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Public Facing Submission

AA1000530 – QDO Submission – Norco Response

Dear interested party,

Norco Co-operative Ltd provides this submission in relation to the Queensland Dairyfarmers' Organisation Limited (QDO) application AA1000530. We understand that the authorisation is for a licensing scheme to apply a 'Fair Go Dairy' device to milk and other dairy products.

The detail within this submission outlines Norco Co-operatives concerns with the proposal of the 'Fair Go Dairy' device, and wishes to take this opportunity to outline why Norco believes that the proposed use of this communication device is potentially misleading to consumers and may place Norco, a 100% Australian farmer owned dairy co-operative, at a distinct disadvantage.

We respond in accordance with the ACCC requests on the following points:

1. Any likely benefits to the public resulting from the arrangements

- Norco does not see any benefit from the roll out of the 'Fair Go Dairy' device to the public and in fact suggests that the use of the device may place the consumer at a disadvantage.
- The device is misleading in that it is only applicable to those processors that are able to meet the strict, unfair and bias criteria of the proposed scheme. As a result the scheme is discriminatory to those processors, such as Norco, that source milk from both NSW and QLD to meet customer demand.
- The proposed 'Fair Go Dairy' device does not include a disclaimer or explanation outlining to the shopper the rules imposed on the processor to be eligible to use the device *(i.e. 80% of unprocessed milk purchased from a farmer where the farmer's farm is located within QLD, the milk is derived from dairy cows located within QLD, the purchase price for the milk (per litre) is not less than the SFFP and no milk used in the products may be sourced from outside of Australia)* and as a result does not inform the consumer of the complete information and offer a level of transparency that allows a consumer to make an informed decision around their choice of product.

2. **Whether the 'Fair Go Dairy' logo will assist consumers to identify which dairy products are made using milk on which farms are paid an SFFP**

- Norco believes that the proposed use of the 'Fair Go Dairy' device does not assist consumers, rather adds an additional layer of confusion and is misleading.

- The words themselves are misleading, as it suggets that others that do not carry the logo are not providing the farmer with a "fair go" – this is misleading - a "fair go" is difficult to be explained in the context of a device to go on the packaging of a consumer product. The very syntax of the device may suggest much more than what qualification for the logo actually provides. What "fair go" means is very different for many people, and the use in this example would not be consistent with the criteria that is required to be met in order to use the device.

- The cost of production changes significantly and rapidly on farm. The SFFP benchmark is formulated once per year, and has CPI applied from the last year, yet does not take into consideration significant mid year changes in the cost of on farm milk production. This will mislead consumers, as there will be processors that are paying a price that is above the cost of production on farm (the underlying value of the SFFP benchmark) that will not be able to utilise the device, as the SFFP benchmark is outdated and not contemporary to the current conditions.

- Conversely, if a processor had qualified to use the device at the start of the financial year, and they did not increase their price when actual farm costs increased, then consumers would be misled as the farm gate milk price may not have been higher than the cost of production.

- All processors have payment systems that have an available price based on the highest quality, componentary and volume supplied from a farm. It is very possible that the processor can have a payment system that would enable a farmer to receive a price for their milk that exceeds the SFFP, however the farmer may choose to farm in a different way that does not see them access the payment available. The implementation of the 'Fair Go Dairy' device will see processors effectively discriminated against by collecting milk from such farms, as it may dilute the average price paid to a value below the SFFP. This could in turn cause pressure to rationalise the collection of milk, and may see some farmers have a reduced number of options for the sale of their milk, which would have adverse industry consequences for the farmers of Queensland.

- To quote section 3.1 point (i) in the application for authorisation document: *"The Trade Mark is aimed at providing price information and pricing transparency to consumers by way of a simple trade mark placed on product packaging. <u>This will enable consumers to better understand what they are paying for and where their money goes</u>, in order that they will make more informed purchasing decisions."* This statement is false and misleading. The device, even taken on face value, cannot possibly provide this assurance to consumers, as the SFFP is not the only part of the value chain, or indeed how farmers can derive value.

- It must be noted that the proposed ‘Fair Go Dairy’ device fails to highlight the additional benefits beyond milk price that a co-operative, such as Norco, delivers to its farmer members as well as to the wider community. As a 100% Australian farmer owned dairy co-operative, where the farmer is the owner of the entire supply chain, the farm gate milk price is high and profits are reinvested back into the entity of the farmer owned supply chain i.e. farmer owned processing facilities. Even if Norco were eligible for the scheme, the ‘Fair Go Dairy’ device and SFFP fails to highlight to the consumer the additional value that our farmers are able to derive through programs such as:

  - Norco’s patronage schemes, of which provides an addititional $1.5m to its farmer members through subsidies/discounts on produce
  - Interest free terms for the procurement of fodder and supplies
  - The dividend that Norco provides to its farmer members in addition to its high farm gate price
  - The increased value derived in the brands that are owned by the farmer
  - The increased farmer wealth from shares over time held in the Norco business.

3. Any impact of the scheme on dairy retail prices in Queensland

- The establishment of a specific scheme such as this places Queensland retail dairy prices at risk of inflation due to the potential significant investment of processors required to meet the requirements of the scheme. This would likely result in increased prices at the shelf, impacting the consumer and processors ability to be competitive in the marketplace.

- Additionally the idea of the beneficiary or an advocacy group that represents only one aspect of the value chain of the product, being able to source protection from the Government to charge a licensing fee to other members of the value chain, and be the approval entity of participation in the scheme, does not appear appropriate. Any scheme should have independence for there to be no conflict of interest.

4. The method for how QDO proposes the SFFP will be calculated

- The proposed method for how the QDO will calculate the SFFP is not appropriate. The SFFP is a calculated average and the true number is different for all farms (large farms, small farms, efficient farms, inefficient farms) and as a result, the SFFP and the Fair Go Dairy device, looks to install inefficiency in the supply chain on a permanent basis. In all probability, funded by consumers via increased prices.

- The costs incured on farm are a result of a number of items, with efficiency of conversion of feed to milk solids a key item. This is improved by a number of items that are available to the farmer, whom needs to invest in these items in order to achieve higher returns. The Fair Go Dairy device does not encourage this investment in on farm efficiency, as the SFFP does not consider the output of the on farm cost expenditure in the underlying data – it looks at one dimension – input cost, but misleadingly omits output productivity, plus sets an ongoing price floor that discourages efficiency.

- We have raised the point regarding the lag effect of not being able to incorporate changes to the cost of production within a 12 month period. Therefore, the method of calculation to determine what actually is a true SFFP is not represented via the calculation in the QDO submission. For example the recent favourable weather events and changing market dynamics have resulted in reduced grain prices and higher yields of on farm produced feed, meaning that the 71cpl proposed as the SFFP is over inflated and misleading to the consumer.

5. Any harm or improvements to competition which may result from the arrangements, this may include competition at the farmgate, wholesale or retail levels of the supply chain

- We would foresee that there could be an advantage for those that can access such a device, over someone who cannot. The device provides the consumer with a beacon directing them to what they would have it believe are the only brands that support farmers. This is misleading as a brand that pays the farmer more, or creates other value for farmers can be excluded based on the scheme rules.

6. Any other impact of the scheme on the farmgate prices for milk in Queensland

- We are of the understanding that the underlying data that is used is based on submissions from farmers. The Fair Go Dairy device attempts to install a price that is higher than the costs. There is a clear conflict, in that the beneficiary provides the underlying cost data that then determines their revenue.

- This scheme may also have the effect of reducing the volume of milk sourced out of Queensland altogether, placing Queensland farmers at a disadvantage. There is the potential that large processors who represent the majority of farmers to potentially seek to exit the collection of milk in Queensland as the scheme SFFP and its escalations, in all probability, will create the environment where Queensland milk is too expensive verses transporting milk from other states. This would have an adverse effect on the Queensland dairy industry.

7. **Whether and how many processors are likely to participate in the scheme, and the reasons for this**

   - The scheme as it is currently constructed is discriminatory, and benefits only a number of smaller Queensland based processors.

   - Processors have invested significantly in their brands over a number of years, and it could be possible that some erosion of this brand value occurs via the introduction of this device.

8. **The 10 year term of authorisation sought**

   - Norco is of the opinion that authorisation should not be provided however in the event that authorisation proceeds, a 10 year term is too excessive. The reference in the application to a brand taking five years to become established is based on no research or evidence. In our opinion, if authorisation proceeds, which we object, the term of authorisation should be one year and at most, two years.

We respectively seek that the ACCC refuses the application, and direct the QDO to engage with key members of the industry to provide a more workable solution.

Yours sincerely,
NORCO CO-OPERATIVE LIMITED

Michael Hampson
Chief Executive Officer