



**Australian  
Competition &  
Consumer  
Commission**

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Our Ref: C2008/850  
Contact Officer: Monica Bourke  
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25 September 2008

*This letter, with  
enclosures, was posted  
to the attach list of  
interested parties.  
KR 25/09/08*

Dear Sir/Madam

**Authorisation Application lodged by Dairy Farmers Milk Co-operative Limited (DFMC) and Australian Co-operative Foods Limited (ACF) [A91089] – draft determination and interim authorisation**

The Australian Competition and Consumer Commission (the ACCC) has decided to grant interim authorisation and has issued a draft determination in respect of the application for authorisation lodged by Dairy Farmers Milk Co-operative Limited (DFMC) and Australian Co-operative Foods Limited (ACF).

**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, for five years, for the inclusion of the back to back milk purchasing policies and back to back pricing arrangements contained in clauses 4.4, 4.6.2 and 5.6 of the amended Milk Supply Agreement which will take effect as and from the Scheme Implementation Date. The ACCC also grants interim authorisation to allow the applicants to offer, and enter into, Revised Farmer Supply Contracts which include agreed prices.

**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 **9 October 2008**.

Alternatively, you are invited to make a written submission in response to the ACCC's draft determination. Submissions should be lodged by **14 October 2008**.

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 the application.

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.

<b>22 May 2008</b>	Lodgement of application and supporting submission.
<b>28 May 2008</b>	Public consultation process begins.
<b>9 June 2008</b>	Closing date for submissions on interim authorisation.
<b>18 June 2008</b>	ACCC denied initial request for interim authorisation.
<b>27 June 2008</b>	Closing date for submissions from interested parties on substantive application.
<b>7 July 2008</b>	Applicants respond to issues raised in the public consultation process.
<b>27 August 2008</b>	Meeting with the applicants' to discuss amendments to its application for authorisation.
<b>29 August 2008</b>	Applicants lodge amended application for authorisation.
<b>2 September 2008</b>	Applicants provide public submission supporting amended application.
<b>3 September 2008</b>	Public consultation on amended application and request for interim authorisation begins.
<b>9 September 2008</b>	Closing date for submissions from interested parties.
<b>25 September 2008</b>	Draft determination issued and interim authorisation granted.
<b>9 October 2008</b>	Deadline for requesting a pre-decision conference
<b>14 October 2008</b>	Closing date for submissions on draft determination.
<b>November 2008</b>	Final determination

**Interim authorisation**

As noted in the draft determination, the ACCC has decided to grant interim authorisation to allow the applicants to offer, and enter into, Revised Farmer Supply Contracts which include agreed prices consistent with the back to back pricing policies.

The ACCC may review its decision on interim authorisation at any time. The ACCC's decision in relation to interim authorisation should not be taken to be indicative of whether or not final authorisation will be granted by the ACCC.

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 Monica Bourke on (02) 6243 1351.

Yours sincerely

A handwritten signature in black ink, appearing to be 'R. Chadwick', with a long horizontal stroke extending to the right.

Dr Richard Chadwick  
General Manager  
Adjudication Branch

**Interested parties consulted**

7-11

ABARE

ALDI

Attiki Dairy Products

Australian Dairy Farmers

Australian Dairy Products Federation

Bega

Bidvest

Brancourts

Cadbury

Challenge Dairy Co-Operative

Coca Cola Amatil

Coles

Department of Agriculture, Fisheries and Forestry

Department of Primary Industries

Department of Primary Industries and Fisheries

Department of Primary Industries and Resources

Department of Primary Industries Water and Environment

Fonterra Group Co-Op

Food and Agriculture Division

Harvey Fresh

Jalna

Kraft

McDonalds

Metcash Trading Limited Australasia

Mobil

Murray Goulburn

National Foods

Nestle

NSW Farmers Association Dairy

Norco

Nudie

Parmalat

PFD

Progressive Collective Bargaining Group (Qld)

Queensland Dairyfarmers' Organisation Ltd

Regal Dairies (Bulla)

Sanitarium

South Australian Collective Bargaining group

South Australian Dairy Association

Southern Collective Bargaining Group

Starbucks

Taree Collective Bargaining Group

Tatura

United Dairy Power

Warnambool Cheese and Butter Company

Woolworths

United Dairy Farmers of Victoria