Dairy Inquiry Farmer Forum: Toowoomba, Queensland

6 February 2017

This document is not a verbatim record of the forum but a summary of the issues raised by forum attendees.

The views and opinions expressed are those of the attendees and do not reflect the ACCC's views or position on the issues summarised here.

6 February 2017 from 11.30am to 2.00pm
City Golf Club
254 South Street, Toowoomba, QLD

Attendees

Australian Competition and Consumer Commission
Rod Sims, Chairman
Mick Keogh, Commissioner
ACCC staff: Sheridan de Kruiff, Amy Bellhouse, Lavinia de Havilland, Eleanor Atkins.

Interested parties
Approximately 110 interested parties attended the forum.

Introduction

Chairman Rod Sims welcomed attendees. Commissioner Mick Keogh outlined the purpose of the forum and invited the attendees to contribute comments in response to the topics of interest to the Inquiry.

Attendees were informed that the matters discussed at the forum would be recorded and a summary placed on the ACCC's website, but that this summary would not identify or attribute comments to individuals.

Summary of issues

Attendees discussed the following issues during the forum:

1. COMPETITION FOR RAW MILK

- Farmers in Queensland tend to only have the opportunity to switch processors around the time that processors enter into contracts to supply private label milk to retailers. However, farmers may miss that opportunity due to exclusivity clauses in their existing supply agreements.
- Farmers find it difficult to switch between processors. Reasons for this include:
  - the use of medium to long term contracts, e.g. three to five year contracts
  - farmers forfeit their right to loyalty payments and price ‘step-ups’ if they switch
  - processors’ contract dates vary between calendar and financial years; farmers may face a six month period without a supply contract to switch to
  - farmers are only able to switch processors when a processor is short of supply, not when a farmer reassesses their options and initiates a switch
  - concerns about not being able to return to a processor in the future following a switch
  - in central Queensland, there is only one processor to supply, hence there is no competition in that region; farmers face significant barriers to establishing their own brand and processing facilities
  - the perishability of milk and risk of not having it collected makes farmers more likely to remain with processors despite poor conditions or prices.

2. CONTRACTING AND PRICING

2.1 Contracts and Handbooks

- Farmers have no bargaining power and are therefore price takers.
- Contract exclusivity clauses adopted by all processors mean farmers cannot supply more than one processor. It was submitted that these clauses reduce competition.
- Farmers can either sign a fixed term contract or supply milk under a supply agreement governed by a processor’s milk supply handbook. If a farmer signs a fixed term contract, the price is only guaranteed for the first 12 months.
- The current dispute between Parmalat and the Premium Milk Co-operative collective bargaining group over milk pricing was raised.
- In some cases it was alleged that:
  - the new season opening price is provided only weeks before commencement
  - farmers on fixed term contracts have been asked to sign contracts which overlap with their existing contracts but with a lower price.

2.2 Collective Bargaining Groups

- In Queensland, there are two major collective bargaining groups: Premium Milk Co-operative and Dairy Farmers Milk Co-operative.
- Agreements which provide for an independent pricing expert when there is a dispute are viewed favourably by collective bargaining group members.
- The Competition and Consumer Act 2010 makes it illegal for groups of farmers to act collectively without ACCC protection; but some farmers consider that due to the bargaining power imbalance this ACCC exemption should not be required.

3. TRANSPARENCY AND PRICE SIGNALS

3.1 Transparency

- Raw milk supply contracts often contain complicated pricing mechanisms which are difficult to interpret.
- Farmers in Queensland have a general knowledge of the farmgate prices that other farmers receive.
- Farmers do not believe it is reasonable for processors to base their farmgate price on global markets when the majority of Queensland milk is consumed locally.

3.2 Pricing Signals

- Farmers were concerned that processors' ability to transport milk north from Victoria and New South Wales, where raw milk is cheaper due to lower production costs, threatens Queensland farmers' profitability. This commonly occurs when prices are low in Victoria, usually in spring, making processors reluctant to pay a sustainable price in Queensland when it is more cost effective to transport the milk north.

4. RETAIL PRICING

- The retail prices of $1/L for private label milk has caused processors to offer very low prices for wholesale milk in order to win tenders for private label supplies, which also affects raw milk pricing.
- $1/L retail milk pricing has caused the price depreciation currently experienced by farmers. Farmers and processors still experience the same fixed costs at each stage of the supply chain, but it was alleged that milk is the same price it was in 1992.
- Following the introduction of $1/L milk pricing in 2011, farmers suffered a price drop of 3 cents per litre.
- Low retail pricing leaves no room for industry growth.
- Supermarkets use $1/L milk as a 'loss leader'.
- It was alleged that supermarkets pay processors a 20% margin on branded products; however they generally mark-up branded products by 50% in store. Such a significant mark-up is unfair as it dissuades consumers from buying branded products.
- Farmers speculated that processors may not report on perceived unfair tactics by supermarkets due to confidentiality clauses and fear of retaliation. Contract negotiation and the influence of shelf space for branded product, brand reviews and rebates need to be examined.

5. OTHER ISSUES

- Processors are closing processing plants in Queensland and bringing processed milk up from Victoria.
- Farming has become unprofitable, with many farmers leaving the industry. Farmers identified a variety of causes for this, including environmental conditions, retail prices, farmgate prices and production efficiencies.
- Branded milk is often left in the storeroom and not placed on the supermarket shelf.
- Along the supply chain, it is unclear who is making the maximum profit. As it is not going to farmers, it is either being made by processors or retailers.

Commissioner Keogh closed the forum by inviting farmers to make a written submission or to phone the ACCC if they had further comments to contribute. He invited attendees to remain for discussions and refreshments.