



**Australian Government**

**Department of Agriculture, Fisheries and Forestry**

FILE No:
DOC:
MARS/PRISM:

23 April 2007

Mr Scott Gregson  
General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission (ACCC)  
PO Box 1199  
DICKSON ACT 2602

Dear Mr Gregson

Thank you for your letter of 28 March 2007 to Mr Peter Yuile, the former Executive Director of the Australian Quarantine and Inspection Service and Deputy Secretary of the Department of Agriculture, Fisheries and Forestry (the Department), in relation to the draft determination in respect of the application made by Agsafe Limited to the ACCC to revoke its existing authorisations and substitute new authorisations in relation to the Agsafe Guardian Code of Conduct.

Your letter indicates that the ACCC proposes to grant authorisation for a period of 18 months to the provisions of the Code of Conduct that allow Agsafe, CropLife and Animal Health Alliance members to refuse supply of agricultural and veterinary (agvet) chemicals to unaccredited businesses, while the remaining provisions of the Code of Conduct will be granted authorisation for a further five year period.

The Agsafe Guardian program is recognised and supported by the Australian Government as an important element of the national agvet chemical risk management system. Therefore, the Department supports the draft determination with respect to the proposed five year authorisations for the remaining provisions of the Agsafe Code of Conduct that will allow the Agsafe Guardian program to continue.

I note that the ACCC considers that imposing trading sanctions on non-compliant businesses results in significant public detriment and that authorising trading sanctions provides Agsafe with a very significant power that would usually require government oversight or authority. I further note that the ACCC does not believe this power should continue to be available to Agsafe and that the draft determination proposes an 18 month transition period to allow Agsafe to adjust to the loss of this power. Such a transition period would provide an opportunity for industry and government to consider alternatives for addressing any gaps in risk management arrangements that may occur as a result.

At this point of time, the Department does not have sufficiently strong grounds to oppose the draft determination with respect to the proposed 18 month authorisation of the provisions of the Code of Conduct allowing Agsafe to impose trading sanctions and the removal of this power following the expiration of the authorisation. We would, however, like to accept the ACCC's invitation to attend the pre-determination conference on 1 May 2007 and will reserve our final position pending the outcomes of any further information presented at that meeting.

Yours sincerely

Steve McCutcheon  
Executive Manager  
Product Integrity, Animal and Plant Health Division

