

Blanch, Belinda

From: Hird, Louise
Sent: Thursday, 1 November 2007 1:40 PM
To: Adjudication; !Adjudication Administration Team
Subject: RE: ADFA comments on VFF (Sunraysia branch) application for authorisation (A91064) [SEC=UNCLASSIFIED]
Categories: SEC=UNCLASSIFIED
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From: Phil Chidgzey [mailto:PChidgzey@adfa.asn.au]
Sent: Wednesday, 31 October 2007 5:15 PM
To: Adjudication
Cc: Peter Jones
Subject: ADFA comments on VFF (Sunraysia branch) application for authorisation (A91064)

Mr Gavin Jones
 Director
 Adjudication Branch
 ACCC
 GPO Box 520
 Melbourne Vic 3001

Re Victorian Farmers Federation (Sunraysia Branch) application for Authorisation – A91064

I refer to your letter dated 18 October 2007 advising that an application for authorisation had been received from the VFF (Sunraysia branch). You advised that the VFF (Sunraysia branch) is seeking authorisation to collectively negotiate the terms and conditions (including price) of DVF with present and future processors of DVF. Further, the VFF (Sunraysia branch) has requested an interim authorisation to conduct negotiations on behalf of its members.

ADFA does not wish to make a formal submission on “the likely public benefits and effect on competition or any other public detriment, from the proposed arrangements” at this time. However, ADFA would wishes to provide some initial comment and updated information on the dried fruits industry and requests that it be kept informed of progress with the application and the draft and final determination stages. Email contact: pchidgzey@adfa.asn.au

ADFA comments on the VFF submission:

Introduction

- Paragraph 2 refers to VFF Sunraysia Branch undertaking collective bargaining negotiations with processors on behalf of its members. ADFA notes that Appendix A lists the 42 current members of the branch – and estimates that 14 of these are dvf growers.

The Victorian Farmers Federation Sunraysia Branch

- Paragraph 5 refers to the collection of a levy for R&D from its members. ADFA notes that the dvf processors pay both the \$11/tonne R&D levy and \$7/tonne marketing levy on behalf of dvf growers. No doubt it is a cost that is taken into account when fruit prices are set.

Background

- Paragraph 1 refers to the estimate of more than 700 dvf growers producing about 95% of Australia’s dried grape production. ADFA agrees with that estimate and notes that about 70% of dvf growers are members of the ADFA.
- Paragraph 2 refers to dried fruit production area of 10,729 ha and 27,907 tonnes. ADFA notes that Australian dvf production was relatively stable at close to 30,000

tonnes during the period 2004-2006 but then dropped to about 19,000 tonnes in 2007. Further, ADFA estimates that the producing area is probably closer to 5,000 ha.

- Paragraph 5 refers to prices traditionally not being provided to growers “until just before harvest”. ADFA notes that both Sunbeam Foods and Clyne Foods have made early announcements (September & October 2007) of minimum prices for contract growers in 2008. This development coincided with an ADFA review of processor contracts earlier this year, as well as the ongoing drought situation affecting Murray Darling Basin irrigators which has led to significantly reduced water allocations and associated risk of reduced production capacity.
- Paragraph 6 refers to processor price schedules usually being published just before harvest. ADFA notes that this practice will continue – with contracted growers being paid the higher of the seasonal (or schedule) or minimum contract price.

Proposed Conduct

- Paragraph a) refers to the negotiation “of the terms, conditions and price of an agreement”. ADFA assumes this means negotiation of an agreement on the terms, conditions and price for dvf delivered by members of VFF Sunraysia branch
- Next paragraph refers to the VPGC in any dispute resolution. ADFA is not aware what the VPGC is.
- Paragraph 3 refers to an application for authorisation to collectively bargain terms and conditions with dvf processors and allow VFF Sunraysia participation in any dispute resolution procedure between VPGC and potato growers. ADFA assumes this is a typing mistake.

Authorisation Sought

- Paragraph 2 refers to “the proposed arrangements apply to all dried vine fruit for supply to dried fruit processors. ADFA seeks clarification that this is meant to refer to all dvf for supply by VFF Sunraysia branch members.

Parties to the Proposed Arrangements

- Paragraph 3 refers to Appendix A and states that it is a list of present dvf members of the VFF Sunraysia branch. ADFA seeks clarification on whether Appendix A is a list of all VFF Sunraysia branch members or only dvf members.

Details of Negotiation

- Paragraph 1 refers to processors negotiating with a single group of growers. ADFA is not aware of any such experience in the dried fruits industry.
- Paragraph 2 refers to the lack of negotiation with current contracts and suggests that “there is no indicative price given”. ADFA refers to earlier comments about minimum prices now being included in contracts by both Sunbeam Foods and Clyne Foods.

Dispute Resolution Process

- ADFA notes that there is no explanation of a dispute resolution process

Additional ADFA Comments

- ADFA is a member organisation of the NFF and has supported efforts to improve collective bargaining provisions under the TPA 1975
- However, processor members of ADFA (Sunbeam Foods and until March 2007, Clyne Foods) have not shown any interest in collective bargaining
- Following the Sunbeam Foods purchase of Angas Park Fruit Company in 2004, the ACCC reviewed the situation and approved the purchase – during that process agreement was reached between ADFA & Sunbeam Foods on the establishment of a high level Consultative Committee to facilitate the exchange of confidential market related information. An improved dispute resolution procedure was also agreed.

ADFA looks forward to your further advice on progress with the application at the draft and final determination stages. If you require any further information, we would be pleased to assist.

Regards

Phil Chidzey
General Manager