

22 April, 2005

Mr Scott Gregson  
General Manager – Adjudication  
Australian Competition & Consumer Commission  
P O Box 1199  
DICKSON ACT 2602

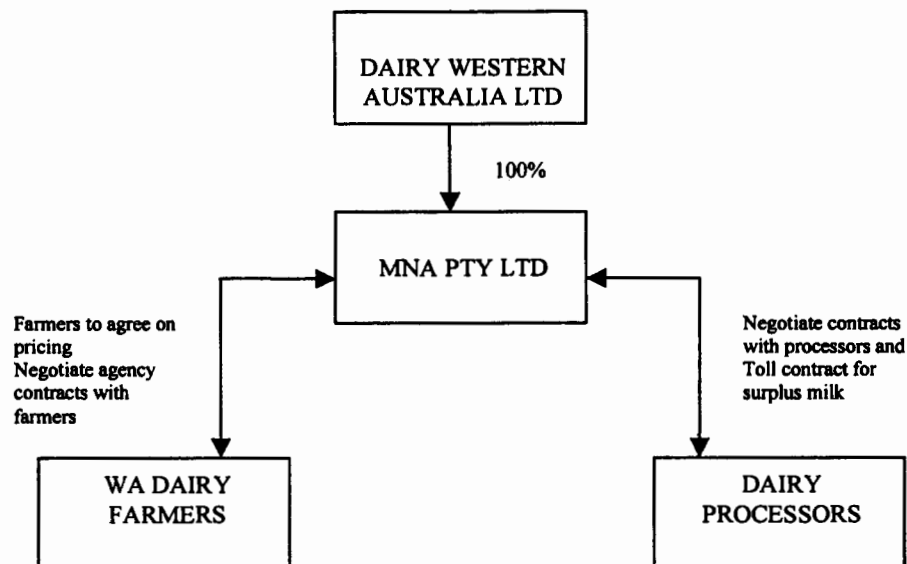
Dear Mr Gregson

**APPLICATION FOR INTERIM AUTHORISATION OF A WESTERN AUSTRALIAN MILK  
NEGOTIATING AGENCY (“MNA”)**

In response to the request made at the meeting today, the following information is now provided.

Our understanding of your request is that you need information on the intended structure of the MNA and reasons for the need for the Interim Authorisation.

The structure of the MNA is intended to be as follows:



Progress to achieve the above structure is as follows:

- The Dairy Industry Working Group has received endorsement from 87% of WA Dairy Farmers to proceed with an Interim and Full application to the ACCC for the establishment of the MNA. Please see our earlier letter setting out the details of the in principle support that included the actual number voting and the breakdown of the vote.
  
- The WA Dairy Farmers in general meeting at Boyanup resolved that Dairy Western Australia Ltd (“Dairy WA”) should be the applicant for the ACCC authorisation for the

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- Interim and Full Authorisation for the establishment of the MNA. Dairy WA has agreed to accept this role.
- Dairy WA has called for proposals to develop a full business plan for the MNA and select a consultant. The consultant will commence work immediately the Interim Authorisation is received. The Board of Dairy WA will not approve this expenditure, which will be significant cost to the company, without the Interim Authorisation.
  - The Minister for Agriculture has supported our proposal and has indicated he will provide funding once the Interim Authorisation is received. Due to the critical financial position of dairy farmers there are currently no funds available for this process and the Working Groups consultant has been working pro bono to ensure the proposal reaches a stage where it can be considered by the ACCC.
  - We believe that the processors are aware of the financial constraints of the Working Group and may hope that delay will be fatal to the application.
  - A committee of approximately eighteen farmers, who are suppliers to all processors has been formed and have met twice to consider the pricing model for MNA farmers. Additional information is currently being sought on pricing models. When received, the committee will consider this information and present it to the WA dairy farmers. The farmers will then be able to decide what model is appropriate in full knowledge of the implications of each model.
  - Work has commenced on the Dairy Farmer agency agreements so that these can be discussed with the dairy farmers. Preliminary discussions on the format of these agreements have been held with a cross section of dairy farmers and verbal feedback has been received.

**Legally, as you would be aware, the MNA cannot negotiate ( or be seen to attempt to hold discussions as to the content of possible contracts)with the processors at this time because it would be a clear breach of the Trade Practices Act to do so. This is an important reason why we need an Interim Authorisation so that we can obtain feedback from processors as to the possible content of the contracts once the final approval has been received.**

However, in order to advise farmers of the impact of any model, negotiations with the processors need to be advanced so that supply can be matched with the processors potential requirements and a possible toll contract. The total of the dairy farmer contracts must mirror the terms and conditions in total of the processor and toll contract held by the MNA from time to time.

We cannot legally enter these discussions with the processors until we have an Interim Authorisation.

As you are aware, representatives of the Dairy Industry Working Group have met with all of the major WA processors apart from National Foods Ltd. Three meetings have been arranged with this processor and have been cancelled by them. During these meetings we were conscious of the fact that discussions had to be limited to our proposal and in Challenge's case how the DRU issue could be addressed. The interim authorisation is required immediately for the process to progress past this point of being "presentation only".

Contact has been made with a broad and representative section of WA Dairy Farmers to request that they contact Siobhan O'Gara, ACCC, WA to provide the ACCC with information on the current status of the industry in WA from their perspective. All farmers contacted have agreed to telephone Siobhan. They are aware that, if requested, the information will be treated in accordance with ACCC confidentiality policy. Please note that the switch number on Ms O'Gara's

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card is incorrect and we have contacted everyone again with the correct number. Ms Mattila also contacted Ms O'Gara and offered to arrange a dairy farmer general meeting and invite all dairy farmers in the WA industry to attend. Should you form the view that an Interim Authorisation is not be necessary we ask that you give us the opportunity to call such a meeting so that you will have the opportunity to discuss the proposal with the dairy farmers as a whole and listen to dairy farmers views directly.

We ask you again to refer to the confidential letter from the National Australia Bank National Agribusiness Manager given to you on the date our application was lodged where he noted that one in five farmers in the WA Dairy Industry was at financial risk – a proportion significantly higher than the dairy industry in the rest of Australia.

Yours sincerely

Nola Marino  
Chairman