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Jenni Mattila & Co
Lawyers

PO BOX 1685 Double Bay NSW 1360
AUSTRALIA
ph: 61 2 9252 7177
fax: 61 2 9251 3826
mob: 0418 650 555

FAX

To: **Mr Scott Gregson** From: **Jenni Mattila**
ACCC

Fax: **02 6243 1199** Pages: **5**

Phone: **02 6243 1132** Date: **27 April 2005**

Re: **Request for Additional Information**

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Withdrawn

Dear Mr Gregson

Request for additional information about proposed Milk Negotiating Agency

As you would be aware the focus of our application to the ACCC as a result of the Dawson Committee Report is the inability of dairy farmers in Western Australia being able to successfully negotiate with individual processors in accordance with the current authorisation. We note that it was acknowledged in the NCC Submission to the Productivity Commission that collective bargaining in its current form in the dairy industry had not been successful.

As you recall, we sent a draft version of our application to you in January 2005 and asked whether you would require additional information. Based on the feedback from the ACCC, in particular, Siobhan O'Gara's comment that any statement made within the document needed to be independently verified, we provided our final applications in March 2005 supported by 2 lever arch folders of documentary verification. We took care to ensure that as requested, each statement was verified and if it was not we indicated that in our submission.

The ACCC then sought comments from other interested parties. During that process our office asked Sue Philp on three separate occasions whether there was any additional information that the ACCC would require. We responded to the question

Level 2, 135 Macquarie Street Sydney NSW 2000 AUSTRALIA
email: JenniMattila@bigpond.com.au

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of the level of support and information provided to dairy farmers on 23 March 2005. We again asked Ms Philp after the submission from Peters and Brownes Foods Limited was submitted to the ACCC if any additional information was required. She responded we could provide additional information if we wished to, but did not seem to be of the view it was strictly necessary – however additional information was provided on 20th and 21st April 2005.

On Friday 22 April 2005, Dairy WA was requested to attend a meeting with the ACCC in Perth because you were going to be in Perth that day. We were not given any information as to what the meeting would be about and whether you would actually require any additional information in spite of ACCC officers responses to our earlier enquiries.

During that meeting you commented that our application was insufficient because we hadn't provided you with structural information and details of what the Milk Negotiating Agency would do in the interim period. Please note that we had previously provided you with a brief summary of the very limited matters that we undertake should Dairy WA be given interim authorisation during the three month period, we refer you to our e-mail dated 21 March 2005 attached. Please note, Ms Philp said she did not require much detail. We understand the ACCC's concern was that nothing should be done during the interim that could not be undone.

Whilst on Friday 22 April Dairy WA attempted to answer your questions without notice and without the benefit of the additional information that we had at our disposal, we undertook to provide any additional information you would require that would be necessary to obtain approval of the interim authorisation.

Later that day the Chairperson of Dairy WA and Jenni Mattila of our office, returned to your Perth office and provided you with additional material on the structure of the proposed Milk Negotiating Agency. You again indicated that you believed that this was insufficient and you expected a similar level of detail to that provided to the ACCC in the Qantas / Air NZ Submission. We asked you to provide us with exactly the information that you required so we could answer your questions. No clear direction was given as to what was required.

During the earlier meeting with you, you indicated that Siobhan O'Gara would like to speak to 'ordinary' dairy farmers. We undertook to contact a number of people so that this was possible.

That consultation commenced on Friday 22 April 2005 and continues to the present time. Immediately after the dairy farmers started contacting Ms. O'Gara we received phone calls that she was asking detailed questions as to the structure and proposals relating to the Milk Negotiating Agency. The ordinary dairy farmers believe these questions were more appropriately answered by Dairy WA. Please note that Dairy

WA has never been asked these questions directly by the ACCC, nor were we aware they were an issue before Friday 22 April when we were contacted by dairy farmers. We therefore believe that this is the information that you were trying to elicit on Friday without specifically providing us with the questions you required us to answer.

We asked each person who contacted Ms. O'Gara to make a list of the questions she asked them so that we could provide the information to you in an attempt to answer the questions you have not put directly to us. We attach the list of questions she has asked to date. Can you please let us know if there are any other questions or information required.

As we have stressed on a number of occasions we understand we cannot negotiate with processors without an interim authorisation and we cannot enter ongoing contracts without a final authorisation. We cannot give definitive responses to Ms. O'Gara's questions until we can legally hold negotiations with the processors and others as the current authorisation does not permit these discussions to take place.

Please confirm whether or not there are any outstanding questions.

Yours faithfully,


Jenni Mattila

Questions

1. Would the Agency buy the milk from producers and on sell it, or would they negotiate between producers and processor?
2. Would the Agency buy all milk?
3. What would happen if a processor did not want all the milk a producer produced?
4. What would a happen if a processor wanted 80% of one producers milk and only 20% of another?
5. How would the Agency work out which was premium milk (premium price)? Would it be on quality and components?
6. Would there be a flat return subject to composition and quality for all milk?
7. Would the Agency be responsible for milk transport from farms?
8. Would they own the tankers or get contractors?
9. If the premium to be gained was mainly from the 50% drinking milk, how would that be distributed amongst producers?
10. Who would carry the risk if the agency couldn't sell all the milk?
11. What happens if 13% who voted no do not join and they take up all whole milk premium?
12. What are the benefits and detriments to the consumer? In particular would there be any potential for a price rise to consumers?
13. Where would you expect the agency would process and store milk that processors don't want?
14. Can you (the dairy farmers) terminate your contract (as a National's supplier)?

Evonne Man

From: Evonne Man [EvonneMan@jennimattila.com.au]
Sent: Monday, 21 March 2005 4:06 PM
To: 'susan.philp@accc.gov.au'
Cc: Jenni Mattila
Subject: Dairy WA - Interim Authorisation

Dear Susan

Please accept my apologies for the delay in getting back to you.

During the period of interim authorisation, if granted, it is proposed that the following steps take place:

1. Establishment of the Milk Negotiation Agency.
2. Milk Negotiation Agency to enter into preliminary negotiations with processors seeking to enter new contracts.
3. Milk Negotiation Agency to enter into negotiations with transportation and milk testing companies.
4. Take steps to put milk on the interstate spot market.

Please do not hesitate to contact us if you require more detailed plans.

Best regards,

Evonne Man

Jenni Mattila & Co
Level 2, 135 Macquarie St
Sydney NSW 2000
Tel: 02 9252 7177
Fax: 02 9251 3826
Email: EvonneMan@jennimattila.com.au