



**Australian  
Competition &  
Consumer  
Commission**

## **Dairy Inquiry Farmer Forum: Taree, New South Wales**

**7 February 2017**

This document is not a verbatim record of the forum but a summary of the issues raised by forum attendees.

The views and opinions expressed are those of the attendees and do not reflect the ACCC's views or position on the issues summarised here.

7 February 2017 from 12.00pm to 2.00pm  
Club West  
116 Edinburgh Drive, Taree, NSW

### **Attendees**

*Australian Competition and Consumer Commission*

Sarah Court, Commissioner

Mick Keogh, Commissioner

ACCC staff: Amy Bellhouse, Mark Laybutt, Lavinia de Havilland.

*Interested parties*

Approximately 200 interested parties attended the forum.

### **Introduction**

Commissioner Mick Keogh welcomed attendees, outlined the purpose of the forum and invited the attendees to contribute comments in response to the topics of interest to the Inquiry.

Attendees were informed that the matters discussed at the forum would be recorded and a summary placed on the ACCC's website, but that this summary would not identify or attribute comments to individuals.

## Summary of issues

Attendees discussed the following issues during the forum:

### 1. COMPETITION FOR RAW MILK

- Farmers find it difficult to switch between processors. Reasons for this include:
  - farmers forfeit their right to loyalty payments and price 'step-ups' if they switch
  - processors' contract dates vary between calendar and financial years; farmers may face a six month period without a supply contract
  - the perishability of milk and the risk of non-collection makes farmers more likely to remain with processors despite poor conditions or prices
  - farmers speculated that it is easier and cheaper for processors to source additional milk from a competitor through a milk swap or trade, rather than sourcing new or additional supply from farmers. It was submitted that this practice reduces competition for raw milk.
- Some agreements contain two-tier pricing, where farmers receive a lower price for milk above a certain volume. Farmers consider this price is significantly below their cost of production. Exclusivity clauses prevent farmers from selling this milk to an alternative processor.

### 2. CONTRACTING AND PRICING

#### 2.1 Contracts and Handbooks

- Farmers have no bargaining power and are therefore price takers.
- Farmers can either sign a fixed term contract or supply milk under a processor milk supply handbook. Signing a contract has little utility when the processor handbook can override contract conditions and pricing.
- Contract exclusivity clauses adopted by all processors mean farmers cannot supply more than one processor. It was submitted that these clauses reduce competition.
- Handbook renewal terms and conditions from some processors deem farmers to have renewed supply to a processor if they have not given notice of intention to discontinue within a specified time, even if they have not signed a contract.
- Farmers who try to negotiate their contracts with a processor are less likely to have their contracts renewed.
- In some cases it was alleged that:
  - farmers can see their price change every six months, with no consultation
  - the new season price is provided only weeks before commencement. This does not allow sufficient time for review or to negotiate a better deal.

#### 2.2 Collective Bargaining Groups

- As processors have no obligation to enter into negotiations with collective bargaining groups, they retain the balance of power.
- If collective bargaining groups could genuinely negotiate with processors, farmers would be able to receive better prices and conditions.

### 3. TRANSPARENCY AND PRICE SIGNALS

#### 3.1 Transparency

- Raw milk supply contracts often contain complicated pricing mechanisms that are difficult to interpret.
- Farmers cannot discover what prices other farmers are paid due to complex pricing mechanisms.
- Farmers do not believe it is reasonable for processors to base their farmgate price on global markets when domestic consumption accounts for the majority of NSW milk.

#### 3.2 Pricing Signals

- Processors only release their opening price after the largest processor has publicised theirs, allowing them to offer the lowest price possible.
- The recent price drops in Victoria have resulted in price drops in NSW for suppliers of major processors; farmers argued that this was not fair, as unlike their Victorian counterparts they do not supply international markets.
- Processors' ability to transport milk north from Victoria, where raw milk is cheaper due to lower production costs, threatens NSW farmers' profitability. This commonly occurs when prices are particularly low in Victoria, usually in the spring.

### 4. RETAIL PRICING

- Farmers stated that \$1/L private label milk and other discounted dairy products have removed millions of dollars from the supply chain.
  - It was suggested that the retail pricing of \$1/L for private label milk may have caused processors to offer very low wholesale prices in order to win tenders for private label supplies, and contracts to supply branded products. Farmers speculated on potential links between private label contracts and shelf space for branded products.
  - Farmers also speculated that processors may not report on perceived unfair tactics by supermarkets due to confidentiality clauses and fear of retaliation.
- It was submitted that it is unclear whether \$1/L milk is the cause of low farmgate prices. For instance, when one processor won the \$1/L milk contract with a major supermarket their suppliers received a 3 cent price rise, however other processors have passed on price cuts after entering similar contracts.
- It was submitted that the major supermarkets have acknowledged to farmers that the current retail pricing of private label milk is unsustainable; however, in order to compete they will not raise prices.
- Stakeholders were concerned that the ACCC will be unable to show that supermarkets are making the largest profit in the supply chain from \$1/L milk as they use it as a loss leader and make profits off other products.

## 5. OTHER ISSUES RAISED

- Family farming is at stake due to a lack of profit in dairy farming.
- Farmers are concerned that milk ‘swaps’ may lead to misleading representations on products. A consumer may believe that they are supporting particular farmers, but the milk in the bottle may have been acquired through a ‘swap’.
- It was alleged that branded milk is often left in the storeroom at supermarkets.
- Stakeholders discussed the Government and ACCC’s involvement and powers in the industry, including:
  - the fairness of allowing companies to pass on financial losses to farmers instead of the company having to bear them
  - whether requiring supermarkets to divest stores would help improve the dairy industry’s profitability
  - the benefits and consequences of the Government re-regulating the dairy industry.

Commissioner Keogh closed the forum by inviting farmers to make a written submission or to phone the ACCC if they had further comments to contribute. He invited attendees to remain for discussions and refreshments.