

Jones Gavin

From: Tim Ryan [timryan@netspace.net.au]
Sent: Tuesday, 24 February 2004 2:46 PM
To: Gavin Jones
Subject: FormB BaiadaAmend040224.doc

Gavin as discussed please find amended Form B for Baiada. The amendments are in 2(a) 2 and in 2 (b) & consist of explicitly adding the growers listed in Annexure A to the request for authorization for future contracts. Pls contact me if you have any queries.

Cheers Tim Ryan
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24/02/2004

COMMONWEALTH OF AUSTRALIA

Trade Practices Act 1974 - Subsection 88 (1)

**AGREEMENTS AFFECTING COMPETITION: APPLICATION FOR
AUTHORISATION**

To the Australian Competition and Consumer Commission:

Application is hereby made under subsection 88 (1) of the *Trade Practices Act 1974* for an authorisation under that subsection

* to make a contract or arrangement, or arrive at an understanding, a provision of which would have the purpose, or would have or might have the effect, of substantially lessening competition within the meaning of section 45 of that Act.

* to give effect to a provision of a contract, arrangement or understanding which provision has the purpose, or has or may have the effect, of substantially lessening competition within the meaning of section 45 of that Act.

* (Strike out whichever is not applicable)

(PLEASE READ DIRECTIONS AND NOTICES ON BACK OF FORM)

1. (a) Name of applicant:

BAIADA POULTRY PTY LTD ("**Baiada**")

(b) Short description of business carried on by applicant:

Baiada is a fully integrated processor of the meat of chickens grown by contracted growers. The chicken meat is processed, distributed and marketed by Baiada.

(c) Address in Australia for service of documents on the applicant:

Dr Timothy J. Ryan, Principal Consultant
Timothy J. Ryan & Associates Pty Ltd
11 Shirley Crt, Boronia Vic 3155

2. (a) Brief description of contract, arrangement or understanding and where already made, its date:

1. Baiada seeks authorisation to give effect to agreements for the growing of chickens, each of which agreements was negotiated by Baiada on a collective basis with the growers detailed in Annexure A and are in a form similar to the agreement contained in Annexure B. (**Baiada**

requests that Annexure B be excluded from the Public Register because of its confidential nature).

2. Baiada seeks authorisation (on its own behalf and in respect of its own conduct) to negotiate future growing agreements with growers (who may include those growers identified in Annexures A and C), which agreements will be negotiated by Baiada with the growers on a collective basis and will be in a form similar to the current agreement in confidential Annexure B and/or to the second agreement contained in confidential Annexure B and marked "Free Range." **(Baiada requests that the second agreement contained in Annexure B be excluded from the Public Register because of its confidential nature).**

Baiada will negotiate with grower group(s) through a nominated representative or representatives. The terms of the agreement will provide for a common fee to be paid to growers for the growing of chicken meat, and the basis upon which such fee is to be calculated.

- (b) Names and addresses of other parties or proposed parties to contract, arrangement or understanding:

See confidential Annexures A and C (Baiada requests that Annexure C be excluded from the Public Register).

3. Names and addresses (where known) of parties and other persons on whose behalf application is made:

N/A.

The names and addresses of other growers who may enter into collective negotiations for a growing agreement with Baiada are not known at this time.

4. (a) Grounds for grant of authorisation:

As set out in Annexure D

- (b) Facts and contentions relied upon in support of those grounds:

As set out in Annexure D

5. This application for authorisation may be expressed to be made also in relation to other contracts, arrangements or understandings or proposed contracts, arrangements or understandings, that are or will be in similar terms to the above-mentioned contract, arrangement or understanding

- (a) Is this application to be so expressed?

Yes

- (b) If so, the following information is to be furnished:

- (i) the names of the parties to each other contract, arrangement or understanding:

Not Applicable

- (ii) the names of the parties to each other proposed contract, arrangement or understanding which names are known at the date of this application:

The names and addresses of other growers who may join in collective negotiations for a growing agreement with Baiada on the terms of Annexure B are not known at this time.

6. (a) Does this application deal with a matter relating to a joint venture (See section 4J of the *Trade Practices Act 1974*?)

No

- (b) If so, are any other applications being made simultaneously with this application in relation to that joint venture?

- (c) If so, by whom or on whose behalf are those other applications being made?

7. Name and address of person authorised by the applicant to provide additional information in relation to this application:

Dr Timothy J. Ryan, Principal Consultant
Timothy J. Ryan & Associates Pty Ltd
11 Shirley Crt, Boronia Vic 3155

Signed by/on behalf of Baiada

Full Name John Martin Camilleri

Description Managing Director
Baiada Poultry Pty Ltd
642 Great Western Highway
Pendle Hill NSW 2145

Date