



Introduction

Farmer Power believes, based on the views of its members, that an independent review of Dairy Australia is long overdue. It is vital that an independent overview occurs to determine if the Federal Government and levy paying dairy farmers are receiving 'value for their investment'.

Farmer Power submits that there are perceived substantial 'conflicts of interest' that arise amongst all the Peak Bodies representing dairy farmers at a Federal level as well as some bodies who advocate at State level.

Dairy Australia - varying levels of conflicts of interest

Farmer Power wishes to make the following points in relation to the operations of Dairy Australia:

- Dairy processors do not contribute to the operational costs of Dairy Australia, but they appear to be over-represented on the Board of Dairy Australia.
- Dairy Australia's constitution is such that the dairy processors (both Australian and international) as well as major industry bodies have undue influence in the selection of board members. It should also be noted that Farmer Power is of the view that several the Dairy Australia board members are perceived as having conflict of interests.
- Farmer Power has formed the considered view that the current Dairy Australia activities are not in the best interests of dairy farmers as none of its research activities have addressed the key concerns of farmers about farm gate price, direct sale to consumers or the elimination of restrictive industry practices.

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Dairy Australia does not accurately describe the state of the Australian dairy industry in its reports that are either released publicly and./or provided to the Federal Government.

Hence, Farmer Power believes that the Federal Government receives poor returns for their money as do Dairy Farmers

- its significant investment. And as such does not get to see the correct evaluation of the current state of the Dairy industry
- Dairy farmers have the right to disapprove proposed increases in the levy that is paid to Dairy Australia (by way of its constitution) and did so in 2012. Since this time the levy setting mechanism has been changed and the accountability by Dairy Australia aimed at securing its funding.
- A review of Dairy Australia conducted in 2012 was claimed to be “independent”. However, this review was internally commissioned, controlled and conducted by personnel who have perceived close ties with Dairy Australia. It is to be regretted that the levy payers, being the dairy farmers, had very limited input to this review.
- It is also concerning that Dairy Australia’s relationship with several of their sponsors seeming to have more of a commercial relationship than an arm’s length relationship. (Please see further comments below)

DE Laval and Dairy Australia – relationship at arm’s length?

An additional issue that Farmer Power believes requires further review is the collaboration between DE Laval and Dairy Australia. Under a joint program called ‘Future Dairy’, now called ‘Milking Edge’, which investigated amongst other issues, the use of robotic dairies in the operations of Australian dairy farms.

Farmer Power is aware of several issues relating to this relationship with current court actions underway with some confidential settlements already being completed. We are also aware DE Laval is facing a class action in the United States of America for allegedly misleading farmers into buying robotic milkers which, it is claimed, did not perform as warranted or advertised. We believe that a similar situation also exists within Australia.

The question that arises is:

- If Farmer Power is aware of these perceived issues and, as we understand, so is Dairy Australia, then why would Dairy Australia continue their relationship/association with De Laval while there is legal action underway and pending within the United States and Australia.

Farmer Power also believes that there is a continuing investment of funds into projects. It is submitted, that these projects are not economically viable on dairy farms in the current economic environment which has been created and under which dairy farms are currently operating within.

It has been reported (in the Weekly Times on or about 15 May 2019) that Dairy Australia has spent \$2 million over the last 3 years trying to slow the rate of dairy farmers abandoning robotic milking, Farmer Power would ask the question 'Why'?

We also refer the Committee to the following link:

<http://www.thebullvine.com/news/robotic-milking-dairy-aus-spends-2m-to-stop-farmers-giving-it-up/>

where it has been reported:

"Dairy Australia has spent \$2 million over the past three years trying to slow the rate of dairy farmers abandoning robotic milking to less than 10 per cent a year. DA's push, in partnership with milking machine manufacturer DE Laval, comes despite growing evidence that some of the 45 Australian dairy farmers who adopted voluntary robotic milking are battling to make it work on pasture-based systems."

The 'Dairy Poll' Levies

Farmer Power disputes the findings of this supposed consultation which took place producing the outcomes it claims. The legislation covering the levy made be found at:

<https://www.legislation.gov.au/Details/F2016L01999/Explanatory%20Statement/Text>

Farmer Power believes that dairy farmers, the Commonwealth and the public are not getting 'value for money' from Dairy Australia and indeed, Farmer Power would question as to why Dairy Australia is required at all?

Dairy Australia has claimed that it delivers at least \$3 in value to dairy farmers for every \$1 it collects by the compulsory levy.

Note:

- Dairy Australia has previously admitted that its programs only reach around 40% of farmers with farmers receiving around \$7 in value for every \$1 of levy they pay.
- 60% of dairy farmers are receiving little benefit. Successful programs for which Dairy Australia could claim benefit, enjoy broader government funding for these activities.
- Dairy Australia claims that most of the levy money goes into direct services to farmers.
- Farmer Power would suggest that Dairy Australia should charge a fee instead of collecting a compulsory levy on all farmers.
- The Productivity Commission has also previously seemed to support a voluntary levy.

Group A membership suggests only around 40% of Group A members can vote on Dairy Australia matters (including the levy poll). It is also our suggestion that group b member processors should not be involved at all

Dairy farmers assume they have voting rights, but only about 40% were on the voting register or able to sign from signatures collected. This makes the levy poll unachievable

Further matters for consideration:

Australian Dairy Farmers (ADF)

Farmer Power has formed the view that the ADF has major perceived conflicts of interest between itself and processors. As such the ADF, it is submitted, is incapable of independently representing the best interests of dairy farmers, to whom the ADF is charged to represent.

It also be noted that the ADF has previously funded by processors from \$1.2 to \$1.4 million dollars a year. We review the Committee to:

<http://www.australiandairyfarmers.com.au/processor-funding>

Currently, the situation has arisen. As a result of Farmer Power bringing substantial pressure through the media which resulted in these conflicts of interests being highlighted. In particular, that the ADF was forced to renounce accepting funds from the processors.

This was welcome but it caused ADF considerable short funding.

The above took place in July.

See attached Document 1

However, come September the ADF had "Found \$11 million dollars".

See attached Document 2

ADF and the Australian Dairy Industry Council (ADIC)

The ADIC is the peak national representative body of the Australian dairy industry. The ADIC has admitted to having controlled these funds until it was found to be part of an investment portfolio of the Dairy Industry Stabilisation Fund created in the 1960's. This fund was a component of the Dairy Industry Stabilisation Act 1977 (DISA). The Dairy Industry Stabilisation Act was a levy imposed on processors of dairy products. This Act provided:

- Payment of this levy was due 14 days after the last day of the month immediately following the month in which the products were sold. Sect 5.
- Payment of the levy was deemed to be a debt due to the Commonwealth. Sect 7 m
- A fund was established, known as the Dairy Products Stabilisation Trust Fund. Sect 9
- Separate accounts were to be kept in the fund. 5 accounts were established in respect of the different products produced. Sect 11
- Monies received by the fund were to be distributed to the relevant accounts. Sect 11 (4) (5)
- Stabilisation payments were to be determined by the Minister. Sect 12, 13
- Stabilisations were paid to the proprietor of the factory where the product was produced. Sect 14

- The benefit of the stabilisation payments was to be passed on to the suppliers of the raw product in the form of an adjustment of the prices paid by him to the supplier in an equitable manner. Sect 15 (1)
- Where the stabilisation payment wasn't passed on, the amount was repayable to the Commonwealth and if not paid within 3 months was deemed a debt due to the Commonwealth. Sect 15 (2)

This Act has been repealed by Act No. 59 of 1996. The Act itself did not set out the method by which any funds should be distributed or how the dissolution of the Trust was to take place.

The trust fund seemed to have only two possible beneficiaries, the Commonwealth and/or dairy farmers.

Therefore, we believe the Trust Deed should give clear instructions as to how the Trust is to be dissolved and how the assets were to be distributed. It is important that this information be made public so dairy farmers can have confidence in how the organisations (supposedly representing them) are in reality representing them. The perceived conflict of interest must be resolved so as to help rebuild faith in the industry.

United Dairy farmers of Victoria (UDV)

Farmer Power believes that the compulsory payment by UDV members fees to the UDV, could also be perceived as a conflict of interest

THE ranks of the United Dairy farmers of Victoria's membership have almost halved in four years, from 2300 members in 2013 to just 1242 today.

We believe that the ability by the processors to automatically deduct payments from Dairy Farmers milk cheques to allow UDV membership fees to be paid direct to the UDV could also be perceived as conflict of interest allowing undue influence to be applied for the provision of this service by the processors if they so wished .

Dumping issues in Australia

Currently in Australia we have seen several issues revolving the perceived dumping of Dairy Products into Australia especially cheese.

Yet we never see any government actions on this front

This is most likely due to who can bring an action to the Governments attention. This can be seen by the Notations from the Senate Enquiry into the \$1.00 a litre milk held in Shepparton We also believe that the Government may be reluctant to introduce dumping action on behalf of Dairy Farmers due to the above and the flow on affect that this would have to consumers due to projected price increases if the dumping actions where successful

The internal Farmer Power report on the Senate Enquiry into \$1.00 milk also highlights several issues and the mind set at that time of both the processors and two of the peak bodies purported to represent dairy farmers

See attached Doc: 3

Australia's anti-dumping and countervailing system (Australia's anti-dumping system) allows the Australian Customs and Border Protection Service (Customs and Border Protection) and its Minister to provide trade remedies for Australian producers who suffer material injury from dumped or subsidised imports. An effective and efficient system is an important component in ensuring that Australian businesses face full and fair competition and continue to support efforts to further liberalise trade.

Dumping occurs where the export price for goods entering Australia is lower than the normal value (usually based on the selling price of like goods in the exporter's domestic market). Antidumping duties may be imposed up to the difference between the normal value and the export price. Subsidisation is the provision of benefits by the government of a country to its producers. Countervailing duties may be imposed to offset the full direct or indirect subsidisation of a product. Where desirable, anti-dumping or countervailing duties may be set at lower levels if doing so would be enough to remove injury (this is known as the "lesser duty rule"). Duties are generally imposed for an initial five-year period but can be continued (usually for another five years) where injury would continue or resume if the duties were to be removed. After duties have been imposed for 12 months, the level of those duties can be reviewed and increased or decreased as necessary. Duties can be imposed only after an investigation has been conducted, usually in response to an application by Australian industry. In Australia, the standard period for an investigation is 155 days, although extensions are permitted.

The Streamlining reforms have largely been implemented or are in the process of being implemented. In introducing the final tranche of legislative amendments to give effect to the Streamlining reforms on 27 June 2012, the Minister for Home Affairs, the Hon Jason Clare MP, acknowledged that more could be done to improve Australia's anti-dumping system, and that the Minister was considering a number of further reforms¹¹. On 4 July 2012, Minister Clare also announced that the Government had commissioned former Victorian Premier John Brumby to advise on the best structure for administering Australia's anti-dumping system, including investigating the benefits and costs of a stand-alone anti-dumping agency (the Brumby Review)¹².

<https://ris.pmc.gov.au/sites/default/files/posts/2012/12/AUSTRALIA-TRADE-REMEDIES-SYSTEM-RIS.pdf>

It is important to read the background and conclusions from this report

Concluding Remarks

It is our hope that this Senate committee can provide clarity and a sense of direction for the Industry

We must have representative bodies that are there for our dairy farmers, that do not have conflicts of interest, nor other agendas that are not truly to the benefit our Dairy Farmers. Dairy Farmers need to be able to become united and that comes with strong representation and bodies that deliver on that promise to always put our dairy farmers best interests and needs first .

For the information of the Committee, we have attached the following docs Doc 1, Doc 2, Doc 3

We would be pleased to verbally elaborate upon the comments within our submission, if required. In the first instance, we ask that you contact myself for any further information

Regards
Garry Kerr
Executive Officer



ADFs million -dollar funding hit

[Marian Macdonald](#)

17 Jul 2019, 8 a.m.

Despite pledges of unity from peak processor and farmer lobby groups under the Australian Dairy Plan, fears they are a little too close has come at a big financial cost for one of them.

For six years, Australian Dairy Farmers had accessed up to \$1.1 million a year annually from processors to run the Australian Dairy Industry Council.

That funding is now gone.

ADF media and communications manager Ashley Mackinnon said the arrangement was never permanent and ADF had responded to farmer concerns regarding its independence.

"We have never felt compromised in developing an ADF position on issues affecting farmers," Mr Mackinnon said.

"However, we are also aware of the perception among some farmers that the ADIC funding arrangement may blur the focus of ADF priorities and messaging, particularly around our responsibility to represent farmer interests.

"ADF listened to the views of its members and the broader farming community and opted not to pursue another multi-year funding partnership with processors."

Mr Mackinnon could not say how the funding cut would affect ADF other than it was "rationalising the structure and economising where possible".

Mr Mackinnon said a launching milk brand, similar to SADA Fresh, to help cover the shortfall was "an interesting idea, one that has been raised but that has not yet been fully investigated".

No ADIC funding agreement has been reached but the money appears destined to remain with processors.

ADPF acting executive director Janine Waller said it was still finalising a strategic plan and priorities for 20FY.

"This will include whole of industry initiatives, which we will continue to work collectively with ADF and Dairy Australia, through the ADIC," she said.

"The success of this strategic plan is somewhat dependent on resourcing and funding and while, in the past, the ADPF has operated with extremely limited resources, members are now seeking a better resourced organisation.

"Hence, the ADPF has revised its member fee structure to include the annual membership fee and a new strategic advocacy fee - the latter being aligned with the ADF Processor Fund that came to an end on June 30, 2019.

"This enables the processing sector to continue to contribute to industry policy development and advocacy, so as to improve the supply chain in which dairy farmers and processors will always remain inextricably linked."

Australian Dairy Farmers finds \$11 million

[Marian Macdonald](#)

12 Sep 2019, 11:30 a.m.



FUND FOUND: Australian Dairy Farmers president Terry Richardson has written to ADF members regarding the lobby body's funding.

National lobby body Australian Dairy Farmers is the rightful owner of an \$11 million fund that had been claimed by the Australian Dairy Industry Council.

The ADIC, a body representing both farmers via ADF and processors via the Australian Dairy Products Federation (ADPF), had controlled the fund until an investigation of historic documents uncovered its origin.

The investment portfolio was born from the Dairy Industry Stabilisation Fund created in the 1960s.

In an email to members on Tuesday, ADF president Terry Richardson wrote that ADF would supplement its revenue with income generated by the fund while preserving its current value.

"In the short-term, this means that we now have access to the capital growth of the assets, which allows us to be more financially self-sufficient," he wrote.

"This means we will be able to draw from the growth of the assets.

"We have no intention to draw down on the corpus itself."

Mr Richardson said the ADF would continue to seek other funding sources.

In July, ADF announced it would no longer access up to \$1.1 million a year annually from processors to run the ADIC in response to farmer concerns surrounding its independence.

READ MORE: [ADF's million-dollar funding hit](#)

Irrespective of any payment by processors towards its costs, it appears ADF staff members will carry on coordinating the operation of the umbrella body.

"ADF will continue to provide a secretariat service for the ADIC on matters of industry significance, but I want to assure you that our one priority is the work that benefits farmers," Mr Richardson told members.

The farmer body provided the secretariat service for the ADIC under a 2003 agreement signed by ADF and ADPF.

The terms would be reviewed at the next ADIC meeting, an ADF spokesperson told *Stock & Land*.

United Dairyfarmers of Victoria (UDV) president Paul Mumford said it was, "extremely important that there is unification of industry under ADIC branding on appropriate topics like trade."

"On the flip side, however, it is equally important ADF has a strong, independent voice to fight for farmers' concerns."

Enquiry into the Australian Dairy Industry \$1.00 per litre Milk

Terms of Reference

Shepparton Meeting Report.

Thursday 2nd February 2017

On 14 September 2016, the Senate referred an inquiry into the Australian dairy industry to the Senate Economics References Committee for inquiry and report by 24 February 2017, in order to establish a fair, long term solution to Australia's dairy crisis, with particular reference to fresh milk security and:

- a. the legality of retrospective elements of milk contracts
- b. the behaviour of Murray Goulburn; and
- c. any other related matters.

I arrived at 10.00 am and sat through to 3.30 pm when the hearing finished.

At the outset it was apparent that there were more dairy industry people at the meeting than there were dairy farmers and some of those dairy farmers were obviously supportive of several of the existing dairy industry organisations.

Dairy Farmers

- It was clear from the start that the dairy farmers themselves were fragmented in their approach to the enquiry
- 10 dairy farmers addressed the enquiry
8 of the 10 dairy farmers voiced concern over "Fonterra's Actions", contracts, flow on affects, local community impact, supply of milk by supermarkets devaluing milk, poor representation by industry bodies (* Farmer Power was mentioned in passing as a organisation trying to help but also how these groups come about through dissatisfaction)
- Murray Valley Basin plan.
- Emergency funding and its failure rate in uptake claims where farmers didn't want to get more into debt.
- 1 family group of 3 in that 10
- 2 of the 10 dairy farmers were in support of the industry, they dealt with Bega and as far as they were concerned though things were tough proper management was seeing them through, they had no concern whatsoever for other dairy farmers.
("I'm alright Jack" attitude as it was termed later)

At the end dairy farmers were asked by the committee would a "Fixed Floor" price solve the problem, the 2 supporting dairy farmers of the industry were dead set against it, the remainder of the dairy farmers failed to speak up in favour of it with one exception but the rest were not strong on this point and did not correct those who spoke against it.

Dairy Organisations

- Barry Irvine Bega Cheese
- ADF Mr McQueen & ... couldn't get other reps name
- UDV Adam Jenkins, Mr Delahanty

Barry Irvine: was first to speak. Though he was disappointed with the behaviour and the outcomes of other processors he would not criticise them.

Went on to speak about how trust was always important in the industry and contracts not so much, he also said the supermarkets were not to blame for the current situation, though he admitted the 1 \$ price may have contributed,

Dumping he was more concerned about the dumping of Mainland Cheese from NZ but when asked if he would lodge a dumping action, he declined to do so against other Processors

ADF

Mr John McQueen +1: Two gentleman who spoke about how their organisation was working with manufacturers (processors) and farmer organisation looking at unfair contracts on small businesses and BJ Funding providing more funding. (Trust in processors and education program around Index Pricing adjustment to be established.)

Establish withdrawal of non retrospective charges against farmers, contracted legal advice, not looking at any step-downs from farmer organisations, working in house. Discussed draft proposal 2002 about collective bargaining. Stated how they where a National Advocacy group with funding received by government and farmers, strong advocates in policy development but this was not seen at ground level. Want time to develop outcomes and complete a voluntary code of conduct (non-mandatory) whilst keeping it all in house.

Spoke about the importance of Dairy Australia and how the higher the levy the greater the contribution by government and how that was important

Seemed more interested in "standing up for the processors than the dairy farmers"

UDV

Adam Jenkins and Mr Delahanty. spoke about water costs and how they are working with the ACCC.

How they have a voluntary membership and are in communication with dairy farmers on a regular basis.

How they sourced high legal opinions on the "claw back event ".

Stated clearly though that a "Better Milk price will not solve the problems facing the Industry"

How the ADF and UDV at a symposium in August last year broke down the cost of milk into 50 components which affect the calculations of a milk price.

They want a voluntary code of conduct for processors but not mandatory

They made no call at all on the supermarkets to stop the \$1.00 a litre milk price in fact Adam went so far as to say it was important that farmers understand and respected that there are many in the public that can't even afford \$1 for a litre of milk .

He was heavily questioned about whether or not he agreed that the \$1.00 a litre milk price set by the supermarkets was having a Impact on the Industry for around 15 mins he avoided answering that question until Mr Delahanty chimed in and said he acknowledged it was most likely having a impact . (Adam Jenkins as you are aware is an Officer of both Organisations, "no conflict of interest there")

Points to Note

- Fonterra came under heavy criticism! (call for enquiry into them)
- Supermarkets though mentioned did not receive a lot of time in discussions till the very end of the senate enquiry
- Other concerns where more than just the milk price, the Murray Valley Basin Water plan had substantial time devoted to this.
- Became abundantly clear that the organisations supposedly there to represent dairy farmers were more interested in representing themselves. I saw not one organisation attack the milk gate price even when the discussion was brought in about the possible reintroduction of a set floor price.

None of the organisations present spoke to this or supported it.

In Summary

I did not feel that the passion in which we apply ourselves on behalf of farmers, was present from any other dairy organisations at this meeting

Farmers need to be co-ordinated both in their approach and the message they wish to get across, if they are to achieve the result they require.

A strong message needs to be coming from dairy farmers, I didn't see this at this senate hearing. All I saw was the "hurt and pain" they are experiencing and their wish to express it.

I spoke to Senator Jane Hume after the event and relayed to her the results of meeting in Camperdown (mainly because she was concerned throughout the enquiry about the lack of uptake of the emergency funding available) , she claims she will recontact me and that she would take this up with Senator Bridget McKenzie , Senator Hume had no idea this meeting had even taken place nor of the outcomes from Camperdown .

I met with Senator Nick Xenophon who Praised Farmer Powers submission I also met Rex Patrick his advisor.