

Public Submission
to
ACCC Grocery Inquiry

By

Southern Sydney Retailers Association Ltd
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On

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Why have Australian families been punished with a 113% increase in the retail price of milk since 1990?



**And what is the total cost to
Australian Consumers ?**

Foreword : Who Stole the Milk Money ??

*The Farmers Story*¹

“For four days, Waaia dairy farmer Roger Fletcher’s 12-year-old daughter, Corbeth was too embarrassed to go to school. She needed new shoes but her struggling family did not have enough money for them.

Not sure what to do, Roger Fletcher remembered a depressed young girl, Margy Roberston, also 12, living in nearby Cobram who had twice tried to hang herself because of financial pressures facing her dairy farming parents.

He found the \$56 for his daughter's shoes.

Roger Fletcher is one of more than 6000 Victorian dairy farmers doing it tough. The drought and a higher Australian dollar affecting export prices have taken their toll. "It's unbelievable what we've gone through in the past 18 months," Mr. Fletcher said. 'I'd say 35 per cent of farmers are on the dole. We work 14 hours a day, seven days a week, 365 days a year, and we don't get paid.....' He blames dairy companies and supermarkets. ”²

Fact : The Farmgate price of milk is lower today than it was in 1990.

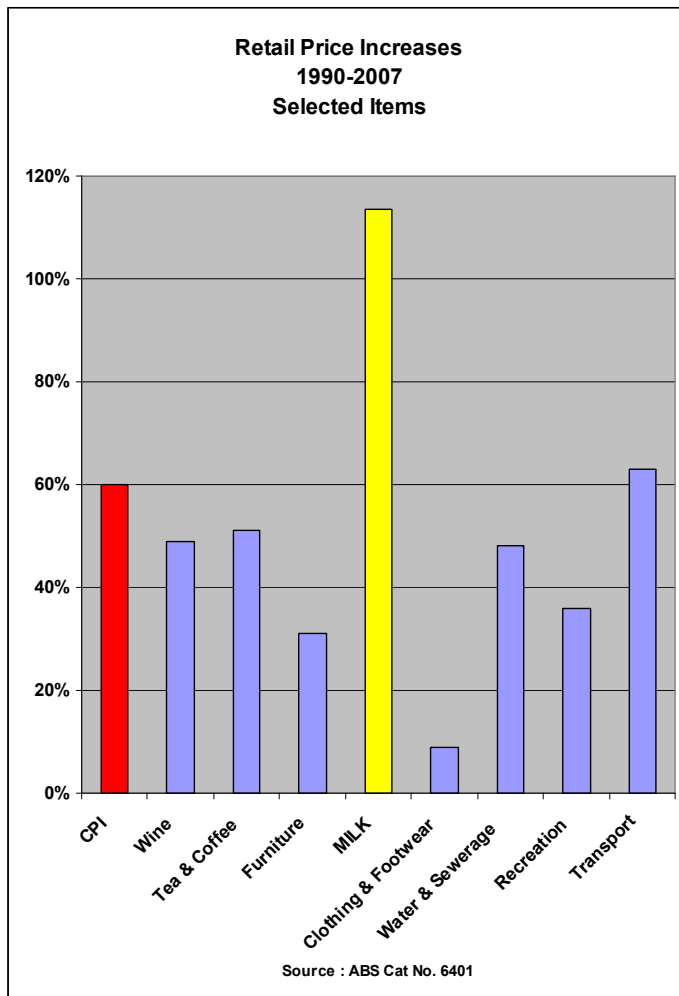
The Retailers Story

Meanwhile, over at the Coles group, (the people who place the milk on the shelves and collect the money from the consumer) before the company was flogged off in a distressed state at below market value, as a result of underperformance - just three employees had rewarded themselves treasurers that would make an African Dictator blush. Mr. Fletcher is reported to have pocketed a total of **\$46.9 million**, a Mr. Zayadi a reported **\$34.4 million** and a Ms Robertson a reported **\$29.8 million**. (See *“Coles execs rewarded for lagging”*³).

In a plot that could be mistaken for either a Monty Python comedy sketch or an Orwellian tragedy - under the current legislative settings of the Australian Trade Practices Act;

- Self-anointed competition law “experts” theorized that milk prices to the consumer would be lower.
- The retail price of milk to the consumer has skyrocketed **113.5%** since 1990 (almost double the rate of inflation),
- The price the dairy farmer receives has gone backwards, and there are dairy farmers that struggle to afford to buy shoes for their daughter’s to go to school.
- Three employees at the retailer that sells the milk pocket over \$100 million, while they tell the public the market is “highly competitive”, and they claim to have lowered prices, and the Trade Practices Act is working well.

And we call ourselves the clever country. If it wasn’t so tragic, it would be a joke.



¹ The story is real, but the names have been changed to protect the dignity of this proud Australian family.

² *“Dairy Farmers feeling Milked Dry”*, <http://www.theage.com.au/articles/2004/04/24/1082719671185.html?from=storyrhs>

³ *“Coles execs rewarded for lagging”* <http://www.smh.com.au/news/business/coles-exec-rewarded-for-lagging-says-lew/2006/09/20/1158431782854.html>

Why have Australian families been punished with a 113% increase in the price of milk since 1990?

As a nation we should hang our heads in shame for allowing this to occur. And yet some will argue to this inquiry (as they have for the past two decades) that the Australian retail market is “highly competitive delivering low prices to consumers” - and that the Trade Practices Act is working well and should not be changed, because this risks “chilling competition”.

It is time the admission is made; competition has frozen over under the currently legislative settings of the Trade Practices Act, and the TPA and its Administration are in complete disarray – all to the ultimate detriment of the Australia consumer.

Nowhere is the failure of the Trade Practices Act and its administration, and damaged caused by the misguided theories of self proclaimed competition law “experts” that have controlled the legislative settings of competition policy over the past two decades more evident than what has happened to the retail price of milk in Australia.

The Australian Dairy industry was deregulated on 1st July 2000, and the cost of \$1.94 billion. The self- proclaimed competition law “experts” theorised at the time;

“.....it was the consumer that was most likely to benefit significantly from lower costs for fresh milk....”

While the economic theories of “free marketeers” speculated that all deregulation is good, leading to their naïve and mistaken belief that deregulation of the dairy industry would result in significantly **lower prices** for consumers, this groups total ignorance of the workings of the real world resulted in their failure to understand the hyper-concentration that had evolved in the Australian the retail sector, and how with Australia being one of the few countries in world⁴ without any Price Discrimination laws, that deregulation would simply result in Woolworths/Coles exploiting their brute market power to the detriment of their smaller competitors, farmers and ultimately consumers.



These misguided theories of self-proclaimed competition law “experts” have simply exposed dairy farmers to giant predators, whereby the farmgate price for drinking milk they receive today is lower than it was 20 years ago – meanwhile, Australian families have been punished, suffering with the fastest rising retail prices of milk in the developed world – which have increased an incredible **113.5%** since 1990 – almost the double the rate of inflation.

And all this has been happening while Woolworths/Coles, in defence of their monopolistic interests, have been claiming to have reduced prices to consumers in a “vigorously competitive market”.

Then, Governments of both political persuasions, having swallowed Woolworths/Coles’ propaganda hook, line & sinker have structured the legislative settings of the Trade Practices Act to favour and protect Woolworths & Coles. The failures are now obvious for all to see. The sign in the above picture sums it up, ***“Dairy Farmers paid less, Consumers pay more”***. Competition has collapsed.

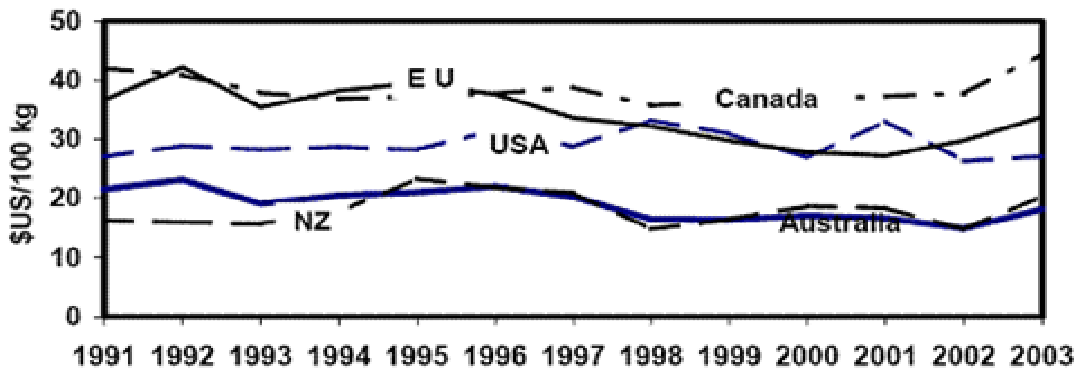
⁴ **Countries where no specific Price Discrimination laws exist, include;** Australia, Angola, Burma, Bolivia, North Korea, Solomon Islands, Haiti, Mongolia, Iraq, Iran, Libya & Yemen.

Countries where specific Price Discrimination laws exist include; United States, Canada, England, Ireland, Scotland, Wales, Spain, France, Germany, Italy, Belgium, Switzerland, Norway, Sweden, Netherlands, Austria, Portugal, Denmark, Greece, South Africa, Japan, Singapore and now even China.

Worldwide Trends

There is some truth that farmgate prices of milk do follow worldwide trends. But Australian dairy farmers are amongst the lowest paid in the world.

Table 1 : International FarmGate Price for Milk

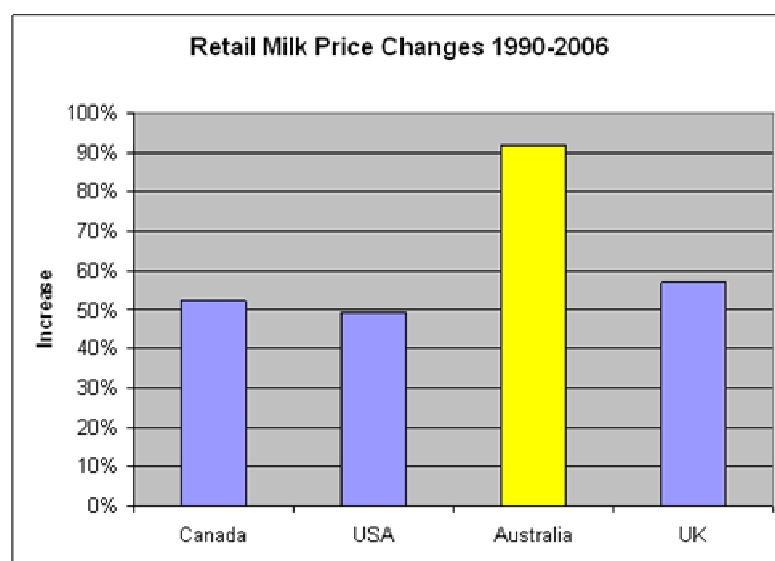


Source : Dairy Australia (2004) *Australian Dairy in Focus*, 2004.

Therefore, if the Australian retail sector is “highly competitive” (as those enjoying record profit increases continually claim) these worldwide trends in farmgate price movements, should also be reflected in similar worldwide trends in retail price movements.

Unless a nation’s currency collapses (Zimbabwe style) or competition collapses (Eastern Bloc style) then over a significant period (at least 10 years) it should be expected that there would be at least some uniformity in retail price increases across different countries with similar economic structures.

However, with the “benefits” of the dairy de-regulation in Australia, the increase in the value of the A\$, and the elimination of sales tax on production inputs on fresh milk, and its packaging (as milk is GST exempt) – Australia should have enjoyed much smaller increases in the retail price of milk than has occurred in the rest of the developed world. ***But the opposite has happened.*** Australia leads the world in increases in the retail price of milk. Clearly, something has gone very, very wrong in Australia.



Sources : Australian Bureau of Statistics, Statistic Canada, UK National Statistic On-line, & US Department of Labor Statistics

Given these facts, anyone that claims the Australian retail sector is “highly competitive” and is “delivering low prices for consumers” for milk, is either; ignorant, naïve, lying, a stooge, or a combination of all four.

Higher Prices Explained by a Price Fixing Cartel

The United Kingdom has experienced a slightly higher retail price increase (about 5% higher) for milk than has occurred in the USA and Canada. However, the reason for this higher increase in the UK can be explained by a criminal price fixing cartel that has inflated the retail price of milk.

In the UK, the leading Supermarket chains; Sainsbury's, Asda & Safeway have all admitted that they were part of an illegal price fixing conspiracy that increased the price of milk during 2002 and 2003 and stole £270m (A\$569million) from the wallets of UK families.⁵ The supermarkets have agreed to pay fines totalling some £116m (A\$250 million) after an Office of Fair Trading (the UK equivalent of the ACCC) probe. Sean Williams, Office of Fair Trading Executive Director, said;

*'This is a very serious case. [The] supermarkets have been colluding to put up the price of dairy products. Consumers have lost out to the tune of hundreds of millions of pounds. This kind of collusion on price is a very serious breach of the law. Businesses should understand that where we find evidence of this kind of anti-competitive activity we will use the powers at our disposal to punish the companies involved and to deter other businesses from taking such actions.'*⁶

If this criminal price fixing conspiracy can help explain why the retail price of milk increased approximately **5%** higher in the UK than it has in Canada & USA - what the hell is going on in Australia where retail prices have increased **40%** higher than in USA and Canada, and while this has been happening, Woolworths/Coles and their apologist have been telling the Australian public, "relax", the market is highly competitive !!

Clearly, it's time for the charade that the "Australian retail sector is highly competitive and is delivering low prices for consumers" comes to and end. Politicians from all parties must now openly admit that the Trade Practices Act has failed Australian consumers, and to allow the market to evolve into one where just two corporations act as gatekeepers to 80% of the nations supermarket shelves, has been foolish and has undermined national economic prosperity.

International Comparisons.

The Australian dairy farmer is the most efficient milk producer in world. Figures from Dairy Australia indicate that Australian farmers receive approximately 30% less than their dairy farming cousins in the USA. Therefore, even a moderately competitive retail market in Australia, should result in Australian consumers enjoying retail prices for milk lower than consumers in the USA.

To determine if Australian consumers are receiving the benefits of having the world's most efficient dairy farmers, we applied the following test to achieve a fair and accurate comparison;

Reduced Fat Milk - Best Supermarket Price	
Safeway San Franscico	Woolworths Sydney
	
US\$2.69/gallon	A\$3.79/3 litres
Per litre Australian \$ equivalent	
A\$0.76 per litre	A\$1.26 per litre
Result : Sydney families pay 66% higher price	

What is the "best supermarket price" available for milk (full, low fat and flavoured) for a family living in Sydney, as compared to a family living in San Francisco, on the week before Easter 2008.

⁵ "Supermarkets admit milk price fix", BBC News <http://news.bbc.co.uk/1/hi/business/7132108.stm>

⁶ Source : <http://www.offt.gov.uk/news/press/2007/134-07>

Full Fat Milk - Best Supermarket Price	
Safeway San Francisco	Woolworths Sydney
	
US\$2.69/gallon	A\$3.19/3litres
Per litre Australian \$ equivalent	
A\$0.76 per litre	A\$1.06 per litre
Result : Sydney families pay 39% higher price	

Flavoured Milk - Best Supermarket Price	
Safeway San Francisco	Woolworths Sydney
	
US\$3.99/gallon	A\$3.98/2litres
Per litre Australian \$ equivalent	
A\$1.13 per litre	A\$1.99 per litre
Result : Sydney families pay 76% higher price	

The results are appalling. (i.e appalling for the Australian consumer, but reason to break out the champagne bottles for Woolworths shareholders). Instead of Australian supermarket prices being lower, as a competitive market should have delivered, they are higher. And not just higher - but higher by a massive 39%, 69% and 76%.

But the results are not surprising given the data from the various international statistical agencies that clearly demonstrate that the retail price milk has spiralled upwards faster in Australian than the rest of the world.

Summary of Results – Best Supermarket Price, Sydney v San Francisco

In Safeway supermarkets in California, the best price⁷ for a gallon of milk either regular, skim or reduced fat was US\$2.79. This is the equivalent of **A\$0.76** per litre.⁸

The best price at Woolworths Sydney for full fat milk was ‘No Name Brand’, at \$3.19/ 3 litres container. At **\$1.06** per litre – this is a massive **39%** higher than from Safeway in California.

The best price at Woolworths for low fat milk was \$3.79/3 litre container, at a **\$1.26** per litre – the low price that I can count on everyday from Woolworths’ supermarkets, is an incredible **66%** higher than from a Safeway supermarket in California – yet the Australian dairy farmer gets paid less that the dairy farming cousins in the USA.

Further, Woolworth’s cheapest low fat milk, was even dearer than Safeway’s chocolate flavoured milk.

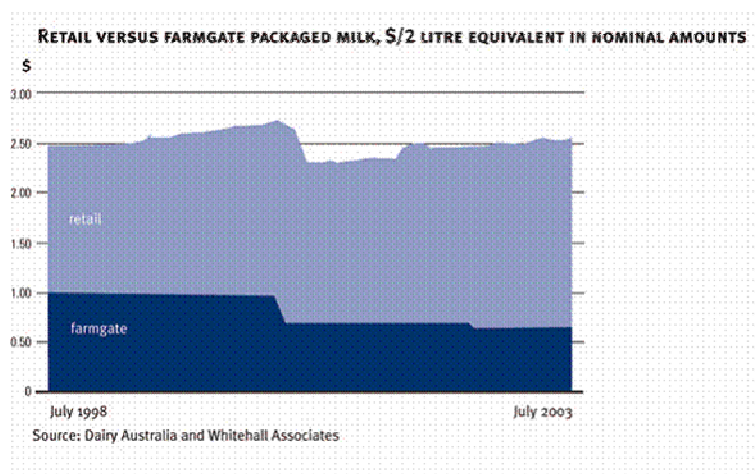
This study has also uncovered that where effective competition operates, that full fat, skim, and low fat milk is all sold at the same price. Yet in Australia where competition has collapsed, and Woolworths & Coles dominance has perverted the workings of the free market, anyone wanting to buy skim or low fat milk is slugged with a substantially higher price.

The Dairy Farmers Share of the Retail Price

The collapse of competition in Australia, and Woolworths/Coles’ exploitation of both the consumer and the dairy farmer is further evident by the substantial decline in the “farmer’s share” of the retail price.

Figures from Dairy Australia and Whitehall Associates show the “farmers share” of the retail price of milk in Australia has collapsed from **40%** in 1998 to around just **24%** in 2003

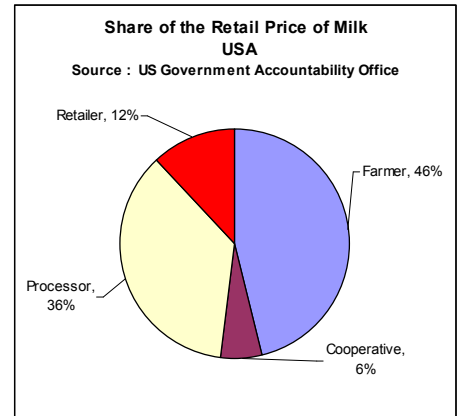
The disgraceful exploitation of consumers and farmers in Australia, through the collapse of the “farmers share” of the retail price, is further evident by benchmarking the situation in Australia against that of the USA and Canada.



⁷ <http://shop.safeway.com/superstore/sixframeset.asp?mainurl=http://safeway1.inserts2online.com/storeReview.jsp?drpStoreID=1206>

⁸ US gallon = 3.78541178 litre. US\$1.00 = A\$0.93

In Canada, the “farmer’s share” of the retail price has been ***maintained*** between **39% to 40%** between the years 1990-2003. (see: <http://nfu.ca/reading/CTSFINAL%202004.pdf>). Therefore, in Canada, a competitive retail market has maintained the competitive balance and fair prices for all players.

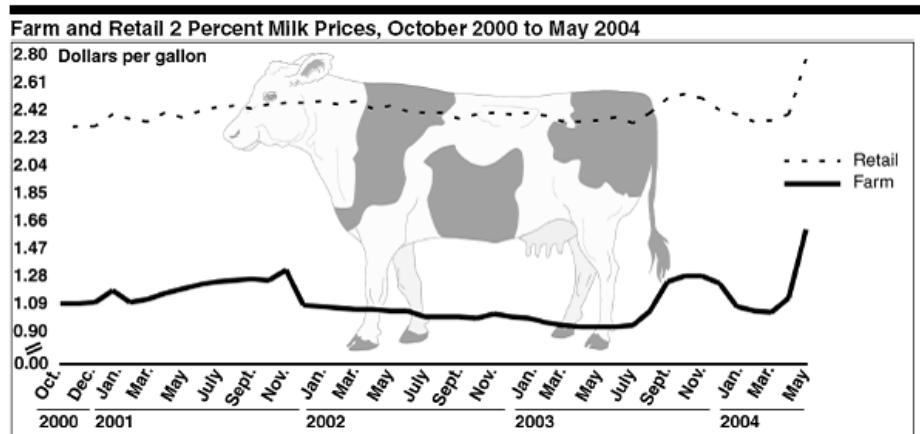


Likewise, in the USA, a report by the Government Accountability Office in 2004 into the US Dairy Industry⁹ stated;

“that between 2000 and 2004, on average farmers received about 46%, cooperatives 6%, wholesale processors 36% and retailers over 12% of the retail price of a gallon of 2% milk - the most common type of milk purchased”

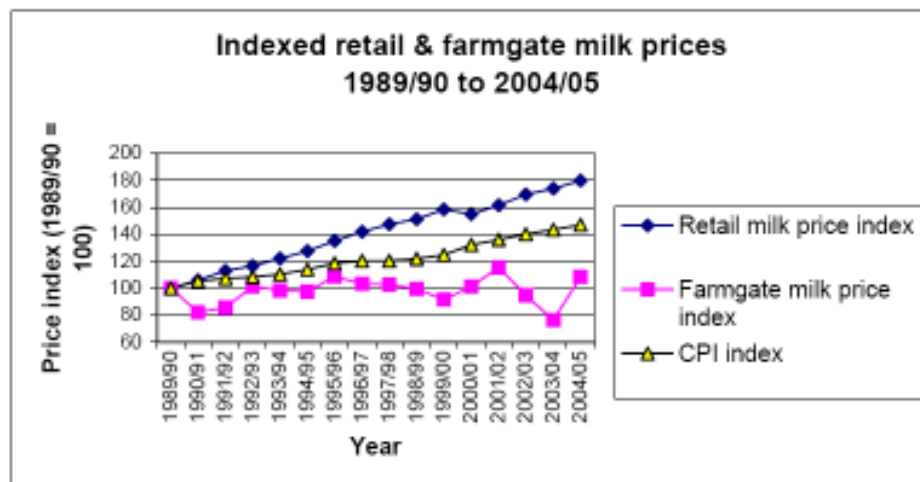
We trust that in undertaking this inquiry, the ACCC will seek to benchmark the competitiveness of retail sector in Australia, by comparing the **12%** share that the retailer takes in USA, to what Woolworths/Coles share of the retail price is in Australia, especially since between 2002 and 2006, the Farmgate price for Milk in Australia¹⁰ increased just **0.4%** - while the retail price increased **15.8%**.

As the following chart demonstrates, in the USA the retail price has more or less tracked the farmgate price.



Source: GAO analysis of data provided by USDA, the California Department of Food and Agriculture, and Information Resources, Inc.

However in Australia, the following graph taken from submission No.5 to this inquiry by former Senator Dee Margetts, shows how in Australia there has been a complete disconnect between the retail price and not only the farmgate price, but also the CPI. In Australia, with the collapse of competition, somewhere between the dairy farmer and the consumer someone is skimming off millions.¹¹



Data sources: ABS, ABARE 2005d⁶⁹

9 Source : <http://www.gao.gov/highlights/d0550high.pdf>

10 Source : Queensland Farmers Federation <http://www.qff.org.au/media.asp?dbid=102&dbdate=Recent>

The Milk Heist : the largest robbery in Australian history

On the 20th Dec 2004, in the worlds' greatest bank robbery, a gang of bandits stole £26.5 million (**A\$58 million**) from the Northern Bank in Belfast, Northern Ireland. But this robbery was just petty cash in comparison with how Australian consumers are being robbed every time they reach into the dairy cabinet at Woolworths or Coles.

As the old saying goes, “just follow the money”. The annual per capita consumption of milk in Australia is around 100 litres per person.¹² In June 2007, the average price of milk in Sydney was \$1.65 per litre.¹³ Therefore the annual expenditure on milk per person is around \$165. For a population of 21 million Australians, the total annual expenditure on milk is \$3.465 billion.

The evidence is irrefutable. Since 1990 the farmgate price has gone backwards, the CPI has been running at 60% - yet the retail price of milk has increased 113.5% .



“Everyday low prices” or an \$868 million annual theft from the consumers ??

On all the evidence, including international comparisons, the retail price of milk in Australia, at most, should have increased less than the CPI at 60% instead of 113.5%.

On these numbers, the theft from the Australian consumer and the Australian dairy farmer is at least an incredible **\$868 million** annually.

Therefore unless the Trade Practices Act is repaired, by the time the next federal election rolls around, over **\$2.5 billion** will be stolen from Australian families through overcharges for the price of milk.

This is one of the greatest scandals in the nation's history.

The Trade Practices Act should act “as the cop of the beat”, to protect consumers by promoting competition *and fair trading*. This is why Woolworths/Coles and their camp followers throw such resources into ensuring that the Trade Practices Act remains a loop-hole riddled mirage. They have on their side a group of naïve individuals that say they believe in “the free market”, but they fail to understand, by their support for allowing Woolworths' & Coles' to use their size as an economic weapon against suppliers and competitors, they are responsible for perverting the free market itself.

At the end of the day, there is little difference between a criminal gang of house breakers arguing that all burglar alarms should be disconnected because they create noise pollution – than there is from Woolworths/Coles and their camp followers arguing that the Trade Practices Act should be left riddled with loop-holes and as an empty shell.

¹² <http://www.dairyaustralia.com.au/content/view/41/75/>

¹³ See : ABS Cat No. 6403.0.55. 001 <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/6403.0.55.001Jun%202007?OpenDocument>

Footnote :

Declaration of Interests.

An article from Inside Retailing states;

The Australian National Retailers Association has accused “self interested critics” of exaggerating claims about Woolworths’ and Coles’ impact on grocery prices in its submission to a current inquiry.¹⁴

Our submission is unapologetically from a position of “self interest”.

- Our submission is from the self interest of the 12 year-old Australian girl that was too embarrassed to go to school, because her dairy farming family was receiving such low prices for milk that they couldn’t afford to buy her shoes.
- Our submission is from the self interest of small businesses that have been driven to ruin and bankruptcy because they can no longer buy milk at a competitive price from the processors, because the Trade Practices Act is impotent in the face of anti-competitive Price Discrimination.
- Our submission is from the self interests of every Australian working family that has been punished with the price of milk skyrocketing by a massive **113.5%** since 1990 (almost double the rate of inflation) – while the farmgate price has gone backwards.
- Our submission is from the self interests of Aussie kids, whose parents are struggling with the developed world’s fasting rising supermarket prices, as mortgage repayments and rents spiral upwards, that now find that it’s cheaper to buy sugar filled soft drinks, than it is to buy healthy milk for their children.

These “self-interests” may not concern someone feasting on the Woolworths/Coles gravy train.

Ms Osmand – could we have a similar declaration of the “self interests” from the Australian National Retailers Association ? Is it true that your organisation is just a stooge for Woolworths/Coles ?

Secondly, Ms Osmand;

- It is **a fact** that the retail price of milk has increased 113.5% since 1990 – not an exaggeration.
- It is **a fact** that between 1990-2006 the retail price of milk has risen 30%-40% faster in Australia than in Canada, UK and USA.- not an exaggeration
- It is **a fact** that comparing “the best supermarket price” between Sydney and San Francisco, Australian families are paying from 39% to 76% higher prices for milk - not an exaggeration.

Sometimes Ms Osmand, the facts are an inconvenient truth.

In the light of these facts, I would suggest the only person making “exaggerating claims” is Woolworths, Coles and The Australian National Retailers Association with your repetitive chanting of “vigorous competition” and “low prices”.

In the light of the overwhelming and irrefutable evidence in this submission, anyone that continues to claim that “Australian consumers are benefiting from a competitive market”, is nothing other than a shameless hypocrite or a stooge with vested interests.

¹⁴ <http://www.insideretailing.com.au/articles-page.aspx?articleType=ArticleView&articleId=2465>