TASMANIAN SUPPLIERS COLLECTIVE BARGAINING GROUP (TSCBG)

SUBMISSION

SENATE SELECT COMMITTEE – ECONOMIC REFERENCES INQUIRY,

INQUIRY INTO COMPETITION AND PRICING IN THE AUSTRALIAN DAIRY INDUSTRY

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Submission to Senate Select Committee – Economic References Inquiry, Inquiry into competition and pricing in the Australian dairy industry

Thursday 5 November 2009

CONTENTS

Background

Tasmanian Suppliers Collective Bargaining Group (TSCBG)

The TSCBG is a collective of now 86 dairy farming members throughout Tasmania which is supplying liquid milk product to National Foods Limited. The Group was established and registered with the Australian Competition and Consumer Commission 3 years ago following National Foods concerns that dairy farmers may be contravening provisions of the Trades Practices Act. Some very loyal Group members have been supplying liquid milk product to the Company and its predecessors for up to 50 years.

Many of the suppliers, out of contract, are now in dire financial and social circumstances due primarily to an unreasonable and unsustainable liquid milk price offer from National Foods. Recent negotiations between the Company and TSCBG have broken down

The plight of suppliers requires urgent resolution.

The suppliers are seeking;

- An improved liquid milk price offer, of 39.8 cents per litre. (This price recognises National Foods claims of a difficult financial climate and only equates to the cost of production over the year. The initial Company price offer was 29 cents per litre, 10 cents per litre below production cost, that offer is now 33 cents)
- Solution of the problem preferably through arbitration, or mediation with independent thirds party participation (this follows National Foods announcement on Friday 30 October that price negotiations had broken down and the company will negotiate with individual farmers, a practice the Company has used in Victoria to breakdown a Collective Bargaining Group).
- Restitution to the liquid milk suppliers to the Company who have been imposed with severe financial penalties as a result of Company biased contract arrangements, (recent negotiations have resulted in National Foods agreeing of a much fairer contract – details are awaited)
- Investigation of these matters by the Australian Competition and Consumer Commission (ACCC); and
- Clearer, more precise and effective legislation extending ACCC powers to ensure that the interests of small to medium sized businesses are more adequately protected from bullying tactics of large Companies, particularly multinationals.

(A) The economic effect on the dairy industry of announced reductions in prices to be paid to producers by milk processors

What does the current impasse mean?

National Foods Limited is attempting to rip off its Tasmania milk suppliers by offering an exorbitantly low price for liquid milk, significantly below production costs.

Milk suppliers have been receiving 49 cents per litre for milk during the last financial year. National Foods initial offer of 29 cents per litre has been increased through negotiation to 33 cents per litre but still well below the average cost of production.

National Foods is expecting milk suppliers to sign 2 year contracts to effectively lose money.

Many suppliers have not signed contact agreements given the offer, and while they have no contract National Foods has been paying 20 cents per litre. The suppliers have incurred and continue to incur significant fixed costs in the development and maintenance of the essential infrastructure required to produce milk to a level that complies with National Foods requirements.

In July, August, September and October suppliers have lost substantial income. For example some individual suppliers have lost in excess of $700,000, $400,000, $350,000, $250,000 etc.

There are individual examples of families selling furniture and offering to hand their farms back to the Bank and being forced to sell their farm unit.

A number of Circular Head dairy farmers who supply National Foods were previous suppliers to Lactos Cheese Factory. Most are contracted to supply National Foods until the end of December 2009. They are fearful of the dramatic reductions in milk prices being offered to other farms currently out of contract.

The Circular Head farmers wrote a submission to the Senate Select Committee – Agriculture and Related Industries which expresses their concern and addresses the milk price and broader issues. ***See Attachment A***

What is the farmers justification for the liquid milk production costs of 39.8 cents per litre?

(a) **The Group has consistently indicated its average production cost across the year is 39.8 cents per litre (6.8 cents higher that the current price offer by National Foods).**

'Cost of production' for each farm business is the sum of all dairy farm costs including the imputed value of unpaid labour, depreciation and finance costs divided by the annual milk production. In 2007-8 the split, autumn or all year calving herds had average total dairy costs of 44.5cents per litre and the spring calving herds had costs of 42 cents per litre. Since 2007-8 the price of farm inputs such as grain, fertilizer and fuel have declined. It is therefore expected that the for 2009-10 total farm costs will be less than 2007-8.

(b) An independent assessment by Mark Ferguson to the Tasmanian Government deals with this matter in detail. It is ***Attachment B – Economic effect on the dairy industry of announced reductions in prices to be paid to producers by milk processors***.

(c) A submission by farm consultant Penny Williams to the Senate Select Committee – Agriculture and Related Industries hearing in Canberra on 7 October stated 'Hansard ARI pages 104 and 108' indicated "… costs of production. In the 2007-2008 financial year, if you were calving in spring, you needed to receive 41.7c…. This year …..costs have risen… " ***See Attachment C***

It is important to note that milk suppliers have used the production costs as a base (still some 10 cents a litre below last years milk price in recognition of the tough economic times.

Why are National Foods making such a low milk price offer?

National Foods contends "The price National Foods is offering is in fact higher than any other major milk buyers in Tasmania and 10 -20% high than that being paid by our major competitor, depending on the suppliers milk intake".

The company also says repeatedly that "We are paying a premium price to reflect our need for a flat supply of milk year round".

The dairy farmers contend that in fact the company is not offering a higher price. National Foods adoption of a 'model farm' concept is spurious. The Company is not actually comparing apples with apples.

In fact National Foods has now decided to change the way it promulgates the price.

The 'model farm' concept is solely a creation of National Foods; it had no input from farmers in its development.

The "Model Farm" is best described in an evaluation by Grant and Melanie ***See Attachment D – Milk Pricing in Tasmania***

In summary:

- **National Foods is claiming to pay their suppliers a premium over Fonterra. However to achieve this suppliers need to adhere to strict criteria with regards to quality and daily production**
- **National Foods has heavy penalties Fonterra does not**
- **All bonuses paid by achieving this are included when calculating any comparison with Fonterra**

THAT IS;

- **National Foods are not paying the same price for the same quality milk;**
- **The company claim to account for step up but the examples in the evaluation show by not back paying these to July first as Fonterra do**

they can completely erode their premium to a point of putting their suppliers in a negative position;

- **Finally the company have capped contract volumes with the impact on farm values and development.**

A clear case of smoke and mirrors.

The Company claims to pay a premium. While this has been the case at times the milk price offer is well below cost of production.

The Company adds the commodity price has now slumped and the whole is affected… we, as a viable business, have to produce and sell our product at a competitive price".

Farmers submit that the whole industry is not affected by a slump in the world market. World prices do not impact directly on Tasmanian milk.

The comment that the company needs to be viable to be competitive is ironic. What about the small producers who supply them? How can the Company remain viable if it sends its farmers broke?

National Foods, this week, has sent revised contracts to suppliers out of contract. The contract document state The deadline for the return of signed agreements is 30 November 2009. "If we do not receive your signed agreements by this date, and we have not otherwise discussed this with you, then we will presume that you do not wish to accept our offer, in which case we will consider making alternative arrangement for the supply of milk".

Does National Foods have the capacity to pay a price equivalent to the cost of production?

National Foods clearly has the capacity to increase its liquid milk price offer to producers further and the capacity to pay them

- Dairy Globe, a weekly newsletter of major events in the domestic and world dairy markets reported on 10 August 2009,

  "National Foods to merge with Lion Nathan - Kirin's Australian operations will soon be renamed Lion Nathan National Foods Pty Ltd. ………. the existing ion Nathan senior management team to become its senior management team, with Robert Murray current CEO and MD of Lion Nathan, as the new CEO of Australian Operations

- Merger benefits better than expected …. **Kirin has reported that National Foods EBITDA improved from just $21 million in the first half of 2008 to $48 million to first half 2009, which is exclusive of restructuring costs, but also reflect the mixed outcomes from a saving in milk prices,** better unit prices ….

  Over the full year Kirin estimates that it can save $50 million in costs from the integration of the two businesses"

  National Foods results show a full 2009 forecast year of an EBITDA of $178 million.

- Extracts from Kirin Holdings (National Foods parent company) web site clearly forecasts its milk segment earnings will improve further in 2009, full year. ***See Attachment E***

Also a **transcipt** of a **teleconference** between Kirin Holdings and **National Foods on Kirin Holdings website** (***Attachment F***). **Kirin President and CEO indicated; on page 1;**

- 2009 Half 1 results "Achieved all initial profit targets, new record for sales and ordinary income…. Strong performance at … NFL.
- FY 2009 forecasts revised;

  Consolidated operating income, ordinary income, interim net income forecasts revised up (sales and operating income forecasts revised up at KB, LN, NFL.

He asked **National Foods** on page 11 **"Why did you raise your earnings projections for National Foods Limited compared to initial targets?** There is no answer on the website, yet **in response to a further question from Kirin, page 12 "Please give us some idea of the improvement you have in mind for now and for subsequent fiscal years? National Foods Limited advised, we are currently reviewing synergies with the merger. That said we raised earnings for 2 reasons, first that personnel reductions are proceeding better than expected and second that we have been able to cut procurement costs ahead of schedule.**

In addition National Foods has recently completed **plush new head offices** in Melbourne. The **company can afford these** premises but it **can't afford to pay milk producers a fair and reasonable price for their hard work**.

(B) the impact of the concentration of ownership of milk processing facilities on milk market conditions in the dairy industry;

Verbal comments on this reference will be made at the hearing.

(C) the impact of the consolidation of the ownership of the market or drinking milk sector with the manufacturing milk sector on milk market conditions in the dairy industry;

Verbal comments on this reference will be made at the hearing.

(D) the impact of the concentration of supermarket supply contracts on milk market conditions;

Given the low milk price currently being received by producers, has the supermarket retail price reduced similarly?

Australian Bureau of Statistics (ABS) confirm that the average **retail milk price in six cities has fallen 7% on average** from their recent peak price.

The **milk price paid to typical Tasmanian dairy farmers** has **fallen by around 42%** since the peak price in 2007-8.

ABS retail milk **date is only available up to June 2008 so the fall in the milk price paid to dairy companies for 2009-10 is not yet reflected** in ABS price data. ***See Attachment*** **G**

Currently the retail price of milk in Tasmania is around $2 plus, with supermarket prices around $1.50 when the initial offer to farmers was 29 cents per litre, now 33 cents per litre.

(E) **whether aspects of the Trade Practices Act 1974 are in need of review having regard to market conditions and industry sector concentration in this industry;**

The TSCBG contends there is a desperate need to review the Trades Practices Act and to provide additional protection fto small and medium businesses from the unfair and unreasonable, often bullying tactics and culture of some large dominant companies. In this case a large multinational.

The vulnerability of Collective Bargaining Groups to the tactics of these companies must be addressed. While National Foods publicly states its support of the Collective Bargaining process, it has the power to break down such groups by individual enticements, increased economic and social pressure on out of contract suppliers etc.. The company has a record of this elsewhere in Australia and it is now adopting this process in Tasmania.

In Tasmania National Foods is the dominant liquid milk processor.

The ACCC processes are constrained by the Act. Investigation and prosecution processes must be simplified, only then will the success rate improve and criticism of the ACCC reduce.

The TSCBG has engaged Allens Arthur Robinson as its legal advisors.

Initial advice suggests it is possible some provisions of the Trades Practices Act may have been contravened.

The Groups initial preference was to seek independent adjudication of the milk pricing dispute but given National Foods public indication it is no longer interested in dealing with the collective bargaining group agreement from the company is unlikely.

The TSCBG will now lodge a formal complaint with the ACCC against National Foods conduct.

It is understood thatwhile the ACCC could become a defacto adjudicator of the claims it will not weigh into the negotiations or merits of each sides arguments, it will simply assess the truth of claims and statements made.

It therefore seems to the TSCBG that the Trades Practices Act requires amendment to provide has the power to the ACCC to order independent adjudication on such matters.

(F) any other related matters

The TSCBG has no other matters at this stage but seeks the indulgence of the Committee to provide further information relative to its submission as events unfold.

Conclusion

Senators, many dairy farmers who are out of contract with National Foods are experiencing difficult financial stress and conditions with resultant family and social impacts.

The TSCBG members and their families are fearful for their future of the Tasmanian dairy industry and for National Foods.

Group representatives have met with National Foods executives and attempted to negotiate a break even production cost price of 39.8 cents a litre, for liquid milk supplied.

After nine hours over two sittings and a further third meeting where National Foods 'clarified its price offer' those negotiations broke down.

National Foods final offer was 33 cents pre litre over the year well below the break even price required by farmers.

National Foods is embarking on a process in Tasmanian to break the collective bargaining group by driving a wedge between it and individual suppliers and others where it can and also placing deadlines and threats on suppliers to sign a contract to lose money.

This is the process followed by the company in other states.

At meetings with all its dairy farmer members last week the Group received unanimous support to continue to seek a fair and reasonable price for their milk from a multinational company that has the capacity to pay the claim.

Phil Beattie
John Barker

Attachments

(A) Circular Head Dairy Farmers submission

(B) Economic affect on the dairy industry of announced reductions in prices to be paid to producers by milk processors – Mark Ferguson

(C) Hansard Senate Select Committee – Agriculture Canberra 7 October 2009. Farm Consultant Penny Williams' comments on milk production costs

(D) Milk Pricing in Tasmania National Foods 'Model farm' concept explanation paper

(E) Kirin Holdings Earnings Forecast 2009

(F) Kirin Holdings Teleconference Minutes

(G)

Attachment A

Submission from Dairy Farmers in Circular Head Tasmania for the Senate Inquiry into Unconsionable conduct by National Foods

Background Information

Circular Head dairy farmers who supply National Foods were previous suppliers to Lactos Cheese Factory. Most of the National Foods suppliers in Circular Head are still contracted to supply this company until the end of December 2009. As a result of these contracts most suppliers have not yet received the dramatic reduction in milk prices that has been forecast and offered to farmers out of contract. Some farmers have been approached by the National Foods Field Representative, Mr Paul Rees, with regard to 2010 contracts and likely milk prices. Other farmers have not been contacted at all. Some farmers in this group will incur further losses when their contract ends as increases were made to their milk volumes this year that will not be honoured under the new contract as explained in detail below.

A small number of farmers in Circular Head had 1 year contracts with National Foods. These contracts ended in December 2008. These farmers have been out of contract since January 1 2009. National Foods offered new contracts to these farmers in July 2009. The content of the new contracts has many areas of concern and is favourable to National Foods only in all sections. Furthermore, the National Foods representative, Paul Rees, was not able to answer all details to questions arising in the new contract. This has placed considerable pressure on these farmers to sign the contract, exploiting the fact that their previous contracts had expired.

New contracts for 2010 have been supplied to some of the farmers whose contracts end in December 2009. These contracts are the same as what has been offered to those that were out of contract. It is of concern that National Foods will also pressure this next group of farmers into signing a contract that is clearly one sided, dictates how farmers should manage their farm and completely undervalues the cost of sustainable dairy farming. The plight of the Circular Head dairy farmers and the behaviour of National Foods and its representatives are explained in detail in this document.

General Complaints towards National Foods

Most National Food suppliers in Circular Head believe that the company via its field representatives has acted inappropriately and inconsistently at times with when dealing with farmers.

The following is a list of issues that have been experienced by the majority of farmers in Circular Head and these reflect the attitude of the company to the dairy farmers. Many of these complaints have built a foundation of frustration and anger amongst suppliers towards National Foods. The pattern of behaviour by this company and its employees follows in general terms and is then expanded on in individual farmer complaints. There are many questions that need to be answered by National Foods.

Company Representatives/Milk Supply Managers

- **Lack of communication** between field officers (past and present) and suppliers. Field officers rarely visit suppliers unless they require information or documentation i.e contracts from farmers. No regular meetings to see how suppliers are progressing or inform suppliers of company direction. Field officers rarely provide answers to queries from suppliers and regularly fail to return phone calls on queries that suppliers may have.

- Apparent misrepresentation of National Foods intentions of business by representatives on farm. As field representatives this is the only face suppliers have of National Foods and as such it is assumed by suppliers that any agreements made and signed by themselves and the company representative is binding. This has not been the case.
- Field officers not addressing all suppliers on all issues when visiting farms. It has very much been the case of some suppliers being informed of one issue and the next supplier not. This appears to be a deliberate act of dividing suppliers rather than encouraging cohesiveness.
- Constant inablility to return suppliers phone calls and answer queries

Documentation

- **Milk supply Statements** often have discrepancies between what is paid, the amount received and the amounts farmers have calculated. Further the statements are extremely complicated making it difficult for a lot of farmers to understand. When enquiring for help at head office they too cannot work out statement queries.
- **Remittance Advice** received for No-Disadvantage payments or back payments do not have any details as to how they have been calculated. This is an issue that National Foods has been promising to rectify and have failed to do so.
- **Correspondence** from National Foods whether it be a letter that notifies suppliers of staff changes within the company or on issues relating to contracts and milk prices are not received by all suppliers despite all being on the same contract.

New Contracts on Offer

- The terms dictate how farms will be managed due to constraints in contracted milk volumes.
- Decreasing market value of farms that supply National Foods compared with competing milk companies by not guaranteeing that the company will take on a new owner of a farm as a supplier if the farm changes ownership.
- Not all suppliers have been supplied with a Letter of Offer for contract and as prices are not fixed this does not allow suppliers to forward plan for the next year or set budgets for their business.

Head Office

- Suppliers are constantly treated with disrespect on the telephone by administration employees of National Foods. Most are unhelpful and try to refer any problems onto another office, usually at Burnie, Tasmania. However the Burnie staff who despite being friendly, can no longer deal with queries regarding statements and documentation.
- Office staff are also ill informed and this has caused suppliers to be very cautious with help received. For example office staff try to refer matters to the former field officer Greg Henry after he had left National Foods. They apparently were not informed that a current employee Mr Paul Rees was the new field officer.
- Extremely rude phone manner with many suppliers feeling that staff “treat us like dirt”. The irony being that without dairy farmers these staff would not have the job position they currently hold.

Individual Farmer Perspectives on Unconsionable conduct by National Foods

D & I Anderson, Mawbanna TAS

The Anderson's were on a one year contract with National Foods which ceased on December 31 2008. Milk continued to be supplied to National Foods during the first half of 2009 without a contract and the Anderson's were paid at National Foods published rates. In July 2009 Mr Anderson approached the National Foods Field Representative, Mr Paul Rees, about a contract and what the upcoming season price for milk would be. Being unable to answer this question directly Mr Rees returned the phone call with the answer being that the spring price to be paid for milk would be approximately $0.20 per litre and that a new contract or Letter of Offer was in the mail. Prior to this letter being received and despite the Anderson's being out of contract since the beginning of 2009 a National Foods representative had not contacted the Anderson's in any way since a visit by the then field officer, Mr Greg Henry in early 2008.

The Letter of Offer was to be signed and returned by the 27th July 2009. Whilst Paul Rees provided the Anderson's with a document titled National Foods Income Estimate for F10 New Contract (an estimate of income based on figures provided by National Foods) he did not explain the terms of the contract fully to the Anderson's. As the deadline approached Mr Anderson asked what the consequences would be by not signing a contract and continuing to supply milk without a contract. Mr Rees' reply was clear that money owing to the Anderson's from National Foods for a back payment relating to the "No-Disadvantage" basis against Fonterra on their previous contract would not be paid. Mr Anderson was also concerned that without a contract National Foods would refuse to pick up his milk and in the end felt that at least by signing a contract he would be guaranteed a buyer for his milk providing him with some security. As the Anderson's understood it, an extension was granted and they finally signed the contract for a term of five years on 11th August 2009. Mr Rees phoned Mr Anderson on 11th September to notify him that his no-disadvantage payment had been calculated and would be paid into his account that day. Mr Anderson is yet to receive any documentation showing how this payment (or any previous back payments) have been calculated. The new contract is now in effect and for the month of September the Anderson's are being paid $0.208 per litre for their milk.

The Anderson's have been dairy farmers for 36 years and without doubt have estimated that the payments for their milk this season will be the worst they have experienced if the cost of production is compared with the price being paid. There has been over a 50% decrease in the farm gate price of milk but not a 50% decrease in the costs of producing that milk. As a consequence the Anderson's daughter and son-in-law have sought work elsewhere and the Anderson's plan to semi-retire has been replaced with them returning to full time farming and milking. Labour costs were the first area to be reduced and the consequences of this have already impacted on the welfare of Mr Anderson's herd. Without the extra labour unit stock is not checked as regularly and losses to calves and cows have already occurred. Mr Anderson plans to reduce his herd also due to the poor milk price and forecasts that his production volume will be decreased by 10% and he may be penalised for this under the terms of his new contract. Whilst there has already been some effects of a low milk price for these suppliers the continuing effects of further physical and mental stress remain to be seen.

J. Elphinstone & S.Medwin, Rocky Cape TAS
Mr Elphinstone & Ms Medwin were on a one year contract with National Foods which ceased on December 31 2008. In late December he received a letter from National Foods stating that at the end of the contract there would be a 3 month notice period for both parties. The letter from Paul Rees then goes on to state:

"The market for raw milk is experiencing considerable volatility with world markets deteriorating significantly in recent months and the domestic market is also experiencing unprecedented volatility.

Consequently National Foods requires further time to consider the full implications of the current raw milk market price movements. We expect to make a contract available later in January 2009. National Foods is mindful that it needs to remain competitive in the Tasmanian raw milk market to secure milk."

Any questions in relation to this letter were asked to be directed to either Paul Rees or Greg Henry. No contract was received by Mr Elphinstone by the above stated date. Mr Elphinstone rang these representatives on numerous occasions over the months between January and July as he was fully aware he was out of contract. The consistent reply he was given was that contracts were not yet available as National Foods were waiting for Fonterra to release their season published price before new contracts would be supplied.

In early July a Letter of Offer was mailed to Mr Elphinstone & Ms Medwin for a supply agreement or contract for 2009/2010 and onwards which was to be signed and returned by the 27th July 2009. Around the middle of July Mr Rees phoned Mr Elphinstone to enquire whether he had received the contract and if he had any questions. Mr Rees visited the farm in early August to explain the National Foods Income Estimate and the payment structure according to the National Foods "model farm". Mr Rees inadequately answered many questions directly relating to the terms of the contract.

Under the terms of the new contract "Contract Sales Volumes are to be nominated by the supplier for 2009/2010 however they are not to exceed monthly contract volumes you nominated for the 2008/2009 season. These volumes would become the minimum volume commitment for each year of the contract." Mr Elphinstone had notified his intention to continue to expand his herd and therefore his contracted volumes each year to National Foods several years ago. More recently Mr Henry was aware of this and had agreed verbally for this increase in contracted milk. On questioning Mr Rees as to what the reasons now were behind no longer being able to increase milk volumes, Mr Rees advised Mr Elphinstone that National Foods had made a mistake with the Betta Milk supply contract with which they have to comply. As a result National Foods would be unable to guarantee that there would be future increases in contracted volumes to their suppliers. He could not guarantee that even if National Foods obtained markets for more milk that current suppliers would be offered an increase in their volumes and that if the company wanted more milk they would obtain it from what ever source was available including new suppliers. Mr Elphinstone's understanding is that there was no commitment on behalf of National Foods to its suppliers. Whether a supplier was on contract for 1 or 5 years or off contract when it came to offering further contracted milk National Foods would not necessarily offer it to committed suppliers. When asked whether a 1,2,3 or 5 year contract would be best for Mr Elphinstone's situation Mr Rees could not provide an answer. Mr Rees was further questioned on why Mr Elphinstone should sign a contract when only 3 months of prices were known and that signing a five year contract was signing up to a future of uncertainty. Mr Rees guaranteed that the minimum price for milk paid by National Foods would always be based on Fonterra's price and indicated that the contracts were about obtaining a commitment to supply National Foods. Mr Rees also advised Mr Elphinstone that about half of the National suppliers had signed the contract and for varying terms.

Mr Elphinstone has not signed the new contract but is concerned that Natioanl Foods will refuse to pick up his milk unless he signs a contract. National Foods have not kept Mr Elphinstone & Ms Medwin informed as to their intentions for business throughout the year and still are unable to provide satisfactory answers to many questions they have in relation to the new contract on offer. Of greatest concern is the limitation on expansion of the contracted volumes of milk. This operation was intending to expand each year and the new contracts do not allow for this operation to increase in size at all. If milk prices continue at the current rate being offered by National Foods Mr Elphinstone would be forced to sell cows and reduce his herd numbers to comply with the milk volumes National Foods are contracting. Production costs would also have to be reduced and any further improvements to this farm will cease. Their intention to employ a labour unit will not go ahead. Current milk prices will mean that for this young family trying to build asset and make a living in the dairy industry will not be a reality.

CG, CJ & MC Batty, Wiltshire TAS
The Batty partnership was also a supplier whose 1 year contract with National Foods ended on December 31 2008. National Foods advised the Batty's that a new contract would not be available until July when Fonterra's price for milk was published. In mid July a Letter of Offer was received in the mail by the Batty's. Prior to receiving this the Batty's understood (under advice from a National Foods representative) that the new contract would be the same for all suppliers to National Foods across Australia and the Batty's assumed that this would also apply to the price structure on offer.

On receiving the Letter of Offer the Batty's approached Paul Rees of National Foods to set up a meeting and explain the terms of the new contract for their farm situation. The Batty's were concerned that a contract had been offered to them without any consultation into what terms the supplier would be prepared to do business. The Batty's believed that the new contract demonstrated that National Foods did not understand the nature of the business of farming i.e. a farm cannot change its infrastructure, calving patterns of cows and production costs overnight to suit a contract and that nor should it if this is not the most efficient and cost productive way to farm. Currently the Batty farm is set up as a winter milking farm to take advantage of the premium milk price that was offered originally by Lactos and subsequently National Foods.

Mr Rees went through parts of the contract with the Batty's but still left many questions unanswered. He did however make the Batty's feel pressured to sign a contract as they were concerned that if they did not sign National Foods would not pick up their milk. In explaining the contract to the Batty's Mr Rees explained that unless a long term contract was signed there would be no contract premium paid and that National foods wanted only a certain number of farms to sign up to each of the year terms on offer. As is stated in the new contract offer under the heading Longer Term Contracts "…National Foods will allocate on a "first come, first served basis" which will be determined by the order of receipt of signed contracts at National Foods' Docklands Office."

When questioned on milk prices for the "indicative only" months in the new contract Mr Rees commented to the Batty's that the price will always be 1cent in front of Fonterra's published price. As they understood it any step ups in milk price made by Fonterra to its suppliers in the period from July-December would be matched by National Foods. For step ups in the period January – June Mr Rees explained that National Foods would consider doubling these payments. However he conceded that the farmer would not really be in front as these payments would not be covering the months of highest production over the winter. Mr Batty also enquired as to whether there would still be a no-disadvantage policy and Mr Rees explained that there would be to Fonterra but not a policy to other National Suppliers implying that there may end up being different price structures for individual farms e.g for farmers whose contracts end in December 2009. The Batty's also got the impression that if they did not sign a contract there would be a good chance that they would not receive any back pays if Fonterra increased their milk price.

With the deadline for the return of the signed agreement (27th July 2009) looming the Batty's signed the contract for a five year term. The current price for milk supplied in September is $0.208 per litre. This price is unsustainable even for this family who have 40 years of equity in their business. As a result costs will be cut in the form of labour and feed costs for stock which will eventually impact on animal health on their farm.

In the Batty's experience in the dairy industry previous contracts for milk supply have served to suit both the farmer and the milk company. The new contracts with National Foods suit only the company and have no consideration for the needs of the farmer. This attitude towards farmers was also felt by the Batty's when their previous contract was signed. The latter part of 2007 was a time of personal stress for the family and the field representative at the time Mr Henry asked Mr Batty to let him know if there was anything they could do to help. Shortly after National Foods sent a contract to be signed without any contact or help from Mr Henry. Furthermore this attitude is reflected in the new contracts where if a farmer was looking to sell their property National Foods will not guarantee taking on the new owner as a supplier. For the Batty's who have signed a 5 year contract the value of their property as a working dairy farm is now questionable for without a guaranteed milk contract who would buy it?

JH & TM White, Irishtown TAS

The White's are currently on a 2 year contract with National Foods which will end in December 2009. They have a split contract with one third of their dairy herd calving in autumn and two thirds in spring.

In 2008 the White's purchased a new farm and they were able to continue to keep their contract with National Foods. The White's were unsure as to what volumes of milk their cows would produce when moved to a new farm and approached the National Foods representative at the time, Mr Greg Henry. He stated that they would be able to review their contracted amounts at the end of 2008 for the following year 2009. In December 2008 the Whites rang Mr Henry to ask if he could come and help set their contract volumes for 2009. In January 2009 the Whites again rang Mr Henry to enquire when he would be meeting with them and at that time Mr Henry assured them that there would be no problems with volumes of milk to be supplied. In the middle of February 2009 Mr Henry met with the White's and together they completed and signed a Milk Supply Agreement 2008 and 2009 with the outcome being that the White's would be increasing production in 2009. Mr Henry took a signed copy of this back to National Foods. He assured them that a possible increase in volumes would be ok especially for milk supplied in the autumn and winter as this is what National Foods wanted. He also commented that there were half a dozen farmers in a similar situation.

As planned with Mr Henry the White's increased their autumn herd by 30 cows and started calving their spring herd 10 days earlier to suit their farm and their contracted volumes. In April 2009 the White's rang Mr Henry enquiring about an inconsistency on their milk statement. Mr Henry was to look into the matter and get back to the White's. He ceased working with National Foods that month and had no further correspondence with the White's. After receiving their milk payment statement in May the White's rang the new National Foods representative Mr Rees to enquire about payment for 2009 contracted litres. Mr Rees looked into the matter and returned their phone call the next day and explained that the company did not honour the 2009 contracted volumes that had been agreed on with Mr Henry. National Foods will only pay suppliers on the 2008 contracted volumes. He also claimed that a letter had been sent to all suppliers stating that the 2009 contract volumes would be the same as those for 2008. The White's did not receive this letter. The White's had been paid the 2 year contract price (approximately $0.46 per litre) for their milk based on 2008 contract volumes. Any extra milk produced above the 2008 volumes was initially paid at this price in April and May but then deducted from their milk payment in June. Mr Rees met with the White's in May and failed to honour the previous agreement signed by the White's and Mr Henry.

As a result of this failure by National Foods to honour an increase in production of contracted milk volumes on the White's farm any milk produced above the contracted amount for 2008 is now being paid at a substantially lower price approximately $0.27 for the month of July. This is a considerable loss of income when the White's are consistently supplying over 15% more milk than the 2008 contracted volume. Yet the volumes the White's are producing for 2009 have been within a few hundred litres of what was agreed on by Mr Henry. In addition the cost of increasing cow numbers and changing calving dates has been in vain despite assurance from the National Food representative at the time. If National Foods decide to change an agreement the supplier should be notified immediately so that decisions on farm structure and cow numbers (both of which require planning and financial costs) can be appropriately made by the supplier. The last time Mr Rees met with the White's was in May 2009 and the White's are yet to receive a Letter of Offer for a contract for 2010.

N & L Innes-Smith, Edith Creek TAS

The Innes-Smith's are currently on a 2 year contract with National Foods which will end in December 2009. They have a split contract with both autumn and spring calving cows.

On 26th May 2009 the Innes-Smith's were visited by the National Foods representative, Mr Paul Rees to inform them that they owed the company $11 079 for the 2008 calendar year. This was a result of the Innes-Smith's being outside their ratio of autumn to spring cows for their split contract. The split contract ratio is calculated on the production (in litres) for June, July, August as the autumn months compared with the production for October, November and December as the spring months. The production in the spring months is a maximum of 2.3 times that of the autumn months. The Innes-Smith's had been through their 2008 production with the previous National Foods representative, Mr Greg Henry and believed that their production was within the required ratio as is documented in their Milk Supply Agreement for January 2008 to December 2008 and signed by both parties. The ratio and contracted volumes for 2009 were also calculated and signed with Mr Henry but the Innes-Smith's have not received a signed copy returned to them. To date the Innes-Smith's have been provided with no documentation as to how the $11 079 was calculated off production figures. They have paid National Foods this amount.

The following is Mr Innes-Smith's thoughts and comments on the current situation with National Foods and also the ramifications of lower milk prices.

"We also supply Fonterra on another farm. We calve a traditional spring herd on that farm and milk to approximately 20 June and start sending milk again in late August early September. Our costs are a lot less due to not having to milk through the winter and we have no restriction on spring milk production. This is an easier system to cut costs and service in a downturn in milk price.

This July, August and now September period has been very wet with 190 millimetres of rain in July and over 300mls in August. So the extra costs with winter milking have been high due to extra pasture damage. We will have to re-grass about 10 hectares at approximately $500 per hectare plus we had to buy in extra feed – 200 bales of silage at $62.50 a bale landed (a total of $12 500), 100 bales of hay at $60 a bale landed (a total of $6000) and we bought maize silage at approximately $30 000. Spring calving herds have struggled through a wet spring with extra feed costs and pasture damage also plus the stress on cows and farmers but as a winter milkers we had already endured six more weeks of this pressure. Yes, as contracted National Foods suppliers we have a better price than Fonterra but I will be a long time trying to recover these costs.

Most farmers are fairly highly geared with debt. Farmers are at the bottom of the heap. Dealing with mud, cows losing weight, having to shoot cows and more dead calves than usual let alone thinking about how we are going to pay our bills at the end of the month. This season any cows with health problems such as calving paralysis, difficult calvings, infection that normally come good are having to be shot.

A group has been set up in Circular Head where a financial counselling and mentoring service is being offered to farmers to hopefully help farmers get through this tough period and so that we don't end up seeing any farmers commit suicide or walk out on their farms. As a rural community everyone suffers."

The Innes-Smith's have not been supplied with a Letter of Offer for a new contract as yet. The uncertainty by National Foods on confirming milk prices for all months of the period of the contract as well as not having received these documents means that the Innes-Smith's cannot start to make budgeting and farm plans for next year.

GE & VJ House, Forest TAS
The House's are currently on a 2 year contract with National Foods which will end in December 2009. They have a split contract with both autumn and spring calving cows.

In December 2007 Mr House met with the National Foods representative Mr Greg Henry to sign his current 2 year contract and to agree on contracted milk volumes. Mr House has never received a signed copy of these volumes despite several phone calls to Mr Henry. In January 2009 Mr House again met with Mr Henry to discuss contracted milk volumes as Mr House intended to increase cow numbers by 100 cows after purchasing neighbouring property. The agreed milk volumes were recorded on a Milk Supply Agreement document that was signed by both parties and witnessed by the House's sharefarmer. Mr Henry was to email a copy to the sharefarmers and post a copy to the House's. This document has not been sighted by any one since this day. The House's and their sharefarmer made a record for themselves at the time of the agreed volumes. Due to changes in farm structure the House's did not expand their operation to this level and so milk volumes in 2009 have been under their predictions. National Foods have paid for all their milk at the current contracted value. However, in the contracts on offer for 2010 the House's will be affected as "Contract Sales Volumes … are not to exceed monthly contract volumes you nominated for the 2008/2009 season" and the option to increase this annually will be unlikely. The increase in production on the House's farm made in 2009 will mostly be in effect for the months from June-December 2009 and these will not be used for contracted volumes for future contracts. It is likely that the House's will have to reduce cow numbers now to fit with 2008 contracted volumes and that despite Mr Henry's assurances that expanding milk volumes by increasing cow numbers would be welcomed by National Foods.

Whilst the House's are still contracted a milk price of approximately $0.46 per litre this will change on 1st January 2010. The predicted reduction in milk prices and restrictions on contracted milk means that the House's sharefarmers will no longer be employed and this milking herd will reduce in numbers rather than increasing as planned.

Knobs Pty Ltd – Farm Manager I Korpershoek, Forest TAS
Mr Korpershoek currently manages this farm on a lease arrangement from his parents. The farm is currently on a 2 year contract with National Foods that will finish in December 2009.

In January 2009 Mr Korpershoek met with National Foods representative Mr Greg Henry to agree on contracted milk volumes for 2009. Mr Korpershoek stated his intention of expanding the milking herd by 25 animals which would increase contracted volumes in 2009. Mr Henry advised that this would be fine. A Milk Supply Agreement was filled in and signed by both parties and Mr Henry advised a copy would be sent in the mail. A copy of this agreement was never received by Mr Korpershoek.

In April 2009 Mr Korpershoek calved an extra 25 heifers that he had bought at a cost of $1500 (plus GST) per head or a total of $37 500 to expand the herd. Milk volumes for the year have been above the 2008 agreed volumes but not more than 15% (as stated in the 2 year contract) but also below the predicted increases as calculated with Mr Henry for 2009. Hence there has been no penalty for this. However, with the Letter of Offer for contracts in 2010 it clearly states that "Contract Sales Volumes … are not to exceed monthly contract volumes you nominated for the 2008/2009 season" and the option to increase this annually will be unlikely. The increase in production on the Korpershoek's farm made in 2009 will mostly be in effect for the months from June-December 2009 and these will not be used for contracted volumes for future contracts. (The same situation with GE & VJ House as stated above). The expansion of the herd this year has been at a considerable cost and in vain. In a future contract based on the 2008 milk volumes Mr Korpershoek will have to decrease herd numbers by selling animals. Due to the downturn in the dairy industry and low milk prices these same animals are now only worth $900 in the current market. The value of these animals may further decline.

Mr Paul Rees visited Mr Korpershoek during the week of the 20th July 2009 to deliver a Letter of Offer for milk supply in 2010. Mr Rees explained the "model farm" and the pricing structure for the new contracts. However he failed to mention that contracted volumes for the new contracts would be based on 2008/09 production and not on any increased production in 2009. It was not until Mr Korpershoek read the letter for himself that he realized this discrepency and that this was not what was in the agreement with Mr Henry. Furthermore in the new contract there would be no room for expansion of the milking herd as production volumes would not be increasing. Hence the National Foods contract will force Mr Korpershoek to manage his farm according to the company's demands rather than how he had planned. In hindsight, Mr Korpershoek feels that Mr Rees poorly explained this new contract and that he deliberately emphasised areas he thought would entice the farmer as well as complicating facts for the farmer.

JA & AM Finlayson, Togari TAS
The Finlayson's are currently on a 2 year contract with National Foods which will end in December 2009. They have 3 calving periods a year to produce a flat supply of milk throughout the year.

The Finalyson's concerns begin with advice given at a National Foods suppliers meeting in June 2008 and then confirmed in a letter dated 14th July 2008. It was stated that suppliers individual milk statements were going to be audited for mistakes made in calculations of payments beginning in January 2008. This was a direct result of supplier complaints in regards to mistakes to payments when National Foods changed their computer software. In November 2008 Mrs Finlayson contacted the National Foods field officer with a spread sheet outlining the shortfall in payments from January to November in their milk cheques which the Finlayson's estimated to be approximately $10 000. The shortfalls came from incorrectly calculated amounts of GST, quality milk payments and sometimes from a discrepancy between total amount paid on a statement and the amount received in the Finalyson's bank account. The Finlayson's were advised that this problem would be corrected. They have contacted the previous and present National Foods representatives on numerous occasions with reference to this matter and each time have been told the matter would be dealt with. The last request to resolve this issue was in July 2009. The Finlayson's are concerned that if they choose not to continue to supply National Foods when their contract ends they will not receive the outstanding money they believe they are owed.

In August 2009 the National Foods representative, Mr Paul Rees visited the Finlayson's to explain a spreadsheet demonstrating the proposed payment system for suppliers who sign a new contract in 2010. Mrs Finlayson comments that "He said it was based on our existing contracted amounts. However, if analysed, milk that is claimed to be our contracted amounts are incorrect. They (National Foods) will receive the amount of milk contracted for the month and accept it for processing through the winter months, however they are paying the spring price of $0.20 per litre for a proportion of that milk instead of $0.46. On our farm this equates to about 40 000 litres. The income estimate shows that a substantial amount of milk is pushed forward into these lesser paying months than what will be received for those months and these litres should really be paid for at the premium winter price."

In reference to the 2010 contract on offer the Finlaysons are concerned about the indicative prices on offer for surplus milk supplied from January to August. The Finlayson's state "We are being asked to sign a contract for surplus milk where the price can be changed if they (National Foods) choose – with no minimum base. We are being restricted on growth and surplus milk is necessary for our business to grow." There is a huge difference in financial terms between the current old contract price of $0.46 per litre and the current new contract price of $0.20 or lower. Mrs Finlayson concedes "…we are expected to sign a document in good faith and ramifications on our farm could be as high as $200 000 plus." In addition the Finlayson's believe the new payment schedule is very unclear and deceptive as to what is really intended to be paid to suppliers. For example the income estimate formulated by National Foods clearly states that a 1 cent per litre bonus is paid for signing a contract for more than a year. However, this is built into the milk price being paid in that year but it will not be received as payment in that year. Contracted volumes are also an issue for the Finlayson's who along with a number of other suppliers submitted their expected milk production volumes for the 2009 contract in late 2008. National Foods is not honouring these volumes and that all contracts will be based on 2008 volumes. National Foods claim this is because of an oversupply of milk due to the company losing a contract for fresh milk (Betta) and penalizing farmers for a shortfall in planning.

The Finlayson's final concerns and the impact of the new contract on their farm follows.

"Our farm has 3 calvings to produce a flat supply curve. The cost of production is much higher than the spring price structure National Foods is currently comparing our payment system to. The majority of the supply base for National Foods is split and winter milking. We are being asked to sign a contract which in reality is a spring price over 1,2,3 or 5 years. We are unable to lock ourselves into a contract where we would send our business broke. It takes 2 to 3 years to alter a calving pattern which relates to total milk production. We are being asked to produce milk through the high cost periods in January to August and being offered a spring price which is not viable. With a contract the only way out is to sell your farm to stop supply."

Matters arising from the above

- Apparent forcing of suppliers to sign contracts under duress despite National Foods accepting milk without a contract for over 6 months
- Contractual obligations of National Foods to agree with arrangements that their representative Mr Henry had entered into with farmers
- Why is National Foods setting contract prices against the advertised Fonterra Tasmania price when for Circular Head suppliers their milk is primarily used to produce premium cheese products. It appears that National Foods is following its only competitor's lead rather than setting milk supply prices based on the company's cost of production for its retail products? This suggests collusion between Fonterra and National Foods, not competition.
- If there was true competition each company would be trying to compete for the farmers business by offering better milk prices. Instead they are constantly pushing the prices lower to return a higher profit to their company.
- Inability to reconcile accounts accurately and provide farmers with itemized statements of remittance of extra payments.
- Manipulation of the monthly payment periods to suit a lower milk price being paid to producers.
- Since the purchase of Lactos by National Foods and subsequently Kirin Breweries the attitude towards suppliers has deteriorated
- The impact of National Foods projected milk prices and the restrictions of the new contract will have massive consequences on all farmers and their families and on the welfare of their animals. For Circular Head the financial and emotional impact of a downturn in the dairy industry will be far reaching throughout the community.

Attachment B

Economic effect on the dairy industry of announced reductions in prices to be paid to producers by milk processors

- Average dairy farm income and costs for typical Tasmania dairy farms for 2005-6 to 2007-8 collected through the Tasmanian Institute of Agricultural Research (TIAR) dairy benchmarking program are shown in Table 1 along with the estimated income and costs for 2008-9 and 2009-10. The methodology used to obtain the benchmarking information is provided as Appendix 1.

- Dairy farmers have been able to achieve satisfactory earnings before tax (EBT) for many years up to 2009-10 (Appendix 1 summarises income, costs and returns for nine years up to 2007-8). In the four years prior to 2009-10 EBT has ranged from less than 1 cent per litre (c/L) to 9.2 c/L. The high milk price in 2007-8 (49.2 c/L) coincided with high costs for purchased feed (including grain), fertiliser and fuel. This is evident in Table 1 with feed costs increasing from 14.8 c/L in 2006-7 to 19 c/L in 2007-8.

Table 1: Actual and estimated dairy income and costs 2005-6 to 2009-10

	2005-6	2006-7	2007-8	2008-9 est	2009-10 est
Milk price, $/L	0.343	0.345	0.492	0.387	0.309
Other income, $/L	0.034	0.020	0.024	0.024	0.024
Total income, $/L	**0.376**	**0.365**	**0.516**	**0.411**	**0.333**
Animal costs, $/L	0.026	0.029	0.032	0.034	0.034
Feed costs, $/L	0.127	0.148	0.190	0.155	0.155
Overhead costs, $/L	0.136	0.142	0.146	0.150	0.154
Finance cost, $/L	0.030	0.039	0.048	0.040	0.040
Cost of production, $/L	**0.319**	**0.358**	**0.423**	**0.379**	**0.383**
Earnings before tax, $/L	**0.057**	**0.007**	**0.092**	**0.032**	**-0.050**

est: estimates

- Benchmarking data for 2008-9 and 2009-10 are not available so estimates for both these years for income and costs are provided in Table 1. The feed cost information for these years was estimated by reducing the 2007-8 purchased feed and fertiliser costs by 30%, fuel costs were reduced by 20% and electricity costs were increased by 20%. These changes approximate the change in the price per unit for purchased feed, fertiliser, fuel and electricity since 2007-8.

- The milk price used for 2009-10 is 30.9 c/L. The National Foods letter of offer to suppliers dated 8 July 2009 estimated the company's average price over the season will be 29.68 c/L. Since that letter Fonterra have announced a 4% milk price step up (1.2 c/L) for their suppliers. The National Foods milk price is linked to the Fonterra milk price hence the 4% price step up will eventually be reflected to some degree in the price paid by National Foods.

- The EBT estimated for 2009-10 is a loss of 5 c/L for a typical farm. A typical National Foods milk supplier produces 1.8 million litres annually and will experience a negative farm profit of $90,000 or 15% of farm income for 2009-10 with the currently announced milk price.

- Dairy farmers have limited scope to reduce costs from year to year. Average total operating costs shown in Appendix 1 have increased virtually every year over the past nine years despite fluctuations in the milk price over that time. There is however, considerable variation between farms in the cost of production depending on the production system used and the level of finance costs. The financial loss most farmers will experience this season will cause greater hardship for some farmers than for others.

- Some dairy farmers have greater capacity to carry the loss than others. Rising capital values for the last few years mean the average equity level for Tasmanian dairy farmers is a safe 70% {equity = (assets – liabilities)/assets}. DAFF data show that 180 Tasmanian dairy farmers had $9.3 million in farm management deposits (FMD) at March 2009, equating to an average FMD of $52,000. High equity and FMDs mean that many dairy farmers have financial reserves that can be drawn down to offset the cashflow deficit caused by the current milk price.

- However, not all dairy farmers are in the fortunate position of having high equity and FMDs. Recent entrants to dairy farming, sharefarmers and farmers who have taken on large debts to expand production (who are often younger farmers) do not have the financial resources to survive a long period of negative cashflow.

- Low milk prices have also caused some banks to tighten lending criteria for dairy farmers. Banking criteria for dairy farming finance are no doubt being influenced by both farmers' ability to service debt and concerns that land values will fall given the low milk price. The availability of bank finance will have a substantial impact on the ability of individual dairy farmers to continue to fund cashflow deficits.

- Tasmanian benchmarking figures show that 25% of dairy farmers have less than 60% equity in their business. It is this group of farmers who are at risk of having to sell assets if the low milk prices continue. A consensus estimate from bankers is that if milk prices do not increase by the end of the current season then 10% of Tasmanian dairy farm owners will need to sell some assets to remain viable.

- This seasons negative cashflow and the abnormally wet winter have caused many farmers to become very despondent. The wet weather means pasture growth has been slow, cows have suffered from exposure and milk production has been below budget for most farmers. The wet seasonal conditions plus electricity disruptions due to high winds has caused budgeted milk intake for Tasmania's largest dairy manufacturer to fall by 12% for the season to date. Milk intake for all dairy companies is below what was achieved last season. Lower milk production and higher than planned feed costs because of wet weather means that the financial loss suffered by most farms will exceed what is estimated for 2009-10 in Table 1.

- Tasmanian dairy farmers have the lowest cost of production in Australia. Despite this most Tasmanian (and Australian) dairy farmers will erode their equity if current milk prices continue. If milk prices remain low for an extended period there will be adjustment costs and impacts for regional areas if dairy farmers are forced to sell assets and discontinue dairying.

- Dairy farming employs close to 1400 Tasmanians (2006 census data). Service providers and dairy manufacturers also employ a large number of people in regional centres. The farm gate value of milk production for 2007-8 was $337 million. Dairy manufacturing adds 150% to the farm gate value of production. Regional cities and towns in dairying districts such as Smithton, Wynyard, Burnie, Devonport, Deloraine and Scottsdale will be the most affected by a prolonged downturn in milk prices and the decline in milk production if farmers are forced to exit the industry.

- The costs for the economy that will be incurred if farmers are unable to continue dairying need to be weighed against the cost of assistance to enable farmers to remain on their properties while milk prices adjust and recover from the global financial crisis.

- As the milk price for most of the Australian, and part of the New Zealand, dairy industry is below the cost of production it seems certain that milk prices will have to increase or supply from these markets will be lost. The uncertainty is how long it will take for the milk price to move back to a sustainable level. The Australian export index prepared by Dairy Australia shows that international prices for dairy exports have increased in terms of $US. The appreciation of the $A means the international price increases are not being fully reflected in the prices received by Australian dairy exporters and hence in the price paid to dairy farmers.

The impact of the concentration of ownership of milk processing facilities on milk market conditions in the dairy industry

- Tasmania dairy manufacturers and the number of suppliers to each manufacturer are shown in Table 2. In 2001 Tasmanian dairy farmers were supplying six independent milk companies. By 2009 dairy farmers were sending milk to five dairy factories but there are only three independent milk companies (Lactos, National Foods and King Island Dairies are all subsidiaries of National Foods). There has thus been a concentration of ownership of Tasmanian milk processors within Tasmania. The number of milk suppliers peaks each year in September. Supplier numbers for September 2009 are not yet available to be included in Table 2 but it is expected there will be more than the 420 suppliers shown for August 2009.

Table 2: Milk suppliers by milk company 2001 to 2009

	Sep 2001	Sep 2005	Sep 2006	Sep 2007	Sep 2008	Aug 2009
Bonlac/ Fonterra	345	310	299	297	287	277
Cadbury-Schweppes	71	54	50	45	42	40
Lactos P/L, National Foods	93	71	70	66	61	52
National Foods	42	34	32	32	32	34
King Island Dairies	25	23	22	21	18	17
TQM	41					
State	617	492	473	461	440	420

Source: Tasherd Pty Ltd

- Dairy farmers now have less choice as to who they sell their milk to. In some dairy areas farmers have no choice between milk companies because only one company collects milk from that region.

- Dairy farmers have previously had limited ability to switch their milk supply to another milk company. King Island dairy farmers have no capacity to supply an alternative factory. Cadbury, Lactos and National Foods factories have always operated at close to peak capacity and the factories would only take on new suppliers if it suited their requirements. Fonterra have previously had a policy of encouraging additional milk supply in Tasmania. Fonterra's willingness to accept new suppliers and additional supply from existing suppliers has provided dairy farmers with an alternative to their existing milk company for at least the last decade. Fonterra's decision in 2009 not to accept milk from new suppliers means there is now no competition between factories for milk suppliers. Farmers are faced with the decision of either continuing to supply milk to their current milk factory or ceasing milk production.

- Fonterra's willingness over previous year to spend capital to increase the capacity of their factories has provided a degree of competition between milk companies for suppliers. Previously dairy farmers have had the ability to switch their supply to Fonterra if they were not satisfied with the price or conditions offered by other milk companies. During 2009 National Foods lost a contract to supply approximately 12 million litres of milk annually to Betta Milk. The loss of this contract means National Foods is faced with an oversupply of milk and is forced to sell their surplus to other milk companies at a loss.

- A feature of the Tasmania dairy industry is that the milk price paid by milk companies is strongly influenced by the price paid by Fonterra. Fonterra has the largest milk intake and collects milk from 66% of Tasmanian dairy farmers. Fonterra is the price leader and Cadbury and National Foods adjust the prices they pay according to movements in the price Fonterra pays its suppliers.

- All Tasmanian milk factories are now subsidiaries of multinational companies. As a result there is limited transparency in regard to the financial performance of the Tasmanian or Australian dairy component of these multinational businesses. The change in ownership and concentration of ownership of milk factories means that dairy farmers now have limited information available to them to identify where profits are being made along the value chain and hence farmers are less able to identify if they are receiving fair value for their milk.

- With Fonterra it is possible to compare the price being received by Tasmanian and New Zealand suppliers to the company. After the recently announced milk price step up, Fonterra's Tasmanian suppliers have a milk price of around 28.6 c/L. Based on recent movements in international market prices Fonterra field staff are advising individual farmers that there may be another price step up this season. This could add another 4% to the milk price taking the price to 29.8 c/L.

- The Fonterra website has a milk price forecast for Fonterra's New Zealand suppliers of $NZ4.60 per kg MS for the 2009-10 season. At current exchange rates this is equivalent to 29.1 Australian c/L. The milk price forecast for New Zealand suppliers is similar to the current price for Tasmanian suppliers hence

Fonterra's Tasmanian and New Zealand milk suppliers seem to be being treated equally in terms of the milk price.

Impact of the concentration of supermarket supply contracts on market milk conditions

- Figures from the Australian Bureau of Statistics (ABS) confirm that the average retail milk price in six capital cities has fallen 7% on average from their recent peak price. The milk price paid to average Tasmanian dairy farmers has fallen by around 42% since the peak price of 2007-8. ABS retail milk data are only available up to June 2009 so the fall in the milk price paid by dairy companies for the 2009-10 season is not yet reflected in ABS price data.

- In February 2009 the 11cents per litre Dairy Adjustment levy was abolished. The expectation was that retail milk prices would fall by a similar amount to the 11 cent levy. If either consolidation of the drinking milk sector or supermarket supply contracts and supermarket share of milk retail sales are impacting on competition in retail milk sales then consumers would not receive the full benefit through a fall of 11 c/L in retail milk prices following removal of the Dairy Adjustment levy.

- In the six months between December 2008 and June 2009 retail milk prices across Australian capital cities declined on average by 10 cents per litre (see Table 3). In Tasmania retail milk prices fell by 11 cents per litre. The fall in retail milk prices between Dec 2008 and June 2009 was due to a combination of the removal of the Dairy Adjustment levy and any fall in the price which milk processors were paying farmers for milk.

- Changes in milk processors buying price for milk between December 2008 and June 2009 are not known for certain. Dairy farmers advise that suppliers of the milk used by National Foods for retail sales had annual contracts at 49 c/L that ran from July 2008 to June 2009. Hence it is likely that there was no change in the price milk processors paid for milk used for retail sales between December 2008 and June 2009.

- Dairy Adjustment Authority staff advise that the 11 c/L levy was paid by milk processors. The ABS retail milk price data shows that reductions to milk processors' costs (through removal of the Dairy Adjustment levy) did get passed on in full to consumers in Hobart. It thus appears that there is a reasonable degree of competition among both milk processors and milk retailers in Tasmania.

Table 3: Retail milk prices, capital cities, cents

		Sydney	Melbourne	Brisbane	Adelaide	Perth	Hobart	Average
Milk, 2L bottle	Jun-07	330	325	313	312	313	329	
Milk, 2L bottle	Sep-07	344	334	319	320	325	326	
Milk, 2L bottle	Dec-07	368	352	333	340	327	346	
Milk, 2L bottle	Mar-08	372	359	340	355	346	370	

Milk, 2L bottle	Jun-08	366	360	322	363	357	384	
Milk, 2L bottle	Sep-08	357	367	331	370	349	391	
Milk, 2L bottle	**Dec-08**	**361**	**369**	**334**	**369**	**356**	**392**	
Milk, 2L bottle	Mar-09	352	368	329	369	366	382	
Milk, 2L bottle	**Jun-09**	**341**	**361**	**318**	**353**	**322**	**370**	
Jun-09 compared to Dec-08, cents		**-20c**	**-8c**	**-16c**	**-16c**	**-34c**	**-22c**	**-19c**
Jun-09 compared to Dec-08, cents/L		**-10c**	**-4c**	**-8c**	**-8c**	**-17c**	**-11c**	**-10c**

Source: ABS catalogue 6403.1.55.001

Appendix 1

Benchmarking methodology

- TIAR manages an annual dairy benchmarking program that involves collection of data from dairy businesses, analysis of these data, and then generation of reports for both farmer participants and industry. The benchmarking program has been run for the last 28 years. Participation by farmers is voluntary and hence the sampling is non-random. The businesses that do participate tend to have larger than average herd size. In 2006-7, 38 dairy businesses (8% of all Tasmanian dairy businesses) participated in the program and in 2007-8, 48 businesses (10% of all Tasmanian dairy businesses) participated. This participation has remained relatively constant at around 5-10% of total dairy businesses since the benchmarking program first began, despite a significant decrease in farm numbers, and this percentage of participants as a total of industry is consistent with, or better than, similar programs interstate.

- Physical and financial data are collected through input sheets that are completed either directly by farmers or by TIAR staff working with farmers in farm visits. Farm financial information is sourced from either financial statements prepared by the farmer's accountant or from computerised accounting records. Profit and loss statements produced by accountants or print outs of computerised accounting package must be supplied by farmers along with the completed input sheets. Physical details about the farm businesses are sourced from farmers' records.

- Income and costs from significant non-dairy enterprises (e.g. cropping, beef, contracting and off farm work) are excluded from the dairy benchmarking. If the income from other enterprises exceeds $50,000 then the farmer is asked to identify the costs of these enterprises and exclude them from the dairy benchmarking.

- The methodology used by TIAR to collect benchmarking data is accepted by Dairy Australia. TIAR has supplied benchmarking data to Dairy Australia for two years as part of the Tasmilk 60 project that will use these data to model dairy farm performance. TIAR benchmarking data are also supplied annually to the national Dairy Business of the Year awards that are funded by Dairy Australia and national sponsors.

- One of the outputs from the TIAR dairy benchmarking is an annual summary of physical and financial performance indicators. The attached summary shows a steady upward trend over a 9-year period for many of the key performance indicators (e.g. pasture production, and milk production per cow, per hectare and per farm). The trends in industry averages identified through dairy benchmarking are consistent with information from other sources, such as Dairy Australia's annual survey ("Dairy Situation and Outlook").

Tasmanian Dairy Benchmarking Figures

Averages for All Participants

	1999-00	*2000-01*	*2001-02*	*2002-03*	*2003-04*	*2004-05*	*2005-06*	*2006-07*	*2007-08*
Key Performance Indicators									
Return on Assets, %	4.1%	6.6%	10.9%	3.8%	4.8%	7.9%	5.7%	4.6%	7.9%
Operating Profit (EBIT), $	$54,405	$110,895	$164,994	$63,494	$86,985	$171,939	$174,626	$163,185	$385,024
Farm Details									
Production, kg MS	103,276	108,619	107,728	103,912	108,767	129,653	142,701	151,646	171,995
Cows Milked, nos	319	315	295	310	294	335	364	400	466
Dairy Area, ha	186	178	198	184	178	192	206	220	239
Labour used, FTE	3.4	3.4	3.7	3.7	3.6	3.7	4.0	4.0	4.5
Irrigation, % area irrigated	25%	26%	19%	25%	28%	27%	24%	29%	32%
Performance Indicators									
Milksolids per hectare, kg MS/ha	802	880	864	827	872	982	1,018	1,050	1,073
Milksolids per cow, kg MS/cow	325	334	364	338	368	391	392	386	373
Stocking Rate, Home Farm, DCE/ha	2.2	2.3	2.3	2.3	2.4	2.6	2.7	2.7	2.9
Pasture - Home Farm, kg DM/ha	7,809	7,879	7,546	7,800	8,239	8,731	8,949	9,209	9,324
Dairy Assets & Liabilities									
Dairy Assets, $'000	$1,346	$1,387	$1,375	$1,491	$1,584	$2,172	$2,675	$3,471	$4,811
Liabilities, $'000	$370	$423	$359	$464	$410	$484	$683	$944	$1,602
Equity, %	73%	70%	74%	69%	74%	78%	74%	73%	69%
Assets per cow, $/cow	$4,503	$4,513	$4,937	$4,700	$5,635	$6,482	$7,348	$9,186	$10,641
Liabilities per cow, $	$1,161	$1,344	$1,216	$1,498	$1,314	$1,444	$1,876	$2,206	$3,346
Assets per ha, $/ha	$7,471	$7,630	$8,071	$8,661	$9,364	$11,436	$13,969	$16,924	$20,442
Income & Expenses – per kg Milksolids									
Milk Income, $/kg MS	$2.87	$3.38	$4.36	$3.47	$3.60	$4.15	$4.35	$4.39	$6.33
Total Income, $/kg MS	$3.28	$3.80	$4.74	$3.87	$4.03	$4.64	$4.82	$4.64	$6.64
Total Operating Costs, $/kg MS	$2.80	$3.00	$3.37	$3.37	$3.31	$3.37	$3.69	$3.81	$4.76
EBIT, $/kg MS	$0.47	$0.80	$1.37	$0.50	$0.72	$1.27	$1.13	$0.83	$1.87
Participants									
Numbers	38	40	47	42	50	40	35	36	46
As % of dairy farmers	5%	6%	8%	7%	9%	8%	7%	8%	10%

Attachment C

To be quite clear, Tasmania need National Foods. We need them to be profitable. We need them to be successful. Equally, they need their farmers to be profitable and successful. We need to share value with them and I just do not think they get it. Like I said, I worked in a company 20 years ago that probably did not get it, but the point is that was 20 years ago. The behaviour we are seeing exhibited now by National Foods and by other companies is simply not acceptable.

You made a very valid point earlier on: why is it that National Foods is drawing the heat when we have got other farmers from other companies who are also suffering and suffering badly? I have spent a lot of time in the last few weeks sitting at kitchen tables with farmers and hearing terrible tales of woe. But it is the behaviour of National Foods that seems to be a standout. People are clearly unhappy with Fonterra and Cadbury, but as an organisation we get nothing like the level of complaints about them that we do about National Foods. As I said, we need National Foods to be successful and we want to help them to do that.

When I hear of companies blaming the media for their predicament, I always start to worry. We have a free media. They have every opportunity to put their case. Usually, when companies do not have a strong case to put, they say, 'We would prefer not to enrage public debate by continuing.' Again, I have had 20 years experience in the media; I understand that is what people do when they do not want to engage, and we do want to engage with National Foods.

I have prepared a submission. We will pass that over later. I do not think you want to hear much more from me; you want to hear from some experts. One thing we will touch on—and I will address this when Alan and Penny are finished—is that, in addition to the behaviour of the companies, we think there are some other structural things that it would be meaningful to discuss. It is about the upskilling of our farmers; it is about offering career paths; it is about encouraging people into the industry; and it is about better business skills. Whilst it is easier just to attack the companies, these are some of the things we want to work with the farmers to improve. As I said, I think the most meaningful way we can spend the next few minutes is to hear from Alan as a Fonterra farmer and Penny, who is an expert in the industry.

Ms Williams—I will let you know the costs of production. In the 2007-08 financial year, if you were calving in spring, you needed to receive 41.7c. If you were a split, an autumn or an all-year-round calver, you needed to receive 44.5c for your milk. In the year of 2006-07, if you were a spring calving farm, you needed 34.6c, and if you were a split, an autumn, or an all-year-round calving farm you needed 38.5c. This year, the rates in my area have gone up 10 per cent, and electricity in Tasmania has gone up 15 per cent. So everyone that irrigates this year is going to be paying 15 per cent more for their power. So what I am really saying there is: costs rise every year.

Mr Davenport—Interestingly, when you look at the cost of production and the effects of the prices that we are seeing at the moment, farmers have already adapted their farm systems to cover off some of those effects because, while we talk about those prices that have increased, a couple of prices have decreased. Fertiliser prices are about two-thirds of what they were this time last year and grain prices have dropped off. But what people did when those prices where really high is cut back their use and actually used that as a farm cash management strategy.

CHAIR—We are very familiar with that.

about. You are talking about another fixed cost being added to the business, which is the cost of repaying the debt that you are incurring.

Ms Williams—That is right, and I have some people whose milk cheques hopefully will be ~~little bit more~~ than the bank payments in the coming months, but for the last three months their bank payments have equalled the milk cheque. That is before any other cost is paid.

Senator STERLE—If I can come in here, Senator Colbeck—

Senator COLBECK—Go for your life.

Senator STERLE—We took evidence earlier from National Foods, and I understand you are with Fonterra, Mr Davenport. Ms Williams, are you—

Ms Williams—I know milk.

Senator STERLE—Just an expert! What about the comment earlier, then, by National Foods, about taking the good with the bad, so to speak—that things were all good before? National Foods are paying more than Fonterra according to their presentation, even though we heard different. Mr Davenport, you are a farmer; what do you say to that?

Mr Davenport—~~It~~ is interesting that Mr Waugh made a couple of contradictory statements, I ~~think, in his~~ presentation. He was talking about the need to pay farmers in the northern states a satisfactory price to meet their costs of production—the need to pay the 50c plus a litre in some states to meet the costs of production because there is an entrenched cost there. Well, there is an embedded cost in the production in Tasmania at the moment, and there is not a satisfactory price being paid to me.

Ms Williams—In fact, it has got so serious in Tasmania, and perhaps even worse on the north-west coast, that the aged payables, the creditors from last season, cannot be paid. To give you a real farm case, I was at a farm on Monday whose income is only going to be $313,000 dollars for the year but the farmer has $307,000 in aged payables out to 120 days. That is the seriousness of the situation for the majority of the dairy farmers in Tasmania. It is fact.

Senator STERLE—So it blows a hole in the statement, 'The last couple of years have been all right so there is some fat there; put up with it'?

Ms Williams—Yes, but the way my dairy farming friends see it, as I do, is that where the price was is where it needs to be for us to have a reasonable return on the dollars we have got tied up in the farm and for the hours of work we do.

Senator STERLE—Talking about the averages of north-western Tasmanian dairy farmers, how long can these businesses sustain these losses that they are experiencing?

Mr Davenport—Some have already gone beyond the tipping point. With the weather, we have got this double whammy—and National Foods cannot be blamed for the weather, as much as a lot of people would like to blame them!

Attachment D

MILK PRICING IN TASMANIA

The purpose of this document is to evaluate the National Foods (NF) "Model farm" which they currently use for basing supplier payment structure on.

The model farm is a theoretical farm that is used to compare NF payment with their major competitor in the area concerned. Hence they envisage this model will be used nation wide.
According to NF this will result in their suppliers being paid a premium over their competitors. On face value it does indeed do this.

HOW NATIONAL FOODS MODEL FARM WORKS

They have divided the year into two halves.
July – December
January - June

The farm produces the same amount of milk every day of the year and has grade 2 milk quality. It produces a total of 2 million litres annually gaining the appropriate volume and quality bonuses.
The farm has contracted to supply NF for three years and receives a one cent contract premium in the first two years and a two cent contract premium per litre in the third year.
All of the above "premiums" are worked into their calculations to either achieve parity with their major competitor or a premium above them in the relevant periods of the year. (See below)

The comparison is made with Fonterra Seasonal Ratio Payment for Tasmania in this case.

NF will ensure in the first six months of the year (July - December) their suppliers will be paid equal to Fonterra. If they are behind a catch up payment will be made in January. If they are ahead, this will reduce the payment in the second period.

In the second period (January – June) there is a complex formula using a sliding scale to ensure their suppliers a premium over Fonterra.

Font	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47
NF	39	40	40	40	41	42	43	44	45	46	47	48	49	50	50
plus	6	6	5	4	4	4	4	4	4	4	4	4	4	4	3

If the average price for this period is below 40 cents they will pay a maximum premium of 6 cents up to an average of 40 cents (e.g. if Fonterra average 33 cents they will pay 39 cents and if Fonterra pay 36 cents they will pay 40 cents)
A similar sliding scale exists between 40 and 50 cents with a premium of 4 cents paid. Once 50 cents is reached as an average payment for this period they will only match the Fonterra price as a boom is deemed to be operating.

They will account for Fonterra step up payments (i.e. increases from the opening price paid during the season)
If Fonterra step up in the first half of the year they will match this payment if required to keep parity.

(e.g. if Fonterra step up 1.5 cents to 33 average for this period and NF average 32 cents they will pay an extra cent to keep parity)
If Fonterra step up in the second period they will double that step up, but only back date it to January 1 vs. Fonterra that will backdate it to July 1.
The theory being as the model farm produces the same amount of milk in both periods and NF double the step up in the second period you are no worse off.

On face value it appears basically that NF will match Fonterra in the first period and pay a sliding scale premium in the second period.

THE REALITY

1) NF and Fonterra base their pay differently on fat and protein.

2) Fonterra pay monthly while NF pay on a 4, 4, 5 weekly basis.

3) NF quality requirements are more officious than Fonterra's with instant loss of bonuses if you fall outside the criteria and harsh and excessive penalties. (20 % deductions).This occurs every day where milk is outside quality parameters.
Fonterra on the other hand run a demerit system whereby you can fall outside their criteria on a number of occasions and not be penalized. There are no high penalty deductions.
NF's comparative price includes grade 2 quality milk (it is expected the model farm is able achieve this every day of the year), volume incentives and an 'sign a contract' premium in all their calculations.
Hence in reality to achieve parity in the first period and a premium in the second their suppliers need to produce to very strict guidelines compared with Fonterra.

NF uses a percentage for quality payment in the second period. As milk prices increase, so will the premium for quality. However this too is worked into all equations to ensure parity or a premium in the second period.

4) NF bases their comparison on a flat supply that doesn't exist in the real world and certainly doesn't exist for a Fonterra farm. To this end, production is usually always lower in July and August and peaks in the later spring. NF base on averages and pay a lot more (around 40 cents) in these two months, and less than Fonterra for the rest of the 6 month period claiming on average they are paying the same.

eg

	July	Aug	Sept	Oct	Nov	Dec	ave
Fonterra c/litre	38	27	23	23	23	23	26
NF c/litre	39	39	20	20	20	20	26

5) The area where discrepancies begin to show in is in regard to Fonterra 'step ups'.
In the first period it is easy to follow. If Fonterra step up before January, NF will match it if necessary to ensure parity is reached in this period.

In the second period it is more complicated and it is here where the real illusion of NF matching step ups occurs.
NF state that if Fonterra step up in this period they will double, it but only back to 1 January. **Whereas a Fonterra 'step up' is backdated to 1 July**.
Hence the illusion they will match Fonterra step ups.
I shall explain the illusion.
This doubling of step ups is then included as part of their calculation of suppliers total income for the second period, and as such is taken into account when calculating premiums.
So they are using step up money from the first period to be included in the second period premium.

Fonterra Jan - June		NF Jan - June	
Opening price average Jan – June	40 c/lt	Opening price average Jan – June	40 c/lt
Feb step up	2 c/lt	Double step up	4 c/lt
Final payout	42 c/lt	Final payout	44 c/lt

Now according to NF's formula they are between 40 and 50 cents for this period and will pay a 4 cent premium up to 50 cents.
The example shown only puts them 2 cents ahead so they will pay a 2 cent premium only taking the final payout for this period to 46 cents.
The problem is that half of the double step up paid was also paid out by Fonterra to their suppliers but in the first period.

Fonterra July - Dec		NF July - Dec	
Ave payout at Dec 31	28 c/lt	Ave payout at Dec 31	28 c/lt
Feb step up	2 c/lt	Do not back date step up prior to Jan	
Final average for first period	30 c/lt	Final average for first period	28 c/lt
Final average payout for year	36 c/lt	Final average payout for year	37 c/lt

So the reality is that with one 2 cent step up in the second period, using the NF model, their suppliers are actually only being paid a 1 cent premium for the year, and a 2 cent premium for the second period.
The illusion is that they are paying a good premium above Fonterra.
Remember NF suppliers have to adhere to **rigid** criteria to achieve this!

Now let's take this one step further and put two step ups into the second period.

Fonterra Jan - June		NF Jan - June	
Opening price average Jan – June	40 c	Opening price average Jan – June	40 c
Feb step up	2 c	Double step up	4 c
April step up	2 c	Double step up	4 c
Final payout	44c	Final payout	48c

Now by doubling the step ups they are already 4 cents ahead of Fonterra so no extra premium is paid.

Fonterra July - Dec		NF July - Dec	
Ave payout at Dec 31	28 c	Ave payout at Dec 31	28 c
Feb step up	2 c	Do not back date step up prior to Jan	
April step up	2 c	Do not back date step up prior to Jan	
Final average for first period	32 c	Final average for first period	28 c
Final average payout for year	38 c	Final average payout for year	38 c

Now you can see in reality zero premiums are being paid, but the illusion of a premium in the second period still exists.
If you take this a step further and add another step up in the reality is those NF suppliers will be paid below Fonterra even though the illusion of a premium is still being paid in the second period.

If Fonterra (as they often do) have a final step up at the conclusion for the financial year NF will not honor any obligation to match this in any form.

6) All of the above is only relevant to **contracted litres**. NF has capped suppliers, only allowing them to supply exactly the same litres produced in the 08 / 09 seasons.
Any milk produced above contracted volumes will be paid at NF's discretion, but with 28 days notice required to be given to suppliers if it is going to be **below** the indicative price in the contract. This may mean over contracted milk is paid out well below Fonterra's price.
This has huge implications on farm values and the ability of suppliers to develop their farms to their full potential.

7) If a supplier falls outside NF guidelines for even one day they will deduct 20 % of the milk price for that day. Results that this are based on can take 2 – 3 days to be obtained and passed back to the farmer.
The supplier can therefore be receiving these heavy penalties without even knowing they have a problem. This is excessive and no such penalty exists within Fonterra.

SUMMARY

NF is **claiming** to pay their suppliers a premium over Fonterra.

However to achieve this suppliers need to adhere to strict criteria with regards to quality and daily production.

All the bonuses paid for achieving this are **included** when calculating any comparison with Fonterra. NF has heavy penalty clauses that Fonterra do not.

THAT IS

They are not paying the same for the same quality milk.

They claim to account for step up but the examples above show by not back paying these to July 1 as Fonterra do they can completely erode their premium to the point of putting their suppliers in a negative position.

Finally they have capped contract volumes with the impact on farm values and development.

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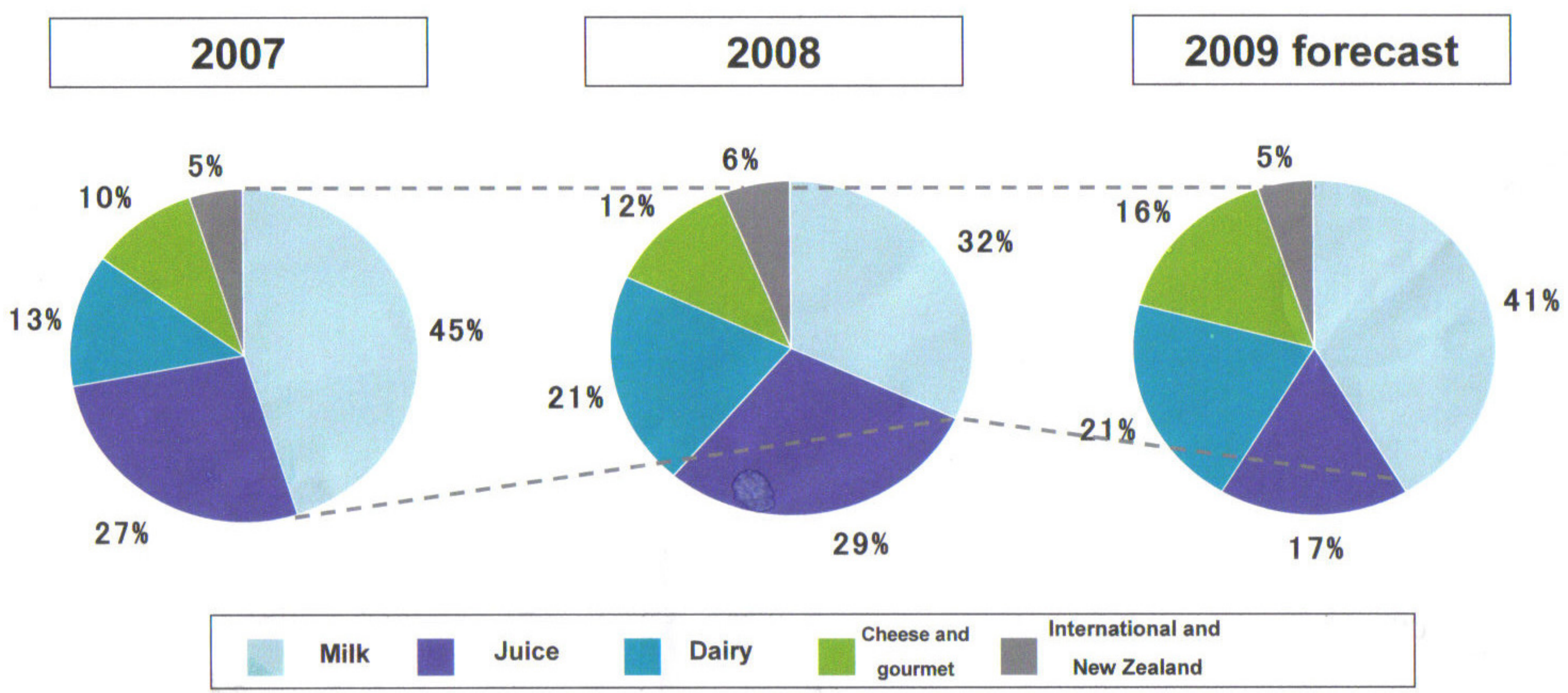
Attachment E

Trends in contribution to earnings by brand segment

■ 2009 full year forecast: Milk segment to improve further with more stable raw milk input costs but contribution from juice to decrease



Attachment F

Record of telephone conference:

Interim results for the fiscal year ending December 31, 2009

August

Date and time: Thursday 6, 2009, 5:00pm-6:30pm
Presenters: Mr. Kazuyasu Kato (President and CEO), Mr. Yoshiharu Furumoto (CFO), along with relevant department heads of other companies

Company abbreviations
KH: Kirin Holdings / KB: Kirin Brewery / ME: Mercian / LN: Lion Nathan / KBC: Kirin Beverage / NFL: National Foods / DF: Dairy Farmers / KHK: Kyowa Hakko Kirin / SMC: San Miguel Corporation / SMB: San Miguel Brewery / KMD: Kirin Merchandising

Management summary from Mr. Kazuyasu Kato (President and CEO)
***Details provided slides 3-5 of Presentation Material**

■2009 H1 results: Achieved all initial profit targets, new record for sales and ordinary income
- KB (No.1 in shipments of beer, happo-shu and new genre products for first time in 3 years)
- Strong performance at LN,NFL

■FY2009 forecasts revised:
- Consolidated operating income, ordinary income, interim net income forecasts revised up (sales and operating income forecasts revised up at KB, LN, NFL)

■2010 medium-term business plan
- ⇒Plan for Action and qualitative growth under development; aims to realize KV2015 (To be announced within 2009)
- Solving problems ahead of schedule through 8 cross company teams

■Overseas M&A: making LN a 100% owned sub.(Expect to complete share acquisition in October; LN Scheme Booklet disclosed today)
- San Miguel: Acquired shares in SMB and completed sale of shares in SMC in May

■Proposed integration with Suntory⇒Proceeding with discussions promptly and in good faith

■Generating synergies: 14 key issues and our approach. Each initiative is proceeding according to plan. Cross-company teams (CCT) have been formed to strengthen our organization and accelerate the generation of synergies

Q: With parties throughout the beverage industry suffering from fatigue, KBC's emphasis on profitability is epoch-making. Some even think that it will start a round of industrywide improvement. Toward this end, we believe the most important point would be to bring supermarket prices back to a suitable level. Will the merger with Suntory make this possible? — we would like to hear what you think.

A: (KBC) Hitoshi Maeda, our new president, has declared his intent to restore profitability to a suitable level, and we are now putting together a system to do so. While sales volumes are down, we have been seeing gradual improvement in marginal profit and other such measures.

(Mr. Kato) Let me add that we have yet to discuss any strategic initiatives with Suntory, whether for the soft drinks business or for any other business. We do consider it a major issue to address if the integration is effected.

Q: With regards to the China beverage business, you say that competition is intensifying. The business was brisk up to last year — what happened? What is the bottleneck to the current earnings situation?

A: (KBC) Sales of milk tea products were brisk up to the middle of last year. However, from autumn of that year, particularly after the Beijing Olympics and following the Lehman shock, the economy slowed and demand shifted to low price ranges. Furthermore, sales at convenience stores declined, and so did unit prices. KBC offerings are positioned in the premium price range. Because price competition is intensifying within that market, our sales volumes are down sharply from the previous year and, with regards to the first half, our earnings fell substantially. We hope to support profits in the second half by pursuing realistic targets for cost cutting, SKU reduction, etc.

Q: Why did you raise your earnings projections for NFL compared to initial targets?

Please give us some idea of the improvement you have in mind for now and for subsequent fiscal years.

A: (NFL) We are currently reviewing synergies from the DF merger. That said, we raised our earnings projections for two reasons, first that personnel reductions are proceeding better than expected and second that we have been able to cut procurement costs ahead of schedule. We do anticipate significant synergies in terms of personnel and procurement going forward. As for our image of earnings growth, however, that will be presented within our next medium-term business plan.

Answer

Other:

Q: If they are elected Democratic Party of Japan (DPJ) officials are talking of a plan to set a unified tax rate according to alcohol concentration. Would the current price differentials among beer, *happo-shu* and new genre products survive this change?

A: (KB) That is mentioned within the DPJ manifesto but we do not yet know the details. That said, we are and will continue to be against any tax hikes in the beer, *happo-shu* and new genre categories.

(Mr. Kato) The taxes on beer and *happo-shu* in Japan are extremely high, even on an international comparison. As before, our actions will be centered on seeking tax reductions.

Q: The Australian dollar has recently been on a recovery, and you plan to acquire LN shares on 21 October. Have you been doing any hedging ahead of this event?

A: (Mr. Furumoto) We are investigating fund procurement matters for the LN deal and have already made some arrangements. We are working under a schedule that envisions October approval.

Attachment G

Attachment will be supplied at the hearing