



**QUEENSLAND
PRODUCTIVITY
COMMISSION**

Summary - *Sugar Industry (Real Choice in Marketing) Amendment Bill 2015* Consultation Regulatory Impact Statement (RIS) October 2015

Queensland sugar industry

The sugar industry is Queensland's second largest agricultural export industry after beef. It generates around \$2 billion per year in earnings and employs approximately 16,000 people. Around 80 per cent of raw sugar is exported.

There are almost 4,000 cane farming enterprises in Queensland supplying 21 mills, owned by seven different milling companies.

With few exceptions, growers and millers receive revenue based on the Cane Price Formula (developed in 1915) which divides the net sales of raw sugar between growers and millers on an approximate 2:1 ratio.

Around 99 per cent of the value of raw sugar exports is determined by the world sugar price. The remaining 1 per cent is derived from net premiums.

On average, net premiums are estimated to be worth around \$21 million per annum – with \$14 million distributed to growers and \$7 million to millers.

What are the issues?

When the sugar industry was deregulation in 2006, millers signed Raw Sugar Supply Agreements with Queensland Sugar Limited (QSL) to

market and manage the majority of Queensland's raw sugar exports.

In 2014, Wilmar Sugar Australia, MSF Limited and Tully Sugar Limited announced that they would not be renewing their contracts with QSL beyond 30 June 2017. Instead, these millers will market their own export raw sugar.

These millers, and the growers supplying their mills, have been seeking to negotiate new Cane Supply Agreements (CSAs). Despite protracted negotiations, growers and millers have yet to reach agreement about the new arrangements. One of the main unresolved issues is about the marketing of raw sugar.

Intent of the Bill

On 19 May 2015 the Member for Dalrymple, Mr Shane Knuth MP, introduced the *Sugar Industry (Real Choice in Marketing) Amendment Bill 2015* to the Queensland Parliament.

The objects of the Bill are:

- To ensure that a grower has real choice in terms of nominating the marketing entity for on-supply sugar in which they have an economic interest.
- To facilitate the fair and final resolution of any commercial disputes that 'rise between a grower or bargaining representative and a mill owner, including by arbitration'.

Growers' views

The Bill encapsulates the changes being sought by some growers and grower organisations. Growers are seeking recognition of their 'economic interest' in raw sugar, implied through the Cane Price Formula and want the ability to choose who markets their interest in raw sugar.

A central issue of concern raised by growers is the potential for mills to misuse their monopoly power when negotiating future CSAs.

Growers are concerned that marketing by millers, rather than QSL, will reduce transparency about net premiums, will reduce grower protection provided through QSL and will not share in any future profits they might receive through QSL.

The Bill's intent is to 'protect the interests of Queensland's canegrowers in the State's vitally important sugar industry as mill owners opt out of long-standing sugar marketing arrangements with QSL'.



Millers' views

Millers consider 2006 deregulation has achieved the objectives of increased investment (with over \$500 million spent on mill improvements) and innovation in the Queensland sugar industry and that new regulatory intervention is not warranted.

Some millers consider they can increase the returns from raw sugar by organising the marketing of export raw sugar themselves rather than through QSL. The benefits are shared with growers under the Cane Price Formula.

Reason for the RIS

As the Bill is a private member's Bill, it was not subject to a RIS. The Queensland Parliament's Agriculture and Environment Committee noted this, and recommended that a RIS be completed prior to the Bill's second reading speech.

The purpose of a RIS is to identify the case for government intervention and provide decision makers with the information they need to make an assessment of the benefits and costs of regulatory intervention on the affected stakeholders including business, community, employment, environment and the economy.

Draft impact assessment

Our impact assessment of the Bill addresses two questions:

- is there evidence of market failure in the sugar industry arrangements that would indicate the need for government intervention?
- is there a net benefit from the Bill; or are there alternative options that would meet the overall industry objective?

No evidence to support a case for market failure

Our draft assessment is that the existing legislation:

- supports a pricing negotiation framework which provides an appropriate balance of risk and reward between growers and millers – almost ten years after deregulation, the Cane Price Formula is still the dominant form of pricing in the sector and growers are authorised to bargain collectively
- allows for millers to provide transparency about pricing and premiums to growers and there is evidence that they are doing so
- supports investment in the sugar industry, which is important to the long-term economic sustainability of the sugar industry, noting that millers have been investing in mill improvements, which increase overall productivity within the sector.

We have not been able to find evidence of market failure that would indicate a need for additional regulation.

We consider that retaining the existing regulatory framework — with no additional regulation — will provide the greatest net benefit to Queensland.

Benefits of additional regulation do not outweigh the costs

The Bill proposes to provide growers with the ability to choose a marketer for the proportion of raw sugar to which they have an 'economic interest'.

However, without changes to the existing terms of the CSAs, title to cane transfers to millers at the point cane is delivered to the mills. This means, the Bill, if enacted:

- interferes with the property rights of millers, which creates sovereign risk and could reduce future miller investment in Australia
- could reduce the overall returns to the sugar industry and add extra costs
- the proposals by MSF and Wilmar seem to have sufficient transparency that if a disadvantage were to arise, it would be identifiable to the growers
- re-introduces pre-contract arbitration, which may lead to both financial (legal) and time loss costs for the industry
- could leave parties exposed to action by the ACCC, if the Australian Government does not accept that there is a net benefit from the authorisation of anti-competitive conduct included in the Bill.

Next steps

The Consultation RIS is available at www.qpc.qld.gov.au/inquiries/regulatory-review/.

Our draft assessment of impacts may change in response to issues raised by stakeholders and the presentation of additional information.

We invite all interested stakeholders to make written submissions on the Consultation RIS. We will take into account all submissions received by **13 November 2015**.