



Australian
Competition &
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Commission

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Our Ref: 42030 C2010/494
Contact Officer: Tess Macrae
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20 August 2010

Dear Sir/Madam

South Australian Oyster Growers Association Inc applications for revocation and substitution A91229 & A91230 - interim authorisation and draft determination

The Australian Competition and Consumer Commission (the ACCC) has issued a draft determination in respect of the applications for revocation and substitution lodged by the South Australian Oyster Growers Association Inc (SAOGA) on 17 May 2010. Attached is a summary of the authorisation process including how to make a submission to the ACCC.

SAOGA is seeking reauthorisation for 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 (SAORC), for oyster-industry research and development.

Draft determination

A copy of the ACCC's draft determination is attached, including a summary of its reasons. For the reasons set out in its draft determination, the ACCC proposes to grant authorisation for 10 years. The ACCC's assessment is set out in Chapter 4 on pages 8 to 20.

Next steps

Once the ACCC issues a draft determination, the Applicants or any interested party may request that the ACCC convene a 'pre-decision conference'. A pre-decision conference provides the opportunity for interested parties to make oral submissions in relation to the draft determination. Conferences are conducted informally and while legal or professional advisers are able to attend they are not entitled to participate in the discussion.

If you wish the ACCC to hold a pre-decision conference in relation to the draft determination, you must notify the ACCC in writing by **3 September 2010**.

Alternatively, you are invited to make a written submission in response to the ACCC's draft determination. Submissions should be lodged by **10 September 2010**.

The ACCC will consider any submissions it receives, including any oral submissions made should a pre-decision conference be called, and will then release a final determination in relation to these applications.

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

Interim authorisation

On 26 July 2010 SAOGA sought interim authorisation for the arrangements. Interim authorisation protects the arrangements for which authorisation 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. Interim authorisation was sought because an existing authorisation of the arrangements expires on 24 August 2010.

The ACCC has decided to grant interim authorisation so as to allow the arrangements to continue while the ACCC considers the merits of the substantive application for revocation and substitution.

Timetable

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

17 May 2010	Applications for revocation and substitution lodged with the ACCC.
24 May 2010	Public consultation process begins.
26 July 2010	Application for interim authorisation lodged with the ACCC.
27 July 2010	Public consultation process for interim authorisation begins.
20 August 2010	Draft determination issued and the ACCC grants interim authorisation.
August/September 2010	Public consultation on draft determination including any conference if called.
September 2010	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



Gavin Jones
Director
Adjudication Branch

List of addressees

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