

## Susan Brown

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**From:** Daniel Silva [daniel@dsl.co.nz]  
**Sent:** Thursday, 13 October 2011 12:15 p.m.  
**To:** Registrar  
**Subject:** Kotahi: Importers Institute Submission

The Importers Institute is an informal national association of New Zealand importing companies. We aim to keep members informed on topical issues of interest and to represent importers' interests before policy makers and the public.

Please find below our submission on the Kotahi proposal, also published today in our blog [www.importers.org.nz](http://www.importers.org.nz).

Best regards  
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### Fonterra Needs Historians, Not Lawyers

The New Zealand milk cooperative Fonterra wants to form an entity called Kotahi (Maori for "standing together as one") with Silver Fern Farms, a meat exporter, and possibly other exporters and importers, to collude against shipping companies and ports.

That collusion is quite possibly illegal, so Fonterra has applied for a dispensation from the Commerce Commission. Ironically, one of the parties against which they want to collude are cartels of shipping companies, who themselves are still exempt from our anti-competitive laws.

The effect of the proposal is simple: Kotahi will use Fonterra's buying powers, augmented by those of its chosen partners, to get freight discounts from shipping companies. It seems probable that the shipping companies would increase the freight rates they charge smaller exporters and importers to compensate.

So, is this just a scheme to increase the profits of Fonterra at the expense of almost everyone else? And if that is all there is to it, how on earth could anyone think that the Commerce Commission would allow that?

Fonterra says that their real objective is to promote a National Infrastructure Plan. They said, "While Kotahi Logistics will be seeking to drive ocean freight and other transport costs for its limited partners and customers [...] achieving costs savings for the benefit of individual firms is not the primary driver. Rather, the Kotahi proposal is aimed at creating a more efficient freight system for all New Zealand firms by promoting greater consistency and more integrated investment in the transport sector."

Fonterra is New Zealand's biggest exporter. Can't they just use their muscle to achieve those objectives? Apparently not: "Even Fonterra - whose usage of containerised freight services currently dwarfs that of any other users - standing alone cannot expect to drive the necessary change", they said.

The cooperative is itself the product of a dispensation from our anti-competitive laws. They enjoy a virtual monopoly on the export of dairy products from New Zealand. Chinese consumers are desperate for infant milk formula packed in New Zealand - they don't trust local sources after a former Fonterra joint venture there was caught poisoning babies with adulterated milk powder. Some entrepreneurial traders are going around buying infant formula from retailers in New Zealand and shipping it to China. It won't last. The authorities here will do whatever it takes to preserve Fonterra's monopoly.

The Importers Institute shares some of Fonterra's concerns about the lack of rationality in infra-structure investment. Port companies, like Auckland for example, are regarded as little more than cash cows by the local politicians who 'own' them. The usual business accountabilities are absent, because those companies are not businesses, they are extensions of local government.

The solution is not more bureaucratic control or five-year plans drawn up by technicians employed by central, local or corporate bureaucracies. The solution is to ensure that those assets are sold to the highest bidder and operated as

competitive businesses - with no dispensations for anti-competitive behaviour. If, for example, Auckland fails to invest in gear to handle larger ships, they will lose that trade to a competitor who does, say Tauranga or Melbourne.

Fonterra must have spent a few million dollars on this proposal - the corporate litigation specialists of Chapman Tripp and the economists from NERA don't come cheap. They should have consulted less with lawyers and more with historians. Without exception, every economy that has ever attempted to replace markets with central plans devised by experts has ended up in total failure. The 'obvious' efficiencies of central planning never materialised, only shortages, privations and the growth in a class of corrupt planners. As someone said, if you introduce central planning to the desert, nothing much will happen at first, but after a while there will be a shortage of sand.

The Importers Institute urges the Commerce Commission to decline this proposal. We urge the government to take steps to free up our economy (including the break-up of export monopolies), instead of tying it up in the red tape of planning committees staffed by would-be experts. We would expect our largest corporation to share these aims. Sadly, Fonterra has failed to exercise business leadership, in this case.