



Our ref: C2005/496
Contact Officer: Siobhán O'Gara
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**Australian
Competition &
Consumer
Commission**

27 January 2006

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Ms Jenni Mattila
Jenni Mattila & Co
Lawyers
P O Box 1685
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Dear Ms Mattila

Re: Dairy WA – application for authorisation A90962

Thank you for your submission of 5 January 2006, together with the survey results, economist's analysis and other supporting documents, responding to the draft determination issued by the ACCC in respect to Dairy WA's applications for authorisation.

I note that you have advised that Dairy WA is unable to provide the business plan and pricing models for the proposed milk negotiating agency. While this information may have assisted the ACCC in its consideration of Dairy WA's application, following your advice the ACCC will proceed to final determination on the basis of the information which has been provided by Dairy WA.

I note that in its submission of 5 January 2006 Dairy WA has expressed concern that, should it have provided the business plan and pricing models to the ACCC, that the information would not have been excluded from the public register and accordingly would have disclosed information that was commercially sensitive to Dairy WA. Dairy WA has also expressed the view that this information was only being sought by the ACCC at the behest of other industry players, in particular certain processors in Western Australia. I would like to take this opportunity to clarify these matters.

As has been noted in previous correspondence, the ACCC is required by the *Trade Practices Act 1974* (the TPA) to maintain a public register of applications for authorisation and notifications. Documents may be excluded from the public register in accordance with sections 89 and 95 of the TPA. For your information I have enclosed a copy of the ACCC's Confidentiality Guideline.

As you would appreciate the ACCC cannot agree to exclude information from the public register without first sighting and considering the information. If the ACCC declines a request for information to be excluded from the public register it will notify the relevant party of that decision and will provide them the opportunity to withdraw the information prior to it being included on the public register.

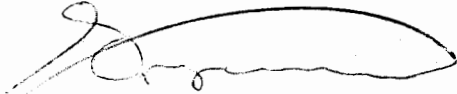


I note that should Dairy WA have chosen to provide the ACCC with copies of its business plan and pricing models an assessment as to whether to exclude the documents from the public register would have been made and, if denied, Dairy WA would have been given the opportunity to withdraw the information without the information having been disclosed.

I would further note that the business plan and pricing model were sought by the ACCC following receipt of Dairy WA's submission of 11 May 2005 as it was understood from this submission that the information may have assisted the ACCC in its assessment of Dairy WA's applications. Importantly, the ACCC has not sought information from Dairy WA at the behest or suggestion of any interested party(s).

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Susan Philp on 02 6243 1354 or Siobhán O'Gara on 08 9325 0608.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Scott Gregson', with a long, sweeping horizontal stroke extending to the right.

Scott Gregson
General Manager
Adjudication Branch