Alan Kennebury
335 Dockertys Lane, Wy Yung Vic 3875
Telephone (03) 5156 9285 Fax (03) 5156 9488

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The Chairman
Australian Competition and Consumer Commission
PO Box 3131
Canberra ACT 2601

Attention: Mr Mark Laybutt (02) 6243 1280
Email: Mark.Laybutt@accc.gov,au

Dear Sir

Re: Inquiry into the Australian dairy industry by the
Australian Competition and Consumer Commission

I thank the Australian Competition and Consumer Commission for the opportunity to present my submission to the ACCC's inquiry into the competitiveness, trading practices and transparency of the Australian dairy industry and I understand that this submission will form part of the public record

Submission

National food security and protection of the Nation's agriculture sector are basic objectives a nation must fulfil for the good health, safety and prosperity of its people and a healthy vital dairy industry is a critical element in achieving this and cannot and must not be ignored by Australian governments and the industry

Dairy farming sector of agriculture

The essential requirements for every dairy farm are land on which to carry on an enterprise, a herd of dairy cattle, appropriate dairy plant and equipment to feed cattle and harvest milk and labour to manage, administer and operate the enterprise

Australian governments and the dairy industry have failed dairy farmers by regarding this sector of the industry as an irrelevant and financially ignorant source of the raw material, milk

- Dairy farmers are paid a price for milk determined by processor with whatever is left over after price cutting, poor marketing, inefficient management and excessive profiteering
- Dairy farmers are price takers in a corrupted market and subjected to inefficient and ineffectual representation by their own organisations and milk price gouging by processors that mainly use one co-operative which has been hijacked by its management, mendacity and incompetence as a price setter benchmark

To ensure that dairy farmers receive a floor price to cover the basic costs of operating a dairy farm there must be a floor price matrix established below which no processor can buy farm milk

This price must cover the basic operating costs that a farm will incur plus a return on investment by the farm operator to ensure that the nation has a successful and vital pool of dairy farmers

Issue 1- Competition for milk

- Competition is corrupted by the practise of incentives provided to dairy farmers to change factories and are based in part on advances of easy to acquire money to cover farm expenses and share acquisition schemes and depend on criteria that include size of supply, geographic location and credit worthiness
- This form of borrowing is not divulged to the property mortgagor and in times of downturn in prices can lead to failure by the mortgagee to meet mortgage repayments as the processor will take its payment prior to distribution of net fund from the period of supply being paid for
- These advances are not fully explained at the time of lending but are used to hold supply when a dairy farmer wishes to transfer to a different processor
- Under the table payments, kick backs and free freight to factory corrupt competitiveness
- Processor farm gate prices are provided with the rosiest slant and are frequently based on highest milk component content and aspirational step-up payments that may or may not be attained but are invariably overstated and lead to false expectations of financial returns

Issue 2 – Contracting Practices

- Contracts are not explained to the dairyfarmer in full detail before signing of a supply contract
- Milk statements that are prepared for milk received by a processor are not farmer friendly for easy assessment
- A push by the dairy industry beyond the farm gate for farms to become larger to increase the national milk pool has had the reverse affect with a dramatic loss of milk flow since its inception
- Termination and notice of termination of contracts needs to be a maximum of 30 days and with no retrospectivity associated with present and future payments for milk supply final price
- Dispute resolution must be described within a contract with neither party assuming greater power or authority than the other
- Loyalty payments, production incentives and seasonal incentives paid at season end in the form of step-up payments are used as a coercive method to hold dairy farmers to a processor to disadvantage a dairy farmer choosing to supply another processor at the commencement of the next season and this practice of loyalty payments must cease
- Retrospective price step-downs must cease to be a part of the contract system as it forces the dairy farmer to carry the cost of mendacious and incompetent management, marketing and accounting practices

Issue 3 – Transparency and price signals

- Food security for the Australian nation is not given adequate importance and over regulation of the nation's dairy industry by too many regulatory authorities which leads to duplication and red tape and costly administration
- Food security is also dependant on a healthy and vital agriculture sector with a fair and reasonable return to dairy farmers and processors and it cannot flourish in the face of ridiculous price wars, unconscionable manufacturing cost structures that leave dairy farmers to pay via the price mechanism for inefficiency, waste and predatory profiteering by processors. The only way to ensure fair and reasonable returns to dairy farmers is to establish a farm gate

price system that identifies on-farm production cost plus fair and reasonable margin (including costs of borrowings) before processors establish selling prices and thereby stop squeezing dairy farmers

- Deregulation of the dairy industry was promoted to dairy farmers as a means of increasing returns and smoothing out the price disparity between states with high volumes of domestic sales and states with a high reliance on export sales
- It failed the dairy farmer sector of the industry by decimating the industry in states such as Queensland and New South Wales with unsustainably low returns and removing a bench mark for manufacture milk prices in states with a high reliance on export sales
- As a result processors in domestic and export sectors used this as the opportunity to suppress the price paid to dairy farmers for milk instead of implementing positive and aggressive marketing without pointless price cutting
- Tariff protection removed would increase returns. DID NOT
- All processors set their milk pricing to Murray Goulburn's farm prices apart from a very limited number of processors that determine farm milk price based on their product mix, markets and profitability
- Poorly managed and inefficient processors depress the market price for dairy products by price cutting to try to hold market share which causes all other processors to follow suit and this in turn drags down farm gate price paid by other processors to dairy farmers
- In 1986 when the Keren Plan was introduced with an emphasis on processors becoming market and brand driven and from inception of this plan and subsequent plans Murray Goulburn Co-operative Limited has never successfully managed to developed brands strong enough to make it a market place price leader in either domestic or export markets and it has continually staggered from one financial crisis to the next as market place failure lead to market position slippage, diversion of product to bulk commodity and deteriorated Balance sheet performance by entering into excessive borrowings to get out of financial difficulties again and again leading to depressed farm gate prices, product dumping into markets and as a result lower returns to all dairy farmers

- Most processors would have a large quantity of their expected milk flow locked into contracts before the commencement of the next season. This certainty of off-take allows processors to set a sound, solid, guaranteed minimum price to dairy farmers for ex farm milk at the start of each supply year
- The price that is announced is very misleading as all dairy farmers would not receive this price
- The quality standards set by the processor for milk is set at very high standards to make sure they receive a percentage of their milk at a lower price than they pay the dairy farmer because a percentage of dairy farmers cannot consistently achieve this quality but milk is still made into premium product
- Monitory pay rates are set to the kilograms of milk solids produced per farm with the smaller farms being heavily impacted by higher cost of volume charge (freight from farm to factory and silo storage at factory) and lower value production incentives supposedly set from actual costs and instead this incentive is set as an aspirational target incurring greater cost to attain a higher threshold than will be returned to the dairy farmer and these should be removed

Issue 4 – Domestic retail markets

- Australian dairy farmers and processors are required to produce milk and dairy products to a set of benchmark quality standards while imported foods are not produced and supplied subject to the same standards which opens domestic consumers to potentially inferior products and the market to unfair and unequal price competition and this should be stopped by ensuring all imported dairy products meet minimum quality standards

Issue 5 – Global markets

- The establishment in 2008 of the Fonterra owned business, Global dairy Trade, has seen the corruption of the world export market for dairy produce by manipulation of the market by unscrupulous traders prepared to profit from multiple trades where there is more product being traded than is physically available from manufacturers
- Free trade would increase returns. HAS NOT

Issue 6 – Production costs and profitability

- The dairy industry beyond the farm gate the monitory pay and conditions is not sustainable from tanker driver right through to the CEO and including director's remuneration and conditions
- Marketing spend on adverting dairy products from the processor and other bodies that is funded by the farmer levees; importing countries enjoy the benefits of this without contribution
- Purchasers of milk, after making and selling their product, will retain what they require for their running cost and a large profit margin leaving what is left for payment to the dairy farmer
- The producer members of a co-operative are at high risk of their co-operative being hijacked by the Management of the business through poorly performed and incompetent directors, both elected and appointed special directors
- In particular Management seizing opportunities to convert allocated shares into cash by advise that sale of the co-operative to other parties is desirable or necessary when it is diametrically opposed to the interest of members

Within the dairy industry the number of dairy farmers are diminishing as prices force dairy farmers out of the industry and yet the post farm gate sector administration and bureaucracy is increasing in its size and dominance leading to a top heavy and over regulated dairy industry

I am also disgusted by the action of Fonterra in immediately introducing retrospective step-downs based on the actions of Murray Goulburn this season demonstrating incompetence and lack of capacity to establish a milk price in isolation while they compete in a supply war without due regard to the impact on dairy farmers affected by such actions and failures

The dairy industry is a significant sector in Australian Agriculture and a critically important element in ensuring Australia's food security into the future and it requires a much greater share of Federal Government interest support than it is given now to ensure it remains a vital and energetic industry to carry out its role in Australia's future

End of submission

Yours faithfully

Alan O Kennebury

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