

**OPENING STATEMENT TO THE ACCC
PRE-DETERMINATION CONFERENCE**

WE WISH TO THANK THE ACCC FOR HOLDING THE
PREDETERMINATION CONFERENCE TODAY IN RELATION TO THE
DAIRY WA APPLICATION FOR COLLECTIVE BARGAINING AND
BOYCOTT;

AND MORE PARTICULARLY, THAT THIS CONFERENCE IS BEING HELD
IN PERTH.

WE HAVE CAREFULLY READ THE DRAFT DETERMINATION AND
HAVE SOUGHT ADVICE FROM AN EMINENT ECONOMIST AND
WHILST WE HAVE HAD VERBAL ADVICE TO DATE, WE WILL PROVIDE
A WRITTEN REPORT AS SOON AS IT IS AVAILABLE. WE HAVE ALSO
SOUGHT A BARRISTERS ADVICE ON THE DRAFT DETERMINATION
WHICH IS PRIVILEGED.

WE UNDERSTAND THAT THE ACCC HAS THE FOLLOWING ISSUES
WITH THE DAIRY WA APPLICATIONS:

THE ACCC OBJECTS TO THE APPLICATION FOR COLLECTIVE
BOYCOTT

AS A NUMBER OF THE PANEL ARE AWARE, DAIRY WA WAS
EXTREMELY RELUCTANT TO APPLY FOR SUCH AN AUTHORISATION.

HOWEVER, THE ONLY REASON WE APPLIED FOR THE COLLECTIVE
BOYCOTT AUTHORISATION WAS ON THE INSISTENCE OF AN ACCC
OFFICER WHO STRONGLY ADVISED US TO NOT ONLY APPLY FOR
COLLECTIVE BARGAINING BUT TO ALSO APPLY FOR COLLECTIVE
BOYCOTT POWERS

WE HAD RAISED THIS AS A CONCERN WITH THE ACCC PREVIOUSLY.
YOU WILL NOTE THE AMBIVALENCE IN OUR APPLICATION AS TO
THE USEFULNESS OF A COLLECTIVE BOYCOTT POWER FOR A
HIGHLY PERISHABLE PRODUCT WHERE FARMERS HAVE NO
SIGNIFICANT ON FARM STORAGE CAPACITY AND DISPOSAL OF THE
MILK COULD POSE ENVIRONMENTAL PROBLEMS.

WE THEREFORE WITHDRAW OUR APPLICATION FOR COLLECTIVE
BOYCOTT.

THE CURRENT MARKET

- **THERE ARE FOUR MAJOR PROCESSORS**
- **NATIONALS, PBF, CHALLENGE AND HARVEY FRESH**
- **NATIONAL FOODS AND PETERS BROWNES CONTROL 70-75% OF THE MILK AND PAY PRICE ON SIMILAR TERMS AND CONDITIONS**
- **HARVEY FRESH HAS 10% OF THE MARKET AND PAYS A HIGHER PRICE**
- **CHALLENGE HAS THE BALANCE AND PAYS A LOWER PRICE, ACCEPTS SEASONAL MILK AND ON-SELLS ITS MILK TO THE OTHER PROCESSORS IF THEY REQUIRE ADDITIONAL SUPPLIES**

AGRGUABLY, IF THERE IS NO CHANGE IN VOLUMES:

- **NF AND PB SUPPLIERS WOULD NOT SWITCH BETWEEN THOSE PROCESSORS AS THERE WOULD BE NO ADVANTAGE TO DO SO
70-75% STAYS LOCKED IN AS THERE IS NO ADVANTAGE IN CHANGING**
- **CHALLENGE, NF AND PB SUPPLIERS MAY MOVE TO HARVEY FRESH BUT HF HAVE ONLY 10% OF THE MARKET AND COULD TAKE ONLY 2 OR 3 FARMERS AT MOST – SO THERE IS LITTLE IMPACT ON COMPETITION FOR FARMERS MILK**
- **HF, NF AND PB SUPPLIERS ARE UNLIKELY TO MOVE TO CHALLENGE AS THEY PAY A LOWER PRICE UNLESS THE SUPPLIERS WANT TO MOVE TO SEASONAL PRODUCTION BUT AGAIN, ONLY A SMALL NUMBER WOULD MOVE AS THERE IS LIMITED CAPACITY FOR SEASONAL MILK.**

THERE IS THEREFORE NO SIGNIFICANT CAPACITY FOR COMPETITION FOR DAIRY FARMERS MILK.

- **PARALLEL PRICING AT NF & PB WHO CONTROL 70% OF THE MARKET**
- **LITTLE OR NO CAPACITY TO NEGOTIATE AS THEY ARE LOCKED IN BY GEOGRAPHY, CONTRACT AND LACK OF PRICE COMPETITION**
- **IF FARMERS EXIT THE INDUSTRY OTHER FARMERS WOULD IN THE SHORT TERM PURCHASE THE HERDS OR CHALLENGE WOULD SUPPLY THE SHORTFALL**
- **AGAIN THERE IS NO LIKELIHOOD OF INCREASED COMPETITION.**

- **CHALLENGE SELLS MILK IN COMPETITION WITH EXISTING SUPPLIERS AND SETS A PRICE FLOOR IN TIMES OF SURPLUS AND REDUCES THE NEED FOR COMPETITION FOR SUPPLY AS VOLUMES BEGIN TO FALL.**

- **CHALLENGE WILL AS VOLUMES FALL, STABILISE THE INDUSTRY ON BEHALF OF THE PROCESSORS BUT WILL INHIBIT COMPETITION FOR THE PURCHASE OF DAIRY FARMERS MILK.**

THE CHANGE SCENARIO

- **PB'S AND NF CONTROL 70% OF THE MARKET AND PAY A BASICALLY SIMILAR AVERAGE PRICE WITH SIMILAR TERMS AND CONDITIONS. NF AND PB HAVE FIXED PRICES BELOW A SUSTAINABLE LEVEL DUE TO FARMERS STRUCTURAL INABILITY TO NEGOTIATE A CHANGE IN PRICE. THERE IS AN ASSUMPTION THAT THERE IS A READILY ACCESSIBLE SUPPLY OF SURPLUS MILK FROM CHALLENGE.**
- **FARMERS EXITS CONTINUE BUT THE CAPACITY OF OTHER FARMERS TO PURCHASE THE HERDS IS EXHAUSTED. FURTHER CAPITAL INVESTMENT (FOR ROTARIES AND OTHER EQUIPMENT) IS UNAVAILABLE BECAUSE OF THE LOW PRICES – BANKS WILL NOT LEND.**
- **NO NEW FARMERS ARE INTERING THE MARKET**
- **PB AND NF RELY MORE ON CHALLENGE FOR SUPPLY BUT CHALLENGE IS ASKING A HIGHER PRICE THAN THE PRICE PAID TO FARMERS**
- **PB & NF DO NOT WANT TO INCREASE THE PRICE PAID TO EXISTING OR NEW SUPPLIERS ON A PERMANENT BASIS**

THE MILK CAN THEREFORE ONLY COME DIRECTLY FROM CHALLENGE SUPPLIERS AS THEY ARE THE ONLY PROCESSOR PAYING A LOWER PRICE

- **PB'S & NATIONALS OPEN THE DOOR TO CHALLENGE SUPPLIERS AT THE SAME OR LOWER PRICES THAN THEIR CURRENT SUPPLIERS**
- **THIS GROUP OF 35 SUPPLIERS WILL ACHIEVE AN INITIAL PRICE INCREASE BUT AGAIN THIS ONLY FURTHER IMPEDES THE ABILITY OF FARMERS TO NEGOTIATE**

THE ACCC FURTHER AGGRAVATES THIS SITUATION WITH THE EXISTING AUTHORISATION BY LOCKING IN SUPPLIERS TO A SINGLE PROCESSOR WITH THE CURRENT COLLECTIVE BARGAINING AUTHORISATION. FARMERS CANNOT BE OUT OF CONTRACT AS THEY CANNOT STORE PERISHABLE PRODUCT.

THEREFORE THE CURRENT ADF AUTHORISATION ENSHRINES SUPPLIERS INABILITY TO COMPETE OR NEGOTIATE A FAIRER PRICE OR BETTER CONDITIONS

THE PB NF 70% MONOPSONY IS ANTI-COMPETITIVE AND THE ACCC SHOULD ACT TO ENCOURAGE COMPETITION IN THE WA MARKET PLACE