



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2007/106
Contact Officer: Danielle Staltari
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6 June 2007

Mr Sam Ponder
General Manager
Agsafe Limited
GPO Box 816
Canberra ACT 2601

Dear Mr Ponder

**Re: Agsafe's application for revocation and substitution A91027 – A91030
- final determination**

The Australian Competition and Consumer Commission (the ACCC) has issued a determination granting authorisation to Agsafe's Code of Conduct which includes the ability of Agsafe to impose trading sanctions for 3 years.

A copy of the final determination is enclosed and is available on the ACCC's website at www.accc.gov.au.

As noted in the determination, the ACCC placed weight on the submissions received from government agencies supporting the ability of Agsafe to impose trading sanctions and the current government reviews relating to the management of agricultural and veterinary chemicals. As such, the ACCC is satisfied in the medium term that the public benefits arising from Agsafe's Code of Conduct are likely to outweigh the public detriments.

ACCC consideration of any future re-authorisation

Should Agsafe wish to continue to impose trading sanctions at the expiry of the 3 year period it will need to seek re-authorisation of its Code of Conduct. There are a number of factors which will be relevant to any future re-authorisation of Agsafe's ability to impose trading sanctions.

Level of government support for Agsafe to be given the power to impose trading sanctions

While the ACCC has received some submissions from relevant government agencies which go some way to articulate their support for Agsafe's ability to impose trading sanctions, the



ACCC notes that there a number of government agencies who have a responsibility for administering legislation relating to the storage and handling of agricultural and veterinary chemicals.

During the three year period, the ACCC would expect relevant government agencies to identify with clarity the extent to which they wish to give Agsafe an ongoing role in requiring participation in the Guardian Program under the threat of trading sanctions.

Agsafe may wish to consider ways to facilitate government support for its ability to impose trading sanctions through the Guardian Program.

Alternatives to accreditation through the Guardian Program

Agsafe's more recent preparedness to look at recognising other training programs is a welcomed approach. Further, while not imposing as a condition of authorisation, I would encourage Agsafe to continue to offer the process developed for those businesses that do not wish to use an Agsafe facilitator to obtain Agsafe accreditation.

During the three year period, I would also encourage Agsafe to consider and develop other ways by which businesses can demonstrate that they comply with the Guardian Program without obtaining Agsafe accreditation.

There will need to be a process independent from Agsafe for the ACCC to accept this as a mitigating feature against the anti-competitive detriment arising from Agsafe's ability to impose trading sanctions, in any future consideration of the Code of Conduct.

Application for review

Pursuant to section 101 of the *Trade Practices Act 1974*, a person dissatisfied with this determination may apply to the Australian Competition Tribunal for its review. An application for review must be made within 21 days of the date of this determination; that is, on or before 27 June 2007. If no application to review is lodged by this date, the ACCC's determination will come into force on 28 June 2007.

This letter has been placed on the ACCC's public register.

If you wish to discuss any aspect of this matter or would like a copy of the determination sent to you, please do not hesitate to contact Danielle Staltari on 02 6243 1362.

Yours sincerely



Scott Gregson
General Manager
Adjudication Branch