

## Operating Standards for Brokers and Agents



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## Technical Guideline Document #19

- TGD #19
  - Now current as at May 2017
  - TGD under the Grain Industry Code of Practice
- Background to Development
  - Initial Drafting started in 2015
  - GTA Commerce Committee version developed 2016
  - Sub-committee formed to re-draft and resolve a final draft
  - GTA Commerce Committee Approved
  - GTA Board Approval

## Grain Industry Code of Practice

- “confidence that processes exist in Australia to successfully produce, store and supply grain that meets the expectations of the entire supply chain”
- Self-regulation (outline minimum requirements)
- “applicable to all grain and grain products and applies to all stages along the supply chain”
- The Code does not have a contractual effect (unless expressly incorporated)
- GTA Membership = Adherence to the Code
- Section 2.7 covers Marketing.

## Why TGD #19?

- Significant interaction between growers and the trade occurs between Brokers'/Agents'
- There is a lack of understanding of the role and the relationship with a Broker/Agent
- In instances it is unclear whether a operator is operating as a broker/agent or principal.
- Regardless a broker/agent performs a very similar role
- There is now minimum Industry Guideline for provision of services
- It fits within the area of “self regulation”

## Broker or Agent

- Defines “Agent” and “Broker”
  - Guidance to what you might be
  - Defined around “power to negotiate”
- Powers and Duties of a “Broker” (GTA Trade Rule 3.1)
- Powers and Duties of a “Agent” (common law)
  - Recommend written authority
- Broker or Agent Note
  - Broker – contract between principals
  - Agent – contract between principals issues by Agent on behalf

## General Principles

- Act in best interests of the client
- Provide guidance on market price/conditions
- Provide accurate information re the transaction
- Respect the client's confidentiality
- Be professional, efficient and responsive in dealings
- Steps to make sure transaction are complete and accurate
- Honour their obligation to clients in a timely manner
- Overall "Act with Honesty and Integrity"

## Competency

- Equip to provide high professional standard
- Recommend
  - GTA Trade Rules and Contracts
  - GTA Dispute Resolution Services
- Ongoing professional development
- Principals to take reasonable steps to ensure staff are competent
- Overall the unwritten “Act with Honesty and Integrity”

## Some Key Aspects

- Only present a bid/offer when authorised/instructed
- Do not proprot to hold authority where none exists
- Broker/Agent does not guarantee adherence to the contract by either principal
  - Should outline risks if known
  - Not knowingly conclude contract with an insolvent party
- Disclose commission and who is paying
  - Industry practice is seller pays
- Avoid/Disclose/Minimise conflicts of interest
- Dispute Resolution Process





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Thank You