

## Blanch, Belinda

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**From:** Drake, Michael  
**Sent:** Thursday, 27 March 2014 4:09 PM  
**To:** 'Denis McGrath'  
**Cc:** Jones, Gavin  
**Subject:** Seedvise application for authorisation [SEC=UNCLASSIFIED]  
**Attachments:** A91406 - Seedvise Pty Ltd - Submission by Soy Australia Ltd - 20.02.14 - PR.PDF; A91406 - Seedvise Pty Ltd - Submission by WA Farmers Federation - 21.02.14 - PR.PDF; A91406 - Seedvise Pty Ltd - Submission by CBH Grain Pty Ltd - 21.02.14 - PR.PDF

Dear Mr McGrath,

As discussed on the phone earlier this week, below are details of some submissions that raised issues with Seedvise's application for authorisation (the full submissions are also attached), as well as a request for further information to assist us with our assessment of the application. A copy of all submission received is available from the ACCC's public register by following this link: <http://registers.accc.gov.au/content/index.phtml/itemId/1131763/fromItemId/278039/display/submission>

Given the statutory timeframes involved in the authorisation process, we request that any response you wish to make to this request be submitted to us by COB Friday 11 April 2014.

### Submissions

The ACCC received submissions from ten interested parties. On the whole, the submissions were supportive of the application for authorisation. However, issues were raised in three submissions and we consider that it would be helpful if Seedvise responded to those issues. Specifically:

- i. The Australian Oilseeds Federation and Soy Australia submit that a flexible collection fee, determined independently by each grain buyer, would be a more effective and efficient approach to EPR collection fees than a uniform collection fee.
- ii. The WA Farmers Federation's submits that:
  - o a five year authorisation period would be more suitable initially
  - o the collective conduct should incorporate greater transparency as to how the collection fee is set, including justification for increases and full disclosure of relevant information to growers and buyers to ensure anti-competitive conduction is not occurring
  - o full disclosure of the fee that grain buyers will receive should be required so that growers can ensure that collection fees are not unfairly being charged to growers
- iii. CBH submits that the EPR system imposes significant costs and risk on grain buyers and that any arrangements aimed at increasing the take-up of EPR collection by grain buyers should not impose further costs or risk on grain buyers.

### ACCC request for further information

To assist the ACCC in its assessment of the application, it would be helpful if Seedvise could provide additional information regarding the following topics:

1. Seedvise Pty Ltd:
  - a. History of Seedvise, purpose, membership, etc
  - b. How many royalty managers are part of the group?
    - i. What percentage of royalty earning crops would be represented under the authorisation?
2. The collection fee:

- a. How will the new fee be set? What are the criteria and processes Seedvise intends to implement in setting a new fee?
    - i. How did AWB set the collection fee?
  - b. As with other industries, the wheat industry has been progressively deregulated in recent decades on the basis that competitive forces would lead to a more effective and efficient wheat supply chain. What are the characteristics of the EPR collection fee that make collective conduct necessary?
    - i. Why haven't royalty owners/managers changed collection fees for their crops independently?
  - c. A higher collection fee represents an increase in revenue for grain buyers, but an increase in cost for royalty managers. Do royalty managers intend to absorb this cost themselves, or would the cost be shared across royalty managers/owners, grain buyers, and grain growers?
  - d. The ACCC understands that the feedgrain industry often buys lower quality crop varieties or leftover/downgraded crops, and that determining the origin of these varieties is generally more difficult. Because of this, the feedgrain industry may be less willing to participate in the EPR system. How does Seedvise envisage the collective conduct having an effect on the participation of feedgrain buyers?
3. Potential for collusion beyond EPR collection fee:
    - a. As with any collective bargaining arrangements, when a group of competitors get together to collectively negotiate in relation to a particular issue this increases the potential that they may collectively agree on issues outside the scope of the authorised conduct. What processes or counterbalances does Seedvise have planned to mitigate this potential?
  4. Any comments Seedvise wishes to make in relation to the issues raised in the attached submissions as summarised above and/or in relation to any other submission received.

A copy of this email has been placed on the ACCC's public register. Subject to any claims for confidentiality, a copy of Seedvise's response will also be placed on the public register.

If you have any questions regarding this request please do not hesitate to contact me on the details below.

Kind regards,

Michael Drake

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