

**Form B**  
Commonwealth of Australia  
*Trade Practices Act 1974 --- Sub-section 88(1)*  
**AGREEMENTS AFFECTING COMPETITION:**  
**APPLICATION FOR AUTHORISATION**

To the Australian Competition and Consumer Commission:

Application is hereby made under sub-section 88(1) of the *Trade Practices Act* 1974 for an authorisation under that sub-section

☐ to make a contract or arrangement, or arrive at an understanding, a provision of which would have the purpose, or would have or might have the effect, of substantially lessening competition within the meaning of section 45 of that Act.

☐ to give effect to a provision of a contract, arrangement or understanding which provision has the purpose, or has or may have the effect, of substantially lessening competition within the meaning of section 45 of that Act.

1. (a) Name of Applicant

**Milk Vendors Association (S.A) Inc. ("the Association")**

(b) Short description of business carried on by applicant

**The Association is a non-profit organisation which represents South Australian Milk Vendors who are responsible for the distribution of milk and milk products to retail customers and private residences**

(c) Address in Australia for service of documents on the applicant

**John Royle**

**Royle & Co Lawyers**

**98-100 Halifax Street, Adelaide SA 5000**

**Tel 8215 0008 Fax 8215 0472**

2. (a) Brief description of contract, arrangement or understanding and, where already made, its date

**Please see attachment.**

(b) Names and addresses of other parties or proposed parties to contract, arrangement or understanding

(i) **National Foods Milk Limited**

**167 Cross Keys Road, Salisbury SA 5018**

(ii) **Dairy Vale Foods Limited**

**154 Caulfield Avenue, Clarence Gardens SA 5039**

(iii) **Such existing and future Milk Vendors (being members or non-members of the Association) who may elect to appoint the Association to negotiate on their behalf**

3. Names and addresses (where known) of parties and other persons on whose behalf application is made

**Members of the Association**

4. (a) Grounds for grant of authorisation

**Please see attachment**

(b) Facts and contentions relied upon in support of those grounds

**Please see attachment**

5. This application for authorisation may be expressed to be made also in relation to other contracts, arrangements or understandings or proposed contracts, arrangements or understandings, that are or will be in similar terms to the above mentioned contract, arrangement or understanding.

(a) Is this application to be so expressed?

**No**

(b) If so, the following information is to be furnished:

(i) the names of the parties to each other contract, arrangement or understanding

**Not Applicable**

(ii) the names of the parties to each other proposed contract, arrangement or understanding which names are known at the date of this application .

**Not Applicable**

6. (a) Does this application deal with a matter relating to a joint venture (See section 4J of the *Trade Practices Act 1974*)

**No**

(b) If so, are any other applications being made simultaneously with this application in relation to that joint venture

**Not applicable**

(c) If so, by whom or on whose behalf are those other applications being made

**Not applicable**

7. Name and address of person authorised by the applicant to provide additional information in relation to this application

**John Royle**

**Royle & Co Lawyers**

**98-100 Halifax Street, Adelaide SA 5000**

**Tel 8215 0008 Fax 8215 0472**

Dated: 9<sup>th</sup> August, 2004

Signed by/on behalf of the applicant

.....  
(Signature)

.....  
(Full Name)

.....  
(Description)

**ATTACHMENT TO  
APPLICATION FOR AUTHORISATION BY  
MILK VENDORS' ASSOCIATION (SA) INC**

The Milk Vendors' Association (SA) Inc ("the Association") seeks authorisation under Section 88 (1) of the Trade Practices Act 1974 (Cth):

- (a) to make a contract or arrangement or arrive at an understanding, a provision of which would have the purpose, or would have or might have the effect, of substantially lessening competition within the meaning of Section 45 of the Act; and
- (b) to give effect to a provision of a contract, arrangement or understanding which provision has the purpose, or has or may have the effect, of substantially lessening competition within the meaning of Section 45 of the Act.

Authorisation is sought for the purposes of engaging in the following proposed conduct:

- (a) *An arrangement between members and non-members (both present and future) of the Milk Vendors' Association (SA) Inc for the Association to collectively bargain on their behalf with National Foods Milk Limited ("National Foods") and Dairy Vale Foods Limited ("Dairy Farmers") in relation to the terms and conditions of distribution contracts between those parties and National Foods and Dairy Farmers.*
- (b) *An arrangement between members and non-members (both present and future) of the Milk Vendors' Association (SA) Inc to give effect to any contracts agreed by the Association with National Foods and / or Dairy Farmers.*
- (c) *An arrangement between:*
  - *Members and non members (both present and future) of the Milk Vendors Association (SA) Inc; and*
  - *National Foods Milk Limited; and*
  - *Dairy Vale Foods Limited*

*For the Association exclusively to provide dispute resolution services in relation to disputes between vendors and/or between vendors and their suppliers and/or between vendors and any person or entity to which the vendor delivers product.*

Further, the Association seeks interim authorisation for the same purposes.

Interim authorisation is sought on the grounds that draft distributor contracts have recently been issued by both South Australian processors and are due to be finalised before the anticipated completion of the Authorisation process proper.

## **1 Introduction**

### **1.1 The Dairy Industry in South Australia**

The dairy industry is a core industry in South Australia. Dairy farmers,

processors, distributors and retailers combine to produce and deliver to consumers such staple products as whole and modified white milk, flavoured milks, cheeses and yogurts.

Traditionally, the industry has been highly regulated from the farm gate to the point of retail sale. Since January 1995, the industry has been progressively deregulated, in line with general trends in the national economy towards open competition. This, together with deregulation in other sectors of the economy – such as retailing and service stations – has impacted significantly on the dairy industry and dairy distribution.

Deregulation has resulted in significant and ongoing restructuring as industry players have sought to optimise returns in the new regulatory and economic environment. Dairy farmers and, particularly, licensed milk vendors, have been forced to face significant adjustment costs. Milk processors and major retailers have, on the other hand, enjoyed increased profitability. These outcomes reflect the relative bargaining positions of the various industry players and the existence of certain exemptions from Trade Practices Act provisions enjoyed by the processors.

## **1.2 Products**

Products in the industry include white milks, such as whole milk, and a range of reduced fat, low fat and specialty milks: see appendix “A”.

Further products include a wide range of flavoured milks, UHT (“long life”) milks, table spreads and regular and reduced fat cheeses and yoghurts: see Appendix “B”.

## **1.3 Turnover**

Total milk production in South Australia in the financial year ending June 03 was 732.6 million litres per annum. Total retail milk sales during the same period was 181.4 million litres. The majority of the remaining product is exported overseas. Average household consumption is approximately seven litres per week: See appendices “C” and “D”.

# **2 The Suppliers in the Dairy Industry**

## **2.1 Primary Producers**

Farm gate prices were deregulated on 1 July 2000 and, over the ensuing period, farm gate prices have fallen from 28 cents per litre to 19/24 cents per litre. Prior to deregulation on 30 June 2000, there were 677 dairy farmers in South Australia. By December 03 that number had fallen to below 500.

The Federal Government recognized that, following deregulation of farm gate prices, primary producers would suffer significant losses and incur substantial adjustment costs. The Government therefore introduced nationally its DSAP package that set an 11c per litre levy on the retail price of all milk, to provide adjustment funding to the primary producers.

## **2.2 Processors**

In South Australia, there are only two significant processing firms, namely

National Foods Milk Limited ("National Foods") and Dairy Vale Foods Limited ("Dairy Farmers"). These processors purchase bulk milk supplies from primary producers and process that milk into the various products identified in 1.2. Traditionally, processors then sold these products to licensed vendors who, in turn, would sell them to retailers or, via the home delivery network, directly to consumers.

In 2000, Paul's Parmalat, which processes in Bendigo Victoria, entered the S.A. market as a distributor. Paul's now has eight contracted vendors throughout metropolitan and country South Australia. The percentage of Paul's product in the South Australian market is minimal.

Both S.A. processors are multi million dollar corporations with substantial market influence and overwhelming bargaining power as against the suppliers (i.e. primary producers) and the distributors (the licensed vendors). The processors unilaterally prepared the current distributor contracts. Notifications made under Section 93 in 1993 have made them exempt from various provisions of the *Trade Practices Act*: see section 3.2 below.

Increasingly, the processors sell directly to the larger retailers – mainly supermarket chains and other buying groups – by the system known as "Direct Billing".

This system involves the processors assuming the role of supplier to the retailer "direct", with the licensed vendors providing an ordering, delivery, and merchandising service in return for a delivery fee. Delivery fees (set by the processor), are significantly less than the margin that the licensed vendors receive from their own customers.

No consideration was ever paid for the transfer of customers from vendors to the processors. The processors reserve the right to vary or terminate these delivery arrangements.

More recently, with the introduction of "Home Branding" by the large supermarket chains, the prospect has emerged that existing licensed vendors will be eliminated from the supply chain as the supermarket chains propose to purchase supplies directly from the processors and to introduce their own distribution arrangements.

The former Managing Director of National Foods, at a shareholders meeting in December 2001, stated that it is anticipated that approximately 75% of all milk distribution will henceforth be carried out outside the licensed vendor system. This clearly has implications for the availability of supplies to independent retailers, and for home deliveries.

### **2.3 Licensed Vendors**

Licensed Vendors, widely known as "milkie", are responsible for the distribution of milk and milk products to retail customers and private residences. They are required to be licensed pursuant to the terms of the Dairy Industry Act 1992. There are 223 licensed vendors in South Australia – down by approximately 130 (over 37%) since the advent of deregulation in 1995, many having been bought out by existing vendors to consolidate into larger rounds.

Each licensed vendor is required to have an exclusive supply contract with either National Foods or Dairy Farmers. These contracts list retail customers that the vendor has the right to supply ("Listed" or "Designated" Customers) and/or territories in which the vendor has the right to supply to domestic residences ("Exclusive Territories"). They also list "Direct Billed" customers in respect of which the vendor is contracted to provide delivery services.

Designated customers, exclusive territories and listed "Direct Billed" customers are subject to variation under the contract at the processor's direction.

Vendors have, traditionally, purchased product from the processors and resold it to retailers and consumers. They are independent businesses and are, invariably, owner operated. As independent businesses, they are required to negotiate individually with processors.

Licensed Vendors who are members of the Milk Vendors Association (SA) Inc. ("the Association") provide in excess of 70% of the total amount of milk distributed in South Australia.

The role of Licensed Vendors is discussed in more detail in section 3 below.

## **2.4 Retailers**

Retailers include the major supermarket chains, such as Woolworths and Coles-Myer; buying groups, such as Top Shop, the service station chains, and various State government agencies and instrumentalities; and independent corner stores, or "delis".

The major supermarkets and buying groups possess substantial bargaining power. This was recognised as long ago as 1980, when the South Australian Parliament enacted legislation to prevent supermarkets from obtaining their own milk vendors' licences. At the time, there were 420 home delivery vendors in South Australia, and it was felt that some would be forced out of business if supermarkets were to obtain their own licences: See appendix "E".

Since that time, the bargaining power of the large supermarkets has been significantly increased as a consequence of the partial deregulation of retail shopping hours and the introduction of Home Branding. Supermarkets now trade for longer hours. Service Stations now typically trade around the clock and provide convenience-store facilities. This has resulted in the closure of numerous independent delis and an increase in the volume of milk sold through supermarkets. In 1991, 8% of milk sales were through supermarkets; that figure is now 58%: See appendix "B". Significantly, supermarkets set the retail price for both Home Brand and processor-branded products, in effect having the power to manipulate the volumes and product sold.

## **3 Licensed Vendors**

### **3.1 Licensing**

The licensing requirements under the Dairy Industry Act stipulate that each vendor must have a credit contract with a processor and must comply with

certain health and hygiene standards.

### 3.2 Processor Contracts

Since 1993, all vendors have been required to have sole and exclusive supply contracts with one or other of the two processors. These contracts are, on their face, plainly anti-competitive and in breach of various provisions of the Trade Practices Act 1974 (Cth). However, the contracts were notified to the Trade Practices Commission (as it was then known) in 1993 and were approved, subject to review on the deregulation of post farm gate prices. This deregulation occurred in January 1995. No review has taken place, despite requests from the Association. See appendix "F".

Contracts introduced by the processors in the late 1990s clearly recognised the ongoing effects of deregulation and sought to maximise returns to the processors in the new environment. Dairy Farmers introduced a franchise system and National Foods introduced a contract featuring a provision which would allow National Foods to terminate the processor contracts for many reasons, including where:

*"any other change occurs in, or affecting, the Industry or the Market."*  
(para. 34.2 contract)

Standard terms of the current processor contracts include the following provisions:

- Allowing the processor unilaterally to vary trading terms and conditions
- Requiring the vendor to be contactable 24 hours a day
- Requiring the provision of detailed business plans and marketing plans
- Entitling the processor to withdraw Listed Customers from the vendor without being liable for any loss, costs, expense or damage and without payment of transfer fees or duties
- Entitling the processor to nominate an alternative licensed vendor to deliver or supply to direct or listed customers
- Entitling the processor to vary the delivery fee paid to licensed vendors by giving a notice period and without cause or consultation
- The processor specifically does not guarantee the supply of product to the vendor
- Effectively prohibiting vendors from selling or supplying any products whatsoever other than those of the processor
- Requiring vendors to establish and maintain certain data bases, using specified computer programs, and to make those data bases available to the processor upon request
- Exempting the processor from legal obligations towards the vendors such as the payment of superannuation and workers compensation insurance where that may otherwise have been applicable.

Both processor contracts are clearly weighted in favour of the processors. Bearing in mind that licensed vendors operate independent businesses, the standard contracts are excessively intrusive. They are uncommercial in that they restrict unnecessarily the extent to which vendors may utilise capital assets whilst, at the same time, failing to guarantee product supplies.

Representations were made by the Association to the processors on behalf of the licensed vendors in an attempt to negotiate some alterations or additions to the contract making it more favourable to licensed vendors without satisfaction. Vendors had little option but to sign these contracts, given their financial vulnerability and lack of bargaining power.

The processor contracts represent the effective regulation of the distribution market by the processor duopoly.

Recently, both National Foods and Dairy Farmers have issued new draft processor contracts in standard form. These contracts continue to rely on the Notifications referred to above. The National Foods draft contains strict confidentiality provisions, including a provision that the vendor may not disclose the contents of the draft contract to any adviser until such time as that adviser has executed a confidentiality undertaking in a form specified, and that undertaking has been approved by National Foods.

### **3.3 Wholesale, Route and Home Delivery**

Increasingly, the larger wholesale customers have been assumed by the processors as direct customers. Vendors receive a delivery fee for delivering products to these customers. Vendors have received no remuneration for any loss of customers, which traditionally, have been tradable. Entire rounds, Exclusive Territories of the Home Delivery vendor and specified Listed Customers of the Route/Wholesale vendor were traditionally sold in the same way that any business may buy or sell assets.

### **3.4 Direct Billing**

Direct billing has become increasingly prevalent since the introduction of solus processor contracts in 1993. Under this system, the processors contract directly with major customers and pay delivery fees to licensed vendors, who deliver product on their behalf.

The major supermarkets and buying groups (which include various State Government agencies and instrumentalities) have sufficient bargaining power to negotiate on an even footing with the processors. They have exerted this power to negotiate favourable Direct Billing and Home Brand agreements. Consequently, vendors' delivery fees on white milk have been significantly reduced from 10c per litre in 1995 to an average of 8c per litre currently (a fall of 20%) and to 6c per litre for Home Brand. Flavoured milk fees have been reduced from 41.6c to 34c per litre. In the same period, the profit margins of the processors and of the supermarkets have increased.

### **3.5 Bargaining Power**

As noted above, there are only two significant processors in South Australia and vendors must deal with one or other of these. Both are multi-million dollar corporations. Vendors, on the other hand, are typically self-employed small business persons. Given these relative economic strengths, the requirement for solus supply agreements and the existence of the Notifications, vendors have no real bargaining power vis-à-vis the processors. Contracts are offered on a "take it or leave it" basis. The nett effect of the processor duopoly, the solus supply arrangements and the Notifications is that the distribution of dairy products via the licensed vendor network is now regulated by the processors.



### **3.6 Entry and Exit**

Vendors' processor contracts are tradable, subject to the consent of the relevant processor. Most sales have, traditionally, been brokered via the Milk Vendors Association (SA), which retains a substantial database. Sale values have declined substantially since the initial phase of deregulation in 1995, to the point where it is now widely accepted that rounds are virtually unsaleable. This means that vendors who have paid hundreds of thousands of dollars for their businesses have sustained major capital losses as a direct and foreseeable result of deregulation of the processor-dominated industry.

## **4 Role of the Milk Vendors' Association (SA)**

The origin of the Milk Vendors' Association SA Inc can be traced back to the formation of the Adelaide and Suburban Milk Distributors and Dairymans' Association in 1931. The name being changed to The Master Retail Milk Vendors Association Inc in 1944 and to its present identity in August 1992. In 1932 there was also another Vendor Association formed, with both Associations working side by side until 1946/47 when they amalgamated.

The Association is controlled by a Committee of Management, elected by its members. Testament to the stability of its management is that since 1945 there have been only 9 Presidents and 8 Executive officers.

The Association concerns itself with all matters affecting the Dairy Industry in South Australia and the interest of Vendors in particular. Being a non-profit organization, the Association's assets are not large, but it has traded successfully in excess of sixty years for the benefit of its members.

Membership of the Association is entirely voluntary. However the Association represents and is financially supported by licensed vendors, within the State who distribute in excess of 70% of the volume of milk distributed in South Australia.

The Association has been the recognized Vendors' Association and has maintained strong communication with Government and all Industry bodies over the past six decades. It maintains records and data bases for all licensed vendors and provides a community service in answering daily enquiries and requests.

## **5 Disputes**

The level of disputation involving vendors is not high. However, there is considerable discontent amongst vendors as to how disputes have been dealt with. No formal dispute resolution procedures have been followed, although they are nominally in existence. Many vendor grievances remain unaddressed because of lack of vendor confidence in the existing arrangements, in which outcomes are determined solely by the processors. Vendors are particularly concerned about the role of the processors (via their sales/marketing staff) in dealing directly with vendors' customers and imposing those customers wishes on vendors.

## **6 Grounds for Grant of Authorisation**

Vendors in most states other than South Australia have received adjustment packages to assist in the process of structural change which has inevitably followed deregulation. The South Australian State Government has declined to provide such assistance, or to facilitate an industry self funded rationalisation package.

As has been indicated above, it is believed that the processors are looking toward a rationalisation of the distribution network which will have a significant effect upon the licensed vendor system and will impact on consumer prices and choices. When this occurs, unless the licensed vendors can participate in negotiations on a more equal footing with the processors, it is anticipated that further restrictions will be placed upon them and significant financial losses will flow. This will cause a reduction in the provision of distribution services and in consumer choices.

Collective negotiation will enable vendors to negotiate on a more equal basis with the processors. It is anticipated that this will lead to the public benefits set out below. The present range of distribution services would be maintained and the quality of those services would increase. There should be no adverse impact on consumer prices. There should be some redistribution of the monopoly profits currently enjoyed by the processors, major supermarkets and buyer groups.

In general terms, the authorisation sought would, or would be likely to, result in a benefit to the public of South Australia which would outweigh any detriment constituted by any lessening of competition that would be likely to result. Such authorisation would have the specific benefits enumerated below.

#### **6.1 Fairness in the Negotiating Process**

As indicated above, the relative bargaining strengths of the processors, retailers and vendors are such that the vendors are, in effect, obliged to accept whatever terms are offered to them. This is reflected in the steep decline in numbers and profitability of milk rounds since January 1995, as vendors have been forced to accept contractual terms which strongly favour the processors. Processors and major retailers (which enjoy a relative parity of bargaining power) have, on the other hand, enjoyed a significant increase in profitability over the same period.

Distribution contracts have been offered by the processor duopoly on a "take it or leave it" basis. The proposed arrangements would help to redress the disparity in relative bargaining positions and provide vendors with some competitive parity in contract negotiations with the processors. This will result in greater vendor input into the contract terms which will, in turn, lead to improved services and other public benefits.

#### **6.2 Compliance with Statutory Requirements**

The process of collective negotiation is likely to result in processor contracts which provide standards that ensure both processors and vendors comply with statutory requirements as to safety, roadworthiness, environmental protection, pollution control and cold chain compliance. The existing arrangements provide a clear incentive to vendors to "cut corners", which is likely to lead to serious consequences.

#### **6.3 Efficiency of Operations**

The structural changes which have occurred in the industry since the onset of solus processor contracts and deregulation (see above) have resulted in a sharp reduction in the number of licensed vendors. Many of the remaining vendor businesses are only marginally viable. The decline in home delivery and local "deli" sales has resulted in a sharp increase, in relative terms, of vendors' transport costs. The processor duopoly, strengthened by the Notifications, has enforced onerous contractual terms.

Collective negotiation will allow for the consolidation of rounds. This will increase the average size of rounds. This, in turn, will have the effect of reducing transport costs and total average costs of vendors. It will also ensure that those consumers who rely on home deliveries and/or local "deli" supplies will continue to benefit from the availability of such services at an affordable price. Any increase in vendors' margins or delivery fees is likely to be marginal and capable of being absorbed by the processors and/or major retailers.

#### **6.4 Continued Viability of Independent Distribution Sector**

As a result of the various factors referred to above, many of the remaining vendor businesses are only marginally viable. The continuing trend towards direct billing and home branding means that vendor's margins are likely to further decline, resulting in the closure of a significant number of those businesses. This, in turn, will result in the reduction of services available to consumers, loss of employment and other significant financial losses. Independent small business employs a large percentage of the workforce and should be supported to ensure competition in the market place and hence benefits to the consumer.

#### **6.5 Reduction in Transaction Costs**

Presently, the processors are required to negotiate individually with each vendor. This results in a substantial waste of resources. Processors are required to replicate the negotiation process with numerous vendors, whereas vendors must attempt to negotiate as individuals against the resources of multi million dollar corporations. This exercise invariably proves fruitless as few, if any, concessions are made by the processors.

Transaction costs vary among the vendors according to a range of factors, including:

- The processor with which they contract; and
- The extent to which they engage in negotiations.

All vendors are required to sign off on a declaration to the effect that they have had, or have had the opportunity to have, legal, accounting and business advice.

A vendor who obtains advice from appropriately qualified persons in each of those fields could reasonably expect to incur costs in excess of \$6,000. Allowing for the fact that not all vendors may take business (as opposed to accounting) advice, it is reasonable to estimate transaction costs at approximately \$5,000 per vendor per contract: a total cost of \$1.115 million.

Assuming processors' transaction costs of \$2,000 per contract gives a figure of \$446,000 in processors' transaction costs.

It is anticipated that total vendor transaction costs in relation to contracts negotiated under the proposed authorisation would be in the region of \$10,000-\$20,000 or \$45-\$90 per vendor.

## **6.6 Better Information**

It is envisaged that vendors will be advised in the process of collective negotiation by the Milk Vendors Association, which will also provide secretarial services. The Milk Vendors Association maintains substantial records and databases in relation to the dairy industry, and it has access to further such material through its connections with vendor organisations interstate as well as organizations such as the Dairy Industry Council. The Association will be able to negotiate on the basis of more comprehensive and accurate market information.

Many vendors do not have the time or the skills to acquaint themselves with such information or to analyse such information adequately. The problem of asymmetrical information compounds the inherent disparity in bargaining positions as between individual vendors and the processors. The proposed arrangements would assist in redressing this disparity.

## **6.7 Improvement in Health and Safety**

Vendors are required to meet all safety and delivery standards. The changing retail environment has resulted in vendors working longer hours, placing increasing demands on their own employees, or being no longer able to employ additional help. As a result, stress and fatigue levels have increased significantly.

Through the rationalisation process, consolidation of rounds will have the effect of reducing delivery distance and times, resulting in a safer environment for vendors, their employees, and those with whom they share the workplace and road.

## **6.8 Dispute Resolution**

Disputes within the industry may be categorised and described as follows:

- 6.8.1 Vendor/Processor disputes. Typically, these disputes involve such matters as:
  - Failure to supply invoiced product.
  - The supply of damaged or out-of-date product.
  - The allocation of customers and/or territories by processors.
  - The transfer by the processors of vendors customers to direct billing.
- 6.8.2 Vendor/customer disputes. Typically, these disputes include such matters as:
  - Supply of damaged or out-of-date product.
  - Merchandising.
  - Frequency of supply.
- 6.8.3 Vendor/vendor disputes. These disputes occur very infrequently. They tend to relate to the allocation of customers or territories.

Both current processor contracts provide for dispute resolution procedures. However, these have rarely (if ever) been applied owing to the dominant

position of the processors vis-à-vis vendors, which results in the unilateral imposition of resolutions by the processors in all categories of disputes.

### **6.9 Opt Out Clause**

It is proposed that all vendors (both members and non-members of the Association) will retain the right to negotiate individually with the relevant processor should they choose to do so. Participation by vendors in any collective negotiation structure will be entirely voluntary.

### **6.10 No Boycotts**

For the avoidance of doubt, no authorisation is sought in respect of any collective boycott activity.

## **7 Market Assessment**

The Association acknowledges that the statutory test requires that the Commission assess and weigh the likely public benefits and detriments flowing from the proposed collective bargaining arrangements. This process requires some elucidation of the markets which will be affected by those proposed arrangements. The Association submits that, in the circumstances described in Sections 2 and 3 above, it is not necessary for the Commission comprehensively to define the relevant markets. The Association submits that it is clear that there are two relevant areas of competition, namely:

- The supply of distribution services to the processor duopoly. In this area, vendors compete with each other to acquire distribution contracts from the processors; and
- The supply of milk and other dairy products to retailers and consumers. In this area, the vendors notionally compete with each other to supply retailers and with retailers to supply products to consumers.

All such competition occurs within the geographic area of the state of South Australia. Individual distributor contracts are highly localized and limited to listed customers and designated territories within a particular metropolitan or regional area.

### **7.1 Supply of Distribution Services to Processors**

Theoretically, distributors compete for contracts to provide distribution services to one or other of the processors. Contracted vendors also compete amongst themselves in the actual provision of distribution services.

However, the level of actual competition is, at most, negligible. All existing contracted vendors have a right of renewal. Vendors numbers have declined substantially since 1995, as described above. As new retail outlets or residential territories are constructed, these are allocated to existing vendors. As vacancies occur in the distribution network (usually as a result of a particular round having become non-viable), customers tend to be reallocated to existing vendors by the relevant processor.

### **7.2 Supply of Dairy Products to Retailers and Consumers**

Competition amongst vendors is similarly limited by the existence of listed customers and defined territories in the distributor contracts, which also prevent vendors from seeking to supply an existing customer of another vendor who is contracted to the same processor.

Thus the terms of the distribution contracts preclude any competition amongst vendors for the supply of product to retailers or consumers.

Vendors compete with retailers for the supply of dairy products to consumers. As indicated above in paragraphs 2.2 and 2.4 there has been a significant trend in recent years away from home delivery by vendors and towards supply to consumers via supermarkets.

Price competition between vendors is extremely limited, given that their margins have been forced downwards since deregulation as a result of the factors referred to in 3.5 above. It is anticipated that the proposed arrangements will result in an increase in non-price competition amongst vendors, particularly in the provision of home delivery services.

## **8 The Future With or Without**

The Association acknowledges that, in determining this application, the Commission is required to make a reasonable forecast as to how the market will react in the event that the authorisation is, or is not, granted. The Association submits that, on any objective view, the public benefits which would be generated by the implementation of the proposed arrangements far outweigh any concomitant anti competitive detriment and would represent a significant improvement over the existing outcomes.

### **8.1 The Future Without the Proposed Arrangements**

In the past, vendors have had no significant input into the processor distribution contracts. In the absence of the proposed collective bargaining and dispute resolution arrangements, it is most likely that South Australian milk vendors will continue to have no option but to accept the standard form processor contracts and to comply with processor requirements in relation to the operation of their businesses.

Although, currently, the Association may legitimately act to disseminate information and facilitate its exchange amongst vendors, vendors must, in the absence of authorisation, negotiate individually. Hence the role of the Association is extremely limited and its databases and expertise may not be effectively utilised by vendors.

It is most likely that, without the proposed arrangements, the decline of the independent distribution network will continue to the point of extinction. This will result in a decline in the range of available services, reduction in consumer choices, increases in the monopoly profits of the retail chains and processors, and increased retail prices.

### **8.2 The Future Situation With the Proposed Arrangements**

Under the proposed arrangements, the Association would be able to play a far more extensive role in contract negotiations than that referred to above. This is likely to result in a greater degree of vendor influence in relation to

the terms and conditions of the distributor contracts and fairer and more consistent outcomes to disputes.

The Association would be in a position to collate vendor concerns and draw on its extensive databases of industry information in conducting negotiations and/or addressing disputes.

The range of services available to consumers would be maintained, efficiency would increase, the ability of the processors and of the major retail chains to extract monopoly profits would be restricted and competitive forces would influence retail prices.

# **APPENDIX “A”**

**DAIRY AUSTRALIA**

**MILK SALES BY STATE & TYPE**

**30<sup>th</sup> JUNE 2003**

**MONTHLY STATISTICS**

**JULY – NOVEMBER 2003**



## Drinking milk

Whole milk, which is packaged for drinking, is standardised to a milkfat content of around 3.8%. Modified, reduced and low-fat milks are standardised to other relevant specifications and have varying milkfat and solids non-fat levels. The cream removed during standardisation can be bottled as table cream or manufactured into butter or other dairy products.

In recent years Australian milk consumption has been changing from regular milk to modified milk types, such as reduced and low-fat milks, and specialty milks fortified with vitamins and minerals. Flavoured milks have also been increasing

their market share at the expense of fresh white regular milk.

Competition between the milk processors has seen the development of innovative specialty milks delivering varying fat contents, or fortified with extra vitamins and minerals. Other milks have been developed to address particular consumer needs, such as lactose-free milk or extra-frothing milk for cappuccinos.

The major players in the national drinking milk market are National Foods (with the Pura brand), Dairy Farmers (with the Dairy Farmers brand) and Parmalat (with the Pauls brand).

Table 10

Drinking milk sales by State (million litres)

	NSW	ACT	VIC	QLD	SA	WA	TAS	AUST
1979/80	531		437	249	127	119	41	1,504
1989/90	552	30	449	316	150	164	47	1,730
1994/95	579	34	452	368	167	188	52	1,894
1995/96	574	33	454	372	163	187	50	1,905
1996/97	576	33	452	376	173	193	50	1,920
1997/98	575	33	442	377	182	188	49	1,919
1998/99	578	32	442	382	185	192	48	1,931
1999/00	586	30	440	383	185	190	48	1,933
2000/01	630		456	393	199	192	50	1,920
2001/02	622		459	402	184	192	50	1,909
2002/03 (p)	616		473	403	181	200	51	1,924

State figures exclude interstate traded milk prior to June 2000

Source: Milk processors and State milk authorities

Table 11

Drinking milk sales by type (million litres)

	Regular	Reduced	Low fat	Flavoured	UHT	Other	Total
1989/90	1,251	244	79	111	40	6	1,730
1994/95	1,217	332	111	143	77	14	1,894
1995/96	1,195	336	113	146	94	20	1,905
1996/97	1,163	352	120	160	104	21	1,920
1997/98	1,125	359	130	163	122	19	1,919
1998/99	1,111	368	141	168	131	20	1,931
1999/00	1,079	354	144	173	164	20	1,933
2000/01	1,072	374	124	165	162	23	1,920
2001/02	1,064	389	132	171	135	18	1,909
2002/03 (p)	1,054	401	138	177	135	19	1,924

Source: Milk processors and State milk authorities

# DAIRY AUSTRALIA

## DAIRY AUSTRALIA

	New South Wales (incl ACT)			Victoria			Queensland			South Australia (incl NT)			Western Australia			Tasmania			Australia		
	02/03	03/04	Var%	02/03	03/04	Var%	02/03	03/04	Var%	02/03	03/04	Var%	02/03	03/04	Var%	02/03	03/04	Var%	02/03	03/04	Var%
July	52.0	52.6	1.1%	41.1	42.1	2.5%	35.6	34.6	-2.9%	15.6	15.5	-0.5%	16.4	17.3	5.6%	4.4	4.4	0.9%	165.0	165.5	0.9%
YTD	52.0	52.6	1.1%	41.1	42.1	2.5%	35.6	34.6	-2.9%	15.6	15.5	-0.5%	16.4	17.3	5.6%	4.4	4.4	0.9%	165.0	165.5	0.9%
August	53.6	52.8	-1.6%	40.2	42.0	4.5%	35.1	35.3	0.5%	15.9	15.2	-4.4%	17.2	17.4	1.6%	4.4	4.3	-1.0%	165.4	167.0	0.4%
YTD	105.6	105.3	-0.3%	81.3	84.1	3.5%	70.7	69.8	-1.2%	31.5	30.7	-2.5%	33.5	34.7	3.5%	8.7	8.7	-0.1%	331.4	333.5	0.6%
September	50.7	53.6	5.7%	38.1	40.0	5.0%	32.5	33.8	3.9%	15.0	15.6	4.1%	16.3	16.3	0.3%	4.1	4.3	5.5%	156.6	163.6	4.4%
YTD	156.4	158.9	1.6%	119.4	124.1	4.0%	103.2	103.6	0.4%	46.5	46.3	-0.4%	49.8	51.0	2.5%	12.8	13.0	1.7%	488.1	497.1	1.8%
October	52.0	53.7	3.2%	41.5	41.1	-0.8%	34.6	35.0	1.1%	16.0	16.0	0.0%	16.8	17.4	3.9%	4.5	4.5	-0.1%	165.4	167.8	1.4%
YTD	208.4	212.6	2.0%	160.9	165.3	2.7%	137.9	138.6	0.6%	62.5	62.4	-0.3%	66.6	68.5	2.8%	17.2	17.5	1.2%	653.5	664.8	1.7%
November	50.4	51.4	2.0%	38.3	39.9	4.2%	32.9	32.6	-0.8%	14.4	14.4	0.1%	15.9	16.9	6.6%	4.2	4.1	-3.5%	156.0	159.2	2.1%
YTD	258.8	264.0	2.0%	199.1	205.1	3.0%	170.7	171.2	0.3%	76.9	76.8	-0.2%	82.4	85.4	3.6%	21.5	21.6	0.3%	809.5	824.0	1.8%
December	50.6			39.2			33.0			14.8			16.4			4.1			158.1		
YTD	309.4			238.3			203.7			91.7			98.8			25.6			967.6		
January	50.4			37.0			33.4			15.0			16.3			4.4			156.5		
YTD	359.8			275.3			237.0			106.7			115.2			30.0			1,124.1		
February	47.5			36.5			31.5			13.7			15.6			3.8			148.6		
YTD	407.3			311.8			268.6			120.4			130.8			33.8			1,272.7		
March	53.7			40.3			34.5			15.2			17.3			4.3			165.4		
YTD	461.0			352.1			303.0			135.7			148.1			38.2			1,438.1		
April	50.0			38.9			32.9			14.9			16.9			4.3			157.8		
YTD	510.9			390.9			336.0			150.6			165.0			42.5			1,595.9		
May	53.6			41.9			34.7			15.5			17.8			4.4			167.8		
YTD	564.5			432.8			370.7			166.1			182.8			46.9			1,763.7		
June	51.6			39.7			32.5			15.3			17.1			4.2			160.5		
YTD	616.1			472.5			403.2			181.4			199.9			51.0			1,924.1		
July	516.1			472.5			403.2			181.4			199.9			51.0			1,924.1		
YTD	32.0%			24.6%			21.0%			9.4%			10.4%			2.7%			100.0%		

Please note: Final milk sales figures for 2002/03 has been revised due to revisions submitted from milk processors.

From July 2003, estimates will be made on a monthly basis for companies which do not supply data directly.

Produced by Information and Development, Dairy Australia Limited

Source: Milk processors

# PACKAGED MILK SALES VOLUME 02/03 to 03/04 by type (million litres)



DAIRY AUSTRALIA

	Regular Plain		Reduced Fat		Low Fat		Fresh Flavoured		Other Specialty		UHT		Total	
	02/03	03/04	02/03	03/04	02/03	03/04	02/03	03/04	02/03	03/04	02/03	03/04	02/03	03/04
YTD	91.5	90.6	33.6	35.4	11.6	12.4	14.0	14.6	1.6	2.3	12.8	11.1	165.0	166.5
	91.5	90.6	33.6	35.4	11.6	12.4	14.0	14.6	1.6	2.3	12.8	11.1	165.0	166.5
YTD	92.1	89.6	34.1	35.4	11.8	12.6	14.8	15.0	1.6	2.3	11.9	12.0	168.4	167.0
	183.5	180.2	67.7	70.9	23.5	25.1	28.8	29.6	3.2	4.7	24.7	23.1	331.4	331.5
YTD	87.1	85.8	32.8	34.0	11.2	12.3	14.2	15.5	1.5	2.4	9.9	13.6	156.6	163.6
	270.6	266.0	100.5	104.9	34.6	37.4	43.0	45.1	4.8	7.0	34.6	36.6	488.1	497.1
YTD	90.1	88.7	34.2	35.9	11.7	12.7	15.1	15.7	1.6	2.6	12.8	12.2	165.4	167.8
	360.7	354.7	134.6	140.7	46.4	50.1	58.1	60.8	6.3	9.6	47.4	48.9	653.5	664.8
YTD	85.7	83.1	32.7	33.8	11.3	12.4	14.8	15.3	1.5	2.5	10.1	12.1	156.0	159.2
	446.4	437.9	167.3	174.6	57.7	62.5	72.9	76.1	7.8	12.1	57.5	61.0	809.5	824.0
YTD	86.2		32.4		11.0		14.6		1.4		12.3		158.1	
	532.6		199.7		68.6		87.5		9.2		69.9		967.6	
YTD	86.5		32.9		11.5		14.7		1.4		9.4		156.5	
	619.2		232.6		80.2		102.3		10.7		79.2		1,124.1	
YTD	80.6		31.1		10.6		14.3		1.4		10.7		148.6	
	599.7		263.7		90.8		116.6		12.0		89.9		1,272.7	
YTD	89.3		34.6		12.1		16.3		1.6		11.6		165.4	
	789.1		298.2		102.9		132.8		13.6		101.5		1,438.1	
YTD	86.5		33.4		11.5		14.7		1.5		10.2		157.8	
	875.5		331.6		114.4		147.6		15.2		111.6		1,595.9	
YTD	91.3		35.2		12.3		15.1		2.1		11.9		167.8	
	966.8		366.9		126.7		162.6		17.2		123.5		1,763.7	
YTD	87.5		33.6		11.7		14.0		2.1		11.5		160.5	
	1,054.3		400.5		138.4		176.6		19.3		135.0		1,924.1	
YTD	1,054.3		400.5		138.4		176.6		19.3		135.0		1,924.1	
	54.8%		20.8%		7.2%		9.3%		1.0%		7.0%		100.0%	

Produced by Information and Development, Dairy Australia Limited  
Source: Milk processors

# **APPENDIX “B”**

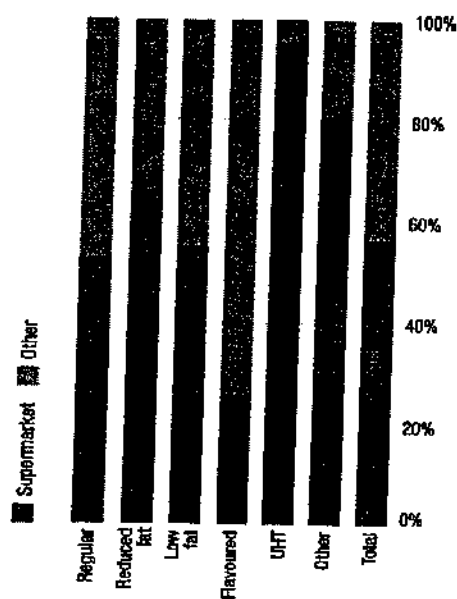
**DAIRY AUSTRALIA**

**MILK – SUPERMARKET SALES SUMMARY**

**30<sup>TH</sup> JUNE 2003**

Figure 15

Milk sales by type by channel – 2002/03



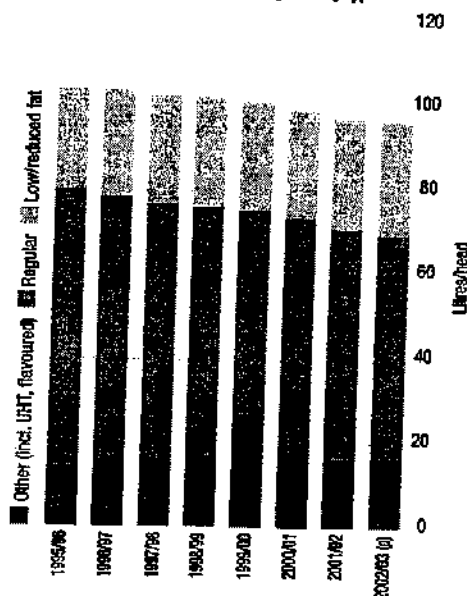
The supermarket channel has continued to increase its share of total drinking milk in recent years – to more than 56% in 2002/03.

See Appendix 3 (page 37) for more details on supermarket sales of milk.

Per capita milk consumption has slowly declined since the mid-1990s to an estimated level of 97 litres per head in 2002/03.

Figure 17

Per capita consumption of drinking milk by type



Australia exports relatively small volumes of milk – equivalent to approximately 4.5% of the domestic drinking milk market – with 80% of the total going into Asia.

See Appendix 4 (page 43) for more details on drinking milk exports.

## Appendix 3 – Supermarket sales

### Milk

Table A6

Supermarket milk sales by State (million litres)

	NSW	VIC	QLD	SA	WA	TAS	AUST
2000/01	298	265	206	119	109	19	1,016
2001/02	303	274	216	120	113	20	1,046
2002/03	320	281	223	124	115	21	1,084

Source: AC Nielsen

Table A7

Supermarket milk sales by type (million litres)

	Regular	Reduced fat	Low-fat	Flavoured	UNT	Other	AUST
2000/01	530	227	71	39	134	15	1,016
2001/02	547	246	74	43	123	13	1,048
2002/03	555	263	76	45	129	16	1,084

Source: AC Nielsen

Table A8

Supermarket milk sales – brand vs private label (million litres)

	2000/01		2001/02		2002/03	
	Million litres	Price/litre	Million litres	Price/litre	Million litres	Price/litre
<b>Branded milk</b>						
Regular whole	217	\$1.27	176	\$1.36	165	\$1.40
Reduced fat	181	\$1.49	168	\$1.56	163	\$1.62
Low fat	54	\$1.55	53	\$1.64	53	\$1.70
Flavoured	39	\$2.54	42	\$2.65	43	\$2.75
UNT	70	\$1.45	69	\$1.55	79	\$1.56
Other	30	\$1.55	31	\$1.62	35	\$1.70
<b>Total branded milk</b>	<b>591</b>	<b>\$1.48</b>	<b>539</b>	<b>\$1.59</b>	<b>538</b>	<b>\$1.65</b>
<b>Private label</b>						
Regular whole	313	\$1.06	372	\$1.08	390	\$1.11
Reduced-fat	46	\$1.20	78	\$1.23	100	\$1.27
Low-fat	8	\$1.39	4	\$1.47	4	\$1.54
Flavoured	0	\$2.85	1	\$1.81	2	\$1.82
UNT	63	\$1.04	54	\$1.11	50	\$1.12
<b>Total private label milk</b>	<b>425</b>	<b>\$1.07</b>	<b>508</b>	<b>\$1.11</b>	<b>546</b>	<b>\$1.15</b>
<b>Total milk</b>	<b>1,016</b>	<b>\$1.31</b>	<b>1,046</b>	<b>\$1.36</b>	<b>1,084</b>	<b>\$1.40</b>

Source: AC Nielsen

## Cheese

Table A9

### Supermarket cheese sales by type (tonnes)

	2000/01	2001/02	2002/03
<b>Cheddar</b>			
Natural cheddar	65,469	67,446	70,914
Processed cheddar	28,614	26,737	24,786
<b>Total cheddar</b>	<b>94,083</b>	<b>94,183</b>	<b>95,700</b>
<b>Non-cheddar</b>			
Eye	2,786	2,704	3,372
Shredding	5,681	5,679	5,776
Hard grating	3,002	3,162	3,311
Fresh	13,627	14,553	16,113
Mould ripened	2,918	3,150	3,505
Other non-cheddar	789	582	516
<b>Total non-cheddar</b>	<b>28,803</b>	<b>29,830</b>	<b>32,593</b>
<b>Total cheese</b>	<b>122,886</b>	<b>124,013</b>	<b>128,293</b>

Source: AC Nielsen

Table A10

### Supermarket cheese sales by country of origin (tonnes)

	2000/01		2001/02		2002/03	
	Tonnes	Price/kg	Tonnes	Price/kg	Tonnes	Price/kg
<b>Natural cheddar</b>						
Australia	56,779	\$7.42	57,371	\$8.15	59,942	\$8.31
New Zealand	7,861	\$8.32	8,583	\$9.21	9,087	\$9.65
Other imports	1,029	\$9.70	1,492	\$10.53	1,885	\$9.57
<b>Processed cheddar</b>						
Australia	27,494	\$7.41	26,109	\$7.82	24,482	\$8.00
New Zealand	819	\$8.79	320	\$7.19	9	\$10.46
Other imports	301	\$17.99	308	\$19.33	295	\$20.41
<b>Total cheddar</b>	<b>94,083</b>	<b>\$7.54</b>	<b>94,183</b>	<b>\$8.23</b>	<b>95,700</b>	<b>\$8.42</b>
<b>Non-cheddar</b>						
Australia	24,100	\$10.55	24,910	\$11.44	27,092	\$12.06
New Zealand	1,590	\$10.97	1,862	\$11.84	1,927	\$12.34
Other imports	3,113	\$17.28	3,058	\$18.17	3,574	\$17.74
<b>Total non-cheddar</b>	<b>28,803</b>	<b>\$11.30</b>	<b>29,830</b>	<b>\$12.15</b>	<b>32,593</b>	<b>\$12.70</b>
<b>Total cheese</b>	<b>122,886</b>	<b>\$8.43</b>	<b>124,012</b>	<b>\$9.17</b>	<b>128,293</b>	<b>\$9.51</b>

Source: AC Nielsen

## Tablespreads and yogurt

**Table A11**

Supermarket tablespreads sales by type (tonnes)

	2000/01		2001/02		2002/03	
	Tonnes	Price/kg	Tonnes	Price/kg	Tonnes	Price/kg
<b>Dairy</b>						
Butter	17,041	\$4.25	16,956	\$4.56	16,866	\$4.87
Blends	16,825	\$4.41	17,379	\$4.77	19,040	\$4.87
Ghee	40	\$8.18	43	\$8.72	51	\$9.54
<b>Total dairy</b>	<b>33,906</b>	<b>\$4.33</b>	<b>34,378</b>	<b>\$4.67</b>	<b>35,957</b>	<b>\$4.79</b>
<b>Margarine</b>						
Poly-Unsaturated	54,560	\$3.65	49,625	\$3.93	49,525	\$4.19
Mono-Unsaturated	20,907	\$3.98	21,806	\$4.06	18,790	\$4.34
Saturates	3,445	\$2.98	3,257	\$3.24	2,845	\$3.54
<b>Total margarine</b>	<b>78,912</b>	<b>\$3.71</b>	<b>74,688</b>	<b>\$3.94</b>	<b>71,160</b>	<b>\$4.20</b>
<b>Total tablespreads</b>	<b>112,818</b>	<b>\$3.90</b>	<b>109,066</b>	<b>\$4.17</b>	<b>107,117</b>	<b>\$4.40</b>

Source: AC Nielsen

**Table A12**

Supermarket yogurt sales by type (tonnes)

	2000/01		2001/02		2002/03	
	Tonnes (e)	Price/kg	Tonnes (e)	Price/kg	Tonnes (e)	Price/kg
Regular	44,982	\$3.94	42,870	\$4.22	41,248	\$4.41
Low-fat	34,435	\$3.78	34,804	\$4.08	36,283	\$4.31
No fat	23,640	\$3.79	26,634	\$4.19	28,777	\$4.39
<b>Total yogurt</b>	<b>103,057</b>	<b>\$3.85</b>	<b>104,308</b>	<b>\$4.17</b>	<b>106,308</b>	<b>\$4.37</b>

Source: AC Nielsen & Dairy Australia

**Table A13**

Supermarket yogurt sales by form (tonnes)

	2000/01		2001/02		2002/03	
	Tonnes (e)	Price/kg	Tonnes (e)	Price/kg	Tonnes (e)	Price/kg
Eating	100,385	\$3.85	100,981	\$4.15	102,837	\$4.35
Drinking	2,672	\$3.95	3,327	\$4.63	3,471	\$4.82
<b>Total yogurt</b>	<b>103,057</b>	<b>\$3.85</b>	<b>104,308</b>	<b>\$4.17</b>	<b>106,308</b>	<b>\$4.37</b>

Source: AC Nielsen & Dairy Australia



## **APPENDIX “C”**

**DAIRY AUSTRALIA  
SA MILK PRODUCTION  
30<sup>TH</sup> JUNE 2003**

<b>Milk Production</b>		<b>(million litres)</b>					
Month ended	NSW	VIC	QLD	SA	WA	TAS	AUST
June							
2002	103.7	366.3	58.3	52.0	34.8	24.2	639.2
2003	100.3	310.4	56.3	51.1	36.6	20.0	574.7
% change	-3.3%	-15.3%	-3.4%	-1.7%	5.2%	-17.1%	-10.1%

#### Year to June

01/02	1,342.9	7,404.7	744.3	714.9	392.9	671.4	11,271.1
02/03	1,301.5	6,584.4	719.0	732.6	403.6	585.4	10,326.4
% change	-3.1%	-11.1%	-3.4%	2.5%	2.7%	-12.8%	-8.4%

01/02	1,342.9	7,404.7	744.3	714.9	392.9	671.4	11,271.1
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Source: Dairy manufacturers & DIA of SA

<b>Milk Sales by State</b>		<b>(million litres)</b>					
Month ended	NSW#	VIC	QLD	SA	WA	TAS	AUST
June							
2002	51.0	37.9	32.8	15.0	15.8	4.0	156.6
2003	51.6	39.6	32.5	15.3	17.1	4.2	160.4
% change	1.2%	4.6%	-0.8%	2.2%	8.2%	5.0%	2.4%

#### Year to June

01/02	622.5	459.0	402.4	184.2	191.5	49.6	1,909.3
02/03	616.1	473.0	402.9	181.4	199.9	50.9	1,924.1
% change	-1.0%	3.0%	0.1%	-1.5%	4.4%	2.5%	0.8%

01/02	622.5	459.0	402.4	184.2	191.5	49.6	1,909.3
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Source: Dairy manufacturers

# NSW includes sales from ACT

<b>Milk Sales by Type</b>		<b>(million litres)</b>					
Month ended	Plain	Reduced Fat	Low Fat	Flavoured	UHT	Other	AUST
June							
2002	87.3	32.4	11.1	13.3	1.5	11.0	156.6
2003	87.5	33.6	11.7	14.0	2.1	11.5	160.4
% change	0.2%	3.6%	5.7%	5.4%	40.0%	4.5%	2.4%

#### Year to June

01/02	1,063.8	389.0	132.3	171.3	18.5	134.5	1,909.3
02/03	1,054.3	400.5	138.4	176.6	19.3	135.0	1,924.1
% change	-0.9%	3.0%	4.6%	3.1%	4.3%	0.4%	0.8%

01/02	1,063.8	389.0	132.3	171.3	18.5	134.5	1,909.3
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Source: Dairy manufacturers

# Milk Production Report (Litres '000s) NATIONAL

Month	NSW	VIC	QLD	SA	WA	TAS	AUSTRALIA
July-01	103,288	382,741	61,018	50,143	30,400	15,583	643,173
July-02	105,980	377,086	63,488	49,073	34,002	13,790	643,311
July-03	101,305	347,798	60,519	50,542	33,750	14,572	608,486
% change 01 & 03	-1.9%	-9.1%	-0.8%	0.8%	11.0%	-6.5%	-5.4%
% change 02 & 03	-4.4%	-7.8%	-4.7%	3.0%	-0.7%	5.7%	-5.4%
Region Share							
July-01	16.1%	59.5%	9.5%	7.8%	4.7%	2.4%	100.0%
July-02	16.5%	58.6%	9.9%	7.6%	5.3%	2.1%	100.0%
July-03	16.6%	57.2%	9.9%	8.3%	5.5%	2.4%	100.0%

Year To Date	NSW	VIC	QLD	SA	WA	TAS	AUSTRALIA
2001/2002	103,288	382,741	61,018	50,143	30,400	15,583	643,173
2002/2003	105,980	377,086	63,488	49,073	34,002	13,790	643,311
2003/2004	101,305	347,798	60,519	50,542	33,750	14,572	608,486
% change 03/04 & 01/02	-1.9%	-9.1%	-0.8%	0.8%	11.0%	-6.5%	-5.4%
% change 03/04 & 02/03	-4.4%	-7.8%	-4.7%	3.0%	-0.7%	5.7%	-5.4%
Region Share							
2001/2002	16.1%	59.5%	9.5%	7.8%	4.7%	2.4%	100.0%
2002/2003	16.5%	58.6%	9.9%	7.6%	5.3%	2.1%	100.0%
2003/2004	16.6%	57.2%	9.9%	8.3%	5.5%	2.4%	100.0%

Total	NSW	VIC	QLD	SA	WA	TAS	AUSTRALIA
2001/2002	1,342,902	7,404,724	744,279	714,881	392,886	671,384	11,271,057
Region Share	11.9%	65.7%	6.6%	6.3%	3.5%	6.0%	100.0%
2002/2003	1,301,458	6,584,441	718,998	732,551	403,624	585,354	10,326,426
Region Share	12.6%	63.8%	7.0%	7.1%	3.9%	5.7%	100.0%

## Average Milkfat & Protein (%)

Milkfat	NSW	VIC	QLD	SA	WA	TAS	AUSTRALIA
July-01	3.92%	4.05%	3.93%	3.89%	3.79%	1.12%	4.00%
July-02	3.91%	4.14%	4.01%	4.07%	4.04%	4.28%	4.05%
July-03	3.88%	4.05%	4.00%	3.93%	4.03%	4.24%	4.01%
% change 02 & 03	-0.8%	-2.1%	-0.1%	-3.4%	-0.2%	-0.9%	-1.7%
Protein							
July-01	3.25%	3.31%	3.14%	4.29%	3.18%	3.26%	3.36%
July-02	3.26%	3.28%	3.15%	3.22%	3.23%	3.21%	3.25%
July-03	3.29%	3.30%	3.23%	3.27%	3.18%	3.28%	3.28%
% change 02 & 03	0.7%	0.6%	2.3%	1.5%	-1.7%	2.4%	0.7%

# Milk Production Report (Litres '000s) NATIONAL

Month	NSW	VIC	QLD	SA	WA	TAS	AUSTRALIA
August-01	107,759	541,764	64,652	53,919	31,475	28,810	828,379
August-02	108,449	536,578	64,749	56,131	34,632	27,344	827,883
August-03	108,600	476,177	62,450	52,166	31,698	26,251	757,341
% change 01 & 03	0.8%	-12.1%	-3.4%	-3.3%	0.7%	-8.9%	-8.6%
% change 02 & 03	0.1%	-11.3%	-3.6%	-7.1%	-8.5%	-4.0%	-8.5%
Region Share							
August-01	13.0%	65.4%	7.8%	6.5%	3.8%	3.5%	100.0%
August-02	13.1%	64.9%	7.8%	6.8%	4.2%	3.3%	100.0%
August-03	14.3%	62.9%	8.2%	6.9%	4.2%	3.5%	100.0%
Year To Date							
2001/2002	211,047	924,505	125,670	104,062	61,875	44,392	1,471,552
2002/2003	214,429	913,665	128,237	105,204	68,634	41,124	1,471,293
2003/2004	209,905	823,975	122,969	102,758	65,448	40,823	1,365,826
% change 03/04 & 01/02	-0.5%	-10.9%	-2.1%	-1.3%	5.8%	-8.0%	-7.2%
% change 03/04 & 02/03	-2.1%	-9.8%	-4.1%	-2.4%	-4.6%	-0.7%	-7.2%
Region Share							
2001/2002	14.3%	62.9%	8.5%	7.1%	4.2%	3.0%	100.0%
2002/2003	14.6%	62.1%	8.7%	7.2%	4.7%	2.8%	100.0%
2003/2004	15.4%	60.3%	9.0%	7.5%	4.8%	3.0%	100.0%
Total							
2001/2002	1,342,902	7,404,724	744,279	714,881	392,886	671,384	11,271,057
Region Share	11.9%	65.7%	6.5%	6.3%	3.5%	6.0%	100.0%
2002/2003	1,301,458	6,584,441	718,958	732,551	403,624	585,354	10,326,426
Region Share	12.6%	63.8%	7.0%	7.1%	3.9%	5.7%	100.0%

## Average Milkfat & Protein (%)

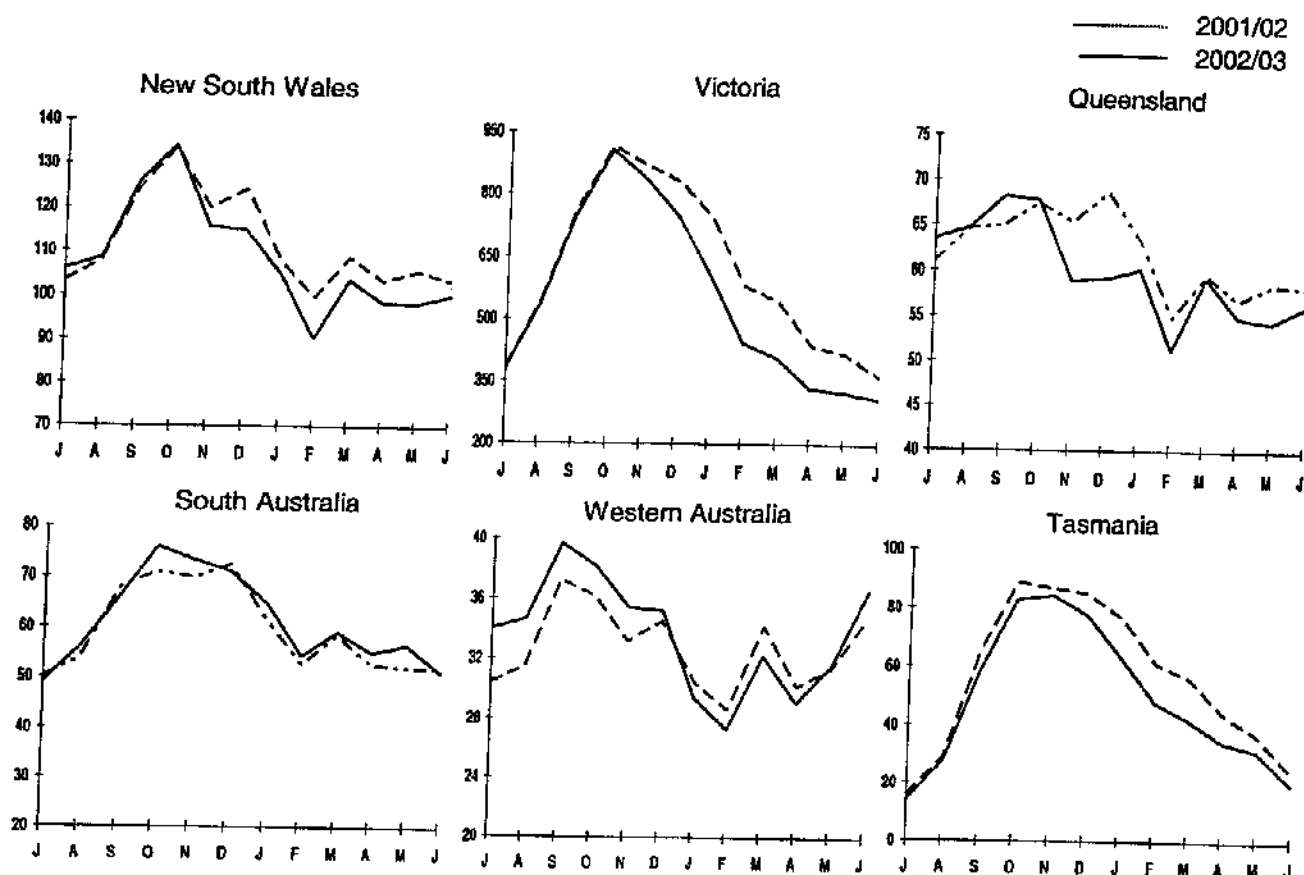
Milkfat	NSW	VIC	QLD	SA	WA	TAS	AUSTRALIA
August-01	3.82%	3.98%	3.88%	3.82%	3.84%	4.18%	3.95%
August-02	3.77%	3.90%	3.95%	3.81%	3.92%	4.12%	3.89%
August-03	3.77%	3.94%	3.93%	4.11%	3.91%	4.25%	3.94%
% change 02 & 03	0.0%	1.1%	-0.4%	7.8%	0.0%	3.0%	1.2%
Protein							
August-01	3.27%	3.34%	3.18%	3.24%	3.21%	3.35%	3.31%
August-02	3.22%	3.30%	3.08%	3.26%	3.25%	3.30%	3.27%
August-03	3.34%	3.36%	3.26%	3.30%	3.24%	3.37%	3.34%
% change 02 & 03	3.7%	1.8%	5.6%	1.5%	-0.4%	1.9%	2.2%

# Australian Production Summary

	June Production			Year to June			Total 2001/02
	2002	2003	% change	2002	2003	% change	
<b>Milk Production (million litres)</b>	639.2	574.7	-10.1%	11,271.1	10,326.4	-8.4%	11,271.1
<b>Major Products (tonnes)</b>							
Butter/Butteroil	9,245.0	5,815.0	-37.1%	164,111.0	148,924.0	-9.3%	164,111.0
SMP/BMP	8,876.0	6,399.0	-27.9%	261,111.0	215,405.0	-17.5%	261,111.0
WMP	12,020.0	10,186.0	-15.3%	238,684.0	169,605.0	-28.9%	238,684.0
Whey Powder	7,552.0	6,312.0	-16.4%	87,806.0	96,748.0	10.2%	87,806.0
Cheddar	13,849.0	9,931.0	-28.3%	221,942.0	209,572.0	-5.6%	221,942.0
Semi Hard	1,690.0	1,267.0	-25.0%	28,637.0	23,209.0	-19.0%	28,637.0
Stretch	4,979.0	5,490.0	10.3%	65,045.0	60,615.0	-6.8%	65,045.0
Hard Grating	778.0	1,391.0	78.8%	15,582.0	11,215.0	-28.0%	15,582.0
Fresh	2,842.0	4,106.0	44.5%	77,762.0	59,796.0	-23.1%	77,762.0
Mould/Washed Rind	235.0	277.0	17.9%	3,688.0	3,612.0	-2.1%	3,688.0
<b>Total Cheese</b>	<b>24,373.0</b>	<b>22,462.0</b>	<b>-7.8%</b>	<b>412,656.0</b>	<b>368,019.0</b>	<b>-10.8%</b>	<b>412,656.0</b>

Source: Dairy manufacturers

## Milk Production by State (million litres) Year to date - June 2003



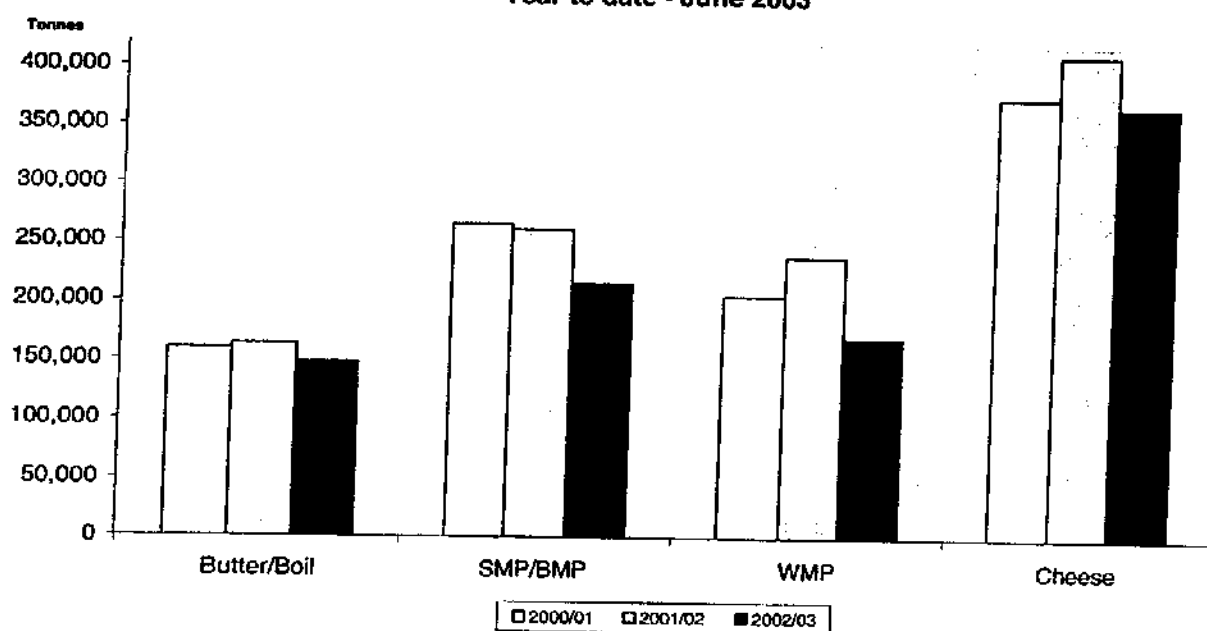
# National production of dairy products

(tonnes)

	Butter/Butteroil		SMP/BMP		Cheese		WMP	
	01/02	02/03	01/02	02/03	01/02	02/03	01/02	02/03
July	8,135	8,817	10,425	11,354	21,252	20,065	11,796	9,747
August	11,618	11,658	21,756	17,832	27,296	22,582	10,009	15,659
September	16,452	16,851	29,534	29,084	40,146	38,134	22,896	22,706
October	19,717	20,830	38,658	38,258	45,017	41,503	27,757	20,553
November	18,331	18,187	34,857	31,123	44,034	39,161	30,151	21,479
December	19,589	17,816	35,724	27,168	46,816	41,894	27,513	24,850
January	17,447	13,966	28,820	16,946	41,223	36,055	22,665	14,932
February	11,912	9,118	18,914	9,622	33,311	27,366	19,847	11,571
March	11,934	9,776	13,202	8,791	35,175	31,260	23,266	8,381
April	9,795	8,940	10,763	10,334	26,460	25,459	17,586	4,064
May	9,936	7,150	9,583	8,494	27,553	22,078	13,178	5,477
June	9,245	5,815	8,876	6,399	24,372	22,462	12,020	10,186
<b>Total:</b>	<b>164,111</b>	<b>148,924</b>	<b>261,111</b>	<b>215,405</b>	<b>412,656</b>	<b>368,019</b>	<b>238,684</b>	<b>169,605</b>

Source: Dairy manufacturers

## Australian Production Trends Year to date - June 2003



# **APPENDIX “D”**

**DAIRY AUSTRALIA  
EXPORTS**

**30<sup>TH</sup> JUNE 2003**

# Appendix 4 – Exports

**Table A14**

**Australian exports of cheese (tonnes)**

	1997/98	1998/99	1999/00	2000/01	2001/02	2002/03 (p)
<b>Asia</b>						
China/Hong Kong	1,947	2,388	2,730	3,085	3,473	4,451
Indonesia	1,760	2,326	2,993	4,520	6,816	4,239
Japan	68,340	73,020	83,962	84,549	103,055	73,029
Korea, South	6,111	8,997	14,984	15,775	13,610	15,909
Malaysia	1,160	1,489	1,379	2,153	2,395	2,393
Philippines	6,767	5,934	6,236	5,464	5,186	4,868
Singapore	1,563	2,040	2,650	2,274	2,279	2,412
Taiwan	1,430	2,298	2,483	2,695	3,412	4,782
Thailand	766	1,286	775	854	1,069	1,099
Other Asia	744	581	1,229	1,332	1,291	1,014
<b>Total Asia</b>	<b>90,568</b>	<b>100,338</b>	<b>119,421</b>	<b>122,701</b>	<b>142,586</b>	<b>114,176</b>
<b>Middle East</b>						
Saudi Arabia	12,091	12,648	14,475	16,296	17,421	14,839
United Arab Emirates	1,681	1,800	2,121	2,767	2,717	2,768
Other Middle East	4,660	5,313	7,773	6,165	6,468	6,543
<b>Total Middle East</b>	<b>18,432</b>	<b>19,761</b>	<b>24,369</b>	<b>25,228</b>	<b>26,606</b>	<b>24,170</b>
<b>Africa</b>						
Algeria	3,401	3,303	6,218	3,458	4,220	5,525
Egypt	1,698	2,640	4,920	1,768	1,989	2,781
Other Africa	2,516	2,276	3,548	2,765	2,791	2,713
<b>Total Africa</b>	<b>7,615</b>	<b>8,219</b>	<b>14,686</b>	<b>7,991</b>	<b>9,000</b>	<b>11,019</b>
<b>Pacific</b>						
New Zealand	1,438	1,309	1,712	1,207	1,293	1,748
Others	518	405	646	740	879	763
<b>Total Pacific</b>	<b>1,954</b>	<b>1,714</b>	<b>2,358</b>	<b>1,947</b>	<b>2,172</b>	<b>2,511</b>
<b>Americas</b>						
Caribbean	3,152	2,947	3,879	3,280	2,650	3,239
United States	7,796	8,012	10,326	9,414	10,845	8,951
Others	3,952	4,335	7,400	5,090	4,833	5,006
<b>Total Americas</b>	<b>14,900</b>	<b>15,294</b>	<b>21,605</b>	<b>17,784</b>	<b>18,128</b>	<b>17,196</b>
<b>Europe</b>						
Eastern Europe	2,000	960	723	680	380	1,672
European Union	9,586	17,843	28,865	40,407	16,879	31,321
Other Europe	5,889	7,553	10,609	2,158	1,829	5,689
<b>Total Europe</b>	<b>17,475</b>	<b>26,356</b>	<b>40,297</b>	<b>43,245</b>	<b>19,088</b>	<b>38,682</b>
Others	58	63	103	0	0	0
<b>Total</b>	<b>151,022</b>	<b>172,374</b>	<b>222,839</b>	<b>218,896</b>	<b>217,580</b>	<b>207,754</b>

Source: Dairy Australia & ABS



Table A15

Australian exports of butter (tonnes)

	1997/98	1998/99	1999/00	2000/01	2001/02	2002/03 (p)
<b>Asia</b>						
China/Hong Kong	3,270	2,937	3,513	3,263	2,781	3,634
Japan	827	1,031	970	1,298	1,079	1,235
Korea, South	894	1,359	2,967	3,531	4,630	3,762
Malaysia	1,376	1,746	2,205	2,306	2,340	2,501
Singapore	3,747	3,470	5,675	3,850	3,783	3,809
Taiwan	2,602	2,371	2,666	2,584	2,144	2,921
Others	872	822	1,317	1,092	1,139	1,413
<b>Total Asia</b>	<b>13,588</b>	<b>13,736</b>	<b>19,313</b>	<b>17,924</b>	<b>17,896</b>	<b>19,075</b>
<b>Middle East</b>						
Saudi Arabia	2,217	2,198	2,480	1,819	3,050	3,005
United Arab Emirates	1,272	1,177	1,255	2,774	1,218	952
Others	2,628	4,689	3,981	6,708	4,713	6,366
<b>Total Middle East</b>	<b>6,117</b>	<b>8,064</b>	<b>7,716</b>	<b>11,301</b>	<b>8,981</b>	<b>10,323</b>
<b>Africa</b>						
Mauritius	336	405	376	350	360	313
North Africa	5,982	11,508	18,304	11,977	5,435	9,174
Others	2,171	2,839	2,342	1,169	1,097	928
<b>Total Africa</b>	<b>8,489</b>	<b>14,752</b>	<b>21,022</b>	<b>13,496</b>	<b>6,892</b>	<b>10,415</b>
<b>Pacific</b>	<b>1,844</b>	<b>592</b>	<b>990</b>	<b>855</b>	<b>379</b>	<b>724</b>
<b>Americas</b>	<b>2,127</b>	<b>4,028</b>	<b>2,379</b>	<b>3,400</b>	<b>2,277</b>	<b>2,081</b>
<b>Europe</b>	<b>17,662</b>	<b>7,304</b>	<b>16,111</b>	<b>8,834</b>	<b>7,804</b>	<b>10,403</b>
<b>Others</b>	<b>435</b>	<b>290</b>	<b>252</b>	<b>61</b>	<b>0</b>	<b>0</b>
<b>Total</b>	<b>50,262</b>	<b>48,766</b>	<b>67,783</b>	<b>56,871</b>	<b>44,229</b>	<b>53,021</b>

Source: Dairy Australia & ABS

Table A16

Australian exports of butteroil (tonnes)

	1997/98	1998/99	1999/00	2000/01	2001/02	2002/03 (p)
<b>Asia</b>						
Bangladesh	613	875	900	1,086	1,027	1,152
Indonesia	2,837	2,068	3,209	2,587	2,499	3,805
Malaysia	2,607	1,936	3,369	2,864	2,311	1,807
Philippines	4,066	3,647	4,779	2,950	1,723	1,462
Singapore	3,811	3,953	4,140	1,996	3,381	2,366
Others	14,694	15,488	18,878	13,538	13,993	14,857
<b>Total Asia</b>	<b>28,628</b>	<b>27,967</b>	<b>35,275</b>	<b>25,121</b>	<b>24,934</b>	<b>25,249</b>
<b>Middle East</b>						
Kuwait	844	1,746	1,874	885	1,668	682
United Arab Emirates	877	1,840	1,233	1,763	2,677	1,825
Others	4,542	4,184	2,749	4,297	5,761	4,054
<b>Total Middle East</b>	<b>6,363</b>	<b>7,770</b>	<b>6,856</b>	<b>6,945</b>	<b>10,106</b>	<b>6,561</b>
<b>Africa</b>	<b>1,863</b>	<b>3,040</b>	<b>4,880</b>	<b>6,992</b>	<b>8,874</b>	<b>5,202</b>
<b>Americas</b>	<b>5,786</b>	<b>13,889</b>	<b>9,057</b>	<b>11,789</b>	<b>15,452</b>	<b>10,407</b>
<b>Europe</b>	<b>2,648</b>	<b>3,120</b>	<b>2,383</b>	<b>2,252</b>	<b>5,298</b>	<b>970</b>
<b>Pacific</b>	<b>238</b>	<b>201</b>	<b>133</b>	<b>78</b>	<b>197</b>	<b>231</b>
<b>Others</b>	<b>9</b>	<b>9</b>	<b>21</b>	<b>1</b>	<b>0</b>	<b>0</b>
<b>Total</b>	<b>45,535</b>	<b>55,776</b>	<b>57,585</b>	<b>53,178</b>	<b>64,859</b>	<b>48,820</b>

Source: Dairy Australia & ABS

Table A17

## Australian exports of SMP, BMP and SMP/BMP mixtures (tonnes)

	1997/98	1998/99	1999/00	2000/01	2001/02	2002/03 (p)
<b>Asia</b>						
China/Hong Kong	3,302	4,362	5,953	7,038	9,712	10,515
Indonesia	14,524	15,543	13,255	12,924	18,803	15,265
Japan	26,517	17,281	29,272	18,636	18,465	16,632
Malaysia	30,157	34,073	38,810	28,211	25,515	23,024
Philippines	50,552	65,046	58,498	58,619	48,641	37,311
Singapore	11,379	15,269	13,728	14,312	16,735	18,354
Taiwan	8,448	11,236	13,440	11,248	10,294	11,451
Thailand	15,938	26,746	24,888	16,649	23,623	18,669
Others	9,944	12,730	12,906	14,474	10,506	10,303
<b>Total Asia</b>	<b>170,761</b>	<b>202,286</b>	<b>210,750</b>	<b>182,111</b>	<b>182,294</b>	<b>159,524</b>
<b>Africa</b>	<b>2,810</b>	<b>10,109</b>	<b>13,039</b>	<b>3,242</b>	<b>7,958</b>	<b>7,805</b>
<b>Americas</b>	<b>14,697</b>	<b>12,753</b>	<b>13,695</b>	<b>19,044</b>	<b>16,812</b>	<b>14,652</b>
<b>Europe</b>	<b>836</b>	<b>2,351</b>	<b>4,487</b>	<b>1,057</b>	<b>600</b>	<b>206</b>
<b>Middle East</b>	<b>9,518</b>	<b>14,515</b>	<b>9,745</b>	<b>11,147</b>	<b>15,735</b>	<b>12,997</b>
<b>Pacific</b>	<b>720</b>	<b>1,005</b>	<b>1,524</b>	<b>568</b>	<b>1,025</b>	<b>485</b>
<b>Others</b>	<b>139</b>	<b>130</b>	<b>87</b>	<b>535</b>	<b>1</b>	<b>0</b>
<b>Total</b>	<b>199,481</b>	<b>243,149</b>	<b>253,327</b>	<b>217,704</b>	<b>224,426</b>	<b>195,679</b>

\* Includes dairy component of mixed powders

Source: Dairy Australia &amp; AQIS

Table A18

## Australian exports of whole milk powder (tonnes)

	1997/98	1998/99	1999/00	2000/01	2001/02	2002/03 (p)
<b>Asia</b>						
Bangladesh	7,708	12,253	12,195	14,612	9,023	9,656
China/Hong Kong	4,018	2,521	3,999	7,878	18,148	14,765
Indonesia	1,812	1,377	3,107	6,110	11,469	14,739
Japan	10,883	13,684	20,660	11,735	4,297	4,352
Malaysia	12,324	12,262	10,900	8,462	20,382	20,269
Philippines	18,128	25,031	27,415	25,146	23,637	23,985
Singapore	3,449	5,912	6,669	9,131	11,517	13,686
Sri Lanka	8,892	11,274	16,417	17,214	15,120	15,017
Taiwan	8,894	15,051	19,842	13,462	18,974	18,450
Thailand	8,209	10,743	12,048	7,062	9,833	9,659
Others	1,260	1,812	8,645	8,659	11,164	8,693
<b>Total Asia</b>	<b>85,577</b>	<b>111,720</b>	<b>141,897</b>	<b>129,471</b>	<b>163,362</b>	<b>154,251</b>
<b>Africa</b>	<b>7,740</b>	<b>4,680</b>	<b>8,214</b>	<b>15,243</b>	<b>20,878</b>	<b>13,875</b>
<b>Americas</b>	<b>6,235</b>	<b>8,308</b>	<b>2,985</b>	<b>11,180</b>	<b>11,433</b>	<b>5,717</b>
<b>Europe</b>	<b>2,228</b>	<b>5,153</b>	<b>1,034</b>	<b>2,693</b>	<b>617</b>	<b>185</b>
<b>Middle East</b>	<b>4,608</b>	<b>5,740</b>	<b>17,928</b>	<b>19,253</b>	<b>22,422</b>	<b>22,730</b>
<b>Pacific</b>	<b>3,681</b>	<b>2,923</b>	<b>4,459</b>	<b>4,133</b>	<b>4,572</b>	<b>4,794</b>
<b>Others</b>	<b>50</b>	<b>41</b>	<b>142</b>	<b>561</b>	<b>0</b>	<b>1</b>
<b>Total</b>	<b>110,119</b>	<b>138,575</b>	<b>174,657</b>	<b>182,534</b>	<b>213,284</b>	<b>201,553</b>

\* Includes dairy component of mixed powders

Source: Dairy Australia &amp; AQIS

Table A19

Australian exports of liquid milk (tonnes)

	1997/98	1998/99	1999/00	2000/01	2001/02	2002/03 (p)
<b>Asia</b>						
Singapore	20,902	22,047	27,122	21,404	20,611	23,561
Philippines	9,071	9,709	9,307	12,161	17,991	11,795
Malaysia	1,010	1,826	1,119	3,890	3,238	3,800
Indonesia	1,562	776	1,636	2,044	1,807	2,142
Hong Kong	20,659	21,613	21,002	20,780	18,361	17,996
China	6,031	6,747	5,595	3,647	3,128	2,181
Other Asia	3,591	3,757	2,798	3,980	6,133	9,189
<b>Total Asia</b>	<b>62,826</b>	<b>66,275</b>	<b>68,579</b>	<b>67,886</b>	<b>72,269</b>	<b>70,664</b>
<b>Africa</b>	<b>2,340</b>	<b>2,134</b>	<b>2,041</b>	<b>1,684</b>	<b>1,878</b>	<b>1,891</b>
<b>Europe</b>	<b>3,869</b>	<b>924</b>	<b>171</b>	<b>228</b>	<b>277</b>	<b>718</b>
<b>Pacific</b>	<b>12,376</b>	<b>12,727</b>	<b>14,384</b>	<b>10,693</b>	<b>11,225</b>	<b>13,224</b>
<b>Others</b>	<b>730</b>	<b>913</b>	<b>701</b>	<b>2,083</b>	<b>1,205</b>	<b>1,760</b>
<b>Total milk</b>	<b>82,141</b>	<b>82,973</b>	<b>85,876</b>	<b>82,574</b>	<b>86,854</b>	<b>88,264</b>
<b>UHT milk – included in milk exports (above)</b>						
South East Asia	18,734	20,812	23,023	23,516	24,585	na
Other Asia	24,172	25,099	24,500	21,733	19,684	na
Pacific	9,061	8,109	8,215	9,724	10,605	na
Africa	2,149	2,031	1,890	1,285	1,271	na
Others	4,387	1,353	880	3,354	1,113	na
<b>Total UHT</b>	<b>58,603</b>	<b>57,404</b>	<b>58,608</b>	<b>59,612</b>	<b>57,257</b>	<b>na</b>

Source: Dairy Australia, AQIS & ABS

Table A20

Australian exports of whey products (tonnes)

	1997/98	1998/99	1999/00	2000/01	2001/02	2002/03 (p)
<b>Asia</b>						
Malaysia	6,428	6,758	6,914	4,347	3,337	2,992
Indonesia	3,889	5,425	5,631	6,159	7,821	6,879
Philippines	4,065	5,100	6,980	6,671	6,280	12,294
Japan	2,752	4,720	2,024	5,198	6,048	12,089
China	4,693	4,507	7,825	8,312	8,703	18,869
Hong Kong	3,798	3,570	1,568	1,540	2,810	795
Singapore	1,911	2,801	2,828	2,098	5,551	5,199
Taiwan	2,380	2,681	3,942	1,691	1,735	3,344
Thailand	2,016	1,613	1,211	787	1,007	2,385
Other Asia	2,666	3,388	2,917	1,966	1,060	3,754
<b>Total Asia</b>	<b>34,598</b>	<b>40,563</b>	<b>41,838</b>	<b>38,798</b>	<b>44,352</b>	<b>68,800</b>
<b>Europe</b>	<b>2,162</b>	<b>82</b>	<b>213</b>	<b>201</b>	<b>48</b>	<b>1,148</b>
<b>Other</b>	<b>6,852</b>	<b>4,957</b>	<b>5,408</b>	<b>4,439</b>	<b>5,166</b>	<b>10,144</b>
<b>Total</b>	<b>43,612</b>	<b>45,602</b>	<b>47,459</b>	<b>43,438</b>	<b>49,566</b>	<b>79,892</b>

\* Includes whey protein concentrate 80 and excludes whey components of manufactured products.

Source: Dairy Australia & AQIS

## **APPENDIX “E”**

**GOVERNMENT ACT ON MILK DELIVERIES**

**THE ADVERTISER, 13/12/80**

*Editorial 3/12/80*

# Govt. acts on milk deliveries

Legislation to prevent retail supermarket groups becoming licensed milk vendors was introduced in the Assembly last night.

The Minister of Industrial Affairs, Mr. Brown, said the Bill aimed to prevent possible disruption to the present system for the distribution of milk in the metropolitan area.

"This system is equal to any in the world," he said.

"It makes available home-delivered milk to every household in the metropolitan area on six days of the week at a price which is currently the second-lowest in Australia."

Outside the House, Mr. Brown said a supermarket chain had an application before the Metropolitan Milk Board for a milk vendor's licence.

Mr. Brown told the House that under the present Metropolitan Milk Supply Act, the board had no power to refuse an application for a licence.

"The pricing structure for the distribution of milk is such that if a licence is granted to a supermarket or shop, it would be beneficial for the retailer to purchase milk direct from the factory and not from the wholesale milk vendors as at present," he said.

"Milk wholesalers are comprised principally of individual milk vendors whose business is mainly home deliveries, but many of whom rely on supplying shops to survive. If major retail supermarket groups acquire licences under the Act, the likely result is that some of the 420 home delivery vendors will be forced out of business."

"Milk is a basic food and essential for the health and well-being of sections of the community, notably children. In the Government's view it is most important that the present system of distribution be preserved, at least for the time being."

Mr. Brown said the Bill provided that the board, with the approval of the Minister, could refuse an application for a milk vendor's licence or cancel an existing licence if, in the board's opinion, it would adversely affect the existing distribution system.

At present the Act did not differentiate between milk and cream in respect of the issue of a licence. As the direct sale of cream by supermarkets would not result in the same difficulties as the sale of milk, the Bill provided for the board to grant a licence for the sale of cream only.

## **APPENDIX “F”**

### **AUSTRALIAN COMPETITION & CONSUMER COMMISSION**

#### **NOTIFICATION & REVIEW**



**Trade  
Practices  
Commission**

Telephone (06) 264 1166  
Fax (06) 264 2803  
(06) 251 5093

In reply please quote JS:MK

Milk Vendors Association  
144 South Road  
TORRENSVILLE SA 5031

Attention: Roger Prime

Dear Sir

I refer to notifications N60014 and N60015 and notification N60016 lodged by Dairy Vale Co-operative Limited and Farmers Union Foods Limited respectively in relation to exclusive dealing arrangements for the distribution of dairy products in various regions of South Australia.

The Commission has decided not to give notice in relation to these agreements and consequently the agreements have immunity from court action in relation to the Trade Practices Act. It should be noted that the Commission will review its decision following deregulation in January 1995. The reasons for the Commission's decision are set out in the attached paper which has been placed on the Commission's Public Register.

For your information the Commission has also decided not to give notice in relation to the notification N60016 lodged by National Dairies S.A. Limited.

If you have any queries in regard to these matters please contact Mike Kiley on [06] 264 2859.

Yours faithfully

  
J P O'NEILL  
Senior Assistant Commissioner  
Adjudication

4 August 1993



**Australian Competition & Consumer Commission**

PO Box 1199  
Dickson ACT 2602  
470 Northbourne Ave  
Dickson ACT 2602  
Australia  
Ph (02) 6243 1111  
Fax (02) 6243 1199

Our Ref: CN94/2  
Your Ref: JSR/981211  
Contact Officer: Ms Stefanie Janiec  
Contact Phone: (02) 6243 1239

✓ January 18 1999

Mr John Royle  
Solicitor  
Donaldson Walsh  
GPO Box 2873  
ADELAIDE SA 5001

DOWNES & WILSON  
- 9 FEB 1999

Dear Mr Royle

**Re: National Foods Milk SA Ltd: Notifications of Exclusive Dealing -N60017/ N60018**

Thank you for your letter of 11 January 1999 and documents in support of your request for a review of the above notifications.

**Section 93 - Notification of Exclusive Dealing**

As you are aware, notification of exclusive dealing conduct provides immunity from legal proceedings from the time details are lodged with the Commission. Once notification is lodged the conduct is deemed not to have the effect of substantially lessening competition and the corporation is permitted to engage in such conduct until otherwise notified by the Commission. Conduct engaged in by a corporation that is in breach of the *Trade Practices Act 1974* ("the Act") and that has not been notified, is not subject to immunity.

Section 93(3) of the Act outlines the test to be applied by the Commission in determining whether it will allow the conduct to continue. In effect it is required to be satisfied that the conduct has, or would have, or would be likely to have, the effect of *substantially lessening competition* in the relevant market *and* that either:

- the conduct would not result or be likely to result in a benefit to the public; or
- any resultant benefit to the public would not outweigh the public detriment constituted by the lessening of competition.





If the Commission is of the opinion that the conduct satisfies these tests, the Commission may at any time, give notice in writing to the corporation stating that the Commission is so satisfied and accompanied by a statement setting out its reasons for being so satisfied.

### **Notifications by National Foods Milk SA Ltd**

Notifications by National Foods Milk SA Ltd ("National Foods") (*Ex-National Dairies*) in respect of exclusive dealing agreements were lodged with the Commission on 29 March 1994, under section 93(3) of the Act.

The Commission allowed the notifications to stand. The conduct notified is covered by immunity from legal proceedings in relation to the agreement between National Foods and milk vendors, containing the following provisions:

Provision 1.1 Appointment of Distributor, awards the vendor exclusive rights to the distribution of National Foods products by wholesale and retail vendors, providing the vendor does not:

- maintain an interest in any business selling or distributing products in competition with National Foods;
- sell products to other parties for resale or distribution of products in competition with National Foods;
- sell products to an existing customer of National Foods or National Foods distributor;
- attempt to solicit business from existing National Foods customers or distributors; or
- sell or distribute competitors products unless so permitted by National Foods in writing.

Clauses 1.3 – 1.6 provide instances whereby a distributor is permitted to engage in conduct notwithstanding clauses 1.2.1 – 1.2.6.

The Commission was of the view that exclusive dealing agreements between National Foods and vendors in Adelaide were unlikely to substantially lessen competition in the relevant market. The Commission identified the relevant markets at that being the market for beverages at wholesale level and that of white milk in Adelaide. The Commission's assessment of the effects on competition in both markets and the opinion that the exclusive dealing arrangements would not have substantial effects on competition arose from the view that:

1. Flavoured milk competes with other beverages and consequently, if National Foods was to consolidate, or even increase its market share as a result of these agreements, it would not have a substantial impact on the beverage market; and
2. Following the introduction of the agreements, wholesale vendors would carry the brands of only one processor. As vendors are to visit each outlet and compete to maximise the sales of their particular brands, processors would have an incentive to support their vendors as the benefit of this support would no longer accrue to rival processors. Therefore it was of the view that the outcome of these agreements would be likely to increase competition between wholesale vendors.

### **Allegations**

The allegations you raise in relation to the agreement and the effect on your clients business are that:

1. retailers have been prevented from changing distributors;
2. distributors have been changed despite retailers wishes to the contrary; and

3. distributors have been prevented from competing for new outlets.

These appear to be in relation to Clauses 1.3-1.6 of the wholesale distribution agreement.

The Commission has only considered immunity for the conduct which has been notified by National Foods. Conduct in breach of the Act, which falls outside the scope of the notification, will not be immune from legal proceedings if the Commission finds that the conduct substantially lessens competition in the relevant market.

The Commission will raise this matter with National Foods to establish whether it has engaged in conduct outside of that covered by the notifications. To enable us to undertake an informed assessment of this matter could you please submit to the Commission information that addresses the criteria as stated under s93(3) of the Act. The information that you have stated in relation to points 1-4 of your letter, indicate that you may be referring to the process of revocation of authorisations, under s91(4) of the Act. This procedure is substantially different to that of the process of seeking a review of notifications.

Your response will assist the Commission in determining what, if any, further action the Commission will take in relation to this matter. If you wish to discuss this matter prior to providing your written response, please contact Stefanie Janiec on (02) 6243 1239.

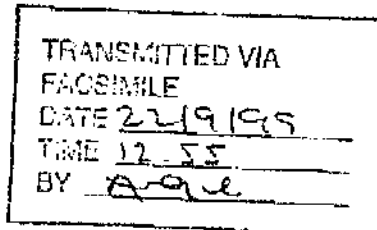
Yours sincerely



J P O'Neill  
Senior Assistant Commissioner  
Adjudication Branch

**FACSIMILE TRANSMISSION**

FROM (08) 8410 2322  
TO : (02) 6243 1199



LAWYERS

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dwalsh@net.com.au

22 September, 1999

Our Ref: JSR/990175  
Your Ref: CN94/2

Mr Howard Hollow  
Australian Competition & Consumer Commission  
PO Box 1199  
DICKSON ACT 2602

Dear Mr Hollow

**NATIONAL FOODS MILK SA LIMITED: NOTIFICATIONS OF  
EXCLUSIVE DEALING: N60016/N60017/N60018  
DAIRY VALE FOODS LIMITED: NOTIFICATIONS OF EXCLUSIVE  
DEALING: N60014/N60015**

I refer to our telephone discussion on 31 August 1999 and to your fax letter of 2 September 1999.

In your letter, you refer to earlier correspondence including:-

1. A letter from the Commission to me dated 18 January 1999.
2. A letter from me to the Commission dated 12 May 1999.
3. A further letter from the Commission to me dated 18 May 1999.

Since receiving the Commission's letter of 18 May, and before my discussion with you on 31 August, I have had the opportunity to examine copies of documents from the Commission's Public Register in relation to these matters.

Those documents include the following:-

1. A letter from J O'Neil, Senior Assistant Commissioner, to Charles C Binks of Baker O'Loughlin dated 29 September 1994. This letter contains the following statement:-

*The Commission will review its decision once the market has adapted to operating in a deregulated environment.*

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2. A letter from J P O'Neil, Senior Assistant Commissioner to C Binks of Baker O'Loughlin, dated 4 August 1993, which contains the following statement:-

*It should be noted that the Commission will review its decision following deregulation in January 1995.*

3. The Commission's report, dated 3 August 1993, in relation to National Dairies SA Limited Notification Registration No. N60016. This document contains, at page 19, the following statement:-

*The Commission will review its decision in relation to these agreements following deregulation on 1 January 1995.*

4. The Commission's report dated 3 August 1993 in relation to Dairy Vale Cooperative Limited Notifications Registration Nos N60014 and N60015. This document contains, at page 21, the following statement:-

*The Commission will review this decision after deregulation on 1 January 1995.*

5. A draft letter dated 4 August 1993 from J P O'Neil, Senior Assistant Commissioner, to "Attached Address List". This letter contains the following statement:-

*It should be noted that the Commission will review its decision following deregulation in January 1995.*

The "Attached Address List" referred to in that letter includes the following:-

- i. Brian Hannaford, Metropolitan Milk Board;
- ii. John Patten, Independent Holdings;
- iii. Tim Newberry, Department of Primary Industry;
- iv. David Shetliffe, Retail Traders Association;
- v. Graham Smith, Dairy Vale Cooperative Limited;
- vi. John Brownsea, Small Retailers Association of SA;
- vii. Bob Snawin, Australian Dairy Corporation;
- viii. Roger Prime, Milk Vendors Association;
- ix. Susan Errington, Office of Fair Trading;
- x. C Binks, Baker O'Loughlin.

The documents on the Public Register disclose an absolutely clear and unconditional commitment by the Commission to all interested parties to review its decision in relation to the notified conduct on deregulation of the market in January 1995

No such review has taken place

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Information contained in and documents accompanying this facsimile are confidential and are intended for the addressee. If you are not the intended recipient, please notify us and return the transmission to us