



Queensland Dairyfarmers' Organisation Limited ABN: 90 090 629 066

Senator Jane Hume
Chair
Senate Economics Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

9 January 2017

Dear Senator Hume

Re: Competition and Consumer Amendment (Misuse of Market Power) Bill 2016

The Queensland Dairyfarmers' Organisation Ltd (QDO) is grateful for the opportunity to make this submission to the Competition and Consumer Amendment (Misuse of Market Power) Bill 2016. The QDO is the peak industry organisation representing the interests of dairy farmers in Queensland. The QDO is a member of the Australian Dairy Farmers (ADF) and the Queensland Farmers' Federation (QFF). QDO strongly supports the Competition and Consumer Amendment (Misuse of Market Power) Bill 2016 and the submission by the ADF on the bill.

QDO has long advocated for legislative and policy change to assist in addressing the unequal distribution of market power along the value chain and to provide some balance to the concentration of market power in Australia's two major retailers. QDO congratulates the federal government on working to provide more transparency and fairness in the market through legislation such as the Competition and Consumer Amendment (Misuse of Market Power) Bill 2016.

This legislation will help to ensure that farmers, processors and consumers are not adversely impacted by the actions of those who hold significant market power in Australia. For a significant period of time the clear intent of the major retailers' strategy has been to extract as much value as possible from the supply chain with consequent pressure on those at the start of the chain, namely farmers. The major retailers are also seeking to increase their own market share to the detriment of competitors and to increase the share of private label home brand products in store.

While supermarkets and others may say the intent of these actions was to compete with the other large supermarkets the actual effect has been to decrease the amount of milk produced in Australia particularly in the domestic focused markets such as in Queensland. It also has been to reduce the competition and choice of products available on supermarket dairy shelves particularly in regional areas and the potential loss of the competition from some smaller supermarket chains.

The Queensland dairy industry is almost entirely domestic focussed with over 95% of milk produced in Queensland sold as fresh white milk in Queensland. Actions of major retailers are the major driver of the returns, or lack thereof, on Queensland dairy farms. The impact of \$1 per litre milk on the dairy industry in Queensland has been extremely negative. In 2010 before \$1/L milk was introduced there were 621 dairy farmers in Queensland while today there are 429. In 2010 milk production was 530ML while in 2015/16 it has fallen to 407ML largely due to \$1/L milk.

It is important that the ACCC examine the impact of supermarket pricing strategies in the longer term, with particular emphasis on the impact of consumer choice, farmer viability, the supply chain and future prices. The importance of the Effects Test has been recognised and endorsed by the ACCC Chairman Rod Sims, who has stated that inclusion of such a test in the Competition and Consumer Act would assist the ACCC in its objective to maintain strong competition by curbing abuse of market power and discovering the true impact to consumers, farmers and others of strategies undertaken by those with significant market power.

Introducing an Effects Test is in line with competition policy around the world with the vast majority of developed nations having an Effects Test. Almost all OECD nations, except for Australia and New Zealand, have an Effects Test or an equivalent policy or legislative instrument.

QDO notes the proposed changes relating to Predatory Pricing where the current provisions expressly prohibit predatory pricing and other forms of conduct are replaced by a general provision, focusing on damage to the competitive process. QDO has long advocated for an investigation of Coles for a potential breach of section 46, of the Competition and Consumer Act 2010 in relation to predatory pricing. QDO has concerns that the removal of this express provision may make it difficult to enforce or prove predatory pricing, leading to little change in outcomes of supermarket actions.

The QDO stands ready to provide any further information and support required to ensure the Competition and Consumer Amendment (Misuse of Market Power) Bill 2016 is supported by all parties.

Yours Sincerely,

Brian Tessmann
President
Queensland Dairyfarmers' Organisation Ltd