



**Australian
Competition &
Consumer
Commission**

GPO Box 520
Melbourne Vic 3001

Level 35, The Tower
360 Elizabeth Street
Melbourne Vic 3000

tel: (03) 9290 1800
fax: (03) 9663 3699

www.accc.gov.au

Our Ref: C2010/1082
Contact Officer: Gina D'Ettorre
Contact Phone: 03 9290 1483

23 May 2012

Dear Sir/Madam

**Australian Egg Corporation Limited
Certification Trade Mark Application No. 1390450
- interested party consultation**

The Australian Competition and Consumer Commission (ACCC) has received an application from the Australian Egg Corporation Limited (AECL), to register the Egg Standards Australia/Australasia certification trade mark (the CTM).

The AECL's CTM application proposes a number of industry standards, including standards addressing stocking densities for free range egg production. A number of interested stakeholders, including the AECL, have publicly commented upon these standards in recent times.

I am writing to you as a party who may be interested in commenting on the AECL's CTM application. Further information about the ACCC's role and the AECL's CTM application is set out below.

ACCC's role in assessing certification trade marks

Under Part 16 of the *Trade Marks Act 1995* (TMA), CTM rules must be certified by the ACCC before the CTM can be registered by IP Australia. In general terms, before the ACCC can issue a certificate the TMA requires that the ACCC must be satisfied that the CTM application and corresponding rules meet the technical requirements set by the TMA and do not raise consumer protection, competition or associated concerns.

Specifically, the ACCC must be satisfied that:

- (a) the technical requirements of the rules as set out in section 173 of the TMA have been met
- (b) the rules governing the use of the CTM

- (i) would not be to the detriment of the public (the *public detriment test*); and
- (ii) would be satisfactory having regard to the principles relating to restrictive trade practices in Part IV of the *Competition and Consumer Act 2010* and the principles relating to unconscionable conduct (Part 2-2), unfair practices (Part 3-1), and safety of consumer goods and product related services (Part 3-3) in Schedule 2 (Australian Consumer Law) of the *Competition and Consumer Act 2010* (the *trade practices test*)

as provided for by section 175 of the TMA.

Overview of the AECL's Egg Standards Australia/Australasia CTM application

The AECL intends that the Egg Standards Australia/Australasia CTM will provide a representation as to quality assurance. The Egg Standards Australia/Australasia CTM will appear on egg packaging which may also make specific representations as to the farming method followed by the producer, for example, whether the eggs have been produced by hens using cage, barn or free range production methods.

The general rules for the CTM program are set out in a document titled *Certification Rules – version 1.1 October 2010*. The specific certification requirements that a CTM applicant must satisfy are set out in three separate standards:

- *Farm Standard for Egg Producers*
- *Farm Standard for Pullet Growers and*
- *Grading Floor Standard.*

In summary, the proposed standards:

- will cover on-farm practices relating to the rearing of pullets (where layer chicks are purchased and reared until they are dispatched to egg laying facilities), and the production of eggs from laying hens (including caged eggs, barn-laid eggs, free range eggs and specialist eggs)
- address food safety, biosecurity, animal welfare, product labelling (grading and packaging) and environmental management
- are intended to meet, and in some aspects supersede, current international egg standards
- are based on the international food hazard system - Hazard Analysis Critical Control Point (HACCP) and are intended to assist small businesses meet HACCP system requirements.

The rules state that the quality assurance program is intended to assist egg businesses to:

- minimise risks to the safety of eggs marketed to consumers
- protect the welfare of flocks
- minimise the likelihood and impact of disease outbreaks
- minimise risk that eggs are incorrectly labelled
- ensure the production and delivery of consistent product quality

- provide an indication of origins in an egg business and
- address specific environmental issues faced by Australian egg producers.

How can I get a copy of the CTM rules and standards?

A copy of the AECL's CTM application has not been automatically included with this invitation to comment due to its size (approximately 100 pages and greater than 4 MBs). ACCC staff are able to provide a copy upon request, if you would like to receive a copy please contact Gina D'Ettorre on the details below.

Making a submission

It is asked that parties wishing to provide a submission do so by 20 June 2012.

Written submissions can be lodged by email to adjudication@accc.gov.au, by facsimile on 02 6243 1211 or mailed to:

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

Please advise if you do not wish to make a submission at this time, but would like to be informed of the progress of the application at the initial assessment and final assessment stages. If you are able to, please provide a nominated contact email address for future correspondence.

You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding the application.

If you have any queries about this matter, or the submission process, please do not hesitate to contact Gina D'Ettorre on 03 9290 1483 or by email at gina.dettorre@accc.gov.au.

Yours sincerely



Susan Philp
Director
Adjudication Branch