McCain Foods
Australia/New Zealand

(ABN 96 000 629 587)

P.O. Box 105 Wendouree VIC 3355
Telephone: (03) 5339 2241 Fax: (03) 5338 1007

11th December, 2009

Mr. David Hatfield
Director,
Adjudication Branch
Australian Competition & Consumer Commission
G. P.O. Box 3131
CANBERRA ACT 2601

Dear Sir,

**TASMANIAN FARMERS AND GRAZIERS ASSOCIATION ("TFGA")
APPLICATION FOR AUTHORISATION (A91197)**

I refer to the subject application and submit hereunder McCain Foods (Aust) Pty Ltd ("**McCain**") comments on the TFGA's application for authorisation to collectively negotiate the terms and conditions of growing contracts with processors in Tasmania (the "**Application**").

Public Benefit Claims

(a) McCain does not see Growers as being in a weak bargaining position. They have the capability to vary their crops, the processors with whom they deal or vary the type of farming they undertake on their land, i.e. crop v stock. In fact growers regularly/annually alter their mix of enterprises i.e. more of one, less of another.

It is agreed that the collective bargaining approach is administratively easier and a more cost effective approach to setting contract prices.

As above, McCain does not agree that growers are in a weak bargaining position and do have the skills and resources to negotiate with the processors.

Whilst the intention of collective bargaining is to provide support and industry stability it has not been the case of recent times with reductions in processing capabilities, reduction in contracted crop tonnages and increased import activity by more cost competitive producers.

(b) McCain acknowledges the administrative benefits of collective bargaining but it does not acknowledge that it has resulted in lower costs and added benefits to the economy.

Market Definition
McCain acknowledges the Vegetable Processing Sector as one link in the Australian Vegetable Supply Chain however collective negotiation also has effect on the retail frozen vegetable industry channel, the wholesale frozen vegetable distribution channel, the quick service restaurant chains channel and ultimately the consumers of Australian produced products supplied by those channels.

At all points in the respective chains, the participants have alternative supply capabilities such as conversion to fresh or imports of frozen product. This highlights that the free market is at work with the exception of the beginning of the supply chain where collective negotiation is authorised.

Public detriments
(a) McCain believes that whilst there is no direct effect on consumers due to the availability of other lower cost products (refer appendix A), the indirect effect is that the high cost local product is being supplanted by the consumer moving demand to other products included imported products. This will ultimately lead to a reduced availability of locally produced frozen vegetable products and the consequent impacts on the agricultural and processing industries within that supply chain. (Refer Appendix B).

(b) McCain queries the relevance of this statement as it would be true of a number of the links in the supply chain to the consumer. The ultimate impact on the consumer is that locally sourced and processed vegetable products are becoming dearer and consequently enabling lower priced imported products to be sourced and supplied.

The submission assumes that any cost increases can be automatically passed on in the pricing of the processors and the retailers or alternatively absorbed by the processor and/or the retailer, because it is allegedly a small component of the final price to the consumer. The current competitive environment does not lend itself to this approach.

In the past 13 years the McCain Smithton Processed Potato Growers have received increases in their contracted potato prices per tonne of in excess of 70% (refer Confidential Submission – Table 1).

Summary
The TFGA Application seeks to continue the practice of Collective Negotiations as authorised by the ACCC on December 9, 2004 for a term of five years.

McCain can provide no evidence to support the contention that it has provided support and industry stability for growers. Nor does it believe that the administrative benefits have provided lower costs to the industry.

McCain also contends that collective negotiation is only one of a number of methods by which satisfactory pricing outcomes can be achieved. For example in New Zealand, where collective negotiation is not allowed, satisfactory price outcomes have been achieved.

McCain also contends that pricing of processing potatoes in Australia, achieved under collective negotiation, when compared to pricing achieved in New Zealand (where collective negotiation is not allowed) highlights the high cost of the local product **(refer Confidential Submission – Table 2).**

McCain supports the application of the authorisation of collective negotiation for a further five years but with the condition that the collective boycott provision of the Trade Practices Act 1974 continues to be enforced.

Further, that McCain Foods reserves the right to undertake price negotiation under other approved processes, other than collective negotiation, should it be deemed necessary to achieve realistic pricing outcomes for the vegetable processing industry.

Yours sincerely

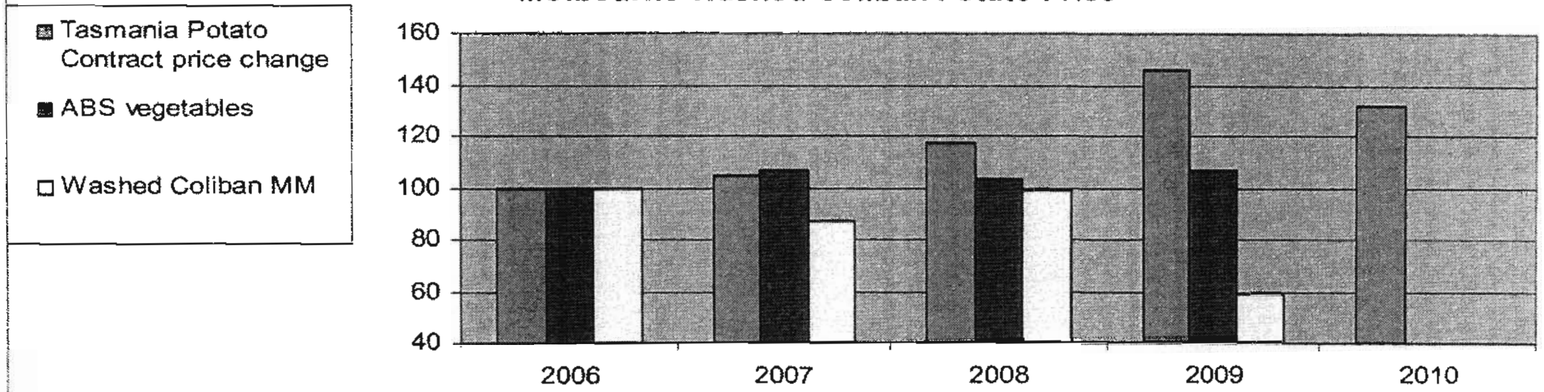
Robin B. Cuy

Robin Blair Cuy
Company Secretary

McCain Foods (Aust) Pty. Ltd.

Appendix A

Index of Smithton Potato Contract Vs ABS Quarterly Fresh Vegetable Prices & Melbourne Washed Coliban Potato Price



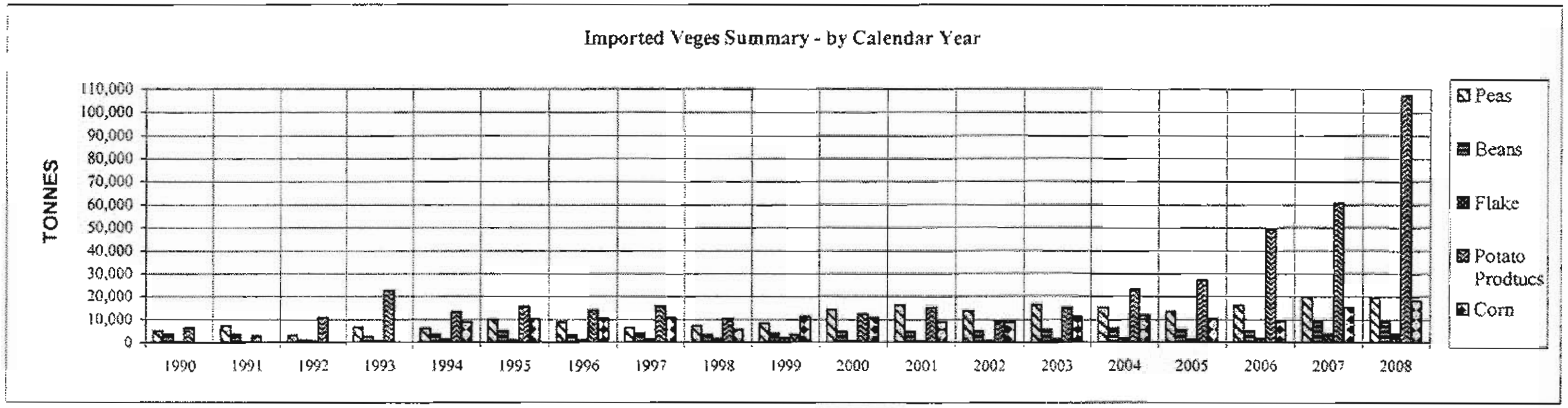
	Jun-06	Jun-07	Jun-08	Jun-09	Jun-10
Tasmania Potato Contract price change	100	104.4	117.5	146.1	131.6
ABS vegetables	100	106.6	103.1	106.5	
Washed Coliban MM	100	87	98.7	58.8	

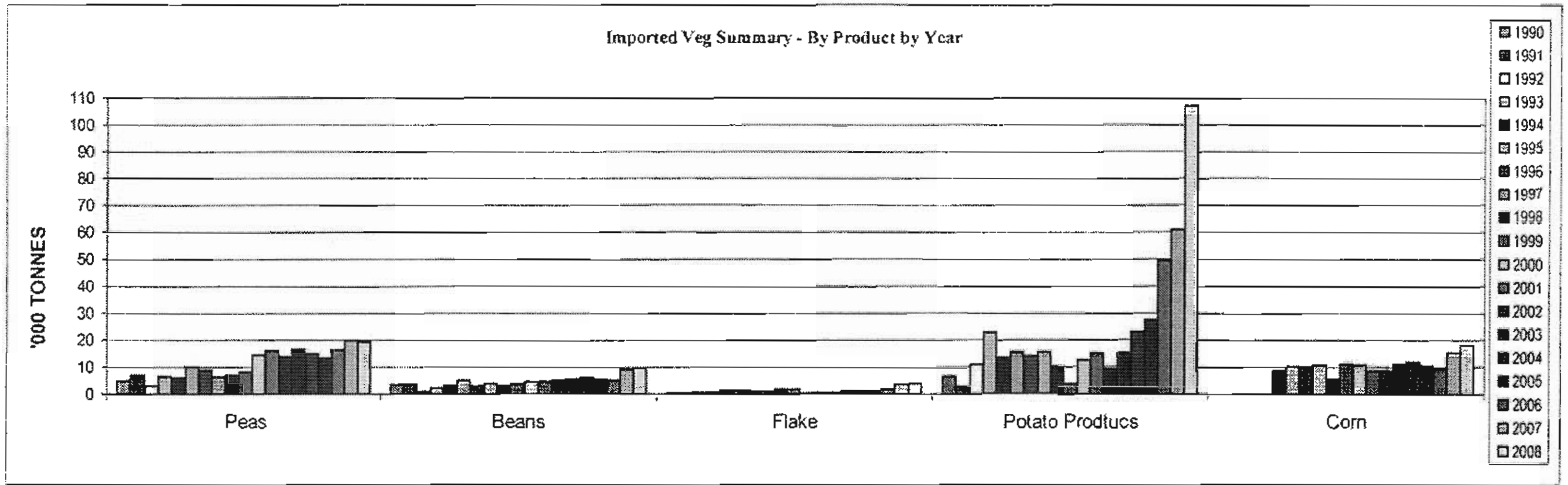
Indexed Movement

Sources : ABS Quarterly CPI data, Datafresh Melbourne Market price reporting service, McCain Potato Contract Price

Import Vegetable Statistics

Appendix B





	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	ytd Oct. 2009
Peas	4,885	7,076	3,148	6,609	6,116	9,985	8,815	6,360	7,122	8,282	14,398	16,147	13,863	16,628	15,005	13,410	16,361	19,780	19,411	12,766
Beans	3,608	3,648	961	2,374	3,339	5,026	3,064	3,865	3,205	3,801	4,682	4,767	5,033	5,562	6,139	5,433	5,066	9,037	9,488	5,534
Flake	372	343	478	588	1,324	1,097	1,119	1,255	1,755	1,969	580	680	762	1,505	1,655	1,299	1,759	3,698	3,883	2,702
Potato Prodtucs	6,424	2,824	10,801	22,647	13,268	15,646	14,129	15,590	10,117	3,398	12,464	15,122	9,174	15,098	22,976	27,362	49,351	60,831	107,156	72,936
Corn	No Report	No Report	No Report	No Report	8,800	10,293	10,344	10,771	5,552	11,271	10,801	8,688	8,736	11,141	11,840	10,486	9,290	15,305	18,117	9,353

Source: ABS International Trade Data

Note 2009 figures are not included in graphs.