



Australian  
Competition &  
Consumer  
Commission

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Our Ref: C2010/494  
Contact Officer: Tess Macrae  
Contact Phone: (03) 9290 1835

27 July 2010

Dear Sir/Madam

**South Australian Oyster Growers Association Inc application for revocation and substitution A91229 & A91230 - request for interim authorisation**

As advised in the ACCC's letter of 24 May 2010 the Australian Competition and Consumer Commission (the ACCC) has received an application for revocation and substitution of authorisation from the South Australian Oyster Growers Association Inc (SAOGA).

The conduct for which re-authorisation is sought involves an agreement between SAOGA and five oyster hatcheries growing oyster spat. Under authorisation first granted in 1999, the parties have agreed that the hatcheries shall charge oyster farmers in South Australia a levy on spat. The money is used by a SAOGA-owned company, the South Australian Oyster Research Council Pty Ltd, for oyster-industry research and development.

An existing authorisation for the arrangements expires on 24 August 2010. Given the imminent expiry of the existing authorisations SAOGA has also now sought interim authorisation for the arrangements. The purpose of this letter is to invite you to comment on the request for interim authorisation. Attached is a summary of the authorisation process including how to make a submission to the ACCC.

Interim authorisation protects the arrangements for which reauthorisation is sought from legal action under the relevant provisions of the *Trade Practices Act 1974* while the ACCC considers and evaluates the merits of the application.

As noted, SAOGA's existing authorisations expire on 24 August 2010. As noted in the attached indicative timetable, the ACCC anticipates releasing a final determination in relation to the application for revocation and substitution in September 2010. Interim authorisation is sought to allow the arrangements to continue until the ACCC releases a final determination.

A copy of the request for interim authorisation is attached.

The ACCC endeavours to deal with requests for interim authorisation quickly. In making an assessment about 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.

### **Request for submissions**

The ACCC invites you to make a submission on the request for interim authorisation.

If you intend to provide a submission in relation to SAOGA's request for interim authorisation, please do so by **4 August 2010**.

Submissions, including oral submissions, will be placed on the ACCC's public register subject to any request for exclusion (guidelines are attached).

### **Timetable**

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information.

<b>17 May 2010</b>	Lodgement of application and supporting submission.
<b>16 June 2010</b>	Closing date for submissions from interested parties.
<b>12 July 2010</b>	Applicant responds to issues raised in the public consultation process.
<b>26 July 2010</b>	Request for interim authorisation received.
<b>4 August 2010</b>	Closing date for submissions on interim authorisation.
<b>Mid August 2010</b>	ACCC decision on interim authorisation.
<b>Mid August 2010</b>	Draft determination.
<b>August/September 2010</b>	Public consultation on draft determination including any conference if called.
<b>September 2010</b>	Final determination.

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 Tess Macrae on (03) 9290 1835.

Yours sincerely

A handwritten signature in black ink, appearing to be the initials 'GJ' or a similar stylized representation of the name Gavin Jones.

Gavin Jones  
Director  
Adjudication Branch

## List of addressees

Aqafood Ltd
Aqa Oysters Ltd
Aquaculture New Zealand
Australian Bureau of Agricultural and Resource Economics
Australian Centre for International Agricultural Research
Australian Seafood Cooperative Research Centre
Bolduans Bay Oysters
Boylan Oysters
BST Oyster Supplies
Bureau of Rural Sciences
Ceduna Oyster Processors
Coffin Bay Oyster Farm
Conservation Council of South Australia
Cowell Oysters
Department of Agriculture, Fisheries and Forestry – Australian Government
Department of Primary Industries, Parks, Water and Environment – Tasmania
Department for Environment and Heritage – South Australia
Environmental Defenders' Office of South Australia
Environment Institute, University of Adelaide
Environment Protection Authority of South Australia
Evans Oysters
Fisheries Research and Development Corporation
Holmes Oysters
International Oyster & Seafoods
Kell-Shell Oysters Coffin Bay
Kiwi's Oysters
Marine Culture
Marine Farming Association
Martins Oysters
McAsh Oysters

Mooka Oysters
National Aquaculture Council
NSW Farmers Association
New Zealand Seafood Industry Council
Oyster Bay Shellfish
Oysters Amalgamated
Oysters Tasmania
Pacific Estate Oysters
Primary Industries and Resources South Australia
Pristine Oyster Farm
Pure Coffin Bay Oysters
Rural Solutions South Australia
Seafood Services Australia
Seafresh Oysters
Shellfish Industry Council of Australia
South Australian Aquaculture Council
South Australian Research and Development Institute
Streaky Bay Oysters
Tasmanian Aquaculture & Fisheries Institute
Tasmanian Aquaculture Council
Tasmanian Seafood Industry Council
Tas Prime Oysters
Victorian Marine Science Consortium
West-Eyre Shellfish
Wilderness Society – South Australia
Zippel Smoky Bay Oysters