

14 November 2005

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

Dear Jason

**Applications for Authorisation lodged by Federation of Australian Wool Organisations  
Views on interested party submissions and response to ACCC information request**

We refer to your e-mail dated 20 October 2005 requesting our client's comments in relation to the issues raised in submissions received by the ACCC from interested parties. In particular, you sought our client's views relating to:

- the submission received by the Department of Agriculture, Fisheries and Forestry and 'their concerns that the proposed arrangements do not increase costs for wool growers who already contribute a 2% levy on bales of wool sold to the wool industry for research and development purposes'; and
- the relationship, if any, between the current 2% levy and the proposed A\$1.50 levy.

We also refer to your email dated 8 November 2005 in which you requested further information. We are instructed to respond as follows to each of the questions raised in your emails.

**1. Submission received from the Department of Agriculture, Fisheries and Forestry**

- 1.1 In general, we note that the submission received from the Commonwealth Department of Agriculture, Fisheries and Forestry (DAFF) appears to be supportive of the application for authorisation of implementation of the levy.
- 1.2 In response to the concern that 'the costs of the proposed new levy are not passed through the supply chain to producers', we note that the levy will be imposed by adding the A\$1.50 to the post-sale service charge typically paid to selling agents by buyers at the point of first sale.
- 1.3 Accordingly, it can be seen that the levy is imposed on wool buyers (and thereafter move along the production chain) and will not impose any additional direct financial burden on woolgrowers. It is further noted that the levy will represent an extremely

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small percentage of the total purchase price (less than 0.2%). Further, as over 95% of wool is exported, this small cost will be largely passed on to foreign customers.

- 1.4 It is acknowledged that, at least in theory, any increase in cost could impact negatively on demand for wool which would ultimately affect producers (depending on the elasticity of demand for the particular wool type). However, given the relatively small percentage increase represented by the levy, such an impact is considered to be de minimus relative to the overall net positive stimulus to demand that is anticipated can be achieved as a result of the promotional activities of the test marketing campaign.
- 1.5 We also note that the procedures used to collect the levy are administratively simple and as low cost as possible. The point of first sale has been chosen on the basis that this is when the change of ownership occurs in its most concentrated form and will be the most efficient, convenient and equitable way to capture funds.
2. **The relationship, if any, between the current 2% levy and the proposed A\$1.50 levy**
  - 2.1 Prior to 2000, wool growers contributed to both research & development and marketing & promotion by way of a 4% statutory levy collected on the gross price received for their wool.
  - 2.2 At a poll in 2000, wool growers voted to retain a 2% levy for research & development but abandon the 2% contribution towards marketing & promotion. Following withdrawal of these levy funds for marketing & promotion, Woolmark<sup>1</sup> (the entity charged with sales and marketing new technology and innovation in wool) has received no funding for promotional purposes.
  - 2.3 The proposed A\$1.50 levy is not related to the current 2% levy and is not underpinned by any statutory mechanism. Unlike the current 2% levy which raises (and for the time being will continue to raise) funds solely for the purposes of research and development, the proposed A\$1.50 levy is a once-off, specific purpose levy to raise funds for the purpose of a test marketing campaign for wool. It is not at this time proposed that there be an ongoing application of the proposed A\$1.50 levy once the recognised deadline and amount is reached.
  - 2.4 Once the test marketing campaign is completed and assessments made of how best to promote wool going forward, further consideration would be given as to the best mechanism for funding of further promotional activities. There is no current authority for the existing statutory levy of 2% to fund marketing and promotional purposes. In order for this to occur AWI would need to conduct a poll of wool growers to determine a new levy rate going forward (see section 32 of the *Wool Services Privatisation Act 2000* (Cth) and the *Wool Services Privatisation (Wool Levy Polls) Regulations 2003* (Cth)). The levy rate is chosen from a range of alternative percentage rate options (including the existing 2%) and AWI must indicate how it intends to allocate funding in respect of each rate option. In order for the levy to fund marketing and promotional activities, AWI would need to indicate if, and to what extent, it intends to direct funding raised towards these activities and wool growers would need to vote in favour of a rate option under which funds are allocated for such marketing and promotional activities. Undertaking this procedure was not considered a practical, timely or appropriate

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<sup>1</sup> A wholly owned subsidiary of Australian Wool Services (AWS)) and the Australian wool industry's 'official' marketing arm.

mechanism to raise funds on a once off basis for the purposes of the proposed test marketing campaign.

- 2.5 For completeness, we note that although woolgrowers voted against contributing funds to marketing and promotion in 2000, there now appears to be renewed industry support for funding marketing and promotion. It is therefore possible that in the future the statutory mechanism under the *Wool Services Privatisation Act 2000* and corresponding regulations may again be used for this purpose. In the meantime, woolgrowers have demonstrated their renewed support for the marketing & promotion of wool by committing funds (through AWI) of approximately US\$3.4 million towards the test marketing campaign. This contribution is contingent on the international wool industry raising a matching amount.

### 3. General comments on the interested party submissions

- 3.1 It was submitted in our original submission, that the test marketing campaign and the proposed arrangements to implement the levy to raise funds for the campaign were widely supported by the Australian wool industry. We submit that the interested party submissions received by the ACCC demonstrate that support. In light of that support, and the absence of any material criticism or opposition, we re-iterate our submission that there are compelling reasons for the ACCC to issuing a draft and then final determination in favour of the application.

### 4. Answers to further questions

- 4.1 We are instructed to respond as follows to the further specific questions in your e-mail dated 8 November 2005.

#### Details in relation to the percentage of Australian wool by volume and type of wool sold by auction, broker, private treaty, auction centre and any other means

- 4.2 There are no clear statistics with respect to the proportion of Australian wool sold by each of the various sectors. However, a reasonable estimate is that 80% to 85 % of Australian wool is sold by brokers at auction, 10% to 15% by private treaty merchants and 5% by other methods ( for example, by direct sale from the farm to the processor). All 'first hand' sales are of greasy wool. The levy will apply only to these 'first hand' sales.
- 4.3 There are three selling centres in Australia – North (Sydney and Newcastle), South (Melbourne) and West (Fremantle). The number of bales sold in each centre last year are as follows:

North	753,000
South	987,000
West	503,000
<i>Total</i>	<i>2,243,000</i>

#### Statistics on the number of brokers (selling agents), private treaty merchants and other selling bodies

- 4.4 There are approximately 50 wool brokers and 25 private treaty merchants in Australia. Most private treaty merchants also act as brokers in addition to their private treaty operations.

**The applicants view on the relevant market(s) to which the proposed conduct applies**

- 4.5 For the purposes of the application, we consider that it is sufficient to define the relevant market to which the proposed conduct applies as being the market for the production and sale of greasy wool in Australia. This would encompass sales for both domestic and export consumption.

**Will the levy apply to direct sales?**

- 4.6 The levy will apply only to sales by brokers and private treaty merchants. FAWO has not sought to apply the levy to direct sales, as the number of such sales is relatively small, it would be administratively difficult for FAWO to monitor and it would add unnecessary costs to the administration of the levy.

**An estimate of the number of parties expected to sign the Implementation Deed**

- 4.7 53 brokers and private treaty merchants will be requested to sign the Implementation Deed. Given that the industry associations of both brokers and private treaty merchants (and the Australian wool industry as a whole) support implementation of the levy and the test marketing campaign, it is expected that most, if not all, will sign the Implementation Deed.

**Who in the US will the campaign will target?**

- 4.8 Several regions of the North East of the United States have been selected as the test market location after considerable evaluation of a number of parameters (including ease of the evaluation process) by Woolmark and the Boston Consulting Group in relation to a number of European/UK and other US markets.
- 4.9 The target market in these locations will be consumers, with the aim of increasing their awareness of, and demand for, woollen apparel.

**What product will actually be marketed?**

- 4.10 The products to be promoted are mens clothing (namely, suits, trousers, jackets and coats) and womens clothing (namely, trousers, jackets and coats).

**What method(s) of advertising will the campaign utilise?**

- 4.11 The methods of advertising will not be finalised until an advertising company is appointed by the campaign manager. However, it is expected that it will include a mix of established successful methods for communicating with the customer, including television, print media, in-store promotion and labelling.

**What will the evaluation component focus on and how will it be conducted?**

- 4.12 The evaluation component of the test marketing campaign has not yet been finalised in detail. It is intended that there will be qualitative and quantitative evaluation of the test marketing campaign including, for example, various comparisons of sales and trends in 'test market' stores and in 'non-test market' stores before and after the campaign as well as metrics on consumer and retailer perceptions.

Please contact Geoff Carter of our office if you have any further questions.

Yours faithfully  
**MINTER ELLISON**

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