STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS

INQUIRY INTO MECHANISMS FOR ECONOMIC LOSS TO FARMERS IN WESTERN AUSTRALIA CAUSED BY CONTAMINATION BY GENETICALLY MODIFIED MATERIAL

TRANSCRIPT OF EVIDENCE
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SESSION THREE

Members

Hon Matthew Swinbourn (Chair)
Hon Colin Holt (Deputy Chair)
Hon Tim Clifford
Hon Samantha Rowe
Hon Dr Steve Thomas

Hearing commenced at 11.46 am

Mr MATTHEW COSSEY
Chief Executive Officer, CropLife Australia, sworn and examined:

Mr OSMAN MEWETT
Director, Crop Biotechnology Policy, CropLife Australia, sworn and examined:

The DEPUTY CHAIRMAN: Good morning. My name is Colin Holt. I am the Deputy Chair of the committee. The other committee members here this morning are Hon Tim Clifford and Hon Samantha Rowe, and apologies from the other two members, who have various unforeseen circumstances going on. Alex Hickman is our advisory officer. On behalf of the committee, I would like to welcome you to the meeting. Before we begin, I must ask you to take either the oath or the affirmation.

[Witnesses took the oath or affirmation.]

The DEPUTY CHAIRMAN: You will have signed a document entitled "Information for Witnesses". Have you read and understood that document?

The WITNESSES: We have.

The DEPUTY CHAIRMAN: These proceedings are being recorded by Hansard and broadcast on the internet. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record and please be aware of the microphones and try to talk into them. I remind you that your transcript will become a matter of public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. Would you like to make an opening statement for the committee?

[11.50 am]

Mr COSSEY: Thank you, I would. Mr Deputy Chair and members of the committee, good morning. CropLife Australia welcomes the opportunity to appear before the committee today on behalf of Australia's plant science industry to discuss an important issue to Western Australia's farming sector, and to the continued investment and innovation in Australian agriculture more broadly. Our members are the innovators, developers and manufacturers of both conventional and genetically modified seeds and organic and synthetic agricultural chemicals, which are supplied to all farmers whether they farm conventionally with modern innovations or organically. Farmers and plant breeders have been altering the genetic makeup of the crops they grow since the practice of modern agriculture began. Once the science of genetics became better understood and discovered and researched, plant breeders used what they knew about the genes of plants to select for specific desirable traits to develop improved varieties. Plant scientists now use that knowledge, extensive research and understanding and plant breeding technologies to develop high-yielding crops that are resistant to damaging insects pests and tolerant of weed control tools. The use of agricultural biotechnology and the development of GM crops themselves is the next natural step in plant

breeding and builds on previous techniques such mutagenesis and hybridisation. In over 20 years of GM crop cultivation in Australia, there has never been a situation where any farmer has experienced pure economic loss from the unintentional presence of an approved genetically modified organism. In fact, in Australia, GM and non-GM canola and cotton has been grown side by side successfully and productively without creating any marketing issues—not one. With over eight years of growing GM canola in Western Australia, farmers have gained better yields, more effectively managed weed issues in rotational crops and have financially benefited, aside from the significant environmental sustainability gains that they have also delivered for the state. All this while Australian farmers have delivered more than 6.5 million tonnes of canola domestically and more than 19 million tonnes of canola internationally, again without a single incident. All this while Australia's organic farming sector has also continued to grow, and grow significantly.

The undeniable success of coexistence between both the organic farming sector and farmers who choose to grow GM crops in Western Australia is why a compensation scheme is entirely unwarranted and unnecessary. Any form of compensation scheme could only be considered to be a solution looking for a problem that just simply does not exist. I understand the committee heard from some of Australia's organic certifiers who also stated that there has been never been an incident of unintended presence of genetically modified organisms in organic crops causing economic loss. It is why we categorically do not support a compensation scheme in this context. If introduced, such a compensation mechanism would simply pose a real and serious impost to WA's entire farming sector. It would also cause unnecessary farmer conflict and would unjustifiably undermine the long-established and well-operating legal principles.

Farmers growing different crops side by side on their own properties and side by side with neighbours has been occurring since the beginning of modern farming. We need to be clear about what is being pursued here. The activist organisations you have heard from are not pro-farming; they are anti-GM. I think it is important to understand the drivers for which they stand. They seem to want to treat organic agriculture as their new modern religion, not as a farming system. They should not be allowed to unduly warp the longstanding principles of coexistence in farming, nor good public policy settings around how farming operates in Western Australia.

What is the basis of their argument for a compensation scheme now? It is not being happy with the WA Supreme Court, appeals court and High Court of Australia decisions in the Marsh v Baxter case. Calling it unfair does not mean the legal system in its current arrangements is not working, or a compensation scheme is actually needed. I am reminded of the famous quote, "Everyone is entitled to their own opinion, but not to their own facts." That the organic industry decided to accept seeds developed through scientific and innovative breeding techniques such as mutagenesis—the breeding of seeds using chemicals and radiation—but not the next natural step in plant breeding of GM, is evidence of the illogical marketing standards that they now seek to impose strict liabilities around. Organic certifiers happily accept a threshold for synthetic chemistry, while allowing for the marketing of organic produce as pesticide-free, and allow organic farmers to use conventionally bred seed, yet incredulously impose a zero tolerance on GM. There are even tolerances in the organic standards for heavy metals. But apparently the presence of any safe, effective and approved GM completely undermines the integrity of an organic crop according to activists, not according to organic farmers.

This is absurd, and it appears to be a case of cognitive dissonance, and it is time that it was called out for what it is. Unnecessary compensation schemes, in whatever form they take, are a handbrake on innovation and would serve only to stifle the future of WA's own agricultural sector and agricultural research, and put WA farmers at an unfair disadvantage to their other state and international competitors, and be nothing more than an expensive administrative white elephant.

As stated by the Australian Farm Institute recently, organic certification in Australia is voluntary, arbitrary and based on standards set by market pull, rather than science and law. To protect these values through economic compensation mechanisms which go beyond those afforded through common law sets a dangerous precedent.

The DEPUTY CHAIRMAN: You covered quite a bit of ground in your opening statement, so we will see how we go with some of our questions. We might need to skip along with a few of them, and we can maybe explore some other aspects of what you have had to say.

CropLife Australia states on its website that CropLife member companies follow a strict code of conduct which requires a commitment to high standards of safety, stewardship and product quality. Can you please give an overview of this code of conduct, as well as other requirements and guidelines produced by CropLife Australia insofar as it relates to the coexistence between GM and non-GM crops, and any risk of the presence of GMOs in non-GMO crops?

Mr COSSEY: CropLife Australia members are indeed required to abide by the CropLife Australia mandatory code of conduct as a condition of their membership. It is the mechanism to ensure their ongoing commitment to high standards of safety, of stewardship and of product quality. The code of conduct sets out a series of obligations that must be met. I am happy to table a copy of the code of conduct for the committee. The code of conduct sets out the fundamental principles of safety, stewardship and product quality throughout the entire life cycle of a product and it goes towards ensuring that coexistence works.

At the level below the code of conduct, coexistence between GM and non-GM crops is managed at the on-farm level by growers, following guidelines set by individual technology providers and in accordance with regulatory requirements. I note that one of the GM crop technology providers, Monsanto, is appearing before the committee later this afternoon. They would be well placed to talk at this next level in more detail. In particular, crop management plans contain strategies that are implemented on-farm to manage risk to the integrity of grain supply chains and to the sustainability of agricultural production more broadly.

CropLife has also some official policy positions that our members both support and adhere to that address matters of low-level presence of approved GMOs in agricultural trade, and also product launch stewardship to prevent a trade disruption. They are critical, dynamic documents that are adhered to actively. These go towards ensuring that fundamental principles of coexistence again between non-GM and GM cropping are maintained. I will happily also table those two policy statements for the committee.

The DEPUTY CHAIRMAN: Thank you. Some submitters have stated that WA's voluntary GM management guidelines should be mandated and made enforceable. What is your position on this, and do you believe that current practices are adequate, and why?

Mr COSSEY: CropLife does not have an official position on this. It is one perhaps best suited to the farming organisations and grower groups themselves. However, I think it is important to note that best practice regulation principles dictate that regulation should only be mandatory where a problem or a systemic noncompliance or failure has been identified.

[12.00 noon]

I think it is an important point and a good time to recognise that really Western Australia is fortunate to have some of the world's best farmers, best growers, best producers. I think the fact that there are not incidents is a testament to their commitment to best practice. I think evidence that has already been presented to this committee has reaffirmed that approved GM canola should not be treated any differently from any other crop. GM canola does not pose any unique risk to agriculture

or agricultural value chains that require mandatory management guidelines over and above the existing market-based segregation practices and tolerances that, again, are working extraordinarily well. No examples have been given of the voluntary guidelines not being effective. Even the organic certifiers have admitted there has not been a single case of an organic grower suffering economic loss due to an unintended presence of a low level of a GMO in their production systems. I think it goes to the point that if voluntary guidelines are critical to best practice and outcomes and they are not being adhered to, that would be a trigger for considering it, but you do not have that as a case here in Western Australia. In fact, you have the opposite.

The DEPUTY CHAIRMAN: You state in your submission on page 2 that the real effect of a compensation scheme would be to create unnecessary conflict to Australian farmers. Would you like to expand on that statement?

Mr COSSEY: I think the starting point—this really goes to the Marsh–Baxter case—is that the conflict does not naturally exist between farmers; it does not naturally exist between the biological systems; it does not naturally exist between different crops or different technologies. The conflict comes if an artificial and arbitrary rule or regulation is put in over the top of what are biological systems. As I have previously stated, farmers have successfully operated and co-existed with different farming systems, essentially since the Egyptians decided to breed corn that was edible. The only time we see an actual conflict occur is when we look to impose systems that bring an artificial line into what are nature and biological systems. There is fluidity; farmers manage them. I was here earlier to hear representatives of PGA indicate that farmers have known how to farm with each other. They sort out problems. There are systems in place for loss irrespective of GM—not just general loss. When we seek to start pitting one farming system over another, where we seek to start putting in place what might be considered ideologically based policy settings around farming systems, that then brings in a natural conflict that does not otherwise exist.

The DEPUTY CHAIRMAN: You raised concerns that imposing a tax on the GM industry could stop the development and marketing of GM crops because users may not be willing to accept liability or low-level unintended presence of approved GM crops. Would you like to make comment and can you provide any potential evidence of that?

Mr COSSEY: I suppose the starting point should not be about who pays, or the cost. It should be about whether a scheme is actually even needed. Irrespective of who pays, CropLife strongly believes that a compensation scheme is generally a solution looking for a problem, as I said before, that does not exist; therefore, we do not support a mechanism in any way, shape or form. I think the establishment of a compensation scheme for the unintended presence of low levels of GMOs sets WA on a path of setting what are costly and unnecessary compensation schemes for any number of safe, approved products. You set a precedent if you are to pursue here of saying, “Well, how do you not set it across the board and, essentially, look for government to step into the insurance and compensation scheme that is already effectively working over agriculture?”

Those most at risk from the precedent, I would suggest, of a policy direction like this would, ironically I think, be the organic growers themselves, who would face a heightened duty to prevent pests, weeds and diseases that they cannot control through organic methods from crossing into their neighbouring farmers’ properties. Because non-organic farmers would have immediate cause to seek a similar compensation scheme, I think, from government if you step one up in this place, and then again you would start expanding it into every peril, every threat that exists. Then I think you go back to the point of: why are we even considering in this space, considering that it does not exist?

I think more important too, the compensation scheme in any form, as it is proposed about where the levy sits, has the potential to give rise to moral hazard through individuals increasing their

exposure to risk when insured. Basically, schemes, whether government or private sector, whether direct compensation or insurance based, that are structured to facilitate or encourage moral hazard have always been highly criticised as a matter of principle, both in insurance and compensation and in public policy. I think the scheme, as nominally discussed and outlined at this stage, falls well and truly into that category. Such a compensation scheme would also be prone, I think, to abuse by disreputable individuals who seek to act recklessly—not GM organic farmers or farmers more generally—those who would seek to take advantage of a scheme because of this structural flaw. Again, I hesitate to get into the space of discussing how a scheme might or might not work because I think it is very important that, before you got to that the point, we have to pass the threshold of whether one is even required. As I have indicated, all evidence across the board is that there is no case of pure economic loss yet, so it seems misplaced to be discussing the structural problems of any number of the compensation schemes one might consider.

The DEPUTY CHAIRMAN: Thank you. In your submission on page 3, you state —

> Other state governments have considered this matter and concluded that given there is a national cooperative regulatory scheme for gene technology, no jurisdiction can introduce arrangements under the scheme to implement a compensation scheme unilaterally. Any proposals regarding compensation would need to be considered by the Legislative and Governance Forum on Gene Technology, and agreed to by the Commonwealth and all states and territories.

Is it your submission that the Western Australian government has no power to legislate to implement a compensation scheme?

Mr COSSEY: I would never dare to be one of those east coasters to come over and tell the Western Australian government or Parliament what they may or may not do! But the specific component of that submission is in regard to the national scheme. Australia has one of the world leading regulatory schemes for gene technology that has worked well for the past 18 years for Western Australia and the nation. Perhaps, particularly for Western Australia because Western Australia stands alone as the single greatest farming sector to benefit from GM cropping. The commonwealth Gene Technology Act established a national cooperative regulatory scheme for gene technology that was agreed to by all states and territories, including Western Australia. That commitment has transcended those 18 years under all governments, both federally and within Western Australia.

Other state governments have considered this matter and concluded that there is a national cooperative regulatory scheme for gene technology. No jurisdiction can introduce arrangements under that scheme to implement a compensation mechanism unilaterally. We are not saying that the WA government or the Parliament is unable to introduce a compensation scheme just not under the national regulatory arrangements. We are saying the WA government, and, obviously, the Parliament, have the power to legislate, but it would have to be through other means. Again, the risk that brings to undermining what has been a long-standing nationally agreed and, might I say, internationally held-in-very-high-regard scheme and regulatory system, again starts undermining best practice and a system that is working extraordinarily well. I think, as the committee is aware, if you start imposing, whether it is called a levy, systems that start looking like taxes, if you are imposing costs on a sector you are not providing the benefit to directly on economic activity, it starts to very much look like a taxation measure.

I think on all those reasons, one needs to stay away from this area. I know the former South Australian Labor government considered this matter actively and dismissed it out of hand. There is correspondence on this matter that I have from former minister Gago, which I am happy to table and from the former New South Wales Minister for Agriculture on this matter as well. They looked

at and immediately recognised that such schemes are not appropriate and should be done, if needed, under any national scheme.

The DEPUTY CHAIRMAN: Is that correspondence to you from those ministers?

Mr COSSEY: It is correspondence to me and there is no breach of confidentiality in us providing them to your committee.

The DEPUTY CHAIRMAN: That correspondence is tabled.

On page 3 of your submission, you state —

> The *Consumer and Competition Act 2010* (Cth) and relevant Western Australian consumer protection legislation would also afford redress to persons affected by purchasing non-GM seed that unintentionally contained low levels of approved GM material.

Can you expand on that?

Mr COSSEY: Certainly, Chair. I think we make this point because the principle we bring is that it is about letting farmers farm. It is about ensuring that, whether it is an organic farmer, a conventional farmer or a farmer who chooses all three systems to farm, or any one thereof, needs to have confidence that if something does go wrong, there is no gap in the system. A lot of the discussion that has occurred to date is in the context of a farmer farming a GM crop next to a farmer who is farming either a non-GM or an organic crop and there being that direct relationship. I suppose the point we make here too is that the step beyond there is also protected in that if you have a farmer seeking to grow a conventional canola crop, in good faith purchases conventional canola seed, is growing it next to organic but that seed happens not to meet the specifications of what they purchased. The consumer law still provides redress to that farmer and any other parties impacted by that, both federally through the Australian Competition and Consumer Commission Act, and also state compensation. The Australian consumer law offers protection of consumers' rights when buying goods or services across the board. If a grower were to purchase certified non-GM seed that was subsequently found to contain greater than 0.5 per cent of approved GM material, they would have cause of action against the seed company under consumer law, both nationally and at a state level. I would refer the committee to the Australian Competition and Consumer Commission consumer guarantee documents on these matters. There are similar provisions within the Western Australian statute. I suppose, the point we seek to make here is not just in dealing with a farmer who is growing a GM crop impacting on an organic farmer, the protection goes all the way through the supply change, so that if anyone suffers economic loss, they have redress under current statute.

The DEPUTY CHAIRMAN: Thank you. I will go to 1.7. You submit on page 6 that —

> … the common law of torts continues to provide effective remedies for persons claiming to have incurred damage from GMOs.

Do you believe one court case in Australia is sufficient to come to this view; and, if so, why?

[12.15 pm]

Mr COSSEY: I would say yes, because it was such a comprehensive ruling and a matter that went all the way essentially to the High Court, so the legal principles and position are strongly affirmed. But, again, I think in and of itself, that one case nearly justifies that, because there is only one case. There has only ever been one incident that had such a comprehensive and clear decision, firstly, by Justice Martin of the Western Australian Supreme Court and, as indicated, a decision then confirmed by the Full Bench of the Supreme Court of Western Australia, and the High Court found no basis to justify them questioning the legal reasoning and matters that were found in that case. Just because perhaps certain anti-GM activist groups do not agree with the decision, it does not mean that the

judgement in Marsh v Baxter was wrong or the common law of torts does not provide effective remedies. In Marsh, obiter dictum of Justice Martin was that Marsh's organic operation should not have been decertified by his organic certifier. That is the very important point where the origins of all this conflict come from. It was not the actions of his neighbouring farmer and it was not the organic farmer's actions that led to the problem here; it was reckless behaviour of a certifier who, Justice Martin found very clearly, did not adhere to their own procedures. I think, accordingly, this case and all of the facts surrounding it do comprehensively deal with the matter and reinforce the position of all, essentially farmer groups, that there is no problem here. The problem was a one-off created, again, by an artificial and inappropriate application of regulations. The normal practices of farming will not see these problems occur and hence, again, there is no need for a compensation case.

If there was any argument at all about whether or not a system was needed—I want to be clear; I do not believe a compensation scheme in any form is needed—on the only case that has ever happened, I would suggest that there might be some who would mount the argument that off that you could impose a levy on organic certifiers to create a compensation scheme so that if they were ever to act as recklessly or inappropriately again, that poor organic farmer does not have to go through that and suffer what is an entirely arbitrary economic loss that should never have occurred. But I do not believe there is even a case for that. As the system works, that would be the only one I think people could probably nominally mount an argument for, and, again, I do not know that that is really a solution that is needed, because the problem does not exist.

The DEPUTY CHAIRMAN: Just taking those comments, then, you would support the organic export notice recently issued by the federal Department of Agriculture and Water Resources, 2018–01, which states that where there has been an accidental introduction of GMO to an organic production unit and such presence is determined to be minor, the sanction is to issue a corrective action request only and not suspend or decertify the unit?

Mr COSSEY: As I stated at the beginning, the plant science industry supports and serves, and has as our customer base, farmers who farm GM crops, farmers who farm conventionally, and organic farmers. The sort of position we come from, even if one does not believe that plant science ultimately is just acting from a purely altruistic view of supporting all farming systems, from a commercial view, we support all farming systems because they are all customers—organic through to GM crops—of our industry, and therefore we default to that standard. I think the clarification has come and it is done by the organics industry itself. Those federal department of agriculture standards are developed by the organics industry bodies themselves, so we default to what the whole organic farming sector advocates are the appropriate regulations. I would suggest, in fact, in those standards, the organic farming sector and industry more broadly have indicated that there is commonsense and there is no need for these arbitrary lines any more or less around organic farming than there is in other farming. So, absolutely. Again, application of those standards—organic farmers are adhering to their own best practice in line with the organic standards, as you have just outlined—reinforces again not only why no compensation scheme is warranted, but why there should never actually be a requirement for an instance of economic loss. I think sometimes we need to keep reminding ourselves that, again, this was not the actions of a farmer growing a GM crop nor the actions or lack thereof of an organic farmer that caused this problem. It was, as directly outlined by Justice Martin, reckless acts by a certifier. I think the organic certifiers themselves would be contributing to that industry and ensuring those regulations are the benchmark, which goes to the natural recognition, again, of an organic farming system being like so many others. It occurs in nature, it is a biological system that has fluidity, and a rational farming system, agricultural science–

based approach should always be what is applied, as opposed to what we see with some activist groups who claim to be pro-organic but in fact are anti-GM.

The DEPUTY CHAIRMAN: On page 7 of your submission you state that no regulator has found it necessary to impose any insurance conditions on a licence holder, including the Gene Technology Regulator. Have you got any insights into why that may be the case or why no regulator has ever put on insurance conditions?

Mr COSSEY: It is in fact the responsibility of the technology providers themselves—our members—not farmers, to seek pre-market regulatory approval for commercial release of GM crops. That, again, is one of those core foundations as to why coexistence works well, and why we are so committed to it is that all that work is done ahead of the introduction of any new crop—GM or otherwise. Farmers who choose to cultivate GM crops are required to follow any licence conditions imposed by the regulator on the technology provider. That is that next level of even further risk mitigation to ensure that farming systems can coexist. It is CropLife's understanding that, to date, the regulator—being the Office of the Gene Technology Regulator or the Gene Technology Regulator herself—has not identified any risks to human health or safety or the environment posed by GMOs that warrant the imposition of mandatory insurance as a licence condition. They certainly could if they wished, so I think that is a significant point as well about pre-empting any need for a unilateral compensation scheme in fact. If an actual risk that could not be mitigated existed but they were going to approve it, they could easily impose such a condition. Again, it is a testament to how the entire system, through the entire vertical system of approvals and regulatory management and farming systems themselves, ensures that the principle of coexistence can continue with farmers using approved GM crops. My good colleague Osman Mewett is an expert in this area; in fact, I am not too sure anyone knows more about the national regulatory scheme than he does, except perhaps that I would defer to the actual Gene Technology Regulator herself. He might have more to add.

Mr MEWETT: Just briefly, I would like to just bring to the committee's attention that the 2006 statutory review of the Gene Technology Act did consider this matter of mandatory insurance and they sought advice from the Insurance Council of Australia at the time, and at that time the Insurance Council of Australia was not in favour of imposing mandatory insurance on these matters for practical limitations. I believe that there was a submission to this present inquiry made by the Insurance Council of Australia which indicated that there are actually voluntary insurance products on the market should producers wish to protect themselves against a whole range of various risks, including GMOs.

The DEPUTY CHAIRMAN: We have not come up with an insurance around GM yet.

Mr COSSEY: I understand there are products available to cover a loss. It is not a matter I have spoken to insurance companies or the Insurance Council about recently in this context. But more broadly, again, there are products available and they are not taken up. I think the insurance industry's position would be that it is because no loss happens. There is no genuine, real risk. Probably a significant point for the committee considering this matter is that I would be very surprised if there was a genuine need for compensation and the insurance industry was not there ready to help. It is pretty responsive to have policies for everything and anything for which there is a genuine requirement. Perhaps, again, that is another reinforcer that this might be more of a chattering classes issue as opposed to a real organic farming or broader farming issue on the ground.

The DEPUTY CHAIRMAN: On page 10 of your submission, you state —

> **It is important to note that agricultural crops are never 100% pure: coexistence means meeting agreed, low level thresholds of admixture.**

Can you expand on that a little bit and maybe explain how GM fits within that statement, and do you have other examples of where it is not 100 per cent pure?

Mr COSSEY: As any farmer or anyone will tell you, Mother Nature—all biological systems—does not recognise even the supreme policy-making power of the WA Parliament: It does not recognise the fence line of a farmer. These are biological systems. Again, it is only if we place an arbitrary and non-scientific or false value or restriction over what is a biological system that we create the problem in and of itself, as opposed to the principle of coexistence, which sees farmers having managed all sorts of challenges in farming and ensured that farming remains productive and continues to grow in all systems that we have, including organics.

Coexistence is based on the premise that farmers should be free to cultivate the legal crops of their choice by using the production systems they prefer, whether it is conventional, organic or biotech-based. Putting GM to the side perhaps for one moment, it is important to reflect that agriculture, as I pointed out, does not occur in a vacuum. It is part of nature and biological systems. Grain receival standards reflect tolerance levels for the unintended presence of a range of different potential impurities, including weed seeds, snails and insects, amongst a range of other things. That is why we see all forms of farming do this. It is not just conventional farming that has tolerances for these things. It is why organics themselves recognise that there are thresholds. Coexistence of various production methods is not a new concept to the agricultural community or farming sector. Farmers have practised coexistence for generations to meet demands for different types of products. I think that is a critical point as we look to the challenges that farmers face in terms of becoming more productive and more environmentally sustainable. We need to be very cautious about imposing restrictions that have no basis in either necessity or science that could underpin that. Historical experience shows that coexistence of a wide range of production methods is not a problem, provided that technical and procedural guidelines are carefully followed. Cooperation between neighbouring farmers is encouraged, and we see that working. I think we see that working in Western Australia better than, I would nearly suggest, anywhere else in the world. For example, in Australia, different types of wheat, barley and rice are grown in close proximity to each other and channelled to different users, and even within categories of the same crops—bread wheat versus noodle wheat—where one might suggest thresholds and segregation are even more important in terms of end-market demand and are critical. We see the Australian farming systems and those in Western Australia working well.

It is the same with malt barley versus feed barley and short grain rice versus long grain. Again, farmers follow simple but effective procedures to achieve these agreed standards of quality and purity in their harvest products. We have seen them do that throughout history. We have seen them do that every time they have looked at a new type of crop, irrespective of its breeding base. We saw Western Australia and many other states in Australia—but specifically Western Australia—do it extraordinarily well when they started cultivating GM canola.

I am happy to provide more if you like.

[12.30 pm]

The DEPUTY CHAIRMAN: That is fine. If the other members of the committee are happy, I am going to jump forward to 1.13. Has CropLife Australia received communication from its members or any other farmers in Western Australia or other jurisdictions raising concerns about economic loss from GM crop contamination?

Mr COSSEY: The short answer is no; none.

The DEPUTY CHAIRMAN: The only one real example is that one that exists.

Mr COSSEY: Marsh and Baxter? I know that triggered a lot of discussion at the time and continues in some circles too. But no, none.

The DEPUTY CHAIRMAN: The committee has received evidence that individual EU member states do not have a GMO tolerance in their domestic organic standards, effectively rendering the EU 0.9 per cent adventitious tolerance useless. Any comments on that?

Mr COSSEY: I think there does appear generally in discussion to be a bit of confusion in the public discourse around this and some of the statements made—a bit of confusion about the EU approach to organics that perhaps I can clarify here. While the European Council regulation—specifically, 834/2007 EU—establishes a supranational organic regulatory framework, it places responsibility for the creation of accreditation systems on the individual EU member states. In many cases a member state's competent authority in turn delegates control of such systems to numerous private controlled bodies, which then introduce their own private standards separate to the framework agreed to by the EU and its members. The UK Soil Association and France's Certisud and Germany's Kiwa BCS Öko-Garantie are examples of those sort of bodies. The 0.9 per cent is a GM labelling threshold and does not refer to a permitted adventitious presence threshold in organic produce. As I stated in CropLife's submission, the relevant EU regulation prohibits the use of GMOs and derived products in organic production systems. However, the regulation on genetically modified food and feed lays down a threshold—0.9 per cent—under which a product's GMO content does not have to be indicated. Products with a GMO content below this threshold can be labelled organic. Therefore, this is not useless, as some have suggested. If organic producers choose to voluntarily enter into contracts that mandate a lower threshold, they are entering into, essentially, a self-inflicted condition or a vulnerability, as opposed to an evidenced market failure. I think that is the very important distinction about the public policy and regulatory settings that have been established by the EU with all member states' agreement and those individual commercial relationships that are operating in individual countries through a commercial choice of some producers. Like in Australia, domestic organic standards in the EU are those private contractual arrangements between organic producers and certifying bodies. That is really the important distinction all the time, rather than to suggest that because there are some private contractual arrangements that go below that, somehow the EU regulatory arrangements are useless.

Mr MEWETT: We do have a document available that gives an overview on EU law on organic production which I am happy to table for the information of the committee.

The DEPUTY CHAIRMAN: Is that your own document that you put together?

Mr MEWETT: No, this comes from the EU itself. It is an EU government explainer, 101-type document.

The DEPUTY CHAIRMAN: What is the title of the document?

Mr MEWETT: It is called "EU law on organic production: An overview".

The DEPUTY CHAIRMAN: That is tabled.

There appear to be some differences of opinion expressed in submissions to the committee about the value of GM versus non-GM. One point is that non-GM obtains a premium. Is this correct?

Mr COSSEY: Non-GM canola commands a higher delivery price than GM canola in the west. There are a range of factors that go into that. My colleague is well across this. There are times when the non-GM price in Western Australia is above the non-GM price in South Australia and times when the GM-canola price in Western Australia is higher than the non-GM price in South Australia. It goes into all those market factors—production capacity, demand at any one time, who is buying, where is buying? There is also a premium paid for a higher oil content, regardless of whether it comes from

non-GM or GM canola. At the end of the day, that is really the end product were the value in canola is. That is a significant driver.

The maintenance of a premium for non-GM canola is proof itself that coexistence works. It works in Western Australia. It works everywhere else. Yet we still see farmers, because of the productivity benefits, the net financial position for their own farming business, for weed resistance and management processes and for maximising benefit from rotational crops, choose GM canola. Even though GM canola growers might receive a lower delivery price for their product, there are huge gains for them in all those areas that I have just outlined. Perhaps even more importantly, because of the amazing innovation in the space, farmers are benefitting. The industry itself does not suggest that GM crops are the silver bullet to all farming problems. They just one of the many tools that we invest in significantly to give farmers more options to achieve a range of different outcomes—high yield, better weed management, addressing resistance, environmental sustainability being a significant one for farmers. Not just in the current context, but to be discussing commodity prices now does not, probably, reflect the value of these tools being available to farmers, particularly in the current context where we have just seen the release of a new DHA canola from research developed about 20 years ago at the CSIRO. It was first approved here in Australia. It will be the first plant land crop based production of omega-3 oil. We are going to see in the future canola farmers, without changing what they are growing, go into entirely different markets. It has been suggested that with these new brands one hectare of new omega-3 canola will replace the equivalent of about 10 000 kilograms of fish. Aside from the massive environmental fishery sustainability benefit that comes from a first-in-the-world sustainability effort, you will see GM crops in these sorts of health and other beneficial traits areas become premiums in and of themselves.

The DEPUTY CHAIRMAN: Just for the benefit of Hansard and witnesses, our chair Hon Matthew Swinbourn has just joined us.

Some submitters have expressed support for what are called the principles of farmer protection legislation developed by FOODwatch, the objective of which is to establish a publicly managed fund paid into by GM seed merchants in order to compensate non-GM landholders for contamination by GM seed or other GM material. Have you, as an organisation, been contacted by organisations such as FOODwatch or Gene Technology to provide feedback to them?

[12.40 pm]

Mr COSSEY: No, they did not contact us. We are always happy to discuss these issues. They are what we live for. They are exciting and, occasionally, challenging issues. I must say occasionally I do question whether some of these measures are in good faith and actually about assisting farmers, be they organic or conventional farmers. There is one challenge we have. We are a science-based industry. We are happy to have discussions on a whole broad range of issues but we are not able to accommodate views that are just factually wrong. It is a bit of a futile exercise getting into a discussion with somebody who is a member of the flat earth society trying to convince them the world is round. We see it is a bit the same in this space. We are always happy to engage with anyone in the challenges farming is facing, the opportunities that science can provide, and the best ways for new innovation farming to coexist. Our member companies spend more time on that than, perhaps, anything else before any of these things are even put to a regulator, let alone approved and released. In fact, we see a range of self-restriction. Even after some products are approved by the Australian regulator, if there are possible trade arrangements in other jurisdictions or other jurisdictions' regulators have not yet approved them, then our members themselves do not release them to Australian farmers even though they are wanted so as to avoid those issues. The system works extraordinarily well.

No, they have not. Again, I find that in a lot of the discourse from those groups that it does not seem to be about the best way to assist organic farmers or conventional farmers or farmers who choose GM. It is about an agenda that is simply outright opposition to agricultural biotechnology in farming. I am not renowned for my great tolerance or patience in that space because we cannot be having a discussion which is just scientifically nonfactual with people.

The DEPUTY CHAIRMAN: Another submitter, Dr John Paull, from the University of Tasmania, has recommended a compulsory third-party GMO incident scheme. I do not know if you have come across that at all.

Mr COSSEY: Yes.

The DEPUTY CHAIRMAN: If you have any comments or if you had a decent enough look at it.

Mr COSSEY: I have, and my colleague Mr Mewett has as well. A CTP scheme for the unintended presence at low levels of improved GMOs would be the equivalent of making parents who vaccinate their children pay into a fund to cover the medical expenses of parents who decided not to vaccinate their children. It is fundamentally flawed in a process of what you are seeking to achieve. Approved GMOs have been assessed by the independent gene technology regulator to be safe for humans and the environment—as safe as their conventional counterparts. There is no evidence of harm to organic or non-organic growers caused by the cultivation of approved GM crops. This inquiry, I believe, has heard that there is not a single incident of economic loss that has resulted from the unintended presence at low levels of GMOs yet. I try to think of the analogy of how this makes sense. My great concern in the broader discourse, because we obviously spend a lot of time in public discussion around these issues, is at the moment, not just in Western Australia, but Australia and probably more broadly in the world, we have this peak interest in food, particularly in urban-based populations, and at the same time correlating with peak ignorance around farming and agriculture. That is creating quite a conflict in a genuine fact or science-based discussion around these issues. I think we see this in the GM space more than, perhaps, anywhere.

The motoring analogy I came up with is that it is like cyclists demanding that pedestrians pay a levy just in case a cyclist falls off their bike. It is just misplaced. However, like Dr Paull, CropLife's expertise is not in insurance matters; nor is it Dr Paull's area of expertise. These are matters I would otherwise encourage the committee to go to that sector or experts in that space. But it is something we looked at and I think it is flawed.

The DEPUTY CHAIRMAN: Thank you. Do you have any further statement you would like to make before I close the hearing?

Mr MEWETT: We commend you and the committee and the work that you do. These are important issues. There is no greater challenge facing not just Western Australia's farmers but also the nation's farmers and the global farming community in producing enough food for a growing population in more environmentally sustainable ways. Addressing real problems is something that should bring all agriculture together, but it is about ensuring that all our efforts go to facilitating innovation that will benefit not only conventional farmers but also organic farmers and that we put effort and resources into addressing genuine problems as opposed to simply responding to what is either a narrow activist agenda or a misunderstanding, or creating a compensation scheme for a problem that just does not exist. We commend you on your work and we are happy to serve the committee in any way in the future, should you wish, and we thank you for the opportunity.

The DEPUTY CHAIRMAN: Thank you for appearing here today. A transcript of this hearing will be forwarded to you for correction. If you believe that any corrections should be made because of typographical or transcription errors, please indicate these corrections on the transcript. If you want

to provide additional information or elaborate on particular points you have made, please provide supplementary evidence for the committee's consideration when you return your corrected transcript of evidence. Thank you for today.

Hearing concluded at 12.46 pm

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