



Australian Competition & Consumer Commission

File reference: C2004/38  
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21 April 2004

Name  
Address

Dear

**Authorisation applications lodged by Bartter Enterprises Pty Ltd, La Ionica Operations Pty, Baiada Poultry Pty Ltd, Inghams Enterprises Pty Ltd & Hazeldene Chicken Farm Pty Ltd**

The Australian Competition and Consumer Commission (the Commission) has received five applications for authorisation from Bartter Enterprises Pty Ltd (A90901), La Ionica Operations Pty (A90902), Hazeldene Chicken Farm Pty Ltd (A90903), Inghams Enterprises Pty Ltd (A90904) & Baiada Poultry Pty Ltd (A90905) (collectively referred to as 'the processors').

By way of background, the Commission is the Commonwealth agency responsible for administering the *Trade Practices Act 1974* (the Act). A key objective of the Act is to prevent anti-competitive conduct, thereby encouraging competition and efficiency in business, resulting in a greater choice for consumers in price, quality and service.

The Act, however, recognises that competition may not always be in the public interest. It therefore allows the Commission to grant immunity from the Act for anti-competitive conduct in certain circumstances.

One way businesses may obtain immunity is to apply for what is known as an 'authorisation' from the Commission. Broadly, the Commission may 'authorise' businesses to engage in anti-competitive conduct where it is satisfied that the public benefit from the conduct outweighs any detriment to the public constituted by any lessening of competition. The Commission conducts a comprehensive public consultation process before making a decision to grant or deny authorisation.

*Application for authorisation*

Broadly, the applicants seek authorisation to enable the giving of effect to contracts already negotiated between individual Victorian chicken meat processors and their growers acting collectively and to allow proposed or future contracts to be negotiated.

Specifically, each of the applications is made by the processors for their role in future collective negotiations with their respective growers. In the case of two processors, Bartter and Baiada, the applications are also made by them for their role in giving effect to existing collectively negotiated agreements. Bartter's and La Ionica's applications are also made on behalf of (some) growers who have consented to the applications being made on their behalf. In the case of the consenting Bartter growers, authorisation is sought by the growers for their role in future collective negotiations with Bartter's and in giving effect to existing collectively negotiated agreements. In the case of the consenting La Ionica grower, authorisation is sought by it for its role in future collective negotiations with La Ionica.



If you wish to lodge a submission, please address it to:

The General Manager  
Adjudication Branch  
Australian Competition & Consumer Commission  
PO Box 1199  
DICKSON ACT 2602

Submissions can also be lodged by email to [adjudication@accc.gov.au](mailto:adjudication@accc.gov.au), or by facsimile on (02) 6243 1211.

Submissions regarding the authorisation should reach the Commission by close of business **Friday 21 May 2004**. In addition, we request that submissions in relation to the interim authorisation reach the Commission by close of business **Wednesday 5 May 2004**.

As is the Commission's practice in these matters, the Commission has written to a cross section of interested parties seeking their views on the application including government departments, industry associations and a sample of individual growers. However, the list of interested parties the Commission has consulted is not exhaustive. Of course the Commission would be happy to receive a submission from any grower or other interested party who has not been formally consulted. I would encourage you to pass on a copy of this letter to any interested party not consulted directly by the Commission who you consider may wish to lodge a submission commenting on the applications.

I appreciate the complexity of some aspects of this matter and as such would be happy to talk about it with you. The officer responsible for this matter is Liam Stewart. If you would like to discuss any aspect of this matter please do not hesitate to contact either Liam Stewart on (02) 6243 1275 or myself, Gavin Jones, on (02) 6243 1107.

Yours sincerely

Gavin Jones  
Acting Director  
Adjudication Branch

## GUIDELINES FOR CONFIDENTIALITY CLAIMS

### Authorisations

The process whereby the Commission assesses applications for authorisation is very public, transparent and consultative. The *Trade Practices Act 1974* (the Act) requires the Commission to maintain a public register in respect of authorisation applications.

Applicants and interested parties can request that a submission, or a part of a submission, be excluded from the public register.

The Commission is required under the Act to exclude from the public register upon request details of:

- (i) secret formulae or processes;
- (ii) the cash consideration offered for the acquisition of shares in the capital of a body corporate or assets of a person; or
- (iii) the current manufacturing, producing or marketing costs of goods or services.

The Commission also has the discretion, under s 89 of the Act, to exclude material from the public register if it is satisfied that it is desirable to do so, either by reason of the confidential nature of the material or for any other reason. The Commission expects that a party claiming confidentiality on these grounds will present a case for its treatment in this manner.

Under Regulation 24 of the *Trade Practices Regulations*, when a request for confidentiality is made to the Commission:

- (a) where the request is that a whole document be excluded, the words "**Restriction of Publication Claimed**" should appear in red writing near the top of each page; and
- (b) where the request is that part of a document be excluded, the words "**Restriction of Publication of Part Claimed**" should appear in red near the top of the first page of each document, and the part for which confidentiality is claimed should also be marked in red. A submission of more than 5 pages should also include a description of the whereabouts of the parts for which confidentiality is claimed.

However, even if a document does not meet these technical requirements, the Commission may still grant confidentiality where, in the Commission's view, it is desirable to do so.

If the Commission denies a confidentiality request, the requesting party may ask that the material be returned. As a matter of practice, the Commission will specify a period (usually 14 days) in which they can request the return of such material. Upon response, the Commission will return the original material and destroy all associated copies. The Commission will not consider this material when reaching its decision.

If the Commission does not receive a response within the specified period, the original material will be placed on the public register.

Information or documents granted confidentiality may be used by the Commission pursuant to its powers generally under the *Trade Practices Act*.

Name	Company	Address	Sal	End
Mr Michael Shaw		15 Derril Rd Moorooduc VIC 3933	Mr Shaw	sincerely
Mr Anthony Acciarto		77 K Rd Weribee VIC 3030	Mr Acciarto	sincerely
Mr Ron Metz		310 Snell Rd Nar Nar Goon VIC 3812	Mr Metz	sincerely
Mr Glenn Bannister		PO Box 1290 Kangaroo Flats VIC 3555	Mr Bannister	sincerely
Mr Chris Jones		Puntly Lane Shoreham VIC 3916	Mr Jones	sincerely
Ms Anna Cronin Executive Director	National Farmers Federation	PO Box E10 Kingston ACT 2604	Ms Cronin	sincerely
Mr Chris Jones President	Victorian Farmers Federation Chicken Meat Group	Farrer House 24 - 28 Collins St Melbourne VIC 3000	Mr Jones	sincerely
Dr Jeff Fairbrother Executive Director	Australian Poultry Industries Association	122 Walker Street North Sydney NSW 2060	Dr Fairbrother	sincerely
The Hon. Keith Hamilton MP	Minister for Agriculture	PO Box 500 East Melbourne Victoria 3002	Minister	sincerely
Mr Richard McEncroe	Victorian Department of Treasury and Finance	1 Treasury Place Melbourne VIC 3002	Mr McEncroe	sincerely
Ms Jenny Cleeve Senior Policy Analyst	Animal Industries Agricultural Policy Group Dept of Primary Industries	PO Box 500 East Melbourne Victoria 3002		

The Hon. John Brumby MP	Treasurer	C/- Victorian Department of Treasury and Finance 1 Treasury Place Melbourne VIC 3002	Treasurer	sincerely
Mr & Mrs E Ormazabal		Main Road Garfield VIC 3814	Mr & Mrs Ormazabal	sincerely
Mr G & Mrs S Yates		1110 Derrill Road Moortooduc VIC 3933	Mr & Mrs Yates	sincerely
P Hole		95 Holes Lane Winchelsea VIC 3241	Sir/Madam	faithfully
K Tischler		99 McCurdys Rd Gheringap VIC 3331	Sir/Madam	faithfully
Mr Keith Leigh		505 Cressy Road Winchelsea VIC 3241	Mr Leigh	faithfully
Mr P & Mrs T Parsons		665 Larnach Road Pearcedale VIC 3912	Mr & Mrs Parsons	sincerely
Mr Graeme Ford Executive Officer	Victorian Farmers Federation	Farrer House 24 - 28 Collins St Melbourne VIC 3000	Mr Ford	sincerely
Mr Joe Arrigo		380 K Road Werribee VIC 3030	Mr Arrigo	sincerely
Mr Les Brain		96 Stanleys Rd Red Hill South VIC 3937	Mr Brain	sincerely
Mr Doug Andrews		Gallus Park 39 McCurdy Rd Gheringhap VIC 3331	Mr Andrews	sincerely

Mr Max Guzelian		990 Ballan Rd Lovely Banks VIC 3221	Mr Guzelian	sincerely
Mr Bryan Hepburn		505 Reservoir Rd Moriah VIC 3240	Mr Hepburn	sincerely
Mr Robert Mace		213 Main Creek Rd Main Ridge VIC 3928	Mr Mace	sincerely
Mr & Mrs McKee		243 Coolart Rd Tyabb VIC 3913	Mr & Mrs McKee	sincerely
Mr Colin Peel		13 Lochgoin Mews Highton VIC 3321	Mr Peel	sincerely
Mr Les Peel		695 Derrimut Rd Hoppers Crossing VIC 3029	Mr Peel	sincerely
Mr Michael Sweetnam		RMB 4000 Bittern- Dromana Rd Dromana VIC 3936	Mr Sweetnam	sincerely
Mr Norman Rawlings		Main Creek Road Main Ridge VIC 3928	Mr Rawlings	sincerely
Mr John Scott		74 Barnes Road Marong VIC 3215	Mr Scott	sincerely
Mr Greg Hattam		1336 Frankston- Flinders Rd Tyabb VIC 3913	Mr Hattam	sincerely
Mr Bob Vukadinovic		70 Godfrey La Officer VIC 3809	Mr Vukadinovic	sincerely
Ms Alison Waller		Toru Farm RBM 8026 Hyslops Road Main Ridge VIC 3928	Ms Waller	sincerely

Mr Ray Davies		823 Derril Road Moorooduc VIC 3933	Mr Davies	sincerely
Mr Jim Papworth		Cypress Grove 795 Anglesea Rd Freshwater Creek VIC 3216	Mr Papworth	sincerely
Mr Jamie Munster		271 Pearcedale Rd Cranbourne South VIC 3977	Mr Munster	sincerely
Mr Bruce Thompson		37 Dandenong-Hastings Rd Tyabb VIC 3913	Mr Thompson	sincerely
Mr Don Grant		PO Box 66 Inverleigh VIC 3321	Mr Grant	sincerely
Mr Barry Jupp		PO Box 449MDC Cranbourne VIC 3977	Mr Jupp	sincerely
Jo & Ossie Femino		PO Box 633 Pakenham VIC 3810	Sir/Madam	sincerely
Mr Mick Xerri		PO Box 512 Laverton VIC 3028	Mr Xerri	sincerely
Mr Pedro Pegan		60 Mill Rd Lara VIC 3212	Mr Pegan	sincerely
Mr Michael Shaw		15 Derril Rd Moorooduc VIC 3933	Mr Shaw	sincerely

## 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)

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(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?

.....  
(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 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 .....

1 April 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)

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(PLEASE READ DIRECTIONS AND NOTICES ON BACK OF FORM)

1. (a) Name of applicant:

LA IONICA FARMING OPERATIONS PTY LTD ("La Ionica") on its own behalf and on behalf of Tarwood Pty Ltd ("Tarwood"), a grower (see Annexure A).

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

1. La Ionica is a fully integrated processor of the meat of chickens grown by growers (including Tarwood). The chicken meat is processed, distributed and marketed by La Ionica.
2. Tarwood is a grower who (together with other growers) proposes to grow chicken meat under contract to La Ionica.

(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. La Ionica and Tarwood seek authorisation (on their own behalf and in respect of their own conduct) to negotiate the terms of a chicken growing agreement between themselves and other growers, all of which growers will act on a collective basis and which agreement will be in a form similar to that outlined in Annexure B. **(La Ionica requests that Annexure B be excluded from the Public Register because of its confidential nature).**
  2. Tarwood seeks authorisation (on its own behalf and in respect of its own conduct) to make arrangements between growers only (including those in Annexure C) and/or with La Ionica to engage in the process of collective bargaining with La Ionica 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. La Ionica seeks authorisation (on its own behalf and in respect of its own conduct) to negotiate further agreements with other growers acting on a collective basis including those identified in Annexure C **(La Ionica requests that Annexure C be excluded from the Public Register because of its confidential nature).** The negotiations will be conducted by La Ionica with a grower group or groups through a nominated representative or representatives.

The contracts described in paragraphs 1 and 2 of subparagraph 2(a) above will provide for a common fee to be paid to growers for growing chicken meat.

- (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 La Ionica 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:

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

Full Name

Description

Gavin Campbell Eckersley

Managing Director

La Ionica Farming Operations Pty Ltd

5 Lipton Drive

Thomastown Vic 3074

Date .....

1 April 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)

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(PLEASE READ DIRECTIONS AND NOTICES ON BACK OF FORM)

## 1. (a) Name of applicant:

HAZELDENE CHICKEN FARM PTY LTD ("Hazeldene")

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

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

## (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:

Hazeldene seeks authorisation (on its own behalf and in respect of its own conduct) to negotiate the terms of a proposed chicken growing agreement with growers (who may include those growers identified in Annexure C) on a collective basis.

The negotiations will be conducted by Hazeldene with a grower group or groups 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.

Attached as Annexure B is an outline of a draft agreement Hazeldene proposes to use in negotiations with growers. **(Hazeldene requests that Annexure B be excluded from the Public Register because of its confidential nature).**

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

See Annexure C **(Hazeldene requests that Annexure C be excluded from the Public Register because of its confidential nature).**

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 Hazeldene 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:

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

Full Name Victoria Joan Gaudion

Description Farming Manager  
Hazeldene Chicken Farm Pty Ltd  
PO Box 1147  
Kangaroo Flat Vic 3555

Date .....



**FORM B**

Regulation 7

**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)

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(PLEASE READ DIRECTIONS AND NOTICES ON BACK OF FORM)

1. (a) Name of applicant:

INGHAMS ENTERPRISES PTY LTD ("Inghams").

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

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

(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:

Inghams seeks authorisation (on its own behalf and in respect of its own conduct) to negotiate the terms of a proposed chicken growing agreement with growers (who may include those growers identified in Annexure C) on a collective basis.

The negotiations will be conducted by Inghams with a grower group or groups 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.

Attached as Annexure B is a draft agreement Inghams proposes to use in negotiations with growers.

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

See Annexure C (**Inghams request that Annexure C be excluded from the Public Register because of its confidential nature**).

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 Inghams 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

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

NO

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

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

**Full Name**

**John Richard Hexton**

### Description

**Director Corporate Services  
Inghams Enterprises Pty Ltd  
Locked Bag 4000  
Liverpool NSW BC 1871**

Date .....

## 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)

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(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 .....