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**RE: Victorian Potato Growers Council application for revocation of A91048 and substitution A91321; Response to McCain Foods (Aust) Pty Ltd and Safries Pty Ltd joint submission.**

The McCain grower group, Ballarat (MGG) is a sub group to the Victorian Potato Growers Council (VPGC). The MGG supports the VPGC application for a new collective bargaining agreement to replace that which is expiring; A91048.

The MGG have reviewed the submission from McCain Foods (Aust) Pty Ltd and Safries Pty Ltd (together McCain) dated 10 August 2012 (ACCC web site) and refute the submission by McCain that the authorisation will not result in any public benefit and may result in public detriment through: inefficiency and additional cost, impediment to productivity, quality improvements and industry viability.

**Public benefit**

The VPGC application outlined some of the public benefits for the collective bargaining approach, these include:

- Achieving more equity through collective bargaining between multinational corporations and individual potato growers. Large corporations have access to specialist negotiation skills and market information where as individual potato growers do not.
- Open communication and dissemination of market information to a collective group of growers allows a considered position to be put forward in negotiating benefits for the entire industry.
- Collective bargaining is an organised and cost effective means of managing potato purchase contracts providing stability and benefits to the local economy.
- A long history of beneficial collective bargaining between McCain and growers that may have otherwise achieved less beneficial outcomes if individual negotiations had occurred.

McCain responded to these public benefits:

*“McCain agrees that local economic development and growers maintaining pace with industry developments and technological changes are desirable outcomes. However,*

*McCain submits that they are unrelated to the proposed collective bargaining processes, and the Applications do not explain how such outcomes will result from collective bargaining.”<sup>1</sup>*

The MGG concur with the VPCG in that public benefits are achieved through collective bargaining. In our experience the benefit is significant, and further explanation is contained in the following points:

- **Achieving more equity in contractual negotiations.** There is a clear disparity between McCain, a true multinational group of companies that trade in markets across the globe, and an individual potato grower in the Ballarat region. The access to legal, market, production and management specialists that McCain have is vastly superior than that available to an individual potato grower.

The MGG operate collectively and utilise professional services through the Executive Officer, Victorian Farmers Federation, legal professionals and management specialists. This professional input to potato growers and contractual negotiations does not occur when an individual negotiates with McCain. Without collective bargaining, most growers do not have the financial means to access professional services on an individual basis. The robustness of negotiation and contractual arrangements is improved through potato growers sharing the costs of professional services; we consider this to be a public benefit. Without a shared approach to these professional services, they tend to be absent from the process, simply due to the overhead cost to an individual business.

- **Effective markets and information transfer.** A key requirement for an efficient functioning marketplace is readily available information for supply, demand and price. McCain offered individual contracts to growers in 2012; this prevented transparent market mechanisms by requiring growers to sign ‘Non Disclosure Agreements’ (NDA). Legal advice suggested that growers could not disclose any aspect of any negotiation or arrangement with McCain to any person.

Impediments to information transfer in the marketplace prevent competition and enhances the monopsony position that McCain hold in the Victorian market. Quarantine restrictions restrict Victorian processing potato grower’s market options. As such, there is a significant requirement for access to market information to understand production parameters and prices that occur in this global industry. We believe that a transparent collective bargaining arrangement that accesses market signals to inform all growers is a public benefit.

- **Providing sustainable production systems.** Collective negotiations provide a framework for sustainable agricultural production. Profitable production systems include maintenance and enhancement of agricultural assets rather than short-term focused expedient production. Unfortunately, in many agricultural industries where profit margins are low (or negative) resources are depleted. These activities include the underuse of fertilisers or repeat cropping of paddocks causing nutrients, mineral and organic matter to be ‘mined’ from production systems.

Collective bargaining encourages all farmers to fully price the private and public benefit of healthy soils, landscapes and natural resources. A collective bargaining framework allows sustainability issues to be considered into pricing mechanisms and is applied to the entire community of potato growers. Profitable production systems allow for ongoing reinvestment in new technology and production efficiencies. Protecting agricultural resources and creating profitable production systems provides significant public benefit.

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<sup>1</sup> P8, McCain Foods (Aust) Pty Ltd submission to ACCC, 10 Aug 2012.

- **Creating an environment of industry development and technology adoption.** The MGG and the VPGC understand commercial reality and need for industry to be efficient and adopt cost saving technology measures. The key question is: What is the most beneficial mechanism to achieve industry development, through collective negotiation or through individual negotiation? The MGG's view is that industry development and technology adoption is achieved through collaborative, open communication and transparent trailing and refinement of new technologies. Following the normal research and development processes, advances in technology and production are ultimately incorporated into contractual arrangements.

The collective use of grower resources can increase efficiency through wide scale technology adoption and economies of scale. Where a company such as McCain requires individuals to sign NDA's, that process can prevent open dialogue, which is an impediment to industry development and technology adoption. Adoption of technology and production efficiency is a significant public benefit that is best achieved through open communication, transparency and negotiation in the supply chain.

**Possible public detriment through; inefficiency and additional cost, impediment to productivity, quality improvements and industry viability.**

The MGG have not experienced the public detriment that was intimated in the McCain submission and do not anticipate it occurring in the future. The VPGC's application highlighted a key point:

- In the last 5 years, the price paid to processing potato growers has been increased by approximately 7% through the collective bargaining process. In this time, one of the processors main buyers has decreased the consumer cost of their product almost 10%, and even up to 50% for certain lines at different time, in that time. Another of the buyers has increased the cost of their product almost 40% in that time.

Therefore the VPGC suspect that the raw product price has little or no impact on the price, which the companies decide to use for their consumers.

McCain has submitted a view that public detriment has occurred and will continue to occur if collective negotiation should resume via the following mechanisms. The MGG has attempted to accurately summarise several pages of text to the following points:

- Collective negotiations in some instances have resulted in contracts not being settled until after planting and well into the harvesting season in 2011. This creates difficulty for McCain as it attempts to on sell the processed potato products to distributors and retailers due to the uncertain cost and supply structure.
- Additional cost and time in negotiating collectively with Growers' committees, while having also to conduct individual negotiations with growers on non-price terms, instead of being able to conclude all terms in one process creates inefficiency.
- The cost of potatoes is in fact not immaterial to the cost of potato products for consumers and that the price paid for potatoes does impact the price paid by consumers; therefore a higher average price for potatoes will result in a higher price to consumers.
- Import competition is controlling price increases to consumers. If ongoing price increases occur for domestically grown potatoes then market share will be lost and domestic processing operations will become unprofitable.
- Dealing with growers individually (2012) outside the collective bargaining process has resulted in growers being more open to seek productivity improvements. These ongoing

productivity improvements are required for the domestic industry to maintain market share against imports.

In response, the MGG believe that there will be no public detriment and the following points support the view that no public detriment will be experienced:

- **Collective bargaining does not delay settlement of contracts and create supply uncertainty.** A significant volume of processing potatoes are licensed exclusively to McCain, they cannot be sold to any other processor or into the fresh market. This license mechanism guarantees supply of potatoes (given normal agricultural production risks) as there is only one purchaser for the licensed variety.

The negotiation process has been difficult; we believe that this is positive rather than negative as it highlights the critical business issues, and requirement for robust open dialogue. The MGG is not aware of any specific detrimental business impact to McCain such as loss of a customer as a result of extended negotiations. The MGG have always sought early commencement and rapid conclusion to contractual negotiations as these price and quality mechanisms impact both the buyer and seller. We would also encourage more long term pricing mechanisms to remove delays and provide further supply chain certainty.

- **Collective bargaining creates efficiency.** Some components of grower contracts require specialised attention, however the majority of purchase contracts content is applied to all growers. This consistency in contracts is required for price, quality, delivery and payment terms. Single point negotiation on key contractual terms actually achieves efficiency in contract management rather than individually negotiating terms and then managing customised parameters on multiple contracts.

Individual growers are often too frightened and intimidated (due to the inequality of bargaining power) to request reasonable changes to contracts; thus the perception of easier contract management to McCain. Individual negotiation is not creating better outcomes for industry or the public; rather it creates more expedient outcomes for the processor.

- **Cost of potatoes to consumers.** The cost of potatoes received by the grower is a small part of the total cost of goods to the public (consumer). If potato price increases were to be passed on through the supply chain, the actual impact to consumers is negligible as a percentage of the total cost of sales, and this has not occurred historically.

This is further evidenced by ongoing price reductions at retail level over recent years, especially when inflationary pressures on the cost of production are considered. Thus, the MGG conclude that:

- growers received modest price increases (less than inflation) over the past five years, while
- consumers received a retail (nominal) price reduction for potato products, and
- this occurred in an inflationary environment.

Therefore, the public has enjoyed ongoing productivity enhancements, efficiency gains and competitive pricing through the supply chain; this is a public benefit. The public benefit occurred within a collective bargaining framework and we anticipate that future public benefits will continue to occur within a collective bargaining framework.

- **Market competition.** Potato growers are acutely aware of their role in the supply chain and requirement for all parts of the supply chain to work collaboratively and profitably. The success of any particular potato processor either domestically or internationally is linked to the performance of their supply chain. Both growers and processors need to be efficient and competitive in the marketplace.

Competition in the marketplace from potato production in Tasmania, South Australia, Europe, New Zealand and America are setting market prices for Australian consumers. High potato costs (or margins) and high processing costs (or margins) will not compete in the marketplace due to the competition. This competition is appropriate and is the ultimate mechanism that drives supply chain efficiencies; this free market approach creates public benefit and is not impacted by domestic collective bargaining.

- **Collective bargaining promotes productivity.** The MGG have collectively been participating in regional benchmarking activities to understand the real cost of production in the domestic industry against interstate and international competitors. There is advantage in wide dissemination of productivity enhancements rather than individual businesses working exclusively on production systems resulting in multiple trials and technology assessments without an integrated approach. The MGG believe there is advantage in open dialogue and dissemination of information that occurs through transparent and public industry facilitation such as occurs with collective bargaining.

### **Conclusion**

The McCain growers group Ballarat have experienced the public benefit that is available through a collective bargaining process. The industry requires ongoing optimisation and market enhancements, especially with international competition.

The appropriate mechanism for our industry to manage ongoing challenges and achieve public benefit is through transparent engagement, collaboration and collective bargaining.

Sincerely,



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