



**Australian
Competition &
Consumer
Commission**

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

29 June 2005

Dear Sir/Madam

**Re: South Australian Oyster Growers Association applications for authorisation
A60024 and A60025 – draft determination**

The Australian Competition and Consumer Commission (the ACCC) has issued a draft determination proposing to grant conditional authorisation in respect of the applications for authorisation lodged by the South Australian Oyster Growers Association (SAOGA).

SAOGA has sought authorisation in relation to the imposition of a levy on purchasers of oyster spat sold for cultivation within South Australia. Funds raised through the imposition of the levy are provided to the South Australian Oyster Research Council (SAORC) to invest in research and development for the South Australian oyster industry.

Summary of ACCC considerations

The ACCC is of the view that the anti-competitive detriment resulting from the conduct is significantly diminished by the operation of the refund scheme and the continued widespread industry support for the levy.

The ACCC considers that the imposition of the levy is likely to result in public benefits in the form of improved husbandry knowledge, production technology and environmental management in the South Australian Pacific oyster industry. The ACCC also considers that the conduct is likely to result in public benefits through improvement in the quality and safety of oysters, the potential for expanding exports of oysters and the development of employment opportunities in rural areas. On the basis of the information provided to it, the ACCC is satisfied that SAORC is being administered in an appropriate manner so as to ensure that the claimed benefits are likely to result from the imposition of the levy.

While the ACCC is satisfied that, with the levy set at its current level of \$1.00 per 1000 oyster spat, the proposed arrangements would generate minimal anti-competitive detriment, and that any such detriment would be outweighed by the public benefit resulting from the arrangements, any substantial increase in the levy has the capacity to generate significant anti-competitive detriment. The ACCC considers that, with the potential for such an increase in the levy to occur, it could not be satisfied that the public benefit resulting from the arrangements would be likely to outweigh any public detriment.



Therefore, the ACCC proposes to grant authorisation to applications A60024 and A60025 for five years, subject to the condition that the levy set by SAORC is not more than \$1.00 per 1000 oyster spat.

Next steps

Once the ACCC issues a draft determination, the Applicants or any interested party who may be dissatisfied with the ACCC's draft determination may request that the ACCC convene a 'pre-decision conference'. A pre-decision conference provides the opportunity for interested parties to make oral submissions in relation to the draft determination. Under the *Trade Practices Act 1974* (the TPA), the ACCC must set a date within 14 days of which any pre-decision conference must be requested. Accordingly, if you wish the ACCC to hold a pre-decision conference in relation to the draft determination, you must notify the ACCC in writing by **cob Wednesday 13 July 2005**. Conferences are conducted informally, without the participation of legal or other professional advisers.

Alternatively, you are also invited to make a written submission in response to the ACCC's draft determination. Written submissions should be lodged by **cob Friday 15 July 2005** at the following address:

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

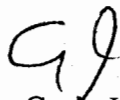
Submissions can also be lodged by e-mail to adjudication@acc.gov.au or by fax on 02 6243 1211.

Any submission you make will be placed on the ACCC's Public Register. You may request that information you provide in a submission to the ACCC be treated as confidential and not placed on the Public Register. Information excluded from the Public Register for reasons of confidentiality will still be considered by the ACCC when reaching its decision. Guidelines for seeking confidentiality are attached for your information.

The ACCC will consider any submissions it receives, including any oral submissions made should a pre-determination conference be called, and will then release a final determination in relation to these applications.

A copy of the draft determination is attached and is also available on the ACCC's website at www.accc.gov.au. 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
Director
Adjudication Branch

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Mr Mark Jarvis	SAOGA Zone Representative
Mr Phil Page	SAOGA Zone Representative