

21 December 2005

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Attention: Mr Jason Byrne

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
470 Northbourne Ave
DICKSON ACT 2602

Dear Jason

**Applications for Authorisation lodged by Federation of Australian Wool Organisations
Views on circumstances where the levy would be paid more than once**

We refer to your letter dated 19 December 2005 requesting our client's comments in relation to an issue raised in a submission received by the ACCC from Fibres (Australia) Pty Ltd, namely that there may be situations where the levy is paid more than once. In particular, you sought our client's views in relation to the circumstances in which the levy would be paid more than once and statistics of such occurrences.

We are instructed to respond as follows.

1. Circumstances in which the levy would be paid more than once

- 1.1 In developing and establishing the procedures for collection and remittance of the levy, priority was given by FAWO to the following considerations:
- (a) the rate of the levy be struck at less than 1¢ per kg, the minimum bid at auction (the A\$1.50 levy per bale is equivalent to 0.85¢ per kg);
 - (b) the procedures be implemented at the point in the wool pipeline where most wool passes through; and
 - (c) the procedures be administratively simple to apply by brokers and private treaty merchants and be as low cost as possible to implement (particularly given the short period in which the levy is to be collected).
- 1.2 In deciding ultimately to impose the levy by adding A\$1.50 to the post-sale service charge, it was recognised by FAWO, however, that a small amount of wool would be sold via other means and bypass the post sale service charge.

- 1.3 While it is intended that the levy be only paid *once* on each bale of wool sold, it is acknowledged that a small amount of wool will be sold more than once. This can occur if a buyer buys wool at auction or from a private treaty merchant and re-offers it for sale.
- 2. Statistics in relation to circumstances where the levy would be paid more than once**
 - 2.1 The exact quantity of wool which is purchased by a buyer and re-offered in this way is not known, but is believed by FAWO to be quite small. Discussion with brokers suggests that it represents less than 2% of the wool offered for sale by auction. It is submitted that this is likely to be even lower in the current market for wool in which the Australian Wool Exchange Eastern Market Indicator has declined from 1079¢ in March 2003 to 633¢ at the close of selling last week. In a falling market, there is little opportunity for buyers to profit by buying now and selling later. Instead, it is most likely that buyers will only re-offer wools which cannot be fitted into orders.
 - 2.2 Examination by FAWO of weekly auction figures indicates that 10.3% of all bales offered for sale between July and December were 're-offers'. However, this mostly comprises *grower* re-offers. It is normal practice for growers (or their selling agents) to pass-in wool which does not meet their expected (or sought) price and to subsequently re-offer this wool for sale, in some cases, more than once. In these circumstances, the levy will only be paid when the wool is finally sold, and therefore, only paid once.
- 3. Comparison between A\$1.50 levy and growers 2% R&D Levy**
 - 3.1 The submission from Fibres (Australia) Pty Ltd compares the possible payment of the A\$1.50 levy more than once with the single payment by growers of the 2% R&D Levy. In making such a comparison, consideration should be given to the relative dimensions of the A\$1.50 levy and the 2% R&D Levy. At last week's closing market, the A\$1.50 levy per bale only represented 0.2% of the gross value of the wool, one tenth of the value of the 2% R&D Levy.
- 4. Going forward**
 - 4.1 It is submitted that the additional complexity of procedures which would be required to ensure that the A\$1.50 levy is only paid once are not justified when weighed up against the relatively small amount of wool affected and the relatively small amounts involved.
 - 4.2 Nevertheless, FAWO will advise brokers, private treaty merchants and buyers that the possibility of the levy being paid more than once has been raised as an issue and that, where possible, it should be avoided. FAWO will also initiate discussions with sellers and buyers in relation to possible cost effective solutions to resolve the issue. One such discussion has already taken place.

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

Yours faithfully
MINTER ELLISON

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