

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:

BARTTER ENTERPRISES PTY LTD ("**Bartter**") on its own behalf and on behalf of the growers set out in Annexure "A" ("**the Growers**").

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

1. Bartter is a fully integrated processor of the meat of chickens grown by growers (including the Growers). The chicken meat is processed, distributed and marketed by Bartter.
2. The Growers are growers who (together with other growers) grow or propose to grow chicken meat under contract to Bartter.

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

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. Bartter and the Growers seek authorisation to give effect to 10 farm contracts agreed by 9 growers in July 2001 for the growing of chickens. Each contract is identical except for the name of the grower. A copy of

a contract is contained in Annexure B. **(Bartter requests that Annexure B be excluded from the Public Register because of its confidential nature).**

2. The Growers seek authorisation (on their own behalf and in respect of their own conduct) to make arrangements between growers only (whether with or without other growers including those in Annexure C) and/or with Bartter to engage in the process of collective bargaining with Bartter in accordance with the Code of Conduct, a copy of which is contained in Annexure D and to give effect to any such arrangements by entering into contracts pursuant to such arrangements in a similar form to that contained in Annexure B.
3. Bartter seeks authorisation (on their own behalf and in respect of their own conduct) to negotiate further contracts (whether with or without other growers including those identified in Annexure C) on a collective basis, each of which contracts will be in a form similar to the contract contained in Annexure B. The negotiations will be conducted by Bartter with the grower group(s) through a nominated representative or representative(s). **Bartter requests that Annexure C be excluded from the Public Register because of its confidential nature.**

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 Annexure C.

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

See Annexure A.

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

4. (a) Grounds for grant of authorisation:

See Annexure D

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

See 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:

See Annexure C. The names and addresses of other growers who may join in collective negotiations for a growing agreement with Bartter 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?

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

Full Name	Patrick Gerard McCaffrey
Description	Regional Manager Southern Region Bartter Enterprises Pty Ltd

Address	Bartter Enterprises Pty Ltd PO Box 379 Belmont Vic 3216
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Date