

**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  
TAKEN AT PERTH  
THURSDAY, 3 MAY 2018**

**SESSION FIVE**

**Members**

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

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**Hearing commenced at 2.57 pm****Mr TONY MAY****Managing Director, Monsanto Australia, sworn and examined:**

**The CHAIRMAN:** 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.

[Witness took the affirmation.]

**The CHAIRMAN:** Have you signed a document entitled “Information for Witnesses”?

**Mr MAY:** Yes, I have.

**The CHAIRMAN:** Have you read and understood the document?

**Mr MAY:** Yes.

**The 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. Please be aware of the microphones. Try to talk into them or near them and ensure that you do not cover them with papers or make noise near them. I remind you that your transcript will become a matter for the 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 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?

**Mr MAY:** Yes, thank you for the opportunity. We welcome the opportunity to participate in the inquiry and share the perspective that Monsanto has. We have more than 20 years of working with Australian farmers who choose to grow GM crops as part of their operations. Globally, our research and development pipeline works with farmers to develop the tools, seeds and software they need to grow strong healthy crops while looking after the environment. We firmly believe that innovation and technology are a necessary part of global agriculture. In Australia, Monsanto plays a role in the cotton industry, which grows almost 100 per cent genetically modified cotton, and in the canola industry, which utilises our product which is the genetically modified Roundup Ready canola. We have a conventional vegetable seed business. We also have our biologicals business. We license our herbicide Roundup through a distributor—Sinochem.

Monsanto very firmly supports all types of agricultural systems. Organic, conventional and GM are all valid forms and all have their place in the Australian agricultural landscape. Every paddock, every crop, and every farmer is different. Farming does not happen in a vacuum. Farmers, agronomists, input providers, bulk handlers, transporters, and exporters all work together to manage the segregation of crops, varieties and methods to deliver what our end customers want. Monsanto is very proud of the GM products we have developed, that cotton and canola farmers across Australia have embraced. WA farmers sought access to grow GM canola because it is a great weed control tool. Weeds and herbicide resistance are one of the biggest issues facing the Western Australian agricultural industry. Weeds cost Western Australian farmers more than \$1 billion in annual crop losses. Many of the herbicides that farmers have used and relied upon are no longer effective.

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Incorporating Roundup Ready canola as part of an integrated weed management system helps all the different weed control methods work more effectively over a longer time period. GM canola is a crop just like any other and is managed like all other agricultural inputs that farmers use. The tolerance levels in place and the sophistication of our grain handling systems in Australia mean that coexistence works. We continue to supply other agricultural products to the world without issue. Because of this, Monsanto sees no need for the compensation fund. I thank the committee for the thorough examination of this issue and I am happy to answer any questions.

[3.00 pm]

**The CHAIRMAN:** Thank you, Mr May. We have provided in advance a list of questions we propose to work through today. We will start with that list of questions. Other members of the committee may have their own questions and new lines of inquiry may open up through that. If anything arises that you are not in a position to respond to, you can take those questions on notice. On page 1 of your submission you state that it is Monsanto's position that mechanisms under existing common law are more than adequate to address farming disputes, including any potential unintended presence of an approved GM product in a non-GM crop. The question that arises from that is: do you believe that one court case—obviously, *Marsh v Baxter* in Western Australia—is sufficient to establish a precedence that common law provides adequate remedies for any claim of GM contamination?

**Mr MAY:** In my view it really is not just about one case, but, importantly, that one case moved what we know as common law and how law is applied in agriculture—really brought that into a modern perspective. It highlighted that GM should be treated no differently to any of the other issues that may occur in agriculture. More importantly, we have seen over the years in canola that coexistence works.

**The CHAIRMAN:** A lot of these questions are common to what we have asked witnesses, so there is a bit of repetition here. Can you envisage there being a possible factual scenario which might have led to a different result to the one in *Marsh v Baxter*?

**Mr MAY:** No, I cannot. The evidence that we have seen—it is nearly 10 years now of GM canola. We certainly have not seen any issues relating to GM with non-GM. The one issue that we have had with an organic grower—I guess we have been discussing this quite at length through this inquiry. We have not seen any other issues or any other growers having their organic certification be removed because of any issues around GM presence.

**The CHAIRMAN:** Would your views about compensation schemes be any different if they were no-fault and funded through general consolidated revenue rather than by a fee imposed on GM farmers or the GM industry, however that might be structured?

**Mr MAY:** Our point of view is that we do not believe that the compensation fund is necessary, regardless of who funded it. Whether it is through the grains industry, seed producers, farmers or the WA taxpayers, we do not believe it is necessary.

**Hon COLIN HOLT:** We have been given evidence where there is a different interface between GM canola and non-GM canola versus GM canola and organic farming, where contamination of an organic farm—no tolerance for GM material. I know nothing about cotton, but have you had any cases where cotton potentially—which you said is 100 per cent GM now—I assume it is grown in close proximity to organic farms. Have there been any incidents of GM cotton having the same outcome on an organic grower of any sort of description?

**Mr MAY:** No. I guess where cotton is grown—if you think of all those catchment areas on the Murray–Darling Basin, I think just about every cotton grower would grow GM cotton. That has

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happened for nearly 20 years now. It is probably more likely to have an interaction with organic farms, particularly cereal organic farms or beef properties. We have not been aware of any issues over that whole time relating to cotton.

**Hon COLIN HOLT:** I do not know the nature of the plant at all in terms of how it is spread, if the seed gets blown or anything like that.

**Mr MAY:** The seed is contained within the cotton lint. It is different to what you would see with canola. It is a much larger seed. It is grown very widely. It is transported right across those growing areas and we have not had any issues with organic interactions with cotton growers.

**The CHAIRMAN:** My next question you can take on notice and provide to us in confidence. We are asking if you are able to provide the committee with the location and contact details of all your licensees in Western Australia who grow GM crops who are neighbouring farms that grow non-GM crops. I do not expect you to answer that question today. We will put it to you on notice and we will treat that information, for the purposes of the committee—the committee can make that decision itself, but we will treat that as private. We have been asking for a map. I am not sure if you have a publicly available map.

**Mr MAY:** No.

**The CHAIRMAN:** You can respond to that.

**Mr MAY:** Can I give some background about how we collect information? Then I will come to answering the question.

We operate through a reseller network—the Landmark and Elders stores right across Western Australia. They are essentially what we call a technology service provider. That is our language to say they are able to sell our products. Before a grower can buy Roundup Ready canola they need to be licensed with Monsanto. It is an agreement between Monsanto and the grower. We call it a licence and stewardship agreement. We make sure that the grower has that licence before they are able to pick up the seed. The other thing that we have is that we make sure that growers are accredited or trained before they plant the seed. How we capture that information is through a platform that our resellers have access to. They record those seed sales in that system. We record things like the grower's name, trading entity, contact details, and property name, which gives the location. But we do not have a special map or anything of that nature. The other thing is—we do that because we have a transactional relationship with the customer. But we also have, from the Office of the Gene Technology Regulator, requirements to report on an annual basis as a condition of our licence and have an ability to understand where our growers are growing the crop. We have that information.

[3.10 pm]

What we do not have is information on people who are not our customers. If they are not growing Roundup Ready canola, we do not have information on someone who is not our customer. I am more than happy to go back and look to see if we can share that information. The only concerns I have about that are just to make sure that there are no issues around privacy and dealing with the information of those customers for this specific purpose. I would also say that if you are looking for information about where a GM grower is in relation to a non-GM grower, we will not have that information; we just have that list of Roundup Ready canola customers.

**The CHAIRMAN:** As I indicated, that information can be provided to the committee on a confidential basis and it will be subject to parliamentary privilege, so we can understand the commercial-in-confidence nature of what you might be referring to —

**Mr MAY:** I guess I am just very sensitive about grower information. I am sure if we are allowed and can do that, I will do that.

**The CHAIRMAN:** We will work with you on that; okay. You state on page 1 of your submission —  
... the fact remains that not one farmer in WA (or Australia as a whole) has suffered economic loss due to the unintended presence of an approved GM product in a non-GM crop. It is unnecessary to propose a mechanism to compensate for circumstances that have not arisen and can be dealt with through common law in the same way as other farming disputes.

Are you saying that Monsanto has not received any claims, both formal and informal, or any information from any farmers in Western Australia of economic or other losses arising from the unintended presence of GM material?

**Mr MAY:** We have not. We have not received any claims or any indication of any claims.

**Hon COLIN HOLT:** Just referring to your quote, at the end it says “dealt with through common law in the same way as other farming disputes.” Are there any ready examples of how some of the farming disputes have been dealt with through common law?

**Mr MAY:** I guess if somebody were to supply seed that was not of a particular specification or —

**Hon COLIN HOLT:** Do you have any hard examples—real examples of farm disputes being dealt with through common law, or is that just a —

**Mr MAY:** A couple of examples I could think of would be if people have done earthworks and it impacted on water flows. There have been circumstances like that that have not been able to be sorted out and needed to go to a court. We talked about spray drift; sometimes it is difficult to understand what has happened in a spray drift situation, but I saw in I think Swan Hill where some vineyards were impacted by some fallow sprays and the person who put those fallow sprays out had to pay damages on that.

**The CHAIRMAN:** Was that through legal proceedings, though?

**Mr MAY:** Yes. That is just a couple of examples, but I am sure there could be the same around harvesting contractors or a whole range of activities that go on on farms.

**Hon SAMANTHA ROWE:** Have any of them been in WA, that you know of?

**Mr MAY:** I am struggling to come up with an example, but I am sure there would be. If you think of a range of things that go on on properties and farms, I would almost be certain we could find examples.

**The CHAIRMAN:** Is this just from your own personal reflection here, or is this something that Monsanto as a corporate entity would become aware of or be involved in?

**Mr MAY:** It is more my own personal—it is not something—Monsanto is not out there, looking at a whole range of these outside of what our interests are. We go to work pretty much all the time trying to work on bringing our new products out. Because we are in the agricultural industry and our customers are farmers and these things happen, we do hear things that are probably outside the scope of what we do.

**The CHAIRMAN:** This is more about whether it is your own specific knowledge rather than just general knowledge about what goes on in the industry as such.

There appears to be some difference of opinion expressed in submissions to the committee about the value of GM and non-GM canola. The point of view has been put to us that non-GM canola obtains a premium, and a counter point of view has been put that it is not whether it is GM or non-

GM, it is the oil content that determines the price. Do you have a view or does Monsanto have a view on this?

**Mr MAY:** There are different markets that take GM or non-GM. There are a whole range of markets that take both—China, Pakistan and a range of others. There are some customers in the EU that want non-GM and there are premiums there. That is usually, I would say, close to harvest when people are really serious in selling their crop. They might start selling and pricing as they get closer to harvest, but most of the sales—canola being one of the first crops—it is essentially sold at harvest time. I would say around \$20 to \$30 a tonne is generally the premium that a non-GM tonne would receive over a GM tonne. So, say maybe \$520 for GM and \$540 or \$550 for non-GM.

**The CHAIRMAN:** If they had the same oil content you accept that there will be a premium for the non-GM above the GM generally in the market?

**Mr MAY:** If you are saying like for like, that is the price, but I guess the other question is, if it was all about price, then why would anybody grow Roundup Ready canola? It is not all about the price. People make —

**The CHAIRMAN:** It could be about volume, though, could it not?

**Mr MAY:** Yes, it could be about, “I want to choose the highest-yielding variety for my area”, or, “I know that that’s a high-yielding variety and a very high oil content”. We heard Michael Lamond earlier explain the bonus of oil—that you are starting to build a premium based on the oil content. But overwhelmingly it is about weed control. I am not going to say weeds drive every decision for a Western Australian farmer, but it is a big determinant of all the decisions that a farmer makes. The intent is to choose when it is appropriate in the right year and the right field at the right time to use Roundup Ready canola. It provides excellent weed control and it helps farmers utilise the other herbicides they have available to them at different times to save those chemistries, if you like. Essentially it is not just the benefit that those farmers see in the canola crop in the year that they are growing it; they actually find benefits in the following year. When they rotate into, say, a wheat crop, some of the benefits that they receive from Roundup Ready canola flow on to the following year. I guess the premium does not necessarily mean equal profitability when a farmer makes that decision.

**The CHAIRMAN:** Are you able to give us any insight into why the low-level presence threshold has been set at 0.9 per cent?

**Mr MAY:** I can give some understanding of that. There are two sides to that process. One is: what is acceptable to our customers? If we are trying to sell our grain to all the major customers around the world, what are they willing to accept? Generally, 0.9 per cent was probably the lowest common denominator. That is on the export side. We knew, as an industry, what we had to achieve to be able to meet those markets. But on a more agronomic or technical or science side, what is something that could comfortably be achieved in an open production system with good practice? So 0.9 per cent is that; it can easily be achieved with good practice and it also meets what our customers are requiring.

**The CHAIRMAN:** The committee has received evidence that individual EU members do not have a GM tolerance threshold in their domestic organic standards. Some people have said that this effectively renders the EU 0.9 per cent adventitious tolerance level useless. Do you have any feedback on that?

[3.20 pm]

**Mr MAY:** I know it is quite a complex scenario in Europe, and I really would defer to CropLife; I think they have worked through that situation. But on face value, for me, I do not think it is hugely

dissimilar to what we are looking at here. We have 0.9 per cent as a threshold and organic certifiers can choose the way in which they want to put their standards around GM presence. I am sure it is more complicated than that, because there is a whole range of member states and the like, but on face value we have 0.9 per cent as a threshold, not for organic, but for non-GM, and organic standards do not necessarily apply a particular threshold in Australia either.

**The CHAIRMAN:** You speak about coexistence and segregation on page 2 of your submission. Could you give a summary of those practices in Western Australia?

**Mr MAY:** Probably the key is that in our licence and stewardship agreement we provide some clarity around what the steps are for a grower around the practices of coexistence and segregation. We have what is called a crop management plan, and some of those principles are outlined in that as a guide for our farmers to go to. First of all, it starts with paddock selection, around understanding the history of what was happening in that paddock prior to planting, because that drives the decisions on what crops, what choices and what herbicide gets applied. Then it starts with the purchase of seed, so through that licence and stewardship agreement making sure that the seed is the right quality and all the rest. Then it is cleaning down machinery. Roundup Ready canola might not be the first crop, so that machinery used in the planting process needs to be cleaned down; and, likewise, when you finish planting or finish that crop or variety, the machinery is cleaned down again.

One of the big things is that we talked about that five-metre buffer. The five-metre buffer does two things. It is saying, "Let's make a physical separation between a non-GM or GM or a bare-ground paddock to Roundup", but it is also about managing the pollen flow. That buffer is there to manage pollen flow, primarily. We have also heard about farmers' different techniques, where they might plant GM and non-GM side by side and instead of having a five-metre buffer, they might make a 20-metre buffer, which is a couple of blows of a header, and take that into the Roundup Ready to deliver as GM. That is the way that they manufacture their five-metre buffer. Then we talk about all the agronomic practices—how to use our products appropriately, the chemistry that goes on. Then we move into sort of a harvest mode. Really around harvest, it is about identifying the delivery location, making sure that the load that is going in is clearly identified and goes into the right receipt point. In Western Australia, the task of that is made much simpler, or it is more professional, I would say, than in any other state because of the systems that CBH in particular garners. Really, everything we have in our crop management plan is not too dissimilar to the best practices that growers use if they want to go between barley or wheat or whatever the crops may be.

**The CHAIRMAN:** You also state on page 2 —

... not one Australian export market has been lost due to unintended presence of approved GM in non-GM canola.

Could it be that the reason there have been no incidents and no losses of export markets due to the unintended presence of GMOs is that any contamination is detected before export, and the crop sold by the producer as non-GM is subsequently categorised and then sold as GM, potentially attracting a lower price?

**Mr MAY:** I think there is a very strong awareness with growers about where they need to deliver and what is required. They understand that the grain is being tested. CBH and other bulk handlers in Australia have a very good system by which they are able to determine at what level there is Roundup Ready mixed within a non-GM load and they are able to not only determine what level but identify and deal with that. I am not saying that it would never happen; I know that loads have been identified by CBH. I think it is very low; it might be one in every 300 truckloads or something like that. It is not something that is going to be a large percentage of Roundup Ready. It might be

something that they initially identified at slightly above 0.9 per cent but later on through further testing found that it was actually below 0.9 per cent. I think it is very similar to what you would see with other segregations. For barley, for instance, there is a segregation that is specific to one variety of barley. The same occurs there. They might identify that somebody accidentally put another half a truckload of a variety that should not have been in there—that is, CBH. It is the role of the bulk handler to identify and deal with those types of issues that might arise.

**The CHAIRMAN:** I think it has been suggested to us along the way that perhaps what is happening as a practice is that a shipment arrives, it has been signed off by the farmer as being non-GM, it is tested and it is established that it contains more than 0.9 per cent, and it is then put in the stack, the farmer still gets the non-GM price, and the rest of the farming community bears the impact of that. Are you aware of that practice?

**Mr MAY:** I guess if that happens, the way in which that question is asked makes it sound as though it is an exorbitant amount of money and cost in being able to deal with that particular grower. If there is one load that is slightly above the standard and they are able to categorise that and deal with that, I think at no cost—it is probably at no cost to CBH to do that—then I do not believe it would be at the cost of the collective growers. I think it would be a very different question if somebody were to intentionally or accidentally send in a full truckload. I am sure that would then be a conversation that CBH would have with their customer.

**The CHAIRMAN:** Are you aware of any domestic sales of canola that have been rejected due to GM contamination?

**Mr MAY:** No, no different to the export scene.

**The CHAIRMAN:** I am sure you are aware of organic notice 2018-01.

**Mr MAY:** Yes.

**The CHAIRMAN:** It recommends that when there has been introduction of a prohibited substance, including GMOs, the appropriate sanction by the certification body should be the issuing of a corrective action request only, not a suspension or decertification of the relevant unit. I note this action applies in instances of minor severity and that the organic export notice also provides that in cases of accidental introduction of GMOs that are of moderate severity, it is open for the organic certifier to suspend the unit, and in cases of major severity the organic production system could be decertified. Can you envisage scenarios where there has been accidental introduction of GMOs of moderate or major severity where suspension or decertification would be justified which may lead to a circumstance giving rise to compensation?

[3.30 pm]

**Mr MAY:** No, I am not. I think the key word that in that sentence is “accidentally”. I think with all the situations that we have been discussing, they would be all for within a minor incursion. I cannot think of anything accidentally that would lead to a moderate or major. I think that would need to be more that somebody was negligent, made a serious mistake or some sort of activity that was illegal.

**The CHAIRMAN:** What would be your views of a compensation scheme if it were to be no fault and funded through general consolidated revenue rather than by a fee imposed on the GM industry?

**Mr MAY:** I guess I have spoken —

**The CHAIRMAN:** I think you mentioned the WA taxpayers before.

**Mr MAY:** Yes, it will be a very similar response. I have spoken to you about the fact that we just have not had these problems. I cannot see a requirement to set something up for something that we



have seen in the past is extremely rare; there have not been issues that are calling out for this, regardless of whether it was with the seed providers, farmers or taxpayers.

**The CHAIRMAN:** You state at the bottom of page 2 of your submission that both New South Wales and South Australia have contemplated similar compensation schemes and concluded that such a scheme is not necessary and does not fall within the remit of the state government to pursue, given there is a national cooperative regulatory scheme for gene technology. Have you been able to provide us with more information of these assessments?

**Mr MAY:** Today, Crop Life provided and tabled those two documents, one for South Australia and one from New South Wales.

**The CHAIRMAN:** Okay, I was not here.

**Mr MAY:** No, I understand.

**Hon COLIN HOLT:** South Australia does not grow GM canola?

**Mr MAY:** That is right, yes.

**Hon COLIN HOLT:** It is hardly surprising that they said there is no need for a compensation scheme or did they contemplate on something else?

**Mr MAY:** It is interesting because South Australia has been—Bayer Crop Science actually have a breeding and R&D element within Mt Gambier in South Australia. There has been operations there at an R&D level. There certainly has been a lot of research activity in GM crops within South Australia. You could look at South Australia and say that, but I guess that it was around the framework that was applied at a national level.

**Hon TIM CLIFFORD:** We heard earlier today that there was a high demand for seed than what can be provided. Do you envisage a time period where the uptake of GM is that great that there is a high risk that there might be cross contamination into other crops? Because there has been a concern that if there is widespread take-up, not just in canola but very much the wheat and barley, that there needs to be some level of assurance that they can be confident that, especially for organic growers, they can grow and not have this situation arise like Marsh and Baxter?

**Mr MAY:** I think we will see Roundup Ready adoption continue to grow. There are a lot of other alternatives too. We talk about herbicide systems. There is triazine tolerant, which is still a really well used really important technology for Western Australia. There is Clearfield, there is Roundup Ready and there will be new technologies come as well. I think we will see Roundup Ready growing, but in the context there will be other options. Regardless of where Roundup Ready might end in adoption, I think it is very widely used in the industry today whether it is 30 per cent or 50 per cent, I am not really sure that that necessarily means that it will lead to more problems. It is incredibly widely used. We know that it is on 30 per cent of the canola grown, but it is probably a higher percentage of farms actually using that technology in either one year or planting two different GM and non-GM in the one year. A lot of farmers producing a lot of grain are using it and are exposed to GM and non-GM interactions today. I just do not think that getting to 40, 50, 60 per cent will actually make any difference in the conversations that we have.

**The CHAIRMAN:** Does an end point royalty system operate in Australia whereby Monsanto deducts fees if there is found to be any level of GM material in a non-GM product?

**Mr MAY:** No. When we first launched the technology, we had an end point royalty, but we have not charged as a model on an end point royalty basis for quite some time. We charge on a per kilo of a seed sold.

**The CHAIRMAN:** You are saying that you had it to begin with. Is there any vestiges of that left?

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**Mr MAY:** No.

**The CHAIRMAN:** We would not be seeing at some stage in the near future that such a system would come about if there was an increase in the level of GM material in non-GM material?

**Mr MAY:** No, and that was not the intent of the end point royalty any way. The end point royalty was really a way in which we could sell the technology and share the production risk with farmers. The more they grew, the more tonnes that they delivered, the higher the return, you know. If there was a drought and there was a low production year, low number of tonnes delivered—they paid less for that. The intent was really around that and we only ever charged people who declared and delivered Roundup Ready canola.

**The CHAIRMAN:** Does Monsanto believe there is a risk that if GM-free farmers make compensation claims under any legislative or other scheme, actions for unlicensed patent use may be made potentially having a chilling effect on the making of such claims?

**Mr MAY:** No. We never go out and charge or ask farmers to pay for technology if it is accidental use. We have never done that, so my answer is no.

**The CHAIRMAN:** I note that on page 3 of Monsanto's "Roundup Ready Canola Crop Management Plan", received by those entering into the technology user agreement states the recommended separation distance for growing Roundup Ready canola near other canola in Australia is a minimum of five metres. I think you might have given us some explanation on the basis for that, but are you able to give us any more details about the basis for the five metres as opposed to 10 metres or 25 metres or something like that?

**Mr MAY:** Really, the pollen flow studies show that even if you have one plant—imagine a planter row of Roundup Ready and another planter row of non-GM, side by side. They show the outcrossing from one plant to the one right adjacent to that is incredibly low. There have been many, many different studies and they all show, at different rates, that it is incredibly low. It is even well below, in many instances when they have done these studies, 0.9 when it is side by side. As you go further away, even by a metre, it drops down even further to 0.1 per cent. If you go 10 metres, it is a 1 000<sup>th</sup> of a per cent. That is side by side if you have a whole paddock that you are harvesting together, and so, really the five metres is probably very, very conservative. You could ask whether we needed it at all, but five metres I think is realistic. It is probably the type of distance you would see between a fence from one crop to another crop. It is certainly something very manageable if somebody wanted to take a box off the side and treat that as GM canola.

[2.40 pm]

**Hon COLIN HOLT:** Just for clarity, you talked a minute ago about licence and stewardship agreement. Is that the same thing as your technology user agreement?

**Mr MAY:** Yes. We use what is called the licence and stewardship agreement in canola and a technology use agreement is what we have with our cotton customers.

**Hon COLIN HOLT:** That is good to know.

**Mr MAY:** It is the same types of things, but one is for our cotton customers; one is for canola.

**Hon COLIN HOLT:** Are your licence and stewardship agreements publicly available?

**Mr MAY:** They are available. They are on websites and they are on counters of stores and things like that.

**The CHAIRMAN:** Getting back to this five-metre zip. Canola is swathed. Is it not prone to blowing large distances in high winds and, if so, what buffer distances would be appropriate in those circumstances?

**Mr MAY:** I do not know whether you can envisage what a swathed canola looks like. Is that something you can imagine?

**The CHAIRMAN:** I think so.

**Hon COLIN HOLT:** I know.

**The CHAIRMAN:** I think we have seen pictures.

**Mr MAY:** The wind rowing machine takes a crop that is 15 metres wide or whatever and groups it together. It is anchored or sitting on the crop stubble, so the stubble is like little sticks, that far apart all the way up the field. It is placed on top of that and it is grabbing together. The plants are in together and it is intertwined with that standing stubble and that sort of anchors it down to an extent. I have certainly seen instances where big storms come through and what the farmers would like to see is nice straight windrows so they can bring their harvester in. It can be blown, so these lines are somewhat wiggly. It really does not move beyond from this windrow to the next, which is generally what I have seen. But could it be possible? I think it would be very difficult for one part of a canola plant to blow hundreds of metres without seed falling out or anything like that.

**The CHAIRMAN:** A question probably more appropriate is: is it probable rather than if it is possible?

**Mr MAY:** It is possible rather than probable.

**The CHAIRMAN:** You are saying it is not probable for it to spread because of the —

**Mr MAY:** Sorry; the other way.

**The CHAIRMAN:** Yes. You can imagine a willy-willy coming through and picking anything up and taking it if it is strong enough and big enough, but I think we are probably more interested in probabilities.

**Mr MAY:** I guess the point is, what does it mean if it happens?

**The CHAIRMAN:** Yes.

**Mr MAY:** Generally, it might land on that farmer's property or the next door neighbour's property. If it were to blow into a non-GM canola crop, the amount of seed that could be carried in that instance would be incredibly low and it would be very difficult to breach that 0.9 per cent if it was based on movement of material. I am speculating about an organic farm. If it were to go onto an organic farm, the biggest risk, potentially, would be if it were an organic canola crop. I am not aware of any organic canola crops, but even onto a farm, the amount of seed, if there were seeds to germinate on that farm, would be like any other broadleaf weed and would be controlled with the same methods that would be controlling other weeds on that property. I guess it is all about the consequences of that.

**The CHAIRMAN:** I note clause 10—we are still referring to it as the technology user agreement—contains limitations on the liability of Monsanto. Could you provide a summary of the rationale behind those limitations?

**Mr MAY:** It is really a very common type of clause so that when you are selling products that you have with a customer. It really relates to nothing more than the performance of that product. To put it in layman's terms, if you did not get a good result and you were not happy with the product, you will get your money back. It is not about any other issues that might be happening to third parties or outside of that relationship with that product sale, if that makes sense.

**Hon COLIN HOLT:** Would there be similar ones on herbicides?

**Mr MAY:** Yes, for sure; definitely, if you sell a drum of treflan, I would be surprised if there was not something similar around that.

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**The CHAIRMAN:** Have any of your licensees breached licence agreement requirements related to segregation and coexistence?

**Mr MAY:** We suspect that there probably will be instances where farmers have not done the five metres. We know that CBH has had some deliveries that have been above that 0.9. But we try to make sure that we continue that messaging around the appropriate practice, but we have not seen any issues that have related to any cause for damages or had anything come back to us in terms of claims.

**The CHAIRMAN:** Are you able to provide us with any of the details of those circumstances that have arisen where that has happened?

**Mr MAY:** I guess they are more anecdotal and conversational. We have not received any formal indications of someone not doing what is required in the LSA.

**The CHAIRMAN:** Do you conduct audits of farmers?

**Mr MAY:** Yes we have.

**The CHAIRMAN:** Through those audits have you identified farmers that have not been meeting those requirements?

**Mr MAY:** Sometimes, maybe around some record keeping about spray records.

**The CHAIRMAN:** But not in relation to segregation and coexistence requirements?

**Mr MAY:** No.

**The CHAIRMAN:** Some submitters have expressed support for 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 given any feedback to organisations such as FOODwatch and Gene Ethics on these principles and if you have, are you able to provide us with those details?

**Mr MAY:** We have had no contact with FOODwatch or Gene Ethics. We have not been contacted by them. The first I have been aware of it is through this inquiry.

**The CHAIRMAN:** Another submitter, Dr John Paull, has recommended a compulsory third party GMO incident scheme whereby premiums would be collected from GM seed sales or coupled with another payment such as with motor accident insurance. He states that it could be overseen by the Insurance Commission of Western Australia and remedies could be implemented promptly and legal fees kept to a commitment. Do you have a view on such a scheme?

**Mr MAY:** I do not believe, regardless of whether it is a compensation fund or insurance scheme, that it is required.

**Hon COLIN HOLT:** Is GM wheat on the horizon?

**Mr MAY:** We are doing work in the US on wheat for herbicide tolerance. It is still in the very early stage. We have what is called a pipeline of advancement from stage 1, which is very early in the piece through to release, stage 5. It is sort of midway through our pipeline.

**Hon COLIN HOLT:** Midway through?

**Mr MAY:** We have not made any commercial decisions around whether we would take that technology to market either overseas or in Australia yet.

**Hon COLIN HOLT:** What prompts a company to investigate GM technology in a particular plant, crop or whatever it is? What is the first instigator of saying, "There's a need here, do we need to investigate?"

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[3.50 pm]

**Mr MAY:** Generally the size of the issue it is for farmers. We are not a company that sells generic products. We are not trying to make a cheaper chemistry. Our whole business model is trying to identify those things that are truly problems for farmers—the things that cost farmers a lot of money or a lot of yield; they are the things that we identify as what we would call opportunities—and then look at are there technical or feasible ways that we can address those issues with either conventional breeding or biotechnology. It is really the scale of the issue and our ability to design a solution for that.

**Hon COLIN HOLT:** Do you take in, I assume, in your investment decisions around applicability and then markets?

**Mr MAY:** Yes. When you say “applicability”?

**Hon COLIN HOLT:** Take up, I guess, of the technology and the markets of that take-up. For example, when you made the investment decisions around Roundup Ready canola, you say, “There’s a big problem, people are going to take it up and there’s going to be a market for it still.” Do you take that market end point for the Roundup Ready canola into consideration, too?

**Mr MAY:** We do; we have to. Part of the cost of bringing a new technology to market is not the cost locally, domestically, in the country that you want to grow that crop. We have to make sure that the crop is approved or that technology is approved in all the countries that we are selling to that have what we call functioning regulatory agencies. For instance, we actually have the technology today that is an improved version of Roundup Ready canola that has been approved in Australia since 2014, but we are yet to receive all the import approvals of the countries that we export to—namely, China would be an example of that. We wait until we receive those approvals in all of those other markets before we commercialise in Australia so that we know that the farmers in Australia can continue to sell into those markets without any interference.

**The CHAIRMAN:** I just have one more question for you. If legislation governing compensation for economic loss were to be introduced, in whatever form that might take, would you support legislation to ensure patent infringement action could not be taken in circumstances where a compensation claim has been made and it has been proven the contamination was inadvertent or accidental?

**Mr MAY:** I think it goes back to the earlier answer. Our position everywhere in all markets is that we would never pursue or take action or try to have a farmer pay for accidental use of our technology.

**The CHAIRMAN:** I think the context of that question, just for your benefit, is that there has been a suggestion that if we introduce such a scheme, Monsanto would just claw back compensation by saying, “You’re using our technology.”

**Mr MAY:** No. We have been very clear about that statement all over the world and it is just the basis on which we are operating.

**Hon TIM CLIFFORD:** You mentioned before about the wheat in development. Can you estimate how much you have spent in developing GM wheat?

**Mr MAY:** No. I can give you some examples. Some GM technologies, from start to finish, could be between \$100 million and \$200 million. That is an investment that could be for the US only or it could be for our cotton products. It might fit Brazil or Australia. A significant amount of money is involved. A big part of that is not only the technical nature of it, but the approval process, as I described earlier—getting approvals all over the world.

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**Hon TIM CLIFFORD:** Have you done any modelling in Australia, like looking at any of the states—WA, South Australia or anywhere else in Australia—where you have modelled the potential yield in regard to if there was an introduction of GM wheat?

**Mr MAY:** We can think about not so much yield, but we can think about the types of concepts that we have been thinking about in terms of what those herbicides might be able to do in the system, and I am sure there are huge benefits there. Not everybody wants to grow canola. Not everybody can grow canola. It will provide other options potentially. It is still quite a while off before we will be considering and talking about GM wheat.

**Hon TIM CLIFFORD:** Have there been any organisations from WA which have approached Monsanto in regard to inquiring about that sort of possibility in the future?

**Mr MAY:** There is a lot of biotech work that goes on in wheat and barley in Australia for a range of different—probably not what we are looking at, but looking at drought tolerance or frost or changing the proteins within the wheat to give another outcome for customers. There is a lot of work going on with many of our—CSIRO and our universities are doing work in cereals in Australia.

**Hon SAMANTHA ROWE:** Do you think there is a viable domestic market for GM wheat at some point in Australia?

**Mr MAY:** I am absolutely sure that there will be some. Just like in canola soon, there will be an omega 3 and enhanced modified oil profile. I can absolutely see things that assist in frost or things that can be sold as a significant value adder because of health benefits or by changing the output of a cereal crop. I am sure there would be great benefits and value there.

**The CHAIRMAN:** Thank you for your time today, Mr May. Would you like to make a closing statement?

**Mr MAY:** We certainly appreciate the opportunity to participate. We are very open; if there is anything that Monsanto or our seed company partners can do to assist or help further with the inquiry, please feel free to reach out to us.

**The CHAIRMAN:** Thank you. Thank you for attending 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. The committee requests that you provide your answers to questions taken on notice when you return your corrected transcript of evidence. If you want to provide additional information or elaborate on particular points, you may provide supplementary evidence for the committee's consideration when you return your corrected transcript of evidence. Thank you.

**Hearing concluded at 3.57 pm**

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