## Milk Price Calculation Workshop: Follow-up Comments

June 2017

### 1 Introduction

Miraka, Open Country Dairy, and Synlait (the independent processors) are pleased to make this submission on the Commerce Commission's (Commission) Milk Price Calculation Workshop (the workshop) for the review of the 2016/17 base milk price calculation.

This paper addresses the following issues raised at the workshop:

- Practical Feasibility: A real-life example of difficulties interpreting practical feasibility, and proposed actions;
- Transparency: The consensus among parties, and the role of the Commission;
- Asset Beta: Why commercial risk is a systematic risk that needs to be recognised;
- Off-GDT Sales: Price selection criteria, consequential changes to the notional producer business model, and expansion of reporting to ensure practical feasibility.

### 2 Practical Feasibility

In our pre-workshop paper and our workshop presentation, we highlighted the difficulties of applying 'practical feasibility' in the absence of a governing interpretation or an analytical framework. This problem underpins all current disagreements. We want to draw the Commission's attention to the problem by using an example: the practical feasibility of the notional producer's *capacity utilisation efficiency*. We believe this example usefully highlights where Fonterra and independent processors (IPs) hold different views on practical feasibility, and how a framework to guide discussions would help.

We query the practical feasibility of the notional producer plants operating at peak capacity for 85-90 percent of the days each plant is assumed to operate. Fonterra has previously indicated this efficiency rate was the result of the opening and closing of plants to maximise capacity utilisation of the plants that were open. This would be achieved by moving milk from the assumed closed sites to the assumed remaining open sites over the Season shoulders.

In the real world to achieve that high level of capacity utilisation efficiency would depend on:

- The ability to consolidate milk at alternative processing sites (where available), thus reducing the number of plants open over the season shoulders
- Uninterrupted long production runs

However, there are difficulties with accepting either of these assumptions.

The ability to consolidate milk at select processing sites depends on multiple variables including production scheduling, milk availability (across a relevant geographical catchment), and milk transport logistics (including the economic feasibility of moving milk). This makes high levels of capacity utilisation efficiency very difficult to achieve in practice. Real world inefficiencies are also unavoidable, such as plant downtime due to malfunction.

The ability to achieve uninterrupted production runs depends on manufacturing a limited number of products, and certainty in production planning and scheduling. A real-world processor must fit multiple products into production scheduling. They must also deal with real time changes in customer requirements and market shifts, resulting in regular schedule updating. These provide challenges to uninterrupted and long production schedules.

Fonterra itself does not match the notional producer's capacity utilisation efficiency; and the measure is thus not demonstrably feasible. Before it is accepted it needs to be justified with alternative evidence. It is not clear to us how this could be done.

Feasibility has presumably then been determined from modelled plant efficiency. We accept that it is difficult to assess the model assumptions in the absence of greater transparency, however it seems likely that several assumptions are made which may be theoretically feasible, but are not real-world feasible. For example, it seems likely that exceptionally long production runs are being assumed, based on the assumption the notional producer manufactures just five products (i.e. the Standard Specification Products - SSPs), with absolute certainty about customer requirements. This assumption is not commercially feasible for a real-world processor. Even real-world single whole milk powder (WMP) factory operations, such as Miraka, produce more than one WMP product. It is also inconsistent with the wider range of products already included in the RCPs, and the further expansion of products that would occur if off-GDT sales were included. It seems there has been a theoretical assessment of the feasibility of plant operating efficiency, based on the unfeasible assumption that just five products are manufactured in total.

We believe this example illustrates the complexities in interpreting 'practical feasibility', which could be more quickly addressed and achieve consensus amongst the parties if there was recourse to a shared framework.

### What action needs to be taken?

The Commission ought to take a leadership role in resolving the ongoing disagreement over the interpretative approach to practical feasibility, because:

- It underpins every DIRA disagreement, therefore even if other issues are resolved, there will continue to be new issues for debate until it is tackled
- Where the Commission seeks outside experts to assess the practical feasibility of particular items, the Commission needs to provide governing principles and guidelines from which the experts can determine if the practical feasibility benchmark has been achieved
- An objective standard of 'practical feasibility' is necessary to enable the Commission to determine if the statutory purpose has been achieved, including promotion of contestability in the market.

The Commission should initiate a process with Fonterra and IPs to establish guiding principles on interpreting practical feasibility. This would be best done outside of any one statutory review so that an objective standard can be determined outside of the prevailing controversies between the parties.

## 3 Transparency

Our discussion paper and our workshop presentation explained why greater transparency is so important for the efficient functioning of the dairy market. We explained how greater transparency:

- promotes practical feasibility as it mitigates the regulatory risk faced by market participants, which sits over and above the market risks that would exist in a properly contestable market where the milk price is not subject to regulation; and
- improves the ability of the Commission to undertake its assessment of the base milk price calculation because it has the full benefit of the IPs' informed views.

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Prior to Fonterra's decision to expand the use of off-GDT sales prices, the relevant information that could usefully be shared was:

a. Monthly Notional Producer selling prices[2]

b. Monthly Fonterra actual sales phasing[3] (shipment date) of actual RCP sales deemed to be included in the current milk price season from which the prices in (a) are derived (expressed as a percentage);

c. Monthly Notional Producer sales phasing (shipment date) for the current milk price season (expressed as a percentage); and

d. Season to date data should be reported quarterly (in the month following the end of each quarter), with items (b), and (c) provided on an estimated season to date basis.

We reiterate our support for this to be shared. Further, the intention to expand the inclusion of off-GDT sales in the notional producer revenue has increased the regulatory risk to market participants and expanded disclosure requirements. This is addressed in Section 5 below.

### The Commission needs to play a role

[ ] the question is: why isn't the information being made available now? Transparency is clearly relevant to the Commission's assessment of the section 150A purpose. The entire Subpart 5A regulatory regime is based on information disclosure, and as we described in our presentation, greater transparency of the drivers of market prices leads to greater contestability in the market. All aspects of the setting of the base milk price, including how transparently it is set, are relevant to the Commission's statutory assessment.

Fonterra remain unwilling to commit to sharing further information immediately, which imposes unnecessary – and avoidable – barriers to entry and limits the contestability of the market, for no justifiable reason.

This is where the role of the Commission becomes important. The impact of milk price transparency and regulatory risk on market contestability is directly relevant to the Commission's regulatory functions. The milk price monitoring regime is intended to promote greater transparency of Fonterra's base milk price setting processes, and greater confidence in the consistency of Fonterra's base milk price with

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[2] SSP equivalent prices for the RCPs sold on GDT (and in the case of Butter and BMP), relevant off-GDT sales) – SSP: Standard Specification Products; RCP: Reference Commodity Products

[3] Phasing of actual GDT sales (and in the case of Butter and BMP, relevant off-GDT sales)

contestable market outcomes.[4] In its 2015/16 Milk Price Calculation Review, the Commission acknowledged Fonterra's "willingness to engage with the Commission on areas where transparency of information *can be improved in the interests of stakeholders*",[5] which strongly suggests the Commission recognise they have a role to play in improving transparency for market participants. It is unclear how the level of transparency over Fonterra's base milk price calculation could justifiably be excluded from the Commission's decision-making.

### What action needs to be taken?

We are not asking the Commission to act beyond its regulatory remit. It is well within the Commission's authority to set an expectation that Fonterra share non-commercially sensitive information where this is necessary or desirable for greater market contestability, and to draw firm conclusions about the effect on Fonterra's efficiency and market contestability where transparency is not provided. The Commission itself has commented on Fonterra's transparency in previous Milk Price Calculation Reviews, including normative statements on what it expects from Fonterra.[6]

There is potential for the Commission to go further. We know that the Ministry for Primary Industries (MPI) considers that part of the underlying policy intention of the Subpart 5A regulatory regime is to actively encourage increased transparency by Fonterra regarding its milk price setting process, and that the necessary tools are available to the Commission to ensure that this is achieved if Fonterra is not cooperative. In particular, the Commission can compel Fonterra to provide any information the Commission considers necessary to fulfil its monitoring role (under section 150V). MPI considers that it is part of the Commission's regulatory role to decide whether such information may be publicly released by the Commission to promote confidence in Fonterra's price-setting process.[7] Given the current lack of disclosure by Fonterra, this is one step the Commission could employ to better ensure that the objectives of the regime are met.

The Commission should build on its previous recommendations to Fonterra, and provide even stronger and more explicit incentives for Fonterra to share relevant information in its 2016/17 Milk Price Calculation Review. This approach would provide a powerful incentive for Fonterra to address a significant barrier to entry. If this is not sufficient to provide the level of transparency needed, the Commission should consider exercising the other options available to it and make the necessary information publicly available under its own initiative.

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[4] Refer: Dairy Industry Restructuring Amendment Bill 11-1, introduced 27 March 2012, pages 1-2.

[5] Paragraph 1.5, page 1.

[6] 2015/16 Milk Price Calculation Review: The Commission stated "we are seeing that our annual reviews are having an impact on improving the transparency of Fonterra's information. Encouraging transparency is a priority for us, particularly with respect to forecast milk price information" (page v). The report points to several areas where greater transparency could be improved.

2014/15 Milk Price Calculation Review: The Commission "encourage[d] further progress on Fonterra's transparency of information" and provided explicit areas, including information on the underlying price model and mapping of the Milk Price Manual to the milk price calculation (page 3).

2013/14 Milk Price Calculation Review: The Commission's Final Review: Attachments C to Y provide detailed areas of the base milk price calculation where multiple calculations and varying assumptions at a detailed level gives rise to a lack of transparency.

2012/2013 Milk Price Calculation Review: The Commission made several information-sharing observations including late provision of information, recognition from submitters of need for further public disclosure, and a lack of detail in some of Fonterra's assumptions (paragraphs 2.26.1-2.26.6).

[7] Ministry for Primary Industries "Domestic Milk Markets Review, Dairy Industry Restructuring Act 2001 (DIRA) – Review of the Farm Gate Milk Price Regime of Subpart 5A, of Part 2" (Internal Memorandum dated 23 June 2016) at paragraphs [28]-[32] (obtained under the Official Information Act 1982).

## 4 Asset Beta

We have several comments and concerns with the new Marsden paper, including the assumptions that have gone into Synlait's asset beta, which we will raise in detail at a more appropriate stage. We would like to focus on the more substantive issues in this paper.

The Commerce Commission raised two key questions during the workshop:

- Does the notional processor face the risk of a possible mismatch between its input and output prices? And
- If it does, is this the kind of systematic risk that should be recognised in the notional producer's weighted average cost of capital (WACC)?

We address these questions in turn.

### Risk of mismatch

As we explained in our presentation, it is important not to confuse how the asset beta is determined and what the Milk Price Manual determines. It is critically important to avoid the logical circularity that comes from assuming the Milk Price Manual determines the risk profile of the notional producer, simply because of the calculations it applies to determine the milk price.

The mechanics of the Milk Price Manual—where the milk price is calculated as the residual after subtracting the notional processing and marketing costs—clearly do not leave room for a mismatch between the costs of the raw milk input and the income from the commodity output. However, the Milk Price Manual is a tool for estimating a market price of milk, which is otherwise unobservable, and not itself a guide to how we conceive the nature of the business in which the notional processor is involved. The nature of the business must be decided independently of, and then fed into, the Milk Price Manual. A key concern we have with Dr Marsden's analysis is that it fails to make this distinction, conflating the mechanics of the Milk Price Manual with the risk profile of the notional processor. This error appears to have occurred because the analysis attributed an incorrect meaning to the statutory phrase 'practical feasibility' because of an absence of independent legal advice.

Based on the realities of milk purchasing and processing, it seems clear that a practically feasible notional processor should be conceived as a business which purchases raw milk in a contestable market, processes it into commodities and then sells the commodities in the commodities market. The price of raw milk in the market for raw milk will vary, and so will the prices of commodities in their respective markets. In the medium term, the price of raw milk will reflect the value of that milk embodied in the commodities. However, a notional processor operating in these two markets will face the risk that its input purchases and output sales do not match.

There are several ways in which the notional processor could hypothetically hedge such risks:

- It could pay farmers *ex post* a milk price that is a residual of commodity revenue and notional costs for the year. However, such an approach is not practically feasible for a notional processor operating in the New Zealand market for raw milk. It is only possible for co-operatives or for a narrow set of contract processors. Restricting the notional processor to such a narrow set of business models would run counter to DIRA's objective of promoting contestability
- It could fix input and output prices in a liquid market for hedges. However, the hedging products available in the New Zealand market have not been developed to the point where they are sufficiently liquid to realistically mitigate the mismatch risk.[8] If adequate products

[8] There are NZX futures markets for milk price and certain commodities (such as WMP, SMP, butter and AMF sales), but these are not sufficiently liquid. For example, only 2 percent of the national milk production is contracted, and even less than 2 percent of farmers are involved (see: Farmers Weekly, *Milk Price Futures Trade Booms*, 2 June 2017). Reliable liquidity and volumes

do not exist in the real-world New Zealand market, then they cannot be considered part of any reasonable definition of practical feasibility. The proposal to add off-GDT sales into the calculation methodology only makes such hedging even less realistic. [

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Overall, a notional processor buying from a contestable market for raw milk and selling into the GDT and off-GDT commodity markets will face an unhedged risk of mismatch between input and output prices.

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] However, in the absence of liquid hedging markets, the mismatch is not just a product of error by a processor.

The issue is not that IPs are unable to perfectly guess Fonterra's sales curve or this season's milk curve. That is a matter of commercial judgement and is part of the market risk that all processing businesses legitimately face. Rather, the issue is that a mismatch results from the fact that in a contestable market—which DIRA promotes—there will be no single production and sales curve that by itself can guarantee a perfect match between input and output prices. Of course, the mismatch may result in both negative and positive outcomes for the IPs—and hence for the notional processor. However, the fact that the effects could be both negative and positive does not mean they would be expected to offset each other.

Is this a systematic risk that should be reflected in asset *beta?*

The usual tool for the calculation of WACC—the Capital Asset Pricing Model (CAPM)—deals with the opportunity cost of capital within a diversified portfolio. It is a standard tool applied extensively in regulation. Investors can eliminate company-specific risk by properly diversifying their portfolios. The investor is rewarded with higher returns for bearing systematic market-related risk:

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would need to be established in the futures contract over a number of years before banking/broking intermediaries package up tailored over-the-counter hedge products for farmers not willing to use futures directly (see The National Business Review, *Managing Milk Price Risk*, June 2016, available at: http://www.pwc.co.nz/PWC.NZ/media/pdf-documents/media-centre/national-business-review-managing-milk-price-risk-june-17-2016.pdf).

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*While there are several competing risk and return models in finance, they all share some common views about risk. First, they all define risk in terms of variance in actual returns around an expected return; thus, an investment is riskless when actual returns are always equal to the expected return. Second, they argue that risk has to be measured from the perspective of the marginal investor in an asset, and that this marginal investor is well diversified. Therefore, the argument goes, it is only the risk that an investment adds on to a diversified portfolio that should be measured and compensated. In fact, it is this view of risk that leads us to break the risk in any investment into two components. There is a firm-specific component that measures risk that relates only to that investment or to a few investments like it, and a market component that contains risk that affects a large subset or all investments. It is the latter risk that is not diversifiable and should be rewarded.*[10]

It is useful to recap that *beta* measures the tendency of the return of a security to move in parallel with the return of the equity market as a whole and thus is a measure of non-diversifiable market risk.

Hence, the key question is whether the mismatch between input and output prices faced by the notional producer would be diversifiable, or if it would affect the tendency of the notional processor's returns to move in parallel with the market.

If the requisite hedging products were practically feasible, then the theory would tell us that the cost of hedging (or any insurance or self-insurance costs) should be included in the cashflows, while the asset *beta* should not be affected.

However, if the hedging products are not practically feasible—as is the case because of low liquidity—the risks of mismatch are not diversifiable, either through insurance or self-insurance or through the construction of the investment portfolio. The risk of mismatch will have an on-going and systematic effect on the variability of returns faced by the notional processor, and hence will have a direct effect on the tendency of the notional processor's returns to move in parallel with the market.

### What action needs to be taken?

The Commission should recognise the systematic risk of mismatched input and output prices when determining if Fonterra's asset beta is practically feasible. Following this, the Commission should request that Fonterra change their asset beta to reflect this systematic risk.

We accept that this is a fundamental aspect of the regulatory regime, and Fonterra should be afforded the opportunity to respond. However, if Fonterra are unwilling to change the asset beta or provide a timely counterargument that can be tested by the IPs, the Commission should conclude in this year's Milk Price Calculation Review that the asset beta is not practically feasible. This ensures the issue is not drawn out into the next regulatory review period, and mitigates the risk of Fonterra using excessive amounts of time to search for new and additional reasons to justify the current asset beta. This is a particularly significant risk. The Commission recently asked Fonterra to provide a justification for its comparable companies' asset beta. The Marsden paper presented at the workshop was intended to do this, however, it constituted *new* analysis: it was not a presentation of the original analysis underpinning Fonterra's original comparable companies' asset beta. It represented a new line of argument, presumably because their original justification was too weak. Our concern, therefore, is that without an incentive to progress matters, Fonterra will continue to find new reasons to justify their asset beta when no longer able to justify their current position.

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[10] Damodaran, A. *Equity Risk Premiums (ERP): Determinants, Estimation and Implications—the 2015 Edition*, Updated March 2015, Retrieved from http://pages.stern.nyu.edu/~adamodar/

## 5 Off-GDT Sales

The Commission appears to have concluded the only outstanding issue for the proposed expansion in off-GDT sales is the consequential changes to the notional producer selling costs. However, we believe there remain three key outstanding issues:

- Criteria, standards and controls which can ensure a robust and objective selection of off-GDT sales
- Changes in the notional producer business model (which include, and go beyond, changes in selling costs)
- Information transparency

We also address the Commission's request for comparable information from IPs on off-GDT costs and sales prices. We discuss these below, and the actions that should be taken to address them.

### 5.1 Off-GDT Sales Criteria

Off-GDT sales added to the milk price model must be practically feasible. To know this, robust and systematic criteria must be applied to select them. The criteria proposed by Fonterra are too broad and ill-defined to adequately achieve this. For example, it is not clear how Fonterra chose their categories for determining whether sales represent 'commodity products'. Equally, Fonterra state that only sales comprising a 'standard product offering' and 'standard packaging' will be included, but 'standard product offering' and 'standard packaging' are not defined. There has been no input sought from IPs into these definitions.

*Prima facie*, Fonterra's criteria does not actually achieve practical feasibility. For example, Fonterra will exclude tenders from off-GDT sales on the basis these are not transacted in "freely contested markets." This itself is at least questionable and Fonterra needs to explain why tenders are not freely contestable. There is, however, another problem as exclusion of tenders implies another material change without explanation in the notional producer business model. The notional producer has until now been assumed to sell 10 percent of its product to "government procurement customers" and this was on the basis it was not practically feasible for the notional producer to sell its entire volume on an auction platform. The (off-GDT) sales to government procurement customers would typically be made through tenders. By excluding tenders, Fonterra is now excluding the government procurement customers, changing the notional producer business model for no apparent or disclosed reason. Government procurement customers, and other large tenders, are scale business opportunities which Fonterra is compelled (and able) to pursue as a result of its own scale. Fonterra must explain why they are no longer a necessary reflection of the practically feasible sales of a commodity processor the scale of the notional producer.

Fonterra therefore needs to explain how these inconsistencies are rectified in the model to allow the Commission to determine that practical feasibility is still achieved. They should explain why they consider it is practically feasible to assume such a large reduction in sales to government procurement customers, and more broadly why tender sales are excluded from the calculation of notional producer revenue. Fonterra should also explain how it defines 'tenders', which goes back to our earlier point that Fonterra's criteria remains poorly defined.

#### What action needs to be taken?

The Commission should ask Fonterra to provide greater transparency on its off-GDT sales criteria, and assess this against the statutory criteria, before recommending their inclusion. The IPs are willing to assist in reviewing these criteria. We believe our inclusion in the process would provide us with greater transparency of the off-GDT sales selection criteria, and enable us to provide useful and relevant information to assist the Commission.

### 5.2 Changes in the Notional Producer Business Model

We agree with the Commission that the notional producer costs need to reflect inclusion of off-GDT sales. However, implications for the notional producer are much wider.

[ ] This implies a substantial change in the notional producer business model and requires a rigorous assessment of the notional producer costs and performance assumptions. Fonterra has provided no substantive information to enable scrutiny or assessment of practical feasibility. Our initial concerns relate to:

- Changes to production performance and costs
- Changes to sales and marketing costs

On production performance and costs, Fonterra has confirmed that off-GDT sales provide an opportunity to extract higher selling prices because of more flexible and varied offerings. This would result in increased business model complexity and costs. For example, production planning and product mix management would be more complex and responsive to short term changes in customer expectations. Production scheduling would reflect that increased complexity and would interrupt the long production runs currently assumed as a result of the rigid GDT offerings. This would lead to a reduction in plant operating efficiency and production yields. If this were not the case, and direct sales to customers were as cost effective as the streamlined auction platform, then it is not clear why Fonterra would have adopted the auction platform in the first place.

On sales and marketing costs, Fonterra has advised that existing sales cost allowances supporting the GDT platform are sufficient to support the direct marketing of off-GDT sales. [ ]
Fonterra's off-GDT sales assumption indicates as much as 23 percent of the notional producer's total sales could in effect be off- GDT, sold to multiple customers across wide geographies, which compares to 10 percent at present sold to a very limited number of customers (government procurement customers). This represents a substantial change in the notional producer business model and associated sales costs, [ ]

Expanded sales offerings to customers will also impact on working capital management, and working capital itself (for example, debtor and stock levels will change).

What action needs to be taken?

We believe that the inclusion of off-GDT sales would affect the following business cost assumptions:

- Sales and marketing infrastructure and costs
- Manufacturing efficiency and costs
- Production planning and product mix management
- Working capital management and costs

We would like to work with the Commission to scrutinise these costs, but this would require much greater information transparency from Fonterra.

### 5.3 Revenue Transparency

The inclusion of off-GDT sales adds another layer of opacity to the transparency concerns highlighted in Section 3. Off-GDT sales do not have the price visibility that on-GDT sales have. This opacity must be addressed so that:

- the Commission can benefit from informed views of the IPs when it assesses the practical feasibility of off-GDT sales

- the growth in regulatory risk is mitigated for market participants. This is especially important when considering Fonterra has indicated the volume of off-GDT sales could be very large, meaning it has the potential to significantly increase regulatory risk.

What action needs to be taken?

Regulatory risk would be mitigated and independent producers enabled to provide more scrutiny if Fonterra shared the information described below. This builds on the information outlined in Section 3 above:

a. Monthly GDT selling prices (shipment date) of the RCPs expressed in SSP price equivalents;

b. Monthly GDT actual sales phasing (shipment date) of sales from which the prices in (a) are derived (expressed as a percentage);

c. Monthly Notional Producer selling prices[11]

d. Monthly actual sales phasing[12] (shipment date) of the RCP sales (GDT + off-GDT) from which the prices in (c) are derived (expressed as a percentage);

e. Monthly Notional Producer sales phasing (shipment date) for the current milk price season (expressed as a percentage); and

f. The separate volumes of GDT and off-GDT sales for each RCP included in the milk price calculation.

During the season, season-to-date data would be reported quarterly (in the month following the end of each quarter), with items (b), (d) and (e) provided on an estimated season to date basis. An example table in *Appendix A* illustrates the minimum information required to meet transparency objectives.

In addition to revenue transparency, Fonterra needs to make transparent the process for adjusting RCP selling prices to an SSP equivalent price. This is of increased importance given the scale of off-GDT sales Fonterra has indicated will be included in the milk price calculations. It is difficult to be prescriptive of what is required and that might emerge through any initial disclosures provided by Fonterra. At a minimum, detail is required across the following areas:

- How differences in milk solids (RCP vs SSP) are handled.
- The value attributed to (differences in) milk solids.
- Handling of yield differences, both due to differing product composition specifications, and manufacturing yields/losses.
- Treatment of fixed costs.

### 5.4 Comparable Information on Off-GDT Costs and Sales Prices

The Commission has requested comparable information from IPs on off-GDT costs and sales prices. We are willing to provide the relevant information to the Commission to ensure an accurate assessment of off-GDT sales can be made. However, we believe the lack of clear criteria and insufficient disclosure from Fonterra make it difficult to provide targeted and useful input. We also perceive a significant risk in submitting information which may be used as a benchmark against figures derived from an opaque process. For example, price volatility makes it difficult to achieve meaningful comparison of prices between any party. This can only conclude that comparative prices are better or worse. Before price comparisons can provide meaningful information to assess practical feasibility, timing differences and

[11] SSP equivalent prices for the selected RCPs (GDT and off-GDT) used to determine the Notional Producer revenue.

[12] Phasing of actual GDT sales (and in the case of Butter and BMP, relevant off-GDT sales)

how they will be identified and treated must first be addressed. Equally, the methodology to adjust for price differences arising from product variations would need to be clarified.

We would like to see progress on the substantive issues discussed above, so that we can share the relevant information and contribute positively to the Commission's assessment of the inclusion of off-GDT sales in a more transparent and well-understood environment.

## 6 Concluding Comments

We conclude with some high-level comments on the Commission's initiative to conduct the workshop as a part of its consultation and information gathering.

Overall, we considered the workshop to be a useful addition to the Commission's process. It exposed the difference in approach between the various parties and gave the Commission's staff an opportunity to test parties' views in 'real time' in a way that the Commission has not previously been able to do.

We trust that through the course of the workshop the Commission has been able to see the value in allowing the independent processors to revisit the issues of transparency and practical feasibility. The discussion on these topics at the workshop seems to advance the debate.

Commission staff took the opportunity at the workshop to reiterate several process points, including:

- the desire to reach finality and not reopen matters that it considers have been resolved
- that DIRA does not prescribe any specific role or responsibility for the Commission in terms of process.

While we understand the Commission's desire for finality and a settled process, these points key into fundamental aspects of the regime that still require testing and more detailed consideration. We have focused on the substantive issues raised in the workshop in this paper, but look forward to revisiting these points with the Commission at the appropriate time.

Appendix A: Illustration of minimum revenue disclosure: WMP

| | | | | All Sales Basis (i.e. shipment date basis) | | | | | | | | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | Aug | Sep | ... | Jul | Aug | Sep | Oct | Total | MT (000) |
| RCP | SSP | | | | | | | | | | | |
| WMP | Regular | GDT Selling Price (SSP equivalent) | US$/MT | $ | $ | $ | $ | $ | $ | $ | $ | |
| | | Actual Sales Phasing | % | % | % | % | % | % | % | % | 100% | MT |
| | | Total Selling price (1) | US$/MT | $ | $ | $ | $ | $ | $ | $ | $ | |
| | | Actual Sales Phasing (2) | % | % | % | % | % | % | % | % | 100% | MT |
| | | Notional Producer Sales Phasing | % | % | % | % | % | % | % | % | 100% | 100% |

(1) GDT plus off-GDT average selling prices; this will be the same as the Notional Producer monthly selling price.

(2) Of the actual RCPs (GDT plus off-GDT) from which the notional producer selling price is dervied.