

Our Ref: A91057
Contact Officer: Molly Choucair
Contact Phone: 02 6243 1272

12 July 2007

[Name]
[Address]

Dear [Name]

**Re: South East Potato Growers Association (SEPGA) application for authorisation
A91057 - interested party consultation**

The Australian Competition and Consumer Commission (the ACCC) is currently conducting an interested party consultation process in relation to an application for authorisation made by SEPGA.

The purpose of this letter is to invite you, as a potentially interested party, to comment on the issues outlined in this letter and SEPGA's application.

Background

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

The Act, however, allows the ACCC to grant immunity from legal action 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 arrangements or conduct where it is satisfied that the public benefit from the arrangements or conduct outweighs any public detriment.

In assessing the public benefits and detriments of an authorisation application, the ACCC undertakes a public consultation process seeking comments on the application from interested parties. Following an initial consultation process, the ACCC will issue a draft decision for comment. The ACCC will then reconsider the application in light of any further submissions, and release its final decision.

Application for authorisation by SEPGA

The SEPGA has sought authorisation, for a period of 5 years, in relation to an agreement between current and future members of SEPGA to collectively negotiate the terms and conditions of contracts between SEPGA members (potato growers) and potato buyers, with or without the assistance of SEPGA. SEPGA has applied for authorisation for collective negotiations to take place with two specific potato buyers, McCain Foods and Safries.

A copy of SEPGA's application for authorisation and supporting submission is enclosed for your information. These documents will be available on the ACCC's website www.accc.gov.au (by following the Public registers and Authorisations links.)

Interim authorisation

SEPGA has requested interim authorisation to permit it to commence collective negotiations on behalf of its members with McCain Foods and Safries.

Interim authorisation would allow the collective negotiation with McCain Foods and Safries to commence as if it had full authorisation while the substantive application is being considered by the ACCC.

The ACCC endeavours to deal with requests for interim authorisation quickly. In making an assessment as to whether it is appropriate to grant interim authorisation, the ACCC is not required to undertake a full assessment of the benefit and detriment likely to arise as a result of the proposed conduct.

The ACCC decides whether to grant interim authorisation on a case by case basis. Should an applicant request interim authorisation, the ACCC will usually consider a range of factors, including harm to the applicant and other parties if interim is or is not granted, possible benefit and detriment to the public, the urgency of the matter and whether the market would be able to return to substantially its pre-interim state if the ACCC should later deny authorisation.

The ACCC is interested in your views on the request for interim authorisation. Should you intend to make comment on the application for interim authorisation, I would appreciate if you could do so by close of business **30 July 2007**.

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, from the proposed arrangements.

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 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.

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 or by facsimile on 02 6243 1211. If relevant, please provide a preferred email address for any future correspondence from the ACCC.

If you intend to provide a submission in relation to SEPGA's application for authorisation, please do so by **30 July 2007**. The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information.

Please inform us if you do not wish to make a submission at this time, but would like to be informed of the progress of these applications at the draft and final determination stages. You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding this 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 Molly Choucair on 02 6243 1272.

Yours sincerely

Scott Gregson
General Manager
Adjudication Branch

SEGPA application for authorisation A91057 – Indicative Timetable

9 July 2007	Lodgement of application and supporting submission.
12 July 2007	Public consultation process begins.
30 July 2007	Closing date for submissions from interested parties.
August 2007	ACCC decision regarding interim authorisation.
August 2007	Applicant responds to issues raised in the public consultation process.
August/September 2007	Draft determination.
September 2007	Public consultation on draft determination including any conference if called.
September/October 2007	Final determination.