



**Australian  
Competition &  
Consumer  
Commission**

Our Ref: A91027 & A91028  
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5 January 2007

Dear

**Re: Agsafe's application for revocation and substitution A91027 and A91028 –  
interested party consultation**

**Introduction**

The Australian Competition and Consumer Commission (ACCC) has received an application for revocation and substitution lodged by Agsafe Limited (Agsafe). Agsafe is seeking revocation of its existing authorisations A90680 and A90681 and substitution of a new authorisation for its Code of Conduct.

The purpose of this letter is to seek your comments in relation to the application as a potential interested party.

**Agsafe's application**

Among other things, the Code of Conduct outlines the requirements for compliance with the industry accreditation program (known as the Guardian Program). The Code of Conduct provides for the imposition of trading sanctions on businesses that are not accredited under the Guardian Program. In essence this involves:

- chemical manufacturers agreeing not to supply agricultural and veterinary chemicals to distributors or retailers of chemicals who have not obtained accreditation through the Agsafe Guardian Program; and
- retailers and distributors of chemicals agreeing not to purchase agricultural and veterinary chemicals from manufacturers who have not obtained accreditation through the Agsafe Guardian Program.

Trading sanctions can be applied to both members and non-members of Agsafe and in instances where a business otherwise appears to comply with applicable legislation.



A copy of Agsafe's application for revocation and substitution and supporting submission is enclosed for your information. These documents and other attachments provided by Agsafe with its application will also be available on the ACCC's website: [www.accc.gov.au](http://www.accc.gov.au) (by following the Public Registers and Authorisations links).

### **Authorisation**

By way of background, the ACCC is the Australian Government agency responsible for administering the Trade Practices Act 1974 (the TPA). A key objective of the TPA is to prevent anti-competitive conduct, thereby encouraging competition and efficiency in business, resulting in a greater choice for consumers in price, quality and service.

The TPA, however, allows the ACCC to grant immunity from the TPA for anti-competitive conduct in certain circumstances.

One way businesses may obtain immunity is to apply for what is known as an 'authorisation' from the ACCC. Broadly, the ACCC may 'authorise' businesses to engage in anti-competitive conduct where it is satisfied that the public benefit from the conduct outweighs any detriment to the public including that constituted by any lessening of competition. The ACCC conducts a comprehensive public consultation process before making a decision to grant or deny authorisation.

### **Request for submissions**

To assist the ACCC in its consideration of the application it would be helpful to obtain your comments on the likely public benefits and the likely effect on competition, or any other public detriment, arising from the Code of Conduct.

A key issue for the ACCC will be the ability for Agsafe and its members to boycott (through the imposition of trading sanctions) those businesses who have not obtained Agsafe accreditation under the Guardian Program. The ACCC is particularly interested in your comments on the ability of Agsafe and its members to impose trading sanctions on businesses who are not accredited under the Guardian Program.

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information.

If you intend to provide a submission in relation to the application, I would be grateful if you could do so by close of business **8 February 2007**.

## **General information**

The ACCC asks for submissions to be in writing so they can be made publicly available. They are placed on a public register for this purpose.

Persons lodging a submission with the ACCC may request that information included in the submission be treated as confidential and not placed on the public register. If confidentiality is granted in respect of information the ACCC may take it into account, even though it is not publicly available. Guidelines for seeking confidentiality are attached.

If you wish to lodge a submission, please address your submission to:

The General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
PO Box 1199  
DICKSON ACT 2602

Submissions can also be lodged by email to [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au) or by facsimile on 02 6243 1211. If relevant, please provide a preferred email address for any future correspondence from the ACCC.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Danielle Staltari on 02 6243 1362.

Yours sincerely

Scott Gregson  
General Manager  
Adjudication Branch

**Agsafe's application for revocation and substitution A91027 and A91028 – Indicative Timetable**

<b>18 December 2006</b>	Lodgement of application and supporting submission.
<b>5 January 2007</b>	Public consultation process begins.
<b>8 February 2007</b>	Closing date for submissions from interested parties.
<b>February 2007</b>	Applicant responds to issues raised in the public consultation process.
<b>February / March 2007</b>	ACCC assessment.
<b>March / April 2007</b>	Draft determination.
<b>April / May 2007</b>	Public consultation on draft determination including any conference if called.
<b>May 2007</b>	Final determination.

## **List of interested parties**

Australian Bureau of Agricultural and Resource Economics  
Australian Centre for International Agricultural Research  
Centre for Environment and Life Sciences  
Grains Research and Development Corporation  
Land and Water Australia  
Australian Health Ministers' Advisory Conference  
Biodiesel Association of Australia  
Biodynamic Agriculture Australia  
Central West Conservation Farming Association  
Croplife Australia  
Fertilizer Industry Federation of Australia  
Murrumbidgee Horticulture Council  
AusBiotech Ltd  
Agribusiness Employers' Federation  
Agforce Queensland  
Australian Chamber of Commerce and Industry  
Australian Consumers Association  
Australian Consumer Specialty Products Association  
Australian Retailers Association  
Small Business Association of Australia  
National Farmers Federation  
NSW Farmers Association  
SA Farmers Federation  
Victorian Farmers Federation  
Western Australian Farmers Federation  
Queensland Farmers Federation  
Tasmanian Farmers and Graziers Association  
VIRBAC Australia Pty Ltd  
Ruralco Holdings Limited  
Tylers Hardware & Rural Supplies  
P & H Rural Supplies P/L  
Wesfarmers Limited  
Mike Barrett and Associates  
Mabons Timber Protection (Australia) Pty Ltd  
WG Welch Consultants  
Australian Association of Agricultural Consultants  
Agricultural Chemicals Retailers Association  
Veterinary Manufacturers & Distributors Association  
Savage Baker & Backhouse Pty Ltd  
Southern Farm Supplies, Bega  
SAI Global Limited  
Guyra Rural Services  
Bowa Organics Pty Ltd  
The Aerial Agricultural Association of Australia  
Mr and Mrs Mathew and Liz Staples  
Elders  
Australian Council of Trades Unions  
Kerang Rural Supplies

Horsfield Trading Pty Ltd  
Bayer Australia Ltd  
Becker Underwood Pty Ltd  
Du Pont (Australia) Ltd  
Farmoz Pty Ltd  
Pfizer Animal Health  
Monsanto Australia Limited  
Sipcam Pacifica Australia Pty Ltd  
Summit Agro Australia Pty Ltd  
Sumitomo Chemical Australia Pty Ltd  
Agrisearch Services Pty Ltd  
Australian Cane Growers Council Ltd  
Cotton Australia  
Australian Dried Fruit Association Inc  
Australian Environmental Pest Managers Association Ltd  
NSW Fire Brigade Employees Union  
Medicines Australia  
David Gray & Co Pty Ltd  
AWU-FIME  
Pharmacy Guild of Australia  
Queensland Graingrowers Association  
Ricegrowers' Association of Australia  
Rural Marketing and Supply Association Inc  
Ancare Australia Pty Limited  
OzBioPharm Pty Ltd  
Australian Meat and Livestock Corporation  
CSL Limited  
Association of Australian Port & Marine Authorities Inc  
Boehringer Ingelheim Pty Limited  
Elanco Animal Health  
Intervet Australia Pty Limited  
Merial Australia Pty Ltd  
Novartis Animal Health Australasia Pty Ltd  
GlaxoSmithKline Australia  
Syngenta Crop Protection Pty Limited  
FMC Australasia Pty Ltd  
Chemtura Australia Pty Ltd  
Dow AgroSciences Australia Ltd  
Accensi Pty Ltd  
BASF Australia Ltd  
Nufarm Limited  
Greif Australia Pty Limited  
Grains Council of Australia  
NT Cattlemen's Association  
Growcom  
Grape & Wine Research & Development Corporation  
SA Chamber of Fruit & Vegetable Industries  
Vegetable Growers Association of Victoria  
Pastoralists & Graziers Association of WA  
WA Vegetable Growers Association

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Australian Veterinary Association  
FG Blockey & Associates  
Fertilizer Industry Federation of Australia  
Country Fire Authority of Victoria  
Animal Health Alliance