



Our ref: CTM-R-2078679
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By email

Dear Sir/Madam

Fodder Fed CTM 2078679 lodged by AUS-MEAT

The Australian Competition and Consumer Commission (**ACCC**) has received an application from AUS-MEAT to register Certification Trade Mark No. 2078679.

I am writing to you as a party who may be interested in commenting on the application. We invite your views on any aspect of the application, including whether AUS-MEAT's Fodder Fed CTM and associated rules are likely to raise any competition concerns or may result in consumers being misled. In particular, the ACCC is interested in your views on whether the standards contained in the rules would ensure that animals are treated in a way that is consistent with Australian consumers' reasonable expectations of animals which have been 'fodder fed'.

Certification trade marks

A certification trade mark (**CTM**) is an image or series of words which certifies that a good or service is of a particular standard – for example, with regard to quality, origin, material or mode of manufacture. Each CTM has rules that govern the use of the CTM. The rules contain the standards that goods or services must meet to use the CTM, and the criteria the CTM owner uses to decide whether the mark should be applied to the good or service.

Registering a CTM under the *Trade Marks Act 1995* (Cth) (**TMA**) gives its owner the exclusive right to use the CTM and to allow other people to use it.

ACCC's role in CTMs

Under Part 16 of the TMA, before a CTM can be registered, the ACCC must be satisfied that certain criteria are met. Specifically, under section 175(2) of the TMA, the ACCC must give a certificate approving the registration of a CTM if it is satisfied that:

1. the attributes a person must have to become an approved certifier are sufficient to enable the person to competently assess whether the goods and/or services meet the certification requirements; and
2. the CTM rules:
 - a. would not be to the detriment of the public; and
 - b. are satisfactory having regard to the criteria prescribed in the relevant TM Regulations, being:
 - the principles relating to restrictive trade practices in Part IV of the *Competition and Consumer Act 2010* (**CCA**),
 - the principles relating to unconscionable conduct set out in Part 2-2 of the Australian Consumer Law as contained in Schedule 2 to the CCA (**ACL**), and

- the principles relating to unfair practices (Part 3-1), product safety and product information (Part 3-3) in Schedule 2 of the ACL.

More information about the process and the ACCC's role in assessing CTMs is in the ACCC's publication [Certification Trade Marks – the role of the ACCC](#).

AUS-MEAT's CTM application

AUS-MEAT is a not-for-profit organisation providing agribusiness auditing, certification and training services. It ensures the compliance of the Australian meat industry with local and international growing and production requirements, and adopts standards incorporating the provision of certification services. AUS-MEAT is jointly owned by Meat and Livestock Australia Limited and Australian Meat Processor Corporation Limited.

AUS-MEAT states that the Fodder Fed Accreditation Scheme Program Rules (the **Proposed CTM Rules**) are designed to protect: the interests of the Australian industry in relation to the sale, distribution and export of Australian meat and livestock; the reputation of AUS-MEAT; and the integrity of the AUS-MEAT language.

AUS-MEAT advises that the Proposed CTM Rules are intended to certify that meat products marked with the Fodder Fed CTM have met a number of standards relating to systems management, product integrity, and environmental management.



These standards are set out in Appendix 4 to the Proposed CTM Rules, and include requirements for systems training, internal auditing, record keeping, and livestock traceability.

Requirements relating to the feeding of cattle include that cattle have unconfined access to graze grass/pasture with unconfined access to a fodder¹ diet, for no less than 30 days.

Environmental requirements include maintaining relevant authority approvals when applicable, and providing suitable environmental controls to support community amenity (in relation to odour, dust, noise, traffic etc).

A copy of the Proposed CTM Rules is available on the [ACCC's CTM register](#).

Invitation to comment

The ACCC invites you to comment on the application before it issues an initial assessment. If you wish to comment, please do so by **6 August 2020**.

Submissions should be emailed to CTMs@acc.gov.au with the subject "CTM 2078679 – AUS-MEAT - Submission".

¹¹ Fodder is defined as food given to animals (including plants cut and carried to them), rather than that which they forage for themselves (called forage). Fodder includes hay, straw, silage, compressed and pelleted feeds, oils and mixed rations, seeds and grains and sprouted grains and legumes (such as bean sprouts, fresh malt, or spent malt)

Submissions will be placed on the ACCC's public CTM Register, subject to any request for exclusion. **Please indicate clearly in your submission whether you are willing for the ACCC to make it publicly available by placing it on our CTM Register, or are requesting that part or all of it be excluded (with brief reasons for any exclusion request).**

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

After considering submissions, the ACCC will release an initial assessment of the application, which will be open to further public comment, and will then issue a final assessment.

Please advise if you do not wish to make any comments at this time, but would like to be informed of the outcome of the ACCC's initial and/or final assessment. Please provide a nominated contact email address for future correspondence.

If you wish to discuss any aspect of this matter, please contact Hannah Ransom on (02) 6243 1255, myself on (02) 6243 1266, or by email to CTMs@accc.gov.au.

Yours sincerely

A handwritten signature in blue ink that reads "D. Hatfield".

David Hatfield
Director
Adjudication

Parties consulted

Animal Health Australia
AACo
Agforce Queensland
Agribusiness Association of Australia
ALDI
Animal Liberation Australia
Australian Agricultural Company
Australian Beef Association
Australian Conservation Foundation
Australian Country Choice
Australian Fodder Industry Association
australian Food and Grocery Council
Australian Livestock & Property Agents Association
Australian Livestock Markets Association
Australian Livestock Saleyards Association
Australian Lot Feeders' Association
Australian Meat Industry Council
Australian Meat Processor Corporation
Australian Wholesale Meats
BetterBeef Network (Agriculture Victoria)
Bindaree Beef
Cattle Council of Australia
Centre for Policy Development
Choice
Coles (Wesfarmers)
Consumers' Federation of Australia
Department of Agriculture, Water and the Environment
Ethical Consumer Group
JBS
Kilcoy
Livestock SA
Master Grocers Australia
Meat and Livestock Australia
Metcash
National Farmers' Federation
NH Foods
Northern Co-Operative Meat Company
NSW Department of Primary Industries
NSW Farmers
Paradigm Foods
Primary Industries and Reions SA
Queensland Department of Agriculture and Fisheries
Red Meat Advisory Council Ltd
RSPCA
Rural Industries Research and Development Corporation
Sustainable Table
Tasmanian Department of Primary Industries, Parks, Water and Environment
Tasmanian Farmers and Graziers Association
Teys-Cargill Australia
Thomas Foods
Victorian Farmers Federation
WA Department of Agriculture and Food
WA Farmers
Woolworths