



**Australian
Competition &
Consumer
Commission**

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29 April 2010

Mr Les Hadley
Group Manager Operations Tasmania
Inghams Enterprises Pty Ltd
PO Box 21
SORELL TAS 7172

Dear Mr Hadley

**Collective Bargaining Notification CB00142 lodged by the Tasmanian
Chicken Growers Association - interested party consultation**

Introduction

The Australian Competition and Consumer Commission (the ACCC) has received a collective bargaining notification from the Tasmanian Chicken Farmers Association (TCGA) proposing to collectively negotiate the terms and conditions of grower contracts with Inghams Enterprises Pty Ltd (Inghams).

Growers currently collectively negotiate with Inghams under an authorisation (A90888) granted by the ACCC on 19 May 2004, which is due to expire on 9 June 2010. The collective bargaining notification has been lodged to allow growers to continue to collectively bargain with Inghams.

The purpose of this letter is to ask for your comments on the collective bargaining notification lodged by TCGA.

Collective bargaining notification process

The ACCC is the Australian Government agency responsible for administering the *Trade Practices Act 1974* (the Act). The broad objective of the Act is to benefit all Australians by promoting competition and to ensure consumers are treated fairly.

The competition provisions of the Act prohibit certain forms of anti-competitive agreements or conduct including agreements which typically occur during collective bargaining.

Collective bargaining refers to an arrangement where one or more competitors in an industry come together to negotiate terms and conditions (including price) with a supplier or a customer.

While the Act prohibits certain forms of anti-competitive conduct, it does recognise that conduct which may otherwise breach the Act may, in some circumstances, be of benefit to the public. The Act accordingly allows businesses that are considering engaging in anti-competitive arrangements to seek immunity from legal action. One way businesses may obtain immunity to engage in collective bargaining and collective boycott conduct that may be at risk of breaching the Act is to lodge a notification with the ACCC.

Once a notification has been validly lodged with the ACCC, immunity from legal action in respect of the notified conduct commences 14 days after the notification was lodged, unless the ACCC issues a draft objection notice proposing to prevent the immunity coming into effect.

The ACCC may proceed to remove the immunity provided by a collective bargaining notification where it is satisfied that the likely benefit to the public from the proposed conduct will not outweigh the likely detriment to the public from the proposed conduct.

Collective bargaining notification lodged by the TCGA

On 22 April 2010, the TCGA lodged a collective bargaining notification, on behalf of its six chicken meat grower members, proposing to collectively negotiate the terms and conditions of grower contracts with Inghams, to whom the growers provide chicken growing services.

The TCGA submits that the notified conduct will generate public benefits including improving the TCGA's bargaining position and improving communication between growers and Inghams which will result in a higher standard of facility which will enhance animal health and well being.

The TCGA submits that the notified conduct may result in higher costs to Inghams as a result of higher growing fees than may occur if grower contracts were negotiated individually.

The immunity from legal action provided by notification CB00142 will commence on 4 May 2010 provided the ACCC does not issue a draft objection notice proposing to prevent the immunity coming into effect.

The collective bargaining notification lodged by the TCGA is available on the ACCC's public register and an electronic copy of the notification can be found on the collective bargaining notification register, available on the ACCC's website at www.accc.gov.au.

Request for submissions

To assist the ACCC in its consideration of the notification 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 in conducting its assessment of the notified arrangements. 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
GPO Box 3131
Canberra ACT 2601

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.

Please ensure that your submission is lodged with the ACCC by **7 May 2010**.

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 Gina D'Ettorre on 03 9290 1483.

Yours sincerely



Gavin Jones
Director
Adjudication Branch