



21 February 2014

Australian Competition and Consumer Commission
Attention: MS HAYLEY PARKES, ASSISTANT DIRECTOR

By Email: adjudication@acc.gov.au

Dear Ms Parkes,

Re: Seedvise Pty Ltd application for authorisation A91406

The Grains Research and Development Corporation (GRDC) is a statutory corporation acting as a research and investment body on behalf of Australian grain growers and the Australian Government.

GRDC has equity in crop breeding programs and is a co-owner of grain varieties. As a result, GRDC receives or is entitled to receive, income from End Point Royalties (EPR) either directly or via breeding companies in which GRDC is a shareholder.

The ACCC is seeking submissions on the likely public benefits and effect on competition, or any other public detriment, from the proposed arrangements for EPR Collection.

In the following, GRDC offers comment on particular issues raised by the ACCC:

ACCC: Do End Point Royalty programs lead to public benefits, such as increased investment in research and development by variety owners leading to improved crop varieties?

GRDC Comment:

The Australian grains industry depends on the ongoing development of new crop varieties to remain competitive on the global stage. Historically, Australian crop breeding programs have been publicly funded. The introduction of the Plant Breeders Rights (PBR) Act in 1994 allowed variety owners to seek a return on their investment by way of royalties. Today, most Australian breeding programs rely on EPR income as the major source of revenue. Without this income, they would not be sustainable and crop breeding would revert to being market failure requiring public funding at the expense of other priorities.

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Your GRDC working with you

ACCC: Will the Royalty Managers collectively agreeing the terms and conditions of royalty collection agreements, including the amount of the End Royalty collection fee, improve the effectiveness and efficiency of the End Point Royalty Collection system?

GRDC Comment:

Typically End Point Royalties are imposed on grain production irrespective of its on-farm or off-farm use. For produced grain that is sold off-farm, the most efficient royalty collection method is to enlist the purchaser of grain to collect EPRs on behalf the Royalty Manager/Breeder. However, royalty collection comes at a transaction cost to the grain purchaser. This has the effect of acting as a disincentive for the purchaser to administer the EPR fee unless the expense is compensated by way of a collection fee payment.

Transaction costs are presumably the same if the grain purchaser collects royalties for Royalty Manager A or for Royalty Manager B. Therefore it should be possible to generalise collection costs with some degree of confidence. The grain purchaser may still elect not to sign up for EPR collection in which case he suffers no transaction cost related to EPR collection. Indeed, Seedvise argues that some grain purchasers have previously elected not to participate in End Point Royalty collection presumably because their transaction costs outweigh the benefits of participation.

It is reasonable to assume that uniform terms and conditions will result in appropriate compensation for the transaction costs of EPR collection. It may also be assumed that uniform terms and conditions will lead to a reduction of transaction costs for grain purchasers by negating the need of having to negotiate separate collection fees with a multitude of Royalty Managers/Breeders and removing the administrative burden of having to deal with a multitude of collection fees at any one time. As a result, uniform terms and conditions are likely to reduce barriers for participation in EPR collection, which in turn would simplify EPR compliance for grain producers and improve the overall effectiveness and efficiency of the End Point Royalty collection system.

ACCC: Seedvise submits that a large number of smaller grain buyers do not support the automatic deduction of End Point Royalties from their grower payments. Is a uniform End Point Royalty collection fee, set at a rate agreed by the Royalty Managers, likely to increase the number of grain buyers who agree to automatically deduct End Point Royalties from their grower payments?

GRDC Comment:

For the reasons outlined above, it is reasonable to assume that uniform terms and conditions may reduce barriers for participation in EPR collection. The underlying assumption can be tested by monitoring the number of grain purchasers signing up for EPR collection over the 10 year period which is referred to in Seedvise's application.

ACCC: If the Royalty Managers did not agree a uniform End Point Royalty collection fee would they be likely to compete in relation to the fee or other terms and conditions that they offer in order to attract grain buyers?

GRDC Comment:

The intrinsic value of grain lies in the physical and functional properties and in the quality of the produce. Whilst some of these parameters are affected by weather much of the value proposition to growers and markets are underpinned by genetics. It is here where Royalty Managers/Breeders compete most effectively for market share. It is difficult to imagine a situation where grain sale and purchase decisions are influenced by fees rather than by the properties and quality of the grain. Hence, it is difficult to see what incentives Royalty Managers/Breeders would have to compete on collection fees.

Yours sincerely,



Andreas Betzner

Senior Manager, Commercial