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5 December 2007

Mr Gary Banks  
Chairman  
Pigmeat Safeguard Inquiry  
Productivity Commission  
Locked Bag 2  
Collins Street East  
Melbourne Vic 8003

Dear Mr Banks

We refer to your comment in the course of yesterday's hearing that, in response to a request from the Commission, operators of boning rooms had provided confidential data relating to the performance of their businesses. You further indicated that neither non-confidential versions of this data or aggregated information drawn from such data would be made available to interested parties prior to the Commission delivering its accelerated report to Government on 14 December 2007.

You will be aware that paragraph 2 of Article 3 of the *Agreement on Safeguards* provides for competent authorities to request non-confidential summaries of confidential information tendered by interested parties and in the case of refusal to provide such summaries the confidential information may be disregarded.

Similar requirements for non-confidential summaries apply in dumping and subsidy investigations and the Australian Customs Service, for example, routinely requires from complainants in such matters non-confidential summaries (substituting indexed data for actual data) of all economic performance information and, on receipt, immediately places such information on the public record. Procedural fairness, directed at ensuring that all interested parties have the greatest possible access to all information relevant to the presentation of their cases, dictates that the Commission should immediately require such non-confidential summaries from the industry to be provided to the Commission within twenty-four hours. The confidential information received from any industry member failing to provide an adequate non-confidential summary should be disregarded.

We also note that the Commission's request for information (and any accompanying blank questionnaire) has not been released on the website. We submit, again in the interests of

procedural fairness, that this omission should be remedied. In particular, we request that we be provided with a copy of any letter and blank questionnaire without delay.

Finally, we request that aggregated information, in tabular and/or graphical form, derived from the confidential material provided by the industry should be placed on the Commission's website as soon as possible, to enable analysis by interested parties prior to 14 December 2007.

Yours faithfully  
**MINTER ELLISON**

[signed]

Iain Sandford  
Deputy Director,  
International Trade Group

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6 December 2007

Dear Mr Sandford

I acknowledge receipt of your letter of 5 December 2007, which we intend to process as a supplementary submission to the inquiry.

I am happy to place the blank request for commercial information sent to 11 processing operations on the website and this has been done.

However, as I indicated at the public hearings on Tuesday, limited time precludes the provision of an aggregated response prior to completion of the accelerated report. Moreover, I would draw your attention to the fact that a number of the companies sent such a request have also provided non-confidential submissions which are available on our website:

- QAF sub. 73
- Primo sub. 21
- BE Campbell sub. 31
- Northern Cooperative Meat Co Pty Ltd sub. 75
- Hans Continental Smallgoods sub 53

I also note that the Agreement on Safeguards does not *require* the Commission to seek non-confidential summaries of confidential material, although as a matter of course we ask interested parties to make as much as possible of their evidence available for the public record.

Yours sincerely

Gary Banks AO  
Chairman