From: [redacted]
Sent: Monday, 20 March 2017 10:17 PM
To: Dairy Inquiry
Subject: Submission to the ACCC inquiry into the Australian Dairy Industry. Burnie Tasmania

Mr Chairman & Comissioners,
The Australian Dairy Industry has faced a crisis of confidence over the past 12 months, with most farms producing at below the cost of production for that period. Many have left the industry and many others have taken on significant extra debt to try to weather the storm. Debt that in many cases will take years to pay down.

As you are aware this crisis was brought about by the severe downward price revision by Murray Goulburn in April 16 and the subsequent announcement of their intention to"clawback" the difference between this new price and the price already paid, back to the start of the season. This was unconscionable conduct by the board, covering for their failures to adequately monitor markets or the excesses of a CEO out of control. However, even more unconscionable was the decision by Fonterra to follow suit - just because they could under their terms of supply with the Bonlac supply company; and further, their NZ CEO bragging to their shareholders that the subsequent profits would be coming back to them!

The problem with retrospective claw backs is that while they were never intended under the pricing mechanisms we have operated under for the last 30 years; we have had retrospective step ups over the season above the opening price as part of our payment structure. So the claw backs are at best a cloudy issue. The Global Financial Crisis in 2008 was the only other time in recent memory, that saw a downward price revision from opening price. This occurred in December, but there were no claw backs even though the situation had serious potential ramifications for all concerned. However in processors minds a precedent had been set, and that inevitably came back to haunt us.

Prior to the 2016 revision, most farmers were at odds with the "bullish" rhetoric from both companies when they could see the world market crashing; but, they both maintained their line right up to the announcement- MG just a few days before and Fonterra about 3 weeks before at a supplier forum , where they maintained that they had adjusted their product mix and were "on track" to hold their opening price-.

None of this is new. History repeats and very few seem to learn much from it. Bonlac had an almost identical crash in the late '90s when an overpaid CEO who had an inflated opinion of his abilities and a low level of accountability to his board brought the company to its knees. Suppliers who could, changed companies. Many couldn't and were left in limbo, until Fonterra walked in and acquired the processing assets at "fire sale" prices and a supplier base that had virtually nowhere else to go; and, certainly no bargaining power. Little wonder they treat us with contempt now!

The only real way around these deliberately opaque and confusing pricing mechanisms is a return to a regulatory approach. However, there seems to be little appetite for that after the deregulation of the industry in 1999. (That process only got up at the time as there was a generous compensation package offered - backed by the Fed gov't- and paid for with a retail Levy on drinking milk over 4 years). Many farmers, especially those in the predominately market milk states, were not in favour of this deregulation; as it was brought about by the big supermarkets threatening to take action under section 45 of the Trade Practices Act (regarding restriction of interstate trade). Their threats turned out to be bluff as they discovered they couldn't transport milk from Vic to Qld economically, and probably had no intention of doing so anyway. Though they never admitted as much. However it did show them how quickly the industry would bend over, and indeed, crawl over one another to secure even the most tenuous contract. This gave them the incentive to run with $1/litre milk as a lead item to get people into stores. While they claim they wear the losses; this is only partly true. They have been able to screw both MG and Fonterra down consecutively, to the lowest price conning them with promises of shelf space for other product lines. All the while they are playing one off against the other to sure up supply for their private label cheese and other dairy product, further compromising shelf space for branded product and eroding the value of all dairy product. To even suggest to consumers that 1 litre of milk is cheaper to produce than 1 litre of water is offensive and demeaning to all dairy farmers. To then suggest that a voluntary code of conduct will fix the problem is laughable, given that Coles were sanctioned with a $30 million fine by your Comission for breaching mandatory requirements.

Looking at some of the deeper problems confronting our industry, we have a number of "free trade" deals being lauded by our politicians as the cure to all our problems. However, they have obviously been of little real benefit to the industry when you see that dairy Exports have languished at $3billion for the last 17 years (after FTAs with USA, South Korea, Japan and China) whileDairy IMPORTS have soared to $1.3 billion in the last 3 years- mostly from countries with subsidised product or using intervention stocks to circumvent WTO rules. So exactly who are these FTAs actually benefiting?? The supermarkets are certainly rubbing their hands with glee with another avenue to put pressure on local processors;- and, no one can stop them because it's " free trade" in a Global economy.

Even our statutory bodies are letting us down! Dairy Australia has obviously been asleep at the wheel to fail to monitor this explosion in imports and report it to the whole industry; not to mention the parlours state of exports over such a long period. ABAREs is little better. Over 40 years of following their reports and predictions they have seldom got it right, in spite of the onerous reporting requirements they place on farmers. They touted huge benefits from each of these FTAs but they have largely failed to materialise. On the whole, in 40years they have failed to predict any of the major swings in agricultural commodities (apart from the recent record grain harvest which even blind Freddie could see coming), to such an extent that if they reported an impending milk price rise, it was time to sell the cows!

To sum up, the only satisfactory way forward is a return to regulation. Each processor has to pool say 50% of their milk through a central marketing authority and tender against all other processors to buy it back in an open tender process. The milk wouldn't necessarily have to change hands unless the original processor was unsuccessful at tender, in which case the successful bidder would become responsible for it. The proceeds from the marketing authority would be distributed back to farmers on the basis of their supply at an even benchmark rate determined through the tender process. This rate could be established on a weekly basis through the above process. Any processor not paying the benchmark for the balance of their milk , would be fined by the authority or excluded from future tenders.-Transparency across the board!

As farmers, we have learnt to live with the volatility of the world markets. We have learnt to read the markets in spite of every second so called market analyst having a different opinion! What we can't compete with is a lack of transparency in our local prices and unfair dumping of foreign supported product onto our hard won markets, and now, even onto our own shores under the guise of "free trade"! We can't compete with the incessant push by supermarkets to devalue our product when they carry such a huge market advantage. Finally what we really need in this industry is for every so called analyst to sit down, gather ALL the facts and count to 10 before they open their mouth or put pen to paper - so many didn't see 2016 coming in spite of quotas coming off in Europe in early 2015.

Thank you for your attention.

Tom Phelan Sent from my iPad