



**Australian
Competition &
Consumer
Commission**

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8 August 2007

A copy of this letter, with
enclosures, was posted to
the attached list of
interested parties.

SC 8/8/07

Dear

Applications for authorisation A91051-3 lodged by National Foods Ltd (National Foods) and Australian Co-operative Foods Ltd (Dairy Farmers) – draft determination and interim authorisation

The Australian Competition and Consumer Commission (the ACCC) has issued a draft determination in respect of the applications for authorisation lodged by National Foods and Dairy Farmers on 2 June 2007. Attached is a summary of the authorisation process including how to make a submission to the ACCC.

National Foods and Dairy Farmers are seeking authorisation in relation to a joint tender process for milk haulage services in South Australia.

Draft determination

A copy of the ACCC's draft determination is attached, including a summary of its reasons. For the reasons set out in its draft determination, the ACCC proposes to grant authorisation to applications A91051 and A91053 for an agreement between National Foods, Dairy Farmers and the successful tenderer not extending beyond 31 December 2014. The ACCC proposes to deny authorisation to application A91052. The ACCC's assessment is set out in Chapter 5 of the draft determination on pages 12 to 21.

Interim authorisation

The ACCC initially denied interim authorisation on 4 July 2007. The ACCC has now reconsidered the matter, and has decided to grant interim authorisation to allow National Foods and Dairy Farmers to commence joint negotiations with the successful tenderer about the proposed milk haulage arrangements. Interim authorisation will protect the proposed arrangements from action under the *Trade Practices Act 1974* until the date the ACCC's final determination comes into effect or until the ACCC decides to revoke interim authorisation.

Next steps

Once the ACCC issues a draft determination, the Applicants or any interested party who may be dissatisfied with the ACCC's draft determination may request that the ACCC convene a 'pre-decision conference'. A pre-decision conference provides the opportunity for interested parties to make oral submissions in relation to the draft determination. Conferences are

conducted informally and while legal or professional advisers are able to attend they are not entitled to participate in the discussion.

If you wish the ACCC to hold a pre-decision conference in relation to the draft determination, you must notify the ACCC in writing by **24 August 2007**.

Alternatively, you are invited to make a written submission in response to the ACCC's draft determination. Submissions should be lodged by **31 August 2007**.

The ACCC will consider any submissions it receives, including any oral submissions made should a pre-decision conference be called, and will then release a final determination in relation to these applications.

Submissions will be placed on the ACCC's public register subject to any request for exclusion (guidelines are attached).

Timetable

The ACCC will continue to progress its assessment of the application in a timely manner. An updated indicative timetable is set out below for your information.

4 June 2007	Lodgement of application and supporting submission.
6 June 2007	Public consultation process begins.
4 July 2007	ACCC initial decision regarding interim authorisation.
8 August 2007	Draft determination and further ACCC decision regarding interim authorisation.
August / September 2007	Public consultation on draft determination including any conference if called.
September / October 2007	Final determination.

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 Sharon Clancy on (02) 6243 1217.

Yours sincerely

Darrell Channing
Director
Adjudication Branch

**Applications for authorisation A91051, A91052 and A91053
lodged by National Foods and Dairy Farmers**

List of interested parties - 8 August 2007

Australian Dairy Farmers Limited
Barossa Mid-North Cooperative Dairymen Limited
B-d Farms Paris Creek Pty Ltd
Booth Transport Pty Ltd
Dairy Authority of South Australia
Dairy Industry Association of Australia
De Cicco Industries Pty Ltd
Fonterra Co-operative Group Limited
Kalari Pty Ltd
McColl's Transport Pty Ltd (Pure Logistics)
Murry Goulburn Cooperative Co Ltd
National Farmers' Federation
Primary Industries and Resources SA
SA Dairyfarmers' Association Inc
SA Milk Haulage
South Australian Farmers' Federation
SRH Haulage Pty Ltd
STD Illman Pty Ltd
United Dairy Power
Warrnambool Cheese and Butter Factory Co Ltd