

10 September 2008

Our Ref: KXE:DA1695/22
Your Ref: C2008/850

Dr R Chadwick
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Dear Dr Chadwick

Authorisation Application lodged by Dairy Farmers Milk Co-operative Limited (DFMC) and Australian Cooperative Foods Limited (ACF) dated 22 May 2008 (Authorisation Application)

This letter responds on behalf of DFMC and ACF to the matters raised in the submission received by the Commission from the Chairman of the Fleurieu Collective Bargaining Group on 9 September 2008 in response to DFMC's and ACF's amended Authorisation Application (**Fleurieu Group Submission**).

The Fleurieu Group Submission expresses concerns that:

- the questions posed in the submission require "satisfactory answers" in order to determine whether the Revised Farmer Supply Contracts will be "fair and not pose barriers to trade"; and
- "some of the contractual conditions of supply may be detrimental to the suppliers of raw milk".

DFMC and ACF submit that the Revised Farmer Supply Contracts neither pose any barriers to trade, nor are detrimental to the suppliers of raw milk. The reasons for this are contained in sections 11 and 12 of our submission dated 22 May 2008. In particular:

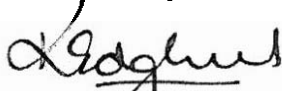
- 1 Entry into the Revised Farmer Supply Contracts is voluntary, and they are for relatively short periods of 2 or 3 years (which period is at the farmer's election). No farmer will be forced to enter into a Revised Farmer Supply Contract;
- 2 Farmers will be free to supply ACF directly (or any other processor) if they are not contractually bound to supply to DFMC and they choose not to enter into a Revised Farmer Supply Contract;
- 3 The volumes of milk sought to be secured through the entry of farmers into Revised Farmer Supply Contracts is a lesser proportion than that supplied by farmers to DFMC for the 2007/2008 financial year;

- 4 The Revised Milk Supply Agreement between DFMC and ACF will continue to oblige ACF to pay a commercial price for milk and, should authorisation be granted by the Commission for the implementation of 'back to back pricing', it is that commercial price which will be paid by DFMC to its raw milk suppliers;
- 5 Farmer members of DFMC will continue to compete across regions and in terms of matters such as quality;
- 6 Farmer members of DFMC will continue to have direct access to DFMC's services and to ACF (through the provision of field services) to enhance their competitiveness;
- 7 Farmer members of DFMC who enter into Revised Farmer Supply Contracts will have security of milk off-take and will have certainty of pricing for the 2009/2010 and 2010/2011 financial years; and
- 8 The offer of Revised Farmer Supply Contracts will assist in ensuring the viability of the dairy industry by reducing the likelihood of farmers leaving the industry once ACF is sold and the proceeds of such sale are made available to them.

DFMC and ACF do not consider that it is necessary to respond directly to the questions posed in the Fleurieu Group Submission as the answers to such matters are largely irrelevant to the matters required to be considered by the Commission, or are matters of which the Commission will be aware from its review of the copies of the Revised Farmer Supply Contracts provided to it. However, DFMC and ACF note that:

- when a Revised Farmer Supply Contract is offered to a farmer, the farmer will be provided with details of the pricing which, subject to authorisation by the Commission, will be paid pursuant to the contract ;
- the Revised Farmer Supply Contracts will be for defined volumes of milk. The volumes of milk which will be the subject of individual farmer contracts will be a matter between DFMC and each farmer; and
- participation in any capital distribution by DFMC from the sale of ACF will be governed by DFMC's rules.

Yours faithfully



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