



Vannessa Turner

Manager – Market Assessment and Dairy

Commerce Commission

Submission on the Commerce Commission’s Draft Report on the 2016/17 Milk Price Manual

Open Country Dairy (Open Country) is pleased to make this submission on the Commerce Commission’s (Commission) draft report (Draft Report) on the 2016/17 milk price manual (Manual).

Open Country affirms its belief that the Dairy Industry Restructuring Act 2001 (DIRA) is demonstrably not working and that greater integrity, transparency and objectivity in the milk price is the only way forward for the regime.

We acknowledge the Commission’s willingness to meet with independent processors as a positive step forward in the regime. We look forward to discussing this regulatory process as well as the wider regime in more detail with the Commission, but wish to record the following comments on the Draft Report:

- We are pleased the Commission has recognised that Fonterra’s proposed approach to off-GDT sales and the capacity of plant producing secondary RCPs raise serious concerns regarding transparency and Fonterra’s level of discretion.
- We are also pleased the Commission has emphasised the importance of transparency to the DIRA regime and has recommended tangible ways Fonterra can improve transparency.
- A finding by the Commission that part of the Manual is inconsistent with DIRA sends a powerful message to Fonterra. We are disappointed that the Commission has reduced its position to recommending what Fonterra should change **to enable the Commission to reach a conclusion**. The Commission states in the detail of the Draft Report that Fonterra’s approach to providing farmer support and calculating lactose costs are not consistent with DIRA. However, the Commission effectively retracts from this position in its conclusions in Chapter 3 by stating that it will be ‘able to conclude’ on the consistency of these aspects of the regime once Fonterra makes changes to the Manual. We believe it is inconsistent with DIRA for the Commission to only reach a conclusion on something when it is consistent with DIRA. An essential part of the Commission’s role is to conclude on matters where they are inconsistent with DIRA—and for that conclusion to change only when Fonterra has changed its approach.
- The Commission has proposed deferring substantive consideration of Fonterra’s use of off-GDT sales to the 2016/17 milk price calculation. We do not understand why the Commission would not seek information to resolve this issue now, and do not believe the Commission has adequately explained its views on the points raised in stakeholder submissions.

Open Country looks forward to discussing these issues further with the Commission.

Best regards,

Steve Koekemoer

Chief Executive Officer, Open Country Dairy Ltd