



Australian
Competition &
Consumer
Commission

Our Ref: C2005/496
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Dear

Dairy Western Australia's application for authorisation – A90962 - determination

The Australian Competition and Consumer Commission (the ACCC) has today issued a determination in respect of the application for authorisation lodged by Dairy Western Australia Ltd (Dairy WA) on 16 March 2005.

Dairy WA sought authorisation to establish a milk negotiating agency to collectively negotiate on behalf of dairy farmers who appointed it to bargain with processors and retailers for the supply of raw milk. Dairy WA originally applied for authorisation to collectively boycott processors in certain circumstances. On 30 November 2005, Dairy WA withdrew the application for authorisation of boycott provisions.

A copy of the determination is enclosed for your information. The determination is also available on the ACCC's website at www.accc.gov.au.

Summary of ACCC considerations

In making this decision, the ACCC considered the application and submissions from Dairy WA and interested parties and concluded that the potential public benefits likely to arise from the establishment of the proposed agency would be unlikely to outweigh the potential anti-competitive effects likely to be generated by the arrangements.

In particular, the ACCC was concerned that a number of features of the proposed milk negotiating agency have the potential to have a significant anti-competitive effect. The ACCC was particularly concerned over the potential for:



- the proposed milk negotiating agency to introduce industry-wide agreements and significantly depress competition between dairy farmers on matters such as price;
- the proposed arrangements to unduly restrict the ability of dairy farmers to deal with processors and limit their input into their milk supply contracts with the processors;
- the proposed milk negotiating agency to have a significant detrimental impact on Western Australian dairy processors and in particular the current milk balancing arrangements in the state.

The ACCC considers that the public benefits likely to arise from the proposed arrangements were likely to be minimal.

In its assessment of Dairy WA's application, the ACCC was mindful that Western Australian dairy farmers can continue to collectively bargain under the terms of the interim authorisation granted to Australian Dairy Farmers Ltd on 18 May 2005 pending the release of the ACCC's final determination in relation to ADF's application for authorisation of substitute authorisation A90966. As you may be aware, the ACCC in its recent draft determination has proposed to authorise the ADF collective bargaining arrangements for a further five years.

Application for review

In accordance with section 101 of the *Trade Practices Act 1974*, a person dissatisfied with this determination may apply to the Australian Competition Tribunal for a review of the determination. An application for review must be made within 21 days of the date of this determination - that is, on or before 13 March 2006. The Tribunal is located in the Office of the Registrar of the Federal Court in each state.

If no application to review is lodged by this date, the ACCC's determination will come into force on 14 March 2006.

This letter has been placed on the ACCC's public register. If you have any queries or wish to discuss any aspect of this matter, please contact Siobhán O'Gara on 08 9325 0608.

Yours sincerely

Scott Gregson
General Manager
Adjudication Branch

