Table of Contents

Executive Summary

Sugar mill businesses, including many that were owned by sugarcane growers at the time, and the Australian Sugar Milling Council, were a major proponent for, and participant in, the deregulation process leading up to 1 January 2006. This was conducted in close concert and negotiation with CANEGROWERS, and the Queensland and Federal Governments.

The Australian Sugar Milling Council does not support moves to re-regulate the industry and revisit the inefficient, anti-competitive practices that characterised the Australian sugar industry prior to 1 January 2006.

In particular, the Australian Sugar Milling Council does not support a reversion to the pre-deregulation era of compulsory arbitration standards that abrogated responsibility for reaching commercial outcomes based on good faith negotiation between suppliers and processors to third party arbiters. The Australian sugar industry spent tens of millions of dollars in unproductive preparation for, and execution of, disputes on cane price and other commercial elements of contractual negotiation in the decades leading to deregulation. This was indicative of the business culture that pervaded the industry leading up to deregulation. A robust, commercially based dispute resolution mechanism is highly desirable in a modern contractual arrangement, however compulsory arbitration does not have a role in the negotiation of those contracts.

There is no ambiguity in relation to the ownership of sugar and other products manufactured by sugar mills. Terms and conditions are clearly stated in contractual arrangements between sugarcane growers and sugar mills, and between sugar mills and their customers for raw sugar sales, currently domestic refineries and Queensland Sugar Limited.

Sugar mills purchase sugarcane from growers under terms and conditions outlined in various Cane Supply Agreements between mills and growers. While these are different for each mill area, and mill areas may have different contracts with different growers and groups of growers, there are some consistent elements in contemporary commercial arrangements.

The Cane Supply Agreement clearly sets out the terms and conditions for payment by the sugar mill to sugarcane growers for sugarcane. Transfer of legal title of sugarcane passes from growers to mills at the point of delivery by the growers to the mill. There are various physical locations that this occurs depending on specific contractual terms, mill transportation infrastructure, and farm location. It is often at the cane railway siding, or collection point for transport of harvested sugarcane to the mill. In sugarcane supply contracts, this ‘delivery’ effectively means that the title and risk in the sugarcane passes to the mill owner at the Point of Delivery.

After arrival at the sugar mill factory, the sugarcane purchased by the mills then undergoes substantial transformation into a range of products and by-products, including raw sugar, molasses, mill-mud and ash, and bagasse (the fibrous material that remains after crushing sugar cane). Ownership of these products unambiguously resides with the milling company that produces them.

Raw sugar is either transported by the sugar mill company to bulk sugar terminals for storage and subsequent dispatch to the domestic or export market, or transferred directly to a processing facility for refining.

The price that sugarcane growers are paid for their sugarcane is defined in the Cane Supply Agreement and largely determined by the Cane Payment Formula. For all mill areas and all contractual arrangements between sugarcane growers and mills, growers have an underlying exposure to the price of raw sugar through the cane payment formula, but no ownership of the sugar.

The more than 30 significant inquiries, reviews and task force reports initiated by industry and governments from 1982 to 2006 examining the competitive and regulatory framework leading to deregulation of the industry consider a huge array of complex issues.

There is an underlying theme from the many inquiries and reports leading to 1 January 2006, clearly captured in the vision of the Industry Oversight Group in February 2006. This vision was for the industry to become a commercially vibrant, sustainable and self-reliant raw sugar and sugarcane derived products industry through:

- committed cane growers and millers being responsive to international and domestic market forces; and
- operating in an open, deregulated industry environment, within Australia's corporate governance framework.

The Australian Sugar Milling Council supports minimal government intervention in commercial matters unless there is demonstrated market failure that is not addressed in the myriad of existing consumer and competition laws and other safeguard mechanisms. There are adequate provisions in place to deal with any perceived or real imbalances associated with a small number of large suppliers purchasing sugarcane from a large number of small suppliers and there is therefore no case for revisiting the deregulation process that was concluded in January 2006.

The Australian Sugar Milling Council supports efforts around negotiated industry agreements between growers and mill companies and relevant industry organisations to develop and maintain business confidence and industry growth objectives.

1 Introduction

The Australian Sugar Milling Council (ASMC) is an advocacy-based organization, operating in the best interests of Members and the broader Australian sugar industry. ASMC works in the pre-competitive environment on a range of policy and programs that impact the profitability and sustainability of mill businesses and the Australian sugar industry. There are normal commercial tensions that exist between mill companies, and between participants in the sugar supply chain. There are commercial matters that ASMC Members do not collectively discuss as they are direct competitors.

ASMC was a key participant in, and major proponent of, deregulation in the Australian sugar industry from the late 1990s to full implementation of voluntary marketing arrangements in 2006. This period saw numerous inquiries, reports, Government and industry negotiation on a sometimes tense basis, and subsequently, agreement over what would represent the pathway to a sustainable future for the Australian sugar industry.

1.1 Deregulation

Attachment One provides an outline of the key events leading to deregulation from 1982 to 1995, and Attachment Two covers key events from 1995 to full deregulation in 2006.

The timetable leading to deregulation was highly complicated and involved whole of industry and government negotiation across CANEGROWERS, ASMC, and Queensland and Federal governments.

Between 1982 and 1995 there were some 10 major inquiries, reviews and task force reports into the regulatory and competitive position of the sugar industry, at least 3 significant assistance packages, and 10 legislative changes to federal or state laws associated with sugar specific legislation and regulatory provisions.

From September 1995 to 2006 there was more than 20 reviews and inquiries initiated by government and industry examining deregulation and the move to voluntary marketing arrangements. There were at least 6 sugar industry specific regulatory and legislative changes, including the final deregulation that was enacted 1 January 2006, at which time Queensland Sugar Limited (QSL) entered into voluntary contractual arrangements with the majority, but not all, Queensland sugar mills for the marketing of raw sugar for export. There was a further major assistance package of $444 million, again linked to reform and restructure of the industry.

A key influence of the final moves to full deregulation was the Hildebrand Report, received by Minister Truss in June 2002.

The Federal Government noted the findings of the Independent Assessment, particularly the need for a regionally-focused, business-orientated approach to the majority of industry matters.

“The industry must move from a "one size fits all" approach to developing regionally-based plans that strongly reflect local priorities.”

The Independent Assessment:

“…found that there is too much reliance on a State-wide approach to industry matters. It is clear that the effective operation of each mill area, or mill region, lies almost entirely in the hands of the local co-dependent participants. And it is important that this responsibility is accepted without resort to wider loyalties.”

The Independent Assessment also noted:

“Arbitration is an issue. It is not desirable that arbitration becomes a customary way to avoid the responsibility that should accompany local leadership in genuine negotiation at the mill area level, for the good of participants in that mill area.…”

Following the Hildebrand Report, the Queensland and Federal Governments signed a Memorandum of Understanding (MoU) in September 2002 to facilitate a partnership approach to sugar industry reform. The Governments agreed that the industry needs to change both its culture and practices in order to:

- improve its efficiency and competitiveness,
- retain its global market share, and
- become more commercial and innovative.

The Governments agreed that the following areas appear to impede increased competitiveness and efficiency, and are detrimental to cultural change and innovation:

- the cane production area system;
- the statutory bargaining system; and
- the compulsory acquisition of raw sugar for marketing and selling within the domestic market.

The industry participated strongly in the deregulation process, including through various Heads of Agreement and jointly signed commitments undertaken by ASMC and CANEGROWERS. In March 2004, a Heads of Agreement saw commitment from CANEGROWERS, ASMC and Queensland Government that:

- The Queensland Sugar Industry and the Queensland Government are committed to supporting and promoting comprehensive reform and restructure;
- It is acknowledged that any legislative impediments to reform must be removed;
- It is recognised by both millers and growers that the future cannot simply be an extension of the past and that previous assumptions driving production and structural arrangements need to be changed;
- Industry is committed to transformational change required to achieve sustainability.
- The industry agreed to establish a working group to develop voluntary marketing arrangements as soon as possible. The objective of this working group was to work towards a new system for marketing of raw sugar prior to the requirement under National Competition Policy for review in 2006.

In May 2005, a Working Group Report comprising senior representatives from CANEGROWERS and ASMC with state government observers recommended a new marketing system for the Queensland Sugar Industry for the 2006/2007 season. This proposal was submitted to the Premier of Queensland. During deliberations, the Working Group sought assistance from the Chief Executive of QSL and also provided the Premier of Queensland with periodic updates on progress.

The Working Group recommended a commercial, non legislative based marketing structure for the sugar industry be developed and that it be based on the recommendations in its report. The key recommendations included:

Recommendation 1
That QSL be the vehicle used as the basis for a contractually based sugar marketing company.

Recommendation 2
In order to ensure maximum participation and ensure that transformation takes place in a timely manner, the Working Group proposes that the initial contractual arrangements between the marketer and suppliers include obligations on the marketer to meet defined milestones by due times. A failure to meet a milestone could enable the supplier to opt out of the supply contract.

Recommendation 3
Sections of the Sugar Industry Act 1999 covering vesting and marketing of sugar in QSL operate only for the 2005/06 season. To facilitate the introduction of commercial, contractually based marketing arrangements from the 2006/07 season, transitional arrangements would need to be introduced during 2005 to enable QSL to enter into contractual arrangements with suppliers.

Recommendation 4
The Board of the marketing company take appropriate steps to address the ownership structure of the company once commercial operations have been commenced. Structural change will necessitate referral to and support of current members.

Recommendation 5
There should be sufficient grower and miller representation on the Board of the marketer to ensure transparency and a number of independent directors to bring a depth of experience and diversity of skills and perspectives. The present composition and skill base would need to be flexible as to ensure that the company is able to respond to a more standard business framework.

Recommendation 7
It is recommended that rules relating to participation, entry and exit would be determined by the Board of the marketer in consultation with suppliers and incorporated into supply contracts. It is recommended that the goal of the marketer is that suppliers should commit to 100% of bulk raw sugar for export.

Recommendation 8
It is recommended that the initial contract arrangement be finalised no later than 31 December 2005 and that the term of that contract should be three years. Beyond that initial three year period, a rolling two year period could be appropriate.

Recommendation 9
It is recommended that the marketer focus on marketing bulk raw sugar for export under contractual arrangements with suppliers.

Recommendation 10
Initially treasury, risk management and pooling functions would be similar to current arrangements but the marketer is expected to develop, in the transition to standard business practice, more innovative arrangements.

Recommendation 11
Bulk sugar terminals and storage operations would continue to be similar to current arrangements. The marketer, in conjunction with STL, will have to develop a third party access protocol prior to the commencement of the 2006/07 season.

1.2 An outline of the current pricing and marketing arrangements in the Queensland sugar industry

From the time it was established in 1999, QSL managed more than 90 percent of Australian raw sugar export marketing and was, up until relatively recently, the primary raw sugar export marketing company in Australia. In the Australian sugar industry, the term 'marketing' is used for the physical sale of sugar to export customers. QSL has 30 members – seven Mill Companies, 21 Grower representative members and two Grower association representatives. QSL is a public company limited by guarantee, and operates on a tax-exempt cost recovery basis.

QSL provides pool pricing and risk management, storage, handling, quality and logistics, financing, and sales and trading services under a Raw Sugar Supply Agreement (RSSA). There are 7 mill company signatories to the RSSA (6 of whom currently sell sugar for export), plus QSL. The RSSA is a voluntary contract with a 3 year rolling term. Changes cannot be made to the RSSA unless all signatories agree.

Sugarcane is supplied to mill companies by growers under commercial contracts known as cane supply agreements between each grower and the mill company they supply.

The current RSSA includes the terms 'Supplier Economic Interest' (SEI) and 'Grower Economic Interest' (GEI). These terms serve to identify the relative portion of sugar to which mills and growers have price risk exposure. Milling companies have the right to elect each season to allocate a quantity, up to the defined quantity of 'Supplier Economic Interest' sugar, to be placed into a Supplier EI Pool, which QSL sells back to mill companies at the bulk sugar terminals. The purpose of the Supplier EI Pools is to allow a milling company to directly market a quantity of their sugar (calculated by the SEI sugar definition) to its own customers.

The remainder of the export raw sugar supplied by mills is currently marketed by QSL. This raw sugar is allocated to a number of other pools, with each of the pools representing different management, pricing and risk strategies.

MSF Sugar Ltd has provided a pricing and marketing service to its Maryborough growers since deregulation in 2006, as did the Mulgrave Mill in the Far North, outside the QSL arrangements. MSF Sugar Ltd subsequently purchased Mulgrave Mill and continued to provide such a service outside of QSL.

Before 2006, the sugar price in Queensland was determined centrally by Queensland Sugar Limited (QSL) (or its predecessors). That is, there was one declared price for sugar – every milling company received the same price for its sugar and every grower had the same sugar price used in the cane payment formula for sugarcane.

After complete deregulation in 2006, mills began to take over the management of sugar price risk themselves and through an innovation that is only available in the Australian sugar industry, also began to offer their growers direct access to risk management tools to manage their exposure to sugar price and currency relative to payment for their sugarcane. Access to various pools meant that for the first time, growers were able to fix prices for a portion of the sugar price exposure 3 to 4 seasons beyond the current season to gain greater control over budgets and revenue, with associated ability to finance farm operations and diversify risk.

To prevent 'over pricing', mill companies limit growers forward pricing to a portion of their average annual production. While each mill company has different systems and levels in place, a typical example is that growers can secure pricing for their exposure on up to 70% of their average annual production for the first forward season, 50% of their average annual production for the second forward season and up to 30% of their production for the third forward season.

There are a range of price risk management tools available to growers via different pools managed by sugar mills, QSL, or other third party providers. Different mill companies have different IT platforms and grower pricing services available for their growers. Any sugar that is not actively priced by growers in a current season is priced by QSL or the mill on behalf of the growers. Effectively this means that growers can make a range of choices around how up to 70% of their exposure to sugar price is managed. An individual grower's price matrix for the current season might look like the following table.

An Example of a Current Season Price Matrix for a Sugarcane Grower

Pool	Percent of production	Sugar Price	Tonnes of cane
Shared	10%	$515.00	1,800
Forward pricing	45%	$375.00	8,100
GMP	10%	$390.00	1,800
Harvest	35%	$380.00	6,300
Total/Average	100%	$392.25	18,000

The Forward Pricing and GMP (Grower Managed Pool) pools each have a range of risk characteristics and are entered into on a discretionary basis by growers. The Shared Pool includes all the premiums and costs involved in running the QSL marketing system. The Harvest pool is used to manage production risk, and is priced in season as sugar is manufactured. There is a much narrower range of pricing tools available to pool managers for the Harvest pool.

Underlying raw sugar value

There are many participants in the raw sugar futures market including producers in 31 countries, consumers such as refiners, bankers, soft drink manufacturers, brewers and confectioners, the ethanol market, traders, speculators, pension and index funds among others. The value is disclosed by the actively traded electronic raw sugar futures market, the ICE 11 contract. The physical value of the sugar is determined by this futures price plus premiums minus costs. Premiums and costs are a relatively small portion of the total sugar price, however must be managed professionally and with transparency.

When considering pricing and marketing of raw sugar, it is important to have a clear understanding of the nature, relative size and transparency of the key components of the sugar price that eventually goes into the cane payment formula.

The following section explains and provides an example of how each of these components (ICE 11 – the futures component, premiums (pol premium, physical premium), and costs (storage and handling, marketing, and financing) contribute to the sugar price pools that determine a grower's sugar price component of the cane payment formula.

ICE 11

In the example used, the ICE 11 represents in the order of 87% of the gross sugar price (price paid by the purchaser of physical sugar), and the ICE 11 is just over 100% of the net sugar price (price used in the cane payment formula for payment by mills to growers for purchase of sugarcane). The ICE 11 as indicated above is fully transparent. The example set out later in this section uses an ICE 11 price of $393.61 per tonne IPS drawing from the information shown on Page 8 of the 2013/2014 QSL Annual Report.

The two factors that potentially could influence the dollar value of the growers' exposure to sugar price derived from the ICE 11 would be a reduction in the level of price risk management being offered by mills, and/or the pricing performance of the marketer, including in relation to the balance of the grower's price exposure not actively managed by the grower (i.e. the residual pool to manage production risk plus any exposure the grower does not actively nominate into a pool).

POL premium

The pol premium represents the difference in physical quality attributes of the raw sugar versus the standard quality specification set by the Sugar Association of London (SAL) rules for the ICE 11 contract. The major element of the physical quality attributes is polarisation. The ICE 11 price is based on raw sugar of 96 degrees polarisation. A polarisation premium is available to account for raw sugar which has polarisation higher than 96 degrees and the amount of the premium is determined by the SAL International Pol Scale (see table below). This means that if the average polarisation of a sugar cargo shipped from Queensland was 98.95 then the FOB price of the cargo would be adjusted upwards by 3.7%. The 2013/2014 QSL example uses a value of $13.30 per tonne IPS (3.39% of the final sugar price used in the cane payment formula).

The Pol Premium is calculated on the 'against actuals' price agreed between the purchaser and seller of raw sugar, determined prior to the close of the futures contract or the finalisation of the physical transaction.

Given the rules around determining this premium, it is identifiable and auditable.

International Pol Scale

Min degrees	Max degrees	Percentage pro-rata for each degree
96.00	97.00	1.50%
97.00	98.00	1.25%
98.00	99.00	1.00%
99.00	99.30	0.30%

Physical premium

The physical premium is determined on a contract-by-contract basis by direct negotiation with a customer for raw sugar and by market forces. The value of the physical raw sugar above the ICE 11 futures market price will mainly reflect the freight differential and a regional premium.

The freight element of the physical premium is determined by location of both the supplier and customer for the raw sugar and the location of the next potential supplier of sugar to the customer. This last element is also the major determinant of the regional premium. The relative quality of a supplier's sugar to the next available sugar along with some consideration of shipping flexibility can also contribute to the physical premium. The lack of in season storage capacity in Brazil is also a factor in the availability of the regional premium.

The net value of the physical premium in the QSL example is $17.71 per tonne IPS, made up of a Cost and Freight Premium (CFR) of $42.19 less freight and execution costs of $24.48. The CFR premium is the value invoiced to the customer over and above the ICE contract. Freight and execution costs are the payments made to ocean transport companies for the collection and delivery of product to the end port destination. This is mostly made up of the voyage charter costs, but also includes dispatch earnings and demurrage payments. In this example, the net physical premium of $17.71 is 4.52% of the final sugar price used in the cane payment formula.

While, this is probably the least auditable of the components of sugar price (regardless of who is marketing the sugar), there are independent information sources available to provide some daily visibility in relation to an indication of the market value of the physical premium.

Storage and handling

Storage and handling costs are currently equalised for QSL exported sugar such that the same costs are allocated by QSL to each tonne of raw sugar that is exported via any of the bulk sugar terminals. This means that potentially any changes to raw sugar export marketing may result in winners and losers in terms of terminal costs, depending on the relative costs and other competitive elements associated with storing and handling raw sugar through each of the terminals. In its lease agreement with QSL, Sugar Terminals Limited has the option to take back the operation of a terminal if QSL percentage of throughput in that terminal falls below a certain point. If this were to happen, STL would need to work through a range of commercial considerations and decisions in relation to future operation or lease arrangements. It is possible different prices could be charged by operators of each bulk sugar terminal compared with current arrangements if QSL was no longer managing all terminals. Storage and handling costs in the QSL example are shown at $21.50 per tonne IPS (5.49% of the final sugar price used in the cane payment formula).

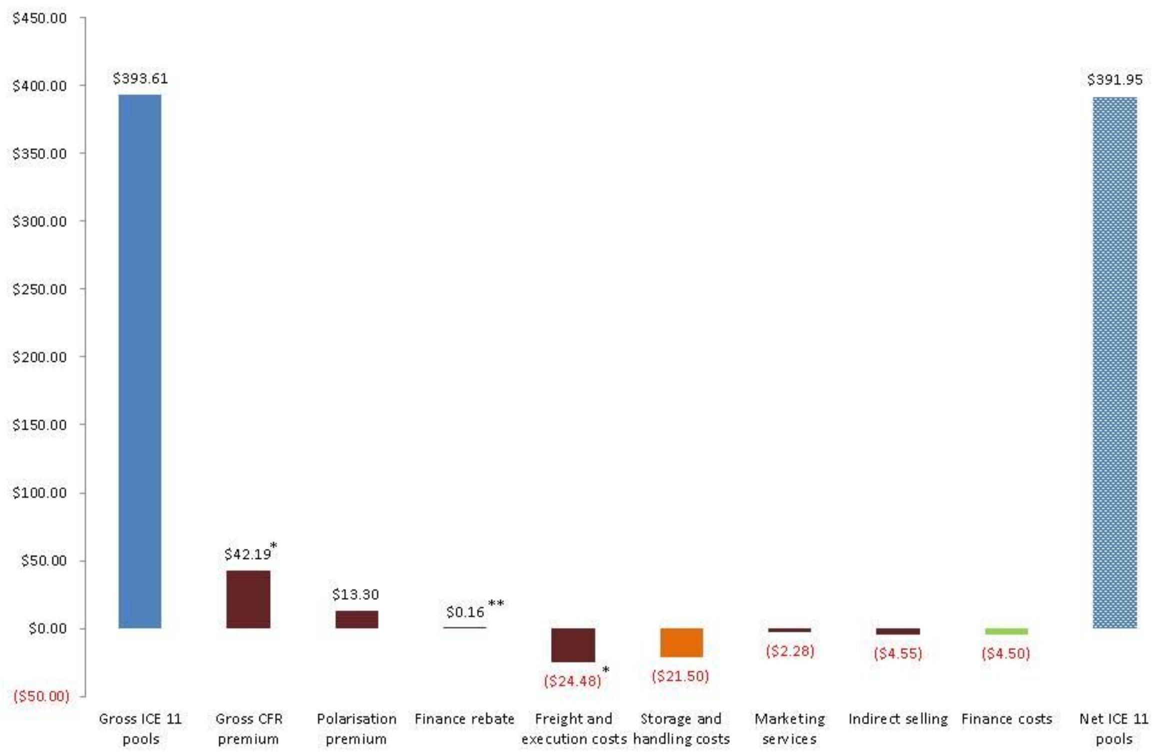
Marketing costs
QSL's total marketing costs annually amount to about $7 million which in 2013/2014 translated to $2.28 per tonne IPS of sugar sold. This is not a large element of the final price. If these costs were to increase for some marketing companies (and decrease from others) because of economies of scale, the overall impact of any changes from not marketing through one agency are not likely to be significant.

Financing costs
The cost of the advances program is also a small component of the overall price. QSL has been able to access finance at very competitive rates in the past. These costs for 2013/2014 were $13.4 million or $4.50 per tonne IPS. Finance costs could be higher or lower through alternative marketing arrangements, depending on access to finance of the different marketing companies involved. Marketing and Financing Costs in the QSL example are 1.73% of the final sugar price used in the cane payment formula.

Indirect Selling Costs
In the QSL example, Indirect Selling Costs are listed as $4.55 (1.16% of the final sugar price used in the cane payment formula). This is the cost of procuring specific brands of sugar from suppliers to meet the specific market requirements of the customers. This includes the raw sugar quality scheme payments and the premium for making Japanese specification raws. The raw sugar quality scheme is managed by QSL as part of the centralised marketing arrangements, and is shared across RSSA participants. Any ongoing costs associated with raw sugar quality will be managed by each marketing company. Other market specific costs and premiums such as meeting individual market specifications will be incorporated into the operations of each marketing company.

The following graphic depicts the values attached to the components discussed above and shows how each of them influences the final sugar price that feeds into a grower's cane payment formula. This example is drawn from the QSL Annual Report. In this example, the net difference between the starting gross ICE 11 price for sugar (the futures price component) and the net sugar price after premiums have been added and costs deducted is $1.66 per tonne IPS.

An Example of Components of Sugar Price



* The Gross CFR Premium when combined with the freight and execution costs amount to the net physical premium of $17.71.
** Given that this $0.16 has such minimal impact it has not been referred to in the section preceding the graph.

The final element of this analysis is to explain how this net sugar price is then applied in the grower's cane payment formula to arrive at the price a mill company pays a grower for their sugarcane.

The cane payment formula that is used for the majority of payment transactions in the industry is discussed in some detail in Attachment 3 to this submission, and also in Section 2.2. A different formula is used by Mackay Sugar Limited in the Mackay district, as outlined in the attachment.

The actual payments made by millers to sugarcane growers are calculated by this cane payment formula which takes into account the CCS content of the grower's sugarcane combined with a sugar price, determined through the pooling arrangements and a grower's price and currency risk management strategy.

This longstanding formula is

Pc = 0.009 x Ps x (CCS-4) + $0.608*

Where:

Pc = price of cane (what the grower receives)
Ps = price of sugar per tonne IPS (net price for raw sugar taking account of futures component, premiums and costs)
CCS = commercial cane sugar (how much recoverable sugar is in the cane)

*The other element of the formula is a constant agreed to in cane supply agreements and can differ from mill area to mill area (in the order of cents). The constant used in this example is $0.608. It, in the main, represents the outcome of a series of adjustments made over time since the early 1900's to ensure the formula reflected changed conditions since its introduction.

Applying the net sugar price used in the example of $391.95 and using an indicative CCS of 13.75 enables calculation of the sugarcane price as follows:

Pc = 0.009 x $391.95 x (13.75-4) + $0.608
$35.0016 per tonne of sugarcane

In this example, if you applied only the ICE Futures component of the price of $393.61, it would deliver the following result in terms of the price to be paid for sugarcane:

Pc = 0.009 x $393.61 x (13.75-4) + 0.608
$35.1472 per tonne of sugarcane

The premiums outlined in the example total $55.49 (Gross Cost of Freight Premium, Polarisation Premium), with a physical sugar price of $449.10. This is offset in the example by costs totalling $57.31 (Freight and Execution Costs, Storage and Handling, Marketing and Finance Costs and Indirect Selling Costs). Clearly these premiums and costs are important components of sugar price and must be managed accordingly.

A key element in the overall determination of sugar price is the experience and expertise of the team managing the various pool products that are available to sugarcane growers. The other major element is the transparency of reporting and information available against each of the components that comprises the net sugar price, and the systems available for sugarcane growers to execute their price and currency risk management strategies.

2 Terms of Reference

a. the impact of proposed changes on the local sugar industry, including the effect on grower economic interest sugar;

2.1 Grower economic interest

The term 'Grower Economic Interest' is one that has emerged in the past 18 months, as a counter to the term 'Supplier Economic Interest' in the Raw Sugar Supply Agreement, a commercial contract between QSL and seven raw sugar suppliers (six mill companies who sell sugar to QSL for export purposes, and one additional signatory who has not supplied sugar for export for some years). The term was introduced to identify the volume of sugar that QSL would make available to sell back to each mill company in order for the mills to market themselves.

The Raw Sugar Supply Agreement is a complex contract between raw sugar suppliers (sugar mill companies) and QSL governing the pricing, financing and marketing arrangements for raw sugar supplied by sugar mill companies for export.

Grower Economic Interest and Supplier Economic Interest do not exist in any regulatory or broader sense outside the existing RSSA. GEI is a term that is used in the construct of the Raw Sugar Supply Agreement, and does not confer any legal title or ownership rights.

2.2 Cane Supply Agreement and Cane Price Formula

Sugarcane growers have an underlying exposure to the price of sugar under the terms of their cane supply agreements with sugar mills, through a formula that includes the price of sugar in determining the price they are paid for their sugarcane.

Attachment 3 provides a more comprehensive discussion regarding Cane Supply Agreements and the Cane Payment Formula. Most growers enter into contracts determined by collectively bargained processes. These cane supply agreements determine the conditions under which payment, harvesting, transport and delivery to mills occurs for each mill area. The negotiation of these factors at a local level ensures that growers and mill companies are able to have supply arrangements best suited to their local conditions.

The Cane Supply Agreement clearly sets out the terms and conditions for payment by the sugar mill to sugarcane growers for sugarcane. The actual payments made by mill companies to sugarcane growers are calculated by the cane payment formula which takes into account the CCS content of the growers' sugarcane combined with the price of raw sugar realized by growers through participation in various mill or QSL pooling arrangements, or via third party pricing products. This is a function of the futures market which allows risk transfer (pricing) to occur at a time opportune or convenient to each of the Australian participants. There are essentially two cane payment formulas in use in Australia, outlined in more detail in the attachment.

Each mill is also responsible for the organisation of several services in its mill area including:

- Co-ordination of harvesting;
- Transport of sugarcane;
- Sampling and analysis of sugarcane;
- Maintenance of accounts and records in order to make payments to their growers, including the advances program, and in most cases to provide opportunities for growers to participate in forward pricing activities

In addition, mills pay the cost of transporting their sugar to bulk sugar terminals.

2.3 The supply chain

Transfer of legal title of sugarcane passes from growers to mills at the point of delivery by the growers to the mill. There are various physical locations that this occurs depending on specific contractual terms, mill transportation infrastructure, and farm location. It is often at the cane railway siding, or collection point for transport of harvested sugarcane to the mill. In sugarcane supply contracts, this 'delivery' effectively means that the title and risk in the sugarcane passes to the mill owner at the Point of Delivery.

After arrival at the sugar mill factory, the sugarcane purchased by the mills then undergoes substantial transformation into a range of products and by-products, including raw sugar, molasses, mill-mud and ash, and bagasse (the fibrous material that remains after crushing sugar cane). Ownership of these products unambiguously resides with the milling company that produces them.

Raw sugar is either transported by the sugar mill company to bulk sugar terminals for storage and subsequent dispatch to the domestic or export market, or transferred directly to a processing facility for refining.

Export Sugar: Under the terms of the existing RSSA, raw sugar suppliers (sugar mill companies) deliver raw sugar to a bulk sugar terminal weighbridge. Legal title of the sugar passes from the sugar mill to QSL at the terminal weighbridge. Depending on the terms of the agreement with QSL, the sugar is then either exported by QSL, or a portion may be purchased back by the sugar mill for their subsequent export.

Domestic sugar: In some circumstances, raw sugar is stored at bulk sugar terminals for the domestic market. This is undertaken on a straight storage and logistics fee per tonne of sugar handled, and title of the raw sugar remains with the sugar mill.

b equitable access to essential infrastructure;

'Essential infrastructure' could include water, land (good quality agricultural land for sugarcane production), cane railways, sugar milling facilities, and bulk sugar terminals.

2.4 Water

Water infrastructure has been a driving force in the development of many areas of the Australian sugarcane industry. There are many examples over a long period of time of irrigation schemes where the sugar industry has directly contributed to capital establishment cost as well as annual operating costs of schemes. A current review in Queensland of local irrigation schemes includes a push in some areas for local management, requiring the ongoing cooperation and collaboration of various supply chain participants, including sugarcane growers and mill companies.

Sugar mills have contributed to the capital costs of irrigation infrastructure, contributing many millions of dollars over a period of decades, and directly funding supplementary irrigation infrastructure along with annual operating expenses of schemes. Irrigation enhances productivity and stability of sugarcane supply, which is important for the profitability of both farming and milling.

In Queensland, contributions to irrigation capital costs have occurred either through a direct contribution from individual milling companies or via a water levy, which was paid each year up until the late 1990's when it was found to be unconstitutional. Some mills had been paying the annual levy for over 20 years, and although originally intended to contribute to capital costs, the levies appeared to have been used for supplementing the cost of scheme operations.

For the last decade, sugarcane growers and mill companies have continued to work together to advocate for water pricing that considers previous capital contribution by the industry and current beneficiaries of the water, including communities that may not be direct users, but benefit from the schemes' existence. The current review in Queensland of local irrigation schemes includes a push in some areas for local management, requiring the ongoing cooperation and collaboration of various supply chain participants, including sugarcane growers and mill companies.

For some of the irrigation schemes that the sugar industry has contributed to, land use change is resulting in water from those schemes being used for other purposes, including urban and industry. For mill companies and farmers alike, maintaining industry scale is critical to its sustainability and they work together to maintain scale through activities such as protecting access to cost effective water for irrigation.

The profitability of sugar milling is dependent on both the price of sugar and on the throughput of the factory. Investment in irrigation infrastructure is just one example of milling companies investing in the productivity improvements for sugarcane growers, which flow onto improved outcomes for mills. More recently, mills have been providing financial support and incentives to bring new land (or land that has been out of cane for two or more seasons) under sugarcane. Establishing sugarcane on land currently under other uses can be expensive for growers. Various incentives are available via mills to encourage farmers and include direct payments per hectare, low interest loans, fixed sugar pricing over several years, and leasing land to new or existing sugarcane farmers. These activities indicate a committed and productive relationship between mill companies and growers to meet common industry goals.

This strong interdependent relationship is unlikely to be affected by any change in sugar marketing arrangements.

2.5 Land

Access to Good Quality Agricultural Land is already an ongoing challenge for the Australian sugarcane industry. Most Australian sugar mills are under capacity and seek greater throughput of sugarcane, achievable either through improved yields from existing supply areas, or an expansion where possible of areas under sugarcane.

Sugar mill companies contribute more than half of the industry funds towards Sugar Research Australia (SRA), the industry owned research, development and extension organization, Mill companies agree that the highest priority for SRA is improved industry productivity predominantly through new sugarcane varieties and plant technology. Increased planting by sugarcane farmers will only eventuate through maintaining and enhancing return on investment in growing sugarcane relative to other opportunities. In addition to the major investment in RD&E (milling companies contributed more than half of the $19.5 million from industry to SRA in 2013/14), all sugar mills currently offer some form of planting incentives for either existing or new growers to foster an expansion in the area under sugarcane.

This shared need by sugarcane growers and mills to access good quality agricultural land and ongoing productivity improvements is unlikely to be affected by mill companies exercising their right to market their own sugar.

2.6 Cane Railways

The extensive cane railway network in Queensland is owned by sugar mills. In general, sugar mills pay for transportation of sugarcane on cane railways from agreed delivery points to mills. This can be directly from the farm, or from cane rail sidings or road transport delivery pads/sidings. In many cases where this delivery point is beyond a certain distance, cane supply contracts may provide for an additional payment of a ‘cartage allowance’ by the mill to growers. Apart from some instances in the dairy industry (nominal gate charges for milk pick-up), bearing the cost burden of bringing the primary product to the factory for processing is unique to the sugar industry. The upside is that this cane transport function is highly organized and ensures that sugarcane is processed in a timely fashion limiting any deterioration in terms of quality between harvest and processing. The average ‘cut to crush’ period across the Australian industry in 2013 for a crop of 30.5 million tonnes was 10 hours.

Given the costs for achieving this are predominantly met by mills, mills will continue to be incentivised to utilize the most cost-effective means to transport purchased sugarcane from Point of Delivery to mills, regardless of changes to raw sugar marketing arrangements.

2.7 Milling Infrastructure

Access to milling infrastructure is not in most cases currently a competitive matter in terms of sugarcane growers supplying mills due to geographical constraints and prohibitive transport costs. Generally, most mills are under-capacity and seeking access to more throughput of sugarcane through increased land under sugarcane, and increased productivity from existing sugarcane farms.

Sugar mills are not paid in terms of dollars per tonne of sugarcane processed. The mills' remuneration is derived from the proceeds of the sale of the products they manufacture from sugarcane purchased from their growers. The price they pay their growers for the sugarcane is derived from the cane payment formula plus other terms and conditions outlined in cane supply agreements, generally negotiated on a collective basis by regional grower representatives.

Sugar mills have major sunk capital invested in specific sugarcane crushing plant and associated equipment. Sugarcane growers' major capital investment – land – can be utilized for a range of other competing uses. The price mill companies pay for sugarcane will always need to be as remunerative as is possible to continue to incentivise growers to put their land to the use of growing sugarcane. This motivation and incentive is unlikely to change as a result of raw sugar export marketing arrangements in the industry.

2.8 Bulk Sugar Terminals

Bulk sugar terminals are owned by the industry, growers and mills, via G-Class and M-Class shares in Sugar Terminals Limited (STL) and are located on the various Ports Corporations land with 100 year leases, with options for a further 100 years. G Class Shares are listed on the National Stock Exchange. Queensland Sugar Ltd (QSL) manages the terminals under a sub-lease with STL with a range of conditions including nominated volumes of sugar passing through the terminals. The current sublease is for a term of 5 years and expires on 31 December 2018. The ownership and operating arrangements ensure that the sugar mills have access on commercial terms to bulk sugar terminals for storage of sugar ahead of consignment for raw sugar export or domestic refining.

This is in contrast to some sections of the grains industry. In circumstances where the major users of export terminals are also individual owners and operators of the facilities, there is a perception or reality that the owners of the terminals are in a position to disadvantage other users of the terminals. This situation in the grains industry is exacerbated with multiple product owners seeking access to terminal facilities in peak periods, a situation that is unlikely to occur in the case of raw sugar exports. There are currently 6 sugar mill companies exporting raw sugar either on their own account, or via the third party service provider QSL.

As the marketing arrangements change in the sugar industry, it is unlikely there will be a large increase in the number of entities that own and export sugar through the terminals. Mill companies, QSL and the asset owners (Sugar Terminals Limited) will need to work through commercial arrangements for the management and operation of terminals in coming years.

Part IIIA of the Competition and Consumer Act 2010 establishes a legal regime to facilitate third party access to certain services provided by means of significant infrastructure facilities. Under these provisions, access seekers can obtain access to services provided by owners or operators of key infrastructure facilities. In circumstances where seekers and providers of a declared service are not able to come to commercially agreeable terms, either party may request the Australian Consumer and Competition Commission to arbitrate the dispute by making a determination.

c. *foreign ownership levels in the industry and the potential to impact on the interests of the Australian sugar industry;*

2.9 Foreign investment in milling infrastructure

There has been an increase in foreign ownership of sugar mill companies in the past 5 years. Some 75% of milling capacity in Queensland is owned by foreign parent companies. This investment has been scrutinized and approved by the Foreign Investment Review Board, and in some cases has been by decision of the sugarcane grower shareholders who agreed to sell the companies to foreign investors.

Regardless of where capital is sourced, driving principles in commercial operations in the Australian sugar industry supply chain must be transparency and accountability, and fair commercial relationships. The framework governing the competitive commercial relations that sugar mills operate in with their sugarcane suppliers and others is further discussed in the following point sections 2.10 and 2.11.

d. *whether there is an emerging need for formal powers under Commonwealth competition and consumer laws, in particular, whether there are adequate protections for grower-producers against market imbalances; and*

2.10 Market Imbalance

Discussion regarding market imbalance and abuse of market power is not unique to the Australian sugar industry. It is a common topic in agricultural industries broadly, and other industries characterised by larger processing companies supplied by many smaller operators.

Sugarcane growers have few options, and in some cases only one option, with respect to where they sell their sugarcane. There are some sugarcane growing regions where a grower can supply a choice of mills with different owners. There are sugarcane growing areas where a grower only has the option of supplying one sugar mill company. Sugar mill businesses have huge levels of capital sunk into specific sugarcane crushing plant and equipment without alternatives available. The major capital cost of growing sugarcane is usually the cost of land. This land generally has alternative competing uses, including other crops, livestock, and sale for urban development. Sugar milling businesses recognize this ongoing competition to maintain support from sugarcane growers to continue supplying mills.

The legal framework governing the negotiation of cane supply agreements, including access to collective bargaining, provisions for unconscionable conduct and misuse of market power, are discussed in the following section, and have been the subject of broader inquiry through the Harper Review.

There is a stronger inter-relationship between sugarcane growers and sugar mill companies than most other agricultural industries. Neither can survive without the other maintaining a profitable, sustainable business. The draft findings of the Harper Review indicate that there is no case for special treatment for the sugarcane industry versus any other agricultural industry, or indeed any other industry. It states that the provisions of the Competition and Consumer Laws generally work as intended. There is some opportunity for improvement identified in the Draft Report, and some opportunity for greater communication of provisions within the Act; however, there is no case or finding for special consideration for individual industries.

The extensive powers in the Corporations Act and Consumer and Competition Law must be adequate to deal with the sugarcane industry alongside all other industries.

Sugarcane growers have the option of accessing modern, innovative price risk management tools and products, facilitated by their mill company for generally up to 60 or 70 per cent of their production one year in advance. This decision is not limited or linked to how a mill company chooses to sell its sugar on the domestic or export market.

The other element of price determination for sugarcane in relation to the grower's exposure to raw sugar price is the non-futures market components. These components must be managed in a transparent, commercial manner, and are discussed in section 1.2.

2.11 Competition and Consumer Act

There are a range of statutory provisions under the *Competition and Consumer Act 2010* (Cth) (CCA) designed to protect competition and the misuse of market power. These provisions have been subject of recent review with a Draft Report of the Harper Review panel published on 22 September 2014 (*Harper Review*).

The provisions include Unconscionable Conduct, Collective Bargaining, Misuse of Market Power, and Exclusive Dealing, as well as provisions around misleading or deceptive conduct.

The existing provisions of the CCA are protective of the rights of growers in their dealings with mill companies. The Harper Review confirms that the majority of the existing protections in the CCA are effective to protect against anti-competitive conduct, unconscionable conduct and misleading conduct. It recommends one change to strengthen the protection against misuse of market power. That change would be relevant across all industries and is not specific to the sugar industry.

Unconscionable conduct – sections 21 and 22, Australian Consumer Law

While a doctrine of unconscionable conduct already exists at common law, sections 21 and 22 of the Australian Consumer Law in Schedule 2 of the CCA supplement and build upon that doctrine.

In essence, the statutory prohibition acknowledges that disparities in bargaining positions can occur between buyers and sellers. The provisions proscribe unconscionable conduct in respect of both consumers and business. The unconscionable conduct provisions proscribe conduct in connection with the supply or acquisition of goods or services which is contrary to good conscience.

The Harper Review Draft Report notes that the current unconscionable conduct provisions are largely working as intended to meet the policy goals of the CCA (namely, to protect competition) however ongoing monitoring of the application of the provisions should continue as matters progress before the courts.[1]

The existing laws relating to unconscionable conduct operate to protect growers if mill companies took advantage of any inequality in bargaining positions in a way that was unfair as assessed against various factors listed in the CCA and at common law.

Collective bargaining – section 45

Contracts, arrangements or understandings which have the purpose, effect or likely effect of substantially lessening competition are prohibited by section 45 of the CCA, as are contracts that involve an exclusionary provision. This type of conduct applies to collective bargaining, subject to permitted exemptions.

In Queensland, the Sugar Industry Act 1999 (Qld), establishes an exemption for collective bargaining in respect of the negotiation of collective contracts between groups of cane growers and a mill owner. This provision helps growers to address concerns about inequality of bargaining power and allows for more efficient commercial outcomes for growers by allowing them to collectively negotiate with mill owners.

As mentioned, one of the prohibitions in section 45 relates to 'exclusionary provisions'.

A provision is an 'exclusionary provision' if the relevant contract, arrangement or understanding is made between persons, any two or more of which are competitive with each other, and the provision has the purpose of preventing, restricting or limiting:

[1] Commonwealth of Australia, *Competition Policy Review: Draft Report* (22 September 2014), [16.3].

- the supply of goods or services to, or the acquisition of goods or services from, particular persons or classes of persons; or
- the supply of goods or services to, or the acquisition of goods or services from, particular persons or classes of persons in particular circumstances or on particular conditions,

by all or any of the parties to the contract, arrangement or understanding.[2]

In any case, the Sugar Industry Act expressly authorises the following matters for the purpose of the CCA, each of which operates to protect growers and mill companies in the context of a collective cane supply contract:

a) the making of the collective contract;
b) the variation of the collective contract;
c) the acceptance and crushing of cane by a mill at a time fixed under the collective contract;
d) the payment of a price for cane by a mill owner to a grower under the collective contract;
e) the receipt of a price for cane by a grower from a mill owner under the collective contract;
f) a financial incentive scheme of premiums, discounts and allowances relating to cane and sugar quality or to anything that may affect cane and sugar quality having regard to best practice under the collective contract.

The Sugar Industry Regulation 2010 includes definition of 4 regions across Queensland for collective bargaining purposes. While regional collectives have recourse to lodge a collective bargaining notice to the ACCC, it is not currently necessary under the relevant provisions of the Sugar Industry Regulations and Competition and Consumer Act.

Misuse of market power – section 46

Section 46 (Misuse of market power) of the CCA prohibits a corporation that has a substantial degree of power in a market from taking advantage of that power for certain prescribed purposes.

Section 46 adopts a purpose-based test. A corporation with market power will only contravene the provision if it takes advantage of its power for one of the proscribed purposes.

It is not necessary to show that the taking advantage of market power is achieved or actually has any anti-competitive effect.[3] In this regard, the High Court has cautioned against confusing legitimate competitive conduct with purposive anti-competitive conduct.[4]

2 *Competition and Consumer Act 2010* (Cth), s4D.

3 *ACCC v Australian Safeway Stores Pty Ltd* (2003) 129 FCR 339.

4 *Queensland Wire Industries Pty Ltd v Broken Hill Proprietary Co Ltd* (1989) 167 CLR 177.

The Harper Review Draft Report notes that the 'taking advantage of market power' element of the provision is difficult to interpret and apply in practice.[5] It can be difficult to prove the purpose of the relevant conduct because doing so involves a subjective inquiry, whereas proving anti-competitive effect is generally less difficult because it involves objective inquiry.

The draft findings of the Harper Review recommend reformulating the prohibition to target conduct by a corporation with market power that has the purpose, effect or likely effect of substantially lessening competition. If implemented, this change may make it easier to establish a contravention of the misuse of market power provisions.

The type of conduct that may contravene section 46 includes predatory or below cost pricing, refusal to supply, tying and bundling arrangements, refusal to provide access to an essential service and inducing price discrimination.

In the context of the sugar industry, the ACCC can, under current law, act on complaints of misuse of market power by a miller if the relevant miller has substantial degree of market power in the market for the acquisition and supply of cane, and the miller uses that power for one of the forms of anti-competitive conduct described in section 46. The change recommended to section 46 in the Harper Review will make it easier to make out the complaint but the right to prevent misuse of market power already exists and has been used successfully in other industries.

Exclusive dealing – section 47

Section 47 of the CCA proscribes the practice of exclusive dealing by reference to a number of vertical restraint practices. In general terms, vertical restraints are anti-competitive restraints in contracts, arrangements or understandings that impact different levels of the supply chain.

Bundling and tying arrangements that may contravene section 46 (Misuse of market power) may also amount to conduct that contravenes section 47. For example, the practice commonly described as 'full line forcing' or tying may contravene both exclusive dealing provisions (section 47(2)(d)) and misuse of market power provisions (section 46(1)).

For example, arrangements whereby a supplier of goods refuses to supply those goods to a purchaser because the purchaser has failed to accept some restriction required by the supplier on the right to resupply the goods may contravene section 47.

Section 47 also proscribes the conduct known as 'third line forcing'. It has the purpose of prohibiting the supplier of particular goods or services requiring customers to whom it supplies those goods and services being forced (as a condition of the supply) to also acquire goods or services from a third party.

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5 Commonwealth of Australia, *Competition Policy Review: Draft Report* (22 September 2014), [3.7]

Presently, the CCA prohibits third line forcing regardless of its effect on competition. The Harper Review notes that third-line forcing is rarely anti-competitive and should be subject to the well-established effects test adopted by other provisions of the Act.[6] That is, it should only be prohibited where it has the purpose, effect or likely effect of substantially lessening competition.

In some circumstances, a person proposing to engage in exclusive dealing may protect conduct from prosecution by notifying the conduct to the Australian Competition and Consumer Commission (ACCC).[7]

However, the ACCC may subsequently revoke the protection if it decides that the conduct has an anti-competitive effect which is not outweighed by any resultant public benefit.[8]

In the context of the sugar industry, growers enjoy protection under section 47 if, for example, a miller were to refuse to accept cane because the grower has also sold cane to another miller in the same region and that refusal has the purpose or effect of substantially lessening competition. Similarly, section 47 protects growers from otherwise unprotected conditions imposed by a miller that would oblige the growers to acquire goods or services from a third party nominated by the miller.[9]

Misleading or deceptive conduct - sections 18 and 29 of the Australian Consumer Law

Another fundamental protection in the CCA for both sugarcane growers and mill companies is the prohibition against engaging in misleading or deceptive conduct and making false or misleading representations about goods or services (including as to the price of goods or services).

These provisions have a broad application and could be used to address a wide variety of misleading or deceptive conduct during the negotiation or administration of sugarcane supply contracts and other dealings, including any false or misleading representations about price or the nature of services to be provided.

[6] Commonwealth of Australia, *Competition Policy Review: Draft Report* (22 September 2014), [3.10].

[7] *Competition and Consumer Act 2010* (Cth), s93.

[8] *Competition and Consumer Act 2010* (Cth), s93(3).

[9] Conditions can be protected by a notification to the ACCC on public benefit grounds in some circumstances.

3 Conclusion

The Australian Sugar Milling Council supports minimal government intervention in commercial matters unless there is demonstrated market failure that is not addressed in the myriad of existing consumer and competition laws and other safeguard mechanisms. Attachments 1 and 2 detail the extensive process, consultation and negotiation involving growers (predominantly via CANEGROWERS), mill companies (predominantly via ASMC), and the Queensland and Federal Governments. The industry agreement was captured in written documents at the time, including the 2004 Heads of Agreement. This extensive consultation and review process ultimately lead to deregulation enacted on 1 January 2006, including the deregulation of marketing arrangements and the removal of inefficient practices such as compulsory arbitration. Inefficient, non-commercial practices such as compulsory arbitration do not have a place in a modern, commercially driven industry.

In 1982, there were 6,190 growers, 18 sugar milling companies and 30 sugar mills operating in Queensland. In 2014, there are less than 4,000 growers, 7 sugar milling companies and 21 sugar mills operating in Queensland. This industry has operated for well over 100 years in Australia and undergone significant changes over that period. Some of those changes have been challenging, however the industry has demonstrated its ability to eventually embrace and maximise the opportunity that change has delivered.

In the worked example provided in section 1.2 (drawn from the QSL 2013/14 Annual Report), final sugar price used in the cane payment formula to calculate price paid for a growers sugarcane is comprised of:

- Futures component (+ $393.61 / 100.42% of final sugar price)
- Pol Premium (+ $13.30 / 3.39% of final sugar price)
- Physical Premium* (+ $17.71 / 4.52% of final sugar price)
- Storage and Handling Costs (- $21.50 / 5.49% of final sugar price)
- Indirect Selling Costs (- $4.55 / 1.16% of final sugar price)
- Marketing and Finance Costs (- $6.78 / 1.73% of final sugar price)

(*Gross CFR premium less Freight and Execution Costs)

Of these components, the futures component is highly identifiable and auditable, as is the Pol Premium, Storage and Handling Costs and Marketing and Finance Costs. The Physical Premium is probably the least auditable, although there are independent information sources available to provide some daily visibility in relation to an indication of the market value of the physical premium. Any business involved in pricing and marketing raw sugar must have clear and transparent systems in place.

The term Grower Economic Interest does not exist in any regulatory or broader sense outside the existing Raw Sugar Supply Agreement. Grower Economic Interest is a term that is used in the construct of the Raw Sugar Supply Agreement, and does not confer any legal title or ownership rights. Ownership rights in relation to sugarcane, and the basis for payment by mill companies to sugarcane growers for purchase of sugarcane, is documented in cane supply agreements, including cane payment formulas. There is no ambiguity in relation to title of sugar in cane supply agreements.

There will be limited impact on most essential infrastructure in the sugar industry as a result of changes to marketing arrangements, with the exception of bulk sugar terminals. Mill companies have a major sunk investment in sugarcane processing equipment that can't be deployed for other purposes. This is in contrast to sugarcane growers' major capital asset of land, which in many instances can be put to alternative uses including other crops, livestock, and urban development. Mill companies have a driving commercial imperative to ensure sugarcane production is as remunerative as possible for growers to maintain and increase land under sugarcane and milling throughput.

Mill companies, QSL and Sugar Terminals Limited will need to work through commercial arrangements for the management and operation of terminals in coming years.

Regardless of whether capital is sourced within Australia or from overseas companies, driving principles in commercial relations in the Australian sugar industry supply chain must be transparency and accountability, and fair commercial relationships.

There is a stronger inter-relationship between sugarcane growers and sugar mill companies than most other agricultural industries. Neither can survive without the other maintaining a profitable, sustainable business. The relationship is underpinned by the legal framework governing the negotiation of cane supply agreements, including access to collective bargaining, provisions for unconscionable conduct and misuse of market power. There are adequate provisions in place to deal with any perceived or real imbalances associated with small producers negotiating with large processors and there is therefore no case for revisiting the deregulation process that was concluded in January 2006.

The Australian Sugar Milling Council supports efforts around negotiated industry agreements between growers and mill companies and relevant industry organisations to develop and maintain business confidence and industry growth objectives.