



Submission to the

**'Inquiry into mechanisms for compensation
for economic loss to farmers in Western
Australia caused by contamination by
genetically modified material'**

16th February 2018

Terms of reference:

Inquire into and report on mechanisms for compensation for economic loss to farmers in Western Australia caused by contamination by genetically modified material, including approaches taken in Western Australia and by other jurisdictions and any other relevant matter.

Introduction

MADGE Australia Inc. are a group of mothers and others, numbering over 10,000, who are concerned about the increasing use of technology in food. This is occurring with:

- no monitoring or surveillance systems to track the effects of GM foods,
- no mechanisms for doctors to report a suspected reaction to GM foods,
- no epidemiological studies,

Weak labelling laws mean that nearly all processed foods have GM ingredients but almost none have labels.

Our aim is to inform people so they are able to choose food that is good for those who eat it, grow it, produce and sell it; and for land and environment. We are a self-funded, independent organization, a member of the GM-Free Australia Alliance and are not aligned with any political party. We work with organisations and individuals across Australia and internationally.

Why do we need Farmer Protection Legislation and what should it entail?

We need Farmer Protection Legislation so farmers can continue to provide us with GM-Free food. Non-GM farmers need compensation from the contamination potential of GM crops. The Marsh vs Baxter case, where an organic farm was contaminated by GM canola and yet received no compensation, showed common law was inadequate to provide redress. Therefore, MADGE supports a **“Bill to establish a publically managed fund, paid into by GM seed merchants, in order to compensate non-GM land holders for contamination by GM seed or other GM material.”** Our preferred model is the Principles for Farmer Protection legislation in the appendix of this submission. In brief, it is:

- A no-fault system
- independently managed
- providing automatic, compensation for proven economic loss and harm, for GM contamination in WA
- funded by a levy on GM seed sale
- the amount of the levy is adjustable in response to greater or less demand on the Fund’s resources - an incentive to minimize GM contamination

Non-GMO food is a growing trend here and overseas and farmers need to be able to supply this expanding market.

Europe has consistently shown strong rejection of GM foods. Rejection of GM is increasing in the US. “Non-GMO Verified” became the fastest growing food label in the US in 2011.ⁱ The trend has continued to accelerate with Cargill launching Non-GMO supply lines in 2016.ⁱⁱ

A 2016 survey by CHOICE found 84% of Australians are concerned about eating GM food.ⁱⁱⁱ Increasing numbers of Australian companies are choosing to label non-GM food.^{iv}

Protecting farmers growing non-GM food and labelling is the basis of consumer trust and market share. “Non-GMO” labels are filling the gap left by Australia’s weak mandatory labelling laws. Loopholes, exemptions and lack of enforcement mean although most processed foods contain GM ingredients, almost none are labelled. GM labelling is only triggered if the **product** contains detectable DNA or protein. EU labelling laws require an ingredient produced by the **process** of GM to be labelled. This means a bottle of canola oil from a GM crop **is** labelled in the EU but **isn’t** labelled in Australia.^v

The 2011 review of food labelling received more submissions regarding GM labelling than any other issue, yet no meaningful changes occurred.^{vi} New GM techniques like CRISPR and RNAi have been developed. Austria^{vii} and Norway^{viii} acknowledge these techniques are GM and carry the same risks as previous forms of GM. The Australian Office of Gene Technology Regulator has indicated they do not want these techniques regulated. **To protect farmers from contamination and rejection of their crops it is essential that these new GM techniques are included in the Bill.** They are less than five years old and have no history of safe use. The public is increasingly aware of the effect food has on health. Recent discussion about the microbiome (the ecosystem of bacteria, fungus, viruses and other organisms in our gut that digest our food, synthesize certain vitamins and is fundamental to our mental and physical health) is now the subject of serious medical and scientific study. The public’s concern about food quality and provenance is growing, as is “Non-GMO” labelling.

Why is non-GMO food increasingly popular and therefore why do we need to ensure WA farmers can produce non-GMO food?

Despite the approval of GM food by regulators and the promotion of it by companies and governments the public is mistrustful of the safety of the food. They view the science used to approve GM food as tainted because^{ix}:

- Regulators do no research themselves.
- They commission no independent research.
- They rely on the mainly unpublished and un-peer-reviewed studies done by the companies that developed the GM crop.
- Regulators dismiss peer-reviewed independent research showing harm.
- Australia requires no animal feeding studies.

Peer reviewed science shows the following damage to animals fed GM and its associated pesticides^x:

- Liver and kidney toxicity^{xi}
- Enlarged liver^{xii}
- Disturbed liver, pancreas and testes function^{xiii}
- Accelerated liver ageing^{xiv}
- Disturbances in the functioning of the digestive system and cellular changes in liver and pancreas^{xv}
- Less efficient feed utilization and digestive disturbance^{xvi}
- Altered gut bacteria^{xvii}
- Intestinal abnormalities^{xviii}
- Excessive growth in the lining of the gut, similar to a pre-cancerous condition^{xix}

- Altered blood biochemistry, multiple organ damage, and potential effects on male fertility^{xx}
- Immune disturbances,^{xxi} immune responses,^{xxii} and allergic reactions^{xxiii}
- Enzyme function disturbances in kidney and heart^{xxiv}
- Stomach lesions and unexplained deaths^{xxv}
- Higher density of uterine lining^{xxvi}
- Severe stomach inflammation and heavier uterus^{xxvii}
- Differences in organ weights,^{xxviii} which is a common sign of toxicity or disease.

Over 300 scientists have signed a joint statement saying there is no consensus on the safety of GM food.^{xxix}

Doctors warn about GM food:

The Public Health Association of Australia's (PHAA) GM policy calls for a comprehensive monitoring and surveillance system to track the effects of GM foods. They want a labelling system where consumers can easily identify foods containing ingredients originating from GM organisms and from animals fed GM feed.^{xxx}

The Australian Medical Associations' submission^{xxxi} to the "Labelling Logic" review called for full process-based labeling of GM foods similar to that of the EU. They also called for monitoring system so doctors can report if they think a patient may have had a reaction to a GM food.

In 2009, The American Academy of Environmental Medicine (AAEM) released its position paper on Genetically Modified foods stating that 'GM foods pose a serious health risk'. Citing several animal studies, the AAEM concludes: "there is more than a casual association between GM foods and adverse health effects' and that 'GM foods pose a serious health risk in the areas of toxicology, allergy and immune function, reproductive health, and metabolic, physiologic and genetic health."^{xxxii}

The AAEM calls for:

- A moratorium on GM food, implementation of immediate long term safety testing and labeling of GM food.
- Physicians to educate their patients, the medical community and the public to avoid GM foods.
- Physicians to consider the role of GM foods in their patients' disease processes.
- More independent long term scientific studies to begin gathering data to investigate the role of GM foods on human health.

Dr. Michelle Perro's 2017 book "What's Making Our Children Sick?" has case studies of the recoveries many of her patients make when they remove GM and pesticides from their diet. She also looks at the science, or lack of it, and the link between farming methods and health.

Dr. Perro is a US pediatrician of 37 years' experience. "I recognized that what I was seeing in my patients correlated with the parallel introduction of GM food and increased pesticide usage in our food supply. Our children had become a science experiment and the results were not looking favorable for them.....The most common disorders I see are related to gut function, specifically food allergies (along with other allergy-related diseases such as

eczema and asthma), gastroesophageal reflux, chronic abdominal pain, constipation, and brain issues such as autism spectrum disorder, attention deficit hyperactivity disorder (ADHD), learning challenges, behavioral and mood problems, and sleep disorders. What people don't often know is that the gut and brain health are inexorably linked. Unhappy gut, unhappy brain.....One of my cases involved a severely autistic five-year old boy and his parents, from the Central Valley of California, a food-growing region that is heavily sprayed with pesticides. The dad had only 20% of his kidney function remaining, which is a very ominous situation that often leads to the need for dialysis. Several family members who are also neighbors residing in the same area were already receiving dialysis. The dad's nephrologist (kidney doctor) thought it was some 'genetic' disease. I treated the childand he got markedly better over two years. However, the cornerstone of treatment was that the entire family switched to organic food. This was difficult for them because they lived in a heavily-sprayed area and shopped mostly in stores that didn't stock organic food. Switching to organic food was also a stretch on their budget, but they stopped eating out and dad took his home-cooked, organic meals to work. The dad also decreased his intake of takeout and processed foods, but the majority of his dietary change was switching to an organic diet.

Over the next eight months, the dad's kidney function returned to 80% normal. He was not my patient, in the sense that no other treatment was offered to him other than changing to an organic diet (which by definition is non-GMO).

When he went for his follow-up appointment with his nephrologist, she was shocked by the return to near-normal kidney function. When he explained how he did it, she stated that it was "impossible". I was so profoundly affected by this patient and his family, as well as his physician's response, that I felt compelled to tell their story in our book. I carry this story with me to share with others and show them that even the most serious illnesses can be reversed. It gives people hope."^{xxxiii}

This long quote was used to show the huge burden of chronic illnesses that are increasingly part of many families lives. People who find their health dramatically improves when their diet changes they will not return to previous eating behavior. Others have decided to reject GM foods due to other concerns for example corporate control, pesticide usage and negative environmental effects. Therefore, **sourcing non-GM food is an increasing trend and will not be reversed by marketing and berating consumers for their non-GM choices.** WA has the opportunity to protect the farmers that are growing the food that the public wants and needs. **It is fair that the GM industry pays to ensure that farmers have a choice to not grow, or be contaminated by, GM.** This ensures that the public has the choice to eat non-GM food. This will be a huge and growing benefit to WA, its farmers, residents, exports and to everyone wishing for non-GM crops.

Conclusion

Scientific studies and clinical experience is showing that GM foods cause harm. The demand for non-GM food is a growing trend and will not reverse, especially with the new GM techniques that are less than 5 years old and have no history of safe use. **It is therefore essential for marketing and health purposes that farmers can grow non-GM food.** The best way for this to happen is for a levy on GM seed to ensure both that farmers are quickly compensated and also acts to encourage the GM industry and farmers to behave responsibly. Therefore, MADGE supports a **"Bill to establish a publically managed fund, paid into by GM seed merchants, in order to compensate non-GM land holders for contamination by GM seed or other GM material."**

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Principles for Farmer Protection Legislation

Objectives:

A Bill to establish a publicly managed fund, paid into by GM seed merchants, in order to compensate non-GM land holders for contamination by GM seed or other GM material.

To strengthen the protection of non-genetically modified landholders (both organic and conventional, and including public land) from all forms of contamination by genetically modified organisms (GMOs).

To strengthen monitoring and detection mechanisms in order to detect contamination early and reduce compensation costs.

This includes, but is not limited to, making the existing guidelines mandatory.

Rationale:

The Farmer Protection Legislation will replace sole reliance on common law remedies by:

- Establishing a Fund to allow simple and efficient compensation for losses suffered by non-GM landholders whose land is contaminated by GM crops, seed or other GM material;
- Making GM seed merchants responsible to compensate landholders when GM contamination occurs, by requiring GM seed merchants to pay a levy on seed sales into the Fund;
- Entitling farmers and other affected parties to rapidly and efficiently recover for any losses, extra costs or harm they suffer, without having to resort to the Common Law.

The Farmer Protection Fund

- The Government will establish a Fund to provide speedy, no-fault compensation in cases of GM contamination for purposes of cleaning up such contamination and compensating for economic loss or other harm;
- The Minister will appoint an independent Administrator to administer the fund;
- The Administrator will have broad investigative powers, including auditing financial records, inspecting properties and recommending enforcement action;
- The Administrator to make recommendations as needed to the Minister regarding any measures he or she believes would reduce the levels of contamination and therefore reduce the amount of the levy;

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- The Fund will protect the right of all non-GM landholders to be free of GM contamination, at the limit of detection of the presence of a GM event;
 - Non-GM landholders must be able to recover costs and losses related to all manner of contamination by GM seeds and crops, quickly and easily by lodging an application with the Administrator;
 - Applicants for compensation funds would have to prove the presence of a GM event on their land or in their seeds or crops and provide a declaration that they did not plant or authorise the planting of the GM seed or crop;
 - Funding for the compensation Fund will be annually levied on the GM seed merchants;
 - The levy will be assessed per kilo of seed sold;
 - All GM seed merchants must submit to the Administrator declarations on the amount of GM seed sold in a financial year, no later than the end of September following;
 - The amount of the initial levy will be set in the regulations;
 - The Administrator may from time to time recommend changes to the amount of the levy, to the Minister, taking into account the costs of previous GM contamination cases;
 - If compensation claims exceed the value of the fund, the Administrator will request from the Minister that the levy in the subsequent year be raised in order to cover the cost of the shortfall;
 - The Administrator may seek submissions from third parties regarding compensation and interested parties may appeal decisions under the Judicial Review Act.

Factors to use in determining compensation payments for contamination incidents:

The Administrator will pay non-GM landholders compensation for actual economic loss or extra costs which must include:

- costs for detection and identification of GM seeds or plants;
- all GM contamination clean-up costs;
- lost profits;
- lost premiums on non-GM produce;
- reduced property values;
- compensation for time spent dealing with the contamination;
- harm, where harm includes unwanted GM contamination for the full duration of its impacts.

Note: The Administrator will determine an annual calculation for payable losses, extra costs and harm where continuing GM crop contamination occurs.

Definitions

GM seed merchants - businesses licensed by the GM patent holders for the sale of GM seed, their agents, licensees, subsidiaries or contractors and any other legal entity that deals with the sale or other distribution of GM organisms ('dealing' is defined in the Gene Technology Act 2000).

Non-GM landholders - any party occupying, owning or caring for land (including local or state government) where no-one intended that GM plants would be grown.

Non-GM land - any land on which no-one intended to grow GM plants.



Sent Friday 16th Feb 2018 3.09pm AEST to env@parliament.wa.gov.au
Dear Environment and Public Affairs Committee,

Please find attached the MADGE Australia Inc submission for this Inquiry. Can you please confirm receipt of this submission? The how to submit page asks for an electronic signature but does not explain what this is. I have put contact details and the MADGE logo on this document. If more is required, please let me know.

Many thanks
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