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**Apple & Pear Australia**

5 August 2010

Senator Fiona Nash  
Chair  
Senate Standing Committee for Rural and Regional Affairs and Transport  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

Dear Senator Nash

**INQUIRY INTO BIOSECURITY AND QUARANTINE ARRANGEMENTS**  
**Senate Standing Committee for Rural and Regional Affairs and Transport**

Apple and Pear Australia Limited would welcome an opportunity to address the Senate Standing Committee's inquiry into Biosecurity and Quarantine arrangements.

Apple and Pear Australia Limited (APAL) is the peak industry body representing the interests of commercial apple and pear growers in Australia in matters of national importance including regulation and legislation, marketing, research and development.

The Senate Standing Committee's inquiry is important. This is because almost twenty months after the release of the Beale review the Government has yet to provide an Exposure Draft on legislation that will ensure more effective management of Australia's biosecurity risks. APAL believes that the framework which underpins our quarantine and biosecurity arrangements must be based on sound science and sensible policy. Further, our quarantine and biosecurity arrangements must be adequately resourced to protect Australia's environment, biodiversity and agricultural production systems from exotic pests and diseases.

***Beale Review – Technical Market Access***

APAL is concerned that progress in adopting important Beale recommendations is slow. Of particular concern is the need for Government to enhance Budget funding for activities which support biosecurity related technical market access for Australian exporters.

APAL supports the Commonwealth enhancing its efforts to defend Australia's export systems and gain additional market access through biosecurity related technical market access and multi-lateral, regional and bilateral negotiations.

APAL is aware that there is an extremely long backlog of technical access issues and requests currently before government as these requests require detailed technical assessments and international negotiations over often lengthy periods of time and in accordance with international agreements.

Government agencies are also required to perform both technical and negotiating functions involved in market access. These functions require professional, specialist skills and management capacity. While need for the independent performance of the science function is recognised, the technical and negotiating functions require closer linkages with each other.

Additionally industry knowledge and expertise must also be captured as an essential input into the technical and negotiating processes.

Adequate funding and the development of senior management capacity in the technical market access area is vital to maintain, improve and grow horticulture exports over time.

### ***Import Risk Analysis Process***

APAL also believes that the import risk analysis process has a number of serious flaws.

First, the Eminent Scientists Group is not required to demonstrate the rigour of their assessment nor provide transparency about the scientific materials they use in making their determinations.

Second, the appeals process does not work (is inadequate?) because the terms of reference have been interpreted as deviations from procedure rather than deviations of what Biosecurity Australia is supposed to do in an IRA.

All of these concerns were demonstrated most recently in the Import Risk Assessment process undertaken in regard to the importation of fresh apples from China and are well documented within our submission to the Senate Standing Committee's inquiry into Biosecurity and Chinese apples.

It is important to note, however, that the flaws in the IRA system as demonstrated in the China IRA are not specific but pertain to all plant IRAs. These flaws include:

*Eminent Scientists Group – Transparency* - In undertaking its review, the ESG considers any "new information brought to the ESG's attention". As this information is not publically available, industry stakeholders cannot either support or challenge the

validity of “new information”. Nor are industry stakeholders able to determine which parties provide “new information” and are therefore in a position to influence the ESG’s decision-making.

Additionally, there is no mechanism for industry stakeholders to provide “new information” to the Eminent Scientists Group.

These flaws create a significant gap in transparency which displaces the natural justice rights of industry stakeholders to understand and participate in the decision-making process.

*Eminent Scientists Group – Rigour of Assessment and Quality of Report* – In any IRA an Eminent Scientists Group (ESG) reviews IRA reports to ensure that all technical submissions received from stakeholders have been properly considered and the conclusions of Biosecurity Australia are scientifically reasonable.

The ESG is given 60 days in which to complete these demanding and important tasks.

The ESG has reported its findings in less than two pages in all five of the assessments it has undertaken, culminating in a mere three paragraphs for its assessment of apple imports from China. APAL believes that the ESG should be required to comprehensively document its assessment of the manner in which Biosecurity Australia has dealt with the issues raised by stakeholders.

The ESG must also be required to fully justify its determination of the superiority of scientific views where there is conflict.

*Import Risk Analysis Appeals Panel (IRAAP) Terms of Reference* - APAL believes that the Appeals Panel operates under a narrow interpretation of the terms of reference.

Specifically, while appeals must be based on there being “a significant deviation from the regulated IRA process”, the Appeals Panel should not equate the procedural steps of the IRA as being the “process”. Whilst the procedural steps are fundamental, the essential question in an appeal relates to whether Biosecurity Australia has undertaken what is required of it during an IRA. Thus the Appeals Panel should evaluate whether Biosecurity Australia has *identified* the pests and diseases of quarantine concern; *assessed* the likelihood that an identified pest or disease or pest would enter, establish or spread; and, *assessed* the probable extent of the harm that would result.

*Import Risk Analyses are static and unable to adapt to new scientific information* - The current arrangements preclude the incorporation and assessment of new scientific information once a draft IRA Report is released. Stakeholders are unable to introduce new scientific information to either the Eminent Scientists Group or the Appeals Panel.

In its report on Chinese apples, for example, the IRAAP indicated that an import risk assessment can “only be based on the known science at time of the IRA” which implies that if a serious pest is missed in any risk assessment, this is not important and will be ignored.

APAL believes that not only is this illogical, it makes a mockery of the whole appeals process. It is absurd to think that a risk analysis is set to a fixed time period. Pest and diseases risks can change very quickly and Australia needs to be able to respond appropriately to those changes.

### ***Import Food Sampling***

AQIS is currently charged with the inspection and testing of imported food. APAL remains concerned, however, that the testing of food is less rigorous than that applied to domestically produced products. For example, the apple and pear industry have voluntarily chosen to fund an annual program to randomly test for chemical residues in apple and pears. The apple and pear screen contains some environmental contaminants as well as compounds that are registered for use on apples and pears in Australia. The screen also contains some other compounds that are not registered for use on apples and pears in Australia.

The industry has chosen to undertake screening in order to both protect the image of apples and pears as being clean fruit as well as to protect human health.

It is not at all clear that the same level of protection will be afforded to consumers of imported apples and pears. Although Customs nominates that five per cent of all “low” risk foods are to be inspected by AQIS, the sampling process may not actually capture any apples or pears as the sample is taken across all “low” risk imported foods. Additionally the chemical screens applied to imported apple and pears appear to differ from the screens applied to domestic product.

There are some chemicals that are either banned or not used in Australia but are in general use overseas. For example, the antibiotic streptomycin is used overseas to combat fire blight, a disease that is prevalent in apples and pears in New Zealand and the USA. AQIS does not test for streptomycin in imported fruit. Further, imported food from New Zealand is not tested by AQIS.

### ***Contributions from Importers for Exotic Pest Incursion Management***

The apple and pear industry is a signatory to the Emergency Plant Pest Response Deed (EPPRD) a formal legally binding agreement between Plant Health Australia, the Australian Government, all state and territory governments and national plant industry bodies. The EPPRD covers the management of responses to emergency plant pest

incidents. It also details how the costs of responding to an emergency plant pest incident will be shared between governments and Australian growers.

The EPPRD does not provide for contributions from importers to any emergency pest incursion. However, importers represent a major pathway for exotic pests and diseases and the issue of how they might contribute to the costs of managing an incursion remains unresolved.

***Uncertainty created by Federal election***

The federal election scheduled for 21 August 2010 raises significant concerns with respect to the status of this inquiry. Whilst APAL submits the preceding comments in good faith, we would welcome the opportunity to expand upon these and other issues relating to Australia's biosecurity and quarantine arrangements at a later date.

Yours sincerely,

Darral Ashton,  
Chairman