

15 December 2020

[REDACTED]

By email only: [REDACTED]

Dear [REDACTED]

Official Information Act #20.107 - Revital Group

1. We refer to your request received on 16 November 2020 for the following information about Revital Group:
 - 1.1 has the Commerce Commission (**Commission**) investigated the product previously, and if so, what were its findings;
 - 1.2 is the Commission currently dealing with any complaints about the product;
 - 1.3 is the Commission currently investigating Revital Group;
 - 1.4 what concerns, if any, does the Commission have about Revital Group producing organic compost in a facility which is involved in the remediation of oil and gas drilling waste streams;
 - 1.5 does the Commission consider it acceptable for a company to be marketing an organic compost made on the same site as the remediation of oil and gas drilling wastes; and
 - 1.6 what steps can the Commission take if Revital Group is deemed to have breached the Fair Trading Act 1986 (**FTA**)?
2. On 17 November 2020, the Commission's Communications Team advised:
 - 2.1 the Commission is not currently investigating Revital Group and has not investigated it previously;
 - 2.2 the Commission has, on one occasion, provided Revital Group with information to assist its compliance;

- 2.3 at present, we have one complaint about Revital Group which is under assessment;
 - 2.4 only the courts can decide whether the FTA has been breached, and more information about our process can be found on our website;¹ and
 - 2.5 if you would like further information about the Commission's engagement with Revital Group, we would log it as a request for information under the Official Information Act 1982 (**OIA**).
3. In response, on the same date, you confirmed you would like the Commission to log an OIA request for further information about our engagement with Revital Group.

Our response

- 4. In 2019, in response to a complaint alleging Revital Group had made false or misleading representations about the BioGro organic certification for its sites, the Commission wrote to Revital Group to assist it in complying with its obligations under the FTA. We have **attached** a copy of the letter dated 16 August 2019.
- 5. The Commission considered the representations made by Revital Group may mislead consumers to believe all Revital Group sites and compost products are organic certified by BioGro when they may not be. The Commission advised that, if further substantiated, the representations may give rise to possible breaches of sections 13(a) and 13(e) of the FTA.
- 6. The purpose of the letter was to educate Revital Group. Only the courts can decide if there has actually been a breach of the Act. The court can impose severe penalties where it finds the law has been broken.
- 7. A company that breaches the Act can be fined up to \$600,000 and an individual up to \$200,000 per offence. Where a company is a repeat offender, directors and those involved in the management of the company can be banned from involvement in the management of any company for a period of up to 10 years.
- 8. The Commission holds four further documents falling within the scope of your request (files notes of telephone conversations with Revital Group). We are extending the deadline to make a decision on release of these four documents to **3 February 2021**.
- 9. The reason for the extension is that consultations necessary to make a decision on the documents are such that a proper response cannot reasonably be made within the original time limit, under section 15A(1)(b) of the OIA.
- 10. We will advise you of our decision on these documents by no later than 3 February 2021.

¹ <https://comcom.govt.nz/make-a-complaint/complaint-process>

11. If you are not satisfied with the Commission's extension of time, you have the right to make a complaint to the Ombudsman under section 28(3) of the OIA. However, we would welcome the opportunity to discuss any concerns with you first.
12. Please note the Commission will be publishing this response to your request in the OIA register on our website.² Your personal details will be removed from the published response.
13. Please do not hesitate to contact us at uia@comcom.govt.nz if you have any questions about this request.

Yours sincerely

Mary Sheppard
OIA Coordinator

² <https://comcom.govt.nz/about-us/requesting-official-information/oia-register>