

27 March 2017

Mr David Jones
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

BY EMAIL: adjudication@accc.gov.au

Dear Mr Jones,

Re: Queensland Cane Growers Organisation Ltd (Canegrowers) application for authorisation A91558 - Telephone Discussion 24 March 2017

I refer to our telephone discussion of 23 March 2017. Participants on that call included:

David Jones
David Hatfield
Jaime Martin

Mike Barry
Jim Crane
Dominic Nolan
Shayne Rutherford

The Australian Sugar Milling Council (ASMC) has previously outlined concerns with the Application for Authorisation and aspects of the Draft Determination, both in written submission and at the Pre-Decision Conference. Those concerns stand, and I will not repeat them.

The CANEGROWERS' letter dated 10 March 2017 includes contradictory and conflicting statements, and does not address the previously outlined concerns.

In particular, ASMC is concerned the CANEGROWERS' letter on the one hand endorses the Draft Determination, and then seeks to extend the authorisation beyond the limits of the Draft Determination. This highlights the ambiguity and capacity to misinterpret the Draft Determination.

ASMC is opposed to the Application in full, and is certainly opposed to extending the Draft Determination to allow collective bargaining across and between each district regardless of mill ownership.

As raised during the telephone conference, ASMC highlights the likelihood for the ACCC final determination, should it proceed along the lines of the Draft Determination, to be used as a political and public relations tool to claim justification to force collective bargaining, rather than the stated intention of removing a potential barrier - if both negotiating parties wish to voluntarily participate.

There were in addition a number of further areas that ASMC identified as being factually in error. If the final determination is to include commentary in relation to a range of these matters, it would be useful if they were accurate:



- Page 6 CANEGROWERS letter 10 March 2017: Ownership of Sugar. Ownership is first and foremost a matter of common law.
- Page 8 CANEGROWERS letter 10 March 2017: Summary Section: the suggested statement is misleading and not accurate.
- Page 8 CANEGROWERS letter 10 March 2017: Background section of the Draft Determination. Para 26 - not accurate. Mill companies do not provide marketing and trading functions.
- Page 8 CANEGROWERS letter 10 March 2017: Background section of the Draft Determination. Para 34 - Under existing contracts, the cane payment formula includes a reference to net sugar price, determined by the ICE11 outcome, plus marketing premium, minus marketing costs.

We have seen since the Draft Determination was released, the use and misuse of the information contained in the document for public relations and political purposes. The ACCC isn't able to restrict how individuals or organisations choose to publish statements regarding ACCC determinations, however it would be appreciated if the determination includes clear and unambiguous statements regarding what is, and is not, authorised.

Thank you again for providing the opportunity for us to have this final discussion with you and we look forward to the ACCC finalising this matter in the near future.

Yours sincerely

A handwritten signature in black ink, which appears to read "Dominic Vella". Below the signature is a horizontal dashed line.