



**Australian  
Competition &  
Consumer  
Commission**

Contact Officer: Susan Philp  
Contact Number: (02) 6243 1354

13 May 2005

Ms Jenni Mattila  
Jenni Mattila & Co  
PO Box 1685  
DOUBLE BAY NSW 1360

PO Box 1199  
Dickson ACT 2602  
470 Northbourne Ave  
Dickson ACT 2602  
ph (02) 6243 1111  
fax (02) 6243 1199  
[www.accc.gov.au](http://www.accc.gov.au)

By facsimile: 02 9251 3826

Dear Ms Mattila

**Dairy WA application for authorisation A90961/A90962 - confidentiality claim**

Thank you for your letter of 11 May 2005 providing responses to the queries raised in my letter of 28 April 2005 in relation to the above application for authorisation.

In my letter, I noted that your response to the queries would be very important in assisting the ACCC's consideration of the application. Your response has assisted in many areas. However, I note that in a number of key areas the operational detail has not yet been determined. You advise that this detail is dependent on further discussions with dairy farmers and final reports and modelling from consultants. As previously advised, the ACCC may be limited in its ability to fully consider the proposed arrangements absent the information sought and I would encourage the provision of further details at this stage or as soon as possible.

I also note that you have claimed confidentiality for the entirety of your response. As you are aware, the process of assessing an application for authorisation is conducted by the ACCC in a public and transparent manner.

Documents provided to the ACCC in relation to an application for authorisation are generally required under section 89 of the *Trade Practices Act 1974* (the Act) to be placed on the ACCC's public register. The transparent nature of the process allows the ACCC to test submissions made by parties, seek comments from interested parties as to the effects of arrangements proposed and allows the ACCC to detail the reasons for its determinations as required under the Act.

The Act does, however, provide for persons providing a document in relation to an authorisation application to request that the document or parts thereof be excluded from the public register by reason of the confidential nature of any of the matters contained in the document.



In this case, you have not set out, nor is it apparent to me, the basis for the claim for confidentiality. Importantly, I consider the information in question is fundamental to the ACCC's (and I expect interested party's) understanding of the proposed arrangements and the likely effects of those arrangements.

Accordingly, as a person authorised to make such a decision for and on behalf of the ACCC, I advise that your request to exclude the submission from the ACCC's public register has been refused. In accordance with section 89 of the Act, your response will be placed on the public register on Wednesday 18 May 2005, unless the ACCC receives, before that date a request from you to return the documentation.

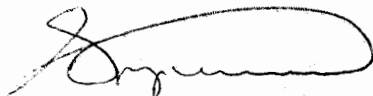
Please note that should you wish to withdraw your submission, the information contained in the submission cannot be taken into account by the ACCC in its assessment of the application for authorisation. Attached for your information is a copy of the ACCC's guidelines for confidentiality claims.

I would also take this opportunity to seek your clarification of the source or nature of the information provided in the second half of page 16 and page 17 of your response.

Finally, I note your earlier letters of 22, 26, 27 and 29 April 2005. I likewise intend to place that correspondence on the public register on 18 May 2005.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact myself or Susan Philp.

Yours sincerely



Scott Gregson  
A/g General Manager  
Adjudication Branch

---

**FACSIMILE TRANSMISSION**

**DATE:** 13.5.2005  
**TO:** Jenni Mattila  
**ORGANISATION:** Jenni Mattila and Co  
**FAX:** 02 9251 3826  
**FROM:** Scott Gregson  
**TEL:** 02 6243 1132  
**FAX:** 02 6243 1211  
**NO. OF PAGES:** 3  
(including this page)

---

This transmission is intended solely for the addressee and may contain confidential or privileged information; the disclosure, copying or use of any part other than by the addressee is unauthorised. If you received this transmission in error, please telephone the sender on the above number. If you do not receive all pages or have any trouble receiving, also call the sender.

---

Message:

Letter follows

**\*\*\* TRANSMISSION REPORT \*\*\***

SID : ADJUDICATION ACCC

Number : 02 62431211

Date : 13-05-05 17:40

|                |             |
|----------------|-------------|
| Date/Time      | 13-05 17:39 |
| Dialled number | 00292513826 |
| Subscriber     | 0292513826  |
| Durat.         | 0'54"       |
| Mode           | NORMAL      |
| Pages          | 3           |
| Status         | Correct     |

**Australian  
Competition &  
Consumer  
Commission**

Telephone: (02) 6243 1111

Fax: (02) 6243 1199  
(02) 6243 1036

**FACSIMILE TRANSMISSION**

DATE: 13.5.2005  
TO: Jenni Mattila  
ORGANISATION: Jenni Mattila and Co  
FAX: 02 9251 3826  
FROM: Scott Gregson  
TEL: 02 6243 1132  
FAX: 02 6243 1211  
NO. OF PAGES: 3  
(including this page)

This transmission is intended solely for the addressee and may contain confidential or privileged information; the disclosure, copying or use of any part other than by the addressee is unauthorised. If you received this transmission in error, please telephone the sender on the above number. If you do not receive all pages or have any trouble receiving, also call the sender.

Message:

Letter follows