

Submission Cover Sheet

# Review of the Moratorium on GM Canola

**Submission Number: 14**

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**Attachments Submitted with this Submission:**

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Review of the Moratorium on GM Canola.  
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Mail to: A

Submission 14

August 2007

Submitted by:

THIS SUBMISSION

- \* addresses legal issues, which are basic to trade.
- \* poses practical queries which MUST be addressed and decided upon before any decision is made whether to allow commercialisation of GM canola cropping in Victoria.

MESSAGE: Maintain the moratorium on the commercial cropping of GM canola, for the practical, prudent reasons that follow:

SCENARIO: A grower who has decided to use GM canola seed,

- 1 KNOWS, OR OUGHT TO KNOW, that the pollen from the GM canola plants, situated within transmission distance of an EXISTING, NON-GM canola farm, will/is highly likely to
- 2 CONTAMINATE the genome of these neighboring NON-GM canola crop plants (ie, genetic contamination, via novel genes introduced into the GM canola genome, and totally unwanted by the NON-GM grower.)
- 3 KNOWING THIS, the GM canola farmer "should take/have TAKEN MEASURES." (See point 7 below).

4 STATEMENT No. 1:

It is illegal to knowingly contaminate another's property - in this case, a NON-GM canola crop, such that harm\* accrues because of the contamination. (See footnote, re cross-pollination)\*\*

- 5 This situation needs to be tested in Court whereby the contaminater\*\*\* must reply to accusations of KNOWINGLY and, possibly, RECKLESSLY, contaminating another's property, such as to cause harm because of the contamination.
- 6 Question: what purpose could there be for a GM farmer to knowingly contaminate? Possible answer: to put the NON-GM canola grower eventually out of business? See point 10.
- 7 WHAT MEASURES could a GM canola grower possibly take to prevent his/her GM canola from contaminating a neighboring NON-GM canola's grower's crop? Possible answer: Make arrangements with the NON-GM canola grower to agree to grow their respective canola crops, say, in alternate years, so that cross pollination, in both directions, cannot occur?
- 8 Failing this, what insurance is/would be available to
  - (a) the contaminater of the NON-GM canola crop?
  - (b) the NON-GM canola grower against damage via genetic contamination?

Who pays/would pay for the gathering of independent scientific evidence of the existence/extent of the contamination?

(a) the contaminater? (b) the one whose crop is contaminated?

Answer: Common justice would suggest that the polluter (contaminater) pays.

10 CHOICE?

The GM canola grower, within pollen-transmission distance does not have the choice of whether to contaminate or not to contaminate (See point 6)

Contamination is the reality, NOT THE CHOICE.

11 GM canola growing, as described, involves contamination issues. The question therefore, by-passes the question of choice. Contamination, in the circumstances described, becomes a LEGAL issue.

12 STATEMENT NO.2:

A citizen has the right to pursue a business that is not harmful to another's legitimate business, e.g. the NON-GM canola grower.

The setting up of a commercial GM canola plantation that most probably <sup>would</sup> harm another's NON-GM canola business is, surely, ILLEGAL.

\* Harm. In this context, the harm is being expressed in terms of harm to fair trading.

\*\* Cross-contamination issues: Cross-pollination occurs in both directions. But, it will be claimed, the contamination load experienced by the GM canola grower would not constitute nearly the trade loss AS WOULD BE EXPERIENCED BY the NON-GM canola grower who would be forced to bear trade losses far greater because of the contamination.

Eg: Say, 10% cross-pollination, in both directions, occurs.

(a) GM canola grower's crop would yield only 90% of expected GM seed for trade - a percentage factored into the GM grower's expected return.

(b) BUT the NON-GM canola grower's crop is totally unsaleable AT THE EXPECTED MARKET PRICE. Ie, there would be trade loss for the TOTAL CROP because of the cross-pollination from the GM crop.

\*\*\* The spelling of "contaminater" has been altered to coincide with the spelling of "polluter."

