

17 October 2005

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Ms Ursula Everett and Mr Jason Byrne  
Acting Assistant Director  
Australian Competition and Consumer Commission  
Adjudication Branch  
470 Northbourne Ave  
DICKSON ACT 2602

Dear Ursula and Jason

## **Applications for Authorisation lodged by Australian Wool Organisations**

We refer to your e-mail dated 14 October 2005.

You have requested that our client clarify some issues relating to the operation of the exclusionary provision described in section 2(b) of our client's Form A application and the time period for the implementation of the test marketing campaign

We are instructed to respond as follows.

### **1. Exclusionary provisions**

Brokers and private treaty merchants who execute a deed of accession will be under a contractual obligation to collect the levy on all wool sales made by them. While it is not an express term of the Implementation Deed that they refuse to supply wool unless a buyer pays the levy, in order to comply with their obligations to implement the levy, a broker or private treaty merchant may refuse to supply services to a buyer unless they agree to pay the levy. It is conceivable that this could be alleged to be the product of a collective agreement (ie the Implementation Deed) with a competitor and therefore technically amount to an exclusionary provision. In order to address this risk, it is considered desirable that brokers and private treaty merchants have the benefit of immunity for this type of conduct that would be conferred by authorisation.

### **2. Timing of implementation**

In the original submission, it was requested that interim authorisation be granted in order to permit the test marketing campaign to proceed during the upcoming northern hemisphere winter. FAWO wishes to clarify that while fundraising and preparations for the test marketing campaign are intended to commence immediately following interim authorisation and during the upcoming northern hemisphere winter, the marketing activities themselves will not commence until May-June 2006 and then subsequently during the course of the 2006-2007 northern hemisphere winter. However, it should be

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noted that receiving interim authorisation remains critical to this time line, because of the long lead time and funding requirements of the campaign. Major commitments of funds are likely to be required at the latest in early 2006, while preparations for the roll-out of the test marketing campaign will need to be undertaken throughout the first half of 2006.

My client intends to respond to question 7 of the Commission's request for further information shortly. Otherwise, please do not hesitate to contact Geoff Carter on the number below if you have any other questions.

Yours faithfully

**MINTER ELLISON**

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