



AUST. COMPETITION &  
CONSUMER COMMISSION  
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ORIGINAL

# Coles Myer Ltd.

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## FACSIMILE TRANSMISSION

DATE:	14 November 2005
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TOTAL PAGES:	3
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Note: If you do not receive the number of pages shown above, please telephone Lyn Kitching on (03) 9829 3606 as soon as possible.



**Coles Myer Ltd.**

ABN 11 004 080 030

14 November 2005

Mr Scott Gregson  
General Manager – Adjudication Branch  
Australian Competition and Consumer Commission  
P.O. Box 6381  
**EAST PERTH WA 6000**

Facsimile (08) 9325 5976

Dear Mr Gregson

**Dairy Western Australia – Applications for authorisation A90961 and A90962  
Consultation in respect of the ACCC's Draft Determination**

I refer to your letters of the 17 October (containing the Draft Determination enclosure) and the 8 November invitation to the pre-determination consultation conference.

While Coles Myer Supermarkets will not be attending the pre-determination conference on the 28 November, we believe the way forward is for Dairy WA to support the current collective bargaining groups to improve the productivity and efficiency of the industry with scale economies in farm production, milk transport consolidation and negotiation for transaction cost savings in milk testing.

Although we are not attending, we do have a significant interest in the matter and provide the following comments.

1. Coles Myer Supermarkets is satisfied with the exhaustive and thorough assessment undertaken by the ACCC, in particular the effect on competition (Section 7), the balance of public benefits and anti-competitive detriments (Section 9) and the conclusion reached at 9.9 viz:

*"Following consideration of the arguments advanced by Dairy WA and interested parties, the ACCC cannot be satisfied that the public benefits likely to result from the proposed arrangements are likely to outweigh the potential public detriments of those arrangements. Accordingly the ACCC proposes to deny authorisation to Dairy WA's application for authorisation".*

2. Coles Myer Supermarkets is supportive of collective bargaining operating under the ACCC guidelines as reinforced in the Australian Competition Tribunal decision in the National Foods case 16 August 2002. Coles Myer notes the findings at 6.41; 6.42 and 6.43 that collective bargaining groups (comprising separate processor-based negotiating committees) already exist in Western Australia under the ADF authorisation A90782.

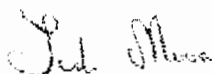
We reiterate that Coles Myer Supermarkets supports the collective negotiations under this authorisation. This is evidenced by the fact that we have not objected to the new ADF Ltd application A90966 for revocation and substitution to extend the period of immunity for a further five years.

We note that at 2.56 the ADF also considers that recent developments show far greater promise of an effective (win-win) outcome being achieved. Coles Myer Supermarkets agree with the Peters & Browne's and NFML submission at 7.48 and 7.49 and the ACCC findings at 7.50.

*"Should the proposed milk negotiation agency not receive authorisation, it is likely that WA dairy farmers will continue to collectively negotiate with a single processor, as they currently do under the terms of the ADF authorisation. Importantly at 7.51 "The ACCC notes the price differential and the various terms and conditions, offered by the different processors lead to a degree of competition between the collective bargaining groups. This level of competition contributes to the attainment of more efficient outcomes".*

Thank you for the opportunity to review the Draft Determination and support the conclusion reached by the Commission.

Yours sincerely



**Ted Moore**  
**Business Manager – Industry Relations**