

FILE No:
DOC: D05/
MARS/PRISM

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Phone: (02) 6243 1239	Date: May 23, 2005
Re: Response to Woolworths Submission	

Dear Ms Philp

Please see attached.

Yours faithfully

Jenni Mattila
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AUST. COMPETITION & CONSUMER COMMISSION
CANBERRA
24 MAY 2005

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23 May 2005

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

Your ref: A90961/A90962

Dear Mr Gregson

Response to Woolworths Limited Submission dated 29 April 2005

1. Woolworths Collective Boycott comments

Woolworths states:

“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 the right to enforce boycotts, which must not be used to disrupt supply

It is not the intention of Dairy WA to disrupt the supply of milk to consumers. Significant disruption is unlikely to occur because milk contract renewal dates in WA are staggered – not all contracts are renewed at the same time. Therefore only one processor is likely to be affected. Current practise is that if any processor requires additional milk that milk is sourced through Challenge Dairy Co-operative(CDC). Processors buy and sell milk among themselves and the shortfall would be addressed by the other processors still operating in the market through sourcing the additional milk through CDC. CDC does not directly supply the WA market so in the unlikely event of a boycott of CDC the WA consumer would be unaffected. Dairy WA would only seek to implement a boycott if negotiations had broken down and all other avenues had failed to resolve the deadlock. Dairy WA would support a notice period being a condition of approval of any boycott. It is believed that 14 days notice of the intention to implement a boycott would be adequate. This would give supermarkets the opportunity to arrange for additional milk through other local processors.

There is a strong disincentive for Dairy WA to implement the boycott provisions as milk is highly perishable and there is little on farm storage available. The cost to dairy farmers would not only be the loss of income but the cost of disposing of the milk.

2. Woolworths Comments on Transaction Cost Savings

Woolworths has commented that:

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

It is unlikely that the introduction of more cost effective transport services would disrupt the existing market. The introduction of choice of transport arrangements would be introduced at the same time as the new contracts and would have no impact on prices. Obviously dairy farmers would only seek to change their transport arrangements with the processor if the transport costs are lower than the existing system. Creating a competitive market for transport should improve efficiencies and lower costs.

3. The Redistribution of current Monopsony profits

Woolworths comments:

“In the submission itself there are listed at least 6 milk processing outlets. Redistribution of profits at the production level should not result in a detriment to the Public benefit.”

Woolworths sets the price to consumers not dairy farmers.

Scan data indicates there has been an increase in shelf price for fresh branded regular whole milk 1litre white milk in WA since deregulation from \$1.43 to \$1.55 (see attachment of prices from Dairy Australia)

During that period prices for raw milk in WA have fallen from an average price of 48.9 cents per litre (see DIA Annual Report 1999) an average of 28 cents per litre.

There does not therefore seem to be a direct correlation between the price for raw milk and the retail price for milk. Nor does there seem to be a direct benefit to consumers associated with the drop in prices paid to WA dairy farmers and the potential loss of the WA industry.

4. Ease the transition to industry deregulation

Woolworths made no comment

5. Improving the Viability of Small Dairy Farming Businesses

Woolworths states:

“ 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 farms in WA.”

WA currently has the lowest price for raw milk in Australia. There would be the need for the price to rise by 10 cents per litre plus transport costs before import parity was reached. This scenario is therefore considered unlikely unless processors chose to loss lead milk prices. This could not however continue for any length of time before the WA industry ceased to exist.

6. MNA co-ordinating supply

Woolworths states:

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

Market opportunities and losses change over time. Dairy WA hopes to provide a more flexible and adaptive approach to satisfy the requirements of dairy farmers and the needs of existing and future processor customers for WA milk.

7. Woolworths Additional comments

(i) No comment

(ii)

(a) Artificial Monopoly of commodity Goods

Dairy WA proposes that the new MNA will be voluntary and therefore not “artificial” i.e. it is not a creature of statute but a decision made by dairy farmers that is perceived to be in their own interests when attempting to address the current monopsony processor situation.

(b) Anti-competitive Conduct limiting choice by consumers

There is no direct link between the market for raw milk and consumers. There is a clear distinction between the price for manufactured milk and white milk. It is the processors who determine product range not dairy farmers.

(c) Individual Negotiations with Dairy Farmer members of the MNA

The MNA would have contracts with the processors and in turn those contracts would be mirrored by contracts with dairy farmers. These contracts are not merely for the negotiation of the contracts but involve ongoing obligations on both the dairy farmer the MNA and the processor.

The dairy farmer contract with the MNA is for a specified period of time matching the arrangements with the processors. The dairy farmer could make other arrangements at the conclusion of the MNA contract. Provisions within the MNA contract will allow the dairy farmer to contract outside the MNA arrangement with the consent of the MNA. Obviously the MNA has an obligation to ensure that all contracts are met. If a dairy farmer wished to supply milk to a third party the MNA would need to arrange for the shortfall to be made up by another dairy farmer so as not disrupt supply to the processor.


As stated above it is highly unlikely that any boycott power would be used because of the implications for dairy farmer members. However for the protection of other processors who have entered into arrangements with the MNA in good faith the MNA must reserve the right to enforce those contracts so as not to disrupt the supply under existing arrangements to the processor and their supermarket clients.

Conclusion

Dairy WA accepts that there needs to be a notice period (possibly of 14 days) prior to a boycott being implemented to allow retailers to make alternative arrangements with other processors in the short term should that be necessary.

Dairy WA does not propose that the impact of the Authorisation would have significant impacts on consumers. However the WA dairy industry is in market failure at the present time and the loss of the industry would have significant and long lasting impacts on the cost of milk to consumers in WA – a situation we are attempting to avoid but without significant change is unavoidable.

Yours faithfully,



Jenni Mattila

encl.

DIA ANNUAL REPORT 1999 (year prior to de-reg)

corporate performance review

TABLE 2: Quota Movement at Auction

Shire	Net Movement Gain or (Loss) Nov 86 - Mar 99	Net Movement Gain or (Loss) 1988/99
Albany	1428	460
Armadale	325	0
Augusta/Margaret River	(1 488)	481
Bridgetown/Greenbushes	(869)	(41)
Busselton	(2 884)	(1 363)
Capel	(1 874)	(1 013)
Dardanup	(8 821)	597
Denmark	(1 723)	0
Donnybrook/Balingup	(1 644)	(656)
Gosnells	(392)	0
Harvey	13 455	204
Manjimup	5 188	30
Murray	(1 212)	383
Nannup	(154)	60
Plantagenet	2 293	0
Serpentine/Jarrahdale	(1 258)	790
Waroona	(935)	103

milk supplied. When combined with the bacteria and somatic cell count incentive/discount payment scheme introduced at the start of 1996/97 and variable transport rates, the market milk price can vary significantly between dairy farmers.

Over the 1998/99 year the average benchmark price paid to farmers at the factory was 52.94 cents per litre which translated to an average price of 48.90 cents per litre at the farm gate. This price represented a fall of 0.6 percent over the average at the farm gate for the preceding twelve month period and contrasted to the movement in the consumer price index for the Perth region over the same period of 1.8 percent.

The main cause of the decline in the annual dairy farmer margin was payment for UHT milk processed and sold in Western Australia at 75 percent of the market milk rate, introduced in July 1998. During the year 1.78 percent of market milk was purchased at 75 percent. Another contributing factor was a small decrease in quality (somatic cell and bacteria count).

bulk milk transport charges

Transport deductions for market milk are determined commercially by the processors. Farmers are allocated to zones with freight differentials for market and manufacturing milk which reflect the cost of collection and transportation. A stop charge of \$9.40 per pick up has been introduced to reflect the fixed costs of milk collection.

The average transport charge for market milk during 1998/99 is estimated to have been 4.04 cents per litre.

authority margin

The difference between that price paid to the Authority for market milk and to the dairy farmer represents the Authority's margin. This margin is outlined in Table 12 Industry Statistics and remains unchanged from the previous year at 3.48 cents per litre. The margin covers the Authority's expenditure involved in administration, promotion, provision of credit insurance, a subsidy for the transport of packaged milk to country regions and the administration of the Distribution Adjustment Assistance

Scheme (DAAS). From 1 July 1999 the Authority increased its margin by 2 cents per litre and will allocate this to all dairy farmers on the basis of their production. This is to be known as the Productivity Assistance Scheme (PAS) and will be paid to farmers by the Authority quarterly. When the DAAS is completed, the 1 cent per litre reserved for this purpose will be allocated to PAS as well.

retail prices

When pricing beyond the Authority's price was deregulated, the Authority gave a commitment to monitor prices. The retail price of milk increased in December 1998 across the Perth metropolitan area, although only one of the major metropolitan processors continued to have recommended retail prices. For one litre cartons, PB Foods price increased from \$1.34 to \$1.37. Both companies price Hi-Lo at a different level to wholemilk with PB Foods price rising from \$1.37 to \$1.41. The other ten modified milk products also retail at a premium to wholemilk.

Using the recommended retail price of one litre cartons as at 30 June 1999 as a guide, the real price of a litre of milk increased for the eighth consecutive year. While the CPI for all groups increased by 1.8 percent for the twelve months to 30 June 1999, the recommended retail price rose 4.7 percent (refer to Table 15 of Industry Statistics and Graph 2 Finance and Supply Management Performance Indicators). It is noteworthy that this occurred against the background of a fall in the nominal and real dairy farmer margin.

As discounting, particularly in supermarkets, is well established, the Authority also monitors prices using information obtained from Nielsen scantrack on average retail prices for market milk. From this data, rises in the price of milk have exceeded rises in the consumer price index over the last three years (Graph 3 Finance and Supply Management Performance Indicators). This reflects the low inflation rate experienced over the last three years and increases in processing and retailing margins. Retail specialising in supermarkets extends beyond the generic

Information Provided by Dairy Australia
Supermarket prices

LITRES (000'S)	WEST AUSTRALIA							MAT TO 10/04/2005	QTR TO 10/04/2005
	FISCAL YEAR 1999/2000	FISCAL YEAR 2000/2001	FISCAL YEAR 2001/2002	FISCAL YEAR 2002/2003	FISCAL YEAR 2003/2004				
FRESH BRANDED REGULAR WHOLE MILK 1LT	5,331	4,706	4,094	3,514	3,411	3,184	767		
FRESH BRANDED REGULAR WHOLE MILK 2LT	24,116	15,638	14,529	15,703	13,581	13,607	3,142		
FRESH BRANDED REGULAR WHOLE MILK 3LT	8,302	6,369	4,458	5,917	5,877	6,364	1,778		
TOTAL BRANDED MILK [ALL TYPES & SIZES]	90,889	76,328	75,102	80,666	77,835	78,092	19,669		
FRESH PRIVATE LABEL REGULAR WHOLE MILK 1LT	398	806	926	1,097	1,131	1,068	266		
FRESH PRIVATE LABEL REGULAR WHOLE MILK 2LT	5,565	11,593	9,727	8,138	7,539	7,116	1,782		
FRESH PRIVATE LABEL REGULAR WHOLE MILK 3LT	1,329	12,084	18,918	16,686	18,596	17,381	4,085		
TOTAL PRIVATE LABEL MILK [ALL TYPES & SIZES]	14,827	32,273	37,655	33,927	36,779	35,788	8,807		
TOTAL FRESH WHITE MILK	81,717	89,845	94,045	94,081	94,408	93,817	23,224		
TOTAL FRESH FLAVOURED MILK	7,192	7,144	7,748	8,158	8,368	8,788	2,429		
TOTAL UHT WHITE MILK	16,540	11,455	10,884	12,200	11,614	11,104	2,787		
TOTAL UHT FLAVOURED MILK	266	157	80	155	225	172	36		
TOTAL MILK	105,716	108,601	112,757	114,593	114,615	113,881	28,476		
PRICE PER LITRE [¢]									
FRESH BRANDED REGULAR WHOLE MILK 1LT	\$1.43	\$1.38	\$1.44	\$1.46	\$1.48	\$1.51	\$1.55		
FRESH BRANDED REGULAR WHOLE MILK 2LT	\$1.31	\$1.20	\$1.22	\$1.18	\$1.26	\$1.26	\$1.28		
FRESH BRANDED REGULAR WHOLE MILK 3LT	\$1.33	\$1.21	\$1.26	\$1.17	\$1.20	\$1.19	\$1.16		
TOTAL BRANDED MILK [ALL TYPES & SIZES]	\$1.37	\$1.37	\$1.44	\$1.42	\$1.48	\$1.50	\$1.52		
FRESH PRIVATE LABEL REGULAR WHOLE MILK 1LT	\$1.38	\$1.19	\$1.23	\$1.26	\$1.30	\$1.31	\$1.32		
FRESH PRIVATE LABEL REGULAR WHOLE MILK 2LT	\$1.29	\$1.09	\$1.12	\$1.14	\$1.19	\$1.19	\$1.20		
FRESH PRIVATE LABEL REGULAR WHOLE MILK 3LT	\$1.29	\$0.98	\$1.03	\$1.06	\$1.10	\$1.11	\$1.13		
TOTAL PRIVATE LABEL MILK [ALL TYPES & SIZES]	\$1.20	\$1.07	\$1.10	\$1.13	\$1.16	\$1.17	\$1.18		
TOTAL FRESH WHITE MILK	\$1.35	\$1.22	\$1.25	\$1.25	\$1.29	\$1.30	\$1.31		
TOTAL FRESH FLAVOURED MILK	\$1.87	\$2.07	\$2.18	\$2.26	\$2.40	\$2.45	\$2.49		
TOTAL UHT WHITE MILK	\$1.07	\$1.28	\$1.33	\$1.27	\$1.30	\$1.31	\$1.30		
TOTAL UHT FLAVOURED MILK	\$3.18	\$3.25	\$6.73	\$5.53	\$5.16	\$5.40	\$5.57		
TOTAL MILK	\$1.35	\$1.28	\$1.32	\$1.33	\$1.38	\$1.39	\$1.41		

FISCAL YEAR = Financial year

MAT - 12 months up to ...

QTR = Last 13 weeks up to ...