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7th May, 2004

DICKSON ACT 2602

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Dear Sir,

TASMANIAN FARMERS AND GRAZIERS ASSOCIATION ("TFGA") APPLICATION FOR AUTHORISATION (A90914)

As foreshadowed in the letter to you of 13 April 2004, McCain Foods (Aust) Pty Ltd ("**McCain**") wishes to comment on the TFGA's application for authorisation to collectively negotiate the terms and conditions of growing contracts with processors in Tasmania (the "**Application**").

Collective Bargaining to reach an agreed Contract Grower price has been the accepted practice in the past and McCain does not object to this application for authorisation from the ACCC. However, McCain has general comments in relation to the effects and process of collective bargaining by the TFGA and disputes some of the assertions made.

The TFGA's submission appears to suggest that collective bargaining is the only, or at least the most efficient, method to achieve fair industry arrangements for growers. However even though collective bargaining has been the industry practice for many years, it is not the only method by which satisfactory industry pricing outcomes can be achieved. There are other methods that could be used to set prices to achieve a similar outcome.

For example, a system could be developed where a processor quotes purchase prices for particular tonnages of vegetables prior to the coming season. If sufficient growers accept the pricing from the processor, they enter into contracts with that processor for the quoted prices/tonnages, and thus a market price is set. If insufficient growers consider the processor's price adequate, the processor will have to increase its price offering to secure its supply. Provided that the processor then makes available the same price to all contracting growers, the outcome would then be fair. Our understanding is that this method is used in the UK. Another example is New Zealand where, as we understand it, collective bargaining is not allowed and where the vegetable grower industry appears to be at least as efficient and sound as in Tasmania.

McCain wishes to point out Growers have other options if they consider that they cannot obtain an "adequate" price from a particular processor and hence wish to cease supplying that processor. Firstly, growers may opt to supply another processor, ie for

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example, if a grower is dissatisfied with the price offered by, say, Simplot, the grower can offer its entire supply to McCain, and vice versa. Secondly, growers can, and regularly do, alter the composition of crops grown and volume grown from one season to another, based on the price/return they expect to receive for a particular crop.

The longer the (price) negotiations between growers and processors continue, the more it favours the growers. The processor needs to secure supply to operate its processing plants and meet the orders from its customers. Hence, a processor cannot take the risk that growers will withhold supply due to "inadequate" prices. Given the high fixed costs involved in a processing business, it is the processor, rather than the grower¹, who is exposed to any disruptions in the supply relationships.

Further, processors generally rely on a relatively small grower base. For example, the "Russet Burbank" variety grown for french fries is a special variety grown for the processing industry and is not widely available.

It is not correct that McCain has "generally ignored the sound basis" of the arguments presented by the growers in cost studies. In the past, McCain sometimes disagreed with the contents of the cost studies, mainly because they reflected historical performance rather than best practice. Growers incorrectly assume that cost increases must automatically result in grower price increases, rather than taking into account the prices that are achievable in the total supply chain. In McCain's view, automatic price increases based on CPI changes are flawed because this approach:

- Ignores the prices that are achievable in the marketplace;
- Removes the growers' incentives to improve productivity; and
- Generally, removes any incentives for continuous improvement of the production process.

The TFGA argues that there is no "need" for any price increase to be passed on to consumers. This claim simply assumes that the processors and retailers will absorb any price increases to growers.

The TFGA asserts Australian consumers would have to pay more for frozen vegetables and fries, if imported. This is not true for all vegetable types.

While McCain supports authorisation being given for collective bargaining to continue the Company does have serious concerns that Growers may use collective boycotts to achieve price increase objectives, for example by collectively threatening to withhold supply. During 2001, for example, the McCain Smithton plant was barricaded for a day by McCain, Growers, Simplot Growers and others in a campaign by Growers to obtain increased potato prices. These actions are not helpful in resolving complex price and supply issues.

McCain therefore requests that the ACCC expressly limits any authorisation to the collective negotiation by the TFGA of terms and conditions of Growing Contracts, and excludes any collective boycott conduct.

McCain suggests that the public benefits of collective bargaining may include:

- Assured, reliable supply of products
- Little volatility in pricing
- Certainty for Growers, Processors and their Communities to encourage ongoing investment

The potential public detriment of collective bargaining includes:

- Potential boycotts being used to drive unrealistic, unsustainable price rises

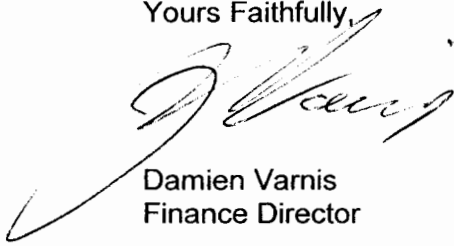
¹ The majority of the growers "contract out" their harvesting, planting, and transporting, and therefore their fixed cost requirements are low.

- Collective bargaining supports inefficient and unsustainable Growers as collective bargaining sets prices to support the Growers at the average

Summary

The Application by the TFGA seeks to formalise a system between Growers and Processors that has been in practice for many years. The frozen potato and Vegetable market has been highly competitive for many years, which has benefited consumers. McCain supports the Application.

Yours Faithfully,



Damien Varnis
Finance Director