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22 January 2016

Alex Sim
Chief Adviser
Regulation Branch
Commerce Commission
Wellington
By email: regulation.branch@comcom.govt.nz

Dear Alex

Cross Submission on the review of the state of competition in the New Zealand Dairy Industry Draft Report dated 6 November 2015

We are both suppliers to Fonterra, through the RP & KJ Willans Family Trust and Borst Holdings Ltd respectively, under a 6 year growth contract with modified terms.

We support the conclusion in the Commerce Commission's draft report – Review of the state of competition in the New Zealand Dairy Industry dated 6 November 2015 - that the rules as to open entry and exit and non-discrimination contained in DIRA should be retained.

We support, in general terms, the panel's discussion of the principles behind the open entry and exit and non-discrimination rules in its draft report, paragraphs 4.39 to 4.44.

We consider the non-discrimination rule, in particular section 106, to be at the core of DIRA.

We are both plaintiffs in *McIntyre and Williamson Partnership & Others v Fonterra*, which has been appealed to the Court of Appeal. We refer to the Judgment of Muir J and the High Court's findings about the operation of section 106 and our situation with Fonterra.

Yours sincerely

Richard Willans/Robert Borst