

STYX RIVER FARM PTY LTD



Submission to Interim Report of the ACCC Dairy Inquiry

We own and run a 1000 cow dairy farm in southern Tasmania and we have supplied Lion since 2004. We also dual supply to a small fresh milk and cheese business, owned by our son, called Udderly Tasmanian. I am also the spokesman for the Tasmanian Suppliers Collective Bargaining Group.

We would like to make the following comments on the Interim Report.

Exclusivity of supply

Our son's business, Udderly Tasmanian, is being threatened with closure from 1st July 2018, by Lion's insistence on enforcing the exclusive supply wording in our milk supply contract, despite allowing us to 'dual supply' for several years. The Voluntary Code of Practice should prevent them being able to do this, (Page 1: .. *the code should not be used by processors to force farmers who have non-standard form supply arrangements to move to standard form arrangements, nor to have elements of the code applied in non-standard form agreements without mutual consent of processor and farmer.* " but because it is a voluntary one they have refused to abide by it. Lion have offered to supply our son with raw milk themselves, however his marketing is based on traceability back to our farm and its high standards of cow care aswell as his 'lean milk' product which is taken from the early morning milking where the milk is of a naturally lower fat content.

We supply 7.5 million litres a year to Lion and 0.5 million litres to Udderly Tasmanian.

This seems to be a simple case of anti-competitive, aggressive and predatory behaviour, totally lacking in common sense. Lion have applied this policy to all Tasmanian dual-suppliers, despite the fact that there is a dual supplier in King Island and a very large dual supplier in New South Wales. Tasmania's small cheese and milk companies rely on their supplies from individual farms.

Collective Bargaining

As a long term spokesperson of the Tasmanian Suppliers Collective Bargaining Group, it is my belief that collective bargaining goes some way to increasing farmers bargaining power. However, unless it is compulsory for processors to deal with a collective bargaining group, then too much power rests with the processor. There needs to be a quick and economical dispute resolution process as processors are able to ignore a mediator's judgement and then force a bargaining group to go the massive expense of arbitration. Processors know they have the funds to employ lawyers and QC's, whereas collective bargaining groups have limited resources.

In a recent dispute with Lion over their pricing policy, Lion refused to accept a leading Melbourne QC's opinion which was strongly in favour of the collective bargaining group's position.

Milk Swaps

In southern Tasmania, milk swaps commonly occur between Fonterra and Lion. However this can be a contradiction to a company's quality statement. We also think that it could be anti-competitive as if a farmer wants to leave a company, for whatever reason, his leaving will have little impact on the processor.

\$1 a litre milk

The Interim Report seems to contradict itself as to whether \$1 a litre milk has an effect on farm gate milk prices. The reports overall impression is that it has little effect, however you state on page 20 that for a processor to obtain contracts with the two main supermarkets they have to make substantial capital investments in new plants and equipment. Unless the processor is a co-operative and owned by the dairy farmers then it seems inevitable that it will lead to lower farm gate milk prices.

In our opinion, private label milk, should be limited to a small percentage of a supermarket or stores daily sales. In this way, the supermarket could not influence the market, distorting the buying pattern of milk, allowing smaller processors to enter the market place and lead to a more profitable situation for processors and hence dairy farmers.

You state that *'almost all contracts for supply of private label milk have clauses that allow processors to pass through movements in farmgate prices to supermarkets. As a result there is no direct relationship between retail private milk prices and farmgate milk prices'*. As a Lion supplier, we are totally ignorant of such an arrangement and it may be that this is a way of increasing processor return at the expense of the dairy farmer. It would be most interesting to know if this has ever happened with any processor.

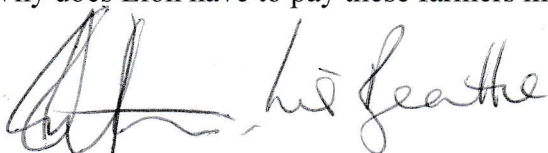
Contracts

Supply contracts with Lion end on 30th June of any particular year. However, a farmer needs to give 90 days' notice of their intention to cease supply but Lion have the right to insist that they keep picking our milk up until the end of September. Either a contract finishes at the end of June or it doesn't.

When a processor alters the format of a contract then we strongly suggest that any changes are listed in an accompanying letter.

Differential in State Pricing

Lion suppliers in Victoria, South Australia and Tasmania, are paid around two-thirds the price for their milk as suppliers to Lion in Queensland, New South Wales and Western Australia. Why does Lion have to pay these farmers more money than they pay Tasmanian farmers?



Philip and Elisabeth Beattie

31st January 2018