

1. Name of Witness

Jon Carapiet

2. Name of "Interested Person" (on behalf of whom the Witness will appear)

GE Free New Zealand (RAGE) In Food and Environment Incorporated

3. Witness Brief Executive Summary

Executive Summary

Provide an overarching summary of the evidence and recommendations made [in respect of items (1) and (2) of the Warrant]. The Executive Summary should be no more than **3** pages in length

Please note that individual section summaries will be required and therefore the Executive Summary should focus on summarising the issues addressed in the brief and provide cross references to the sections in which the issues are covered rather than summarising the substantive content

I am a consumer marketing and research consultant for major organisations including both industry and government sectors. My experience includes special study of New Zealand in relation to international marketing and global branding. I have investigated different consumer attitudes relating to genetic modification in food, medicine and the environment, and been concerned by the failure in existing Law, government policy and regulatory systems to protect the future wellbeing of all New Zealand: people, business, economy and the environment.

The NZ Brand is uniquely positioned in the global market for food, primary produce exports and tourism as "clean/green, and "100% Pure" (as the NZ tourism campaign describes it). These are the most important industries in NZ. As a 'Brand' NZ has existing equity that is of enormous economic value.

It is recommended that the policy on GM use in NZ require it be contained to protect and develop the country's existing equity and economy. New Zealand has an opportunity to build unique elements of a knowledge economy focussed on sustainability and 'green' technologies that 'works with the grain of nature' including advances in organic farming techniques. This approach will benefit New Zealand by meeting genuine and proven consumer marketing opportunities rather than engaging in risky, irreversible speculation on the future market for GM foods.

It is recommended that the regulatory system for food production and retail be strengthened to protect the public good. There is clear evidence the current regulatory system through ERMA and ANZFA is insufficient to protect NZ's brand equity as a national asset, or protect basic consumer rights. It is clear that consumers all over the world are rejecting the use of GM technology in food, although industry, and some governments continue to promote GM food because of their existing investment, and hoped-for future benefits and profits.

It is recommended that an inquiry be made into grocery industry actions to resist consumer choice, and oppose proper regulation of GM foods, with the aim of improving regulatory systems

into the future. The consumer has been wrongly portrayed as being unable to make "informed choices" because of their rejection of GM ingredients. However, research shows the variation in knowledge amongst the public is not the basis for the widespread rejection of GM technology in food, but that this reflects a range of more fundamental issues that are unlikely to be overcome by industry promotion of GM. GM food is unlikely to be acceptable to most people until long-term research and safety tests have been done that allow commercial insurance companies to quantify and indemnify the risks to health and the environment. Until that time GM food will only achieve mainstream sales if a) it is sold without the consumer's knowledge (as currently) b) it is low-priced and the only product the consumer can afford (ref. appendix 2 and 4)

Because GM crops cannot be contained by the Biotech food industry, and even some research by Crown Enterprises presents a serious threat to New Zealand. GM research in containment (e.g. for medical use) presents a smaller order of direct threat, but still raises serious ethical and cultural issues.

As other countries have already become experimental sites for GM, NZ is well-placed to be a sanctuary for non-GM food production, for which there is huge demand from consumers. Only this year, (ref. appendix 1) the European director of seed-company Advanta announced non-GM seed production was moving to the safe-haven of NZ following accidental contamination (and subsequent destruction) of thousands of acres of rape-seed across Europe. It is recommended that New Zealand avoid external releases of GM organisms to protect and build value around its unique existing equities.

Section Titles and corresponding Terms of reference

- 1) Summary (**1A 1B**)
- 2) Understanding Consumer Perceptions (**2c, j, k**)
- 3) Marketing New Zealand Internationally (**1A, 2c,h,i, j, k**)
- 4) Defining Characteristics of "Brand" New Zealand, (**1A 2 i, k, l, m**)
- 5) Threats to Brand NZ (**2 c, h, j**)
- 6) Consumer concerns with GM technology (**2c, f, j, k, l, n**)
- 7) The Future of GM in everyday food (**2 c, h, j, m**)
- 8) Nutraceuticals (**1B, 2h, j, n**)
- 9) Other approaches to supporting GM foods (**2h, j, l**)
- 10) Should consumers be denied choice until they are "sufficiently informed"? (**2c, g, j, n**)
- 11) International trade and regulation of food (**1B, 2i, l, n**)
- 12) Consumer Rights and the Public Interest (**1B, 2j, n**)
- 13) Ethics and Professional Trade Practice (**1B, 2j, n**)
- 14) NZ Representation on Regulatory Authorities (**1B, 2j, n**)
- 15) Cultural Values - Shared Human Experiences (**2g, j, k**)

Introduction

This current investigation into "future strategic options" for NZ was never planned: the roll-out of GM technology was well underway under ERMA and ANZFA. The public have repeatedly made submissions (on record) to both bodies urging caution, restraint and consideration of the public interest, which were largely ignored. (Even now the ERMA approval of long-term tests of GM Trees and GM Cows with human genes is proceeding in the face of widespread concern, despite legal challenges, and amidst claims from government and regulators that the process is 'unstoppable' because of the current legislative system). In this context of huge public concern

the establishment of the Royal Commission represents a victory for democratic process and hope for protection of the National interest.

4. Evidence by Section (as specified in the matters set out in the Warrant)

Evidence by Section

Witness briefs are to be structured in line with the matters specified in the Warrant and the sections numbered accordingly

Each section should stand alone, and include a section summary, identifying the issues addressed in the section

Witness briefs may address **all** or only **some** of the sections (as specified in the Warrant). However section numbers should be retained, for example, if a brief addresses matters (a), (c) and (e), the sections shall be numbered (a), (c), and (e), rather than a, b, and c

Witness briefs may, within each section, adopt a sub-section approach using different headings; however, each paragraph should be consecutively numbered

(2c, j, k) 2) Understanding Consumer Perceptions

Section Summary

The informed public have clear perceptions of the new technology, and though more accepting of medical uses and some conservation uses, New Zealanders, like most people all over the world, reject GM in everyday foods.

As a producer, of food, wool and timber, and as a tourist destination, the strategic options for New Zealand require an understanding of the likely impact of GM on perceptions and appeal of New Zealand. In strategic terms New Zealand can usefully be considered as a "brand", and data concerning its global market positioning supports a policy of protecting New Zealand's economy from the negative impacts of widespread GM use.

1. Correctly gauging the future market opportunities for GM in food and other industries is vital. Errors in the method or analysis of research to understand consumer perceptions of GM can be seriously misleading. Evidence already presented to the Commission (ref appendix 2) by HortResearch falls into the category of data that is *unreliable* because of shortcomings in method, presenting a falsely positive impression of the future for GM food.
2. It is also concerning that other consumer research data available to much of the Grocery Industry, such as the survey of NZ attitudes to GM foods by research company Colmar Brunton (November 1999) has been
 - faulty in its method or
 - presented in a way or
 - intentionally misusedto legitimate and promote GM in food, at the same time as evidence of inappropriate collusion within the industry to limit consumers' rights (see section 13 below).

(1A, 2c, h, i, j, k)

3) Marketing New Zealand Internationally

Section Summary

As with any brand, the appeal of NZ products is based on both rational and emotive responses. Because of the powerful equity in NZ's clean, green, natural image, the future strategic options for New Zealand should limit uncontrolled release of GM products into the environment and prevent resulting contamination.

3. In simple terms Brands are a "short-cut" for consumers who can quickly decide on a choice of product because of what the "brand" communicates to them: what it stands for. Brands represent a marketing asset that can be valued (in formal accountancy systems) and used to promote the sale of goods. (It would be possible and useful to establish the dollar-value of the clean-green image of NZ in international markets).
4. In recent years advertising agency Saatchi and Saatchi (Wellington) have worked with government agencies, including the Tourism Board to articulate the essence of the NZ brand. This is represented in their "100 % Pure" campaign.
5. Important for determining the best strategic path for New Zealand, is an understanding that Brands function both on a 'rational' and 'emotional' level. Apparently "rational" arguments (e.g made by a scientist in support of the use of GM in NZ) are neither purely rational, (as they are based on a specific world-view and reflect specific interests and visions for the future), nor are sufficient to outweigh the full range of human attitudes and behaviours which might reject such use.
6. To dismiss other points of view as "not rational" is to fail to recognise our own subjectivity, deny legitimacy to other views of the world's complex systems, to deny basic rights to others, and also to fail to understand that we live in a world of perceptions.
7. People's perceptions are always influenced by a range of factors such as belief systems, family situation, income, social status, or even their mood at a particular moment. (One of the challenges for the Commission is to balance these differences in perception around the civil, legal, and economic rights held by each of those groups with contrasting views).

(A1, 2 i, k, l, m) 4) Defining Characteristics of "Brand" New Zealand

Section summary

From a global consumer perspective, NZ is the last point on the earth that should be contaminated with GM constructs. Because so many people believe NZ to be relatively natural and uncontaminated, it is uniquely positioned to supply organic food to the world, and to develop a knowledge economy based in sustainable, renewable technologies, preserving the unique brand identity from exploitation and damage by inappropriate commercial speculation.

Although the image of NZ may not be consistent with the reality, currently the country benefits from a generally positive impression of NZ amongst people overseas.

8. What does "New Zealand" stand for in the international market?
A typical impression of NZ amongst consumers overseas may include some of the following:
 - low-population, geographical isolation from other population centres

- clean and green and concerned to protect its natural environment.
- a 'Paradise' at the other end of the world from the pollution and population problems of much of the world.
- It has a liberal democratic political environment
- it has easy-going and friendly people (who travel a lot) .
- it gains from Maori cultural inheritance which brings unique qualities, and values.
- the population show a down-to earth resilience and ability to "make do".
- yet the country is a world-leader in some endeavours, including sports ranging from sailing to mountain climbing.
- it has undergone significant economic changes in recent years with stronger integration into the global market as tariffs and national regulatory systems have been reduced.
- New Zealand is clean and green but still "up-to-date"; Many of the scientific and technological advances of the world have been readily adopted eg cellphone use and computers,
- NZ has also shown it values its unique image of purity by rejecting Nuclear Power (though allowing medical uses) .
- as a responsible global citizen, it partakes in peace-keeping and protection of human rights, and would support the rights of other nations to protect their environment and the public interest.

(2c, h, j)

5)Threats to Brand NZ

Section Summary

International food concerns inevitably impact consumer impressions and the appeal of NZ products. The use of GM in food production in NZ presents a serious threat to the country's future as internationally, consumers expect products that are natural, clean/green and relatively pure. Inappropriate agricultural and industrial practices have not been brought under legislative control, and from a consumer-marketing view will be made worse by use of GM in the open environment and food production. It is recommended government policy address these existing and future threats to NZ to secure the economic advantages gained from NZ's unique positioning.

9. To believe mad cow disease is a "scare" limited to UK, or the use of antibiotics in husbandry is 'not a problem for NZ' but only for Europe, is a serious error given global communications and shared trends. The global system of trade and communication makes ethical and safety food-concerns and country-of-origin significant factors in consumer choice.
10. The economic wellbeing of NZ has already been put at risk by biotechnology in farming, and the failure of current regulations to protect the national interest in the face of industry pressure:
 - The ERMA process has approved all experiments applied for and was close to approving Monsanto's application for commercial GM crops in NZ (so irreversibly closing off strategic options for the country).
 - The use of rBGH (bovine growth hormone) in dairy cows was being pushed by industry in NZ, despite the USA having been isolated for approving its use, and markets like

Europe rejecting such products. Only a pan-Asian threat to boycott milk from NZ if rBGH was approved, has stopped industry from promoting its use in NZ. (It is not "banned", but simply not promoted in NZ)

- GM salmon farming was shown to have inadequate containment and risked the release of GM eggs into the natural environment. (The research has now stopped)
- The use of human genes in dairy cows for medical experimentation puts at risk the image of NZ dairy products, as do Dairy Industry proposals to in future produce GM milk products from transgenic cattle.

11.0 Other threats to NZ's economy from negative consumer perceptions include :

- The continued use in NZ of antibiotics in animal husbandry that European health regulators have banned (because of growing problems with antibiotic resistance in medicine)
- Continued use of rendered meat from carcasses to feed to other animals, opening up the risk of vectors similar to prions in mad cow disease transferring through the food chain

12.0 It is also clear some marketing practices by NZ industry make NZ's brand image vulnerable, e.g the dairy industry marketing "NZ-image" products when they have been produced using milk from other countries

- following recent dioxin contamination in Belgium, NZ-Branded butter had to be pulled from supermarket shelves in Europe because it had been made with Belgian milk rather than NZ milk (as average consumers would have expected, and thought they were buying).

(2c, f, j, k, l, n)

6) Consumer concerns with GM technology

Section Summary

Market research shows it is not lack of education or understanding amongst the informed public that underpins the difference in assessment of GM between industry and the public. The nexus of issues concerning the public are unlikely to be overcome by promotion of GM technology by industry, and these concerns need to be addressed through improved regulatory systems and the rule of law, including changes to international trade and patent laws.

13. Importantly market research shows it is **not** lack of education or understanding amongst the informed public that underpins the difference in assessment of GM between industry and the public.

14. On the contrary: although it is true many members of the public know little of the issues (and are thus frequently silenced from the debate), **the more highly educated and**

informed respondents in research studies show the greater degree of concern at the process of introducing the technology into food and the environment.

15. On an ethical basis, the values, and basic rights of "(technologically) less-informed" member of the public are also valid and worthy of consideration and protection; the public are the inheritors, (and in Maori cultural terms the guardians) of the natural systems that are the shared inheritance of the planet.
16. The nexus of issues concerning the public are unlikely to be overcome by promotion of GM technology by industry, and these concerns need to be addressed through improved regulatory systems and the rule of law, including changes to international trade and patent laws.
17. **Key public concerns reflected in consumer attitudes to GM include:**
 - The sense that GM technology in agriculture is a "fix up" of problems created by the same companies now promoting GM in foods, and that this cure is potentially worse than the impact of the last generation of chemical pollutants in agriculture
 - The stealth with which unlabelled GM ingredients has entered the food system, without long-term safety testing, and with a resulting (continued) denial of choice to avoid or eat these ingredients
 - Outcomes which contradict the claimed benefits of GM (e.g the absorption of herbicide by Round-Up-resistant plants and the subsequent approval of Food Authorities to increase permitted levels of herbicide residues in food by a factor of 200 times)
 - The failure of the regulatory system to ensure adequate protection of the New Zealand public and environment against the spread of GM pollution or to analyse the long-term impact of novel DNA on the complex system of life
 - The absence of private insurance against damage arising from experiments and releases of GM organisms undertaken for private-profit
 - The concern that ERMA are administering the HSNO act on a 'case-by-case' basis when long-term interactions across the complex system of nature need to be considered, and for which insufficient scientific data is available.
 - Approval by ERMA of projects including use of human genes in Dairy cows without sufficient recognition of cultural and ethical issues, or protection of the national interest from damage to NZ's export image
 - Efforts by companies to patent life-forms, secure private ownership and control use (through restriction technologies such as "Terminator" genes), whilst piggy-backing on the common-inheritance of humankind that nature represents, endangering that natural system

- Patent and world trade rules that allow increasing control of the worlds food crops and seeds by a few corporations resulting in limited choice of non-GM seeds, and non-GM foods as a result of contamination. (see appendix 3)
- The use of international Trade legislation to impose the use of GM technology on countries, (potentially including New Zealand)
- Concern that commercial imperatives are being allowed to over-ride scientific caution, respect for the complexity of natural systems, and concern for the public good, in the rush to profit from the new technology.(This is exacerbated by scientists' reliance on industry funding: this year in Britain 30% of scientist admitted they'd been asked to alter findings to suit their sponsor)
- The shortcomings of industrial farming regarding sustainability, biodiversity and wellbeing of consumers and local producers versus the almost-universal appeal and desire for organic, more-naturally produced foods that do not cross the species barrier. (These foods better reflect the millennia-long human and social aspects of food exemplified by such traditions of welcoming and feeding visitors, shared family meals and mothers breast-feeding a baby).

(2c, h, j, m)

7) The Future of GM is not in everyday food

Section summary

There is clear evidence that pursuit of GM technology in food is counter to consumer trends around the world and is a high-risk strategy for New Zealand to engage in.

18. In October 1999 the international investment company "DeutscheBank" advised investors to sell any shares they held in Biotech food companies. The reason for this announcement was the realisation that despite industry efforts to counter it, there is a global rejection of GM in food, and as such it presents a disastrous investment from an economic perspective.
19. This resistance is not limited to consumers, but ranges from the farmers of third world countries like India (see Vandana Shiva; BBC Reith lectures, 2000), to the +70 % of NZ farmers who said they supported organic farming as NZ's future, reported in a recent AFCO survey in NZ.

(1B, 2h, j, n)

8) Nutraceuticals

Section Summary

The convergence of food and medicine presents serious public health threat. A balanced diet is the only medically-accepted healthy approach to eating. In the public interest strict controls testing and regulation are needed to control any introduction of nutraceuticals into NZ. There

is a serious risk that, in the light-handed regulatory environment of recent years, and even if safety-tested, the retail marketing of nutraceuticals could negatively impact public health

20. The convergence of food and medicine presents serious public health threat as well as a marketing opportunity for GM food companies. Nutraceuticals represent the niche-market for GM foods aiming to deliver a specific health benefit, and would in effect be medicines. If not banned to protect public health and maintain the important cultural separation of food and medicine, these products would need to be tested far beyond the minimum testing that has yet to be done around the process of GM itself, and on its impact on health and the environment.
21. A recent report into Nutraceuticals completed by food researchers in the UK describes these second-generation GM foods as marketing-hype that is counter to healthy eating.
22. There is also concern that the promotion and advertising of 'medicine-foods' could worsen the problems recently identified by Pharmac stemming from de-regulated consumer-targeted advertising for prescription drugs.
23. A balanced diet is the only medically-accepted healthy approach to eating. To promote one food as a "cure" to health problems (possibly created by diet and environmental toxins) could persuade people to stop this proven approach to eating. The promotion of "magic-bullet" style eating would be harmful in many ways. This is already indicated by the use of carbonated "energy " drinks, especially among younger people.
24. In the public interest strict controls testing and regulation are needed to control any introduction of nutraceuticals into NZ. There is a serious risk that, in the light-handed regulatory environment of recent years, and even if safety-tested, the retail marketing of nutraceuticals could negatively impact public health. Shared meals would become a thing of the past if each family member had to "treat themselves" with their daily medicine. Overdosing on your favourite food would have a new significance

(2h, j, l)

9) Other approaches to supporting GM foods

Section Summary

Industry has promoted a number of hopes for GM in order to increase acceptance amongst the public. However shortcomings in the viability of these projects to effectively address the problems they are designed to, are likely to weaken their positive effect on public attitudes. Moreover New Zealand has responsibilities as a global citizen, (including under Human Rights and Environmental agreements). It must work to protect other countries from the inappropriate use of Trade laws and industry lobbying for the adoption of GM technology in countries where it is not in the local interest, or where it is unwanted for cultural or other reasons.

25. The world-wide concern over aspects of GM, including health and environmental effects, has resulted in industry highlighting additional hopes to improve public perceptions, and prevent any delay of GM foods while proper research and contained testing is done. But the prospect of losing "western" markets has resulted in a rush to spread the technology to the third world.
26. The rejection of GM food has been clearly voiced in many countries but in western countries it has often been "wealthier", and more highly educated people speaking out. Arguments that westerners "should not deprive the poor of this new technology" are used at the emotive level to make GM food seem OK. Unfortunately, consumers already aware of the issues see logical flaws in the argument and perceive it to be PR. in a search for profits.
27. **Feeding the poor**
The fact that the poor have no money to buy food in today's world of excess-capacity highlights the need for structural economic changes. Without these changes first being identified and introduced the hopes of biotechnology in addressing this issue remain hollow.
28. **Vitamin A rice**
As well as the broader concerns with external use of GM crops, the magic-bullet of fortified rice has yet to be safety-tested for human consumption but raises serious issues about food being used as a drug and the risks of over-dosing on Vitamin A. The scientifically proven need for a balanced and varied diet is no less true for third world people than it is for those in the west; ensuring a range of foods including green vegetables is a better way to deliver the full range of nutrition needed. As Vandana Shivas reports, (see BBC Reith Lecture, 2000), rice already has vitamin A anyway; in the husks.
29. **Promotion of GM Under Trade Rules**
New Zealand's role as a global citizen also needs to reflect an ethical standard that protects other nations from false-promise or inappropriate pressure being applied to enforce adoption of technology against their will or interests.
30. Issues centred on non-food uses of GM are addressed in other submissions

(2c, g, j, n) 10) Should consumers be denied choice until they are "sufficiently informed"?

Section Summary

There is a serious risk of damaging the NZ economy, undermining consumer rights and harming the public interest by seeking to use the excuse of lack of scientific knowledge amongst the general public to legitimate implementation of GM technology under secrecy. Priority must be given to regulation and transparency in the public interest over commercial protectionism

31. Some sectors of the Biotech industry have called for a reduced public consultation process and greater secrecy around GM experiments. The NZ Grocery Manufacturers Association has opposed full labelling of GM foods arguing that this would not help "informed choices "by consumers. Implicit in these arguments is the idea that consumers are not sufficiently informed about genetic modification to decide 'correctly' ie in its favour.
32. This is a misrepresentation of the real situation. As described in a recent study of future global trends undertaken by Stancombe Research (Melbourne, 1999), despite the limited knowledge of many people, there are sufficient numbers of concerned citizens all over the world who have the time and skills to defend and speak out in the public interest. The study also noted the widespread rejection of GM food around the world.
33. Limited public awareness about the serious issues surrounding GM is the key reason why ANZFA ,ERMA, Industry, Government and even the Commission itself, do not hear from many many more people. Attempts to portray the public concern as "media hype" or membership-driving by environmentalists is a cynical attempt to devalue and circumvent the public.

(1B, 2 i, l, n)

11) International trade and regulation of the food industry

Section Summary

The strategic options for NZ are impacted by the dominance of overseas companies in grocery manufacturing and retailing. Harmonisation of international laws has lead to less local control and responsiveness to the public. ANZFA's aim of promoting trade in food has been prioritised as the expense of protecting basic consumer rights, and resulted in a serious failure of the regulatory system, (e.g. the sale of untested and unlabelled GM foods to an unwilling public). There is need to review and alter this regulatory framework in order to strengthen its effectiveness in meeting the best interests of New Zealand, including controls on take-overs, and a national business-development strategy to reduce the negative impacts of reliance on food importation.

34. NZ is now importing more of its food from multinational manufacturers who in some cases have closed local production after buying control (cf Arnotts Biscuits; Goodman Fielder Milling;)
35. In considering the strategic interests for New Zealand it will be important to gauge what are the economic benefits of supporting greater local-production and consumption of organic foods, e.g. in terms of reduced transport costs, improved health, man-power employment, developing exportable knowledge, psychological connectedness , and fostering of a national identity?
36. The strategic options for NZ are impacted by the dominance of overseas companies in grocery manufacturing and retailing. Harmonisation of international laws has lead to less local control and responsiveness to the public.

37. As a net-importer of food consumed in NZ the country is vulnerable to overseas decisions that may not be in the national interest. Consumer choice for non GM-foods can be severely restricted, so overriding normal market forces and consumer choice.
38. ANZFA's aim of promoting trade in food has been prioritised as the expense of protecting basic consumer rights. The following points exemplify failure in the existing regulatory system:
- After some three years there is still no labelling of GM foods already on-sale
 - The proposed regime has a range of exemptions, including food sold in take-aways and bakeries that effectively deny the consumer the information needed to practice their basic right to choose
 - ANZFA has never tested any GM foods, and no agreed testing system has yet been established anywhere in the world, despite urgent calls from scientists like the Dr.Arpad Pusztai (UK) that this should be done
 - In mid 1998, after a **one-week** 'emergency' public submission process, and under industry pressure ANZFA changed the food laws to legitimate the sale of untested GM foods already being secretly sold in NZ and Australia .
 - ANZFA has since proceeded to do a desk-based assessment (not safety testing)of these foods and approved them one after the other, despite evidence from the US that the regulatory system on which the ANZFA relies, has broken down and is the subject of legal action.
 - Also revelations from the UK regarding newly identified risks , e.g. from antibiotic resistance in GM cotton products, has not slowed the process of approval .
39. Other regulatory systems that have proved to be inadequate include The Commerce Commission which has the responsibility for the Fair Trading Act (1986).
40. In a knock-back for consumer rights the Commerce Commission has stated that the sale of GM foods without informing the consumer, (and despite clear requests from consumers for it to be labelled), is not a breach of Fair Trading practice. The Commerce Commission has also overseen the shift into overseas ownership of the NZ baking industry, including the sale of Ernst Adams to Goodman Fielder, which has declared its support for GM and is now in a position to promote it in baking products without alternatives for the NZ consumer.
41. For New Zealand this failure in regulation has meant the process for consumer dialogue with industry has been characterised by conflict between the expressed wishes of NZ consumers and the agenda and interests of some major manufacturers.

(1B, 2 j, n)

12) Consumer Rights and the Public Interest

Section Summary

Responses from the grocery manufacturing and retail industry to the arrival by-stealth of GM ingredients into the food system have varied. Unfortunately the regulatory system has failed to prevent unethical practice by some elements of the Grocery retail and manufacturing industry. The resulting need for public protest and lobbying of politicians has led to a situation of conflict between consumers and industry, continued denial of basic consumer rights, and the establishment of the Royal Commission to enquire into the public interest. It is recommended that relevant legislation concerning regulation of the grocery industry, consumer information, consumer rights, and deceptive trading, be reviewed together with an inquiry into the effectiveness of organisations like the Commerce Commission at administering existing law in the public interest.

43. A history of Public protest

In 1998, following growing public concern that GM foods should be tested and labelled, former Crown Minister John Delamere announced to the Media that "*the horse has bolted*" on the issue of GM food . He said that 60% of all food already contained GM ingredients and it was 'too late' to regulate. Since that time there has been huge public demand for the right to choose what people eat, and growing awareness of the range of issues associated with GM technology (see section 6 above).

44. Responses from the grocery manufacturing and retail industry to the arrival by-stealth of GM ingredients into the food system have varied, and the situation has raised ethical issues within the profession, e.g. should customers have the choice?, what are the consumer concerns that need to be addressed?, what does legislation require us to tell our customers? what should we tell them?
45. Unfortunately, the majority of consumers have not been supported in their call for full labelling (or ban) of GM ingredients by some sectors of the industry. Labelling has still not been introduced, approvals by ANZFA of GM foods continues, and the consumer is left in the dark about who to trust.
46. Earlier this year, The Consumers Institute published a report into grocery manufacturers "stonewalling" customers when asked about GM ingredients. No action has been taken by any authority, but the practice of avoiding informing the public has continued.(see below)
47. The main retail industry has also failed to help its customers to choose non-GM food. The three main NZ supermarket chains are overseas-controlled and have not acted to support consumer needs in the same way that British retailers have done. (In Britain supermarkets withdrew the products or agreed to label them so people could choose)
48. In May 1998 a national day of protest saw people take action by entering supermarkets and label products containing likely GM ingredients. Instead of supporting their customers, one supermarket had the police arrest three people.
49. Such has been the co-operation by industry to promote GM food (rather than allow their customers to choose by labelling or producing a list of GE-Free foods)

a P.R. leaflet was launched into supermarkets. The leaflet contained misleading statements that were challenged in court for breaking requirements of honesty in advertising. The regulatory authorities took no action concerning this deceptive practice as the leaflet was deemed to be "advocacy" for GM rather than advertising.

50. There is still no labelling regime in place but public protest, petitions, letters, submissions to government and industry have continued.
51. **The Commission may consider the need for further investigation and evidence concerning the Grocery industry and the breakdown in regulation.**

(1B, 2 j,n)

13) Ethics and Professional Trade Practice

Section Summary

There is evidence of wrongdoing by some elements of the Grocery industry which need formal investigation. Voluntary codes of practice have been insufficient to protect consumers, as have the bodies responsible for administering existing consumer law. In some cases consumers have been deliberately misled or refused information. It is concerning that consumers' mistaken concerns that vegetables and fruit are GM have been registered in data available to some in the grocery industry, but has been deliberately left uncorrected, in a way likely to have unnecessarily harmed the grower-industry in New Zealand.

52. There is evidence of wrongdoing by some elements of the Grocery industry who have :
- Unethically opposed efforts of individual manufacturers and retailers who have attempted to inform customers of GM content, (e.g the New World supermarket in Christchurch was opposed in attempts to inform customers, and manufacturers like Hubbards were lobbied not to label products as GM-free so denying consumers information they demanded. (the New World owner has since been pressured out of supermarket retailing)
 - colluded to restrict free choice by consumers and limit the labelling regime arguing costs and the consumers' only right is "informed choice"
 - obscured and refused to answer legitimate consumer queries made to consumer -"help lines". In some cases callers have reported being made to feel foolish, or even intimidated by having their conversation recorded and monitored, their names and addresses entered on data bases ,(possibly exchanged with other companies), and used to send pro-GM literature.
 - produced misleading propaganda to advocate for GM foods rather than advise customers how to avoid it

- Failed to act appropriately on the basis of consumer research and consumer -feedback , but have sought to subvert their customers wishes . For example, The 1999 Colmar Brunton study indicated that the public wrongly believed NZ-grown fruit and vegetables were genetically modified when in fact none are. Yet the grocery industry has not made efforts to inform the public that NZ vegetables are GE-Free, once again leaving the consumer in the dark.

53. These events are reason for concern and support the contention that the response to NZ consumers has been unethical and cynical in its process. The system through ANZFA has failed to deliver balanced outcomes for consumers and has been inappropriately influenced by industry. This may be a negative impact from the requirement for ANZFA to promote trade.

(1B, 2 j, n)

14) NZ Representation on Regulatory Authorities

Section Summary

There is indication that the process of selection of NZ representation on ANZFA has been flawed. Conflicts of interest within ANZFA may have contributed to the failure in that system, the arrival and sale of untested GM foods unlabelled, and the continued denial of basic consumer rights. It is recommended there is a review of the selection procedure and an inquiry into possible conflicts of interest and inappropriate influence from industry on food regulation.

54. There are also indication that the process of selection of NZ representation on ANZFA has been flawed.
55. Until recently the NZ Industry rep on ANZFA was a former NESTLE director ; and while in his position supported "no labelling" of the GM ingredients then being introduced into the NZ market.
56. This raises unanswered questions concerning conflicting interests on ANZFA. It is noted that Nestle are the worlds largest food company and stand to benefit from promoting GM. There is evidence that Research showing consumer wishes for labelling have been deliberately and unethically ignored in favour of some major grocery organisations. The system has failed to deliver protection of basic consumer rights. The Commerce Commission says current legislation makes it legal to sell food in which the maker knowingly includes ingredients unwanted by their customer. How is a vegetarian to know if animal genes have been used in their bedtime Milo?

(2 g, j, k)

15) Cultural Values - Shared Human Experiences

Section Summary

Concerns among Maori around GM have much in common with concerns of many other cultural traditions, and religions, including those of most New Zealanders. The range of concerns reflect a fundamental difference in the perceptions of those seeking to exploit commercial uses of GM

and the wider citizenry who object to the pseudo-commercialisation , (given the false market created by the non-insurance of risk)and control-through-ownership of the shared inheritance of the planet. The hoped-for benefits of GM do not justify its introduction into food or open environment . Governments do not have the mandate to underwrite as insurers the profits of essentially private entities.

57. It is noteworthy that concerns among Maori around GM have much in common with concerns of many other cultural traditions, including those of most New Zealanders.
58. Christians, Muslims, Hindus and Jews all share elements of the general public response to GM food and technology. The response reflects a more fundamental human experience that is actually common to most cultures, and religious traditions. This is something the biotechnology industry has assumed is unimportant because technically it is easily achieved "in itself" . But crossing the DNA of species throws down the barriers which helps give humanity its identity: shifting the whole world-view. Yes, this shift in perceptions may evolve, or be enforced, but at this stage it is very much in opposition to our species' sentiment, and most ethical, moral and spiritual views.
59. The hoped-for benefits of GM do not justify its introduction into food or open environment . Governments do not have the mandate to underwrite as insurers the profits of essentially private entities. Stopping its enforcement on an unwilling public in NZ and elsewhere is the responsibility of civil government. The regulatory environment, including the Commerce Commission , ANZFA, and ERMA has failed to protect basic consumer rights and the public interest. Voluntary codes have proved to be equally inefficient in delivering positive outcomes for consumers.

References

Appendix 1

Advanta moves seed production to New Zealand to maintain GE purity Friday 2 June 2000

Advanta, the company at the centre of the current storm over GE crop contamination in Europe, has moved some of their seed production facilities to New Zealand, so as to maintain GE purity

David Buckridge, the European Business Director for Advanta, said that they had moved some of their production to New Zealand recently, as it is one country in the world where no GE production currently takes place. But, he added, "what happens if New Zealand approves GM? Where do we go then?"

"This move indicates that, globally, New Zealand is still regarded as a safe haven where genetic pollution can be avoided..., business moves like this already demonstrate that New Zealand stands to gain by maintaining our current ban on commercial GE crops" Tricia Allen, Greenpeace New Zealand.

"Business confidence in our GE-free status as a nation - like this move demonstrated by Advanta - would also open the door to becoming an organic nation" said Tricia Allen.

Some 40 million acres of GE crops are under cultivation worldwide, much of this in the USA and Canada. Advanta abandoned producing seed in western Canada last year because the risk of cross pollination from GE crops was now too high. Their subsequent decision to move to New Zealand, New Brunswick in eastern Canada and Montana in the States, was made so as to eliminate risks of GE contamination.

Appendix 2

(Refer: Witness Brief, Sue Muggleston, HortResearch) " Perceived and actual knowledge are relatively poorly correlated. Actual knowledge of food technology issues is reasonably high, but only weakly positively correlated with likelihood of agreeing there were benefits of the technology."

17.05.2000 - Price is key factor when buying of GE food By JOSIE CLARKE (NZ Herald report)

A significant number of New Zealanders would probably buy genetically engineered food if it was cheaper than rival brands, a new study has found.

The HortResearch study also found that up to a quarter of consumers surveyed would probably buy genetically engineered food if it had benefits such as less pesticide or more vitamins than other brands.

Researcher Joanna Gamble surveyed 908 people aged 14 to 65 to test attitudes towards GE foods.

More than half the respondents initially indicated some negativity to genetic engineering, with a quarter feeling extremely negative.

Only 10 to 18 per cent felt positive about the technology and a third were undecided.

But attitudes changed when the respondents were presented with an image of a tomato genetically modified to reduce the need for pesticides.

Between 20 and 25 per cent of respondents would probably buy the tomatoes, about 40 per cent would probably avoid them and about 25 per cent would definitely avoid them.

HortResearch also found that about 50 per cent of consumers would probably choose GE products if the price was low enough. About 40 per cent would avoid the products at any cost.

"Price is a key issue, and if non-GE food becomes more expensive because of the cost of testing it for labelling purposes, then you are going to get people accepting GE food because it's cheaper," Ms Gamble said.

Concerns over genetic engineering centred on the unknown long-term health risks to the environment and people's health.

"People felt they were being treated as guinea-pigs without actually having given their consent, because they didn't know if they were consuming GE food or not."

Appendix 3

Control of Seeds- Denying rights to natural inheritance by buying it and stopping supply

>Summary: Seminis, the world's largest vegetable seed corporation, announced on 28 June that it would eliminate 2,000 varieties -- or 25% of its total product line -- as a cost-cutting measure. Seed industry consolidation is dramatically narrowing the availability of non-hybrid vegetable varieties and a wealth of seed diversity is being lost forever. >>Back in 1980, seed activists and conservationists protested when the European Community amalgamated its member states' National Lists (plant varieties approved by governments for commercial sale) into a "Common Catalogue." When Brussels' bureaucrats proposed a common seed roster, the seed companies obliged by providing a "hit list" of over 1,500 variety "names" they claimed were only national synonyms of other named varieties. The 1,500 "synonyms" became "illegal" by decree. The deletions were not, of course, "synonyms." When the Catalogue

was finalized, nearly 1,000 distinct vegetable varieties were wiped out of commercial existence simply because they represented low-profit competition in the form of non-hybrid or non-proprietary varieties. >>Today, after decades of consolidation in the seed industry, it is corporate financial officers, not government bureaucrats, who are wiping out genetic diversity at the stroke of a pen

Appendix 4

The Age (Australia)

Two thirds say no to GM foods AGE POLL By GEOFF STRONG Monday 24 July 2000

Science still divided over tampering with nature Summit fails to agree on food Australians are deeply concerned about the safety of genetically modified food, with most saying they would not eat it and an overwhelming majority in favor of compulsory labelling, an AC Nielsen AgePoll has found. Ninety-three per cent of respondents to the poll said they wanted GM food identified with labels, and 65 per cent said they would not want it on their plates. Women were significantly more resistant to eating GM food than men, with just 21 per cent in favor compared with 33 per cent of men. Both sexes were slightly more receptive to the idea of GM drugs, with 23 per cent of women and 37 per cent of men supporting the idea. The poll, conducted last weekend, sounds a warning to the food, agricultural and bio-technology industries, elements of which have been pushing to introduce GM products on to the Australian market. The results came as world leaders meeting in Japan failed to find common ground on the future of international trade in GM food. The Group of Eight (G8) leaders agreed in principle to set up a panel to tackle problems linked to GM foods, but appeared unable to narrow gaps on how to proceed with discussions on health and environmental risks. Debate at the Okinawa summit exposed deep rifts among the participants. The United States, the world's biggest GM producer and home to a \$A6.8billion-a-year GM food industry, is concerned that coordinating further research could be just another way of delaying acceptance of the technology. The AgePoll findings are consistent with surveys done by the body responsible for labelling, the Australian and New Zealand Food Authority.