



Committee Secretary  
Senate Economics Committee,

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Parliament House  
Canberra ACT 2600  
Australia.

**Inquiry into competition and pricing in the Australian dairy  
industry**

Submission from:  
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I welcome the opportunity to make a submission to this important Senate Committee inquiry into competition and pricing in the Australian Dairy Industry, particularly as it relates to recent circumstances in Tasmania.

I will be available to give evidence at the Committee Hearing in Launceston on November 5<sup>th</sup> if it would benefit the Committee's deliberations.

I will restrict my comments to the 'related matters' covered by the terms of reference. These include: the context of 'competition' and use the current circumstances confronting milk producers in Tasmania to highlight the challenges agri-food producers face to maintain their viability and sustainability in globalised and commodified food production systems.

I will add some comments about the ACCC's role and function.

The central argument of my submission is that Australia must review the policy implications of 'competition' by way of a reality check on the 'conditions of competition' that currently pertain to 'competition' globally and the impact that 'competition' is having on the viability of agri-food production in Australia and the sustainability of rural and regional communities that support food production.

In addition there is a need to examine these implications within the framework of food security policy imperatives over the next 15-20 years.

By way of background and expertise, I'm a lecturer in the School of Government at the University of Tasmania. I'm also an Honorary Fellow in the Australian Innovation Research Centre (AIRC), University of Tasmania and a Senior Research Fellow at the Institute for Regional Development (IRD), University of Tasmania.

My discipline area is public policy, particularly regional development policy and governance.

My research interests are in Regional Innovation Systems and their relationship to regional development policy platforms as a foundation for sustaining rural and regional communities. My current projects are in the area of agri-food innovation particularly in relation to collaborative business models; climate change market opportunities for the Tasmanian brand; the future enterprises and skills needs in regional Tasmania and; constructing competitive advantage in regional economies.

In 2005, I served as a member of the Tasmanian government and TFGA Vegetable Taskforce. I continue in a voluntary capacity as a consultant to the *Fair Dinkum Food* campaign led by Tasmanian agri-food activist, Richard Bovill.

### **Viability of Food Production in Australia: Issues for Consideration - Competition**

Food choice is important. The decisions we make as governments, food producers and consumers have enormous social implications. Food production will increasingly be a vital security issue for nations. Food production must be seen as a *value* rather than just a product.

Competition is the defining macro public policy discourse of the past 30 years. It is such a powerful discourse that it defines winners or losers, as producers or regions. So much is done, in a public policy sense, under the ambit of competition. It legitimises the ideology of neo-liberalism and free trade; supply-sided economic interventions and performance management imperatives. In extreme cases, competition becomes a quasi moral justification for casting aside the 'losers' as 'deserving of their fate'.

Competition has become so powerful that it has become *an end in itself*. More emphasis is placed on competition for its sake rather than paying attention to the purpose – the actual improvement of economic welfare – of competition

and more importantly, the circumstance under which competition can flourish and deliver benefits across the supply chain. If the *means* is competition, *what happened to the end or the purpose?* What are the implications for rural and regional communities?

Can any policy maker explain to dairy farmers in Tasmania where the point has been reached or the situation arrived at where competitiveness has been achieved?

They feel they are in a cycle where they are 'pulling against gravity' or are engaged in a constant 'race-to-the-bottom'. Their competition reality is that commodity markets want ever cheaper products. Commodity producers are in a no-win situation under these market imperatives.

This dilemma raises an interesting public policy challenge for advocates of the competition mantra: is a rural and regional community competitive because it is productive or is it productive because it is competitive?

I would suggest very strongly that the original intent of competition was productive capacity building, not competition as defined by a race-to-the-bottom driven by cost efficiencies.

Does being competitive mean that Tasmania dairy farmers must expect or accept a similar standard of living and income reward as a Chinese, Vietnamese, Brazilian or Chilean milk supplier? A Chinese milk supplier makes less than \$5 a day.

Was this ever the intention of competition, if not, why are we not putting a stop to this race-to-the-bottom?

The problem for dairy farmers in Tasmania at the present situation in the commodity price spiral is that their productive capacity is being 'rewarded' by a lower standard of living.

At a policy level little regard is made to the mechanisms that allow competition to thrive in a productive and beneficial way. Competition does not just happen because it is proclaimed to be an end unto itself. Competition can only flourish in a market place where a range of characteristics are present – a freely competitive market. These include:

- There is a large number of buyers and sellers;
- They know what they want;
- They are able to pay for it;
- They act independently of each other;
- They are free to enter and leave the market;

- Information about products and prices is free and accessible;
- There are no costs in making deals/transactions.

It is of course important to note that this is an ideal type of market model. But these characteristics do point to the difficulties of finding them to be present in 'real' market places that are as isolated or as small as rural and regional areas such as Tasmania.

Scope and scale of markets in Tasmania mean that there is always a potential for market failure. There are not a lot of buyers and sellers in our milk market and there is not always transparent information to inform choices that suppliers make.

### **Market Regulation: ACCC**

In Australia, the regulator and policeman of market failure is the Australian Competition and Consumer Commission (ACCC).

Being a both a regulator and policeman is a problem but the ACCC is a peculiar policeman. The ACCC doesn't fight crime independently. It doesn't search for evidence or seek to prevent corporate misadventure under the Trade Practices Act (1974). The ACCC acts when complaint is made or it is directed by its responsible Minister to do so. The ACCC is a stay-at-home policeman, only called out after the crime has been alleged or committed.

The ACCC states that its job is to protect competition and the welfare of Australian consumers.

Ironically, market competition can mask a range of corporate activities that are unconscionable and often hidden from consumers. These activities include, abuse of market power, price gouging, and corporate bullying.

These claims of course, require evidence. With respect, can I strongly suggest that the submission provided to the Senate Food Production Committee by the Circular Head dairy farmers who deal with National Foods is sufficient evidence that in their case a range of market failures are occurring and that the outcomes constitute unconscionable behaviour by National Foods. Those submissions are testimony to the unstated consequences of not fully understanding the underbelly of activity that takes place within the all embracing mantra of competition as an end in itself and the destructive power it has on the glue that provides the resilience of rural and regional communities – the relationships of trust and reciprocity.

In the real world of the market place the protector of competition should not turn lazy policeman in the face of unconscionable behaviour. Being taken advantage of in a way that offends the conscience is known as unconscionable conduct.

Section 51 AA of the Trade Practices Act deals with unconscionable conduct. It may apply where: the stronger party unfairly exploits the weaker party's disadvantage; the stronger party relies on their legal rights to take advantage of the weaker party in a way that is harsh or oppressive; the stronger party allows the weaker party to rely on an incorrect assumption, or fails to disclose an important fact; one party benefits unfairly from the deal at the expense of the other party; the weaker party relies on a misrepresentation by the stronger party; the weaker party is unable to understand the deal, due to lack of experience or professional advice.

Tasmanian milk suppliers to National Foods need the ACCC policeman to get on a bike!

Much that happens under the auspices of the market goes largely unnoticed by authorities and perhaps more importantly consumers. The real mechanisms of the market place – the price signals, negotiation power of processors over suppliers, the cost impediments imposed by competition on suppliers, for example quality assurance – are largely hidden from consumers. If they were privy to the machinations of the market place it might inform their choices beyond mere price imperatives.

### **Milk as a Commodity**

Milk is currently traded as a commodity in the global economy. There is a world export market for milk that is determined by a price signal, largely informed by supply and demand. Tasmanian milk suppliers ride on the good and bad times but the price signal in a global market doesn't reflect the complexity of milk production and the various value-adding manufacturing that shapes the very nature of milk production.

End product use defines that nature of milk production and the relationship between supplier and processor.

Cheese, butter and powder can be made and stored, not moved the next day. Milk production can in turn be tailored to this opportunity and efficiencies in relation to calving and production can be established, for example, it reduces the need to produce during winter when production costs are increased.

In contrast, liquid milk, yoghurts and soft cheeses have short shelf lives and require a certain volume of milk to be produced all year round. Additional costs for suppliers are necessary – feed, energy, labour and herd costs.

In Tasmania, National Foods is modelling its price off Fonterra when in reality the two processors are operating in different markets. Only Fonterra can offer the cost benefits outlined above but National Foods is offering similar prices (2 cents a litre less) to farmers who have to supply milk all year round and don't have the cost cutting advantages that are available to Fonterra's suppliers. Evidence available to me indicates that in the case of a 600 cow farm producing 3 million litres and calving late in summer, a comparison between the two companies on their stated milk prices indicates that a National Foods supplier would be \$7,500 worse off.

### **Concluding Remarks**

A price signal alone should not determine the fate of dairy farmers and in turn the resilience and viability of our rural and regional communities.

As I prepare this submission – October 21<sup>st</sup> - the EU Agricultural Commissioner, Mariann Fisher Boel has announced (Monday 19<sup>th</sup>) the release of 280million euros (\$US418m) in aid for Europe's ailing dairy farmers. Her announcement followed a series of events and issues pertinent to agri-producers globally:

- 21 of the EU's 27 nations, including France and Germany called for the aid;
- Dairy product prices have collapsed, since 2007 milk prices have halved, pushing milk prices below production costs;
- Head of the European Farmers Federation, Padraig Walsh said the support didn't go far enough: "We cannot continue in Europe with farmers on the verge of bankruptcy."
- France's Small Farmers' Confederation said: "We are keeping farmers in a state of dependency on EU aid. What we need are policies that enable farmers to make a living from their work."
- French Farm Minister, Bruno Le Maire said that the EU should abandon liberalisation of the milk sector.
- EU has granted member states temporary exemptions from EU state aid rules, allowing them to pay each farmer up to 15,000 euros in emergency relief.

Since November 2008, 17 out of the G20 advanced economies – Australia's trading partners - have moved to enhance protectionist policies around their domestic economies in the light of the GFC, despite having promised not to do so.

Governments and policy frameworks that elevate competition as an end unto itself need to reflect upon the original purpose and intent of the mantra. Surely, it wasn't meant to drive suppliers into a spiralling race-to-the-bottom?

When the Productivity Commission in the late 1990s sought to determine the advantages of National Competition Policy they were hard pressed to find any evidence of benefit to regional and rural communities other than the enhanced benefit of being consumers in a global economy.

Competition as a policy mantra confines farmers to being winners or losers rather than guardians of food security for Australia in a world where scarcity will be the new currency of value.

The European Union supports its farmers and their communities because they value their contribution, having experienced the ravages of food scarcity during the world wars of the 20<sup>th</sup> century. We need to do so in Australia as a matter of urgency.

Australia needs market regulation that prevents those with market power in supply chains – processors and retailers – from *extracting* value from the supply chain, rather than *adding value* to it, for the benefit of all, especially suppliers and informed consumers.

Right now a price signal from the market is determining the future of many of Tasmania's dairy farmers.

That signal doesn't measure the added value these farmers make to our rural economy.

It might however see some dairy farmers, who work 10 hours a day, 7 days a week, lose not only their income but their property, their home, their employees, their dignity and respect, sometimes their families and tragically in some cases, their lives.

None of that story will filter through to the corporate social responsibility reporting of Kirin, the Japanese conglomerate, who own National Foods in Australia.

National Foods appears to think it is acceptable to offer contract prices well below the cost of production and in some cases there is evidence of contracts undertaken in good faith not being honoured by the company.

In an open letter to media outlets in September 2009, National Foods indicated that their corporate challenge is “to produce and sell a product at a competitive price.”

How they do that is being exposed here in Tasmania and the testimony of the Circular Head milk suppliers provides the evidence of unconscionable behaviour.

Those who advocate the benefits of competition need a reality check. Competition can only thrive in markets where all characteristics of a market place are present.

In small and isolated rural and regional communities such as Tasmania the reality is less appealing and in some cases, catastrophic in terms of outcomes. This should not be the intended outcome of competition as a public policy mantra.

The only interest that is protected here is that of self-interest, the self-interest of foreign-owned multi-national companies remote from the villages and hamlets of rural and regional Tasmania where real people, people of integrity and good-will still believe that your word is your bond. They deserve better than the treatment dealt to them by the machinations of distorted market power.

Food production and security will matter in a world of scarcity. Australia needs to translate that reality into a public policy framework that is reflective not just of an academic preference for competition as a mantra but of a set of values that indicate to agri-food producers in this country that the nation – not just a price mechanism – values what they do on our behalf.

This will require a reconsideration of the values that underpin our current commitment to an increasingly a remote neo-liberal global economy.

In an age of scarcity we need to construct a new moral economy for food production in Australia that values the spatial (place of origin); social (method of production and distribution) and; cultural (perceived qualities and reputation) dimensions of agri-food production.

“Letting the market rule, okay” – with all of its impediments and failures - shouldn’t be an option and can’t be a solution in search of a problem, if the sustainability and viability of rural and regional communities is a public policy priority for Australian governments and business enterprise, local or foreign-owned.



The plight of dairy farmers in Tasmania is a living testimony to that policy failure. That outcome – left to an arbitrary price signal - should shame us all, but more importantly drive policy re-alignments that will secure food production and viable and sustainable rural and regional communities in Australia.