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Tuesday, 9 March 2021

Mr Robert Janissen

Queensland Dairyfarmers' Organisation Ltd 'Fair Go Dairy' Licensing Scheme

Australian Competition and Consumer Commission

Via: exemptions@accc.gov.au
cc: robert.janissen@accc.gov.au

Dear Mr Janissen

RE: *Queensland Dairyfarmers' Organisation Ltd 'Fair Go Dairy' Licensing Scheme – AA1000530.*

In September 2020, the Australian Competition and Consumer Commission (the ACCC) received an application for authorisation from the Queensland Dairyfarmers' Organisation (QDO) for a licensing scheme for processors of milk and dairy products to apply a 'Fair Go Dairy' Logo to their products (the Scheme). The ACCC Draft determination and interim authorisation followed in December 2020, along with the QDO proposing a revised method for calculating the Sustainable and Fair Farmgate Price (SFFP) in January 2021.

Norco Co-operative Limited provides this letter to the Australian Competition and Consumer Commission's (ACCC) on the Queensland Dairyfarmers' Organisation Ltd 'Fair Go Dairy' Licensing Scheme – AA1000530, noting a final decision will be made by the end of March 2021.

As a member of the Australian Dairy Product Federation (ADPF), our business supports the broad principles of the ADPF submissions.

The ADPF does not support the proposed application for the Licensing Scheme and would request the ACCC does not grant authorisation. The risks of introducing the Scheme outweighing any consumer or industry benefit.

The rationale:

1. The methodology underpinning the Licensing Scheme are flawed:

- The rationale for the 80% Qld milk hurdle is unfounded and discriminates against companies and products that may be of the same or higher quality due to the location of their farmers. It fails to recognise the need of interstate milk fulfilling consumers demand for drinking milk, as well as the value, support and investment these companies provide back to the sustainability of farmers.

- The proposed methods for calculating the SFFP are biased and fail to recognise the many variables that inform farmgate milk pricing (FMP) and lie in the commercial terms of trade between contracting parties – with the most recent revisions proposed further exacerbating this lack of understanding of FMP and highlighting a failure in the Scheme before it has even started.

2. The SFFP is unrealistic and unsustainable, and in turn unfairly impact competition and distorts the market:

- Currently only smaller QLD only based processors qualify (~4.5% of QLD milk sales) – which could result in consumers moving away from historical brands, and damage brands and pricing in QLD.
- The Scheme can discriminate against products for which the farmer *does* receive a fair farm-gate milk price, but the processor has not opted to purchase the 'Fair go Dairy' logo.
- The implications of announcing *Sustainable and Fair Farm-gate prices* by the end of February each year could impact the minimum pricing requirements that need to be published on 1 June each year, as per the Dairy Code of Conduct.
- The Scheme has the potential to further impact the market imbalance and bargaining power asymmetry between retailers and dairy processors, in trying to achieve the SFFP.

3. The Scheme risks consumers being misled:

- The proposed price QDO determines to be 'fair' is likely to be much higher than what is required to be 'fair', and/or falsely communicates what is happening in the marketplace.
- As stated above, the criteria can discriminate against products for which the farmer does receive a fair farm-gate milk price, but the processor has not opted to purchase the 'Fair Go Dairy' logo.
- The suggested expansion onto other products and into other states runs the risk of exacerbating this even further.

Dairy processors are highly committed to creating a thriving and trusted industry, delivering jobs, economic growth and helping people to live well – ultimately built on the value of dairy being recognised throughout the Australian community.

The interdependencies between farmers, processors and retailers are critical to ensure all elements of the industry operate efficiently.

However dairy, like other Australian food industries, cannot carry undue regulatory costs or the negative impacts of ill-conceived policy on business costs such as loss of market opportunities and/or deterrence of innovation and investment.

QDO wants greater transparency around FMP and for consumers to understand what a fair price for milk is, to make more informed purchasing decisions.

We believe current labelling and advertising provisions around product origin; the introduction of the Dairy Code of Conduct; and the ADPF Milk Value Portal on farmgate milk pricing and the value of raw milk – all provide greater insights on FMP and transactions between dairy farmers and processors.

Farmgate milk pricing, is a carefully considered mechanism influenced by a number of variables, and firmly lies in the commercial terms of trade between contracting parties. It incorporates, but is not limited to freight costs, product mix, marketing strategies, manufacturing capacity utilisation and efficiencies, and exchange rate hedging policies. In addition, competition for milk in different production zones has proven to impact farmgate milk pricing, often to the advantage of the seller (i.e., dairy farmer).

Having a pricing strategy set by farmers based on cost of production fails to recognise these variables, nor the importance of continuous improvement, innovation or efficiency for the industry to remain operational.

Dairy processors are supportive of sound policy principles and decisions that foster innovation and the future viability of the dairy industry.

We raise grave concerns over the application by QDO for the 'Fair go Dairy' Licensing Scheme and are calling for the ACCC to not approve their application.

We look forward to partnering with you on a way forward, and refer you to Janine Waller, ADPF Executive Director at info@adpf.org.au should you have any particular questions in relation to this letter.

Yours sincerely,

NORCO CO-OPERATIVE LIMITED



MICHAEL HAMPSON

Chief Executive Officer