



**Australian
Competition &
Consumer
Commission**

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Contact Officer: Saraj Bhullar
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30 March 2016

David Losberg
Senior Policy Manager
Australian Dairy Farmers

By email: dlosberg@australiandairyfarmers.com.au

Dear Mr Losberg

Collective Bargaining Notifications CB326-CB327 lodged by Manning Valley dairy farmers – interested party consultation

Introduction

The Australian Competition and Consumer Commission (the ACCC) has received two collective bargaining notifications from a group of seven Manning Valley dairy farmers relating to the sale of raw milk to Woolworths and/or Milk2Market.

The purpose of this letter is to provide you with an opportunity to comment, as a party who may be interested in these proposed collective bargaining arrangements.

Collective bargaining notification process

The ACCC is the Australian Government agency responsible for administering the *Competition and Consumer Act 2010* (the Act). The broad objective of the Act is to benefit all Australians by promoting competition and to ensure consumers are treated fairly.

The competition provisions of the Act prohibit certain forms of anti-competitive agreements or conduct including agreements which typically occur during collective bargaining.

Collective bargaining refers to an arrangement where one or more competitors in an industry come together to negotiate terms and conditions (including price) with a supplier or a customer.

While the Act prohibits certain forms of anti-competitive conduct, it does recognise that conduct which may otherwise breach the Act may, in some circumstances, be of benefit to the public. The Act accordingly allows businesses that are considering engaging in anti-competitive arrangements to seek immunity from legal action. One way businesses may obtain immunity to engage in collective bargaining and collective boycott conduct that may be at risk of breaching the Act is to lodge a notification with the ACCC.

Once a notification has been validly lodged with the ACCC, immunity from legal action in respect of the notified conduct commences 14 days after the notification was lodged, unless the ACCC issues a draft objection notice proposing to prevent the immunity coming into effect.

The ACCC may proceed to remove the immunity provided by a collective bargaining notification where it is satisfied that the likely benefit to the public from the proposed conduct will not outweigh the likely detriment to the public from the proposed conduct.

Collective bargaining notifications lodged by Manning Valley dairy farmers

On 16 March 2016, a group of seven Manning Valley dairy farmers lodged two collective bargaining notifications concerning collectively negotiating the terms and conditions of raw milk supply agreements to be entered into between each of the participants and Woolworths and an agreement which deals with the obligations of the parties to work cooperatively to meet Woolworth's requirements. It is proposed that a representative of the participants will negotiate the terms and conditions of the supply agreements with Woolworths and/or its agent, Milk2Market. It is also proposed that the participants may collectively negotiate with and sell milk to Milk2Market.

Manning Valley dairy farmers had existing notifications (CB281 and CB282) covering the similar conduct. The immunity from the legal action provided by notifications CB281 and CB282 expired on 25 March 2016.

Manning Valley dairy farmers have lodged two new collective bargaining notifications (CB326 and CB327) so that they can continue to collectively bargain with Woolworths and Milk2Market in future.

The immunity from legal action provided by notifications CB326 and CB327 commenced on 30 March 2016.

A copy of the collective bargaining notifications are enclosed for your information and are also available on the ACCC's website at www.accc.gov.au.

Request for submissions

To assist the ACCC in its consideration of the notifications it would be helpful to obtain your comments on the likely public benefits and the likely effect on competition, or any other public detriment, from the proposed arrangements.

The ACCC asks for submissions to be in writing so they can be made publicly available. They are placed on a public register for this purpose.

Persons lodging a submission with the ACCC may request that information included in the submission be excluded from the public register in certain circumstances. Please see the ACCC's publication [Guidelines for excluding information from the public register](#).

If you wish to lodge a submission, please address your submission to:

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission

Submissions can be lodged by email to adjudication@acc.gov.au. If relevant, please provide a preferred email address for any future correspondence from the ACCC.

Please ensure that any submission is lodged with the ACCC by **Wednesday, 6 April 2016**.

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 Saraj Bhullar on 03 9290 1941.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'G Jones', with a stylized flourish extending to the right.

Gavin Jones
Director
Adjudication