



FILE No:	<b>Dairy Farmers</b>
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15 April 2005

The General Manager  
Adjudication Branch  
Australian Competition & Consumer Commission  
PO Box 1199  
DICKSON ACT 2602

**By Facsimile: (02) 6243 1211**

Dear Sir/Madam

**Re: Applications for Authorisations A 90961 & A90962  
Lodged by Dairy Western Australia Ltd (Dairy WA)**

In reference to your letter dated 22 March 2005, Australian Co-operative Foods Limited trading as "Dairy Farmers" provides the following comments regarding the application for authorisation from Dairy WA in relation to a proposed collective bargaining / collective boycott arrangement for Western Australian dairy farmers. Dairy Farmers notes that the proposal relates to the supply of milk by members to processors and retailers.

By way of background, Dairy Farmers is a co-operative which obtains most of its milk from Dairy Farmers Milk Co-operative Limited whose 2400 members are located in New South Wales, Queensland, South Australia and Victoria. Those 2400 members own 80% of Dairy Farmers whilst Dairy Farmers Milk Co-operative Limited owns the remaining 20%. The Dairy Farmers Milk Co-operative Limited is itself a co-operative owned by the same group of farmers.

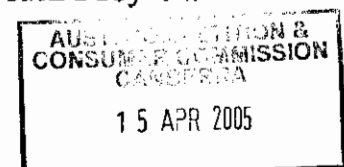
Although Dairy Farmers has no dairy farmer members located in Western Australia, as a major participant in the Australian dairy market, it is appropriate that it makes the following comments concerning the Dairy WA application:

1. Dairy Farmers is extremely concerned at the application by Dairy WA to obtain authorisation so as to allow Dairy WA and its members to engage in collective boycotts in respect of dealings with processors and retailers. It is our strong view that the impact of collective boycotts and the consequential anti-competitive impact cannot be justified in any circumstances.

In particular, allowing farmers to withhold the supply of milk to processors and retailers would if carried out have an immediate and devastating affect on the supply of milk to consumers in Western Australia. The fact that "consumer demand for market milk in Western Australia has increased" (p7 of Dairy WA's submission) further emphasises the serious consequences of such a boycott.



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In this instance there can be no public benefits that outweigh the level of public detriment caused by collective boycotting.

Dairy WA's statement (p4 of Dairy WA's submission) that a "collective boycott would only be used as an ultimate last resort" cannot overcome the overwhelming detriment to consumers if the supply of milk in Western Australia was stopped or even greatly restricted. Given the importance of milk products to consumers, to authorise dairy farmers to act in any way which restricts the supply of milk to consumers is the complete antithesis of any public benefit which is the basic tenement of competition under the *Trade Practices Act 1974* (Cth).

Furthermore, Dairy Farmers is concerned at the request by Dairy WA for authorisation to prevent any dairy farmer who has authorised Dairy WA to act on his or her behalf, from individually negotiating directly with processors. In this circumstance, the very people that Dairy WA is seeking to assist could be detrimentally affected by being prevented from subsequently individually negotiating directly with processors. Dairy farmers must be permitted to withdraw from any collective bargaining arrangement if they believe that it is no longer in their interests.

Although the statements made by Dairy WA in its submission concerning the activities of processors do not refer to Dairy Farmers specifically, we would like to comment on some of the statements made:

2. As a processor, Dairy Farmers does not seek to "pay the lowest price possible to dairy farmer suppliers" (p16 of Dairy WA's submission). Dairy Farmers seeks to be able to meet consumers' needs for milk and dairy products by ensuring continual access to a consistent long term supply of milk of good quality at commercial prices taking into account Dairy Farmers' product mix. In respect of dairy farmers who are members of Dairy Farmers Milk Co-operative Limited they have a bargaining group who can effectively negotiate prices with Dairy Farmers.
3. Dairy WA claims that "There is no or little incentive for processors to improve efficiency". As to efficiency, it is a given fact that a processor must be an efficient producer in order to meet the demands of the market. Accordingly, it is not accurate, certainly not in Dairy Farmers' case, to state that processors are not motivated or driven to improve efficiencies. All participants at every level in the dairy industry in Australia continue to strive for efficiencies.
4. The arrangements for the sale of packaged milk products to retail suppliers of milk in Australia involve an arrangement between the seller, being the processor, and the buyer, being the retailer. All processing and manufacturing is carried out by the processor not the dairy farmer. It is not appropriate for another party such as Dairy WA to be involved in negotiating the terms of the sale of packaged milk products to retailers, where Dairy WA and individual dairy farmers will not be processing or manufacturing the products.



Overall, however, Dairy Farmers, by its very nature as a co-operative, is not opposed to the concept of collective bargaining by dairy farmers where it benefits all participants in the dairy industry and any detriment is outweighed by the resulting public benefits, or where the detriment can be overcome by placing restrictions on the collective bargaining arrangements.

### Summary

Subject to our above specific comments above:

- (a) Dairy Farmers does not oppose the application by Dairy WA for collective bargaining.
- (b) Dairy Farmers does oppose the application by Dairy WA for collective boycotts.
- (c) Dairy Farmers opposes any interference by Dairy WA in the contractual arrangements between the seller (the processor) and the retailer in respect of the supply of milk.

If you have any questions or require clarification of any part of this letter, please contact me on (02) 8732 5266.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Brett Wright', with a large loop at the start and a long horizontal stroke extending to the right.

Brett Wright  
Group Secretary / Legal Manager