



**Australian
Competition &
Consumer
Commission**

Our Ref: 53614
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29 January 2014

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Dear Sir/Madam

www.accc.gov.au

Seedvise Pty Ltd application for authorisation A91406 - interested party consultation

The Australian Competition and Consumer Commission (the ACCC) has received an application for authorisation from Seedvise Pty Ltd (Seedvise). Seedvise has made the application on behalf of a number of royalty managers listed below which it represents. The ACCC is writing to you as a potentially interested party to invite you to comment on the application.

Seedvise is an End Point Royalty Agent and has lodged this application for authorisation on behalf of Australian Agricultural Crop Technologies, Australian Grain Technologies Pty Ltd, InterGrain, SeedNet, Nuseed, NPZ Australia Pty Ltd, COGGO Seeds, Grainsearch, Pacific Seeds and Heritage Seeds (collectively, the Royalty Managers).

Proposed arrangements

The Royalty Managers wish to agree upon the terms and conditions of the royalty collection agreements, including the amount of the End Point Royalty collection fee, that they will each enter into with grain buyers. In this instance, the Royalty Managers have entered into an arrangement with Seedvise, who will enter into these agreements with grain buyers on their behalf.

If the proposed arrangements were authorised, the fee that grain buyers receive for collecting End Point Royalties for all varieties managed by the Royalty Managers would be fixed at the same rate. The rate of the End Point Royalty paid by the individual growers would continue to be set independently by the owner of each plant variety.

Authorisation has been sought for ten years.

A full copy of the application for authorisation is available on the ACCC's website <www.accc.gov.au/AuthorisationsRegister>.

Background to proposed arrangements

The *Plant Breeders Rights Act 1994* (Cth) allows owners of plant varieties to collect a royalty from growers who use their seed or propagation material. This

is most commonly achieved through an "End Point Royalty" which is calculated as a rate per tonne of harvested tonne of grain (as compared to a royalty on the initial purchase of seed or propagation material).

The Royalty Managers manage the intellectual property rights of various seed varieties (either as an owner or on behalf of the owner). Rather than collecting the End Point Royalty from each individual grower, some Royalty Managers enter into agreements with buyers of grain who collect this royalty on their behalf, in exchange for an End Point Royalty collection fee.

Grain buyers may choose whether or not they will collect royalties on behalf of Royalty Managers. Seedwise advise that the current End Point Royalty collection fee is a rate that was set by the Australian Wheat Board, prior to deregulation.

Request for submissions

The ACCC invites you to make a submission on the likely public benefits and effect on competition, or any other public detriment, from the proposed arrangements. In particular the ACCC would appreciate your views on the following issues:

- 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?
- 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?
- Seedwise 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?
- 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?
- Any other comments you wish to make about the likely public benefits or public detriments of the proposed arrangements.

If you intend to provide a submission in relation to Seedwise's application for authorisation, please do so by **21 February 2014** by email to adjudication@accc.gov.au.

Alternatively, if you would like to provide comments orally, please contact Hayley Parkes on 03 92090 6926 to organise a suitable time.

Submissions, including oral submissions, will be placed on the ACCC's public register subject to any request for exclusion. Guidelines relating to exclusion of submissions from the public register can be found here: www.accc.gov.au/excludinginformationfrompublicregister.

Timetable

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information.

17 January 2014	Lodgement of application and supporting submission.
29 January 2014	Public consultation process begins.
21 February 2014	Closing date for submissions.
May 2014	Draft Determination
May 2014	Public consultation on draft determination including any conference if called.
June/July 2014	Final Determination

Please advise if you do not wish to make a submission at this time, but would like to be informed of the progress of the application at the draft and final determination stages.

You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding the application.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Hayley Parkes on 03 9290 6926.

Yours sincerely



Gavin Jones
Director
Adjudication Branch

ATTACHMENT A – LIST OF INTERESTED PARTIES

A T Waterfield & Son Pty Ltd
AgFarm
AGG Coop
Alfred C Toepfer International (Australia) Pty Ltd
Associated Grain
Australian Agricultural Crop Technologies
Australian Exporters Company Pty Ltd
Australian Grain Exports Pty Ltd
Australian Grain Technologies
Australian Growers Direct Pty Ltd
Australian Milling Group
Australian Rail Track Corporation
Australian Railroad Group
Australian Seed Federation
Avantagri
B&L Seed & Grain
Bunge Agribusiness Australia Pty Ltd
Cargill Australia Limited
Centre State Exports Pty Ltd
COGGO Ltd
Consolidated Grain Industries Pty Limited
Co-operative Bulk Handling Limited
Croker
CSIRO
Department of Agriculture
Department of Agriculture
Department of Agriculture and Food WA
Department of Agriculture, Fisheries and Forestry (QLD)
Department of Environment and Primary Industries Victoria
Department of Primary Industries and Regions SA
Department of Primary Industry and Fisheries Northern Territory
Emerald Group Australia Pty Limited
Environmental Defenders' Office of South Australia
Gavilon Grain Australia Pty Ltd
George Weston
Glencore Grain Pty Ltd
Goodman Fielder Consumer Foods Pty Ltd
Grain and Feed Trade Association
Grain and Feed Trade Association
Grain Growers Limited
Grain Industry Association of Victoria (GIAV)
Grain Industry Association of Western Australia
Grain Producers Australia
Grain Producers Australia
Grain Producers SA
Grain Trade Australia
Graincorp Operations Ltd

Grains Research & Development Corporation
Grainsearch Pty Ltd
Heritage Seeds
Ingham Enterprises
InterGrain Pty Ltd
JK Milling
Louis Dreyfus Australia
Market Check (AgRisk)
Marubeni Australia Ltd
Mt Tyson
National Farmers Federation
Noble Resources Australia Pty Ltd
Nolan Grain
NPZ Australia Pty Ltd
NSW Department of Primary Industries
NSW Farmers Association
NuSeed
NZX Holding No 4 Ltd
Pacific National
Pacific Seeds Pty Ltd
Pastoralists and Graziers Association of Western Australia
PeaCo
Pentag Nidera Pty Ltd
Pentarch
Plum Grove Pty Ltd
Premium Grain Handlers
Pulse Association of the South East Inc
Quadra Commodities Pty Ltd
Quaker Oats
Queensland Cotton Cooperation Ltd
Queensland Farmers' Federation
Ridley Agriproducts Pty Ltd
Riordan Grain Services
Riverina (Australia) Pty Ltd
Ruddenklau Grain
SeedNet
South Australian Farmers' Federation
Southern Quality Produce Co-operative
Soy Australia
TAP AgriCo
Tasmanian Department of Primary Industries, Parks, Water and Environment
Tasmanian Farmers & Graziers Association
VFF
WA Farmers
Ward McKenzie Pty Ltd
Welwyn Rupanyup
Western Australian Farmers' Federation
Western Australian Grain Growers Group
Wilkens Grain

Wimmera Grain Company
Wimpak Export Company Pty Ltd
Woods Grain