



Our Ref: C2007/880  
Contact Officer: Darrell Channing  
Contact Phone: (02) 6243 4925

23 May 2007

This letter and enclosures  
was posted to the  
attached list of interested  
parties.

SC  
24/5/07

**Australian  
Competition &  
Consumer  
Commission**

PO Box 1199  
Dickson ACT 2602  
470 Northbourne Ave  
Dickson ACT 2602  
ph (02) 6243 1111  
fax (02) 6243 1199  
[www.accc.gov.au](http://www.accc.gov.au)

Dear

**Authorisation A91048 lodged by the Victorian Potato Growers Council (VPGC) – draft determination and request for interim authorisation**

The Australian Competition and Consumer Commission (the ACCC) has issued a draft determination in respect of the application for authorisation lodged by the Victorian Potato Growers Council (VPGC) on 23 April 2007.

The VPGC is seeking authorisation to for collective bargaining between its potato grower members (current and future) and potato buyers. The VPGC also seeks authorisation to allow it to participate in any dispute resolution mechanism for disputes between its members and potato buyers.

Having considered the application and submissions from the VPGC and interested parties, the ACCC proposes to grant authorisation for five years. A copy of the draft determination is enclosed.

**Interim authorisation**

The ACCC has decided to grant interim authorisation to the VPGC to allow the McCain Growers Group to commence collective negotiations on the terms and conditions of potato supply contracts with McCain Foods (Aust) Pty Ltd (McCain Foods) for the 2008 supply year.

In making this decision, the ACCC was influenced by the voluntary nature of the arrangements, the absence of collective boycotts and the support of McCain Foods. The ACCC also considered that negotiations for the 2008 supply year would be unlikely to alter the market in the long term.

Interim authorisation protects the arrangements for which authorisation is sought from legal action under the relevant provisions of the *Trade Practices Act 1974* until the ACCC issues a determination in this matter (unless circumstances warrant revocation or amendment of the interim authorisation at an earlier stage).



## Next steps

Once the ACCC issues a draft determination, the VPGC or any interested party who may be dissatisfied with the ACCC's draft determination may request that the ACCC convene a 'pre-decision conference'. A pre-decision conference provides the opportunity for interested parties to make oral submissions in relation to the draft determination. Under the *Trade Practices Act 1974*, the ACCC must set a date within 14 days of which any pre-decision conference must be requested. Accordingly, if you wish the ACCC to hold a pre-decision conference in relation to the draft determination, you must notify the ACCC in writing by **close of business Friday, 8 June 2007**. Conferences are conducted informally, without the participation of legal or other professional advisers.

Alternatively, you are also invited to make a written submission in response to the ACCC's draft determination. Written submissions should be lodged by **close of business Thursday 14 June 2007** at the following address:

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


Submissions can also be lodged by e-mail 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.

Persons lodging a submission with the ACCC may request that information included in the submission be excluded from the public register in certain circumstances. Submissions which are excluded from the public register may still be taken into account by the ACCC when conducting its assessment of an authorisation application. Guidelines for seeking exclusion from the public register are attached for your information.

The ACCC will consider any submissions it receives, including any oral submissions made should a pre-determination conference be called, and will then release a final determination in relation to the VPGC's application.

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 Darrell Channing on (02) 6243 4925 or Molly Choucair on (02) 6243 1272.

Yours sincerely



*for* Scott Gregson  
General Manager  
Adjudication Branch

**List of interested parties for A91048**  
**23-May-07**

Arnott's Snackfoods Limited  
Ballarat Certified Seed Potato Grower Group  
Department of Primary Industries  
Elders Limited  
Gippsland Certified Seed Potato Growers Group  
Kinglake Certified Seed Potato Grower Group  
McCain Foods (Aust) Pty Ltd  
McCain Grower Group  
Moraitis Fresh  
National Farmers Federation  
Otways Certified Seed Potato Grower Group  
Portland Certified Seed Potato Grower Group  
Potato Crisping Research Group  
Potato Processing Association of Australia  
Produce & Grocery Industry Ombudsman  
Red Gum Growers & Packers Pty Ltd  
Seed Potatoes Victoria  
Smiths Snackfoods  
VFF Gippsland Potato Grower Group  
Victorian Farmers Federation