

Appendix

Reference (numbering in revised draft unless otherwise stated)	Proposed Changes	Reason
[21]	Currently in New Zealand there is not a workably competitive <u>New Zealand-wide market process</u> to derive a farm gate milk price. ⁴² Therefore, DIRA requires Fonterra to determine such a price <u>the base milk price</u> using an administrative methodology. ⁴³	The relevant section of the paper uses “farm gate milk price” to refer to the actual price paid by dairy processors for raw milk.
Fnt 12	As at the end of the 2018/19 season, Fonterra collected approximately 81% of total raw milk supply in New Zealand. See for example, TDB Advisory for the NZ Productivity Commission “The Dairy Sector in New Zealand: Extending the Boundaries” (October 2020), page 8. <u>As at the end of the 2021/22 season, Fonterra collected approximately 79% of total raw milk supply in New Zealand. See https://www.dairynz.co.nz/media/5796369/nz-dairy-statistics-2021-22-web.pdf for Dairy NZ (total New Zealand collection (1,868 m kgMS), Fonterra Milk Price Statement for the Season ended 31 May 2022 (Fonterra collections for 2021/22 season: 1,478 m kgMS).</u>	We suggest that the Commission update this information as proposed and cite to primary sources rather than a secondary source of this information.
Fnt 13	ie, the Manual and the base milk price calculation model. DIRA, ss 150A-D and 150F.	It is preferable to reference the relevant specific DIRA provisions.
[27]	The non-farmer unit fund <u>publicly-traded unit fund</u> was retained but capped so that shares could no longer be exchanged into new units on a day-to-day basis, and the overall <u>maximum</u> size of the unit Fund was reduced.	We suggest that these amendments be made for clarity and accuracy. In particular, farmers can also hold units in the Fund and the potential size of the unit Fund was capped rather than the size of the Fund reduced.
[28]	The partial delinking of the unit Fund from the farmer-only <u>share market required was supported by a further</u> amendment to DIRA. This was because the TAF enabling provisions in DIRA relied on <u>included a reference to the</u>	At no point was it determined that such an amendment was

	link between the farmer-owned shares and the unit fund to ensure efficient price-discovery and mobility of farmer capital investment in Fonterra as a means of maintaining contestability in the farm gate milk market.	“required”. It was only requested by Fonterra.
[34.2]	s 150B provisions <u>permitted assumptions</u>	This better captures the purpose of s150B.
Title before [56]	Section 150B provisions <u>permitted assumptions</u>	
[56]	... While Fonterra is able to use these assumptions, <u>and s 150B provides a conclusive presumption that the assumptions it contains do not detract from the purpose set out in s 150A (including the contestability purpose), we are able to review the way the assumptions have been used in setting the base milk price.</u> ²⁶	It is not clear why the wording underlined has been removed.
[75]	The Commission may also direct Fonterra to publish any information requested by or provided to the Commission as part of its reviews, <u>except if the information is reasonably considered to be commercially sensitive, subject to legal privilege or personal information.</u>	The point originally in the footnote is important. It detracts from clarity of and expectations created by the “our approach” guidelines to relegate it to a footnote.
Fnt 38	Remove Footnote 38	
Former [82] and [83]	<p><u>Fonterra has incentives to improve efficiency to maximise profits</u></p> <p><u>82. We consider that Fonterra has an incentive to maximise its overall payments to farmers and to shareholders, including unitholders in the publicly listed Fonterra Shareholders’ Fund (FSF), which was created in 2012 as part of TAF.⁴⁵ Improvements in efficiency may be passed through into a higher base milk price benefitting farmer-shareholders or result in higher profits for Fonterra potentially benefiting outside investors in FSF through higher dividends.⁴⁶</u></p> <p><u>83. We consider Fonterra’s management has an incentive to maximise profits (which benefits both farmers and shareholders, including unit holders in the publicly listed FSF).⁴⁷ This incentive is reinforced by the transparency associated with the listing on the stock exchange of the non-voting units, and the importance to Fonterra of ensuring that its TAF regime works.⁴⁸</u></p>	We recommend reinstating these paragraphs. No reason was provided for their removal. The paragraphs remain accurate, except footnote 46 which would need to be updated.
[106]	<u>A statement consistent with s150P(3)(b), namely that the Commission is not required to, and must not, state the</u>	It would add clarity to the guidelines to include

	<u>amount of the base milk price according to its calculations should be inserted into the Approach Paper in this section.</u>	this feature of the statutory mandate.
A6	The key assumptions made in determining the revenue and costs associated with the notional producer are set out in 0.	Cross reference needs fixing.
Fnt 71	GDT is owned <u>and managed as a strategic partnership between the European Energy Exchange, Fonterra and NZX, with equal one-third shareholdings by Fonterra but is operationally separate.</u>	Updated for accuracy.
B5	The Panel is established under s 150D of DIRA. The appointment of its members by Fonterra is prescribed in s 150E and must include two members who are nominated by the Minister and a fully independent chair. <u>If the Panel chair is a member nominated by the Minister, the Minister can appoint a third member.</u>	Revised for accuracy.
B6.1	B6.1 as revised below should be removed from B6 and put into its own section: The Panel Fonterra must, for each season appoint an external party to perform the base milk price calculation each year and change this person regularly; ⁸¹	The language needs to clarify that it is Fonterra, not the Panel, that is required to engage the external party.