

12 April 2013

Your Ref:
Our Ref: KBE: 94200

Mr David Hatfield
Australian Competition and Consumer Commission
23 Marcus Clarke Street
CANBERRA ACT 2601

By email david.hatfield@acc.gov.au

Dear Mr Hatfield

Collective Bargaining Notifications CB281 and CB282
Notifications under section 93AB of the Competition and Consumer Act 2010
Applicant: Mr Tim Bale
Targets: Woolworths Limited; Milk2Market Pty Limited

Thank you for the opportunity to respond to the matters raised in the submission received from Australian Dairy Farmers Limited (ADF) .

The applicant does not wish to canvass every point made by the ADF but rather makes the following comments:

1. The applicant and the farmers he represents largely agree with the comments made by the ADF regarding the effectiveness of collective bargaining between farmers and processors but it should be noted that, on occasion, both Lion and Parmalat have refused to deal with the Manning Valley Collective Bargaining Group.
2. Insofar as the ADF considers that retailers will be in a stronger position than processors, when compared to farmers, the applicant and the farmers he represents consider that any such disparity between the power of processors versus the power of retailers does little to change the dynamic for the farmers involved - both processors and retailers as large corporates are in a superior bargaining position to individual farmers.

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3. The ADF submission compares the current notification in which the target is Woolworths with the UK experience of direct retailer contracts. The applicant and the farmers he represents do not consider that such a comparison adds anything to the matters under consideration by the Commission, which must be confined to the effect and benefits of the specific conduct which is the subject of the notifications. In any event, they submit that the UK model differs from the situation which is the subject of the notification and that the analysis presented by the ADF in its submission is not entirely consistent with independent analysts' reports on the subject.
4. There are a number of issues raised by the ADF about the contents of the agreements to be negotiated between the farmers and Woolworths. These are matters which are to be the subject of commercial negotiation and are not matters with which the applicant and the farmers he represent believe the ADF should be concerned.
5. The applicant notes the comments regarding his (Mr Bale's) role and repeats that he would be willing to step down from his role on the broader Manning Valley Collective Bargaining Group should that be required. It should be noted, however, that this has not been a concern of the wider membership of CBG itself, which has continued to ask that Mr Bale continue to fulfil both roles.
6. To the extent that the ADF submission contemplates an extension of its authorisation to cover retailers the applicant notes that this is a matter for the ADF and that, in principle, he and the farmers he represents would support such an extension (subject, of course, to considering its terms) to facilitate CBG-retailer direct negotiations in the future .

Should the Commission have any further questions please do not hesitate to contact me.

Yours faithfully
TRUMAN HOYLE

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