

17 December 2015

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Dear Alex

Goodman Fielder – Cross-submission on the Dairy Competition Review Draft Report, 18 December 2015

1. Introduction

- 1.1 Goodman Fielder welcomes this opportunity to make a cross-submission in relation to the Commerce Commission's (**Commission's**) draft report in relation to its review of the state of competition in the New Zealand Dairy Industry (**Draft Report**).
- 1.2 Goodman Fielder maintains that:
- (a) no raw milk supplier other than Fonterra could currently guarantee Goodman Fielder with year round raw milk supply; and
 - (b) until competition develops at the factory gate, Goodman Fielder will remain reliant on its entitlement to raw milk supply from Fonterra to compete downstream.
- 1.3 Accordingly, Goodman Fielder submits that it should continue to be provided access to guaranteed supply of up to 250 million litres of raw milk from Fonterra each season until a viable alternative source of year round raw milk supply develops.

2. Relevant Submissions

- 2.1 The Draft Report suggests that an option to transition to deregulation would be to reduce Goodman Fielder's access to raw milk under the DIRA Regulations (which it is suggested may provide sufficient incentive for Goodman Fielder to consider alternative supply options for own supply and factory gate supply outside regulation).¹ The Draft Report also suggests the option of regional deregulation in relation to Goodman Fielder's Canterbury and Manawatu plants where the Commission considers there are alternative suppliers.²
- 2.2 Westland Milk Products' (**Westland's**) submission supports a reduction of the right to access DIRA milk for independent processors (**IPs**), such as Goodman Fielder, stating that reducing dependency on DIRA milk is desirable in order to stimulate competition at the factory gate and de-risk full deregulation.³

¹ Draft Report, at 7.77.1.

² Ibid, at 7.77.2. The Commission suggested that the potential options for raw milk supply are Westland, Synlait and Oceania in Canterbury and Miraka and Open Country in Manawatu.

³ Westland Milk Products – Submission on the Dairy Competition Review Draft Report, 4 December 2015, at 25.1.1.

- 2.3 Both Fonterra's and Federated Farmers' submissions recognised the importance of retaining Goodman Fielder's entitlement under the current DIRA Regulations.⁴ Fonterra submitted that the raw milk regulations as they relate to Goodman Fielder should remain unchanged and that Goodman Fielder's entitlement to raw milk supports public confidence in domestic markets. Federated Farmers supported a maximum of three years access to DIRA milk for IPs but specifically excluded changes to Goodman Fielder's entitlement to DIRA milk.
- 2.4 While Goodman Fielder agrees that increased factory gate competition is to be encouraged, it considers that, contrary to the views of Westland and the Commission, reducing Goodman Fielder's entitlement to milk under the DIRA Regulations is not a viable option as:
- (a) there are currently no alternative suppliers which could meet Goodman Fielder's requirements; and
 - (b) it does not expect that this will change by the time that Goodman Fielder's supply contract with Fonterra comes up for renegotiation in 2021.
- 2.5 Accordingly, reducing or removing Goodman Fielder's entitlement could harm downstream competition without generating additional competition at the factory gate.
3. **No viable alternative supply at the factory gate**
- 3.1 Goodman Fielder considers that there are currently no viable alternatives for its raw milk supply in any region. Indeed, while Goodman Fielder has obtained supply from Westland in the past, this is not evidence of adequate alternative supply. To clarify:
- (a) Goodman Fielder's purchases from independent suppliers such as Westland or Synlait are typically negligible (if any). Instances of supply have been in the order of one or two tanker loads per day – which is far below the Goodman Fielder's requirements (for example, the Canterbury factory requires 18 to 20 tanker loads per day). These instances of supply have only been as a result of opportunistic approaches from the suppliers when they have faced a surplus of milk to their requirements – there has never been any meaningful negotiation of potential long-term supply arrangements; and
 - (b) while alternative IP suppliers would be willing to supply Goodman Fielder in the event they have reached their own processing capacity, this will not occur during the winter milk period (i.e. between March to August) and accordingly Goodman Fielder remains highly dependent on Fonterra during this period.
- 3.2 Goodman Fielder's raw milk requirement in Canterbury is 100 million litres per year (170 million litres if we include the volume used to produce Fonterra product) and 107 million litres per year in Manawatu. The Draft Report stated that it is not clear why an own-supplied IP would not supply factory gate milk, if that price was high enough.⁵ Goodman Fielder considers that it is clear from past experience that IPs will only supply Goodman Fielder in the event that they have collected raw milk in excess of their own processing needs. Accordingly, it is inconceivable that any of the alternative suppliers have the scale to provide either site the volumes required.
- 3.3 Furthermore, Goodman Fielder considers that the third party suppliers other than Westland and Synlait nominated as potential alternatives in the Draft Report (Oceania, Miraka and Open Country) are unlikely to be in a position to supply Goodman Fielder with raw milk volume of any real

⁴ Fonterra Co-operative Group Limited – Submission on Draft Report: Review of the State of Competition in the New Zealand Dairy Industry – Public Version, at paragraph 43. Federated Farmers, – Submission on the Dairy Competition Review Draft Report, 4 December 2015. at 1.1.3.

⁵ Draft Report, at 5.62.

significance. Indeed, Goodman Fielder is not aware of any instances where Miraka or Oceania have offered, or been in a position to, supply other IPs with raw milk.

- 3.4 Goodman Fielder aggressively competes in the domestic processed milk markets with Fonterra Brands and other processors.⁶ Any removal or reduction of Goodman Fielder's entitlement to raw milk supply by Fonterra would have a severe impact on Goodman Fielder's business and would impact on its ability to compete against Fonterra downstream. Any proposed removal of DIRA regulations would require a comprehensive review of competition in downstream markets to assess potential effects on consumers of the removal of DIRA regulations.
- 3.5 Accordingly, Goodman Fielder submits that it is important that its entitlement to raw milk supply under the DIRA Regulations is not reduced or removed before a viable alternative year-round supplier of raw milk develops at the factory gate.

Yours Faithfully



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Goodman Fielder New Zealand Limited

⁶ Indeed, the Draft Report identifies that Goodman Fielder is the key driver of price pressure on other market participants in the retail market for fresh milk (paragraph 4.130).