

Love'em

INGHAM

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29 April, 2014

Mr D Hatfield
Director
Adjudication Branch
Australian Competition & Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601
29 April 2014

Dear Sir;

**ACCC application for Authorisation
NSW Farmers Association
Interested parties letter – Ref TRACKIT 54342**

We refer to your email of 11th April 2014 and to the application for authorization (A91417) by the NSW Farmers Association. Ingham is responding as a target company.

We thank you for granting us additional time to respond given Ingham was not provided an initial copy of the interested party consultation email.

We make the following comments in response to the application.

Our company supports collective bargaining in the form of either a formal ACCC authorisation or via a collective bargaining notification.

We do provided several small comments below and also note that our comments in these areas is consistent with the outcomes in regard to other Ingham contract Broiler Growing group authorisations (or Collective Bargaining Notifications) around Australia.

Our comments / concerns are:

1. The document refers to the correct corporate entity as **Inghams Enterprises Pty Limited**. But incorrectly refers to the Ingham Casino growers (Northern NSW grower group) as 'Sunnybrand Chickens'. This is incorrect. They are infact Ingham growers and the Sunnybrand company no longer exists.
2. The request seeks authorisation specifically for members of the NSW Farmers Association.
 - a. We believe that authorization should be considered (and given) for each of the four separate (chicken & turkey) Broiler Grower groups (plus Pepe ducks) in NSW (ie the Ingham Grower group, Baiada Grower group, Cordina Grower group and the Red Lea Grower group).
This is consistent with Authorisations / Collective Bargaining Notification approvals in other Australian states. It is important for confidentiality and competitive process that arrangements with one poultry processor group not be extended across the other groups.
 - b. Consistent with other Authorisations / Collective Bargaining Notifications common advisers to each group should **not** be permitted. There is currently a perceived conflict as the NSW Farmers Association is a specific association common to all NSW poultry processors. Given that NSW Farmers Association is seeking the authorization, we would like to understand more regarding this request.

In support of this we refer to the following recent ACCC approvals:

- Victorian VFF (Chicken Meat Group) A 91214
page 21 clause 5.7 where the ACCC granted authorization subject to Condition 3 - Grower groups must not use common representatives or representation.
- SA Collective Bargaining Notification approval CB 00070
page 18 clause 5.38 which outlined the ACCC concerns about separate grower groups having a common negotiator. In this instance the ACCC sought from SAFF in SA an undertaking regarding common negotiators
- WA Authorisation A91262
Page 25 clause 6.6 – no participant in, or advisor to, any grower bargaining group will have any involvement with any other bargaining group in sharing knowledge about the bargaining process or outcomes and / or provide any other assistance in relation to contract negotiations to any other bargaining group.

We await the ACCC reply in this regard.

3. We dispute the comment on page 13 that 'currently growers are subject to processor mandated terms and conditions'. The contracts are guided by the minimum requirements as set out in the Poultry Meat Industry Act and contracts must follow those guidelines. Also Ingham does not have any clause in its contracts that prevents a grower who exits an Ingham contract agreement which prevents that party contracting with another processor for 12 months. That statement is incorrect in relation to Ingham contracts. Further Ingham does not prevent the sale of a destocked farm.
4. In regard to the collective negotiating group and individual contracts we would ask the ACCC to confirm its understanding in respect to:
 - a. The right for a individual grower in the collective group to negotiate an individual contract if they wish to do so.
 - b. The right of an individual grower who opts to negotiate an individual contract to remain a member of the authorised collective group.

This is necessary both for competitive reasons and for the ability to remain authorised under the Act.

We would be happy to discuss the above if required

Yours faithfully



Peter van Vliet

General Manager Operations (NSW)

Cc M Rozen – Group Executive General Manager – Qld/NSW