



Australian Government
Department of Health and Ageing
Office of the Gene Technology Regulator

Competition Policy Review
Competition Policy Review Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir / Madam

Submission to the Competition Policy Review

Thank you for the opportunity to provide input to the Competition Policy Review (the Harper review). I note that the draft report released on 22 September 2014 mentions the regulation of genetically modified (GM) crops and states that “genetically modified crops cannot be grown in South Australia and Tasmania (but can be grown in all the other mainland States)”.

I appreciate that GM crops is only a small part of the report. However some media reporting on the Harper review has focused on the operation of State and Territory moratoria and has presented an incomplete picture which may be interpreted inaccurately.

The Land (10 October 2014) and Farm Weekly (16 October 2014) reported that “...regulatory restrictions should not be imposed that prevent competition - but at the same time health and safety factors need to be considered by individual States.” and “...regulatory restrictions remain in place, including restrictions that prevent GM crops from being grown in SA and Tasmania, whereas they can be grown in all other mainland States.”.

I would like to clarify that Australia has a national scheme to protect human health and the environment through regulating genetically modified organisms (GMOs), including GM crops. The national scheme is distinct from the operation of individual State and Territory moratoria on GM crops established for marketing reasons.

Australia’s nationally consistent scheme for regulating GMOs is administered by the independent Gene Technology Regulator (the Regulator). The scheme is comprised of the *Gene Technology Act 2000* (Cth) and corresponding state and territory legislation, supported by the intergovernmental Gene Technology Agreement and overseen by the Legislative and Governance Forum on Gene Technology.

Commercial cultivation of GM crops requires approval from the Regulator. Approvals and any conditions are based on comprehensive scientific risk assessments to ensure that any risks to the health and safety of people and the environment can be adequately managed. To date, GM cotton and GM canola are the only GM crops for which commercial approvals have been sought in Australia.

Following the Regulator’s 2003 authorization of commercial GM canola, all states and territories, except Queensland and the Northern Territory, enacted GM crop moratorium legislation that would prevent the cultivation of GM crops. These moratoria were not imposed on environmental or health and safety grounds but in relation to trade and marketing issues.

Restrictions on the commercial cultivation of GM canola were subsequently lifted in New South Wales, Victoria (2008) and Western Australia (2010). Active moratoria remain in place in Tasmania, South Australia and the Australian Capital Territory.

It should be noted that each jurisdiction's moratorium was enacted differently. While some jurisdictions have made exemptions enabling some or all GM crops approved by the Regulator to be grown in their State or Territory they retain moratorium legislation which might apply to other GM crops. It may also be noted that while canola may be grown in most Australian jurisdictions, cotton cultivation is predominantly in New South Wales and Queensland.

I have provided further background on the regulation of GMOs at **Attachment A**.

My office would be happy to provide any additional information on the regulation of GMOs.

Yours sincerely



Dr Michael Dornbusch
A/g Gene Technology Regulator

17 November 2014

Attachment A – Background information on the regulation of GMOs and moratoria

Genetically modified organisms (GMOs), including genetically modified (GM) crops are currently regulated under a nationally consistent scheme comprised of the *Gene Technology Act 2000* (Cth) (the GT Act) and corresponding State and Territory legislation, which is administered by the Gene Technology Regulator (the Regulator). The scheme is supported by the inter-governmental Gene Technology Agreement (GT Agreement) and overseen by the Legislative and Governance Forum on Gene Technology (LGFGT).

The GT Act aims to protect the health and safety of people and the environment by identifying risks posed by, or as a result of, gene technology and by managing those risks through regulating certain dealings with GMOs. The Regulator's considerations under the GT Act are limited to identifying and managing risks to human health and the environment and do not include consideration of economic or trade issues in making decisions in relation to GMOs.

However the GT Act and the GT Agreement provide for the LGFGT to make policy principles in relation to the declaring of GM or GM-free areas by states and territories for marketing purposes.

In 2003, the then Gene Technology Ministerial Council (now the LGFGT) issued the *Gene Technology (Regulation of Designated Areas) Principle 2003* "for the purposes of recognising areas (if any) designated under a State law for the purpose of preserving the identity of GM crops, non-GM crops, or both GM and non-GM crops, for marketing purposes" (see <http://www.health.gov.au/internet/main/publishing.nsf/Content/gene-gtrdap03.htm>).

Following the Regulator's 2003 approval of commercial GM canola all of the States and Territories except Queensland and the Northern Territory enacted moratoria restricting the commercial cultivation of GM crops. The moratoria on GM crops relate only to marketing purposes and not human health or environmental safety.

A number of jurisdictions have subsequently reviewed their moratoria and lifted restrictions, enabling commercial production of GM canola in New South Wales, Victoria and Western Australia. It should be noted that each jurisdiction's moratorium legislation operates differently and that while some jurisdictions have made exemptions enabling some or all GM crops approved by the Regulator to be grown commercially in their State or Territory they retain moratorium legislation which might apply to other GM crops. There are also differences in definitional coverage, eg the NSW moratorium relates only to 'GM food crops' and cotton is not considered a food crop under the legislation.

To date, the Regulator has approved the commercial scale release of a number of different types of GM cotton and GM canola. Information on the Regulator's assessments and approvals is available from www.ogtr.gov.au. GM cotton makes up >90% of Australia's cotton production and was first commercialized in 1996. Cotton production in Australia occurs predominantly in New South Wales and Queensland. GM canola is grown in New South Wales and Victoria (since 2008) and Western Australia (since 2010).

Additional information on the interaction between the national regulatory scheme and State and Territory moratoria is also available from the Australian Bureau of Agricultural Resource Economics and Science (ABARES) 2013 report 'Review of Selected Regulatory Burdens on Agriculture and Forestry Businesses' (see <http://www.agriculture.gov.au/abares/publications>).