

Questions on Notice

Australian Dairy Farmers

Senate Economics References Committee

Inquiry into the Australian Dairy Industry

Wednesday 26 October

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Senator Xenophon: Overall, I would like to know how much processors pay, donate or contribute to the ADF?

ADF Response: This information is commercial-in-confidence and Australian Dairy Farmers (ADF) can supply the information on an in-camera confidential basis.

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Senator Xenophon: Because we are way over time, can I direct you to take this on notice – the fifth page of the Farmer Power submission has seven numbered points talking about the restrictions on farmers that, they say, robs them of their collective bargaining ability. They talk about secrecy provisions and loyalty provisions in contracts and no fixed price or price formula. They make a number of criticisms, saying that they feel the farmers are disempowered compared to a number of years ago. Could you please take on notice, because of time constraints, what the association's view is in relation to those matters?

ADF Response: ADF has been working with State Dairy Farmer Organisations from around Australia and processors on a draft Code of Best Practice Contractual Arrangements.

The draft Code reflects work that ADF and State Dairy Farmer Organisations have been doing for a significant period of time.

The points raised on the fifth page of the Farmer Power submission are very similar to points raised from the draft Code of Best Practice Contractual Arrangements.

As indicated in the hearing on 26 October, ADF has addressed the issues raised in Farmer Power's submission in the draft Code of Best Practice Contractual Arrangements, and many more. The draft Code will assist in ensuring that the actions processors took in April 2016 never happen again because there will not be the capability under the contracts to do the things that those companies did then.

Senator Xenophon: Can you take this on notice: what are the two or three things that you think ought to be done now to at least give the industry a fighting chance?

ADF Response: As ADF stated in the hearing on 26 October, there is no magic bullet to solve the current industry issues. It is a complex mix of world supply and demand factors, domestic retailer actions, local product mixes and processor actions.

1. As mentioned in the response above ADF is working with State Dairy Farmer Organisations and processors on a draft Code of Best Practice Contractual Arrangements. This is a practical step, that when coupled with the Unfair Contracts legislation coming into force on 12 November 2016 will provide dairy farmers with fairer and more transparent contracts.

2. The Unfair Contracts legislation that comes into force on 12 November 2016 will see the extension of existing unfair contract protections that apply to consumers to small businesses.

Australia's dairy farms are approximately 97 per cent family-owned and are small businesses that will benefit from the protections this legislation will bring.

3. The Government will introduce an Effects Test and this will provide important further tool for the Australian Competition and Consumer Commission (ACCC) to investigate activities that have the effect of substantially lessening competition.

The current purpose provisions are incredibly difficult to prove and limit the ability of the ACCC to take action against those conducting anti-competitive behaviour.

The Effects Test will assist the ACCC in discovering the true impact for consumers, farmers and others of strategies undertaken by those with significant market power.

4. The ACCC inquiry into the Australian Dairy Industry, with its substantial investigative powers, will assist with transparency of pricing and understanding of who in the value chain captures the margin for milk and dairy products.

ADF is confident that the ACCC's findings will support what we have consistently stated, since the introduction of \$1 per litre milk on Australia Day 2011, that significant value has been taken out of the value chain and this is impacting dairy farmers. We also believe the inquiry will be able to show that Coles is not absorbing the cost of this marketing exercise as they claim.

Senator Xenophon: I ask you to take this on notice. Are there any specific changes that you would recommend in terms of farmers' collective bargaining rights?

ADF Response:

ADF currently has a collective bargaining authorisation from the ACCC to allow dairy farmers to collectively bargain with milk processors. This authorisation was first granted in 2002 and the ACCC granted ADF a 10-year renewal in 2011.

There are seventeen collective bargaining groups from across Australia registered with ADF under the ACCC authorisation, comprising approximately 400 dairy farmers.

Approximately 97 per cent of Australian dairy farms are family-owned and there is an obvious imbalance in market power between these small businesses and the larger organisations they must contract with – be they milk processors or retailers.

ADF has worked with Dairy Australia and prepared a Guide to Collective Bargaining to assist farmers in understanding the process, potential issues and assist with questions they may have.

The guide can be found at:

<http://www.dairyaustralia.com.au/Standard-Items/Media-Releases/2014-Media-Release-Archive/November/11-19-Collective-Bargaining-Guide-for-dairy-farmers.aspx>

ADF believes that collective bargaining can only work when there is a genuine commitment to the process from both farmer and processor or retailer.

ADF appreciates the support and efforts of the ACCC in relation to collective bargaining and assisting in the process.

ADF believes it is worthwhile examining policy options to expand the 'shared community of interest' provision in the current ADF authorisation. Broadening the scope of buyers in the market place able to negotiate with collective bargaining groups, so it is not just limited to processors, to include all buyers of milk, e.g. brokers, wholesalers, retailers as well as dairy farmers should also be examined.