



Australian
Competition &
Consumer
Commission

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NEWS RELEASE

ACCC TAKES ACTION FOLLOWING ALLEGED EGG CARTEL ATTEMPT

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The Australian Competition and Consumer Commission has instituted proceedings in the Federal Court against:

- the Australian Egg Corporation Limited (AECL);
- Mr James Kellaway, the managing director of AECL;
- two egg producing companies, Ironside Management Services Pty Ltd (trading as Twelve Oaks Poultry) and Farm Pride Foods Limited (Farm Pride);
- Mr Jeffrey Ironside, a director of AECL and Twelve Oaks Poultry; and
- Mr Zelko Lendich, a director of AECL and a former director of Farm Pride.

The ACCC alleges that AECL and the other corporate and individual respondents attempted to induce egg producers who were members of AECL to enter into an arrangement to cull hens or otherwise dispose of eggs, for the purpose of reducing the amount of eggs available for supply to consumers and businesses in Australia. It is not alleged that this attempt to make a cartel arrangement involving Australian egg producers was successful.

AECL is an industry corporation that collects levies for promotional activities and research and development activities from member egg producers. At the relevant time, AECL had between 100 and 150 egg producer members.

The ACCC alleges that from November 2010, in AECL member publications, the AECL board (which included Mr Kellaway, Mr Ironside and Mr Lendich) encouraged its members to reduce egg production, in order to avoid oversupply which would affect egg prices.

It is also alleged that, in February 2012, AECL held an 'Egg Oversupply Crisis Meeting' attended by egg producers in Sydney, where it allegedly sought a coordinated approach by egg producers to reducing the supply of eggs, in response to a perceived oversupply of eggs. Mr Kellaway and Mr Lendich both attended and spoke at this meeting, which was chaired by Mr Ironside.

"Retail egg sales, one of many sales channels, were valued at over \$566 million in 2012* and eggs are a staple food product for Australian consumers. Indeed, egg consumption per capita has increased in the past 10 years leading to an increase in the demand for producers' eggs. The ACCC is concerned that the alleged attempt sought to obtain agreement by egg producers to reduce supply, which if successful could have impacted on egg prices paid by consumers," ACCC Chairman Rod Sims said.

"Detecting, stopping and deterring cartels operating in Australian markets remain an enduring priority for the ACCC, because of the ultimate impact of such anti-competitive conduct on Australian consumers who will pay more than they should for goods."

“Industry associations need to be conscious of competition compliance issues when they bring competing firms together. Today’s action sends a clear message that attempts by industry associations to coordinate anti-competitive behaviour by competitors will not be tolerated,” Mr Sims said.

The ACCC is seeking declarations, injunctions, pecuniary penalties, orders that AECL, Farm Pride and Twelve Oaks Poultry establish and maintain a compliance program and that Mr Kellaway, Mr Ironside and Mr Lendich attend compliance training, an adverse publicity order and a community service order against AECL, disqualification orders against Mr Kellaway, Mr Ironside and Mr Lendich, and costs.

Background

The 2012/13 AECL annual report* indicates that the egg industry in Australia in 2012:

- produced 397 million dozen eggs (of which 134.3 million dozen was sold in the grocery/retail market);
- consisted of 301 egg farms;
- had a gross value for egg production at farm gate of \$583.4 million per annum for 2011/12; and
- had a gross value for egg production at market for 2012 of \$1.672 billion.

<http://www.aecl.org/assets/About-us/AECL-Annual-Report-2013-final.pdf>