travels who will work and earn while seeing Australia. Some will be visiting Australia for a certain period of time, solely to work and see a bit of Australia on their travels to work destinations. The transient workers have filled a need in Horticulture in busy times, when the local workforce cannot. The debacle with the tax on working holiday’s maker in 2016 and the fallout from the proposed changes are a great example of how much damage can be done if working holiday makers are deterred from working in Australian Horticulture.

I see the proposed overtime rates having exactly the same effect. Working Holiday makers are generally enticed to work with the idea of working for a short period, of a lot of hours, making some money and then continuing with their travels. This benefits horticulture, it benefits general industry in the country areas where the industry is located, but also the general tourist economies in Australia.

Based on the assumption, and the very calculated assumption that I am making, that employers will only offer these transient works 304 hours, I see a serious decrease in working holiday makers coming to assist with harvest periods. This will create another disastrous outcome for harvest periods. Again, my assumption that the hours will be restricted is based on my discussion with other growers, and packhouse operators, but also by my financial knowledge of the cost of production vs the sale prices available.

OVERSEAS CHALLENGES TO THE MARKET

I was fortunate enough to visit Guangzhou China earlier this year. The purpose of the trip was to try and understand new emerging markets for fruit sales as well as where the world fruit industry is heading.

The overwhelming response from overseas buyers was the inroads made by other markets who are in competition with Australia. This includes South American growers, South African growers, and also emerging European growers. Australia has traditionally had a reputation for its clean fruit, its flavoursome fruit and also its quality. Other markets have worked extremely hard to become more competitive and are closing the gap between Australian fruit and the rest of the world. One major advantage of many of these markets, is their labour cost being a fraction of Australia's. Whilst I am in no way advocating a reduction in Australia's pay rates, having to pay overtime will just mean that Australia will not be able to compete with these countries due to the need to recover the higher cost of production. The fruit sent for export is our premium fruit varieties. Export markets for these premium lines has been steadily growing and there has been high expectations for them to continue growing. To produce and package premium fruit, is more labour intensive. Generally, picking is not paid by piecework rates (but by hourly rate), and packing of premium fruit requires more staff so is more expensive in terms of labour costs. If labour costs increase as proposed, then growers will start to move away from this premium line of fruit and just increase their growing and packing of generic, local sold produce. This lower grade fruit can be sold with a much lesser labour requirement. This will have an adverse effect on Australia's push for export. The overtime rates will be in complete contradiction to the policy of increased export and will in effect have a detrimental effect on export numbers.

After my trip to China, part of me was extremely optimistic about the opportunities overseas, but the challenges and especially labour challenges, that our industry faces, has definitely dampened my exuberance, and replaced it with the reality of price pressures and cost pressures.

The reality is, that if the award is changed, and overtime rates were paid, then expanding to other markets will be less likely due to the higher labour cost of production.

GROWTH IN FULL TIME AND SKILLED POSITION

Having transitioned to Horticulture from a very unrelated professional field, I have been pleased to see a lot of progress and growth in skilled positions and full time work being offered in Horticulture. I have seen jobs growth in not just farm positions, but computer program, marketing, sales and agronomy. My mention of this is to dispel any preconceived notion that Horticulture only pays unskilled or low skilled workers on piecework rates and wants to pay low wages. Our business has key staff which are paid well over the award and are full time. I have had the opportunity to meet many other employees who are also so employed in horticulture. There is a distinct difference between these staff and seasonal workers and casual staff that come in for the season, work when the work is there, and understand the unpredictable fluctuating nature of Horticulture. It is that seasonal space that is different to all other positions and should be treated as such.

There are two more points I wish to add, which are of a slightly different nature.

There are groups in the Horticulture community who are paying under the award rates, who are not conducting VEVO checks on their employees and who negotiate with contractors to provide bad working conditions for their staff. These groups not only cause serious detriment to the industry, but make it very difficult for Horticulturalist who are trying to do the right thing, to compete in the market. Any changes to make wages more expensive and compliance with laws more onerous than they already are, is really just going to create more market in the illegal working trade. In all honestly, this is our greatest fear. Our casual staff are well trained, and all understand that their work hours are determined by the season. They enjoy quiet times as well as busy times. But, if we have to reduce their hours to ensure that overtime penalty rates are not paid, then we are sure they will look for work elsewhere. We cannot afford to pay the overtime rates as we will not be able to survive financially. But we will not be able to blame our staff for looking elsewhere for other work with more hours. I believe that many will find work with employers that will ignore the regulations and not pay the overtime.

My last point and on a completely separate note, I just want to add, that farming is a 'tough gig'. And although we have all heard it before, the challenge to Horticulture are huge. The Goulburn Valley is the 'food bowl' of Victoria, but now that I am part of the industry and see how difficult it is, I can understand why there is a fear that this title is under threat. Whether it be drought, whether it be frost, fruit fly, labour shortages, or inhibitive costs, there always seems to be more challenges. When you visit other countries, there is this obvious importance giving to food production and farming. The fear of food shortages and the understanding that we have to support Industry that produces our food seems so much more relevant in overseas countries than it is in Australia. I see the proposed introduction of overtime rates as just another challenge and another impediment on food production which will see more growers exit the industry.

In conclusion, I ask the commission to recognise the unique nature of Horticulture, its seasonal nature, its unpredictability. The introduction of overtime penalty rates ignores the unique nature of this and will seriously disadvantage workers. I believe that it will affect our decisions to export fruit due to the labour costs being too high, but will definitely see us reduce our employees hours. I ask that the commission seriously consider whether the overtime rates are appropriate for our industry and whether it will in fact 'bite the hand that feeds us'.

Regards,

Trish Vigliaturo

