PROVISIONAL REPORT BY THE FRESH PRODUCE MARKET INQUIRY

Comments by Grow Fresh Produce Agents Pty Ltd (Reg. No. 2016/229274/07) ("Grow") on certain of the Provisional Recommendations of the Competition Commission

---

A. PROVISIONAL RECOMMENDATION

"Municipalities, in collaboration with SALGA, should change the operating and governance models for NFPMs and adopt the following in line with the municipal legislative framework (including Municipal Finance Management Act and Municipal Systems Act):

- *The corporatisation of NFPM operations through SOCs owned by municipalities with particular emphasis on the need for accounting separation (i.e., a separate budget, procurement lines, and accountability through a stable board of directors); and/or*
- *The creation of Public-Private Partnerships with municipalities retaining ownership of the NFPM infrastructure."*

Comments from Grow

As a market agent operating within the NFPM ecosystem, Grow recognises the importance of efficient governance and operational models to ensure fair competition, transparency, and the overall health of the fresh produce market industry. Based on our experiences and knowledge of the Johannesburg, Tshwane, and Cape Town fresh produce markets, we offer the following comments:

1. Corporatisation of NFPM Operations

1.1. Johannesburg Fresh Produce Market (JFPM):

- **Challenges:** While the corporatisation model in Johannesburg has led to some improvements in operational efficiency and market stability, it has also highlighted the need for consistent and adequate funding, as well as robust governance practices to prevent mismanagement and ensure continuous improvement. The corporatisation model in Johannesburg has encountered significant issues. The board is almost non-functional, lacking the necessary training and expertise to run a company effectively. Moreover, the board's dependence on the municipality for funding results in the corporate structure being an ineffective extension of municipal governance rather than a true autonomous entity.
- **Lack of Autonomy:** The dependency on the municipality for funding and decision-making stifles the potential benefits of corporatisation. Without financial independence and a competent board, the intended advantages of a corporate structure, such as accountability, efficiency, and strategic management, cannot be realised.

1.2. Tshwane Fresh Produce Market: Unlike Johannesburg, Tshwane's fresh produce market is less corporatised and more integrated within the municipal management structure. This has led to challenges in accountability, funding, and operational efficiency. The lack of a dedicated governance structure has made it difficult to address market-specific issues effectively.

1.3. Cape Town Fresh Produce Market:

- **Cape Town's Success:** The success of the Cape Town market lies in its approach of leasing land and facilities to a private sector entity, the composition of which includes farmers and market agents who have a direct interest in and understanding of the fresh produce market industry. The Cape Town model, where the municipality leases land and facilities to private sector entities, has proven to be more effective. This model leverages the expertise and vested interest of individuals and businesses directly involved in the fresh produce industry, leading to better management and operational outcomes.
- **Incentives for Efficiency**: This model creates incentives for efficient management and operations since the stakeholders have a vested interest in the market's success. It aligns the operational goals with the expertise and motivation of the private sector, resulting in better market outcomes.

1.4. Conclusion:

1) In conclusion, Grow supports the provisional recommendations for changing the operating and governance models of NFPMs. Both corporatisation and PPPs offer viable paths to improve market operations, **provided** they are implemented with careful planning, adequate support, and robust regulatory frameworks. The experiences of Johannesburg, Tshwane, and Cape Town markets underscore the importance of tailored approaches that address specific local challenges while fostering transparency, efficiency, and fair competition.
2) **Reassess Corporatisation:** If corporatisation is pursued, it is crucial to ensure the board members are properly trained and equipped with the necessary skills to manage the market effectively - extensive training and support for board members are therefore crucial.
3) **Financial Autonomy:** Additionally, the corporate entity must have financial autonomy from the municipality to operate independently and make strategic decisions. Establishing clear guidelines for financial independence and strategic management can help mitigate the issues observed in Johannesburg.
4) Corporatisation can provide a more structured and accountable governance model, leading to improved operational efficiency. However, it is crucial to ensure that corporatised entities are adequately funded and supported by the municipality to address infrastructure and operational needs. A clear and transparent framework for accounting separation and dedicated governance structures is essential for success. Without these changes, the corporatisation model is unlikely to succeed.
5) **Emphasize Public-Private Partnerships:** The Cape Town model of Public-Private Partnerships (“PPPs”), they should be strongly considered as a preferred approach. By retaining ownership of the infrastructure while leveraging private sector expertise and investment, municipalities can, with the assistance of the private sector, ensure effective and efficient market operations. This model also allows for better risk management and innovation, driven by the private sector's involvement.
6) **Enhanced Training and Support:** If corporatisation is pursued, extensive training and support for board members are crucial. Establishing clear guidelines for financial independence and strategic management can help mitigate the issues observed in Johannesburg.

1.5. Public-Private Partnerships (PPPs)

The introduction of PPPs can be a valuable strategy for enhancing NFPM operations. It is essential, however, to establish clear guidelines and frameworks to ensure that these partnerships are equitable and transparent, with well-defined roles and responsibilities for both public and private entities. PPPs should complement, not replace, the core functions of municipal governance to maintain public accountability and service standards.

The Cape Town model of PPPs should be strongly considered as a preferred approach. By retaining ownership of the infrastructure while leveraging private sector expertise and investment, municipalities can ensure effective and efficient market operations. This model also allows for better risk management and innovation, driven by the private sector's involvement.

Potential Benefits:

- **Increased Investment:** PPPs can attract private investment, leading to improved infrastructure, technology, and operational efficiencies.
- **Shared Risk:** By sharing risks between the public and private sectors, PPPs can lead to more sustainable and resilient market operations.
- **Innovation:** Private sector involvement often brings innovation and best practices that can enhance market operations and competitiveness.
- **Incentives for Efficiency:** This model creates incentives for efficient management and operations since the stakeholders have a vested interest in the market's success. It aligns the operational goals with the expertise and motivation of the private sector, resulting in better market outcomes.

B. PROVISIONAL RECOMMENDATION

“The Municipalities should ringfence profits earned from the market to fund capital expenditure and, where feasible, increase budget allocations for NFPMs, over and above the revenue generated by the NFPMs.”

Comments from Grow

As a market agent deeply involved in the fresh produce markets, Grow recognises the importance of sustainable funding and effective financial management to ensure the continuous improvement and competitiveness of NFPMs. Below are our comments and suggestions based on a *'think out of the box'* approach:

1. Importance of Ringfencing Profits

1.1. Current Challenges:

- **Inadequate Funding:** Many NFPMs struggle with inadequate funding for maintenance and capital expenditures, leading to deteriorating infrastructure and operational inefficiencies.

- **Dependency on Municipal Budgets:** The dependency on municipal budgets, which are often stretched thin, exacerbates these challenges and hampers the ability of NFPMs to invest in necessary upgrades and innovations.

1.2. Benefits of Ringfencing:

- **Dedicated Funds for Improvement:** Ringfencing profits ensures that the revenue generated by the markets is reinvested back into the markets, providing a steady and dedicated stream of funds for capital expenditures.
- **Financial Transparency:** It enhances financial transparency and accountability, making it clear how market-generated funds are being utilised.

2. Innovative Approaches to Implementing Ringfencing

2.1. Leveraging Technology:

- **Blockchain for Transparency:** Implement blockchain technology to track and manage the funds ringfenced for capital expenditure. This would ensure transparency and prevent misallocation of resources. Each transaction can be recorded and audited in real-time, building trust among stakeholders.
- **Digital Platforms for Budget Management:** Use digital platforms to manage and allocate the ringfenced funds. These platforms can provide real-time updates on fund usage and remaining balances, making financial management more efficient.

2.2. Public-Private Partnerships (PPPs) and Stakeholder Involvement:

- **Incentivising Private Investment:** Encourage private sector investment by offering tax incentives or matching funds for private contributions in market improvements. For example, if a private investor contributes to infrastructure upgrades, the municipality can match a portion of that investment.
- **Joint Ventures for Capital Projects:** Establish joint ventures with private companies to undertake specific capital projects. These partnerships can leverage private sector efficiency and expertise while sharing the financial burden.
- **Stakeholder Committees:** Form committees comprising market agents, farmers, buyers, and municipal representatives to oversee the allocation and usage of ringfenced funds. This ensures that the funds are used for projects that directly benefit the market and its stakeholders.

2.3. Enhancing Budget Allocations for NFPMs

- **Strategic Budgeting:**
    - **Long-term Planning:** Develop long-term strategic plans for NFPMs that outline specific capital projects and their expected impact on market operations. Use these plans to justify increased budget allocations from municipalities.
    - **Performance-based Funding:** Introduce performance-based funding models where additional budget allocations are tied to the achievement of specific

performance metrics, such as increased market efficiency, reduced waste, or improved financial transparency.

2.4. Alternative Revenue Streams:

- **Commercial Leasing:** Explore commercial leasing opportunities within the market premises, such as leasing space for retail outlets, cafes, or Agri-tech startups. The revenue generated from these leases can be added to the ringfenced funds.
- **Sponsorship and Advertising:** Partner with companies for sponsorship and advertising within the market. Revenue from these partnerships can be used to supplement the ringfenced funds for capital projects.

3. Conclusion

Ringfencing profits earned from NFPMs for capital expenditure is a crucial step towards ensuring the sustainability and efficiency of these markets. By adopting innovative approaches such as leveraging technology, forming public-private partnerships, and involving the community, municipalities can maximize the impact of these funds. Additionally, strategic budgeting and exploring alternative revenue streams can further enhance the financial stability of NFPMs, allowing them to thrive and serve the needs of all stakeholders effectively.

C. PROVISIONAL RECOMMENDATION

"All NFPMs to set targets to increase annual sales of small-scale and HDP/SME farmers through NFPMs. These targets should be a minimum of 10% increase annually in sales from SME and HDP farmers combined."

Comments from Grow

As Grow, one of the market agents mentioned in the Competition Commission report, we appreciate the intention behind the recommendation to increase sales from SME and HDP farmers. However, based on our experience and understanding of market operations, we believe that setting sales targets for NFPMs is not the most effective approach. Instead, we suggest focusing on improving the facilities, platform, and support systems to create a more conducive environment for HDP/SME farmers to thrive.

1. Key Points for Consideration

1. **Role of Fresh Produce Markets**:

Fresh produce markets primarily provide a platform for trading along with necessary infrastructure and accounting software. They do not directly control sales, which are generated by producers sending produce to the market for sale by their agents to the public and retailers.

1.1. **Infrastructure and Facilities**:

- **Improvements Needed**: Markets should focus on improving their facilities, making the platform safe, user-friendly, and accessible for buyers and sellers. This includes maintaining cleanliness, ensuring security, and providing a pleasant trading experience.
- **Affordability**: It is crucial to make it affordable for HDP/SME farmers to trade on the platform. This includes offering subsidised rates for using market facilities like cold storage, office space, and other essential services.

1.2. **Research and Support for HDP/SME Farmers**:

- **Challenges at the Source**: Conduct thorough research to understand the specific challenges faced by HDP/SME farmers. Issues such as the high cost of transport for small quantities, sub-standard seeds, lack of access to quality fertilisers, and insufficient farming knowledge must be addressed.
- **Support Programs**: Develop support programs that provide HDP/SME farmers with access to high-quality seeds and fertilizers at subsidised rates. Additionally, offer training and extension services to equip them with the necessary knowledge and skills to become successful farmers.

2. **Collaborative Solutions**:

- **Cooperatives and Collectives**: Encourage the formation of cooperatives or collectives among HDP/SME farmers. By pooling their resources and produce, farmers can achieve economies of scale, making transport and market access more affordable and feasible.
- **Partnerships with Larger Farmers**: Foster partnerships between HDP/SME farmers and larger, established farmers. These partnerships can provide mentorship, share resources, and facilitate better market access for smaller farmers.

3. **Suggested Actions for NFPMs**

- **Facility Enhancements**:
  - Invest in modernizing market infrastructure, ensuring it is clean, safe, and conducive to business.
  - Provide affordable access to essential services such as cold storage, packing facilities, and office space.
- **User Experience Improvements**:
  - Create a friendly trading environment with clear signage, helpful staff, and efficient processes.
  - Implement digital solutions to streamline transactions, making it easier for buyers and sellers to engage with the market.
- **Educational and Financial Support**:
  - Offer training programs for HDP/SME farmers on best farming practices, financial management, and market strategies.
  - Provide financial support or access to low-interest loans to help farmers invest in quality seeds, fertilizers, and other inputs.

- **Transport and Logistics Solutions**:
  - Develop logistical solutions such as shared transport services to reduce costs for farmers sending small quantities to the market.
  - Establish collection points closer to farming areas where farmers can drop off their produce, which can then be transported in bulk to the market.
- **Market Research and Development**:
  - Conduct regular market research to understand the evolving needs of both buyers and sellers.
  - Develop targeted initiatives based on research findings to address specific challenges faced by HDP/SME farmers.

4. Conclusion

Setting arbitrary sales targets for NFPMs is not the most effective way to support HDP/SME farmers. Instead, a comprehensive approach focused on improving market infrastructure, providing financial and educational support, and developing collaborative solutions can create a more inclusive and supportive environment. By addressing the root causes of the challenges faced by HDP/SME farmers, we can facilitate their successful participation in the fresh produce market, ultimately leading to sustainable growth and increased sales.

D. PROVISIONAL RECOMMENDATION

"Municipalities should, within 3 years, harmonise the bylaws with respect to (i) trading hours, (ii) passing of risk from farmer to buyer, (iii) market agent rules, (iv) use of cold storage and ripening facilities, (v) dispute resolution and appeal processes, and (vi) rules around conflict of interest in respect of the NFPMs. In addition, SALGA, local municipalities, and all NFPMs should, following harmonization, revise bylaws every 3 years to keep up with the developments in the economy."

Comments from Grow

Grow appreciates the intention behind harmonising municipal bylaws to create a more streamlined and efficient operational environment for NFPMs. We believe that this initiative can lead to significant improvements in market operations, transparency, and fairness. However, we have several comments and suggestions to ensure the successful implementation of these recommendations.

1. Trading Hours

- **Current Situation:**
  - **Inconsistencies:** Different municipalities have varying trading hours, leading to confusion and operational inefficiencies for market agents, farmers, and buyers.
  - **Operational Impact:** Harmonised trading hours can provide predictability and consistency, benefiting all stakeholders.

- **Comment:**

Harmonising trading hours is a positive step. However, it is essential to consider the specific needs and peak trading times of different markets to ensure that the harmonised hours do not disrupt existing successful practices. A detailed consultation with all stakeholders is necessary to determine the optimal trading hours that balance uniformity and local market needs.

2. **Passing of Risk from Farmer to Buyer**

- Current Situation:
    - **Risk Ambiguity:** There is often ambiguity regarding when the risk passes from farmer to buyer, leading to disputes and financial losses for either party.
    - **Legal Clarity:** In the absence of an agreement between the farmer and the buyer regarding the passing of risk, clear bylaws defining the point at which risk passes can reduce disputes and ensure fair practices.

- **Comment:**

Harmonising the bylaws on the passing of risk is crucial for reducing disputes and ensuring clarity. It is important to adopt a clear and universally accepted point of risk transfer, such as when the buyer takes physical possession of the produce, to avoid any ambiguity.

3. **Market Agent Rules**

- **Current Situation:**
    - **Variability in Rules:** Different markets have different rules for market agents, leading to inconsistency in operations and potential unfair practices.
    - **Standardisation Needed:** Harmonised rules can ensure uniform standards and fair competition among market agents.

- **Comment:**

Standardising market agent rules will ensure a level playing field and reduce confusion. These rules should cover aspects such as licensing, conduct, and responsibilities of market agents to ensure consistency and fairness across all markets.

4. **Use of Cold Storage and Ripening Facilities**

- **Current Situation:**
    - **Access and Pricing Issues:** Access to cold storage and ripening facilities, as well as the pricing for these services, vary significantly between municipalities.
    - **Equitable Access:** Harmonised bylaws can ensure equitable access to these critical facilities for all market participants.
- **Comment:**

Harmonising the bylaws regarding the use of cold storage and ripening facilities is essential. It is crucial to ensure that these facilities are accessible to all market participants, especially HDP/SME farmers, at fair and affordable rates. Clear guidelines on the allocation and pricing of these facilities will help achieve this goal.

5. **Dispute Resolution and Appeal Processes**

- Current Situation:
    - **Inconsistent Processes:** Different markets have different processes for resolving disputes and handling appeals, leading to delays and unfair outcomes.
    - **Unified System:** A harmonized approach can provide a streamlined and fair system for resolving disputes.

- **Comment:**

A unified dispute resolution and appeal process will ensure that all market participants have access to a fair and efficient system for resolving conflicts. This process should be transparent, accessible, and timely, with clear guidelines on the steps involved and the roles of different stakeholders.

6. **Rules Around Conflict of Interest**

- **Current Situation:**
    - **Conflict of Interest Issues:** Inconsistent rules regarding conflicts of interest can lead to unfair practices and reduced trust in the market system.
    - **Clear Guidelines:** Harmonised rules can provide clear guidelines to prevent conflicts of interest and promote transparency.

- **Comment:**

Harmonising the rules around conflicts of interest is vital for maintaining trust and fairness in the market. Clear and strict guidelines should be established to identify, disclose, and manage conflicts of interest to ensure that all market participants act in the best interests of the market and its stakeholders.

7. **Regular Revision of Bylaws**

- **Current Situation:**
    - Need for Updates: Economic and market conditions evolve, necessitating regular updates to bylaws to remain relevant and effective.
    - Periodic Review: Regular reviews and updates can ensure that bylaws keep pace with changes in the market and broader economic environment.
- **Comment:**

Regularly revising bylaws every three years is a commendable approach to ensure that they remain relevant and effective. It is important to involve all stakeholders in this review process to ensure that the updated bylaws reflect the needs and realities of the market.

Conclusion

Grow supports the recommendation to harmonise municipal bylaws for NFPMs, as it can lead to more consistent and fair market operations. However, it is crucial to approach this harmonszation process with careful consideration of the specific needs and conditions of different markets. By involving all stakeholders in the consultation process and ensuring that the harmonized bylaws are clear, fair, and enforceable, we can create a more efficient and equitable fresh produce market system. Regular reviews and updates to these bylaws will help maintain their relevance and effectiveness in a changing economic landscape.

E. PROVISIONAL RECOMMENDATIONS:

*"(i)**NFPMs** must put in place a programme for introduction of new HDP market agents (where there is none) and ensuring that the HDP market agents have access to highly traded produce, namely potatoes, onions, tomatoes, and bananas at all NFPMs. (ii) **Large established farmers** must put in*

place a programme for the introduction of new HDP market agents (where there is none) and ensuring that the HDP market agents have access to highly traded produce, namely potatoes, onions, tomatoes, and bananas at all NFPMs. (iii) ***APAC*** *must develop a quantifiable HDP salesperson development programme (to develop skills and contribute to the successful new entry of HDP market agencies). Priority must be given to the existing salespersons from market agencies that are wholly owned by HDPs. (iv)* ***Dominant market agents*** *by either product line or overall market share per major NFPM, namely RSA Group, Subtropico, Grow Group, Dapper and Prinsloo and Venter Market Agents, must enter into management agreements with SME or HDP market agents for skills transfer as well as training on managing the fresh produce market agency business."*

Comments from Grow

Grow wishes to point out that 57 % of its current shareholding is already held by HDPs and that it has already embarked upon formal training for emerging market agents. Grow therefore agrees with the principle of training and development but disagrees with the assumption that training alone will necessarily give HDP market agents access to the highly traded produce groups mentioned. Comprehensive training programs should be complemented by additional support mechanisms to ensure effective market access and integration for HDP market agents.

1. **Implementation of Provisional Recommendations for HDP Market Agents**

(i) NFPMs Program for HDP Market Agents

1) **Program Development**:

- **Needs Assessment**: Conduct a thorough needs assessment to identify barriers faced by HDP market agents in accessing highly traded produce. This involves engaging with HDP agents and stakeholders to understand their challenges.
- **Access to Produce**: Producers must put mechanisms in place for HDP market agents to access highly traded produce. This can involve setting aside specific quantities of key products (potatoes, onions, tomatoes, bananas) exclusively for HDP agents that have been properly trained.

2) **Infrastructure Support**:

- **Dedicated Spaces**: Allocate dedicated spaces within the markets for HDP agents to operate, ensuring visibility and easy access for buyers.
- **Logistics Assistance**: Provide logistical support, such as subsidiced transportation and storage facilities, to ensure that HDP agents can maintain the quality and freshness of their produce.

3) **Mentorship Programs**:

- **Pairing with Established Agents**: Pair new HDP market agents with experienced market agents for mentorship and guidance. This includes regular meetings and shadowing opportunities to learn best practices.

4) **Marketing and Promotion**:

- **Promotional Campaigns**: Run marketing campaigns to promote the produce sold by HDP agents, highlighting their unique offerings and quality. Use social media, market websites, and physical signage within the markets.

(ii) Large Established Farmers' Program for HDP Market Agents

a. **Collaborative Partnerships**:

- **Supply Agreements**: Establish supply agreements with HDP market agents ensuring a consistent and reliable supply of highly traded produce.
- **Joint Ventures**: Encourage joint ventures between large established farmers and HDP agents to foster cooperation and mutual growth.

b. **Training and Capacity Building**:

- **Workshops and Seminars**: Conduct regular workshops and seminars focused on agricultural best practices, market trends, and business management skills.
- **Field Training**: Offer field training sessions where HDP agents can visit farms and learn directly from experienced farmers about crop management, harvesting, and post-harvest handling.

(iii) APAC Quantifiable HDP Salesperson Development Program

i. **Structured Training Programs**:

- **Sales and Marketing Training**: Develop comprehensive training modules covering sales techniques, customer relationship management, and marketing strategies. These can be delivered through in-person workshops and online courses.
- **Product Knowledge**: Provide detailed training on the characteristics, handling, and marketing of highly traded produce to ensure salespersons can effectively promote these products.

ii. **Certification and Accreditation**:

- **Certification Programs**: Implement certification programs for salespersons who complete the training, providing them with credentials that can enhance their career prospects and credibility.

iii. **Continuous Professional Development**:

- **Ongoing Training**: Establish a system for continuous professional development with periodic refresher courses and advanced training opportunities.

(iv) Management Agreements for Skills Transfer and Training

a. **Formal Agreements**:

- **Management Contracts**: Draft and sign negotiated management agreements between dominant market agents and HDP/SME market agents who are willing to participate, detailing the scope of skills transfer, training activities, and expected outcomes.

b. **Mentorship and Coaching**:

- **Mentorship Programs**: Establish one-on-one mentorship programs where experienced managers from dominant agents mentor HDP/SME market agents. This involves regular meetings, goal setting, and progress reviews.
- **On-the-Job Training**: Implement on-the-job training programs where HDP agents work alongside experienced managers to gain practical experience in managing market operations.

2. Internships Implementation

1) **Program Structure**:

- **Duration and Phases**: Design internships to be structured in phases, typically over 6-12 months, covering various aspects of market operations, from procurement to sales and marketing.
- **Rotational Assignments**: Allow interns to rotate through different departments to gain a comprehensive understanding of the market operations.

2) **Selection Criteria**:

- **Eligibility**: Define clear criteria for internship eligibility, prioritising candidates from HDP backgrounds and those associated with HDP market agents.

3) **Mentorship and Evaluation**:

- **Mentor Assignment**: Assign mentors to each intern to provide guidance, support, and regular feedback.
- **Performance Evaluation**: Implement a robust performance evaluation system to track intern progress and identify areas for improvement.

4) **Stipends and Support**:

- **Financial Support**: Provide stipends to interns to cover transportation, meals, and other essential expenses during the internship period.
- **Professional Development**: Offer additional professional development opportunities, such as attending industry conferences and networking events.

3. Theoretical Training Component

CONTENT:

1) **Introduction to Market Operations:**
   - Overview of NFPM structures and functions.
   - Roles and responsibilities of market agents.

2) **Product Knowledge:**
   - Characteristics, handling, and storage of all fresh produce (e.g. potatoes, onions, tomatoes, bananas).
   - Seasonal variations and quality control.

3) **Business Management:**
   - Basics of running a market agency.
   - Financial management, budgeting, and cost control.
   - Marketing and sales strategies.

4) **Regulatory and Compliance:**
   - Understanding relevant laws and regulations.
   - Compliance with food safety and quality standards.

5) **Customer Relations:**
   - Building and maintaining relationships with buyers and suppliers.
   - Effective communication and negotiation skills.

6) **Logistics and Supply Chain Management:**
   - Efficient handling, transportation, and logistics of fresh produce.
   - Inventory management and order processing.

4. **Approval and Standards:**
- The training course should be developed to high standards and approved by the South African Qualifications Authority (SAQA).
- The course content should align with the standards and requirements set by relevant Sector Education Training Authorities (SETAs) to ensure eligibility for funding and support.

5. **Practical Internship Component**

- **Structure:**
  - **Duration:** A three-month internship on the sales floor.
  - **Supervision:** Each aspirant market agent should be mentored by a registered market agent with at least five years of experience.
  - **Activities:** Interns should participate in daily operations, including:
    - Receiving and inspecting produce.
    - Assisting in sales and customer service.
    - Managing inventory and logistics.
    - Learning financial and administrative tasks.

- **Benefits:**
  - **Hands-on Experience:** Practical exposure to real-world market operations.
  - **Skill Development:** Opportunity to apply theoretical knowledge in a practical setting.
  - **Networking:** Building relationships with established market agents and other stakeholders.

6. **Support from Large Established Farmers**
   - **Supply Agreements:** Farmers must commit to sending a small amount of highly traded produce to newly trained market agents for a specific period (e.g., six months). This ensures that emerging agents have access to high-demand products, allowing them to build their market presence.

7. **Concept of Emerging Market Agents**
   - **Definition:**
     - **Emerging Market Agent:** A market agent whose annual gross sales fall below a specified threshold, indicating they are in the early stages of business development.
       - **Example 1:** An emerging market agent is defined as having annual gross (commission) income of less than R500 000.

8. **Benefits from SETA Accreditation**

- **Funding:** SETAs provide grants and funding for accredited training programs. Market agents can claim reimbursement for training expenses if the programs are registered with the appropriate SETA.
- **Requirements:** To claim SETA funding, training programs must meet certain criteria, including:
  - Alignment with SETA priorities and industry needs.
  - Accreditation by SAQA or a recognized training authority.
  - Provision of detailed training plans and outcomes.

Conclusion

The implementation of these recommendations requires a multi-faceted approach involving collaboration, structured training programs, mentorship, and continuous support. By leveraging successful models from similar fields and ensuring robust monitoring and evaluation, these initiatives can significantly enhance the participation and success of HDP market agents in NFPMs.

While Grow supports the principle of training and development for HDP market agents, it is essential to adopt a holistic approach that includes both comprehensive theoretical training and practical internships. Additionally, the commitment from large farmers to supply highly traded produce to emerging agents is crucial for their success. By defining and supporting emerging market agents, and leveraging SETA benefits, one can create a more inclusive and supportive environment for HDP/SME market agents to thrive in the NFPMs.

F. PROVISIONAL RECOMMENDATION:

“DALRRD must, within 3 years, amend the APA Act to confer powers to APAC to regulate market agencies’ HDP ownership and participation. This should be in line with the AgriBEE Broad-Based Black Economic Empowerment Framework for Agriculture.”

As Grow, we recognise the importance of promoting inclusive economic participation and support the objective of increasing HDP ownership and participation in the agricultural sector. However, we have several considerations and recommendations to ensure the practical and effective implementation of this recommendation.

1. Considerations to take into account in implementing the Recommendation

1.1. Personal Relationship Built on Trust:

- The relationship between a farmer and his market agent is fundamentally personal and built on trust. Farmers rely on their agents to manage the sales of their produce effectively, provide accurate market information, and negotiate fair prices.
- **Trust and Competency:** Farmers choose agents based on their proven competency, reliability, and ability to secure the best possible outcomes for their produce. This trust is developed over time through consistent performance and effective communication.

1.2. Farmers' Autonomy in Agent Selection:

- **Freedom of Choice**: Farmers must retain the autonomy to select their market agents. Forcing farmers to use specific agents could undermine this trust and disrupt the personal relationships that are crucial for successful market transactions.
- **Agent Loyalty:** Farmers are likely to follow their trusted agents to different market agencies, especially if those agents have demonstrated success and competency. This loyalty is a testament to the importance of personal relationships in the agricultural sector.

1.3. Impact on Market Dynamics:

- **Market Compliance:** Successful agents will naturally migrate to market agencies that are compliant with regulatory frameworks and offer favourable conditions for their operations. These compliant agencies are likely to attract more farmers, thereby becoming larger and more influential in the market.
- **Risk of Monopolies:** While this can enhance market efficiency, there is also a risk that a few large market agencies could dominate the market. If these agencies attract the majority of successful agents and their farmer clients, it could lead to monopolistic tendencies, reducing competition and potentially disadvantaging smaller or non-compliant agencies.

2. Practical Implications and Recommendations

2.1. Supporting Autonomy and Trust:

- **Respect Farmer Autonomy:** Policies should respect the autonomy of farmers in choosing their market agents. This includes ensuring that any regulatory changes do not force farmers into using specific agents against their will.
- **Encouraging Trust-Based Relationships:** Support and promote trust-based relationships between farmers and agents by ensuring that agents are well-trained, ethical, and competent.

2.2. Balancing Compliance and Competition:

- **Incentivising Compliance:** Encourage all market agencies to comply with regulatory frameworks through incentives rather than mandates. This can help level the playing field without disrupting existing relationships.
- **Monitoring Market Concentration:** Implement measures to monitor and prevent excessive market concentration. This includes regular market reviews and the enforcement of anti-monopoly regulations to ensure fair competition.

3. Regulatory Frameworks:

- **Flexible Regulations**: Develop flexible regulations that allow for various market agency models while ensuring compliance with HDP participation goals. This can include tiered requirements based on agency size and market share.
- **Promoting Diversity:** Encourage diversity within market agencies by supporting the growth and development of smaller and HDP-owned agencies through financial incentives, training, and capacity-building programs.

4. Pros and Cons of the Recommendation from a Market Agent's Perspective

4.1. Pros

- **Enhanced Inclusivity and Diversity:** Increasing HDP ownership and participation can lead to a more inclusive and diverse market environment. This can foster innovation and different perspectives, potentially leading to more dynamic market operations.

- **Compliance and Competitive Advantage:** Aligning with the AgriBEE Framework and APA Act amendments can enhance compliance with national policies and regulations, providing Grow with a competitive advantage in securing contracts and partnerships, particularly with government entities that prioritize B-BBEE compliance.

- **Improved Market Reputation:** Demonstrating a commitment to B-BBEE principles can enhance Grow's reputation as a socially responsible and inclusive market agent. This can attract customers, partners, and investors who prioritize ethical and inclusive business practices.

4.2. Cons

- **Operational and Financial Challenges:** Implementing changes to meet HDP ownership and participation targets may require significant operational adjustments and financial investments. This can be challenging, especially for smaller market agents with limited resources.

- **Potential for Short-Term Disruptions:** The transition period may involve disruptions to existing operations as new ownership structures and management practices are established. This can impact productivity and efficiency in the short term.

- **Risk of Tokenism:** There is a risk that the implementation of these policies may lead to tokenism, where HDP ownership and participation are implemented superficially without meaningful integration and empowerment. This can undermine the long-term objectives of the policy.

- **Complex Regulatory Compliance:** Navigating the regulatory requirements and ensuring compliance with both the AgriBEE Framework and APA Act amendments can be complex and time-consuming. This may require additional administrative resources and expertise.

5. Conclusion

Grow acknowledges the importance of promoting HDP ownership and participation in the fresh produce market. However, it is essential to recognise and respect the personal relationships between farmers and their market agents, which are built on trust and competency. Farmers and buyers must retain the freedom to choose their agents, and any regulatory changes should consider the potential impacts on market dynamics and competition. By fostering a supportive and inclusive market environment, one can achieve the goals of the AgriBEE Framework while maintaining the integrity and efficiency of the agricultural sector.

G. PROVISIONAL RECOMMENDATION:

"DALRRD should amend the APA Act within 3 years to allow for regulating the maximum commission fee which may be charged by market agents (i.e. place an effective cap on commission fees), such that the revised cap should not lead into increases in the current commission fees and should provide for discounts. In addition, the costs associated with transport, palletising and packaging, should be negotiated or set outside of the commission fee structure."

Comments from Grow

As a practising market agent, Grow acknowledges the need to regulate commission fees to ensure fairness and prevent exploitative practices. However, it is crucial to consider the complexities involved in such regulation and the potential impacts on the industry's profitability and sustainability. Below are our detailed comments and suggestions.

How the Cap on Commission Fees Will Work

1. Commission Structure and Services Included

Commission Fees:

- **Current Practice**: Commission fees are typically charged as a percentage of the sale price of the produce. This fee covers various services provided by market agents.
- **Included Services**:
    - **Sale of Produce**: Marketing and selling the produce on the market floor.
    - **Handling and Sorting**: Sorting and grading produce to meet market standards.
    - **Transaction Processing**: Managing the financial transactions between buyers and sellers.
    - **Customer Service**: Providing customer service to buyers and resolving any issues that arise during the sale process.

Additional Services (Not Included in Commission Fee):

- **Transport**: The cost of transporting produce to and from the market.
- **Palletizing and Packaging**: Costs associated with packaging and preparing produce for sale.
- **Storage**: Fees for using cold storage and ripening facilities.

Procedure for Implementing the Cap and Ensuring Industry Profitability

1. Stakeholder Consultation

- **Engagement**: Conduct thorough consultations with all stakeholders, including market agents, farmers, buyers, and industry experts. This ensures that the proposed cap is realistic and considers the operational costs and challenges faced by market agents.
- **Feedback Mechanism**: Implement a feedback mechanism to gather input from stakeholders and adjust the proposed cap based on their feedback.

2. Impact Assessment

- **Economic Analysis**: Conduct an economic analysis to assess the impact of the proposed cap on the profitability of market agents and the overall market dynamics. This should include a cost-benefit analysis to ensure that the cap does not negatively affect the sustainability of market agents. South Africa's economic growth remains subdued with GDP growth projected to be around 0.88% in 2024, reflecting ongoing structural issues, high unemployment, and inflation pressures. In this context, regulating commission fees can help ensure fairness in the fresh produce market and protect small-scale and HDP farmers from potentially exploitative practices.

- **Inflation Consideration**: Include provisions for adjusting the cap periodically based on inflation and changes in market conditions. This ensures that the cap remains fair and viable over time.

3. Transparent Implementation

- **Clear Guidelines**: Develop clear guidelines on what the commission fee covers and what additional services are charged separately. This ensures transparency and prevents misunderstandings. The Department of Agriculture, Land Reform, and Rural Development

(DALRRD) should work with legal experts to draft the necessary amendments to the Agricultural Produce Agents Act (APA Act) to include provisions for regulating commission fees.

- **Consultation Process**: Conduct a comprehensive consultation process involving all stakeholders, including market agents, farmers, consumer groups, and industry experts to gather inputs and ensure the proposed amendments address all concerns.
- **Market Analysis:** Conduct a detailed market analysis to determine the current range of commission fees and establish a fair cap that reflects industry standards without leading to increases in current fees.
- **Benchmarking:** Use benchmarking against international best practices in similar markets to set a realistic and competitive commission fee cap.
- **Separate Cost Structures:** Clearly define and separate the costs associated with transport, palletising, and packaging from the commission fee structure. These costs should be negotiated independently between market agents and farmers.
- **Standardised Contracts:** Develop standardised contracts that outline the separate cost structures and negotiation processes to ensure transparency and fairness.
- **Monitoring and Enforcement**: Establish a robust monitoring and enforcement mechanism to ensure compliance with the cap. This includes regular audits and penalties for non-compliance. Define penalties and sanctions for market agents who fail to adhere to the regulated commission fees and cost structures, ensuring effective enforcement of the new regulations.
- **Educational Programs:** Implement educational programs for HDP farmers and SME market agents to understand the new regulations, their rights, and obligations under the amended APA Act.
- **Support Mechanisms:** Provide support mechanisms such as legal assistance and advisory services to help HDP farmers negotiate fair terms for transport, palletising, and packaging costs.

2. Suggested Fee Structure

- **Cap on Commission Fees**: Set a negotiated maximum commission fee of the sale price after consultation with the market agents, ensuring it is within the current range and does not lead to increases in existing fees.
- **Separate Charges for Additional Services (if any) e.g.**:
    - **Palletizing and Packaging**: Charge a negotiated fee based on the type and amount of pallets, packaging and netting provided and for the labour involved.
    - **Repacking/Resorting Services**: Charge a negotiated fee for the time and labour involved, ensuring affordability.

Conclusion

Grow supports the principle of regulating commission fees to ensure fairness in the fresh produce market. The recommendation to amend the APA Act to regulate commission fees and separate additional costs is feasible and can be effectively implemented through a structured legislative process, stakeholder consultation, and robust regulatory mechanisms. By learning from successful regulatory models in other fields and providing comprehensive support and education to market participants, the fresh produce market can achieve greater fairness and efficiency, benefiting both small-scale and HDP farmers and consumers.

However, it is crucial to implement these regulations thoughtfully, considering the diverse services provided by market agents and the need for industry profitability. By engaging stakeholders, conducting thorough impact assessments, and ensuring transparent implementation, one can achieve a fair and sustainable market environment that benefits all participants.

Setting a cap on commission fees, provided it does not fix prices across the board or collude to set minimum prices or exclude competitors, but rather prevents excessive fees, is likely to be seen as supportive of competitive market dynamics.

H. PROVISIONAL RECOMMENDATION:

"APAC and the NFPMs management must use advocacy measures to educate farmers that they can negotiate lower commissions with market agents and either that a maximum fee applies or that they cannot be forced to accept an ostensible standard commission rate."

Comments from Grow

Grow supports the idea of using advocacy measures to educate farmers about their rights to negotiate commission fees. Empowering farmers with the knowledge and confidence to negotiate can lead to more equitable and competitive market practices. However, it is important to implement this recommendation in a practical and effective manner to ensure it achieves the desired outcomes.

One or more of the following steps can be implemented to achieve the desired result:

1. **Create Clear Contracts**: First, we can make model contracts that explain the commission fees in a straightforward way. These contracts will include details like the highest fees allowed and what fees can be negotiated. Templates should be made available to HDP farmers and market agents.
2. **Work with Farmer Groups**: Collaborate with farmer cooperatives and associations. The goal is to raise awareness and educate their members about how to discuss and agree on commission fees.
3. **Group Negotiations**: Encourage HDP farmers to negotiate together as a group. By doing this through cooperatives, they can get better terms when dealing with market agents.
4. **Simple Information Materials**: Create easy-to-understand materials like brochures, pamphlets, and posters. These must be available in various languages spoken by farmers, making it easier for them to access important information.

Monitoring and Enforcement:

1. **Compliance Checks**: Regularly checks by APAC whether market agents are following the rules about commission fees. APAC must make sure that market agents don't force HDP farmers to accept unfair rates.

2. **Feedback System**: Set up a way for farmers to report any problems. If they experience unfair practices or violations of their rights during negotiations, they can share their feedback with APAC.

Conclusion

Grow supports the recommendation for APAC and NFPMs management to use advocacy measures to educate farmers about their rights to negotiate commission fees. Effective implementation of this recommendation requires a comprehensive and multi-faceted approach that includes education and awareness campaigns, accessible support services, collaboration with farmer organisations, and transparent and fair practices. By empowering farmers with the knowledge and tools to negotiate better terms, we can create a more equitable and competitive fresh produce market.

I. PROVISIONAL RECOMMENDATION:

"APAC must develop and enforce a code of Good Practice governing these practices, in accordance with the relevant provisions of APA Act, for market authorities and market agents to comply with."

Grow agrees with the idea of creating and enforcing a "Code of Good Practice" for market agents. This code will enhance the status of market agents and will set clear rules for how they should behave. By having a comprehensive and enforceable code, one can make sure that market agents treat everyone fairly, act transparently, and follow ethical practices in the fresh produce market industry. It will also improve the reputation and standing of market agents.

J. PROVISIONAL RECOMMENDATION:

"DALRRD should, as part of the current legislative amendments concerning Agricultural Produce Agents Act, review the composition of the APAC members to minimise conflicts of interest on market agents. In addition, amendments should also include rotating the membership of APAC members to include small or 100% HDP-owned market agents."

Comments from Grow

The conflicts of interest highlighted by the Commission have a significant impact on the fairness and effectiveness of the APAC (Agricultural Produce Agents Council) in overseeing the fresh produce market industry. To tackle these issues, a restructuring of the APAC is certainly necessary.

Grow therefore proposes the following:

- **Diverse Representation:** APAC should include a more diverse range of members. Specifically, representation from smaller market agents and those owned by historically disadvantaged persons (HDPs) is crucial. This diversity will enhance decision-making and ensure a broader perspective.
- **Rotational Memberships:** Implementing rotational memberships is essential. By periodically rotating members, one can maintain accountability and impartiality. This approach prevents undue influence and fosters transparency.

- **Staggered Rotational System:** This system aims to strike a balance between introducing fresh perspectives and retaining the historical institutional memory of APAC's functions. A three-tier rotational system could work as follows:

Structure:

1. **Long-Term Members (Tier 1)**:
   - These members serve six-year terms.
   - They provide the backbone of institutional knowledge, drawing from extensive experience in the fresh produce market.
   - Their role is to ensure continuity and stability within the council.
2. **Mid-Term Members (Tier 2)**:
   - Serving four-year terms, these members bridge experience and new ideas.
   - They typically include mid-level market agents or industry experts who understand market dynamics.
   - Their contribution lies in balancing tradition with innovation.

3. **Short-Term Members (Tier 3)**:
   - These members (emerging market agents with a a commission income of less than R500 000 per annum) serve two-year terms.
   - They bring fresh perspectives and energy to the council.
   - Often, they are new market agents, including those from historically disadvantaged backgrounds (HDPs) and small and medium-sized enterprises (SMEs).
   - By including emerging market agents into the aforesaid rotational system will provide them with governance knowledge and a platform to state their fears and opinions.
   - One could also consider allocating dedicated seats for emerging market agents on the council thereby ensuring that they have a say in the decisions that are made.

Conclusion

Creating a separate category for emerging market agents within the current dispensation can significantly enhance their ability to compete and thrive in the fresh produce market. This approach has the potential to promote inclusivity, encourage just competition, and it will most certainly contribute to overall market diversity.

To handle conflicts of interest within the council effectively, a combination of strategies is crucial. These include:

1. **Independent Membership**: APAC should include both industry insiders and independent outsiders. This balance ensures expertise while maintaining impartial oversight.
2. **Clear Role Separation**: Roles and responsibilities must be distinct. This clarity prevents conflicts and promotes transparency.
3. **Mandatory Disclosures**: Members should disclose any potential conflicts openly. Transparency is essential for trust.
4. **Regular Audits**: Conducting periodic audits helps verify compliance and identify any issues.

By adopting these measures, APAC can regulate the fresh produce market fairly and transparently, benefiting all stakeholders.

____

FOR: Grow Fresh Produce Agents Pty Ltd

Date: 15 July 2024