

Our Ref: C2013/220
Contact Officer: Anna Giannakos
Contact Phone: (03) 9290 6920



**Australian
Competition &
Consumer
Commission**

3 July 2013

GPO Box 3131
Canberra ACT 2601

23 Marcus Clarke Street
Canberra ACT 2601

tel: (02) 6243 1111
fax: (02) 6243 1199

Dear Sir/Madam

www.accc.gov.au

Dairy Farmers Milk Co-operative Limited application for authorisation A91364 – Final determination

The Australian Competition and Consumer Commission (the ACCC) has issued a determination in respect of the application for authorisation lodged by Dairy Farmers Milk Co-operative Ltd and Dairy Farmers Pty Ltd on 8 March 2013.

The applicants sought authorisation for back to back milk purchasing policies and back to back milk pricing arrangements between DFMC, DFMC members and Lion. The applicants state that the Back to Back Arrangements mean that:

- DFMC must adopt the same milk purchasing policy (including price structure) in relation to its acquisition of milk from its members as Lion applies to its purchase of milk from DFMC (**clause 4.4**)
- DFMC must sell milk it acquires from farm members to Lion on the same terms and conditions relating to payment, pricing, collection and quality as contained in its farmer contracts (**clause 4.6.2**), and
- DFMC must adopt the same milk price in relation to the purchase by DFMC from its farmer suppliers of milk as DFMC receives from Lion for the milk it sells to Lion (**clause 5.6**).

A copy of the ACCC's determination is attached, including a summary of its reasons. For the reasons set out in its determination, the ACCC has decided to grant authorisation for ten years.

Application for review

Pursuant to section 101 of the *Competition and Consumer Act 2010*, a person dissatisfied with this determination may apply to the Australian Competition Tribunal for its review. An application for review must be made within 21 days of the date of this determination; that is, on or before 24 July 2013. If no application to review is lodged by this date, the ACCC's determination will come into force on 25 July 2013.

An application for review of the ACCC's determination should be lodged directly with the Australian Competition Tribunal. The Australian Competition Tribunal is a separate body from the ACCC and is located within the Federal Court of Australia.

For further information about the process involved in reviewing decisions in the Australian Competition Tribunal please refer to the tribunal's website located at <http://www.competitiontribunal.gov.au/>.

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 Anna Giannakos on (03) 9290 6920 or by email at anna.giannakos@accc.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read "D. Hatfield". The signature is written in a cursive style and is positioned above the printed name and title.

David Hatfield
Director
Adjudication Branch

A91364 Dairy Farmers Milk Co-operative Authorisation Final determination – Interested party list

Organisation
Aussie Farmers Direct
Australian Dairy Farmers
Bega Cheese
Brancourt
Bulla
Burra Foods
Coles
Dairy Australia
Australian Government Department of Agriculture, Forestry and Fisheries
Fonterra
Fresh Cheese (The Provedore Grp)
Hastings Co-operative
Longwarry Food Park
Milk Powder Solutions
Murray Goulburn Co-op
NORCO
NSW Government – Department of Primary Industries
NSW Farmers Federation (Dairy)
Paesanelle Dairy Cheese
Parmalat
Premium Cheese
Queensland Dairyfarmers' Organisation
Queensland Government - Department of Agriculture, Forestry and Fisheries
Richmond Dairy
South Australian Dairy Farmers' Association
South Australian Farmers Federation
South Australian Government – Department of Primary Industries and Regions SA
UDP
Ultimate Dairies
Victorian Government – Department of Primary Industries
Victorian Farmers Federation - Dairy

Organisation
Warrnambool Cheese & Butter Company
Woolworths