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MARCO PRISM

AUST. COMPETITION &
CONSUMER COMMISSION

23 MAY 2011

Ms Susan Philp
Director Adjudication Branch
Australian Competition & Consumer Commission
B Block
23 Marcus Clarke Street
Canberra 2601

19 May 2011

Dear Ms Philp,

WA Broiler Growers Association (WABGA)
Application for Authorisation in relation to Collective Bargaining with Processors
A91262
Draft Determination – 12 May 2011
Your Ref: TRACKIT 44973

We refer to the recent discussion between yourself and on our behalf Mr Hank Spier (our consultant) which expressed our concern regarding the inclusion of clause 5.6 of the Draft Determination.

Specifically we refer to dot point 3 of clause 5.6 of the Draft Determination (at page 25) which states:

'the matters set out in annexures A and B of the WABGA's application are open to negotiation between the parties and are not mandatory'

Any reference to these annexures in the determination, whilst appreciating the ACCC view that they believe they have addressed Ingham concerns because they are not mandatory, will not resolve our concerns.

Whilst stated as being not mandatory and subject to negotiation, the inclusion in the WABGA Authorisation Application as annexures (and a reference to those annexures in the Determination) would in our view imply a base starting position sanctioned by the ACCC. Further we believe the outcome will be that these annexures could be used in any

state in any mediation or arbitration process around disputes on contract wording and / or fees.

The inclusion of these items is akin to the previous legislative regime which has been repealed on the basis these matters should be open to direct negotiation by the parties

We believe the ACCC authorisation process (consistent with all others) should be restricted to the collective negotiation process only.

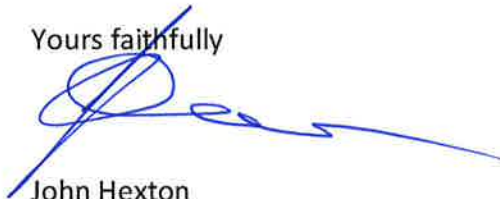
Further should this be allowed we believe it is likely in the future Grower Authorisation applications in other states will be amended to prescribe contract wording and fee calculation mechanisms.

We therefore request that Clause 5.6 dot point 3 be deleted in the final determination.

This matter is of sufficient concern for Ingham to request a formal conference pursuant to section 90A of the Act, which we hereby request unless the ACCC is in agreement to the withdrawal of Clause 5.6 dot point 3 prior to holding such a conference.

We appreciate your urgent review of our request

Yours faithfully



John Hexton
Director Group Services

Cc D Hindson – Group Executive General Manager SA / WA / NT
G Smith – Group Manager Operations WA