



**Australian  
Competition &  
Consumer  
Commission**

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Our Ref: C2005/405  
Contact Officer: Michael Green  
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3 August 2005

Dear Sir/Madam

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

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

SAOGA 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 has decided 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.

*Application for review*

Pursuant to section 101 of the *Trade Practices Act 1974*, a person dissatisfied with this determination may apply to the Australian Competition Tribunal for its review. An application for review must be made within 21 days of the date of this determination; that is, on or before 24 August 2005. If no application to review is lodged by this date, the ACCC's determination will come into force on 25 August 2005.

Interim authorisation was granted for the arrangements on 27 April 2005 and amended on 29 June 2005 in accordance with the ACCC's proposed condition. Interim authorisation will continue to protect the arrangements from action under the TPA until the final determination comes into effect or until interim authorisation is revoked.

A copy of the determination is attached and is also available on the ACCC's website at [www.accc.gov.au](http://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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