

## Consultation letter re Western Australian Broiler Growers' Association application to continue collective bargaining

2 March 2016

Dear Ms D'Ettore

I refer to the ACCC's letter dated 17 February 2016 and the invitation to make a submission on the application for re-authorisation permitting WABGA's current and future member growers to engage in collective bargaining.

Baiada Poultry has the following brief comments on the application:

1. Overall we are neutral on whether the WA growers collective bargaining application should be re-authorised on the same terms for another 5 years by ACCC. We are not convinced that the claimed public benefits are as extensive as those claimed in the application although we do accept that similar applications have previously been authorised by the ACCC in WA (eg A91262) and in other growing regions as having, on balance, a net public benefit.
2. The ACCC letter states that the reference in the application about the contract negotiation process and/or details about contract terms is only intended to be indicative. There are matters in the application, whether indicative or not, which we wish to comment on as these should not set the expectation for the collective bargaining negotiation (if the application is re-authorised from 31 July 2016):
  - Page 3 – we do not agree with mandated bargaining periods being the last 6 months of the preceding contract. Both parties need to plan in advance and in nobody's interest to have negotiation impasse on the final date before the contract expires. The bargaining period should be in advance of potential contract expiry. Similarly it should be open for the contracts which are negotiated to have different end dates if that suited a particular grower (eg has constructed new additional shedding) and the processor.
  - Page 3 – the method for adjustment to the base growing fee might reflect the list of the grower matters as appear in the submission plus the Processors' investment and costs. If one growing region is far most expensive than another then the Processor is likely to plan to change its production/growing capacity accordingly - when it is able to do so.
  - Page 4: growers group representatives/scrutineers can be consulted on performance calculations but we will not agree to such persons having the unilateral right to adjust performance results
  - Page 4: we do not agree with the blanket statement as to which growers can be in the scheme. Other Baiada growers in the region – whom have similar inputs & growing methods, can be included in the performance scheme
  - Page 4: we are unlikely to agree with the confusing term of an "option to negotiate an agreed extension" for continuation of the contract. Most of our contracts contain one automatic renewal period unless either party gives prior notice it wishes to terminate at the end of initial contract period.
  - Page 4: we do not agree that any new contract during the contract period must be on same identical terms as those negotiated and agreed as at the start of the contract period. The terms of contracts evolve on a national basis over time for what is best practice (eg a new welfare standard) – it makes no sense to leave no room for improvement changes which can be negotiated with the grower group.

- Page 4: a grower who opts out of collective bargaining group should not be required to have a contract that ends on same date as contract period for WABGA growers. This is unfairly restrictive on an individual grower (eg a corporate rural ag fund) whom may wish to deal with the Processor in some other manner
- Page 5: we do not agree that at end of any bargaining period that the matter of contract renewal will be decided by a mediator and/or arbitrator in a final and binding manner.

3. Pages 9-12: we do not agree with all the statements regarding the descriptions of the market for growing services and the market for processed chicken meat. As one example where we do not agree, and as alluded to elsewhere in the application, there is unprecedented demand for quality growing facilities and the processor are actively competing for growers in WA and in other regions. It is not “practically impossible” for a grower to transfer from one processor to another.

4. Page 13: we are concerned by the statement that growers are “culled” by processors – we are not aware of any case where a WA grower has been terminated. In our experience if there was a contract termination, it would be in accordance with terms of the contract such as for a very serious breach, the inability to upgrade farms so as to grow to modern welfare and processor standards and/or for some other particular reason relating to the grower (eg insolvency/loss of capacity)

Please keep us apprised of progress of the application.

Yours faithfully

**Scott Murray**

**General Manager - Legal & Corporate Affairs**

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