



## MEDIA RELEASE

### **Federal Government Breaks Promises: Delivers Cost, Red-Tape, and Anti-Investment Regulation**

The Australian Sugar Milling Council (ASMC) said today's new law for the sugar industry would deliver a clear message to potential investors that Australian agribusiness in particular will be sacrificed at the whim of political pressure. With no consultation and no regulatory impact statement, the Federal Government has enforced new heavy-handed regulations on the sugar industry - all based on a lie.

ASMC's CEO, Dominic Nolan, said the Government justified breaking their own rules on regulations based on the premise of "urgent and unforeseen events" in the export industry, and a stalemate in commercial negotiations.

"Unfortunately, the real potential of this new law is that we could see commercial negotiations, that were clearly progressing, disrupted due to Federal Government interference.

"The flawed Queensland legislation has meant the industry has spent millions of dollars developing and negotiating new commercial arrangements over the past 16 months.

"The key standout item in commercial negotiations has been the on-supply agreement between one mill company and one marketer - this was agreed on 2 March, and is now in contracting stage.

"So the pretence of unforeseen events, or a stalemate, is false. What we saw was One Nation trading votes in the Senate on completely unrelated legislation in exchange for a political win on new sugar laws." Mr Nolan said.

"The only motivation for this Code is political."

"The new regulation is a contradiction in that on the one hand it seeks to protect property rights from a decision by an arbitrator, and on the other hand it takes away the right of a manufacturer to determine where and how it sells the product it makes. This must create great uncertainty for any existing or potential manufacturer in Australia.

"The Code mimics the state legislation with pre-contract arbitration between growers and mills, and then takes the state laws further through the failed element of pre-contract arbitration between mill and marketer. This concept must send shudders of fear down the backs of any manufacturer or business that negotiates commercial arrangements with suppliers.

"And all of this announced 24 hours after the Federal Government's Productivity Commission released the report into the regulation of agriculture, highlighting the failings of the Queensland legislation, that it would cost money and jobs, and recommended its immediate repeal.



Mr Nolan said that repeal of the failed Queensland legislation remained an objective of the Milling Council, and that there was no justification for the Federal Code that has been dumped on the sugar industry.

Further information: **Dominic Nolan (ASMC CEO) 07 3231 5000 / 0419 287 734**

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### **Key points and findings from the Productivity Commission report relative to sugar marketing**

<http://www.pc.gov.au/inquiries/completed/agriculture/report>

**P. 10:** The re-regulation of sugar marketing in Queensland has the stated objective of allowing sugar cane growers more choice in who markets their sugar. However, the regulation restricts the marketing choices of sugar millers when they should have the property rights over the sugar that they crush. There is no market failure (or other reasonable objective) to justify the re-regulation. The evidence also suggests that the growers' preferred choice of marketing arrangements is likely to reduce the productivity and profitability of the industry (by constraining investment and structural adjustment)

**P. 15:** There were also examples of regulations being introduced despite findings that there would be a net cost to the community. In December 2015, the Queensland Parliament passed the Sugar Industry (Real Choice in Marketing) Amendment Act 2015 which re-regulates the international marketing of Australian sugar. The amendments were introduced despite a highly critical RIS which found no case for the regulation and also that the costs would outweigh the benefits (and the overall returns to the sugar industry could be reduced). Similarly, the RIS for the (recently abolished) Road Safety Remuneration Tribunal found that the road safety remuneration system would lead to net costs.

**P. 31:** Legislation was passed in Queensland in December 2015 to enable sugarcane growers to direct how millers market sugar internationally. The legislation restricts competition and will deter structural adjustment in sugarcane farming, investment in milling capacity and innovation in sugar marketing. Reduced or degraded milling capacity is likely to reduce the productivity of the industry and if existing sugar millers decide to leave the industry there will be less competition.

### **P. 498 - Dispute resolutions and Code of Conduct**

- Implicit in the objective of providing dispute resolution is the idea that there are imbalances in market power that need to be regulated. There are protections through the CCA that prevent the misuse of market power (section 12.2), and the concentrated nature of the industry provides sugarcane growers with an opportunity to take advantage of the collective bargaining provisions in the CCA.



- ...However, a code of conduct is only likely to be effective if it is developed and administered in a manner considered to be independent and impartial by all parties.
- There is no reason why government should intervene to expropriate assets from one private organisation (millers) to give to another (growers). Both growers and millers are mutually dependent and have shared responsibility for reaching an amicable agreement. As in other sectors, differences should be resolved by negotiation (or if necessary by the judicial system). Recourse to political processes to resolve industry disputes can undermine trust between growers and millers, and prevent the development of industry leadership and/or conflict resolution processes.