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2/10/2020

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## By email

Dear Interested Party

### **Queensland Dairyfarmers' Organisation Limited - application for authorisation AA1000530—interested party consultation**

The Australian Competition and Consumer Commission (the **ACCC**) has received an application for authorisation from the Queensland Dairyfarmers' Organisation Limited (**QDO**). The ACCC invites you to comment on the application. Set out below is a summary of the application and the authorisation process, including how to make a submission to the ACCC.

#### **Application for authorisation**

QDO seeks authorisation for a licensing scheme for processors of milk and dairy products to apply a "Fair Go Dairy" logo to their products. The logo is intended to signal to consumers that the products bearing the mark are made from milk for which farmers have been paid a sustainable and 'fair' farmgate price (known as the **SFFP**). The products which can display the logo include dairy milk, dairy cream, dairy desserts and cheese.



"Fair Go Dairy" logo

Under the licensing scheme QDO will grant a licence to use the "Fair Go Dairy" logo to processors for use on dairy products made using no less than 80% unprocessed milk purchased from a farmer where:

- the farmer's farm is located within Queensland;
- the milk is derived from dairy cows located within Queensland;
- the purchase price for the milk (per litre) is not less than the SFFP; and
- no milk used in the products may be sourced from outside of Australia.

The SFFP is determined by QDO using a formula for the Cost of Production multiplied by the CPI Adjustment Rate. The Cost of Production means the average cost of production for milk published by the Queensland Dairy Accounting Scheme. Further details on how the SFFP is set can be found in the application.

QDO seeks authorisation for a period of 10 years.

A full copy of the application for authorisation is available on the ACCC's website [www.accc.gov.au/AuthorisationsRegister](http://www.accc.gov.au/AuthorisationsRegister).

### **Request for interim authorisation**

QDO has requested interim authorisation at the time of the ACCC's draft determination to:

- continue to prepare and commence marketing of the scheme, and
- negotiate, enter into, and give effect to licence agreements with milk processors.

The ACCC endeavours to deal with requests for interim authorisation quickly. In making an assessment as to whether it is appropriate to grant interim authorisation, the ACCC is not required to undertake a full assessment of the benefit and detriment likely to arise as a result of the proposed conduct.

The ACCC decides whether to grant interim authorisation on a case by case basis. Should an applicant request interim authorisation, the ACCC will usually consider a range of factors, including harm to the applicant and other parties if interim is or is not granted, possible benefit and detriment to the public, the urgency of the matter and whether the market would be able to return to substantially its pre-interim state if the ACCC should later deny authorisation.

### **The authorisation process**

Authorisation provides protection from legal action for conduct that may otherwise breach the competition provisions of the *Competition and Consumer Act 2010* (Cth).

Broadly, the ACCC may grant authorisation if it is satisfied that the benefit to the public from the conduct outweighs any public detriment, including from a lessening of competition. The ACCC conducts a public consultation process to assist it to determine whether a proposed arrangement results in a net public benefit.

For further information on the ACCC's authorisation process, and the test that the ACCC applies in assessing applications for authorisation, please see the ACCC's Guidelines for Authorisation of conduct (non-merger); available [here](#).

### **Request for submissions**

The ACCC invites you to make a submission on the likely public benefits and effect on competition, or any other public detriment, from the 'Fair Go Dairy' licensing scheme.

In particular, we seek your views on the following issues:

1. any likely benefits to the public resulting from the arrangements
2. whether the 'Fair Go Dairy' logo will assist consumers to identify which dairy products are made using milk on which farmers are paid a SFFP
3. any impact of the scheme on dairy retail prices in Queensland
4. the method for how QDO proposes the SFFP will be calculated
5. any harm or improvements to competition which may result from the arrangements, this may include competition at the farmgate, wholesale or retail levels of the supply chain
6. any other impact of the scheme on the farmgate prices for milk in Queensland
7. whether and how many processors are likely to participate in the scheme, and the reasons for this, and
8. the 10 year term of authorisation sought.

If you intend to provide a submission in relation to QDO's application for authorisation, including the request for interim authorisation, please do so by **23 October 2020**. Submissions should be emailed to [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au) with the subject AA1000530 – QDO – submission'.

Submissions will be placed on the ACCC's public register subject to any request for exclusion (guidelines are available [here](#)).

## Timetable

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information

<b>25 September 2020</b>	Lodgement of application and supporting submission.
<b>2 October 2020</b>	Public consultation process begins.
<b>23 October 2020</b>	Closing date for submissions on interim and substantive authorisation.
<b>November 2020</b>	Applicant responds to issues raised in the public consultation process.
<b>December 2020</b>	ACCC draft determination including consideration of interim authorisation.
<b>January 2021</b>	Public consultation on draft determination including any conference if called.
<b>February/March 2021</b>	Final determination.

Please advise if you do not wish to make a submission at this time, but would like to be informed of the progress of the application at the draft and final determination stages. If you are able to please provide a nominated contact email address for future correspondence.

You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding the application.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Hannah Ransom on (02) 6243 1255 or [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'D. Staltari', is centered on a light gray rectangular background.

Danielle Staltari  
Director  
Adjudication Branch

## **Interested Parties Consulted**

ALDI  
Australian Dairy Farmers  
Australian Dairy Products Federation  
Bega  
Casa Motta  
Choice  
Coles  
Consumers Federation of Australia  
Cooloola Milk  
Dairy Australia  
Dairy Connect  
Dairy Farmers Milk Cooperative  
Department of Agriculture, Water and the Environment  
Drakes  
Fonterra  
Gallo Dairyland  
George's Authentic Greek Yoghurt  
IGA/Metcash  
Keniworth Dairies  
Lactalis  
Lion Dairy and Drinks Pty Ltd  
Maleny Cheese  
Maleny Dairies  
Maleny Gelato  
Mungalli Creek Dairy  
National Farmers' Federation  
Norco Co-operative Limited  
Olympus Cheese  
Queensland Department of Agriculture and Fisheries  
Queensland Farmers' Federation  
Queensland Yoghurt Company  
Saputo Dairy Australia  
Scenic Rim 4 Real Milk  
Tommerups Dairy/Jersey Girl  
Whitsunday Fresh/Central Queensland Fresh Dairy  
Woolworths  
Woombye Cheese