Committee Secretary
Senate Standing Committees on Rural and Regional Affairs and Transport
PO Box 6100
Parliament House
Canberra ACT 2600

Phone: +61 2 6277 3511
Fax: +61 2 6277 5811
rrat.sen@aph.gov.au

Dear Committee Secretary

QDO is pleased to put in this submission to the Senate Standing Committees on rural and regional affairs and transport performance of Australia's dairy industry and the profitability of Australian dairy farmers since deregulation in 2000.

The Queensland Dairyfarmers' Organisation (QDO) is the peak industry body representing the interests of Queensland dairy farmers. Our goal is to assist our members increase their profit and reduce risk and this goal drives everything that QDO does. We currently have 77% of Queensland dairy farmers as QDO members.

Dairy Australia (DA) operates 8 subsidiary regional bodies with the regional body in Qld and northern NSW is Subtropical Dairy. The responses in this submission are primarily directed towards the structure, operations and methodology of DA and its subsidiaries.

Below are our responses to the 7 questions raised in this inquiry which relate to the current status of the dairy industry.

1 The ability of Dairy Australia to act independently and support the best interests of both farmers and processors.

Dairy Australia is an entity not effectively held by checks and balances by industry representative organisations. As such, the current system is in reality not accountable to industry and consequently often does not we believe support the best interests of the dairy industry, dairy farmers or government.

If anything, the current system allows Dairy Australia an unacceptable degree of independence from the farmers they are tasked to assist.

It will be argued by those with vested interests in the ongoing existence and continuance of Dairy Australia in its existing format, that there are checks and balances in place and that DA does consult and communicate with grass roots farmers. However, from the farmers that QDO representatives speak with frequently, these consultations are not happening with farmers who are not already heavily involved or within the DA structure.

The consensus from the members we represent is that DA's focus is on maintaining the 9 organisations that make up DA, their staff and boards not on increasing profits or decreasing risk of farmers and the industry.

Many dairy farmers are disenfranchised from Dairy Australia and are demanding complete transformation. This has been made very clear from Dairy Plan consultations. Despite this, there is a clear rear-guard action by those with vested interests in Dairy Australia to block this change from occurring.

Dairy Australia is now funded by farmers and government with no contributions from processors. In previous years, when most processors were Australian owned cooperates, there was some justification in Dairy Australia assisting processors. However, given there is only one medium sized cooperate left in Australia (Norco), it makes no sense that dairy farmers and government should pay for services to assist foreign owned companies especially as they do not contribute to the provision of industry services.

It is also inappropriate for Dairy Australia to have a Group B shareholder (ADPF) which except for Norco represents large foreign owned processors who individually or collectivly make zero financial contribution.

In the current arrangement, DA should not be acting in the interests of processors unless it directly impacts the profitability of farmers or mitigates risks to the interests of farmers through their intervention.

2 The accuracy of statistical data collected by Dairy Australia and the Australian Bureau of Statistics.

The data collected on farm performance in Queensland in the Queensland Dairy Accounting Scheme (QDAS) does not give a representative sample of farms in Queensland. The average Queensland farm is around 1 million litres whereas the average farm in Dairy Australia related surveys is 1.6 million litres.

When organisations such as ABARES undertake farm surveys, they ensure that the population is stratified to break up farms into different size categories. They decide how many farms to choose in different size categories. They select the farms they need to survey with reserves for each selected farm which are similar to the selected farms.

In addition, each farm surveyed has a different weight to reflect how many farms they represent. As a result, the estimates made from surveys have validity as indicated by the residual standard errors (RSE's) for each data point. Also, it means that the average farm in the survey matches the average farm in real life.

The Dairy Australia surveys in Queensland do none of this. Many smaller farms are excluded, and it appears are not encouraged to continue or not approached. The population of the data is not stratified. They do not select an unbiased sample but rather a biased one. No weights are used. As a result, the estimates are not representative of average Queensland dairy farms. Farms for QDAS are selected by direct approach by an officer employed by Dairy Australia. QDO has received numerous reports of farmers, with below average figures or size, being actively dissuaded from participating in QDAS.

This issue has been raised on several occasions and it is unclear if any of the issues have been resolved. QDO has been finding extra farms to undertake farm surveys which should improve the accuracy. However, without an overhaul of the survey process as described above the accuracy will not be improved significantly.

3 The funding of Dairy Australia and the extent of its consultation and engagement on the expenditure of levies revenue.

It could be argued that DA is audited and transparent in its operations through public Annual Reporting. As DA is not accountable to other industry representative organisation or directly to farmers, it assesses and determines best use of levy funds without external advice or approval. This has led to the development of programs and campaigns which, if they had been peer reviewed prior to commencement, would have had altered scope or may not have run at all.

The extent of consultation and engagement with farmers and farmer representative bodies is poor. There has been a rubber-stamping process by ADF and their 6 state members historically which has lead to major aggravation in recent years.

This rubber-stamping of programs usually happens after the fact. A case in point is the now active Dairy Matters marketing campaign developed at significant expense to members. The two-step approval process via ADF did not allow for a proper examination of the research undertaken to determine the campaign direction. The final approval via ADF was simply a case of being shown the final creative assets days before it was aired; thus, allowing no actual feedback or provision for revisions.

Grass-roots farmers are not consulted in Queensland. Unless there is a direct relationship with DA, Subtropical dairy and those employed by these organisations, very few farmers are engaged except when they attend workshops or field days facilitated by DA.

QDO has engaged with Dairy Australia and Subtropical dairy in the past to review the priorities for Queensland. We discussed the reduction of expenditure for low priority activities and spending more in an effective way against the highest priorities including improved crops and pastures particularly tropical pastures. Unfortunately, there has been no noticeable change in activities, areas of concern remain unaddressed and the same programs identified as either ineffective or irrelevant continue as before.

Levy payers should be deciding investment decisions not be informed as to what they are. There are priority setting workshops, but many are disengaged from the process and believe they won’t be listened to given previous experiences. Hence their workshop environments fail to engage and involve people outside the organisation.

4 The merits of tasking the ACCC to investigate how it can regulate the price of milk per litre paid by processors to dairy farmers to ensure a viable dairy industry.

Distortions in pricing have been a major problem in the dairy industry since deregulation especially since 2011 when $1/L was introduced. There have been some gains this year on milk but there is a long way to restore a properly functioning market and price for milk and all other dairy products.

QDO is doing all that it can to try to make the market work properly by dealing with key stakeholders and marketing to consumers. If this can restore a properly functioning market in 2020 that would be ideal.

However, if the market cannot be restored then government intervention in some form will be required to ensure a viable dairy industry. Government has a range of options and organisations that could explore appropriate regulations including but not limited to the ACCC and the Department of Agriculture. All options including ACCC should be investigated as a matter of priority in 2020.

5 Alternative approaches to supporting a viable dairy sector.

Ensuring the dairy industry is properly restructured is crucial to the dairy industry. Government can play a key role in this by ensuring that Dairy Australia acts like an RDC (with some international marketing focus as well) not the main leader and decision maker in the industry re priorities and industry structure.

Supporting farmer representative bodies and industry restore a functioning market is critical. There are many opportunities in this area including assisting farmer bodies with effective marketing that will influence price and sales of Australian product.

Government can have a major influence on processors and retailers' behaviours. There are also trade issues including stopping dairy products being dumped into Australia from countries that subsidise their domestic industries.

6 The introduction of a mandatory industry code of practice.

Please note that this is taken directly from QDO's response to the Exposure draft of the Mandatory Code of Conduct.

QDO is concerned that the initial intent of the code has been significantly water down in the interests of processors over farmers in this draft. The intent was to address the imbalance of power between farmers and processors, but this will not be achieved with this watered-down code.

While many core issues have been addressed, there are 3 primary areas that specifically concern farmers in the Queensland dairy industry that are still not covered or remedied by the Code. These include:

1. the disparity between the contract period (usually 3-5yrs) and fixed pricing period (usually 12 months only);
2. exclusivity clauses are still allowed/are a part of contracts between processors and farmers;
3. that the Code cover the conduct of Retailers in the dairy industry value chain.

QDO and several other industry bodies have consistently requested these areas be addressed in a manner that is fair and reasonable and provides adequate protection to the dairy farmers but has been consistently met with dismissal from those responsible for the drafting of the Code.

Given the significant problems with the code, it would seem very ambitious to try and rush it and implement it on 1 January 2020.

The disparity between the contract period (usually 3-5yrs) and fixed pricing period (usually 12 months only).

From our initial consultations on the Code, QDO has always maintained that farmers with multi-year contracts should be able to break contracts during the term of the contract.

In Queensland, most farmers are on 3- or 5-year contracts and contracts of shorter length have extremely unattractive terms. Once a farmer signs a contract, it is extremely difficult to negotiate higher prices within that contract period and there is no incentive for processors to do so. And even if there are yearly reviews of prices paid to ensure that a competitive price is paid this is often not effective. Often prices on average appear lower for a processor but they claim that they are not.

Also, often the average price may be similar between processors but there may be a 10% difference between prices to individual farmers.

Many farmers would like the contract length to match pricing commitments which are typically yearly. Minimum prices offered in contracts are often 20% below first-year prices so are meaningless. Most processors in Queensland prefer long term contracts with no pricing commitments after year 1. Given the lack of competition between processors in Queensland v many other states, it is difficult for farmers to negotiate attractive shorter contracts, so they are forced to sign unattractive long-term contracts.

The mandatory code should allow individual farmers to break contracts at the start of each pricing year if the new price announced is not competitive. For example, if an individual farmer is offered a price which is above their existing processor's price being offered for the next year, the existing processor can either match that price or the farmer is able to break their contract and sign with the other processor.

This is the biggest contractual issue for Queensland dairy farmers and for the code to have any value for Queensland this clause must be included in section 28 re terminating contracts.

Please also note the definition of a processor is also not clear. If a milk trader purchases milk from a farmer but does not process milk are they covered under the code? In the case of Queensland, this is best exemplified by Dairy Farmers Milk Co-operative (DFMC) which negotiates on behalf of farmers with Lion Dairy and Drink. In their case, is DFMC a processor or is Lion the processor for DFMC farmers. This needs to be clearly defined in future iterations of the Code.

Exclusivity clauses are still allowed/are a part of contracts between processors and farmers.

The exclusivity clause is of little value given it is tied to tiered pricing which is not common – particularly in the fresh milk markets of Queensland and Northern New South Wales.

Even where two-tiered pricing does occur in reality in Malanda with Lion, it is not a different price for excess supply but a freight cost penalty on farmers. As a result, no dairy farmers in Queensland are likely to have the exclusivity clause removed so the clause is completely ineffective. Exclusivity clauses should not be allowed in any contract.

The Code to cover the conduct of Retailers in the dairy industry value chain.

QDO has always wanted the code to apply throughout the supply chain and include retailers as a key principle. In the last 18 months, QDO has led a concerted campaign to remove $ 1-litre milk from supermarket shelves.

The ramifications to the value chain that has been caused by retailers forcing this artificial floor price cannot be understated. The major supermarket chains were forced through consumer pressure to increase the retail price in March this year. The flow-on effect that this has had to negotiations clearly demonstrates the importance of retailers' role in the value chain and hence their required inclusion in the Code if fairness and balance is the desired outcome.

Finally, whilst to date, step-downs haven't had a major impact on the Queensland industry recently, QDO has always been opposed to step-downs and believes that step downs should not be allowed under any circumstances. It is unclear why the Code would allow step-downs to occur to protect the interests of overseas multi-national companies at the expense of Australian dairy farmers.

QDO has been open and transparent regarding the Code – both its benefits to the industry and the flaws with its current drafting. We will continue to advocate for its acceptance by our members once the areas of concern outlined above have been properly addressed.

From the commencement date of the Code (currently slated for 1 January 2020), all new contracts must be compliant with the Code. In addition, any contracts entered into before 1 January 2020 must be compliant with the Code by 1 January 2021.This is by far the biggest contractual issue for Queensland dairy farmers and for the code to have any value for Queensland this clause must be included in section 28 re terminating contracts.

7 Any related matters.

The Australian Dairy Plan was instigated to a most significant extent because the operational plan of Dairy Australia did not align to the needs of farmers. After over 20 regional meetings and consultations with over 1500 people (mostly dairy farmers), it was clear that transformational change to industry structures was by far the highest priority. Other high priorities were to improve milk price and improved marketing (which aligns to improving milk price and sales).

Despite the intent of the formation of the Dairy Plan, it would be fair to say that Dairy Australia has actively guided the process to date for its own outcomes. Given the criticism and extent to which Dairy Australia has been implicated, it should have no role in deciding industry priorities and deciding industry structures both recommended by the Dairy Plan and otherwise.

There must be transformational change as a result of the Dairy Plan. As part of the transformational change to industry structures and merging of entities, the new entity responsible for RDE and advocacy must have proportionally represented democratically elected farmers. It is via this grass roots election process that accountability back to farmers is created. Currently many farmers feel powerless to change what is seen as a broken system since their voice is lost.

The problems in the dairy industry and the need for transformational change is very well known within the dairy industry to dairy farmers, farmer representative bodies and processors. There are many reasons why organisations have not been louder in demanding change. These include fear, lack of leadership, potential ramifications against them, not wanting to get involved in problems, the current system benefits them and the feeling that nothing will change regardless.

There is a small but determined network of people in many organisations within the dairy industry who are aligned to Dairy Australia and have a protect Dairy Australia above all else mentality. This has caused vocal criticism by individuals and organisations that believe the current structure is to the detriment of dairy farmers and the dairy industry. No industry is immune to politics but also no organisation should believe itself to be above criticism and thorough investigation and review.

It has also led to questionable governance procedures which are not consistent with normal practice. Even when these procedures are questioned, based on professional advice, there is no willingness to address concerns.

We thank the committee for its interest and commitment to improving Australia's dairy industry. If there is any further information you require, please do not hesitate in contacting me. I would delighted to have the opportunity to present to your inquiry on issues I have raised in this submission and related issues.

Yours sincerely

Brian Tessmann

President QDO