



Public Benefits and Detriments of a Provisional Authorisation for Collective Activity

Prepared for the New Zealand Tegel Growers
Association

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Definitions

FMA	Farm Management Agreement
NZTGA	New Zealand Tegel Growers Association

Executive summary

The New Zealand Tegel Growers Association Incorporated (NZTGA) has asked Castalia to examine the public benefits and detriments associated with provisional authorisation to engage in collective activity. Provisional authorisation would allow growers to collectively negotiate with Tegel, discuss and exchange information with other growers on matters relating to negotiations with Tegel, enter into agreements that are collectively negotiated, and implement collectively negotiated agreements.

In a prior report that accompanied NZTGA's authorisation application filed on 16 September 2021 we assessed the public benefits and detriments of an authorisation sought for the same proposed activity. We found that the benefits were highly likely to outweigh the detriments.

In this report, we find that provisional authorisation would provide the following additional benefits by enabling [

- [
-
-
-

]

[

]

Further, we find that a provisional authorisation would bring forward other benefits of allowing growers to negotiate collectively with Tegel, including to amend and improve the existing collective agreement—the Farm Management Agreement (FMA). This would provide both growers and Tegel with certainty over how the agreement would apply in future and [].

1 Introduction

The New Zealand Tegel Growers Association Incorporated (NZTGA) has asked Castalia to examine the public benefits and detriments associated with engaging in collective activity. If granted, provisional authorisation would allow growers to collectively discuss and negotiate with Tegel, discuss and exchange information with other growers on matters relating to negotiations with Tegel, enter into agreements that are collectively negotiated, and implement collectively negotiated agreements.¹

We have previously provided a report that assesses the public benefits and detriments of authorisation sought for the same proposed activity. That report, which we refer to as Castalia Report 1, accompanied NZTGA's application filed on 16 September 2021.

In Castalia Report 1, we found that the public benefits of authorisation of the proposed activity were highly likely to outweigh the detriments. We briefly summarise our findings (section 2) and then discuss additional benefits that provisional authorisation is likely to provide (section 3).

2 Castalia Report 1 found that the public benefits of authorisation are likely to outweigh the detriments

Castalia Report 1 found that the benefits of the authorisation are highly likely to outweigh the detriments because:

- collective bargaining provides transaction cost savings, including in the negotiation of contractual variations and resolving contractual disputes,
- collective bargaining allows for more efficient contracts than would occur without the authorisation,
- if payments to growers are higher with collective bargaining, then the wealth transfer from a foreign-owned company (Tegel) to chicken growers would provide a public benefit, and
- any difference in the level of payments to growers between the scenarios with and without collective activity is unlikely to be passed on to end consumers, and even if it was, is so small that it would not drive a significant change in allocative efficiency.

2.1 The relevant markets for chicken growing services

Castalia Report 1 finds three relevant geographic markets for the supply of chicken-growing services: Auckland, Taranaki, and Canterbury. We define these markets as being within two

¹ Further details of the proposed arrangements are described in NZTGA's Provisional Authorisation Application.

hours' drive of the Tegel processing factories due to animal welfare impacts of transporting the chickens.

Chicken farm services fall into a separate market from other farming types because chicken farms require specialised shedding. As a result, supply-substitution is unlikely to be significant.

2.2 The relative bargaining power of Tegel and the growers

Tegel holds strong buyer power in negotiating with chicken growers. The limited number of chicken processors and the need to make significant long-term investments that conform to the specific shed requirements of Tegel all create an imbalance of bargaining power between individual chicken growers and Tegel. Growers face the risk that their investments will be stranded if they are unable to secure a supply arrangement with Tegel.

Collective bargaining shifts the imbalance of bargaining power by enabling growers to pool resources and engage specialised staff to negotiate with Tegel. Despite this Tegel is likely to retain significant bargaining power in the negotiations, as the growers still require a supply agreement with Tegel to recover the cost of their investments.

If an authorisation is granted to allow collective activity, payments from Tegel to growers may be somewhat higher than if the authorisation is not granted. However the difference is likely to be limited.

2.3 Collective bargaining provides transaction cost savings

Collective bargaining provides considerable transaction cost savings because collective activity avoids bilateral negotiations between each individual grower and Tegel, including bilateral negotiations for contractual disputes and contractual variations. Castalia Report 1 estimates that collective bargaining between NZTGA and Tegel would result in transaction cost savings in the range of \$1.4 million to \$3.1 million over the ten-year period of the proposed authorisation.

2.4 Collective bargaining by the NZTGA members is likely to have other efficiency benefits

Collective bargaining has resulted in a sophisticated agreement between Tegel and growers that is likely to have efficiency benefits.

In comparison to the short-term agreements with simple payment structures that were in place prior to collective bargaining, the current [] agreement provides [] and a sophisticated payment structure. The payments specified in the collective agreement include a []

[]

[] reduces the risk to growers associated with making a significant specialised investment. For example, for a new "greenfield" farm, a chicken grower would need to invest around [] plus land costs to build [] to house the chickens. The sheds are built according to Tegel's specifications. By reducing the risk associated with this upfront investment, the agreement

that has resulted from collective bargaining reduces the cost of providing growing services (by reducing the cost of capital), provides new growers the certainty that they need to invest, and incentivises Tegel to maintain or expand demand.

[] included in the agreement will have the effect of motivating growers to deliver high-quality growing services and [

]

2.5 Authorisation will provide efficiency gains regardless of whether Tegel negotiates with the NZTGA

If the Commission authorises collective activity, Tegel may choose to continue to engage with NZTGA (as it has in the past) or it could instead choose to negotiate individually with growers. Regardless of which approach Tegel takes, Castalia Report 1 finds that growers will act collectively, which will result in efficiencies. With growers working together to develop their positions and knowing what position each would be taking in bilateral negotiations, the outcomes would be similar to the situation where Tegel agrees to a collective negotiation. That is, the terms of individual contracts would likely be similar to what would be agreed through collective negotiation, the cost of preparing them would be similar to the costs under a collective negotiation approach, and the contract sophistication would also be comparable with that achieved through collective negotiations.

2.6 Wealth transfers to growers from collective bargaining result in a public benefit

If grower payments are higher with collective bargaining than without, then any wealth transfer from Tegel to growers that results from collective bargaining constitutes a public benefit because Tegel is foreign owned. It is difficult to estimate how grower payments would differ with and without collective bargaining. However, [

] Using this information, Castalia Report 1 estimates that the authorisation would lead to a public benefit of up to [] through a wealth transfer to growers.

2.7 Collective bargaining is highly unlikely to result in allocative efficiency losses

If collective bargaining leads to higher payments from Tegel to growers (relative to a state without collective bargaining), and Tegel passes on the reduction through lower wholesale prices, the change in prices per bird will not be significant enough to result in a demand expansion. Castalia Report 1 estimates that the maximum reduction in grower payments if the authorisation is not granted is [] cents per bird. Even if this were passed on in the form of lower wholesale prices, such a limited price change is highly unlikely to drive an expansion in demand and, as a result, Tegel would have limited incentives to reduce wholesale prices. [

]

3 A provisional authorisation will bring additional benefits

The provisional authorisation process is shorter than the full authorisation process. As a result, provisional authorisation would enable the growers to engage collectively to [], which would lead to the following public benefits:

- []
- []
- []
- []

]

[

]

Further, we find that a provisional authorisation would bring forward other benefits of allowing growers to negotiate collectively with Tegel, including to amend and improve the existing collective agreement (the FMA). This would provide both growers and Tegel with certainty over how the agreement would apply in future to avoid disputes.

3.1 A provisional authorisation will lower the costs of []

3.1.1 []

]

[

]

3.1.2 The process for [] in the factual and counterfactual

In the factual (with the provisional authorisation) growers will be able to negotiate collectively with Tegel. [

]

3.1.3 A provisional authorisation would likely lead to transaction costs savings in [

]

The costs of collective negotiation may be higher than the costs of one individual grower negotiating with Tegel because collective negotiation will likely produce a more complex (and efficient) contract. However, we find that the costs of collectively negotiating a [] are likely less than the total costs of []

In Castalia Report 1, we estimated the transaction costs savings of collective bargaining. Using the same model and similar assumptions we find that collective activity provides transaction costs savings of approximately [] This is an indicative estimate only, however it does show using a reasonable set of assumptions, the

cost of collective negotiating [] is less than the costs of individually negotiating []

We used the following assumptions for collective negotiation:

- []
- []
- []

For individual negotiation we assumed that:

- []
- []²
- []
- []

Using the above assumptions provides [] as the total costs of establishing [], and [] as the cost of establishing []

[]

- []
- []

² https://www.payscale.com/research/NZ/Industry=Chicken_Egg_Production/Salary

The Provisional Authorisation Application states that the growers' [] will be approximately [], and that Tegel's costs are in the range of [] in total.

[] If a provisional authorisation were granted and collective activity enabled []

³ [], total costs of more than [] could be avoided.

3.2 A [] that is collectively negotiated is likely to be more efficient than individually negotiated []

Even if [] were able to be negotiated individually, collectively negotiated [] are likely to be more efficient. As we discussed in Castalia Report 1, with collective bargaining, growers can pool resources to fund specialist advisors and share information to develop more sophisticated and efficient contractual arrangements.

The FMA is an example of a sophisticated contract that was the product of collective negotiation. As discussed in Castalia Report 1, contracts that had been negotiated before NZTGA was established had []. In contrast, the FMA provided a [] which helped to address hold-up problems by reducing growers' risks. In addition, the [] in the FMA likely motivate growers to increase productive efficiency and compete with each other on quality levels.

3.3 [] would result in public benefits

[]

³ []

3.4 [

[

]

3.5 [

A provisional authorisation will enable all growers to collectively negotiate, to amend and improve the FMA, and to collectively discuss others matters regarding the FMA.[

]



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