

12 February 2007

FILE No.	
DOC:	1 Hobart Place Canberra ACT 2600 Locked Bag 916 Canberra ACT 2601
MARS/PRISM:	

Level 2 AMP Building  
Tel 02 6230 6399  
Fax 02 6230 6355  
www.croplifeaustralia.org.au

Mr Scott Gregson  
General Manager  
Adjudication Branch  
Australian Competition & Consumer Commission  
PO Box 1199  
DICKSON ACT 2601

Dear Mr Gregson

**RE: AGSAFE'S APPLICATION FOR REVOCATION AND SUBSTITUTION A91027  
AND A91028 – INTERESTED PARTY CONSULTATION**

I refer to your letter of 5 January 2007 addressed to CropLife Australia's President, Mark Allison, regarding the application made by Agsafe Limited for revocation and substitution of the existing ACCC authorisation.

CropLife Australia was launched on 1 January 2006 and is the voice and advocate of the plant science industry in Australia. Our members invent, develop, manufacture and market 85% of crop protection and 100% of the crop biotechnology products used by Australia's 130,000 primary producers. Distribution companies are not represented within the CropLife membership base.

As a condition of membership, member companies are required to comply with obligations set out in the CropLife Australia Code of Conduct, a copy of which is enclosed for your information. Inherent in such compliance is member participation in industry stewardship activities and adherence to the Agsafe Code of Conduct for storage and distribution facilities, a copy of which is held by the Commission.

In this regard, Clause 23 of the CropLife Code of Conduct requires that all premises where company owned products are manufactured, formulated or stored are accredited by the Agsafe Guardian Program. In addition, Clause 24 of the Code requires that members not supply product to warehouse or distribution premises that are not accredited by the Agsafe Guardian program.

CropLife Australia fully supports the application made by Agsafe Limited to the ACCC for authorisation and substitution. In supporting this application, it is CropLife Australia's contention that the imposition of trading sanctions is the appropriate mechanism to ensure compliance.

The ACCC will be aware of the actions being taken by the Federal, state and territory governments to establish control measures for chemicals of security concern. Any such measures imposed on the pesticides industry will require that it demonstrates its ability to ensure the continued safe handling and distribution of farm chemicals. Requirement for Agsafe accreditation will, in our view, ensure that a proper system of training and ongoing assessment is in place at all points of the distribution chain.

A credible and effective sanctions process will ensure that this and other regulatory requirements are met by both our members and the distributors of their products.

A return to the times where training and premises accreditation were left to state-based systems rather than a national approach would, in our view, be a backward step, leading to possible inconsistencies and certain duplication resulting in further costs to industry, farmers and the end consumer. Maintaining high standards in the provision and application of training and accreditation is essential to ensuring high compliance and cost effective training.

Agsafe's initiatives in developing on-line training modules for personnel have proven to be both efficient and effective. The changes introduced in the Agsafe accreditation of premises whereby greater support guidance is given to the store owner/franchisee/employee to assist in the accreditation process has been a welcome improvement and initiative.

In short, Agsafe's Guardian program is integral to CropLife members being able to deliver their stewardship commitment to take responsibility for the full life-cycle of their products.

Should you require further information or assistance in this matter please do not hesitate to contact me directly.

Yours sincerely,



Paula Matthewson  
**Chief Executive Officer**

Encl:



Representing the Plant Science Industry

CropLife Australia Limited  
Code of Conduct

February 2006

## **CropLife Australia Limited Code of Conduct**

### **INTRODUCTION**

CropLife Australia represents the developers, registrants, manufacturers and formulators of plant science solutions for use in agriculture and the management of pests in other settings.

CropLife Australia's member companies produce the majority of the crop protection and crop biotechnology products used by Australian primary producers. These products protect plant yields and improve their quality by controlling weeds, insects and diseases leading to the production of high quality, affordable and abundant food, fibre and other crops. Crop protection products are also used to protect public health by controlling weeds and pests

CropLife Australia and its' members are committed to safety, stewardship and quality.

- Safety – protecting human health and the environment through a rigorous and science based regulatory process, the adoption and promotion of Good Agricultural Practice and the correct use of products according to label directions.
- Stewardship – the responsible and ethical management of industry products throughout their life-cycle.
- Quality – the production of products of the highest standards that meet registration specifications.

All members are encouraged to participate fully in industry wide dialogue on contemporary issues to ensure that CropLife Australia is a truly representative organisation.

This Code of Conduct has been developed to ensure all CropLife Australia members meet industry standards.

The Code of Conduct sets out a series of obligations. Meeting these obligations is a condition of CropLife Australia membership. The Code of Conduct also details a number of policies and programs that member companies are encouraged to adopt, implement or participate in. Failure to meet the Code of Conduct obligations may result in cancellation of membership.

The CropLife Australia Board is responsible for ensuring compliance with the CropLife Australia Constitution, By-Laws and Code of Conduct. Rule 4 of the Constitution details the membership admission and disciplinary procedures. The process for lodging a complaint in relation to this Code of Conduct is outlined in the final section of this document.

### **MEMBER COMPANY OBLIGATIONS**

As a member of CropLife Australia your company must: comply with relevant Australian legislation; participate in a range of stewardship activities; ensure relevant company personnel are familiar with the provisions of this Code, provide information and data as agreed by the Board, make only accurate statements in product claims and publicity material and act ethically when conducting market research. In addition, your company is encouraged to adopt and implement a range of other policies and programs promoted by CropLife Australia.

As a crop protection member your company must also comply with the Food and Agricultural Organization of the United Nations *International Code of Conduct on the distribution and use of pesticides*.

As a member of CropLife Australia your company must:

**Act in the best interests of the industry**

1. Act at all times ethically, with integrity and honesty.

**Comply with legislation and regulations**

2. Comply with all relevant federal and state legislation and regulations including, but not limited to, the *Agricultural & Veterinary Chemicals Code Act 1994* (Agvet Code Act) and its regulations, the *Gene Technology Act 2000*, *Trade Practices Act 1974*, *Corporations Act 2001* and The Australian Dangerous Goods Code.
3. Ensure that company staff participating in CropLife Australia activities do not discuss or exchange information which may in fact or give the appearance of an agreement that would violate the Trade Practice compliance laws.
4. Ensure that company staff participating in CropLife Australia Board, Committee or working group meetings declare any material or personal interest if and when a conflict of interest arises relating to the affairs of CropLife Australia.

**Promote understanding of this Code**

5. Ensure that the provisions of this Code are both understood and complied with by appropriate company staff.

**Make accurate product claims**

6. Ensure that all public claims for products made by the company are consistent with the product registration, approved label or permit and safety information approved by the Australian Pesticides and Veterinary Medicines Authority and/or product licence issued by the Gene Technology Regulator.
7. Ensure that all product claims are consistent at all times with the approved label and also relevant CropLife Australia Herbicide, Insecticide or Fungicide Resistance Management Strategy.

**Support correct product transportation and application**

8. Ensure company products are classified according to the requirements of the National Transport Commission regulations and ensure company owned products that are classified as dangerous goods are transported prior to end point sale by persons that are licensed dangerous goods transporters.
9. Actively promote the correct use and application of products.

**Use information responsibly in publicity material**

10. Ensure that promotional, public relations and advertising material is consistent with the approved label claims for the product, or use and safety information approved by the Australian Pesticides and Veterinary Medicines Authority and/or licence issued by the Gene Technology Regulator or other permit or special approval, and comply with relevant consumer protection and state/territory legislation.
11. Ensure that public statements do not misuse research results, quotations from technical and scientific literature or scientific jargon to make claims appear to have a scientific basis they do not possess.
12. Ensure that visual images show appropriate personal protective equipment and correct and safe application.
13. Any comparisons of products in advertising or promotional material must be factual and capable of substantiation.
14. Ensure that any claims made about a company product do not discredit another registered product on the grounds of safety, hazard or risk.

**Use ethical market research techniques**

15. Methods used for market research must not bring discredit upon or reduce confidence in the industry. Interviews must not be gained without informed consent.

### **Mitigate security risks**

16. Ensure all manufacturing, storage and distribution facilities within Australia under the control of the member company meet government requirements and have adequate systems in place to manage foreseeable security risks, and that all relevant staff are appropriately trained in those systems.
17. Ensure that all manufacturing, storage or distribution facilities in Australia under contract to the member company have adequate systems in place to manage foreseeable security risks and that all relevant staff are appropriately trained as a condition of contract and that this contract is audited at least once every two years.

### **Provide information and data**

18. Annually declare to CropLife Australia actual sales details for the purpose of calculating membership fees. An additional declaration may include, but is not limited to, a set of industry statistics and membership profile data, as approved by the Board after consultation with members. CropLife Australia undertakes to keep this information confidential to the Company Secretary at all times.

### **Pay membership fees**

19. Ensure that CropLife Australia membership fees are paid on time and in full.

### **Report compliance with this Code**

20. Report biannually on compliance to this Code in a form agreed by the Board.

*As a crop protection member of CropLife Australia your company must also:*

### **Comply with the FAO Code of Conduct**

21. Comply with the United Nations Food and Agriculture Organisation *International Code of Conduct on the Distribution and Use of Pesticides*.

### **Participate in stewardship activities**

22. Comply with the Agsafe *Code of Conduct* in storage and distribution facilities.
23. Ensure all premises within Australia where company owned products are manufactured, formulated or stored are accredited by the Agsafe Guardian program.
24. Ensure that they do not supply products to warehouse or distribution premises that are not accredited by the Agsafe Guardian program.
25. Ensure that all company personnel handling, selling, recommending, giving advice on, or taking responsibility for the safety of industry products are accredited by the Agsafe Guardian program.
26. Support the Industry Waste Reduction Scheme through participation in the *drumMUSTER* and ChemClear® programs. The Industry Waste Reduction Scheme aims to:
  - reduce the number of containers entering the distribution scheme
  - increase the re-use of containers originally intended for single use
  - increase the recycling of containers for material recovery
  - improve occupational health and environmental practices by promoting the adoption of easier to clean and handle packaging, the use of safer emptying and rinsing devices and management of chemical containers in an environmentally appropriate way
  - promoting research and development into new formulations, packaging, recycling and material recovery uses
  - educating distributors and farmers to purchase environmentally friendly returnable containers and in the appropriate disposal of non-returnable containers
  - provide for a collection and disposal of unwanted rural chemicals that achieves a high participation rate of those holding waste, is accessible by all users who may hold those chemicals and is provided at lowest possible cost.

27. Participate in the biennial Industry Packaging Audit. The Audit assists CropLife Australia to measure industry progress against the Industry Waste Reduction Agreement.

## **MEMBER VOLUNTARY INDUSTRY ACTIVITIES**

*As a member of CropLife Australia your company is encouraged to:*

### **Participate in policies and programs**

1. Adopt, implement or participate in industry wide sustainability activities that build on previous Industry Environment Reports.
2. Contribute financially or in kind to alliances as agreed by the Board from time to time.

### **Advertise CropLife Australia membership**

3. Advertise membership of CropLife Australia in promotional information through the use of the phrase 'Member of CropLife Australia'.

*As a crop protection member of CropLife Australia your company is also encouraged to:*

### **Implement Container Design and Performance Guidelines**

4. Adopt and implement the CropLife Australia *Container Design and Performance Guidelines* (2006).

## **ADMINISTRATION OF THE CODE OF CONDUCT**

These procedures are intended to assist both complainants and subject companies to ensure that a fair and full review is conducted of complaints lodged. If these general criteria are not met, the complaint may be returned to the complainant for more information, or the review may be conducted in the absence of a complete response.

### **Member generated complaints**

Complaints from one member company against another member company, which cannot be resolved amicably between the parties concerned, should be reported to the CropLife Australia Company Secretary in writing. The complaint should include the following information to ensure a complete review:

- the company and product(s) subject to complaint
- a description of the complaint, itemising specific claims at issue, with a complete rationale for the alleged breach, approved or full product information for complainant's product if mentioned in a comparative context, alleged consequences (damages to complainant) and including supporting data cross referenced to specific claims, as an attachment
- section of Code alleged to be breached
- details of attempts to resolve the matter with the respondent company
- written endorsement of the Chief Executive Officer/Managing Director of the complainant company.

In addition, complainants should note that:

- Dialogue with the other party is not obligatory, but unless adequate reasons for not undertaking dialogue is given, then the complaint may not be accepted for evaluation until such attempts are made.
- When challenging a claim on technical/scientific grounds, it is not sufficient to simply state that the claim is not supported. Evidence must be provided to support the complainant's case.
- If these criteria are not met, then CropLife Australia may return the complaint to the complainant for further information.

### *Response by Company/Member*

When a complaint has been accepted for evaluation, the respondent company is asked to state whether or not the information supporting the complaint is correct, and give any answer or explanation that may be deemed necessary.

When providing this information, the company should include:

- details of attempts to resolve the matter with the complainant
- a brief summary of the response to each alleged breach
- substantiation of the specific claims at issue with full supporting data
- original pieces of the promotional material at issue
- the signature of the Chief Executive Officer/Managing Director of the company.

### *Procedure for complaint resolution*

The CropLife Company Secretary upon receiving a complaint will refer that complaint to the CropLife Corporate Governance Committee.

The Corporate Governance Committee will consider the complaint and all facts put before it, and will recommend a complaint resolution to the member(s) involved. If the member(s) involved do not accept the resolution proposal, the complaint will be referred to the CropLife Board for resolution.

The Board will consider the details of the complaint and recommend to the member(s) involved a resolution of the matter.

If the member(s) do not accept CropLife Board's proposed resolution then the member(s) will agree to submit the complaint to independent dispute resolution procedures.

Following any complaint resolution, the Board will consider disciplinary action against member(s) involved in any complaint. Disciplinary action may include expulsion from CropLife Australia.

Nothing in this section reduces or removes a CropLife member's ability to take external legal action in relation to a complaint against another member, however, members are strongly encouraged to work within the system outlined above in the first instance.

### **Non-member generated complaints**

Complainants are encouraged to contact the subject company prior to lodging a complaint with CropLife Australia as a satisfactory explanation or solution may be immediately available.

If a resolution with the respondent member company is not achieved, the following information may be sent to the CropLife Company Secretary.

- company and product subject to complaint
- a brief description of the complaint, itemising specific claims at issue and including supporting data and alleged consequences
- section of this Code alleged to be breached
- details of attempts to resolve the matter with the respondent company.

Complaints generated from sources external to the industry shall be referred to the Corporate Governance Committee for determination as to the most appropriate action required.





Croplife Australia Limited  
ABN 29 008 579 048

Level 2 AMP Building  
11 Hobart Place Canberra ACT 2600  
Locked Bag 916 Canberra ACT 2601

Tel 02 6230 6399  
Fax 02 6230 6355  
[www.croplifeaustralia.org.au](http://www.croplifeaustralia.org.au)