

# WOOLWORTHS LIMITED

A.B.N. 88 000 014 675

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**FAXED**  
29/4/05

Mr Scott Gregson  
Acting General Manager  
Adjudication Branch  
Australian Competition & Consumer Commission  
PO Box 1199  
**DICKSON ACT 2602**

Facsimile No: (02) 6243 1211

Dear Sir

## APPLICATION FOR AUTHORISATIONS A90961 & A90962 LODGED BY DAIRY WESTERN AUSTRALIA LTD (DAIRY WA)

Further to your letter dated 22 March, 2005 Woolworths responds to the issues raised in the "Request for Submission" in your above letter:

1. improved bargaining power for small producers;

**Response:**

*Collective bargaining may increase bargaining power for small milk producers which should be applied to the benefit of the consumer in a market where processing capability and consumption volumes will not increase however, the 'bargaining power' includes right to enforce boycotts, which must not be used to disrupt supply.*

2. significant transaction cost saving, particularly in the area of transport costs and providing better economies scaled to processes;

**Response:**

*It may reasonably be expected that at least for some time the disruption of an orderly market may lead to inefficiencies and the potential for higher costs being passed on to consumers.*

AUST. COMPETITION &  
CONSUMER COMMISSION  
2 MAY 2005

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3. the re-distribution of current monopsony profits;

**Response:**

*In the submission itself there are listed at least 6 milk processing outlets.*

*Re-distribution of profits at the production level should not result in a detriment to the public benefit.*

4. ease the transition to industry deregulation;

**Response:**

*No comment.*

5. improving the viability of small dairy farming businesses;

**Response:**

*This Application, if approved, whilst intended to support small dairy farming businesses, should not be at the expense of consumers. The change in market dynamics may result for example in fresh milk importation from other States becoming more viable, or the removal of further processed milk products to production in other states, in either case adversely affecting viability of small dairy farms in W.A.*

6. Opening up new marketing opportunities by co-ordinating the supply of dairy farmers' milk negotiating agency.

**Response:**

*It is arguable that 'marketing opportunities' may be lost as well as gained in any shift of the availability of supply.*

Woolworths further submits the following in relation to this Application:

- (i) from time to time Woolworths issues invitations in WA to processors to tender for the supply of its private label bottled milk products. In these tenders Woolworths considers offers from any bona fide tenderer capable of meeting the conditions of supply set out in the "Invitation to Tender" document. Woolworths' private label milk supply represents only 5.6% of fresh milk processed for retail sale in Western Australia (source: submission to W.A Parliamentary Enquiry into the Dairy Industry). Woolworths is therefore a price taker, not a price setter for purchase of a small part of the milk industry production in W.A.
- (ii) Both as a major retailer selling a wide range of branded milk products to the people of Western Australia, and as the owner of 'Woolworths' and 'Home Brand' trusted private label products, Woolworths Ltd is, therefore, strongly of the view that no entity should be allowed to:
  - a) artificially construct a monopoly or near monopoly supply of commodity goods which are of vital public interest:

- b) engage in anti-competitive conduct that is clearly not intended to result in a greater choice for consumers in price quality and service;
  - c) grant authorisation to engage in boycotts of processors and/or secondary boycotts of processors and retailers arising from negotiations between an individual retailer or processor and a dairy farmer;
- (iii) Circumstances may arise where a dispute over the supply of, say, manufacturing milk for export could result in the boycott of a processor which halts the supply of all dairy products locally, including retail fresh milk to WA consumers.

Woolworths thanks the Commission for the opportunity to provide its position and welcomes any further request by the Commission for clarification or further information.

Yours sincerely



**ROHAN JEFFS**  
Company Secretary  
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