29 April 2021

Miraka Submission to the Commerce Commission:
Proposed focus areas for the Commerce Commission review of Fonterra's 2020/21 base milk price calculation (8 April 2021)

[Online submission to the Commerce Commission "Milk price calculation – 2020/21 season page"[1]]

1 Miraka appreciates the opportunity to submit in response to the Commerce Commission proposed focus areas for its review of the 2020/21 milk price calculations. Miraka would welcome any opportunity to discuss the contents of this submission with the Commission.

2 The Commission has proposed the focus areas for the review of the 2020/21 Milk Price Calculations will include key elements of the calculation of the weighted average cost of capital (WACC). These include the asset beta, the specific risk premium, and a provision to reflect risks of asset stranding. Miraka strongly supports these focus areas and is hopeful that following recent statutory guidance they can finally be resolved. Miraka also outlines below those further areas which it requests the Commission includes in its 2020/21 review.

WACC

3 Issues concerning the WACC have been variously unresolved since the DIRA introduced oversight of the farmgate milk price (FGMP) from the 2012/13 Season. The asset beta has been especially problematic. Despite substantial effort and cost from the Commission, Fonterra and other submitters including Miraka it has not been possible to arrive at an asset beta and WACC that the Commission has been able to confirm is compliant with the DIRA. The conclusions of the Commission over this long period have ranged as follows:

- 2012/13 review: the Commission was unable "to conclude on the practical feasibility of the asset beta[2]" including because of the deficit of information from Fonterra and a delay in its delivery.
- 2013/14 through to 2015/16 reviews: the Commission was "unable to conclude on the practical feasibility of the asset beta[3]". This was despite considerable work done by Fonterra over that period to justify the asset beta it had included in the calculations.

[1] https://comcom.govt.nz/regulated-industries/dairy/milk-price-manual-and-calculation/milk-price-calculation/milk-price-calculation-202021-season
[2] Paragraph X9, Review of Fonterra's 2012/13 base milk price calculations (Final report)
[3] For example, Paragraph X27, Review of Fonterra's 2015/16 base milk price calculations (Final report)

- 2016/17 reviews: the Commission seemed to inch towards accepting the Fonterra asset beta but was "unable to conclude that the asset beta used by Fonterra ... is not practically feasible"[4].
- 2017/18 through to the present: following the commissioning of a report on the "Dairy Notional Producer's Asset Beta (the CEPA report)[5]" the Commission concluded the asset beta is "on balance ... unlikely to be practically feasible[6]".
- In the 2019/20 review of the milk price calculations, while still confirming the asset beta "is unlikely to be practically feasible", the Commission also stated "we do not consider that this aspect [the asset beta] of the base milk price calculations is consistent with the contestability dimension of the Section 150A purpose"[7]. This suggested the Commission considered the asset beta is **not** (rather than "not likely") to be practically feasible.

4 The CEPA report assessed an asset beta for the Notional Producer would be in the range of 0.45 to 0.58 based on data across a ten year period while the most recent data set indicated a narrower asset beta of 0.50 to 0.58[8]. This compares with the asset beta of 0.38 used for the Notional Producer WACC calculations. The CEPA assessment is estimated to result in an increase in the Notional Producer WACC by as much as 10 cents/kg MS. That is a material amount, with the understatement of WACC representing up to 24% erosion of the underlying Notional Producer EBIT[9]. This flows through to an erosion of actual EBIT of Fonterra and other processors that for competitive purposes must at least match the milk price calculated in accordance with the Milk Price Manual.

5 As described above, to date the Commission has been unable to provide an unequivocal statement that the asset beta and the WACC is or is not practically feasible. It is hoped that statutory guidance recently provided by section 35 of the DIRA Amendment Act 2020 will now provide greater clarity and will result in a more definitive assessment. That section does not come into effect until the 2021/22 FGMP calculations. To its credit however Fonterra has set the asset beta and WACC for the 2020/21 Season (the season now under review) taking into account the new requirement of section 35[10]. In so doing Fonterra is presumably hoping for guidance from the Commission as to how it will interpret Section 35 and to ensure the WACC will at least be compliant for the 2021/22 Season. Like the rest of the dairy industry Fonterra will no doubt be hoping this issue can finally be put to rest. Miraka accordingly requests the Commission provide a view on the 2020/21 asset beta and WACC taking into account the DIRA

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[4] Paragraph X6, Review of Fonterra's 2016/17 base milk price calculations (Final report)
[5] Cambridge Economic Policy Associates Pty Ltd; the report is dated 28 March 2018 (CEPA report).
[6] For example, Paragraph 2.5, Review of Fonterra's 2017/18 base milk price calculations (Final report)
[7] Paragraph 2.4, "Review of Fonterra's 2019/20 base milk price calculation (final report)
[8] CEPA report (note 5) pg 3 "Our full data set of 39 companies reflects the comparators selected by Fonterra's advisor. The full set of companies has an average asset beta of 0.50 – 0.58 in the most recent five-year period, and between 0.45 – 0.50 in the five-year period to 2013."
[9] Compares Notional Producer underlying EBIT as included in the FGMP, with underlying EBIT that would have been calculated had the asset beta been set at the top of the assessed range.
[10] Fonterra "Farmgate Milk Price Statement for the Season Ended 31 May 2020" - Fonterra provided guidance for the WACC for the 2020/21 FGMP.

Amendment Act section 35. Should there be any divergence from that section that can then be addressed by Fonterra in time for the 2021/22 Season.

6 Although Miraka is not a listed company, Miraka is willing to share with the Commission any relevant information it has available for purposes of establishing compliance of the Notional Producer asset beta with "the estimated asset betas of other processors of dairy and other food products" as required by section 35 of the Amendment Act.

<u>Other Focus Areas (Off-GDT Sales)</u>

7 The GDT annual report 2020 provided a timely reminder of the relevance and importance of GDT to the milk price calculations. At page 9 of the report GDT included a Fonterra article previously "published internally by Fonterra, December 20"[11]. With reference to the emergence of the GDT auction platform, Fonterra explains that it "had a real need for <u>*credible*</u> reference prices to feed into the milk price calculation for dairy commodity prices". Transparency is a crucial aspect of credibility and the high standard of transparency of GDT price outcomes originally provided credibility to calculations of Notional Producer revenue. Miraka has long held that the expanded use of off-GDT sales prices in the calculation of Notional Producer revenues undermines transparency and therefore credibility of the Notional Producer revenues and of the FGMP itself.

8 The Commission included a focus on off-GDT sales in its review of the 2019/20 milk price calculations. Miraka raised issues with conclusions from that review in its submission on the 2020/21 Milk Price Manual. The Commission parked several of the issues raised by Miraka on the basis they were more appropriate for its review of milk price calculations, and that it would consider including them as focus areas for the upcoming review of milk price calculations. In the event the Commissions "Proposed Focus Areas" paper is silent on these parked issues.

9 The attached Appendix replicates that section of the Miraka submission on the 2020/21 Milk Price Manual which addressed off-GDT sales. It is annotated to include:

- a summary of the Commission response from its final report on the review of the 2020/21 Milk Price Manual
- a request that issues which were parked in the review of the 2020/21 Milk Price Manual now be addressed as focus areas in the upcoming review
- a request to further consider other aspects of off-GDT sales which remain outstanding

10 The policy change introduced by Fonterra in 2016/17 dramatically expanded the inclusion of off-GDT sales in Notional Producer revenues. That has had a profound impact on the FGMP process, calculations and outcomes, and has for example increased Notional Producer revenues by 11 cents/kg MS in the 2019/20 FGMP[12]. Miraka remains of the view that the Milk Price Manual fails to provide a proper framework for assuring that increase in the Notional Producer revenues is supported by proper process and evidence in a manner consistent with the DIRA. While the Commission did include a range of issues concerning off-GDT sales in its review of the

[11] https://www.globaldairytrade.info/assets/Uploads/Annual-Report/GDT-Annual-Report-2020-website.pdf
[12] 2019/20 Farmgate Milk Price Statement

2019/20 Milk Price Calculations, a large number of issues remain outstanding and continue to undermine confidence in credibility of the Notional Producer revenues. As outlined in the attached Appendix Miraka requests the Commission revisit this crucial matter in its review of the 2020/21 Milk Price calculations.

Grant Watson
Chief Executive Officer
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Appendix:

Extract and further annotation [bracketed in blue] of Miraka Submission on the Commerce Commission Draft Report on the 2020/21 Milk Price Manual (16 November 2020).

1. Off-GDT sales and their inclusion in the Notional Producer revenues was a focus area for the Commerce Commission review of the 2019/20 Milk Price Calculations. Major issues remain unaddressed following the Fonterra decision from the 2016/17 Season to change its policy concerning off-GDT sales. In submissions on the Commission Draft Report, 2019/20 Milk Price Calculations Miraka and others reflected our concerns with this matter. Despite these efforts, the latest iteration of the Manual has made no progress in clarifying, defining and normalising procedures for off-GDT sales. The inclusion of off-GDT sales in the Notional Producer revenues was a voluntary choice made by Fonterra. This has led to a vast increase in the complexity and opacity of the Farmgate Milk Price (FGMP) model and outputs. Addressing the issues is challenging. However Fonterra was not obliged to make the change in policy and the resulting complexity cannot therefore be an excuse for the Fonterra ongoing failure to address the issues raised.

2. In the Final Report, 2019/20 Milk Price Calculations the Commission responded to the submissions of Miraka and others to the Draft Report. The Commission response raises further issues with regard to off-GDT sales. It is timely they be addressed in this Miraka submission.

3. Unless indicated otherwise, the paragraph references below are to the Commerce Commission Final Report, 2019/20 Milk Price Calculations.

   i. Paragraph 2.21 – the Commission here repeats the Fonterra newly coined expression "sub Reference Commodity Products". The Commission also advises that Fonterra has explained "low heat SMP, medium heat SMP, and instant SMP" are examples of "sub Reference Commodity Products". In its submission on the Draft Report, Miraka explained that the new expression "sub Reference Commodity Products" adds no further meaning to the existing plethora of product descriptions and categories which have been made necessary by inclusion of off-GDT sales. The new expression in fact adds further complexity and ambiguity to the process. For example the list provided of so-called "sub Reference Commodity Products" includes medium heat SMP (MH SMP). This is however already defined in the Manual as the Standard Specification Product. What further meaning is added by also referring to it as a "sub Reference Commodity product"? It is already clear that the benchmark product for the SMP Reference Commodity Product is MH SMP, and that other SMP products would fall within the group of SMP Reference Commodity Products to the extent they are "qualifying materials". By introducing this new concept of a "sub Reference Commodity Product" Fonterra purpose seems to be to diminish the role of the Standard Specification Product (e.g. MH SMP) to be a benchmark for purposes of selecting qualifying materials and confirming qualifying reference sales. Rather than increase clarity, the "sub Reference Commodity Product" is a device which undermines the emergence of clear rules and procedures based around the Standard Specification Product as a benchmark, serving the assumed Fonterra objective of minimising limits on its discretion to classify products as qualifying materials.

In Miraka view, there should either be a clear explanation of how the "sub Reference Commodity Product" concept adds clarity to the off-GDT sales issue, or the Commission should reject it as unhelpful.

[Commerce Commission final report on the 2020/21 Milk Price Manual (Attachment A): The Commission has recommended that Fonterra publish the list of all products that constitute "Generic product specifications" in the Milk Price Manual. The Commission considers that this adequately responds to the issues raised by Miraka.

Miraka further comment: While publication of a list of "generic product specifications" would be welcome it has not to date been forthcoming and previous experience suggests that will remain the case. The Commerce Commission recommendation does not in any event address the issues raised by Miraka. It does not for example explain why Fonterra has redefined the Standard Specification Product for the SMP group (MH SMP) as a so-called "sub-reference commodity product". Miraka is concerned that this will result in a broadening of the range of products that are captured in the already opaque range of off-GDT product sales included in the Notional Producer revenue.

Miraka requests the Commission revisit the points raised in its submission].

ii. Paragraph 2.39: "We do not consider that the additional processing required for ISMP means it does not constitute a Qualifying Material. We note that instant whole milk powder is a commodity product listed in GDT (and is therefore a standard specification product[13]) and Fonterra has confirmed that its standard plants are capable of agglomeration. The cost of the additional Lecithin plant required to manufacture instant products is insignificant and has been provided for in the incremental costs".

The Commission appears here to conflate IWMP with ISMP, including a suggestion that ISMP is manufactured through a similar process to IWMP (by the addition of lecithin). This is incorrect. Unlike IWMP where the "Instantised" characteristic is achieved through the addition of lecithin ingredient, ISMP (or "agglomerated" SMP) requires a specialised manufacturing process. It is surprising that Fonterra has not pointed this out to the Commission. The Commission correctly states that I<u>W</u>MP is sold by Fonterra on GDT. This is though irrelevant to the status of I<u>S</u>MP which notably Fonterra does <u>not</u> sell on GDT. Indeed this is because I<u>S</u>MP is more correctly a specialty product: it is difficult to make, it is in short supply, and it commands considerable premiums. Miraka remains of the view that I<u>S</u>MP (the only off-GDT product Fonterra has actually disclosed as being included in Notional Producer revenue calculations) cannot be attributed to the Notional Producer.

[13] IWMP is not in fact a Standard Specification Product. The Standard Specification Product for the WMP Reference Commodity Product is <u>Regular</u> WMP.

[Commerce Commission final report on the 2020/21 Milk Price Manual (Attachment A): The Commission responded that this issue was "more relevant for the base milk price calculation and we will consider whether to include this matter in our 2020/21 review of the base milk price calculation".

Miraka requests the Commission now address this issue in the review of the 2020/21 milk price calculations.]

iii. It is surprising that the Commission has concluded that ISMP selling prices are similar to the Standard Specification Product "after adjusting for any costs that are normally recoverable from purchasers of the product" (paragraph 2.40). This is presumably a reference to the "Incremental Product Costs" for ISMP and provides no comfort. It simply raises questions about the costing principles Fonterra is using to determine incremental product costs because an incremental product cost should not in and of itself materially erode the premium obtained from ISMP.

The Fonterra costing system is outside the scope of the Manual and remains opaque. Costing system policies vary substantially depending on the purpose to which they are put. Fonterra has provided a high level description of the system. This is not sufficient evidence to confirm it is "fit for purpose" for the quite specific purpose of adjusting arms-length pricing of specific products to achieve an equivalence with a related but different set of products so as to determine a competitive milk price. The suggestion that ISMP incremental product costs would neutralise the nominal premium on ISMP compared to MH SMP provides reason to doubt the costing system is fit for purpose.

[Commerce Commission final report on the 2020/21 Milk Price Manual (Attachment A): The Commission responded that this issue was "more relevant for the base milk price calculation and we will consider whether to include this matter in our 2020/21 review of the base milk price calculation"

Miraka requests the Commission now address this issue in the review of the 2020/21 milk price calculations.]

iv. Paragraph 2.44: "We therefore conclude that products with these *features*[14] are a practically feasible commodity for an efficient processor, as the product specifications are identical to the standard GDT Medium Heat SMP and Regular WMP products".

The Commission seems to be taking one aspect of a commodity product (composition) and concluding that all products with the same composition must also therefore be commodities. This fails to acknowledge the full range of requirements that make up the product specification – in this case that the products are required to have an enhanced solubility in water ("instantised"). It is simply not possible to equate ISMP with MH SMP; it is certainly the case that a customer purchasing ISMP will not accept MH SMP as a replacement because the products have quite different functional properties.

[14] "features" presumably refers to the "instantised" nature of the products

[Miraka comment: While the Commission did not specifically respond to this item, Miraka assumes the Commission response is inferred in its response to 3(iii) above.

Miraka requests the Commission now address this issue in the review of the 2020/21 milk price calculations.]

v. Paragraph 2.52 "We confirm that we are satisfied the manufacture of Qualifying Material does not require ***significant*** plant modifications and does not have a ***significant*** impact on the production efficiencies that are assumed" [emphasis not in original].

These conclusions of the Commission were made in the context of the requirement that qualifying materials can be manufactured on the Notional Producer Standard Plants. According to the Manual, for a product to be a qualifying material its manufacture would "not require the use of Specialised Plant". This rule is clear and unequivocal. Unfortunately, and repeating the manner of its conclusions in the Draft Report, the Commission does not actually address compliance with the requirement concerning Specialised Plant. Rather, it simply restates that "plant" would not require "significant modification" to produce the qualifying materials. Miraka had requested the Commission clarify its conclusions in the context of the rules in the Manual and in particular concerning Specialised Plant. The Commission chose not to make that further clarification. It accordingly remains unclear if the Commission has in fact satisfied itself that qualifying material can be manufactured on Standard Plant without the use of Specialised Plant.

[Commerce Commission final report on the 2020/21 Milk Price Manual (Attachment A): The Commission responded that this issue was "more relevant for the base milk price calculation and we will consider whether to include this matter in our 2020/21 review of the base milk price calculation".

Miraka requests the Commission now address this issue in the 2020/21 milk price calculations.]

In its submission on the Draft Report, 2019/20 Milk Price Calculations, Miraka observed that in the case of ISMP, manufacture on Standard Plant configured for efficient production of MH SMP (the Standard Specification Product) would either require specialised plant, or would suffer from reduced operating efficiency and an increase in downgrade product. The Commission however simply confirmed that the manufacture of qualifying materials "does not have a ***significant*** impact on the production efficiencies that are assumed".

Miraka has long submitted that Notional Producer yields based on theoretically long production runs of just five individual products would be materially and adversely impacted by the expansion of product range to include the "qualifying reference sales". The Commission has now confirmed that the qualifying materials would impact Notional Producer yields but that impact would not be "significant". This is both a welcome and worrying conclusion. Welcome because the Commission now confirms it will have an impact on yields; worrying because the Commission has assessed that impact to be not "significant" without confirming how "significance" is determined. Miraka has previously raised the need for a materiality standard to assess whether a departure from or failure to comply with rules and procedures in the Manual causes the measurement of an outcome to be impaired - in this case, whether the yields determined from the manufacture of just one SMP product (MH SMP) on Standard Plant designed to produce MH SMP as efficiently as possible would be impaired if the plant actually produced a range of SMP products. At least in the case of the production of ISMP produced on a MH SMP dedicated and configured plant this could be expected to be the case.

The Commission has recommended that Fonterra include a definition of "material change" when considering changes to the Manual (which Fonterra has rejected)[15]. Miraka considers that recommendation should be expanded to include a standard of materiality from which to assess whether measured outcomes are impaired as a result of faulty measurement procedures (in this case, yields based on single product plants where the assumed sales programme requires the plant to produce multiple products).

[Commerce Commission final report on the 2020/21 Milk Price Manual (Attachment A): For completeness it is noted that the Commission will include "consideration of materiality" in its upcoming review of its "framework paper".]

vi. Paragraph 2.60: The Commission states "Miraka asserts that, to be approved, prices are also required to achieve a "target margin" presumably above the "current market price". "Approval" and "prices" here refer to Fonterra delegated authorities for approving selling prices for off-GDT sales. At 2.61 the Commission goes on to state "We do not read Fonterra's reference to a target margin to mean a margin above the market spot price". In so doing the Commission indirectly responds to and rejects the Miraka interpretation of "target margin". The Commission does not offer an alternative explanation of the Fonterra reference to a "target margin".

Miraka points out that it is Fonterra not Miraka that described an internal control procedure for approving prices for off-GDT sales that included the requirement that prices be referred to senior management where "prices ... do not achieve the target margin". By implication then, lower levels of Fonterra management can approve prices provided they **DO** achieve "the target margin". It is not unreasonable for Miraka to question what this might mean and it is equally not unreasonable to interpret it as referring to price achievement at a margin above a benchmark (such as GDT prices). Given the context was Fonterra's explanation for how it assesses price performance against "prevailing prices", it is again not unreasonable to expect the "target margin" referred to was a margin in relation to the (as yet still undefined) "prevailing prices" or "current market price". This is important because the sale of a "qualifying material" can only be included as a qualifying reference sale if the sale "can reasonably be regarded as being ... at a price that reflects ***prevailing prices***"[16]. Miraka contends that the "prevailing price" benchmark remains a meaningless and unenforceable requirement for the

[15] Table A1, Commerce Commission Draft Report on the 2020/21 Milk Price Manual
[16] 2020/21 Milk Price Manual Part C section 1.2

selection of qualifying reference sales because "prevailing prices" remains an unexplained and undefined concept.

At paragraph 37.3 of the Draft Report, Review of the 2020/21 Milk Price Manual the Commission recommends that Fonterra provide a definition for the term "prevailing" as it is used in the Manual. Miraka supports this recommendation. In Table A1 however the Commission states its understanding that Fonterra means "relevant market spot price" when it is referring to "prevailing prices". The Commission seems to consider that is an adequate definition of "prevailing price". The Commission goes on to state that a "prevailing price benchmark" should not necessarily be limited to GDT standard specification products". The Commission possible objection to GDT as the price benchmark seems to be on the grounds that higher prices might justifiably be achieved off-GDT. The Commission does not however provide any alternative benchmark for the "relevant market spot price". It is unclear why GDT prices would not be an appropriate benchmark simply because an off-GDT price is higher. The whole point of a benchmark is to provide a basis for comparison – and by definition actual achieved prices will vary from the benchmark; that does not render the benchmark ineffective but rather reflects the correct function of a benchmark – e.g. to test the extent to which a price might be different to the prevailing market price and to establish prescribed tolerance levels of acceptable price differences for qualifying reference sales (including because of a different sales channel).

It is not a coincidence that ALL the Standard Specification Products are sold on GDT. These products clearly provide benchmarks for the FGMP model – for example in determining the plant and equipment required for the Standard Plants, and providing the benchmark against which to determine incremental product costs. It is then difficult to understand why the prices achieved for these same products on the transparent and independent GDT auction site could be anything other than the appropriate benchmark of "prevailing prices" for assessment of off-GDT prices of New Zealand sourced product. If not that, then what? Notably when Fonterra introduced its policy for expanded use of off-GDT sales to inform the Notional Producer prices, it indicated that GDT prices would remain the benchmark for assessing selling price performance and this would be a benchmark for inclusion of off-GDT sales[17]. Miraka questions why that intention has not been acted on.

In our submission on the Draft Report, 2019/20 Milk Price Calculations, Miraka concluded (paragraph 23) and continues to conclude there is no demonstrated process or procedure which assures prices for qualifying reference sales are in fact selected on the basis they are transacted at "prevailing market prices". The inclusion of ISMP as a qualifying reference sales was the only evidence offered for this conclusion for the simple reason ISMP is the only off-GDT product that Fonterra has confirmed is a qualifying reference

[17] Fonterra Reasons Paper 2016/17 Milk Price Manual: "While we will be extending the range of actual sales taken into account in the Farmgate Milk Price calculation, we will continue to exclude a material proportion of sales of RCPs and all sales of non-RCPs. As now, the price achieved on GDT will continue to be used as a benchmark against which to measure sales team performance with respect to off-GDT sales."

sale. At paragraph 37.1 of the Draft Report, 2020/21 Milk Price Manual the Commission recommends that Fonterra publish the list of all products that constitute "Generic Product Specifications". This list would provide the full range of products that could be included as "qualifying Reference Sales". Miraka considers this a minimum disclosure required to provide assurance that the process of including off-GDT sales remains consistent with the S150A purposes and is not being exploited to inflate the Notional Producer revenues.

[Commerce Commission final report on the 2020/21 Milk Price Manual (Attachment A): The Commission summarised the Fonterra explanation that sales which satisfy "relevant policies" are deemed to have been undertaken at prevailing market price. The "relevant policies" are not explained. The Commission goes on to conclude that "all sales allowed by policy are included [as qualifying materials] regardless of whether they achieve a target margin ***or any benchmark***" (emphasis not in original).

Miraka comment: The Milk Price Manual defines qualifying materials as products that (amongst other things) "in normal circumstances could be expected to transact at a comparable price to other products within the same Reference Commodity Group". It appears the Commission does not consider this is a relevant criteria for determining practical feasibility of off-GDT sales for inclusion in Notional Producer revenues (i.e. the Commission concludes there is no need to achieve "any benchmark" provided Fonterra "relevant policies" are achieved). Miraka requests the Commission clarify if this is in fact its position.

The inclusion of off-GDT sales in the Notional Producer revenue results in a material increase in revenue ($11 cents/kg MS in 2019/20). The standard for justifying inclusion of these premiums must be high, given the Notional Producer model assumes it is a processor of just five products produced on endlessly long production runs which would be expected to be traded as undifferentiated commodities. Certainly Fonterra committed to a high standard when it expanded the definition of Notional Producer revenues to include off-GDT sales implying that GDT prices were the relevant benchmark for determining Qualifying Materials. It is of major concern it now appears that not only are GDT Prices not in fact the relevant price benchmark, there is no price benchmark used to assess "Qualifying Materials". To quote Fonterra in its article published in the GDT 2020 annual report: one of the reasons GDT was introduced is that Fonterra "had a real need for *credible reference prices* to feed into the milk price calculation for dairy commodity prices". Miraka agrees with Fonterra and so considers it is crucial to the credibility of Notional Producer revenues that there be an arm's length price benchmark for assessing qualifying materials and that benchmark should be based on GDT prices.

Miraka requests the Commission prioritise a reassessment of this matter in the latest review of the Milk Price Calculations.]

Paragraph 29 of the Miraka submission on the Draft Report, 2019/20 Milk Price Calculations summarised our assessment of the impact of including off GDT sales in the milk price calculations. For reasons described above the Miraka assessment remains unchanged and is copied in full below.

"29. In summary, the process of selecting qualifying material and qualifying reference sales weights the Notional Producer selling prices towards the top end of Fonterra commodity selling prices. At the same time the process of excluding tender sales, and possibly formulaic sales, excludes that part of the Fonterra commodity portfolio sold at the lower end of the price range. There appears no new evidence to counter the Miraka view that Fonterra uses the process for including off-GDT sales to increase the Notional Producer revenue to a level that is unsustainable by comparison with the Notional Producer scale costs and operating efficiencies based on producing just five individual products."