



**Australian  
Competition &  
Consumer  
Commission**

GPO Box 520J  
Melbourne VIC 3001

Level 35 The Tower  
360 Elizabeth Street  
Melbourne VIC 3000

ph (03) 9290 1800  
fax (03) 9663 3699

[www.accc.gov.au](http://www.accc.gov.au)

Our Ref: C2005/405  
Contact Officer: Michael Green  
Contact Phone: 03 9290 1960

5 April 2005

Dear Sir/Madam

**Re: South Australian Oyster Growers Association Inc. applications for authorisation  
A60024 and A60025 - interested party consultation**

**Introduction**

The Australian Competition and Consumer Commission (the ACCC) is currently conducting an interested party consultation process in relation to applications for authorisation made by the South Australian Oyster Growers Association Inc. (SAOGA). As a possible interested party you are invited to comment on the issues outlined in this letter.

SAOGA has sought authorisation in relation to the imposition of a levy on purchasers of oyster spat sold for cultivation of oysters within South Australia.

**Background**

The ACCC 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 arrangements or conduct, thereby encouraging competition and efficiency in business resulting in a greater choice for consumers in price, quality and service.

The Act, however, allows the ACCC to grant immunity from legal action 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 ACCC. Broadly, the ACCC may 'authorise' businesses to engage in anti-competitive arrangements or conduct where it is satisfied that the public benefit from the arrangements or conduct outweighs any public detriment.

In assessing the public benefits and detriments of an authorisation application, the ACCC undertakes a public consultation process seeking comments on the application from interested parties. Following an initial consultation process, the ACCC will issue a draft decision for comment.



## **Application for authorisation by SAOGA**

The ACCC has received applications for authorisation from SAOGA relating to an agreement between SAOGA and four oyster hatcheries, namely the South Australian Oyster Hatchery Pty Ltd, Cameron of Tasmania Pty Ltd, Shellfish Culture Ltd and ATF A.R.K. Fisheries Trust and M & I Securities Pty Ltd, trading as Geordy River Aquaculture Pty Ltd.

The agreement allows the South Australian Oyster Research Council (SAORC) to invest money levied on oyster growers in South Australia for the purpose of research and development. The levy is collected from all purchasers of oyster spat for cultivation within South Australia and hatcheries for oyster spat retained and cultivated within South Australia. The levy, currently \$1.00 per 1000 oyster spat, is set by SAORC.

The ACCC granted authorisation to similar arrangements in September 1999. This authorisation expired on 7 September 2004.

For details on the public benefits and detriments that SAOGA claims are likely to result from the proposed arrangements please see the attached submission.

## **Application for interim authorisation**

SAOGA has also applied for interim authorisation in respect of these arrangements. If granted, interim authorisation will enable the parties to engage in the arrangements while the ACCC considers the merits of the substantive application for authorisation. By its nature, the ACCC is required to consider a request for interim authorisation very quickly and so only a short consultation period is available. The ACCC is not required to make a decision on the merits of the application for authorisation in reaching its decision on a request for interim authorisation, but would look at factors such as the urgent need for exemption of the arrangement and harm likely to result to the applicant and interested parties should interim authorisation be granted/denied.

## **Request for submissions**

To assist the ACCC in its consideration of the applications it would be helpful to obtain your comments on the likely public benefits and the likely effect on competition, or any other public detriment, from the proposed arrangements.

The ACCC asks for submissions to be in writing so they can be made publicly available. They are placed on a public register for this purpose.

Persons lodging a submission with the ACCC may request that information included in the submission be treated as confidential and not placed on the public register. If confidentiality is granted in respect of information the ACCC may take it into account, even though it is not publicly available. Guidelines for seeking confidentiality are attached.

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

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

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

If you intend to provide a submission in relation to SAOGA's substantive applications for authorisation, please do so by **cob Friday 29 April 2005**.

If you wish to comment on SAOGA's application for interim authorisation, please contact Michael Green on 03 9290 1960 by **cob Friday 15 April 2005**.

Please inform us if you do not wish to make a submission at this time, but would like to be informed of the progress of these applications at the draft and final determination stages. You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding this application.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Michael Green on 03 9290 1960.

Yours sincerely



Gavin Jones  
A/g Director  
Adjudication Branch

<b>Name</b>	<b>Address</b>
Dr Brian Fisher Executive Director	Australian Bureau of Agricultural & Resource Economics GPO Box 1563 CANBERRA ACT 2601
Mr Peter Kell Chief Executive Officer	Australian Consumers Association 57 Carrington Road MARRICKVILLE NSW 2204
Daryl Quinlivan Executive Manager, Fisheries and Forestry Division	Australian Government Department of Agriculture, Fisheries and Forestry GPO Box 858 CANBERRA ACT 2601
Mr Richard McLoughlin Managing Director	Australian Fisheries Management Authority PO Box 7051 Canberra Business Centre ACT 2610
Mr Russ Neal Chief Executive Officer	Australian Seafood Industry Council PO Box 533 CURTIN ACT 2605
Mr Mark Cant Executive Officer	Eyre Regional Development Board Inc 89 Liverpool Street Port Lincoln SA 5606
Mr Patrick Hone Executive Director	Fisheries Research and Development Corporation PO Box 222 Deakin West ACT 2600
Mr Jim Hallion Chief Executive	Primary Industries & Resources SA GPO Box 1671 ADELAIDE SA 5001
Mr Ted Loveday Managing Director	Seafood Services Australia PO Box 2188 Ascot Queensland 4007
Chief Executive Officer	South Australian Research and Development Institute SA Aquatic Sciences Centre PO Box 120 Henley Beach SA 5022
Mr Barry Ryan	Tasmanian Oyster Research Council 43 Crystal Downs Drive Blackmans Bay TAS 7052
Mr Judd Evans	SAOGA Zone Representative
Mr Theo Eleftheriou	SAOGA Zone Representative
Ms Vicki Blesing	SAOGA Zone Representative
Ms Sonya Ivey	SAOGA Zone Representative
Mr Paul Dee	SAOGA Zone Representative
Mr Mark Jarvis	SAOGA Zone Representative
Mr Phil Page	SAOGA Zone Representative