

# TFGA Tasmanian Chicken Growers Association

505 Nubeena Back Road  
Koonya Tasmania 7187  
Phone & Fax 03 62503488

Email [kmholdings@active8.net.au](mailto:kmholdings@active8.net.au)  
President- L Kingston  
Vice President- S Saunders  
Secretary- K Triffett

ACCC  
3rd Floor, AMP Building  
86 Collins Street  
(Cnr Elizabeth & Collins Streets)  
Hobart Tas 7000

Postal address:  
GPO Box 1210  
Hobart Tas 7001



Date: 12 April 2010

Dear Sir;

Tasmanian Chicken Growers Association – Application for Collective Bargaining Authorisation

Please find attached our amended completed Form GA in connection with the above application. Our cheque (in the amount of \$1,000.00) is attached in payment of the prescribed fee  
This application is being made with the full support of the target (Inghams Enterprises Pty Limited).

Please note that the form GA that you received 15 April 2010 is a draft only.

We also respectfully ask in regards to information shown on the public register that any non relevant information contained in our minutes be blacked out.

We note that there is a current ACCC Authorisation in place (A90888) which will expire on 9 June 2010.

Yours sincerely

A handwritten signature in black ink, appearing to read "Gerard Mus".

Gerard Mus  
Treasurer/Delegate  
Tasmanian Chicken Growers Association

# Form GA

Commonwealth of Australia

*Trade Practices Act 1974 — section 93AB*

## NOTIFICATION OF COLLECTIVE BARGAINING

This form is to be completed by applicants proposing to engage in collective bargaining arrangements.

In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

Protection provided by the notification extends only to the collective bargaining arrangements described in the form.

To the Australian Competition and Consumer Commission:

Notice is hereby given under section 93AB of the *Trade Practices Act 1974* of intention:

- to make, or to propose to make, a contract containing a provision of the kind referred to in subsection 44ZZRD (2) or paragraph 44ZZRD (3) (a) or (b) of that Act.
- to give effect to a provision of a contract where the provision is of the kind referred to in subsection 44ZZRD (2) or paragraph 44ZZRD (3) (a) or (b) of that Act.
- to make, or to propose to make, a contract containing a provision of the kind referred to in paragraph 45 (2) (a) of that Act.
- to give effect to a provision of a contract where the provision is of the kind referred to in paragraph 45 (2) (b) of that Act.  
*(Strike out if not applicable)*

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

### Section A – general information

#### 1. Applicant

(a) Name of the applicant:

CB000142 *Tasmanian Chicken Growers Association (TCGA) on behalf of the listed growers.*

(b) Description of business carried on by the applicant:

*TCGA is a growing group representing 4 commercial broiler growing farms and 2 free range farms in southern Tasmania*

(c) Is the representative of the applicant lodging the notice a trade union, an officer of a trade union or a person acting on the direction of a trade union?

*No.....*

(d) Address in Australia for service of documents on the applicant:

*TCGA, 505 Nubeena Back Rd, Koonya, Tasmania 7187*

**2. Lodged on behalf of**

- (a) Provide names and addresses of all persons on whose behalf the notification is lodged and who propose to participate in the collective bargaining arrangements:  
*(refer to Direction 4)*

*The notification is on behalf of the six current members of the TCGA they are as follows,*

*Lindsay & Sabine Kingston, 299 Newmans Creek Rd Koonya 7187*

*Kaye Triffett & Michael Bevan, 505 Nubeena Back Rd Koonya 7187*

*Gerard & Kerri Mus, 1461 Nugent Rd Nugent 7172*

*Steven & Karen Saunders, 399 Stormlea Rd Highcroft 7183*

*Noel & Patricia White, 1056 Nugent Rd Wattle Hill 7172*

*Greg & Mandy Thompson PO Box 1045 Nubeena 7184*

- (b) Provide proof of the consent of each of the persons listed at 2 (a) above agreeing to the lodgement of the notification on their behalf:  
*(refer to Direction 5)*

*TCGA held a meeting with all its current members the purpose of this meeting was to discuss the proposed collective bargaining arrangement and to seek members consent to lodge a collective bargaining notification on their behalf, please find attached a copy of the minutes of this meeting. Attachment A*

- (c) Provide the following information relating to a notification:
- (i) Does this notification relate to a notification previously lodged with the Australian Competition and Consumer Commission and for which a concessional fee is claimed?

*No, it is however a continuation of an ACCC authorisation which expires in December 2009, the Target is the same, the group is the same but the group now has different members.*

- (ii) details of the first-mentioned notification, including but not limited to:
- (A) the name of the applicant; and
- (B) the date the notification was said to be lodged; and
- (C) if known or applicable — the registration number allocated to that collective bargaining notification.

*As Above*

## **Section B – collective bargaining arrangements**

### **3. Proposed collective bargaining arrangements**

- (a) Provide: the name and address of the target; the name, position and telephone contact details of an appropriate contact at the target; and a description of the business carried on by the target:

*(refer to direction 6)*

*Inghams Enterprises Pty Limited - 82 Main Rd, Sorell TAS 7172. An appropriate contact is Mr Les Hadley Group Manager operations Tasmania. The target is aware of this application. The target is a vertically integrated chicken meat processor that operates in Tasmania and nationally.*

- (b) Provide a description of the goods or services which the participants of the collective bargaining arrangements (listed at 2 (a) above) propose to supply to or acquire from the target:

*Inghams provide young chickens to TCGA members who grow them for a growing fee then Inghams process and market the grown chickens, the collective bargaining is to negotiate terms and conditions of the process.*

- (c) Do the participants of the proposed collective bargaining arrangements (see 2 (a) above) reasonably expect to make one or more contracts with the target about the supply to or acquisition from the target of one or more of the goods or services (listed at 3 (b) above)?

*(refer to direction 7)*

*Yes, the TCGA members expect to make one contract with Inghams relating to terms and conditions of growing chickens.*

- (d) In relation to (c) above, provide details of the basis upon which that expectation is held including details of past contracts with the target:

*Each member is currently providing services to the target (Inghams) under a current agreement negotiated under the ACCC Authorisation and each member entered into that agreement within the last 5 years.*

- (e) Do the participants of the collective bargaining arrangements (listed at 2 (a) above) reasonably expect that contractual payments between the target and each participant will not exceed \$3 million (or any other amount prescribed by regulation) in any 12 month period, and on what basis?

*(refer to direction 8)*

*Yes.*

- (f) In relation to (e) above provide an estimation of the contractual payments expected between the target and each participant in relation to the goods and services (listed at 2 (a) above):

*The following is an estimate of the growers fee received for the 08-09 financial year, approximately*

*Saunders – less than \$500,000*

*Thompson – less than \$500,000*

*Bevan & Triffett – less than \$500,000*

*White – less than \$500,000*

*Mus – less than \$500,000*

*Kingston – less than \$500,000*

*Total less than \$3,000,000*

- (g) Provide a description of the collective bargaining arrangements proposed including, but not limited to:
- (i) the process by which participants propose to undertake collective bargaining with the target; and
  - (ii) the type of terms and conditions expected to be negotiated in collective bargaining arrangements (for example: price; non-price conditions of supply such as contract periods etc); and
  - (iii) details of any dispute resolution procedure (if any) proposed between participants throughout the collective bargaining process; and
  - (iv) details of any dispute resolution procedure (if any) proposed between participants and the target throughout the collective bargaining process; and
  - (v) details of any dispute resolution procedure (if any) proposed to deal with disputes throughout the term of contracts entered into with the target; and
  - (vi) details of proposed commencement and duration of contracts to be negotiated with the target:  
*(refer to direction 9)*

*Under the proposed collective bargaining arrangement TCGA proposes to negotiate on behalf of its members with Inghams the Terms & Conditions and fee for growing their chickens.*

*Members would not be compelled to have TCGA negotiate on their behalf and would remain free to opt out of the proposed arrangement and negotiate individually with Inghams.*

*The proposed collective bargaining arrangement will not involve a collective boycott.*

- (h) Identify any parts of the proposed collective arrangements described in 3 (g) which relate to possible price agreements:
- TCGA propose to negotiate on behalf of its members a growing fee.*
- (i) Identify any parts of the proposed collective arrangements described in 3 (g) which relate to a possible or proposed exclusionary provision(s), including but not limited to:
- (i) the nature of the proposed or possible exclusionary provision(s) (for example an agreement to withhold supply of the relevant goods or services to the target); and
  - (ii) the circumstances in which the collective bargaining participants would engage in the exclusionary provision(s), including but not limited to:
    - (A) details of the events that would trigger any such activity; and
    - (B) details of the process that would be followed in undertaking any such activity; and
    - (C) details of any proposed period of notice to be given to the target prior to the commencement of such activity; and

- (D) details of any dispute resolution procedure to be applied or offered to the target prior to the commencement of such activity;

*TCGA does not propose to engage in conduct which relates to an exclusionary provision. In the event that agreement cannot be reached through collective bargaining with Inghams individual agreements will be pursued by the participants of the group.*

## **Section C – public detriments**

### **4. Market definition**

Provide a description of the market(s) in which the goods or services described at 3 (b) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):

*There are two principal markets relevant to this notification, these being the market for contract chicken growing services and the market for processed chicken meat.*

#### ***Market for Chicken Growing Services***

*There is one major chicken meat processors operating within the general vicinity of Hobart - Inghams Enterprises Pty Limited. The only other processor is Nichols Poultry.*

*Inghams is a fully integrated business which include hatcheries, breeding farms and processing plant. Inghams also has its own feed mill operation. Inghams is a national business having operations in several other states and a significant share of the national market for chicken meat. Nichols has a small share of the local market.*

*Most of the chickens grown for processors are contract grown by individual contracted growers, but there are some company owned farms.*

*Processors will normally operate only one processing plant in a state. In Tasmania the processing plant is located not far distant from Hobart and Inghams plant is at Sorell. A processors contracted growers will normally be reasonably proximate to the processors processing plant and associated feed mills to minimise transport costs of feed and day old chicks, and pick up costs. Issues of quality of grown birds also arise in relation to distances transported. The participants in the proposed collective bargaining are Inghams contracted growers in Tasmania.*

*Growers are contracted exclusively to one processor and demands for grower services will be largely affected by the demand for product at that processors plant in the relevant state.*

#### ***Market for Processed Chicken Meat***

*The large supermarket chains and the food service industry are the major market outlets.*

*Very little product is sold under set period contracts or with fixed prices. As a result processors have traditionally had a strong focus on production costs and prices.*

**5. Public detriments**

- (a) What will be the likely effect of the notified conduct on the prices of the goods or services described at 3 (b) above and the prices of goods or services in other affected markets? In answering this question please provide facts and information to support the claims made:

*It is possible that the proposed collective bargaining arrangements will result in costs to the processor represented by growing fees being higher than if contracts were individually negotiated with growers.*

*The Australian Competition and Consumer Commission has previously recognised the public benefits of collective bargaining by chicken growers with processors in South Australia, and Victoria as well as Tasmania.*

*It is submitted that the public benefits of the proposed collective bargaining arrangements outweigh the public detriments.*

- (b) What other detriments may result from the notified conduct? In answering this question please provide facts and information to support the claims made:

*N/A.....*  
*.....*

**Section D – public benefits**

**6. Public benefit claims**

- (a) Provide details of the public benefits resulting or likely to result from the proposed arrangement. In answering this question please provide facts and information to support the claims made:

*If the collective bargaining arrangements are authorised, it will improve TCGA's bargaining position in relation to prices and conditions, currently it is weak due to the lack of processors in Tasmania, it also improves communication between the processor and the grower which results in a higher standard of facility to enhance animal health and well being. There is also a saveing of resources and time in the negotiating period.*

**Section E - authority**

**7. Contact details**

- (a) Name, contact telephone number and address of person authorised by the notifying parties to provide additional information in relation to this application:

.....  
.....

*(refer to direction 12)*

Dated.....

Signed by/on behalf of the applicant

.....  
(Signature)

.....  
(Full Name)

.....  
(Organisation)

.....  
(Position in Organisation)

**ANNEX A**  
**Copy of minutes**



## **DIRECTIONS**

1. Where the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the application and the application is to be signed by a person authorised by the corporation to do so.
2. Describe that part of the applicant's business relating to the subject matter of the contract, arrangement or understanding in respect of which notification is given.
3. A collective bargaining notification can not be lodged by a trade union or a trade union representative.
4. Where the applicant will be a participant in the collective bargaining arrangements (rather than a representative of participants) the name of the applicant must also be included. Where those persons are corporations, list the corporation's name and address.
5. The applicant, in lodging a notification on behalf of others, must obtain their consent to do so and provide proof of that consent.
6. Where the target is a corporation, provide the corporate name.
7. The collective bargaining notification process is only available to parties that reasonably expect to make one or more contracts with the target about the supply or acquisition of goods or services the subject of the notification.
8. The value of the contract to be collectively negotiated between the target and each participant is not to exceed \$3 million (or such other amount as is prescribed by the regulations) per participant in any twelve month period.
9. To the extent that the collective bargaining arrangements have been reduced to writing, provide a true copy of the arrangement. To the extent that the collective bargaining arrangements have not been reduced to writing, provide a full and correct description of the key terms that have not been reduced to writing.
10. In simple terms an exclusionary provision exists where the proposed contract, arrangement or understanding is made by businesses (at least two of whom are competitors) for the purpose of preventing, restricting or limiting the supply of services to particular persons or classes of persons by all or any of the parties to the contract, arrangement or understanding.  

In the context of collective bargaining, an exclusionary provision(s) may include contracts, arrangements or understandings (whether currently in existence or to be made or arrived at during the term of the notification) between collective bargaining participants to limit or restrict their dealings with the target including contracts arrangements or understandings to:

  - (a) withhold the supply of goods or services from the target; or
  - (b) refuse or decline to acquire the goods or services of the target;

whether such conduct was absolute, limited or subject to certain terms or conditions. This is sometimes referred to as a collective boycott.
11. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
12. The notification must be signed by a person authorised by the applicant to do so.

ANNEX A  
TASMANIAN CHICKEN GROWERS ASSOCIATION MINUTES



TFGA Contract Chicken Growers Branch

505 Nubeena Back Road  
Koonya Tasmania 7167  
Phone & Fax 03 62 503488

Board of Holdings & Activities  
**President - L Kingston**  
**Vice President - S Saunders**  
**Secretary - K Triffett**

**General Meeting**  
Held 18/9/2009

**Present** - Chaired by L Kingston P & N White, M Thompson, M Beven, K Triffett, G Mus, S Saunders

**Apologies:**

Steven chaired the meeting  
Minutes of the previous meeting were accepted as presented moved by P White / M Thompson

EXCLUDED FROM PUBLIC REGISTER


ACCC - This was bought up at the Company meeting, and it was agreed by the growers to go ahead with the quicker process that costs about \$1000, this will be for a 3year period, it was resolved that Gerard Mus be the champion on the growers behalf.

EXCLUDED FROM PUBLIC REGISTER

**General Business**

No other business, meeting closed 9.30

Signed..... Date.....

  
GERARD MUS