



21 February 2014

Mr Gavin Jones
Director
Adjudication Branch
Australian Competition and Consumer Commission (ACCC)
GPO Box 3131
CANBERRA ACT 2601

via email: adjudication@accc.gov.au

Dear Mr Jones

Re: Seedvise Pty Ltd application for authorisation A91406 – interested party consultation

The WAFarmers Grains Council welcomes the opportunity to make a submission regarding the Seedvise Pty Ltd application for authorisation A91406.

Background

WAFarmers represents over 1,500 farming enterprises, the majority of whom grow grain as a component business. WAFarmer members account for around 32% of the grain delivered to CBH (*source: CBH survey results 2011 harvest*).

During the past five years the Grains Council has met with representatives of the End Point Royalty (EPR) Steering Committee including Steve Jefferies, CEO Australian Grain Technologies Pty Ltd and Tresslyn Walmsley, CEO of Intergrain, on a number of occasions to discuss the need to streamline the collection of EPRs.

Throughout these discussions, this Council is satisfied that the EPR Steering Committee is committed to streamlining the process and the Council will continue to work with them in the aim of developing a completely paperless process which does not create more administrative work for Western Australian grain producers.

Submission

The Council deems Seedwise's application to the ACCC on behalf of Royalty Managers as a further attempt to streamline the EPR collection process and for this reason, the Council fully endorses the application.

The arrangement whereby 'collect and remit' grain traders collect and remit the EPR on behalf of the grower is one which growers value as it decreases the administrative impost on them.

The Council supports that the fee grain buyers receive for collecting EPR's for all varieties managed by the Royalty Managers should be fixed at the same rate as this is fair and equitable.

This Council would submit however that initially, authorisation should be given for five years instead of ten at which point the situation should be reviewed to ensure it is in the best interests of all parties.

In addition it is requested that there be greater transparency as to the setting of this collection fee, including what it is now and justification for any increases and that growers and buyers receive full disclosure of relevant information to ensure anti-competitive behaviour is not occurring.

Full disclosure of the fee that grain buyers will receive for collecting EPR's will enable grain producers the confidence that these fees are not being unfairly incorporated into the EPR that the individual grower pays to the royalty manager.

Comments on issues raised by ACCC in consultation paper

- In an environment of decreased government investment in breeding new varieties, the Council agrees that EPR programs lead to public benefits such as increased investment in research and development by variety owners leading to improved crop varieties.
Given that farmers 'vote' with their purchase/sowing of seed varieties based on the yields and agronomic benefits to their individual farming enterprises the EPR program does create good signals back to plant breeders and this arguably leads to increased investment in research and development by variety owners leading to improved crop varieties.
- Allowing Royalty Managers to collectively agree on the terms and conditions of royalty agreements, including the amount of the End Royalty collection fee will improve the effectiveness and efficiency of the EPR Collection system

- Western Australian growers are in the unique position of exporting over 85 per cent of their grain so the instances of selling to smaller, domestic buyers is much less in this state. The issue of smaller grain buyers not supporting automatic deduction of EPRs from their grower payments is an interesting one because if they are being paid to do so this should alleviate any inconvenience to them. The Grains Council has long held concerns that EPR's in the eastern states may not currently be being fully captured and this in itself is not equitable as all eastern states growers benefit from the EPR's being paid. Given that the collection is set out under the Plant Breeders Rights Act 1994, and given that the payment of EPR's is compulsory for growers, it only seems fair that buyers should also be obligated to collect fees. In 2014, with the technologically savvy computer programs available it seems unreasonable that the collection of EPR's would be of little / any impost on buyers. It is difficult to say whether a uniform EPR collection fee, set at a rate agreed by the Royalty Managers, is likely to increase or decrease the number of smaller grain buyers who agree to act as a 'collect and remit' agent on behalf of Royalty Managers. With respect to the larger grain traders it is only fair that they be paid the same fee as long as there is transparency around the setting of the fee.
- It is the grower's best interest to keep the fee for EPR collection as low as possible while ensuring that as many buyers and traders of grain as possible participate in a 'collect and remit' capacity.

Yours sincerely



Kim Simpson
WAFarmers Grains Section President.