



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

ECONOMICS REFERENCES COMMITTEE

**Reference: Competition and pricing in the Australian dairy industry**

FRIDAY, 29 JANUARY 2010

PERTH

BY AUTHORITY OF THE SENATE



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**SENATE ECONOMICS  
REFERENCES COMMITTEE  
Friday, 29 January 2010**

**Members:** Senator Eggleston (*Chair*), Senator Hurley (*Deputy Chair*), Senators Bushby, Joyce, Pratt and Xenophon

**Substitute members:** Senator O'Brien for Senator Pratt

**Participating members:** Senators Abetz, Adams, Back, Barnett, Bernardi, Bilyk, Birmingham, Mark Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Cameron, Cash, Colbeck, Jacinta Collins, Coonan, Cor-mann, Crossin, Farrell, Feeney, Ferguson, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Furner, Han-son-Young, Heffernan, Humphries, Hutchins, Johnston, Kroger, Ludlam, Lundy, Ian Macdonald, McEwen, McGauran, McLucas, Marshall, Mason, Milne, Minchin, Moore, Nash, O'Brien, Parry, Payne, Polley, Ronaldson, Ryan, Scullion, Siewert, Sterle, Troeth, Trood, Williams and Wortley

**Senators in attendance:** Senators Adams, Eggleston, Milne and Pratt

**Terms of reference for the inquiry:**

To inquire into and report on:

The current circumstances of the varying prices being paid to dairy farmers in different Australian states, including:

- (a) the economic effect on the dairy industry of announced reductions in prices to be paid to producers by milk processors;
- (b) the impact of the concentration of ownership of milk processing facilities on milk market conditions in the dairy industry;
- (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;
- (d) the impact of the concentration of supermarket supply contracts on milk market conditions;
- (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; and
- (f) any other related matters.

## **WITNESSES**

<b>BRENNEN, Mr Larry James, Executive Chairman, Challenge Dairy Cooperative .....</b>	<b>2</b>
<b>DEPIAZZI, Mr Philip Leslie, Senior Vice President, Western Australian Farmers Federation.....</b>	<b>16</b>
<b>EVANS, Mr Peter David, President, Dairy Section, Western Australian Farmers Federation.....</b>	<b>16</b>
<b>HARRIS, Mr Laurence Daniel (Danny), Private capacity .....</b>	<b>32</b>
<b>MARGETTS, Ms Diane Elizabeth (Dee), Private capacity.....</b>	<b>42</b>
<b>MARINO, Ms Nola Bethwyn, Member for Forrest, Commonwealth Parliament .....</b>	<b>9</b>
<b>ROUDA, Dr Robert, Senior Policy Officer, Livestock Industry Development, Department of Agriculture and Food, Western Australia .....</b>	<b>25</b>
<b>WEINERT, Mr Andrew Sutherland, Manager, Regional Food Industry Development, Department of Agriculture and Food, Western Australia.....</b>	<b>25</b>



**Committee met at 9.17 am**

**CHAIR (Senator Eggleston)**—I declare open this hearing of the Senate Economics References Committee inquiry into competition and pricing in the Australian dairy industry. On 10 September 2009 the Senate agreed to refer the matter of current varying prices being paid to dairy farmers in different states to the committee for inquiry. In its inquiry the committee is specifically interested in the economic effect on the dairy industry of reduced milk prices, the impact of the concentration of ownership of milk-processing facilities on the industry, the impact of consolidation of ownership of the drinking milk and manufacturing milk sectors on the market, the impact of the concentration of supermarket supplier contracts on the market, and whether any aspects of the Trade Practices Act 1974 are in need of review having regard to the aforementioned conditions. The committee is due to report on 28 February 2010.

These are public proceedings, although the committee may agree to a request to have evidence heard in camera or may determine that certain evidence should be heard in camera. I remind witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer, having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may, of course, also be made at any other time.

[9.19 am]

**BRENNEN, Mr Larry James, Executive Chairman, Challenge Dairy Cooperative**

**CHAIR**—We are very pleased to have you here, Mr Brennen. Would you like to make an opening statement?

**Mr Brennen**—I would like to make a short statement about who we are and where we come from. In relation to this milk pricing committee, we established the cooperative in 2001 and it was mooted prior to deregulation. The theory and the philosophy behind it were exactly to deal with the situation we are dealing with today. We clearly see that, if we had not got the Challenge Dairy Cooperative up in Western Australia, we would be banging on senators' doors, just as the Tasmanians are. With my family, I run a 500-cow dairy farm down at Margaret River, so I am speaking from the position of the company executive as well as the dairy farmer.

As dairy farmers, we saw that, if we were to get full value out of our milk, we had to have some balance of power between the proprietary companies and the supermarkets. Let's face it: we live in the commercial world and, if you are the executive of a proprietary company, you are responsible to the shareholders and you buy your rural product at the lowest possible price—that is the world we play in. To balance that up, we saw that we needed to have an interest beyond the farm gate and a presence in Western Australia. It has been a bit of a struggle for us but I believe we have certainly played a role and we will continue to play that role and to drive it forward. The role that Murray Goulburn plays in the Australian dairy industry is absolutely critical from the farmers' perspective and from a whole-industry perspective to maintain a high-quality product and supply to the consumer.

From the perspective of dealing with supermarkets and what goes on there, as a farmer and as a company we hold a clear view that dairy is one of the five main food groups. It is used as a tool to manipulate pricing right across Australia and it is the power balance within supermarkets that we see as a major issue. The value derived from dairy is ending up in the wrong place and the milk price paid to farmers is a consequence of that. I am allowed only five minutes here; I could probably go on for half a day on this topic if you wanted me to, but I would like to leave it there. I have given you an opportunity to understand the angle we are coming from. I am more than happy to answer any questions.

**CHAIR**—Your group is a cooperative?

**Mr Brennan**—Correct.

**CHAIR**—How many other cooperatives are there in WA or are they mostly single farmers?

**Senator MILNE**—Chair, could I just ask: I am from the eastern states and I do not really know about how the dairy industry is organised in Western Australia and how it is different from, if it is different, the eastern states. So in answering the chair's question about how many cooperatives there are, could you give us a bit of an outline about how dairy processing and dairying is organised here? Is that okay, Chair?

**CHAIR**—Of course it is. I was actually trying to look to the structure of dairying in Western Australia. Perhaps instead of just talking about the cooperatives, in terms of what Senator Milne has just said, could you tell us about the structure of the industry in Western Australia—cooperatives, individual farmers. You also just referred to supermarkets. Do the three big purchasers who operate in the eastern states operate here or do you sell direct to the supermarkets? Could you give us an overview?

**Mr Brennen**—In Western Australia we have four companies—two majors in National Foods and Fonterra. Fonterra have purchased the iconic Western Australian company Peters and Brownes, which has been here for 120 or 130-odd years. We have another significant player in Harvey Fresh, which is a family owned company, and we have the cooperative. The break-up of that is that the cooperative handles 100 million or 110 million litres of milk, Fonterra handles about the same, Harvey Fresh handles about 65 million litres of milk and National Foods about 40 million. There is about five million balance, and that should add up to around about 330 million or 340 million litres of milk, give or take a bit, in any one year.

On that basis, we have 25 or 30 per cent of the milk supply and we have roughly the same amount of farmers. I am not 100 per cent sure of how many there are, but there were 178 farmers as at December still supplying milk in Western Australia. The break-up of that I cannot tell you off the top of my head. But the issue there is that we have the three proprietary companies very concentrated on the domestic market sector. When you take in milk, you put it into different products. You want to concentrate on getting the highest



margin product and the highest profit. If you are an executive at that company, that is exactly what you should do.

The problem that it creates is: who wants to look after the tail end of the milk? To be able to supply that market on a daily basis, you have to have an overrun of milk, which we call 'manufacturing milk', which goes into a lower value product. That is where the growth comes from; that is what you need to put effort into. We are really the only company in the state that is putting effort into all areas of the industry. It requires capital. It requires effort to go and market, and it is generally an export product at a lower price. The outcome of that is what shakes the rest of the products down to the lowest common denominator. So what we have done as farmers and the cooperative is that we have tried our hardest to concentrate on that last litre of milk and add as much value to that as we can so that we are pushing the price to the proprietaries to make sure that they keep their price up as much as they can.

In the other states you have Murray Goulburn doing that in Victoria. They are a massive company and they are driving that. Basically, they are pushing the rest of Australia, the same as we are in a very small way in Western Australia. The situation you have in Tasmania is that there are two proprietary companies, so why do they need to do anything? That is from the farmer's perspective. That is the commercial world we live in. I will leave that there. I hope I have answered your query there.

**Senator MILNE**—Yes, that has answered it. Thank you.

**CHAIR**—You talked about balance of power issues, going to the Tasmanian example, where there is an imbalance of power between the companies and the farmers. Do you feel you have redressed that sufficiently in Western Australia?

**Mr Brennen**—I am biased because I am the chairman of the company. I would love to see every farmer in the cooperative, and then the farmers would really have some power. But more farmers need to realise that, if they really want to derive full value for their product, they have to invest beyond the farm gate, to not just be price takers forever after. In the commercial world that we live in, he who stumps up with the capital is the one who gets the cream of the crop. So the farmers need to realise that they need to stump up with capital beyond the farm gate. If they do that, then they have a better chance of deriving full value. I believe that that is the role that Murray Goulburn has played for 50 years, and they have done it very, very well for the Australian dairy industry. Eighty-five per cent of the world's milk is controlled by cooperatives for exactly that reason.

**CHAIR**—When you say 'the world's milk', you are talking about where—the United States, North America, Europe?

**Mr Brennen**—The US, Europe, South America—cooperatives control 85 per cent of the world's milk supply.

**CHAIR**—So it is a very successful international model?

**Mr Brennen**—Yes.

**CHAIR**—What percentage of the farmers in WA are in your cooperative?

**Mr Brennen**—I think about 30 per cent.

**CHAIR**—And then the other people are just marketing directly, as you said, to the supermarkets?

**Mr Brennen**—Yes. The others supply the other companies.

**Senator PRATT**—In terms of your cooperative and Challenge, where are your products on the Western Australian market? I can see that Peters and Brownes is Fonterra, I can see Harvey Fresh's brand, but I am not quite clear in terms of whether you are feeding through to all of those markets and selling in so they can support those brands.

**Mr Brennen**—Our retail brand is the Capel brand. We have a range of block cheese, specialty cheese—

**Senator PRATT**—So it is the value adding rather than the milk?

**Mr Brennen**—Correct. We do have a small presence in the white milk market with our Capel Crest brand, but we have only just entered that in a very small way. One of our philosophies when we started was that as a small company to get in you cannot just push the big players out, so we had to move out, move in and make a presence very slowly. We took a view that South-East Asia was going to be our domestic market and we put a significant amount of fresh milk into that.

**Senator PRATT**—In terms of the fresh milk question, you might have all the farmers in Western Australia saying ‘Right, we are going to be part of a cooperative,’ but there is only so much cheese—you have to develop your market in order to get that value add. How would you characterise the state of the problem in terms of milk competition specifically and the impact on farmers?

**Mr Brennen**—From the view of companies buying milk from the farmers, or milk competition for all of the supermarkets buying dairy products?

**Senator PRATT**—I am interested in your opinion on both.

**Mr Brennen**—I have a mental block on the amount of cheese that Western Australia imports, but we supply maybe 10 per cent of the cheese to the Western Australian market. So there is a huge opportunity for us to get into that. The rest of the cheese is imported from everywhere. The issue that occurred in Western Australia for the competition for milk in 2008 was that all the companies had a little war to attract farmers. The milk price went up and, as farmers, we all rubbed our hands and had a nice time and thought it was Shangrila. But National Foods and Fonterra decided that the cost of purchasing milk in Western Australia was too high so they exited a whole range of products. In July 08 we had a balance system, where the market met the milk supply. By November 08, with the exit of this manufacturing, we basically had 100 million litres of milk in the state too much.

**Senator PRATT**—And that was ice cream and other products?

**Mr Brennen**—Yes, they decided that it was cheaper to do the ice cream, UHT export, ESL milk—all the sorts of things they were doing—in Victoria. All of a sudden the farmers had too much milk here and the demand for it has dropped off dramatically. The other companies are doing nothing about value adding—finding a home for that to put it back into milk price. The cooperative is the only one that is doing that. If the co-op were not here, there would probably be 80 farmers left in the state, because nobody would want that milk.

**Senator PRATT**—Thank you; that explains it.

**Senator MILNE**—There are a lot of questions but, having looked at what has happened in Tasmania, there is real anger about whether the ACCC has a conflict of interest in that it approves the mergers and then also determines whether there is adequate competition in the market. Therefore they are not going to find there is not because that is an inherent criticism of the decision they made in the first place in allowing the merger. There has been a push from a number of players in the dairy industry, by farmers, in particular, saying that we need to separate those functions—one body to look at mergers and another body to judge whether the impact of those mergers has in fact enhanced competition or undermined it. You said here that Fonterra had taken over Peters and Brownes. What impact did that have here in the West Australian market? What impact has this concentration of ownership had in the industry in WA?

**Mr Brennen**—From a dairy farmer’s perspective that was very sad, because the Peters and Brownes company was an absolute icon in Western Australia. We all grew up on Peters ice cream—the market presence, the choc milk and the branding was just everywhere. It was a huge business that was built up over a lot of years, and when Graham Laitt came on board in the late eighties he fairly fired it along. It was a great thing for Western Australia; it was a great thing for the dairy farmers and the dairy industry in Western Australia, and then it got purchased by a multinational company which was making decisions in Auckland. The little outpost in Western Australia, where they could clearly see they were running their business, which is the cheapest way to do it—and I must say that if I were an executive of that company I probably would be making the same decisions. But they were not interested in Western Australia, so they just exited all those fantastic ice cream products that were developed here and made here. They all got transferred straight back to Melbourne or Auckland or wherever they went to. That purchase was an absolute disaster for the West Australian dairy industry.

**Senator MILNE**—So it was a disaster in terms of branding and processing. What impact did it have on the farmer? Did it drop volume production?

**Mr Brennen**—Absolutely. Some of my colleagues know more about the company than I do, just recently. In 2000 I think they had 200-odd farmers with probably 250 million litres of milk. They had 110 million litres of milk and they were exporting out of Western Australia. We have a fantastic climate and a fantastic amount of land. We can produce milk here at a cost-effective price compared with just about anywhere else in the world, but nobody wants to buy it so nobody wants to do it. A huge opportunity is being lost. If that capital had

stayed here, we could have grown an industry that we could do something with, but when you are in Auckland and you are worrying about somewhere else you are not going to worry about Western Australia.

**Senator MILNE**—Coming to setting the milk price: how do you do that in your cooperative? We have really struggled to come to terms with how milk prices are actually set, because they all say, ‘Oh, it’s all independent of one another,’ but there is an interesting cascading effect. Murray Goulburn says what the price is, and then Fonterra sets its price, and National Foods sets its price from Fonterra’s price, and away it goes. So it is very hard to look at that and think that this is independent. There almost seems to be a collusion about what the milk price will be. And also we are unclear about how the way the supermarket sets its contracts in accessing milk then drives down the price. It is very muddled as to how prices get fixed. So can you tell us, from your cooperative company’s point of view, how you negotiate your farm milk price? Is it collective bargaining with your farmers? How do you do it?

**Mr Brennen**—It is done absolutely internally, from asking, ‘You have this amount of milk and you have these products; what is the margin you can get on those products?’ and deriving that back down to put as much into the milk price as you possibly can. That is the view of the cooperative. There is one rule, and that is that Murray Goulburn is the only company that sets the real value of milk—in Australasia, almost. That is because they are the biggest buyer, and the way that company operates is: it is owned by the farmers and they have managed it brilliantly for a very long time to derive the exact value that they can, back to the farmers for milk. The rule is that proprietaries need to pay just a bit more than whatever Murray Goulburn pays.

Here in Western Australia, because the cooperative has only been operating for eight years, we have only really had any significant impact since 2006, so we still have a long way to go in that regard to really push the price here. As I said, in 2008 there was a bit of a war in Western Australia and the farmers had a nice time for a while, and some longer term contracts were written. But, come 30 June, we will see what the real value of milk is in Western Australia, once those contracts are over and there is not a demand for milk from those companies and everybody has what they want, and it will be very interesting to see what that is. So the price in Western Australia, basically, is worked out on how much milk each company wants and what they are prepared to pay to maintain that milk supply, and it really has not much to do, from a proprietary’s perspective, with what value they can derive out of that milk. They will only pay what they have to pay; end of story. From the cooperative’s perspective, we sit down and work it through. We take all of our milk and shake it all down to, ‘What can we derive from the best markets right down to the ones we try to lose the least amount on?’ and work out a common denominator across the year for that.

**Senator MILNE**—So how does your farm-gate price compare with the farm-gate price in Western Australia paid by National Foods and Fonterra?

**Mr Brennen**—We are way, way behind the proprietary companies at the moment.

**Senator MILNE**—So what do you say?

**Mr Brennen**—I hold a personal view now that the real price for milk at the moment is what Harvey Fresh are paying. If you look at their product range and their mix, I reckon they have done it brilliantly; they are right on the mark as to what the price is, which is about—no, I do not have the figures in front of me.

**Senator MILNE**—What is your farm-gate price compared to that?

**Mr Brennen**—The co-op is, on average, 6½c behind the other players at present.

**Senator MILNE**—Just before we move off the pricing, what would you say is the cost of production in Western Australia?

**Mr Brennen**—That varies greatly. We have a benchmark program called Red Sky, which gives us an indication right across the board depending on whether you are an irrigation farmer or a dryland farmer. What I can tell you is that the cost of production for our farm is 28c a litre.

**Senator MILNE**—Okay. That is interesting. Could you respond to what I asked about the supermarkets. The fact that there is such a concentration of supermarket supply contract is a big issue for us in this inquiry, and that then flows on to your conditions and so on. So can you tell us what you know about the tendering process. Do you have any comment to make about that?

**Mr Brennen**—Yes. All that is absolutely above board. It is a commercial tender which they put out on a regular basis. They reserve the right to choose who they want and they look at who has the supply, the regularity and all the other requirements. We do not have a supermarket tender for bottled milk at the moment,

but both Coles and Woolworths are encouraging us to put in an offer. So from a free-market perspective that is there.

From a company perspective, the dominance that home brand milk has and the way the supermarkets use that is an absolute detriment to the dairy industry right across Australia. You see it clearly in the scan data that comes through. As soon as the commercial brands start to gain a bit of ground on the market share, poof—they just crash their home brand price, and then you see the volumes of home brand go up. But the price never goes down again. It just creeps up, bobs along and then keeps going up. It is not hard to work out their strategies. One of the things in the world that we have entered into in the last few years, joining the retail business and seeing how supermarkets operate, is that if you really want to sell your product you have to promote it heavily and pay massive promotions back to them, and that absolutely kills it.

**Senator MILNE**—Can we follow up on that for a minute, because this issue of the supermarkets is really a big one for us. The criticism of National Foods from the farmers' point of view is that because it is such a lucrative contract—as you said, such a high-volume contract—they put in a really low tender in order to get it. Of course that feeds back to pushing the farm-gate price right down, and when there are so few players in the market farmers do not have anywhere to go. They have to get a contract with somebody.

We are interested in ways in which the government may be able to regulate in relation to the manner in which these tenders are set out or the way it all operates. You have just mentioned one aspect, having to pay them for the promotion, and I am sure we would be interested to know a bit more about that in a minute. One of the suggestions put to us is: could you regulate, for example, to say that the retail price of milk cannot be more than a certain amount and that it be a formula—three times the farm-gate price, four times the farm-gate price or whatever you want to say—so that, yes, they can charge what they like, but the farmers have to get the percentage at the farm gate? Would that work? Have you thought about that? If you are going to have just one national tender for milk, the pressure will be on to reduce the price to get the tender. What currently happens is that that flows back to squashing the farm-gate price.

**Mr Brennen**—I could not answer that without thinking it through.

**Senator MILNE**—Maybe you could do so after you have had a chance to consider it. We are solutions oriented, so there is no point in just writing a report that reiterates all the concerns that people have. We would like to have ways in which we as a parliament might be able to put in regulations that actually do things. That is why we are keen to hear what you think about that.

**Mr Brennen**—Okay.

**Senator MILNE**—I am interested to know more about having to pay the supermarkets for the promotions, so would you tell us a bit more about that.

**Mr Brennen**—Yes. You negotiate a price with the supermarket. You then have a discount margin that, again, you negotiate with the supermarket, and they want their margin out of that. That discount can be 10 to 30 per cent but, mostly, it is around 20 per cent. You then have all the costs to get it into the supermarket. You have production costs, logistics, transport, packaging—the whole kit and caboodle. Hopefully, you will make some money out of it because your costs are low enough, the price is right and you can put your product on the shelf. The big hit then comes: if you really want to sell your product, you have to discount it way down to get any volume to go through. The supermarkets will push the volume if you are prepared to accept these discounts. The discounts are absolutely massive, to the point where you do not make any money out of it. But they do. Sometimes they already have the 20 per cent and they want another 30 per cent promotion, so they are getting 50 per cent and you are making no money. At the moment, companies cannot beat the supermarkets in that system.

**CHAIR**—Can you suggest any way in which it might be done differently?

**Senator MILNE**—That is what we are here to try to establish: what can be done.

**CHAIR**—If you would like to talk about it in confidence, we can go to an in camera session.

**Mr Brennen**—Other than that food quality and food safety are absolutely essential, and dairy is one of the major daily food requirements, I think government maybe should look at—and, again, I have not thought this through—protecting that area. For years I always held the view that dairy was an essential item so, therefore, it needed to be cheap, and it only needed to be cheap so that people could go and buy Coca-Cola. Now, to me, it should be at a top price, paid for at a premium, because it is an essential food item; it is the left over money that you go to the pictures and entertain yourself with. So, to me, promotions and using milk as a leader to get

people into the stores so that they can fill up their trolleys with Coca-Cola, is wrong. Essential food groups should be protected and treated as essential items, with a premium, so that it can continue to be available and produced at a high quality for the community's safety.

**Senator ADAMS**—I would like to follow up on the issue of quality. We have all these brands, and you have been talking about the home brand. I am pretty keen on my milk but I do a lot of reading in the supermarket now just to make sure I am getting the quality that I need. What system is there to check that the ingredients in a particular milk are true? Are we really getting ripped off? I guess you cannot promote a brand that is pure. I think one of the WA ones is, but we have a submission here from Nola Marino talking about additives that have been put into the milk. So how do we as consumers know that we are really getting a quality product?

**Mr Brennen**—I will talk about two issues. Australia is a great place for fresh milk from the point of view that we have some really high standards of food safety. The supermarkets have programs—hoops and hurdles that you have to jump through—in order to get products on the shelf. The programs are quite rigid, quite stringent. I reckon we could be 99.95 per cent sure that it is a high-quality product and that what is in there is what it says on the packaging.

The home brand fits into that in the same way. If you want to get a home brand contract with any one of the major supermarkets you have to jump through all of the hoops and have a production standard that meets all of the HACCP requirements. So I have no problem there but I now understand where Nola is coming from. I think it is dead wrong that in Australia choc milks, and others like HiLo, have permeate and powder—and I do not know what else they put in it to make the product—when natural milk is high-quality, good food. To do that, I think, lets the dairy farmers down badly.

They can buy quality powder in Australia but there is no reason why they could not buy quality powder from China at a cheaper rate—and who knows what you would get from there! If they really wanted to they could do that. I think that if something is sold as liquid milk it should be fresh milk. And that is something that government could legislate for.

**Senator MILNE**—I might follow up, Senator Adams. Is there any difference between a litre of full-cream milk that is branded and a litre of full-cream milk that is a home brand?

**Mr Brennen**—No. The national health standard—ANZFA, I think it is; I am not sure—sets the standard and you cannot adulterate white, liquid, fresh milk. You can take a bit of the cream out and standardise it. You cannot put protein in—it is illegal and it will not be done anywhere in Australia.

**Senator MILNE**—And if you went to the supermarket at any one time what is the differential likely to be between your litre of home brand and your litre of brand milk?

**Mr Brennen**—It depends on how much the supermarkets want to get into your over—

**Senator MILNE**—Give me a snap shot.

**Mr Brennen**—I could not tell you off the top of my head, accurately. It depends on where they are up to and where the promotions are up to. They will control it, eventually, through their home brand, and there will be fewer and fewer private labels on the shelf.

**Senator MILNE**—Surely that is a disaster for dairy farmers—

**Mr Brennen**—Absolutely.

**Senator MILNE**—so what are we going to do about it? As you are in the business we need to know what needs to be done. Do we legislate? In your view what is the regulatory mechanism to ensure that we get fair prices at the farm gate for the same product?

**Mr Brennen**—To be honest, I have not spent a lot of time thinking about regulatory mechanisms, but I have certainly spent a lot of time thinking about how commercially we could get around it, taking a leaf out of the book of all those liquor stores—Murphy's or whatever they were—that set up right next door to supermarkets. I would like to see, right next door to a supermarket, a dairy shop that sold the whole range of everybody's branded product. But that takes capital. Commercially that would work—it would be brilliant—but we have not got the capital to do it at the moment. We would love to, but—

**Senator PRATT**—The supermarkets will not let you do that.

**Mr Brennen**—Money is a finite resource. That is a problem.

**Senator MILNE**—One of the criticisms which you hear when you talk to the dairy farmers is that they get representatives from the companies coming onto the farm telling them, ‘Increase your production, go and buy this bigger and better irrigation system or bigger and better milking system, change your calving regime, do this, do that, increase your production’—and Dairy Australia is still running around encouraging farmers everywhere to increase their production—and there is no increase in the market out there at the same time. I find that extraordinary. They are telling farmers to increase production without having done the work to grow the market at the other end. So, surprise, surprise, there is a surplus in the market and the farm-gate price collapses and the farmers go broke because they cannot pay their interest and cannot buy their water and all that sort of stuff. It just seems to me that there is this total focus in Dairy Australia on increasing supply, in the absence of an equivalent effort in increasing demand. You said earlier that your cooperative is putting a lot of effort into market development, in new product and so on. What is your view of Dairy Australia’s strategy and performance to date in terms of that differential between increasing supply and actually generating demand?

**Mr Brennen**—We have held a view that the dairy industry has got to be market driven, not production driven, and that the milk needs to be pulled through the system, not necessarily pushed through. We in Western Australia were quite openly a part of that ‘Let’s grow the dairy industry’ prior to 2008, where we saw a huge opportunity. World commodity prices were at an all-time high and the indicators were that there was a real opportunity to do that. We need to keep an industry that has got a critical mass about it for services and to make tanker runs viable and all sorts of things. Every time we lose a farmer, there is a cost. If we lose milk, it can be a cost and it is a cost to us. We would love to grow production, but it has to be in tune with the market. In the domestic market, it is full. It was right to July 2008. By November 2008, it was out of whack. Internationally exactly the same thing happened. It is very volatile at the moment. To judge that is very difficult. We were quite open about ‘Let’s grow production.’ Right now we are very, very quiet about it. We have got enough with what we have got. We do not want to lose any, but we would really like to develop stronger, stable markets. Let us take the peaks and troughs out and let us quietly go forward. In South-East Asia, with our fresh milk, that is certainly what we are doing. It has not taken off like we thought it was going to, but otherwise we are quite happy about that because it is volume that is very solid. If we can just match that steady, steady, that is where we need to go.

**Senator MILNE**—I notice you have avoided talking about Dairy Australia. Are you not going to answer the question? Are you satisfied with their performance in growing the market for the industry?

**Mr Brennen**—I think they are probably guilty of what I was saying in relation to that. We were probably all guilty of exactly the same thing at the time. The signals were there to grow and then the rug got pulled out from underneath us and, yes, we were all caught short pretty badly. If they are still saying that, then I would be arguing that we need solid markets, not opportunistic ones.

**Senator ADAMS**—Regarding the niche markets, with a number of dairies selling their own product, how are they going? Are they reducing or are they able to keep up with the market?

**Mr Brennen**—I do not have a lot of details but the two that I have in mind—the Ravenhill dairies down Albany way—are finding a niche on the south coast. I think they are doing pretty well and I admire them greatly for what they have done. As for their plans for the future, I have no idea. I take my hat off to Sue at Bannister Downs, Northcliffe. She has done a fantastic job there and I do not think anybody works any harder. I admire her innovative approach and what she is trying to do, and I think it is a good thing. She is adding value to the dairy industry more than detracting from it, so I wish her well. If anybody else wants to start up and do that, it is a free world. If they are going to add value, then I will take my hat off to them.

**Senator ADAMS**—These are both very good examples of what can be done outside the square. Are you milking twice a day or three times a day?

**Mr Brennen**—Twice a day, every day of the year.

**Senator ADAMS**—Some of the others are milking up to three times a day now.

**CHAIR**—That is so interesting. I did not realise milking was done three times a day anywhere, but there you are. Do you wish to make any final comments?

**Mr Brennen**—No, I think I have covered all the key points that I was going to raise. I thank you very much again for the opportunity to share my thoughts.

**CHAIR**—Thank you very much for being here, Mr Brennen.

[10.08 am]

**MARINO, Ms Nola Bethwyn, Member for Forrest, Commonwealth Parliament**

**CHAIR**—I welcome Ms Nola Marino, the member for Forrest. I am sure you know all the rules about Senate hearings.

**Ms Marino**—I sure do.

**CHAIR**—Would you like to make an opening statement?

**Ms Marino**—I thought I would answer one of Senator Milne's questions on the differences in the price of milk. Yesterday, I had a brief look at Eaton Woolworths. You could buy one litre of Brownes milk for \$1.99, Harvey Fresh for \$1.87, Masters for \$2.18 and Woolworths home brand for \$1.37. In the two-litre containers, prices were around \$3.61. Home brand was \$2.39. With three-litre containers—this is where there is a lot of movement in the generic brands—prices were around \$4.98. Home brand was \$3.59. So that is a pretty stark indication of the influence and the capacity that the generic brands have.

One comment I would like to make is about generic contracts. Previously, they were offered for two years. They are due back in about October. The previous time that the supermarkets conducted their generic price contracts, processors were given a 30-minute window of opportunity to bid, and it was a live auction. So the prices appeared on the screen. You were not aware as to who was bidding, but the prices were there and either you offered a lower price or you were out of the bidding. It was a 30-minute window. I do not know how they are going to conduct it this time. But that was the pressure that the processors were under in that bidding war for generic milk. As has been indicated, they often do not make any money out of generic because they need to be able to shelve and sell their branded product as well. But the key point here is that all of that goes back to the dairy farmer because they bear the cost of that particular power that the supermarkets have.

I just wanted to point out one of my pet issues, my really serious concerns. I speak here not only as the member for Forrest but also as a dairy farmer and someone who has been active in this field for many years. I think we are at the point where we need to ask the question, as legislators: do we actually want food produced in Australia not only for Australians but also for the rest of the world who are going to have food shortages? If we do, what do we need to do as legislators to support agriculture and food production? I think we are at that point. That was just a statement I wanted to make. I apologise for not saying who I was and where I was from. Thank you so much for being here. As a member of parliament for Western Australia, I understand the travel and other commitments you have. Thank you and the Hansard staff for being here. We really appreciate it every time there is an effort made for members and senators to actually get to Western Australia to hear our issues first-hand. Thank you for that.

I turn to the market concentration and market power in the retail sector. Coles and Woolworths now own Caltex and Shell, and there are minisupermarkets operating there. I wonder whether the scan data includes the sale of milk and other products in those minisupermarkets. How that market concentration, market power and abuse of market power manifests down at the farm gate is something we are seeing and will continue to see. As that generic sector grows from 56 per cent of the market upwards, that capacity to influence the returns of farmers will be even greater. As legislators, that is our challenge. I would ask why, as well, of all the home brands of products which are shelved in the supermarket, milk appears to be the one with the highest margin. It falls into what Mr Brennan was saying about the essential foods. It is used as a loss leader, but that comes back to the dairy farmers, and it is an essential food as well. If you look at yoghurt, I think the home brand differential is around 20c a litre. If you look at milk it can be 70c a litre. They are very real issues.

I wanted to touch on an issue that was also raised about shopping centres. Some years ago when we were trying to get some things happening in Western Australia, a local farmer actually went to a shopping centre in Bunbury and wanted to set up a special milk store—with milkshakes, local milk and local brands—right in the shopping centre. He was refused by the management because it would have upset the major supermarket in the centre. He was refused on that basis.

You have asked where we can look at that under the Trade Practices Act. There are some avenues in relation to labelling. I think there is market failure and abuse of power in Western Australia, with the use of some of the additives in the flavoured milks and other products. A lot of the market forces do not operate the way they should under supply and demand, and of course the cost of that comes back to farmers again. So it is a real captive situation, essentially, at times here. I also wanted to look at where growers' interests are represented under the Trade Practices Act. There are probably a couple of areas in the Trade Practices Act which address

abuse of market power. I think it is section 46, from the work I have done previously. I think section 50 is about labelling and other things. I think we need to look at that as well. I will stop there because I am sure you have questions.

**CHAIR**—I will start off by asking you some questions about the Trade Practices Act, Ms Marino. What about the definition of the ‘public benefit test’?

**Ms Marino**—That was something I touched on in my submission.

**CHAIR**—Would you like to expand on that?

**Ms Marino**—Yes, I would. The public benefit test is basically all about price—a price for the consumer. But that does not take into account any of the issues in relation to producing that product and maintaining our food security. One of the issues in the public benefit test is that not only do you have access to the product at the price but the product is there and produced to the quality and in the way you want it to be produced. It also does not reflect the cost to regional communities when those prices fall the way they do. The collective value of what farmers contribute to regional economies is frequently underestimated and overlooked and the role they play as small businesses within the community and the local economy has a massive impact. For instance, when deregulation happened, my particular shire lost \$30 million overnight. If you extrapolate that in a value add it is a significant cost to a community. That is not in the public benefit test.

**CHAIR**—How did they lose \$30 million?

**Ms Marino**—Because the price dropped.

**CHAIR**—Why did that happen?

**Ms Marino**—Because of deregulation, lesser prices were paid to dairy farmers.

**CHAIR**—Do you mean in general terms the district, the council lost \$30 million?

**Ms Marino**—No, the shire itself—we had over 100 dairy farmers and when it was value added the collective loss to the community was \$30 million. That is just an example. That is the sort of value that swirls in and out of a community with the business activity of farmers. That is often undervalued. Previously, the Productivity Commission has been quite challenged in trying to actually identify where those values are and how they affect regional areas and communities. I think we seriously should be looking at broadening the definition of ‘public benefit test’ from just simply a price related one to consumers; we have food security issues and that needs to be reflected in there as well.

**CHAIR**—Would you also like to comment on the implications of the Dawson review?

**Ms Marino**—The changes that were promoted through Dawson through the act were more about small business itself. To me, when I dealt with the ACCC it had no capacity to actually deal with and manage small business issues versus big business issues. So it was very difficult for it to understand the issues that affect small business when you are trying to deal with a David and Goliath situation. We need to perhaps have another look at some of the recommendations of the Dawson review and see what was factored into the Trade Practices Act, what was excluded and whether any of that can assist in managing some of this market concentration and the abuse of market power.

**CHAIR**—Finally, I want to ask you about deregulation itself as opposed to a desire to improve competition. What would you say about what has been the actual and real impact of deregulation in the dairy industry?

**Ms Marino**—What we saw in Western Australia was so many farmers take on a whole lot more debt and that is an issue that is not often recognised. There was so much debt and there still is. There has been an increase in debt levels. I frequently get dairy farmers saying to me, ‘I am not driving commercial returns and I’m operating almost at an optimal level in my business.’ I understand the average cost of production in Western Australia under Red Sky was 35c a litre. That is before interest and tax. If you are receiving 40-odd cents a litre, or 42 or 43, the actual commercial returns for farmers, given the investment that you undertake, which, if you want to set up a dairy farm I would suggest—and I stand to be corrected by the gentlemen in this room—you would be looking at least \$3 million—minimum.

**Unidentified speaker**—Double that.

**Ms Marino**—It would cost \$6 million to set up a dairy farm. That is why we do not have a queue of young people who are saying, ‘We see a very strong future in this industry and this is the way that we’re going to get into it and here are the commercial returns that will support that investment.’ The average age of dairy farmers



is 58. We are at quite a critical point here and I think through the Trade Practices Act we seriously need to look at the issues in relation to how growers' interests are represented and how we can through that process ensure that our food security and our capacity as a nation to produce food is part of what we do going forward. I think that is the challenge for us.

**Senator PRATT**—Thank you very much. In your submission, Ms Marino, you raised the issue of permeates in milk.

**Ms Marino**—Yes.

**Senator PRATT**—What evidence, if any, do you have about this practice in Western Australia?

**Ms Marino**—Some of that came from a processor who was aware of the use of permeate, and some of it came as a result of the—

**Senator PRATT**—Is this a Western Australian processor?

**Ms Marino**—Yes. And some came from what was in the press. I have not pursued it to the extent of how and where it was being used as it is quite difficult. Who monitors what is in milk essentially?

**Senator PRATT**—Are you aware at all—and is this an authentic question—as to whether there would be a greater presence of permeates in the supermarket lower priced milks versus the higher priced ones—

**Ms Marino**—I cannot answer that without testing the milk itself. Even the figures that go through Dairy Australia are not audited or checked—the comparison of milk volumes and sales et cetera.

**Senator PRATT**—We do not know. If you were to ask the industry directly to give a yea or nay—because we would be able to find out what they say—would you trust their answer?

**Ms Marino**—I think you would have to. You will probably hear evidence about a processor that uses powdered milk to produce flavoured milk. There are various means with Hi-Los and others where you can put various forms of additives into milks; that is just part of the capacity under the labelling. But I think we need to look at truth in labelling and truth in advertising. In Western Australia, we are producing one of the best quality milk products in the world, I would suggest, and yet the benefits of that quality and production are not going back to the farm gate. How the market is manipulated as a result of that comes back to the farm gate as well.

**Senator PRATT**—In your submission you talked about imitation cheese—

**Ms Marino**—Yes, I touched on that. That is something that is starting to run through Europe. When we look at truth in labelling and advertising for Australian growers—look at the pizza market here—if that becomes a practice—

**Senator PRATT**—What you are really saying is that the character of Australian milk is under threat. Certainly I very much dislike going overseas and tasting other milk products; Australian milk does have a lot going for it. You are saying really that you think that would be under threat, in terms of the quality of our milk, if these trends were to continue long term?

**Ms Marino**—Absolutely. I have very serious concerns. You also asked a question about Dairy Australia. At the time I had been very heavily involved with marketing and promotion of dairy products in the run-up to deregulation for many years. We—'we' being a group of Western Australian dairy farmers—used to contribute directly to national marketing campaigns. At deregulation, with the changes in the structure, those types of promotional programs no longer continued and the funds were not there for them. A lot of marketing and promotion, both at a national level and internationally—the old Dairy Australia used to have offices in various parts of the world where they would promote and offer access and support for companies that were seeking to establish in other parts—is no longer happening. You do not see the marketing and promotion of products in the way that you used to; that is not happening in the same way at all.

**Senator PRATT**—Would that be happening basically because there is no-one in there battling for the interest of the milk producers? Basically, you have big corporations, and all they really care about is their food-manufacturing markets overall and making sure they have enough turnover and product. It does not much matter to them when the character of that food changes—for example, the quantity of milk that may or may not be in it.

**Ms Marino**—From a grower's point of view it may also reflect that, at the time, the farmers thought: 'We are in a new world. We are being told we've got to produce more for less.' That was what happened at deregulation. Mr Brennen has touched on the fact that it was all about growing production. I would suggest

that the focus of Dairy Australia and its board was also reflective of that. So the focus on marketing at that time was not the main focus of Dairy Australia; it was about being efficient producers and growing the base. That was seen, I suspect, as a decision of Dairy Australia's board at the time—that the focus would be on research and on-farm issues in managing, improving production and quality, and all of that. I suspect that Dairy Australia took that particular view at the time.

**Senator MILNE**—I will just follow up. Whilst I accept what you are saying about labelling—and we need truth in labelling and truth in advertising on a whole range of issues—that is not really going to flow through to a decent farm-gate price in any short or even medium term. Specifically, we have to get to how you actually get a decent farm-gate price. As I said before, and you have said yourself, the way the supermarkets operate in the fresh milk market is what has crashed the price, essentially. Specifically, what is it that you think needs to change in the Trade Practices Act or the ACCC to actually address the issue of the behaviour of the supermarkets? Would you support a ban on supermarkets being able to sell a home brand product in the fresh milk market on the basis that it is anticompetitive?

**Ms Marino**—That is a good question. How would it be deemed to be anticompetitive in the eyes of the ACCC, Senator? If we have the same public benefit test, and the public benefit test is only about price, then the ACCC would be acting against its own parameters. So I would suggest that the public benefit test and—for want of a better word—the rules that the ACCC operates under need to be looked at as well. We need to go back to section 46 and section 51, unconscionable conduct, and I think section 53. Is it a mediator? Do we need to look at the whole Trade Practices Act from the perspective of the food security issue and the growers issue? When I look through the Trade Practices Act, the issues affecting growers and small businesses per se are not well represented throughout. The focus is on competition and price for the consumer. That is the focus of the Trade Practices Act in my view. I do not think we have ever turned it to the other side and said that we need to look at it from a different balanced perception about food security and a conscious decision that we want the growing of food and fibre in this country and the how-to through the Trade Practices Act. I do not think we have done that. I think we need to look at the whole act.

**Senator MILNE**—That is where I am coming from on this. There needs to be some radical rethinking about what constitutes the benefits, pitfalls et cetera, because I cannot see that just changing the labelling and so on is going to get us where we need to be. Unless we can guarantee people a farm-gate price that is reasonable into the future, we will not get another generation of dairy farmers. That is just the reality.

**Ms Marino**—I am aware of that. The other side of that would be: where do we sit with our free trade agreements and the perception of trade barriers? As a legislator, I think that issue is the balance we have to deal with as well.

**Senator MILNE**—That is an interesting point, because Australia is dogmatic about free trade but nobody else is. If you want to have a look at what the rest of the world is doing, it is all in the opposite direction. We have got a situation at the moment where the European Union and the US have moved in to support their domestic dairy industries in the midst of the global financial crisis. They have moved in with very specific initiatives. Australia refuses to do that because we are so dogmatic about free trade and we are watching people go out the back door. The issue here is: do you think there should be direct government intervention now to support the farmers in the short term, in the same way that the European Union and the US have done?

**Ms Marino**—I want to be able to look at the Trade Practices Act through the eyes of the growers.

**Senator MILNE**—I know that but I am asking you about the issue of direct government intervention as has happened in the EU. That is opposed currently by the government because of a free trade philosophical view. Is it your view as well that we leave that alone and not intervene in a direct way?

**Ms Marino**—What are you proposing as the how-to?

**Senator MILNE**—What they did in the European Union in all sorts of ways is artificially hold the price. They did all sorts of things in the short term to support their farmers but it was direct intervention in the market, which we have not seen here. As you know, in the European Union it is a longstanding practice—not just dairy farmers, the whole lot—because their total focus now is on energy and food security. That is all they think about. They are going to insulate Europe like that. We are mad if we think that is not going to happen. I am just interested, as a philosophical perspective, whether you would support that. I am sure we are on the same page when it comes to trade practices and the ACCC. I am very interested in specific initiatives on the supermarkets and whether we should cut to the chase and ban them from selling their home brand fresh milk.

**Ms Marino**—I suspect that that would be seen as anticompetitive as well. We would be limiting the right of an individual to participate in a market.

**Senator MILNE**—But they are currently using their market share and market power to overwhelm and drop the price. Their tendering process goes to that. There is a whole cascading effect here. That is what we are trying to get at—the point in the cascading effect: is it the tendering process for the contract, is it actually stopping them getting into the market in the first place or is it legislating to say that you cannot sell a retail product at more than three or four times what you pay at the farm gate? There has to be some mechanism here to guarantee a decent price at the farm gate. You do not have to answer; I am just trying to work out the best way.

**Senator ADAMS**—Is the export of dairy heifers to China still increasing?

**Ms Marino**—It is still happening. Farmers are making purely financial decisions. We are down to 178-odd dairy farmers. I have got dairy farmers that have made all the right decisions: they have expanded, they have taken on more debt and they are super efficient, but they are not making commercial returns. So they are making the decision. They need a dollar. We heard about the crash. Let me tell you that in the run to the crash farmers were offered commercial returns for the first time for some time. So they made decisions about their fertiliser, their feed, their water. They committed to all of the costs. Some only got that price for one month. The next thing the rug is pulled out from underneath them. They had to absorb the cost of that and just carry on. It keeps happening. We are down to around 170-odd dairy farmers in a real sense. I seriously believe the critical mass of the industry in Western Australia is an issue. The how-to, Senator, is another ballgame. I think we really need to look at the public benefit test in the first instance and say that part of the public benefit test has to reflect the broader interests, not just that of price alone. How we do that as legislators is the test. Senator Adams, was there something else you wanted to ask?

**Senator ADAMS**—Just generally looking at your situation, as far as your electorate goes, you have got the majority of the dairy farmers there. What do you see for the future if nothing is done, if it stays like it is?

**Ms Marino**—We will keep losing dairy farmers. We have lost very good young people. We do have keen young people who want a future, but I also know of the young fellows that are saying to their children, 'If you're going to have to live and work like I live and work, then I will not be encouraging you to farm.' That is what is going on. We are talking about commercial returns that will support your investment in an industry, and they simply are not there—the commercial returns are not there. We saw today that Coles and Woolworths have announced another price war between each other—they are going to drive the prices down to compete with other, lower priced, supermarkets. Let me tell you where that is going to land: with every grower that is supplying the supermarkets. That is where the cost is going to be borne. The shareholders might absorb the value at the other end, but let me tell you the cost is going to land at the gates of the farmers and growers. That is all we are going to see here.

**CHAIR**—Can I take you back to the first witness, Mr Brennen, who talked about cooperatives. Do you have a comment about that? Would the inclusion of all dairy farmers within cooperatives gives them a better bargaining position to preserve the industry and its viability?

**Ms Marino**—It comes back to competition again. We have lost co-ops in Australia, and that has not helped growers.

**CHAIR**—But we have heard about a very successful one, the Murray Goulburn, and I think we heard about one in north-western Tasmania, didn't we?

**Senator MILNE**—They wanted that.

**Ms Marino**—But if you look at the prices being paid—and you heard what price is being paid here—farmers have almost got no choice in their business but to chase the highest price they can get. Prices are announced, and you have got a variable base on your price. You sign a contract but it is a variable base.

**CHAIR**—Where I am going, though, is that we are looking for a solution to this issue. Is one of the possible solutions the encouragement of cooperatives and different kinds of deals over pricing? Here in Western Australia we export a lot to South-East Asia, I gather.

**Ms Marino**—The majority of milk in Western Australia is consumed in white milk. I would say only 60 million or 70 million litres is actually exported. The rest is used on an annual basis in white milk. That is why the supermarkets and the generic milk have an exceptional effect on the prices paid to Western Australian

dairy farmers, because that is where the bulk of the product goes. So, as a result of that, the bulk of the effect is at the farm gate.

**CHAIR**—I am still chasing the cooperatives suggestion, though. Is it possible for the cooperatives to use the milk for other products which they could, for example, export to Asian markets and therefore put some pressure on these companies they are dealing with?

**Ms Marino**—Are you saying to have less product available so that companies would have to compete more? That would not change what Coles and Woolworths would doing. They would call for a tender, and you would compete on a price.

**CHAIR**—Okay.

**Ms Marino**—You need to move a volume of milk. If the volume of milk is sold through Coles and Woolworths and through their various forms of retail control, and they control nearly 70 per cent of the retail market, that is without the fuel stations, that is where it is sold and you have just got to be realistic.

**CHAIR**—But it is something we would like to have information about on the record, so thank you.

**Ms Marino**—Co-ops have played and will play an important role in the dairy industry in Australia, as you have heard here today. By the same token, you have got farmers who have no choice commercially but to chase the best price they can possibly get for their product.

**CHAIR**—One of the views I was forming on the basis of the evidence we had in Tasmania was that maybe there was not a future for dairy farming—that the smartest thing any farmer could do was to get out and get another product. Do you see that as a scenario for the future of the dairy industry?

**Ms Marino**—It comes back to the statement I made at the start. I do not think it is just dairy farming. I think as a nation we seriously have to look at this and ask the question whether we want to be part of food production not only for Australia and our food security issues but also to help supply the food that the rest of the world needs. We are ideally located for it. We have some of the best people, the best technology, the best research and the best capacity and yet we are seeing a reduction in farmer numbers and people leaving the land because of the fact they are not making commercial returns. That is one of the biggest drivers, even when you look at the research that is done by the various organisations. What is the number one issue? It is that the price they are getting for their product is helping them to make decisions. We have pressures on land use right throughout the region. All of those issues are front and centre and I think it is just a really clear question. I want to see us produce quality food and fibre. I want to see that and I want to see young farmers have the opportunity to do so.

**CHAIR**—Was deregulation a mistake?

**Ms Marino**—I am on the record as someone who fought it because I believed that the capacity and position of farmers to influence the market would be totally compromised. They would have no market power and no capacity to represent their issues when they were dealing with major corporations and others. In that instance that is exactly what has happened to farmers.

**CHAIR**—Thank you.

**Senator MILNE**—Have you got any examples of unconscionable conduct? One of the issues we were looking at was the process of collective bargaining with a processor for the milk contracts. In the process of collective bargaining as it currently stands one or other party can walk away in the middle of it and then go and try—and it is usually the processor—to pick off individual farmers and that sort of thing. It was put to us that a good thing to do would be to have mandatory conciliation so that they cannot just walk away and abandon the process. Do you have any examples, or have you not had the same sort of level of disputation here in Western Australia? Do you have any comment to make about that?

**Ms Marino**—My experience of that was prior to my time of getting into parliament and at the time, going back in the early years following deregulation, we were seeking authorisation from the ACCC because, as you know, we could not have an agent to act because that is not allowed under the Trade Practices Act. So we were seeking authorisation for farmers to be able to negotiate across a number of processors and that, of course, was declined.

At the time the ACCC found it impossible to deal with a small group of farmers with very few resources. I remember fronting up at the board and the comment that was made was that they were very disappointed in our submission because it was not of the quality of Air New Zealand or Qantas—the previous investigation they had been conducting. We were on a very tight budget with very limited resources and at that time with

less than 300 dairy farmers. So at that time the ACCC failed to act on a couple of examples of potential breaches of the Trade Practices Act. I have got one that I will mention in camera—an example of that type of unconscionable conduct.

We also at the time had third line forcing being applied to farmers by processors who would not allow them to transport their own milk. We had a range of different examples of potential breaches, but that was in that time. In recent times I do not have any evidence that I can offer you of unconscionable conduct in those terms, but I am happy to talk in camera about a couple of issues that I was aware of previously.

**CHAIR**—We are prepared to go in camera if you would like to do that.

**Ms Marino**—I am happy to do that.

*Evidence was then taken in camera but later resumed in public—*

**Proceedings suspended from 10.45 am to 11.28 am**

**DEPIAZZI, Mr Philip Leslie, Senior Vice President, Western Australian Farmers Federation**

**EVANS, Mr Peter David, President, Dairy Section, Western Australian Farmers Federation**

**CHAIR**—I welcome Peter Evans and Phil Depiazzi. Would you like to make an opening statement?

**Mr Evans**—Yes, thanks.

**CHAIR**—These witnesses, I should add, are from the Western Australian Farmers Federation, which has provided us with submission 29.

**Mr Evans**—Thanks. The WA Farmers Federation submission illustrates the difference between farm-gate prices in Western Australia and those in the other states. It is shown there that for six out of the seven years in that table Western Australian farmers received a lower price than the Australian average, which is exacerbated even more, from our point of view, because the supply from Western Australia is much flatter than in the other states, bar Queensland. So a larger proportion of that milk was supplied in the high-cost period of the year than it was in a state such as Victoria, where they peak their milk production in spring and then it falls right away.

The reasons for this are many. There seems to be a consistent inability by processors in this state to profitably market what we call ‘the last litre of production’, which really means the last five per cent to 10 per cent. That seems to pull the price down for the rest of us. Except for occasional periods, there seems to be little competition by processors for milk supply. Occasionally, one or two processors might want to grow their milk supply and then there will actually be competition for milk but, most of the time, people are just sitting where they are; processors are not looking for extra supply so farmers have little option.

I will go into deep discounting by the supermarkets later, but that really hurts us in Western Australia. In Western Australia we have aggressive independent retailers. I think Coles and Woolworths control only about 60 per cent of the retail market here, compared with 80 per cent in eastern Australia. IGA tends to be more aggressive, and we think that is one of the reasons. Another reason I have been given is that we do not have seven-days-a-week trading in Western Australia. The large chains are constantly badgering processors for discount milk on a Friday and Saturday so that they can discount milk and stop people going to the IGA stores on Sunday, because they are not allowed to open.

Currently, Western Australian prices are at a small premium to south-east Australian prices. They are lower than prices in Queensland but higher than prices in Victoria and Tasmania. Because of increasing costs in our industry, partly due to our lack of scale, there is a feeling that from now on we need to be at a premium to south-east Australia. The cost of collecting and processing small volumes of milk and also the cost of servicing a fairly spread out and not intense industry increases our costs of production compared with if we were a concentrated industry. So we feel that, if milk prices do drop down to the price of milk in Victoria, we in Western Australia will lose supply rapidly. The cooperatives certainly pay the prices that they can afford, but the other processors tend to watch each other very closely to make sure that their prices are not too far out of whack. That is free enterprise in action, and we can accept that, but what really irritates us is the amount of deep discounting of milk that goes on in Western Australia. It seems to be exclusive to Western Australia. By ‘deep discounting’ I am talking about milk that sells at less than \$1 a litre. We know that consumers have been conditioned to pay \$1.30 a litre and above, but they are constantly being offered milk at less than \$1 a litre. We believe that this creates unrealistic expectations in the marketplace, damages consumer perception of the product and definitely has a huge impact on the farm-gate price. Milk producers and processors both need each other. We cannot work without them, and vice versa, to be efficient and profitable. We believe that the processors have an obligation to extract a reasonable price from the marketplace on behalf of both the farmers and themselves.

I have mentioned that competition for milk supply by farmers is barely existent. It does flare up occasionally when one, or preferably more than one, of the four major processors needs an increased supply for some reason. But the price tends increase temporarily and then fall way again once there is a bit of surplus milk. We had a case of that 18 months to two years ago when there was a huge demand for milk. The price went up and then came crashing back down again pretty quickly. I think we had about six months of sunshine.

In summary, farm-gate prices in WA now need to be a little above the eastern state prices in order to maintain the viability of the industry. Climatically we can compete; our problem is really the lack of scale in the industry. We have four major processors for 340 million litres of milk. They must be innovative to survive

because of their lack of scale. We need at least one of the processors to have a growth vision so that there will be a long-term demand for milk at a reasonable price to provide security for the farm sector.

**Mr Depiazzi**—There are probably three main areas that I would like to make mention of, if I could. The first one is the power of the big retailers. I believe that across the country the dominance of the two big retailers enables them to dictate terms to their suppliers and capture a higher proportion of the profit margin available in the total supply chain, and that is to the detriment of processors and farmers. The national tendering process and the amount of volume sold through the big supermarkets enables supermarkets to squeeze the processors, because with that volume it becomes an imperative part of those processors' business to ensure that they do not lose those tenders. So, although it might look like a reasonably open and above-board type system, it actually forces processors to put in a tender that will ensure that they maintain those contracts. The only thing left for the processors to do then is to in turn squeeze the dairy farmer, and the only thing left for the farmers to squeeze is the cow's tit. It is a problem of being at the bottom of the line there.

It is interesting to note that over the last few years farmers have seen their share of the retail price of milk drop from 40 per cent to 24 per cent, and the Australian farm-gate price appears to have no correlation to the retail price. A similar graph of prices in the US shows a very different picture, where the farm-gate and the retail price track each other on a very similar path. The US, I note, has legislation that ensures that the retailers are not able to make what are described as 'unconscionable, excessive margins' on milk. They have a formula that they use to calculate what is considered to be reasonable retail margin, taking the retailers' costs into consideration. In that case, I refer you to the submission made by the Southern Sydney Retailers Association, where they discuss that in a bit more detail.

Pete has mentioned the local processors. Too many cooks spoil the broth. We have four local processors, plus we have the private labels competing for milk in the supermarkets. They all scramble over one another to try and get their market share. Basically that means we have seen the premium for liquid milk eroded. This is an issue that really does upset local farmers. Discounting is obviously the mechanism they use to try and attract market share.

The last point I would like to make is about food security. At the end of the day, farmers need to receive a reasonable price for their milk. Just like everyone else who runs a business, we need to achieve a price that covers our costs of production plus a fair and reasonable margin that assures the sustainability of our industry. Australians and, more specifically, WA consumers wish to be able to buy locally produced, high-quality foods, and farmers need to receive returns that will see young people taking on careers in farming. The Trade Practices Act or other legislative measures need to be seriously looked at before Australians wake up one morning and find their supermarket shelves empty or, if not empty, devoid of local, clean, safe food items. Somehow this country needs to implement a system that recognises the costs of food production and ensures adequate returns are achieved for farmers' produce. Otherwise, we will surely see the demise of an industry that makes a vital contribution to the wealth of this nation, putting at risk Australians' ability to purchase safe, locally produced food.

**CHAIR**—You just mentioned the Trade Practices Act. How would you like to see that amended to protect this industry in particular? You also mentioned what happens in the United States and the European Union. Should we have that sort of price protection here, do you think? Would it solve the problem?

**Mr Depiazzi**—Before I answer that, I would suggest that there are probably people who are across those areas a bit more than I am.

**CHAIR**—That is okay. We are just looking for general views.

**Mr Evans**—In the Trade Practices Act there is a clause regarding misuse of market power. I do not know whether the good of the whole comes under the Trade Practices Act or not. So I guess we are looking after consumers and that—that is on competition policy—but my concern is that we are looking after consumers at the expense of the producers of that food.

That is one thing. I guess another issue is the misuse of market power. In the US—I mentioned that one there—they have legislation so that the big retailers cannot take too much out of that profit margin through the supply chain. I do not know whether that is worth looking at. At the end of the day it still does not necessarily guarantee the producer a fair price for his product. It obviously controls what is happening at the retail end but that does not necessarily mean that it is going to feed through to the producer to get a fair price back there.

**CHAIR**—I have one other question. Would you say that all of this is an outcome of deregulation and that free-marketing and that sort of thing has been a bit of a sacred cow for a long time? Was deregulation in the dairy industry a mistake?

**Mr Evans**—It depends where you were in the dairy industry at deregulation, I guess.

**CHAIR**—I am looking at the producers' point of view? That is what we are really considering.

**Mr Evans**—I do not think you could stop that. The climate was so much for freeing things up. We are not really against free enterprise. We operate in a free enterprise environment every day. The benefits of deregulation were captured by the large retailers cleverly playing a game at the time. The income from that milk should have been more evenly distributed amongst farmers but the large retailers were able, mainly through the use of home brands, to capture the benefits that were available. Maybe we were slow at the time to realise that astute retailers could capture that benefit.

**CHAIR**—Is it possible, now that you are more aware, to recover the position and to improve the position of the producers or is it too set?

**Mr Evans**—I think we try every day.

**CHAIR**—But you are not succeeding?

**Mr Evans**—Maybe, we are slowing the slide. We are certainly trying every day to do what we can. To me there is no simple answer. The one that Phil just described in America, if it was implemented here, would obviously limit the profits of the retailers but there is no guarantee that that money is coming back to give farmers a relative margin.

**Senator MILNE**—Just to follow up on that remark, what do you think about the idea of levies loading for a set percentage so that you cannot retail a product at a greater than certain percentage of the farm-gate price?

**Mr Evans**—On the surface it sounds good. I guess we would argue about what percentage that that should be. There would be a constant argument about the number, I guess, but, as we have illustrated, farmers—not just in dairy but in nearly all industries—used to get 40 or 45 per cent of the retail price, but now 25 per cent would be really high. I think vegetable growers would say that it is less than 15 per cent. Even in one industry it sounds good but I think we would constantly disagree about what that number should be.

**Senator MILNE**—Just to go back to a remark you made in your opening comments about the discounting that goes on here, I understood you to say that the extreme nature of the discounting was a Western Australian phenomenon—

**Mr Evans**—Yes.

**Senator MILNE**—more than in the other states.

**Mr Evans**—That is what I understand.

**Senator MILNE**—Can you just elaborate a bit more as to why that is a particularly Western Australian phenomenon? What is the set of circumstances that—

**Mr Evans**—Probably it is because we had one processor who in the past has been very aggressive at buying market share. That processor did not have a lot of other products to sell so it was always aiming for the high-margin, white milk market—the liquid drinking-milk market. So they were the ones who were traditionally doing it but they are certainly not the only ones now.

The major processors very rarely do that now. They have been guilty of it in the past, spasmodically. I think it is very rare for them to do it now. The two locally-based processors are doing that in the market place now. To me, the two obvious reasons would be that they are buying market share or getting rid of excess milk that they have that they cannot profitably sell somewhere else.

**Senator MILNE**—So that comes to the point you make in your submission, and that you made as well, that too many cooks spoil the broth. I think you said in your submission that you were surprised that it is economically viable to maintain four in the market, and therefore you have the situation you have just described. That is a conundrum, though, because you would not want to have more concentrated ownership to get a better critical mass, would you—

**Mr Evans**—You are right.

**Senator MILNE**—because you are going to end up with the same problems.



**Mr Evans**—Because we are so small and because we have four processors, there is no way that our processors can touch the commodity markets, because that is where lack of scale really hits you. So they need to be looking for niche markets.

**Senator MILNE**—It is that conundrum between better economies of scale and greater concentration in the marketplace, because in the eastern states we have seen scale that came with concentration of ownership, and that has resulted in the worst-case scenario in terms of the farm-gate price. So going that way is not a great idea either.

**Mr Evans**—Yes, they are very dominated by the international prices and the fluctuations there as well.

**Senator MILNE**—Well, yes and no. In the fresh milk market in the eastern states they use the international price as the excuse, but a fair percentage of the milk is going into the domestic market as well. Can I ask you, Mr Depiazzi, about your alternative to concentration of ownership and greater economies of scale, which is to grow the market so that you build economies of scale with the processors that you have and so on. Where do you see the opportunities for the Western Australian industry?

**Mr Depiazzi**—First, I would suggest that a couple of the processors do not have any intention of growing their businesses; they are happy concentrating in that high-profit area of liquid milk, even though that is being eroded. I think we only have probably two processors who are looking at growing their businesses on an export market, and we have said there that we certainly need that because this last litre of milk is the one that holds us back. I think some of the work that the co-op has been doing into Asia has been obviously a fairly good fit for our state. We are able to sit right there on their back door. Obviously we can get the fresh product in there, et cetera. That is probably the key target area I would see for our processors.

I just want to flip back too. Obviously, with a few extra processors, you would think we would have some good competition for milk, but, unless those processors are actively following a path of growing their marketing side, their marketing arm, there is not competition between them. And then, conversely, we are also having issues with having five or six or however many players we have in this liquid milk market in the supermarkets driving down our price. I actually think that, if we could eliminate a processor or two in that market, we would be a lot better off, but I am not sure how you go about that—apart from them going belly up!

**Senator MILNE**—And is there any guarantee that, if you did, you would get a better price?

**Mr Depiazzi**—I think that, if there were only a few in there, with production the way it is and whatever else, they might have a little chat and sort it out, but they would probably settle on being a bit more sensible about market share because they have to get milk to supply those, et cetera, so I think there are probably forces that would come into play that would see that sort itself out a little better and certainly serve us, hopefully, in a better way.

**Mr Evans**—It costs them to build market share, so it is a cost that they do not really want. We would be much happier if it were a more stable market. As the graph that I handed out shows, there is nowhere near the volatility in milk prices in eastern Australia compared to the west, and we believe that is caused by the deep discounting. Although those numbers do not reflect the deep discount price, the fluctuations are caused by the amount of deep discounting at those periods.

**Senator PRATT**—Can I ask a question on the issue of discounting, in terms of whether supermarkets are still getting a profit from those products that they have deeply discounted or whether they are using their other product lines to cross-subsidise it. What is your opinion, in terms of the prices that they are charging, about what their cost margins would be—about the extent of cross-subsidisation that would be taking place?

**Mr Evans**—I doubt if it is very much, because the deep-discounted milk is only coming from two processors.

**Senator PRATT**—So you can see from the prices being charged by those processors for the milk that they are getting versus the low price that is being paid to farmers that the margin is still there for the retailer—clearly the squeeze is on the farmer—and that they are not cross-subsidising it with other lines of groceries?

**Mr Evans**—They may be, but they are not deep discounting the milk from the national processors; it is only the local ones, so it must be offered to them at a lower price for them to do it in the first place.

**Senator PRATT**—But that is the question. It may or may not be offered to them at a lower price for them to do it in the first place, depending on whether they are choosing to discount their own brand and cross-

subsidise across Weeties or whatever. There are possible regulatory implications of that kind of behaviour, as far as I understand it.

**Mr Evans**—One of those local processors is actually buying the product from farmers at a fair bit lower price than the other three processors, so they have a competitive advantage in the first place. So it is the farmers that are really taking the squeeze there.

**Mr Depiazzi**—And I think, as I mentioned there with the national tendering, that it just lends itself to making sure that the big retailers are getting that milk at a lower price to put into their home or private brands, just by the nature of the beast. Home brand milk has been at a price lower than the branded products, and so people have bought that and you have the volume created through that. If you miss out on that tender and you are a processor, it is a major hiccup in your business.

**Senator MILNE**—But it is a major driver of the lower prices, so do you have any suggestions for how we could make more transparent or more heavily regulate the tender process for the supermarkets, because that is the key to driving down the price everywhere?

**Mr Depiazzi**—I would love to tell you I had an answer, but—

**Senator MILNE**—This is the key issue. This is where we need to move.

**Mr Depiazzi**—That is right, yes.

**Mr Evans**—It is the supermarket chains taking advantage of their power in the marketplace, so they have the ability to do that. Because they have positioned themselves so strongly in the marketplace, they are able to use that power. Whether you call it ‘misuse of power’—it is hard to know where to draw the line.

**Senator MILNE**—We talked a minute ago about the margins at every step of the way along the chain from the farm gate to the supermarket shelf. Have you been able to do any kind of analysis of that, and what would your response be to getting the ACCC to do that now, to go and have a look at the margins at every step of the way?

**Mr Evans**—We have not done the work. I would imagine it would be very hard to get those numbers from processors and retailers. It is probably not very hard to get it for the farming sector—you would get an average figure, of course. ABARE would have a lot of that data. But I would imagine it would be very hard to get accurate data from the other two sectors.

**Senator MILNE**—Would you have confidence in the ACCC doing it? They are in theory the body that should be doing price monitoring.

**Mr Evans**—It depends on what you believe their emphasis is—on the consumer or not.

**Senator MILNE**—That is potentially one thing we could do, as this committee: request—through the minister, of course, if it were an accepted recommendation—the ACCC to go back and have a look at the dairy industry and actually do the margin analysis at every step of the way to establish once and for all where the real gouging is going on.

**Mr Depiazzi**—There are so many different products and so many different margins, I would imagine it would be quite difficult, but it can be tried.

**Senator MILNE**—We can try. You could nominate a few. From your observations, do you have any other suggestions as to specific initiatives that would address some of these problems that we could recommend right now?

**Mr Depiazzi**—One thing I might mention, which happened in the past and failed—and it failed in Tasmania as well—is the power of the collective bargaining groups. We certainly tried to take on National Foods with a collective bargaining type group and there was also a bigger group in the state too but, at the end of the day, they basically told us to take it or leave it and walked away. So I do not know whether there is some way to get that to operate or give us guys a bit more power in that scenario. It just seems like it is a bit of a joke. All it did was hurt a fair percentage of us and a couple of blokes won because they kept outside the group.

**Senator MILNE**—That is exactly what National Foods did in Tasmania. When it got to a certain point in the collective bargaining process, they unilaterally stepped outside that collective bargaining process and tried to pick off a few people by offering them individual contractual arrangements outside the system. That is why one of the recommendations that has come from various people making submissions is that there be a mandatory conciliation process and that, if the negotiations are deadlocked between the collective bargaining

group and the processor, it goes to a mandatory conciliation process and you cannot just unilaterally walk away on either side. Would you support something like that?

**Mr Evans**—On the surface it sounds okay.

**Senator MILNE**—Perhaps you might like to think about that. It would be good if you could give us a response, because that is one of the areas we are really keen to look at to make the collective bargaining process work better for primary producers. In relation to that, do you think the rules need to change about what a collective bargaining group can be constituted by? I understand there are physical proximity rules in relation to that which would not suit Western Australia very well—as in you have to be in a certain district or whatever to be part of the group.

**Mr Evans**—It is a really difficult one. If you are going to go into that negotiation, I would like to see some strict rules to ensure that they keep negotiating in good faith and try to come to an arrangement. But the issue on the farmer side of things is that everybody has to be very committed to that group. All you need is a couple to step outside it and it screws up the whole process. It may be that we need to tighten ourselves up as well. It is just human nature. If someone can use that to extract a better price for their own business, it is going to happen. That is the issue. We have got only 170 farmers in WA—and there is no way in the world we could all get together and bloody agree on something, is there? So although you could have everything in place to make that work, all you need is a couple of people to take the bait and we are back to square one.

**Senator PRATT**—I wanted to ask, with respect to the damage that has already been done to the industry: where to from here from a sustainability point of view? How much longer can the current situation continue? Where is it going to go from here if the current scenario is maintained? Your submission kind of says how terrible it would be if there were not a viable industry here in Western Australia for the future. In your view, if the current settings are retained is that the inevitable outcome?

**Mr Evans**—Because of the increased population growth and therefore increased local consumption, we are rapidly contracting to be purely a drinking-milk state, which is where Queensland is now. It is not that detrimental for them, because they have got New South Wales and Victoria geographically a lot closer than we have. At present there are about 110 million litres that do not go for drinking milk, whereas five years ago there were 200 million litres. That excess is contracting really quickly, so in the medium term there is a chance that that line will be crossed and we will start regularly bringing in milk. We are going to be much more susceptible to global milk prices because the milk would obviously come from south-eastern Australia, where it is influenced by international prices, plus there is the cost of freight.

**Senator PRATT**—How do you think consumers would respond to that? If we assume that consumers are going to want to buy local milk, is that going to provide some kind of buffer at some point?

**Mr Evans**—I think it probably will. Consumers are very loyal in Western Australia. In fact, one of the local processors has done really well.

**Senator PRATT**—I know, but it is very difficult to reach for the more expensive brand on the shelf.

**Mr Evans**—Yes, that is fair enough.

**Senator PRATT**—If the \$1.50 model is there, that is just what you do.

**Mr Evans**—One of the processors has advertised very well and promoted itself as the only local processor. A lot of people in this city think that most milk comes from Victoria, and that is just amazingly untrue.

**CHAIR**—That is a very common perception, actually.

**Mr Evans**—Yes. When I hear it on the radio I jump on top of them about it. But it never gets corrected properly.

**CHAIR**—And people see it as a consequence of deregulation, that deregulation destroyed the WA dairying industry and now we have to drink Victorian milk.

**Senator PRATT**—Certainly National Foods and Fonterra are not going to want to correct that perception.

**Senator PRATT**—That might suit them at some time in the future.

**Mr Evans**—Fonterra have made a big effort. They rebranded the Brownes name six months ago.

**Senator PRATT**—To maintain that local—

**Mr Evans**—Yes. Their containers reflect that now. The point is that the local consumer is very loyal, but, as you said, it is very hard not to pick the cheapest milk on the shelf when you know it is all the same.

**Senator PRATT**—Is it all the same in your understanding of who is processing which milk and what is being done to it?

**Mr Evans**—It has to be for legal reasons, yes. It all has to be safe food. Sure, the fat, calcium and protein content are played with, but that is promoted as a separate type of milk.

**Senator PRATT**—So you are confident in the integrity of milk processing here at the moment?

**Mr Evans**—Yes, without a doubt.

**Senator ADAMS**—Just to get to the future of the dairy industry across Australia, would you like to comment on the dairy heifer trade with China? Is it increasing or decreasing? Or, with land prices the way they are, is it enticing people, especially in the south-west, to look at their bottom line and say, 'We can sell off the heifers and the cows and sell the land at a much greater price than we would have in the past'? Can you see the south-west corner coping with that? Plus there are the electricity charges, which is a bit of a worry, seeing that dairy is reliant on electricity.

**Mr Evans**—My comment about the heifers to China is that the use of sexed semen is a really great way of avoiding what are critically low beef prices in Western Australia. It can help the viability of the dairy farmer. It is not a replacement for producing milk, because you still need the dairy cow to produce the dairy heifer. But, yes—by using sexed semen, where you get 90 per cent female calves, you do not need to bring that many replacements into a herd. So selling the surplus heifers to China is a far better option than any male calf on any farm in Western Australia.

**Mr Depiazzi**—There are two things. It actually helps assist with the viability of the dairy operation if you have got a few extra heifers at a decent price and you shift them off. But, conversely, it does give people the option, if they decide to get out of dairying, to do it in a phased way by actually exporting all their heifers to China or wherever and getting out of the game in that way, because obviously if the industry is not going well then your cows are not going to make you a heap of money but you can certainly phase yourself out over a few years if you plan it like that.

**Senator ADAMS**—What about land prices? How do you see those?

**Mr Evans**—I believe that there is actually ample land in Western Australia that is suitable for dairying at what is a reasonable price. We happen to live in an area where other people have holidays, so the price of our land reflects that. My personal attitude is that my return on the investment is not quite as high as it could be because I happen to be 'lucky' enough to live where other people have holidays. But I can relocate if I want to. There is plenty of land in WA. In fact, climatically we really can compete with other areas in Australia. I am sure we have harsher summers but our winters are relatively mild, compared to Victoria or Tasmania.

**Senator ADAMS**—What about electricity? Electricity charges have been going sky high here.

**Mr Depiazzi**—Well, we could do without it. But we are certainly starting to notice the price of electricity on our account. That is obviously another cost to production, so it impacts on our margin.

**Senator ADAMS**—We have had evidence earlier that a number of young people are not pursuing a career in the dairy industry. They are tending to go everywhere except stay home and take over the property. Have you got any evidence in that respect?

**Mr Depiazzi**—My only comment, I suppose, is it is a bit of a reflection on agriculture right across the board. I have just been thinking that there is a young farmers group in Western Australia that is actually fairly well supported. There are quite a few guys in that. But I mean that at the end of the day if you are making a fair and reasonable return from dairy farming then those people would stay there. These days some of them see a lot of mates and whomever else travelling wherever so some of those guys might not come straight home on to the farm like we did back in our day. They might go out and experience a few things and then come back when they are more mature and have been out a little bit. If the returns are there within the industry we will still continue to attract those guys, but we have lost some of them to other areas.

**Senator ADAMS**—I have a final question on deregulation, on the number of dairy farmers we had prior to that and on the reduction now. Do you see that trend keeping going?

**Mr Evans**—Yes, probably. We had 440 at deregulation, and now it is 170. There are a few leaving now. The pool of milk barely changed for five years. Prior to deregulation it was just under 400 million litres. I think for about four years it did not change. Farmers went out but the others increased supply. That is still happening to an extent. The volume of milk fell to 320 million litres a couple of years ago. It was in the year that finished 18 months ago. We recovered to 340 last year and we are the same this year. There are farmers

going out but they are mainly small farmers and there are others that are increasing. If a large farm increases by 20 per cent that is usually the equivalent of someone dropping out and if someone comes into the industry—and there have been a few up until six months ago—they are never having fewer than 500 cows, so that is probably the equivalent of three people going out. So farmer numbers are down but the milk supply is not changing that much.

**Mr Depiazzi**—Certainly we would not want to see as many go out over the next five years as we have seen since deregulation.

**Senator MILNE**—I want to ask a question about milk pricing. National Foods and all of them say, ‘There’s no collaboration. No, there’s nothing like that. We’re all just setting our prices independently’—except they do not. Murray Goulburn sets a price and Fonterra sets a price and then National Foods sets a price on the basis of that price and so on and so forth.

It seems to me grossly unfair that you have this situation where they all just fall into line with one another. They can cite all manner of things about international prices and this and that and so on, but it seems there is no transparency at all in terms of how they set their price relative to one another or in the first instance at all. Do you have any thoughts on how you get greater transparency or regulation over how they set their prices? Increasingly what we are seeing is, in my view, some collaboration. It might not be direct collaboration; I do not know how you could describe it. It just seems strange to me. Also, there are the time frames in which these prices are set. People are given virtually no notice. Increasingly you just have to accept a price within a few weeks and so on and so forth. Do you have a view about how we could achieve a more transparent and rigorous price-setting arrangement?

**Mr Evans**—Anything you did would actually have to encompass all industries, every industry in Australia. It is more than just a dairying issue. It is more than just an agriculture issue.

**Senator MILNE**—Yes, it is to an extent but there are so few players in the market here in Australia in the dairy industry. I would like to know how they come up with the price that they come up with, because they all have different product mixes. They cannot possibly be all suddenly having the same cost structures.

**Mr Evans**—The cooperatives are obviously acting on behalf of their proprietors, which are the farmers. Therefore they pay as much as they can, sometimes probably more than they should. The others are going to do what they have to do to keep their milk supplies, so they have to pay a bit more. Basically farmers do believe in the cooperative theory, so the others are going to have to pay a bit more. Depending on how much milk they want, I guess they all base it around that. I think that is basically true. Companies I guess have to act on behalf of their shareholders, and you cannot get away from that, no matter what industry you are in. In our town, on our farm, I will buy a product from, say, rural merchandise. I can run around town and try and get the best price I can, which would probably involve coming up here fairly frequently and not supporting the local bloke. So there is a real line to tread between getting the absolute cheapest price and maintaining service. I think the milk companies need to think about the same thing. Rather than just paying the very minimum price, they actually need to think of their suppliers as an asset and invest in the merchant. If they want to maintain milk supply, that is what they have to do, especially in this state. As far as influencing how they price and making things more transparent, I just do not know that we can possibly do it without legislation that is going to encompass every industry in Australia. We are not the only industry with three or four potential buyers of our products.

**Senator MILNE**—I appreciate that, but in your own submission you question the integrity of pricing mechanisms from National Foods in offering a price dependent on their competitors’ opening milk price offer. I would like to think there was some way in which we could achieve greater transparency or accountability, but I am not in the industry. I do not know what that is. That is why I am asking if you have any thoughts about how you might achieve greater transparency and accountability. We would be really keen to hear that, because we are trying to find ways so that there is a relativity between the farm-gate price, the retail price, the mechanisms for price setting and so on.

**Mr Depiazzi**—I guess we have our head around all that and we know that they have different product mixes, but at the end of the day all they need to do is secure milk and make sure that the other company does not get it. So basically they are always just going to do this matching of price pretty closely once somebody comes out with a price. How you get to be able to see what that mix is and whatever is a really tough one. I do not know.

**Mr Evans**—I would love to be able to do it, but I do not know how you can do it.

**Senator MILNE**—Even if they rotated who set the first price.

**Mr Evans**—Like a roulette table, eh?

**CHAIR**—That is an idea. If there are no more questions, we will close this session. I thank you for appearing. It has been very interesting.

**Mr Evans**—Thank you very much.

**Proceedings suspended from 12.15 pm to 1.09 pm**

**ROUDA, Dr Robert, Senior Policy Officer, Livestock Industry Development, Department of Agriculture and Food, Western Australia**

**WEINERT, Mr Andrew Sutherland, Manager, Regional Food Industry Development, Department of Agriculture and Food, Western Australia**

**CHAIR**—I welcome everybody back to this hearing and welcome the representatives of the Department of Agriculture and Food, Dr Rouda and Mr Weinert. Thank you very much for being here. Would you like to make an opening statement?

**Dr Rouda**—Yes, I would. I would like to put to you the position of the Western Australian government in regard to this inquiry. I must apologise if I repeat things that you have already heard this morning—and probably three or four times.

**CHAIR**—That is all right. Everybody puts a slightly different spin on everything.

**Senator MILNE**—Or has a different perspective!

**CHAIR**—Sorry—perspective.

**Dr Rouda**—As I am sure you have been told several times, the domestic milk market was deregulated in July 2000. Milk prices are now determined by domestic and international market forces. In 2009, Australia produced 9.4 billion litres of milk. Of this, 5.9 billion litres was consumed domestically—2.2 billion litres as drinking milk and 3.7 billion litres as other processed products including cheese, butter and yoghurt—and 3.6 billion litres was traded on the international market. Western Australia produced 340 million litres of milk in 2009, which is 3.6 per cent of the Australian total. The decline in farm-gate prices in Australia reflects lower international dairy prices in the wake of the global financial crisis, and the reintroduction of export refunds by the European Union in January 2009.

The difference in milk price received in Western Australia in comparison to other states reflects differences in the product mix and degree of export exposure of the processors who compete for milk in those markets. In contrast to Victoria, where only seven per cent to 10 per cent of the milk produced is consumed as drinking milk, approximately 60 per cent of the milk produced in Western Australia is consumed as drinking milk, and this may partially explain why the market dynamic in Western Australia is different from that in other parts of Australia.

There are effectively four milk processors in Western Australia. These include: Challenge Australian Dairy, which is a joint venture between Challenge Dairy Cooperative and QAF, a Singaporean food company; Harvey Fresh, which is a relatively small but diversified private company—you might have seen their orange juice and other products in the supermarket; Fonterra Brands (Australia), a wholly-owned subsidiary of Fonterra New Zealand; and, finally, National Foods, which is owned by Kirin breweries of Japan. The last two multinational dairy processors are the major players in the drinking milk market, and have historically been prepared to pay a premium to ensure a continuous supply of drinking milk.

Last year, Western Australian milk prices were among the highest in Australia, and this was due to increased competition for milk supplied between the processors. Consumers trust milk as a product category and display high price sensitivity and low levels of brand loyalty. Supermarket house brands have a dominant market share in Western Australia and tend to set the base price in the retail market, above which it is very difficult for private brands to maintain a premium. Supermarket chains therefore have considerable market power when negotiating house-brand contracts with processors. It is difficult for governments, in our opinion, to influence market prices without legislative changes. Further, it is difficult to see how amendments to the Trade Practices Act 1974 could modify specific market power relationships within the dairy industry without acting more generally to reduce the market power of the major supermarket chains within all fresh food categories.

Finally, reforms to the European Union's common agricultural policy, commonly referred to as CAP, proposes the removal of all export refunds and associated subsidies for dairy products in 2013, and the removal of farm production quotas and their associated regulations by 2015. This economic union currently controls 31 per cent of the global dairy trade. The likely removal of these two major world-price-skewing influences is expected to affect world dairy prices. We think the Australian dairy industry that currently controls nine per cent of the global dairy trade may wish to forward-plan its response strategies to these anticipated changes.

**CHAIR**—Thank you very much. That is very interesting evidence. You said it would be difficult for governments to interfere in the prices and power relationships between various companies and the sellers. But is there something to be said for the sellers forming bigger organisations like cooperatives to represent them in negotiations with the purchasers? We are told there is one at Margaret River, but that is only one. If dairy farmers form stronger producer organisations, would they benefit from doing that do you think?

**Dr Rouda**—I do not believe we are in a position to respond to that. That is something that the processors would need to consider.

**Mr Weinert**—You have a chain and there are three people in that chain. It is very difficult.

**CHAIR**—I suppose one can draw from that comment the simple concept of forming more cooperatives is not going to produce an outcome that producers would necessarily seek. Can you tell us a little bit more about the European subsidy or effective subsidy or refund on exports?

**Dr Rouda**—Andrew Weinert has had a lot of experience with the European situation and the markets in general. So if I could, I will defer the question to Andrew.

**CHAIR**—For the record, Andrew, so that we can use it as background, could you tell us how the European refund system works and is that the same as the North American system?

**Mr Weinert**—I understand the European system pretty well. When they sell to the world market a tonne of butter or a tonne of skim milk powder, for example, they will sell it and there will be what is called an export refund. So they set a price and the European Union will then give them extra funding to make it up to the European internal price. For example, say the price of butter internally in Europe is around US\$3,000 a tonne, they can sell on the international market at \$2,000 and they will have refunds of \$1,000. These numbers change regularly and constantly. They are certainly not the current numbers, but that is just for ease of explanation.

Butter is one of the products that has had major subsidies to a point where in Australian dollar terms in 2002—this example is based on some figures I have here—they were getting about \$3,400 a tonne in refunds and the world market was around \$2,000 a tonne. So there is a significant skewing there. If you are going to compete in the international market, you cannot say, ‘Oh well, they’re getting more because they’re getting the refund’. If they are selling it for \$2,000 a tonne, you have to sell for \$2,000 a tonne as well. It is slightly different for the American system, but I am not an expert on that as they do not really dominate the market. The EU earlier in this decade was setting the world trade in dairy products.

**CHAIR**—As the Western Australian department of agriculture, what do you see as the future for the dairy industry in WA?

**Dr Rouda**—We think it is a positive future. They have survived very well, as previous witnesses have testified. Although the number of dairy farmers is decreasing, the amount of milk produced is relatively constant. We have continuous new players entering the industry. So I would say that, yes, it is a bright future.

**Mr Weinert**—At the farm level, the costs of production are similar to elsewhere in Australia. An issue we do have is the small size of processors, and as a result of the small size you have higher costs of conversion.

**Senator PRATT**—With respect to that, you said the costs of production are similar, but clearly some of the evidence we have before us shows that the price paid to farmers in Western Australia is less than in other states.

**Mr Weinert**—Absolutely.

**Senator PRATT**—What do you think that does to the overall margins here? Basically, Western Australian farmers have the same kinds of costs as other farmers but are getting a lesser return?

**Mr Weinert**—Yes. There was a period recently when they were a bit higher, but that was the first time since I have been in Western Australia, which is over 10 years. In my opinion it relates to the cost of transformation of products to saleable products—smaller scale gives higher cost.

**CHAIR**—In conclusion, you do not think we will see a drift away from the dairy industry by producers who might turn to other crops?

**Dr Rouda**—I do not think we can answer that really—what farmers are going to do. From past experience—

**CHAIR**—You talked about higher costs and so on and so forth. Those are the kinds of factors that might drive producers to other industries or other crops.



**Mr Weinert**—Absolutely. That is an opportunity, but then again if we had crystal balls we would all be millionaires.

**Senator PRATT**—You are from the Department of Agriculture and Food, and I would imagine you would have done some market analysis in that regard. You said that there was not a lot of brand loyalty in Western Australia, but there must be some loyalty, particularly with fresh milk, to a local product, and that would mean that, the existing level of demand notwithstanding—and I think about a third is processed into other products—there will always be a demand for 150 million litres of milk a year for local consumers.

**Mr Weinert**—Yes, local consumers consume about 104 litres of milk per person per year. Which brand you buy comes down to your own preference.

**Dr Rouda**—And price. If you go to the supermarket shelves in Western Australia, all the brands are there. Market share might move a little bit, but everything is being consumed.

**Senator PRATT**—Does that indicate that the price can only sink so low if local production were to drop off to the extent that consumers' demands are not met? I do not know that Western Australians would be that happy with imported milk, despite their lack of brand loyalty.

**Dr Rouda**—We are satisfying 100 per cent of our drinking milk demand now through local production. Sure, we are bringing in processed milk products, but in terms of drinking milk I think we are pretty safe. If it comes in a blue carton it does not matter where the carton was packaged. Senator Milne might remember when the factory in Hobart burned down and we had green cartons suddenly instead of blue—I worked for National Foods at that point—and retention remained the same.

**Senator MILNE**—I am a little bit concerned. The evidence we have had so far today is that the average age of the dairy farmers is increasing and that a number of people are leaving the industry. Admittedly the volume has stayed the same because the new players coming in are larger scale, but nevertheless there are fewer people. There are not that many young people coming in. The reason we have heard all morning is that there is not a commercial rate of return if we look at the cost of production and the farm-gate price. So I am interested that you say you think there is a positive future for the dairy industry in Western Australia. I would like to know why you think that if people are not getting a commercial rate of return. As the senior policy officer in animal industries development, where do you think the additional demand is going to come from that will then result in the increase in the farm-gate price?

**Dr Rouda**—First of all, I do not believe we are not having young people entering the industry. I have met a lot of young dairy farmers. As one of the witnesses said, we have a young dairy farmer group. So I am not sure—I do not have the statistics on that—if in fact people are declining. We have not noticed anything, have we? There are a lot of young dairy farmers. Actually, there is quite a progressive group in the dairy industry.

**Senator PRATT**—Do you have anything other than an anecdotal answer to that? Are there no statistics?

**Dr Rouda**—I am not aware of any. I can find out for you.

**Senator MILNE**—All right. The second part of my question was: how can you say there is a positive future for the industry if people are not making commercial rates of return because the farm-gate price is so low compared with their cost of production? They have to service their debt, they have to buy feed, they have to buy water and they have fuel costs. Where do you see the growth? You are the animal industries development person.

**Dr Rouda**—Yes.

**Senator MILNE**—So where do you see the growth in the market for the dairy industry?

**Mr Weinert**—Probably the main thing that needs to be analysed in this area is what will happen when the changes in EU policy occur.

**Senator MILNE**—Okay, just take me through that. You said at the end of your submission that it is in 2013 that the European Union Common Agricultural Policy rules are going to change. How do you anticipate that that is going to impact on farm-gate prices? Just take me through why you think Tasmanian or Western Australian dairy farmers, or Australian dairy farmers, are going to benefit from this.

**Mr Weinert**—Once you remove the skewing influence of the export retailers, there is the potential of a more reasonable price being paid. One can never understand or anticipate the changes, but certainly, if you have a period—as I said before—where the export refund was \$3,000 a tonne and the world price was \$2,000 a tonne, that level of skewing of the market is significant.

**Senator MILNE**—There are two things. Why do you think Europe will actually do it and remove those? Secondly, why wouldn't you anticipate that they will replace it with another import duty so that they protect their own farmers? For example, if they introduce a carbon tax at the border, it will wipe out your supposed advantage if Australia does not have a carbon price in that time.

**Dr Rouda**—Our statement said that these are things that the European Union has stated it wants to do. They have not actually been done yet, but it has stated it is going to do them. Our point is that, if it does them, we need to monitor that to see if there are any opportunities that may arise from it given that Europe supplies something like 31 per cent of the global market. A lot of that product goes into the Middle East as butter and cheese, and there might be an opportunity for Australia. Let us say that there is an opportunity. Then maybe the dairy industry would like to plan how it is going to meet that demand. If that means increasing production, maybe the organic increase of 10 or 20 per cent a year is not enough. Maybe the industry will have to start looking at farming in other areas. I am not sure. Our point in the end regarding Europe was that we should monitor the changes that are happening in one of the largest traders in dairy products and investigate if there are opportunities there to do that

**Senator MILNE**—Look, I accept that, but the reality is Europe talking about removing subsidies from agriculture is a conversation that has been happening for 30 years. I have just come back from Copenhagen and I can tell you that the mood in Europe is shifting heavily to protecting the European Union for food security. There has never been a higher focus on food security and energy security and protecting Europe. Border tariffs will go in there as fast as you can say Jack Robinson. If they remove any subsidy it will be replaced by another one. So just talking about 'maybe' and 'perhaps' and 'we should monitor this' and 'if it happens it might be good' and so on is not good enough. It is 2010. Dairy farmers are out there now getting less than the cost of production at the farm gate. What is your solution as a department of agriculture?

**Dr Rouda**—We don't have a solution.

**Senator MILNE**—Have you got any suggestions, then? We are very solutions oriented as a committee and we are desperately trying to find ways in which the legislature can support the primary producer in getting a better price. Through the whole food chain, through the whole supply chain—everything—have you got any thoughts on where we could intervene? Could it be in supermarket tendering or in price ratio to farm gate for retail? Have you any thoughts about where we might be able to go?

**Mr Weinert**—Perhaps there is one area we could analyse. When the market authorities existed there were set prices. Others will correct me, but I think market milk prices in 2000 were something over 53c per litre. That was removed. So, analysis of the change.

**Senator MILNE**—So you would support a recommendation, if this committee chose to make one, such that we would ask the ACCC to have a look at the margins at every part of the chain from the farm through to the retail price in order to look at how we might intervene?

**Mr Weinert**—I can't say that. If that is an analysis.

**Senator MILNE**—Okay. Thank you.

**Senator ADAMS**—Does the Western Australian dairy industry have a strategic plan for the future, like Tasmania does?

**Dr Rouda**—Yes, I would say they do, through Western Dairy, which is the arm of Dairy Australia here in Western Australia. We have a plan to support the dairy industry through continued research on how they can improve their production. We are looking at farming in non-traditional areas. We are looking at probably establishing production precincts for people to expand. So I think there are plans, yes.

**Senator ADAMS**—What about the market? There is no point expanding if you have not got a market.

**Senator MILNE**—That is right.

**Senator ADAMS**—Have you got any answer to that?

**Dr Rouda**—They are selling their milk, though, aren't they? There is a market for dairy products.

**Senator ADAMS**—Yes, but you said that the new plan was to expand and to move on.

**Dr Rouda**—Increase the profitability of the dairy industry through increased production and more efficient use of resources. We have a lot of work that is going on at the moment with pasture management—growing more pasture with less nitrogen, less fertilisers, and things like that.

**Senator ADAMS**—Yes, but, look, I am a Western Australian farmer, so you do not really need to tell me about that, because I certainly understand about the type of soil that we have and everything else. Really and truly, there is no way. We are relying on fertiliser. We cannot do anything without some fertiliser—or a super bank, anyway.

**Dr Rouda**—Using fertilisers more smartly.

**Senator ADAMS**—I have a lot to do with dairy farmers. I really think that the way they are going at the moment, they are doing everything within their power to increase their production and improve their herds. But the end result is that that farm-gate price is borderline and they are really battling to survive. So where are we going to go from here with a future plan?

**Mr Weinert**—The only way you can do anything is to get them to monitor international policies and identify where there are opportunities. There may be some opportunities coming up with changes in policy in Malaysia, and we are monitoring that as well as other policies that are occurring over the year. As with anything with politics, it changes on a regular basis but we are monitoring that and we are working with people to identify potential markets.

**Senator ADAMS**—Is any money being put into promotion of West Australian dairy products in Asia or those areas?

**Dr Rouda**—No. There is the ‘eat fresh’.

**Senator ADAMS**—We will move on now. You are talking about perhaps establishing dairying in a non-traditional area. Can you explain where you think you will be doing that in Western Australia.

**Mr Weinert**—We have done a couple of studies with Western Dairy looking at non-traditional areas—

**Senator ADAMS**—Where?

**Mr Weinert**—Ranging from North Perth to Albany.

**Dr Rouda**—Also there have been developments down in Scott River.

**Senator ADAMS**—That is more a traditional area.

**Mr Weinert**—It depends on how you define ‘traditional’.

**Senator ADAMS**—That is why I am asking the question.

**Mr Weinert**—It is the local terminology. We have looked at areas—there used to be 300-plus farmers at Donnybrook, so it changes. We have looked at where you can do it, whether there is an opportunity and whether there is a margin, and those figures change with the farm-gate prices. We did figures when the price was 50c a litre and obviously those margins are different now.

**Senator ADAMS**—What do you see with the electricity prices going up so quickly? The cost of power on a dairy farm is a very important component of the actual operation. Do you see that having an effect on whether people stay there or move out?

**Mr Weinert**—I do not know about the cost of power but certainly the cost of getting power to new operations is significant.

**Senator ADAMS**—That happens with any industry but the actual increase in cost—the fertiliser costs have gone up. Hopefully they are going to level out a bit but I have had a number of dairy farmers who are very concerned about the rate of electricity that is going to be charged.

**Mr Weinert**—We have not done the analysis on that.

**Senator MILNE**—You mentioned Malaysia. What changes are you anticipating in Malaysia?

**Mr Weinert**—One of the things is that they are looking at developing their own industries and they are looking at reducing the volumes of powdered coming in there.

**Senator MILNE**—So if they are developing their own industry and reducing their imports—

**Mr Weinert**—of powdered product.

**Senator MILNE**—how does that help us?

**Mr Weinert**—We export liquid product to Malaysia.

**Senator MILNE**—But as they develop their own industry won't it just displace ours?

**Mr Weinert**—They are 10 per cent self-sufficient. That is going to take a while and it is a tropical area. It is our anticipation that if that occurs it is going to take them a very long time.

**Senator MILNE**—Isn't that a bit dependent on the extent of refrigeration?

**Mr Weinert**—We have technology. Australia developed refrigeration in the 1890s.

**Senator MILNE**—A lot of areas in developing countries do not have refrigeration, and fresh dairy depends—

**Mr Weinert**—There are existing markets there.

**Senator MILNE**—So you think there is an opportunity to grow export of—

**Mr Weinert**—Dairy Australia has been in those markets for years. Dairy Australia or Australian dairy industries have had ownership in dairies in Thailand, Malaysia, Indonesia for years, as have many other companies.

**Senator MILNE**—Is that a really substantial volume change? I do not know, so I am asking you.

**Mr Weinert**—I do not know, either. It is an area—

**Senator MILNE**—It is a possibility?

**Mr Weinert**—It is a possibility and it is an area we are investigating.

**CHAIR**—Following on from that specifically, we in Western Australia have not focused specifically on developing markets in South-East Asia for dairy products, dried milk and so on.

**Mr Weinert**—They all love dried milk, but there has been a long association with South-East Asia. Fraser and Neave, from Singapore, had an ownership stake in Peters and Brownes when it was here. Danny could probably tell you about it. It was a long time ago, way before I arrived in Western Australia. There has been a long association between South-East Asia and Western Australia.

**CHAIR**—Can you specify the countries?

**Mr Weinert**—Malaysia, Singapore.

**CHAIR**—Thailand, Vietnam?

**Mr Weinert**—No. The problem is if you are shipping product out of Western Australia you have to trade ship through Singapore in which case, if you are doing liquid products, your shipping time goes too long. They go solid in your container.

**Dr Rouda**—As we have mentioned, Challenge Australia Dairy, is partly owned by QAF.

**Mr Weinert**—The other companies had experienced that as well—Peters and Brownes and National Foods have all traded in those markets.

**Senator ADAMS**—Have you had any evidence that permeate is being used in a number of the fresh milk lines at all? We have had evidence about this. I wonder whether it is a practice. Is it just in WA?

**Mr Weinert**—I have no evidence regarding WA. There is anecdotal evidence. Permeate for protein standardisation is a common product or practice Australia wide. But we have no specific evidence.

**Senator ADAMS**—Do you do any testing at all?

**Dr Rouda**—No, you cannot. We do not. I used to sell this stuff in a previous life. Basically, you are taking the liquid portion with lactose and a water soluble product out of milk and so protein standardisation occurs.

**Senator ADAMS**—What I am interested in is the actual monitoring of the quality. Do you have any input into that?

**Mr Weinert**—No.

**Senator ADAMS**—Who does it?

**Dr Rouda**—The dairy companies, the processors. It is under Food Standards Australia.

**Senator ADAMS**—Do they come and test it and check it? Is there an audit or is there an accreditation? How do they work it? Do you know?

**Dr Rouda**—Laboratories are NATA accredited—that is, the National Australian of Testing Authorities.

**Senator ADAMS**—They are actually active over here?

**Dr Rouda**—You would hope so.

**Senator ADAMS**—That is something that came up in evidence. As a consumer, I would really like to know what I am buying as a product.

**Senator MILNE**—They would still meet a minimum standard by adding permeate to the milk.

**Mr Weinert**—The standards for milk are fat and protein.

**CHAIR**—As there are no other questions, thank you for appearing.

[1.45 pm]

**HARRIS, Mr Laurence Daniel (Danny), Private capacity**

**CHAIR**—We welcome Mr Harris to this inquiry. He is appearing in a private capacity. I invite you, Mr Harris, to make an opening statement.

**Mr Harris**—Firstly, thank you for getting together as a Senate team to inquire into the pricing of milk across Australia. It is not just milk that is in trouble; it is all agriculture. My background is that I have been a dairy farmer since I left school 50 years ago. I just turned 65 and—

**Senator PRATT**—You only look the average age.

**Mr Harris**—The average age is 58, so thank you! I am looking to retire and pass the farm on in this next short period to my son, and I know he has a tougher job than I ever had to make things work. My background is that I bought my father's property from him in about 1970, so that is 40 years of direct ownership and management. I represented the state for five years during the dairy deregulation debate; in fact, I was president of the dairy organisation for 2½ years. I was there from 1996 to 2001, and the last 2½ years was the period when the actual package was put together, so I have rubbed shoulders with all the states.

I took it upon myself to learn about the national industry, because, like many other farmers, I stayed with my head down and did not know much about it. But I profess to know a fair bit now, and I have continued my interest to try to understand the national market, the Australia-New Zealand relationships and the international market as best I can. I am not going to say that I am a professor at it, but I have got a few ideas.

We are among those dairy farmers who used to be fairly happy under the quota system. We were irrigation dairy farmers. As a large family, we split up—four sons all became farmers, and I moved onto a dryland farm and learned how to produce milk year round on silage. We were among those that had a 100- or 130-cow herd and travelled along quite nicely. We employed one person and then later my son. We started to grow in the mid-1990s—we went through from 130 cows up to 250 and then to 270. From the year 2000, we moved through to 500 cows about three years ago.

I can tell you straight out that it is a bloody hard job; it is hard work, and I would never have believed that it would be so difficult. Lots of people handle 1,000 cows. I do not know quite how they do it. Maybe I am just a slow learner, but 500 cows takes a big, mean effort. I guess, because we had a 130-cow herd, we put a lot of care into detail, but to try to translate that into a larger herd is extremely difficult.

Having to carry the debate within our state as to whether we would, should or could deregulate was the toughest job that I have ever participated in. I got involved because I was very angry that the state was going through a deregulation-at-all-costs process. They got caught up in the deregulation of all those statutory authorities by the government at the time. All persuasions seemed to sign up to it. I came in on the tail end and said, 'Hey, you're not taking our quotas away from us.' I fought for a long time. There was very little trust between me and the minister at the time, Monty House. I had times with Richard Court when he tried to explain the cooperative solution, saying that we could empower ourselves and take charge of our industry, and I will go on to that little bit later.

I then had to go into Victoria and, I think about a year and a half out from the year 2000, there was a position clearly put in front of us from the Victorian participants that they would do what was clearly best for Victoria, and that was to deregulate. The regulation as we saw it was a state-by-state regulation, but there were all sorts of agreements in there that said that we would not trade white milk between states and all those sorts of things. That is the only thing that held it together.

We had those 15 years of the dairy adjustment package with what was called 'export enhancement' and then we had to change the word to something else—I forget what it was now—just to make sure that we were all happy with all the Europeans and everybody else who was having a crack at us. When that ran out, Victoria saw the retention of regulation as not having much merit for them. They saw that the assistance packages within from all farmers were going to run out and there was not much enthusiasm for replacing them.

At the time they made it quite clear that the regulation—because they had a pooled system in Victoria—delivered 2c a litre only for the portion of their product that was white milk. At that stage they had outgrown it. They were going to do what was best for Victoria and had their sights set on the Sydney market. It was about Victorian price plus freight and they believed that they were going to take it. I have to say that they did not and still have not—they are having a bit of dip in there now through Warrnambool. But the local producers met the

challenge. You will see that as the production went further up the coast the prices were higher because it was based on local volume for a local white milk market. I guess Queensland was probably hurt more than any of our states because they did not seem to have the efficiencies of production. Maybe it is just not the greatest milk-producing state, but they were always set to suffer more than us.

Western Australians were in a situation where we had equal to the best cost of production, efficiencies and production per cow—all those things. We had a small market and it was very, very well managed. It was managed by the Peters and Brownes Group under Graham Laitt, who I think was an expert, and it was also managed in a similar way by National Foods as they came in. They bought out Wesfarmers, and so it goes on. It was pretty harmonious. Harvey Fresh were encouraged to enter the market because they were very successful in fruit juices and were a family company. In Julian Grill's period they were encouraged and got started. They fell over and got started again and have been quite successful; in fact, they are producing some very, very smart products. They stayed low key and had a wonderful 'We are Western Australian' promotion, and were truly family oriented. Nobody else could beat that.

Gradually, of course, the Peters and Brownes company got taken over, firstly by Kiwi Dairies, prior to Fonterra amalgamating the two cooperatives in Victoria. They came over here once to help Challenge Dairy to establish a cooperative. They saw Peters and Brownes for sale and were trying to get an amalgamation with Dairy Farmers cooperative in New Zealand. They tried that several times, but Dairy Farmers was always bigger and stronger and had more assets. They were building assets, so they grabbed this one. As you know, when we got to 2000 suddenly there was a merger in New Zealand. It was nearly forced together, but it happened. Then it became Fonterra.

I have to say that, under Fonterra, Peters and Brownes fell apart. Fonterra had no bloody idea—excuse my French—how to run a white milk or short-shelf-life company. They bought it, left it with people somewhere and then got a manager, and they changed management and changed management and changed management. Each time they were taking steps further and further backwards as a company, losing market share in the white milk industry. The whole company was just not functioning. Under Graham Laitt they were exporting dairy products and ice cream and he was starting to get cheese into Japan. They worked their way through to a Mitsubishi clearing house and were travelling quite well. I did a lot of work with Graham Laitt, in fact, to open some doors through the AEC, because a lot of doors were closed to him. But all that stopped. Fonterra did not need a tiny little cheese factory over here, so it all shut down.

After being confronted with the fact that Victoria was going to deregulate, we did not have any option—no state had any option. Tasmania fought it for a long time under John Oldacre but had to give up. There was a change of leadership and they said, 'Yeah, we're going to go with it.' Bonlac fell over. Fonterra came in and bought them out and then bought out UMT—and so it goes on in Tasmania—and offered them a shareholding in Fonterra Australia. Then we saw all the takeovers starting to occur. National Foods were trading at about \$3.20; after deregulation they dropped to \$2.30 and then sold out at about \$6.20 to a foreign company. You have seen all the mergers that have been taking place, so the power has been going into one or two areas.

In Western Australia, the hardest job ever was to sell deregulation—because I had to sell it. I did not believe in it, but I had to sell it. Behind that we developed a national restructure package, which was significant and had never been done before. I worked alongside Pat Rowley, who is a legend in the dairy industry, and we got it up. That actually helped a lot of the smaller irrigation dairy farmers around Nola Marino's area to exit, because they could exit with some dignity and a lump of cash. I helped to negotiate a \$22,000 individual farm package to get them to assess their future. One was a business plan; the other was to say, 'Do something significant with this money to keep your business if you are going to stay, but otherwise get out.'

I got to work with the minister very closely as we went forward. Whilst he stopped pushing his way of exiting quota systems, I had to deliver the process that was in place nationally. It was not easy, I can assure you. I lost a lot of friends along the way and I suffered for a few years, but I got back on top of that and my friends are back. At the same time, the minister past—and he was the only one in Australia who did this—the assets of the Dairy Industry Authority to dairy farmers, based on some historical production, and gave shareholdings and about \$6½ million worth of cash.

I helped for two years to dismantle the old Dairy Industry Authority, given that charter, and the funds were put across to Dairy WA, as it was called. I got very little support from farmers, as we know. They all group together and they do not ever collectively come together. I thought that we could. We interviewed a very highly skilled legal person from the area of Harvey who was a primary negotiator of export contracts for live cattle. He was very smart. I thought we could have used him to help us with collective bargaining. Farmers did

not attach themselves; they wanted to stay with this company or that company. Then the co-operative came along. So we had another group that was very loyal to the co-operative and actually established it. That is quite marvellous, because they held onto 80 million litres of milk and started to do something with it. In fact they kept it away from the majors and they had to compete at little bit harder.

Dairy WA has just been wound up because farmers did not make use of it. The unfortunate thing about it is that, as farmers exited, they still had a dry shareholding. They lost their A-class voting rights but they still had a dry shareholding. To spend their money on benefiting the existing dairy farmers was pretty tough in a company that was there to make profits for everybody. So it fell over. Having said all that, the co-operative filled a role in the early stages of grabbing that 80 million litres of milk. But in my opinion the thing that went wrong—and I think this is something that you could really pick up, and I do not know whether you could do it through trade practices or the ACCC—is that, when Challenge first started, they got a loan, which turned into a grant, from the state government for some \$10 million and that established them. It was probably nowhere near enough money to really get in there and make this thing work, but they struggled along and faltered once or twice into China and just about went under. Then they formed a partnership with QAF, as was explained. QAF are on the marketing side of it and the co-operative comes up to the processing side, so they kept their co-operative status. I guess they kept that milk away, but we suffered low prices. We were down to 28c a litre and Challenge prices were more in the 24c to 26c range. So their farmers were extremely loyal. I did not join the co-operative; I could not afford to. Twenty-eight cents was pretty hard to cope with, but we battled through. We got to 32c and then we moved to 42c and started to travel like we were going to get somewhere, and that was fine.

In 2008 export prices were very high. We had not enjoyed the export prices that the other states, particularly Victoria, were enjoying, because we were not in commodities. It was a local market. We still had a bit of surplus milk around. That kept the lid on us for far too long. We lost about a year and a half of the so-called high prices, until Challenge started to take milk off the other companies. What was happening along the way is that, because National Foods negotiated the peppercorn sale of one of their little processing factories to Challenge for their use, they also negotiated the right to buy back milk. They had that for quite some time, locked in. That allowed National Foods to not go so hard in the marketplace to buy milk at the farm gate. They were the drivers. They were working on contracts for two to three years before deregulation. They were tough and they were very much one-sided. After the first round of two years, river farmers got together and, to their credit, said, 'We're going to negotiate a better deal. We're not going to put up with this any longer.'

The date for signing came and I believe only seven farmers signed on time. They stayed in negotiations until about the last day or two of June and the company said, 'Negotiations are off. Those who signed up—full contract.' They only ever contracted 80 per cent of their milk. That was the deal that was going. You had to find another home for the other 20 per cent, and that was to Challenge, and of course they had the right to buy it back. This is where it all went wrong. Of course, when they had not all signed up by the due date, the poor guys who were leading the negotiation all copped 40 per cent of the contracts—not 80 per cent but 40 per cent of the milk; that is all they would contract. Of course they then went on and said, 'We'll buy it elsewhere,' and they bought it off Challenge.

One thing I forgot to mention on the way through is that we worked hard to try to soak up this 80 million litres of milk to give it a value. Peters and Brownes had a reasonably good cheese factory. There was a fair bit of second-hand gear that was bought it. It was producing a product that was worthy of export to Japan and was being exported. They satisfied the market that they had. We tried to negotiate with Max Ould and also Graham Lake. We tried very hard to negotiate bringing all of that surplus milk into one place. That was an alternative to a cooperative. It was in the early stages when we were trying to get it together. We nearly got there but then Max Ould pulled out. I wanted 51 per cent to be owned by the farmers and he wanted 51 per cent. We did not even get to fight that one out because Max Ould walked out. He was the managing director of National Foods. He walked out and that was the end of it. I was shut out of the negotiations and they fizzled out. And so the cooperative got up. To their credit, they have done an extremely good job in extremely difficult circumstances.

I guess the point I was leading to there was that I do not know if you have the power to stop purchases of milk between companies. It is happening in Tasmania. National Foods started that. They were doing that long before deregulation. If we go back in history, Murray Goulburn were forced to sell milk to the white milk states in regulated periods. So it will be a tough one—to stop them having a second chance to access milk, albeit at a higher price. Challenge pay a higher price—

**Senator MILNE**—But it means they do not have to buy at a higher price at the farm gate.



**Mr Harris**—They do not have to compete at the farm gate. That is what is happening in your state. You have two separate companies doing two separate things. When National Foods do not get enough milk, they will go off and buy it from the other one and so on and so forth. So they do not have to compete at the farm gate. I am a commercial enterprise. I would love to put in regulations but we cannot in this world that we are in. We have the Kiwis with free trade between us and them, and free trade between states. We have to get those little quirks out that they use to stop competing at the farm gate. They have the cheek to drop back to having only 40 per cent of the farmers milk contracted under their terms, and then go back to other companies. Of course other companies have started to pull products out. So there were little pockets of surplus milk and so they all started. They are doing it today—they are still floating milk around. So they do not go and buy their own requirements.

I think Harvey Fresh are having a crack at trying to manage their own milk that is surplus to their requirements at any one time by putting it into UHT. They were exporting into China and they could not make any money out of it. It has lobbed back here again. They are warehousing it and trying like hell to preserve their own products so they do not have to deal with everybody else. They did go through a period where the factory at Brunswick produced a bit of cheese. They were all dumping their spare milk there for a period in the spring. When you talk about 80 million litres of milk being surplus in the state it is mostly in the spring months—in those three months. You wait until they get to March, April and May and see how good they are going. We had milk shortages here I think within one or two years. National Foods had to truck milk over from South Australia. That happened very quickly. We have changed calving patterns around somewhat so it might take a little longer, but we cannot keep producing milk like this.

My average price per litre for the first six months was just a tad under 40c and the price for the next half of the year will be about 46c or 47c, which will give me an average of about 43c. My cost of production is 35c per litre. That leaves me about seven to eight cents a litre to pay my interest, to pay my capital repayments, to develop my farm and to pay myself. I put ourselves in as wage-earners, just basic wage-earners; and I think I am entitled to a bit more than that given the investment we have got with 500 dairy cows. We have 500 cows which we are milking and we own 1,200 head of cattle all up. We own 1,000 acres. We have big borrowings. Our assets are probably worth in the \$6 million to \$8 million range but we are making no return. As each month comes along we are shuffling accounts—who is going to get paid first and who is going to miss out until next month. We cannot operate for long like that. I have done it along the way through, and I have been prepared to because I have had the energy. But my energy is being sapped and it cannot continue for much longer. I think I am speaking on behalf of a lot of other dairy farmers.

There were some positive signs mentioned. I do not think there was any backing to the positive signs mentioned by the previous speakers. They are not there. They are not in touch with the dairy farmers. There are a bunch of youngsters who are meeting regularly and saying, ‘Good, good, good, encouragement, encouragement’. But there are only a handful of them. They are not many. We have mining all round us and there is high pay, which the young people are moving towards. It gives them a lifestyle and pay in the hand every week—no worries. Of course, every weekend we have to work out who is milking and who is not—all those sorts of things. So it is not an easy project to run through.

I am here to try and give you some idea of how we can solve some of these issues—and I think I can on a couple of them. One is that, if you can, stop the right to buy off the other factories. I do not know how you manage that in a time of extreme difficulty. When one factory totally runs out, what do you do? They have to learn how to buy from the farm gate and stop this rubbish of buying off each other to safeguard their precious price. You are right in that we all wait for each other. I actually moved from Fonterra. My father and I have had a 60-year association with Peters Brownes cum Fonterra. I moved because I was sick of the corporate rubbish that was being dished out by new executives who would come, one after the other, last two years, then get dumped and taken away. They started to sell off some of their primary products—ice cream and so forth. It does not take much to have a 10-million or 20-million litre milk surplus all of sudden. That is what they did. Fonterra created a 20-million litre buffer.

The very worst one is National Foods. I have parliamentary privilege, I believe. Outside of that, I do not really care.

**CHAIR**—Whatever you say here is covered by parliamentary privilege.

**Mr Harris**—Fine. I am going to say what I need to say. This is not backed by statistical—

**CHAIR**—Before you say anymore, if you so desire this committee can go in camera.

**Mr Harris**—I appreciate that, but I think it is something that should go on the record. National Foods, in their contracts, dropped the farmers back to 80 per cent of their milk. That was tough enough, but why should you have to send your milk to two companies, for God's sake? That was their ploy. Then they dropped the farmers back to 40 per cent. They treated them so badly that, in 2008, the Challenge Dairy Cooperative actually lifted the price. They became the price setters. They lifted their milk to an average of 52c a litre throughout the whole year. They were trading on a strong export market. They were starting to build up shipments of containers of white milk to Singapore, and milk into the China was also starting to build nicely. So they took the industry on. I think Larry said this morning that they got 125 million litres of milk. I reckon they were down to 60 million litres at some stage. So they took them on. Of course, all the others had to follow suit. My company, Fonterra, did so fairly quickly. They all moved very quickly from the right to supply, or agreement to supply, to contracts. But all the contracts had to move wherever they wanted them to—up and down or wherever it suited them. Of course, it did move up a couple of times but it moved down very sharply when the world changed, with three weeks notice.

This is something that I would like the ACCC, if that is the investigative body, to have a serious look at. National Foods were negotiating milk buys from Challenge. I believe they still move some milk across, but things fell apart when they did not get what they wanted. I do not know all the reasons behind it—whether it was price or volume or whether Challenge wanted their own milk for that export market. National Foods suppliers exited in droves—to the point where I believe they needed 90 million litres of milk. They had dropped down to 33. These are not facts that I have seen in writing but they are facts that I have picked up. I listen intently to what is happening around the industry. They would have got some milk from other companies, but they were the first to start bringing in powdered milk. I presume it was from Victoria, because that is the only state that has excess milk. They would have reconstituted it. I do not know whether they just added it to fresh milk for flavoured milks or whether it was complete. That is not at all illegal but I think it is highly immoral when you have an industry that is struggling to get a farm-gate price.

People should not fool themselves. Those products—UHTs, cheeses and powders—could easily come in here. But when it comes to the fresh products that appear on the shelf every day, we are protected by distance. However, as I said, it is highly immoral. There should be an investigation into that because, although the use of powder is not illegal, it is highly immoral. There is nothing on those cartons that says 'reconstituted'. It does not say that it is fresh but it does not say that it is reconstituted. It does not have to say anything, but this public has been brought up to believe that these are all fresh products. I can be challenged on that because I have not got absolute and accurate pieces of paper sitting in front of me. I am saying to you that they are my assumptions and that is what I believe is occurring. I believe that, if it is up to the ACCC, they should investigate those procedures.

Not only have they put powder into flavoured milks and sold it off—immoral, I believe—they are now in a position to control the farm gate by price. They have created surpluses in milk in this state that are fictitious. They are not surpluses at all. There is a three-month period in the spring and a little bit of free board, as we are going through now. Because they do not have to buy that milk and they can put powder in it, the ACCC can go and investigate it, because I believe that is controlling the farm-gate milk price and I think that is illegal. That is the crux of what I came to talk to you about today.

In relation to the buying and selling of milk between companies, I am a free marketeer. I have come off quotas and I have to come to those terms. We cannot suddenly have a big, high price in WA if there is a low price because of export prices in Victoria and Tasmania. That is the sad scenario. I do get annoyed when I see Dairy Australia promoting the next young family off the blocks that are full of enthusiasm. There is a perilous crisis in Victoria and Tasmania. It is just disgusting. There is no way on earth that they can operate.

My young friend over there said they got down to 18c in spring. That is jersey milk—not possible. They are young farmers and it is wonderful, but they are leasing and I really fear for them. I said, 'How can you operate?' He said, 'We just stop buying.' I said: 'Even when you stop buying, how can you operate? You still have some bills to pay.' That is what is happening. I guess there is a difference with a major exporting state, where 65 per cent of their product is exported, because the world market has crashed for all those reasons. I think the ag department people talked about the subsidies on and off and all the rest of it. We can all understand them generally. I think it is wrong to go out and promote this wondrous industry. It is a wonderful industry but right now it is in dire straits. To promote it as, 'Somebody is doing well when all you others are failing' I think is just wrong.

Having said all that, we are in a dip and we would not be sitting here talking about this if we were not in a dip. The only time we ever come together and talk is when we are in crisis. I am positive enough to know that the industry will turn around, because it is a great industry: it is competitive, it has great products and it is technically correct in export products et cetera. It is always developing. In the long-term, if I took a graph I would say we will be coming along, we will dip and we will start to move back up again. So I have got faith in the industry in that respect.

At my age, I am thinking, 'Am I going to go through another trough or am I going to move on?' I have got a son to move my farm to, but I am retiring at his expense, because he is paying my retirement fund. All our life's work and effort has gone into building an asset to meet the requirements of a 500-cow herd. I used to live on a 100-cow herd. I guess that is where all our money has gone to; there is nothing for tomorrow. That is where the difficulty for this industry lies—and every other agricultural industry. We are asset rich. I do not sell it, because my next generation says he is going to take it over. I think they are key areas that you need to look at.

In terms of understanding and knowing the supermarkets—I use the words 'predatory buying process'—the ACCC has to look at it. I am not going to profess to know how they deal with it, but they cannot let that go on. You know full well that the home brands are dominating the scene. You know full well that they are putting pressure on the processors to provide those products and you know full well that the cost of being on the shelf is astronomical. I think Senator Xenophon suggested they split the two majors into four—bloody good idea! I do not know if you have achieved it or not, but you have to do something, because they are dominating.

Picking up on Nola's main thrust this morning—food security—in this state it is all very well to say: 'It is travelling well; we have 80 million megalitres of milk surplus.' I am seeing the mood change and I am seeing that there could be some exodus. There is a lot of cash tied up in dairy farms. If they have not got a willing next generation, they are going to cash them in very quickly. Why wouldn't they? Would I ever dare to say it—it can never work, but re-regulating the WA dairy industry is on the cards to safeguard daily fresh milk, not just for white milk but for fresh daily products. I am loath to say that, but that is the reality. I do not think it could ever work but it is perhaps the last straw to safeguard long-term production and to re-energise the industry. It is travelling very poorly.

With all the irrigated Harvey-Brunswick areas you could count the farmers on one hand. Take my Dardanup irrigation and dryland area. I was with a group of tourists the other day and the new parish priest said to me, 'This would have all been dairy farming once.' The guy next door to me said, 'Yeah. Do you know how many are left? This bloke.' He pointed to me. There are few just a bit further out but I am the only one left in the Dardanup community. We used to be all in milk. Maybe I am stupid, but that is how it has gone. I think with food security in Australia WA milk is the first signal. Watch for it because it will start to slip under. The next signals will start to be as we go out into a wider food range of all foods. I read Dick Smith's comments the other day—and I know they were fairly outlandish—about moving to 40 million people or something or other and we would all starve. I reckon governments need to take notice of that. That is the peak of the worst-case scenario but I reckon we need to start taking notice because it is a mess and unless we can get some power back at the farm gate for all products we are in trouble. I will finish on that, but I suppose the right to negotiate is still the only vehicle that we have got in a free-trade country, like we are. I suppose free trade between states is great—and we deserve it—but the freight from the eastern seaboard to WA seems to cost nothing but the freight from WA to the eastern seaboard seems to cost a fortune. I could not send a cow to Victoria because I could not afford to pay for it. But you send one back from the other side and it costs nothing. That is what is happening with all of our food products. They have all been produced, processed and manufactured on the eastern seaboard and trucked across. It is all about supermarket margins. Anyway, I will leave it at that.

**CHAIR**—Thank you, Mr Harris. You have raised a lot of questions there. We will go to Senator Milne.

**Senator MILNE**—Thank you, Mr Harris, for giving us the benefit of your vast experience in the field. As the chair just said, there is a hell of a lot there. I want to pick up on some of the specific things that we can do and go back to the collective bargaining thing. The experience in Tasmania with the recent negotiations was that the collective bargaining group was frustrated because, in the midst of the negotiations with National Foods, National Foods just walked away from that process and picked off a few farmers and so on in order. So the recommendation came to us from them that it is worth looking at changing the collective bargaining rules to require that, if there is a deadlock and a stand-off between the collective bargaining group and the processors, there should be provision for compulsory mediation or conciliation or resolution of some type. What do you think about that change? Would that be a start?

**Mr Harris**—That would be a start. But with the ones who stay outside of that negotiating group—and the ACCC rules will not allow all of those farmers that were National suppliers to get into one negotiating group—that is when the disunity starts to occur. We could not achieve it here. We could not get them all in voluntarily. If we force them all in the ACCC says no, so you have got to address that. As for those few that stood out and said, ‘We’ll sign up at whatever,’ you need to test whether National Foods are getting enough milk from those few that stood out. If they are not they will go to their other processor and get that milk. If you stop that chain you have got half a chance.

**Senator MILNE**—So that is that issue. Now, in terms of selling milk between the companies, I doubt that you could prohibit one company from buying anything from another company but I guess you could do it in terms that they can only do it after having exhausted the ability to get it directly from the farmers by increasing their contract volumes or whatever. So in the event you could not do that then you can go the route of taking it from companies, or are you suggesting that in any merger or sale of assets that it not be allowed to be part of the agreement that there be a capacity to buy additional milk from them? We will have a look at that, but I am not sure what legally you could do about that.

**Mr Harris**—You might get an arbiter, like with the old arbitration process. You just might be able to get an arbiter that comes in. Somewhere there has got to be a fair point where somebody cannot stay away. They have got to get to a point where something is fair. One is a manufacturer. One is the white milk one. They are operating in two totally different environments. If they can pay 20c a litre and this group can pay 50c a litre, you are never going to win.

**Senator MILNE**—That is right.

**Mr Harris**—So somewhere in between there there has got to be a conciliatory point where you might be able to get negotiation in a fair way but it has still got to be free enterprise, and it is no different with unions. At some point somebody has got to start to come forward and sign up.

**Senator MILNE**—I come to the third thing I wanted to ask you about. You said here that the surpluses have been artificially created and in part that is because they have shut down processing, small product ranges and so on. We heard about that too this morning. Where do you see the growth in the industry? Is it in vigorous marketing of dairy goods from Western Australia in South-East Asia? If you are going to maintain an industry here its only competitive advantage, apart from local supply, is its proximity to South-East Asia.

**Mr Harris**—I have great faith in Challenge being that company. They are young. They are probably learning a lot from some difficult experiences. They are the only company in WA with the courage to have a go at it. South-East Asia is our area, as we would hope. They are not targeting just South-East Asia per se; they are targeting the higher socioeconomic group—Indonesia, Singapore and Malaysia. It is a market that is going to be for a smarter and finer product. It has been a growing market. We are having a hiccup. The hiccup is about the world traded price. That is the hiccup. If we can manage ourselves through that period, Challenge’s management of that surplus milk will become very relevant.

I might add that that surplus milk has been fictitiously created because of the powder usage. There is about 80 million but there is not 120 million. There seems to be that right now. And, as was talked about this morning, South-East Asia is our only help. Over the last couple of years Western Dairy and the ag. department and the processors, would you believe, particularly driven by Challenge, had huge programs to get us to grow milk, no matter what, and they ran all of the programs that you could dream of. A lot of farmers responded to that. We have responded over a nine-year period, because we knew we had to get to that level. We went from two million litres to four million litres. As an industry we have to survive through this period and the difficulty that we have is this. When we talk about competition, if you look at the international players in the white milk game all coming into three, that is tough and wrong and every other thing. Now if you come into Western Australia—and this morning they were saying it would be better with two, and I agree—with four, what happens? Harvey Fresh were established, then went in at \$1.99 for two litres. They are still selling it. They were buying market share. There is no two ways about it. Challenge have just started to go into the white milk industry. They are buying milk for, as I know, 10c a litre, not 7c a litre—cheaper than the other companies are paying. They are in the white milk game. Their only restriction at the moment is that they do not have the shelf areas, but they are in there. I know they are talking to Coles and Woolworths. Why are Coles and Woolworths talking to them? Because it puts another player in there. It says, ‘Hey, we can drive this one down again.’

You would think four competing companies should be great. But it is actually the opposite in this state. They are driving the milk price down. If there were two—and I do not like to use the word ‘collude’—two people could get along a lot easier than four can. That is the world that we live in. That is the sad part, that

competition in the white milk industry has actually worked against us, because you have got people buying market share. If you buy the farm-gate product for 10c a litre cheaper, you have got a little margin to start with. My friends, relations and people I meet say, 'For God's sake, what's happening in this industry? Ten miserable cents! We would easily pay that. We'd pay another 10c. It's ridiculous.' To me on my farm 10c would give me \$400,000. That is massive. That gives me all the scope to do everything that we need to do on the farm. Ten miserable cents a litre! As a nation we do not know how to actually get that back to the farm gate. It has been extracted from the consumer, because the white milk price is probably at its peak. In my little local store two litres is \$4.35, I think. That is probably the top price.

The top price has been lifted to there on false pretences over this period, because they called 'Drought, drought, drought, drought.' It was only in the eastern states. It was not here—we did not have any drought. But the talk-up to get the price up was all about drought. The price went up. That was to offset the price that went down here. So somewhere in between they get an average price. It might be \$1.60; it might be \$1.80. But that in itself is something that really needs to be looked at.

And I suppose there are the two smaller processors pushing for market share, the supermarket taking the advantage of that and then the normal demand. The disaster period was when they deregulated the retail price back in the early nineties. It was not necessarily deregulation at the farm gate; it was at the supermarket level, because then they took charge. That is where we have fallen from.

**Senator PRATT**—It is quite a complex issue and I have learned a lot today. I wanted to ask you, basically as a farmer, about the different parties that you can sell to and the differential prices that you are paid by them, noting of course the different shelf prices of those products.

**Mr Harris**—Yes, one price buys all milk. We do not get differential pricing. It is interesting: if companies are in different products, you would think there might be a variation of farm-gate price, but there is not. But I suppose generally they are in the same sort of products—in this state, anyway. Murray-Goulburn is mostly manufactured products and commodities whereas here it is all white milk and short shelf life.

**Senator PRATT**—I am just trying to get my head around that. I am not quite sure if I have understood you properly, because it would seem to contradict what others have said. For the discounting to be as significant as it is in supermarkets, they have to be offsetting that with other products.

**Mr Harris**—No, I think they offset it back at the factory and back at the farm gate. They make an average margin across all their products. If it is white milk, if you take that single one by itself, they would set a margin. They might get a big lump on one side and a little bit and then nothing. At the end of it they finish up there somewhere, which gives them their return. I know Fonterra over the years have struggled to keep this factory open, because they have struggled to make profits. I think a lot of that was bad management. But they will offset. The game that they play is offsetting prices. Coles announced that they will be selling most of their products in Broome, for instance, at the same prices generally as across the rest of Australia. This is this equalisation that is taking place. You can see how easy it is to take a product—there is always the threat. If we did not deregulate, it was highly likely that the milk from Victoria at a low price would be driven into WA. You only have to drive it in here for a month or two and send us out of business and sell at a low, dumped price. We do not use that free-trade-between-states, antidumping legislation, like it should be used. No-one is even going to have a look at it. But they do dump—it is dumped here. The supermarkets are capable of doing that to say, 'Hey, do what we want.' That is why this state was fearful of not deregulating.

I will give you an example of our contracts. This will probably surprise you. Sometimes it works for us, but most times it works against us. National Foods had a hard fixed contract initially for 80 per cent of milk. It was very tough. If you exited without certain notice and all sorts of things they were able to take your money back from you. Fonterra only had agreement to supply. Then later they came along when we had a little bit of a fear of milk shortages. They put another agreement to supply that became a contract. It has a base price which was movable. That is the same as what you have got happening with National Foods in Tasmania. It is a base price that is movable. Then you have a price for quality, a price for volume, a price for contract and so it goes on. Then it builds up your price. These bits at the top stay at constant cents per litre. They might have an out-of-season summer premium that sits in there somewhere as well. The bit down the bottom is where they can play the game. So it is not a contract at all.

Having said that, a group of National's suppliers had signed up, when National started to panic about milk, at 57c a litre. They had a one-and-a-half- to two-year contract in place. So it worked for them perfectly, because they are still getting that until the end of June. But people who are coming back—and a few have come back from Challenge—are getting the 43c a litre moveable. I invited them to speak to me about their

contracts. They said, 'Oh, we've got a locked-in price.' I said, 'Tell me about it.' So they started off with this base price and I said, 'Tell me about the base price.' 'It will be the average of the regional price.' So I said, 'If one company is down there and another one is there, where will you be?' 'We'll be in here, but each way it moves we will sit on the average.' That is the sort of game that is being played in the contracts that they are developing. Maybe somewhere the ACCC or trade practices can have a look at how they are developing that.

Having said that, on the other hand I would hate to be signing up a contract right now with any one of the companies that was locked in forever, for two years, because it was a fixed price—because you could get hurt badly at the other end. So how do you address that one? It is a pretty tough one really.

**Senator ADAMS**—You heard me just asking about the future of dairy for Western Australia. I come from the Great Southern area and there the farms have all been absorbed by larger companies. It is much the same as you are talking about—you just cannot exist on what you could have 20 years ago; it just does not work. Where do you see it going in the future for us? The way that electricity prices are going to be rising is something that has been raised with me. Could you give us a practical example?

**Mr Harris**—As far as regions and areas go it is all right to say that we have looked at other non-traditional areas. The greatest traditional area is the Albany-Walpole area and there is a handful left. If you go down our west coast here you do not find much milk produced until you get down to my place which is south of Bunbury. That is where most of it has moved to. We know that land prices are too high for farming but when you are established in an area and you have to expand and the next door neighbour's property comes along you have to. You are forced to grow to meet that challenge. Where is it going to go to? I am satisfied that it is going to hang about for another decade but, in that period, if we do not do something substantial—and that is about farm-gate price—it will deteriorate to the point where it could collapse fairly quickly. That is my main concern.

In the short term, farmers are incredibly resilient. They will work their way through bad periods. But we cannot do it for ever and we cannot get taken for granted. We will take the cut when we have to because that is how it is, but we cannot take it for ever. I was listening to the comments this morning. I came here purposely to hear all the comments. But where is it going to go? I see it diminishing further and I see it getting to a critical stage. That is what disappointed me today: that the state did not have a position. The state does not understand it or does not want to understand it. I have tried to engage the minister a couple of times but it has not been the right time or the right something or other else. But somebody has to take stock of where we are at. And don't think it is as easy as saying, 'Oh, yeah, it'll still be there in the great future.' We have a great future if we get it right.

**Senator ADAMS**—Our minister lives in that area, so surely to goodness he is aware of the problem.

**Mr Harris**—Yes, you would think so.

**Senator ADAMS**—Anyway, I will be speaking to him.

**Mr Harris**—Yes. Somebody has to understand it. Sure, I do not expect governments to jump in and intervene every time there is a ripple or a crisis or something in the short term, because they cannot. They cannot interfere with the marketplace. But some of those, I would use the word 'predatory', buying tactics that get used, I think they have to be pulled out and then I reckon we can get on a level playing field where there is some competition. If this state cannot get it nearly right with the little bit of surplus we have got, no state will get it right. The only thing that is going to work against this state getting it right is a potential for imported products for the major exporting states until that picks back up again.

It is no different in the beef industry. Exports drive the beef industry because there are huge exports out of every state and it is only good when the exports are good. But the same predatory buying occurs there.

**CHAIR**—Thank you very much, Mr Harris. That has been a very interesting presentation; we thank you for appearing. Before you go, you did have some evidence which we offered to put in camera for you and it is covered by privilege. But if you speak to the media, to be covered by privilege you can only repeat what you said under privilege to the committee otherwise you are liable for any action that any company or person could consider taking against you.

**Mr Harris**—I understand that. I think I choose my words well enough to say that this is my evidence, but please investigate it.

**CHAIR**—Just so long as you understand the limits of parliamentary privilege—that you cannot then make a whole lot of other comments. It is only the comments that you made under privilege that you can repeat.

**Mr Harris**—Thank you.

[2.35 pm]

**MARGETTS, Ms Diane Elizabeth (Dee), Private capacity**

**CHAIR**—Welcome to this inquiry. Would you like to make an opening statement? The senators will then question you.

**Ms Margetts**—Thank you. For a start, I would like to apologise ahead of time if at any time I have trouble remembering names or terms. It is just a menopausal issue, and I can give you the information later.

I would like to point out that the reason I did a dairy case study as the first major case study in my PhD research is that I believed it was one of the most obvious problems associated with national competition policy. In that process I looked at both the assumptions and the outcomes around price, retail and supply price and also the assumption which began with dairy deregulation that producers of market milk, such as Western Australia and Queensland, were the least efficient, that somehow or other the states which had a statutory marketing authority were less efficient than the states which were largely geared towards manufactured export milk, like Victoria.

In the papers that I included in my submission you will see academic evidence provided by other researchers, Fraser and Graham, in 2005 which shows that, of all the states in Australia, the Western Australia dairy sector had the greatest total factor productivity rates prior to deregulation. The Keating government also assumed that Australian dairy farmers were not being as effective as possible, but at the time of deregulation the farm-gate price that even the producers of manufacturing milk got was one of the lowest in the world. There is no one international dairy farm-gate price, and Australia at the time of farm-gate deregulation had the lowest published price that I could find in the world. The reality is that the assumptions about international price in effect meant that the changes under national competition policy gave greater ability to large corporations to increase their market power and of course reduce market power for small business, like farmers. As I have mentioned in my submission, that was related to the fact that the basis of national competition policy was never about increasing competition per se. It was actually based on the Industries Assistance Commission inquiry in the late 1980s, which was based on government non-tax charges.

The basis of the Hilmer report was how to increase the profits and reduce the costs of corporations. The supervisor of my masters thesis forced me to read that inquiry report, and I am very glad that he did, because that is exactly what happened. We set up competition policy as a secondary constitutional power, which means that every piece of legislation that we have and that we produce gets linked to a policy which has never been properly assessed. With the dairy industry, because only six months of assessment were done post deregulation, we never found out what the real impacts were. So I agree with those people who say we should require the ACCC to use their prices surveillance powers to check the margins in the supply sector, especially of the dairy industry but also of other industries. The problem I have, and it is a complex problem, is that the head of the ACCC, Graeme Samuel, was also the head of the National Competition Council, which pushed for much of this deregulation.

My personal experience is such that I do not believe that Graeme Samuel would ever be prepared to do a proper assessment of competition policy in relation to industries such as dairy. I have mentioned in my submission to you that, when you look at the evidence provided in the range of submissions to the ACC grocery price inquiry, most of that was left out in the dairy section of the ACCC grocery price inquiry report. To focus only on full-cream milk as part of their assessment was misleading. I am very happy for you to challenge me and to ask me questions on what I have done and why I have done it, so I will leave it there. Thank you.

**CHAIR**—Thank you. You have given us a very extensive submission which covers a lot of ground, and it certainly provides a lot of information as a basis for what you have concluded. Do you think that, if the ACCC were to revisit the issue of deregulation and assess its real impact, they would feel that they should take some further action to protect the producers?

**Ms Margetts**—I have grave doubts that the current ACCC would ever effectively do that. Unfortunately, people relate now to the Productivity Commission as well. The Productivity Commission was, of course, the Industry Commission, and before that it was the Industries Assistance Commission. They were the ones pushing for the removal of regulatory authorities. So the difficulty we have is that many parts of government entities have specific ideological positions. It would be extremely difficult, I believe, for someone like Graeme



Samuel, who had played such a large role in pushing for such ranges of deregulation, to put up his hand to properly assess whether he has gone wrong or whether proper assessment has to take place.

We have heard today the various problems in relation to what can be done now. One of the reasons I believe there are problems, with people screwing up their faces or trying to work out what can be done, is that it is not just about the dairy industry. If we do not have a means to go back and find out whether this major policy change in 1995 was in the right direction or, if there are areas to fix, find where those areas are and what has to be done, then fixing up the problems caused by that major policy change will never really be successful.

Even in countries like the United States, if they privatised or corporatised utilities and so on, they did not further deregulate in order to do that. Sometimes, if something was privatised or corporatised, generally you needed to have an oversight. To remove the prices discrimination, as an example, from the Trade Practices Act and then have so much evidence provided to the ACCC grocery price inquiry about price discrimination that related to branded products, home brand products and the pressure that has been put on suppliers shows, in my view, that there is a clear problem with the removal of the prices discrimination provision. Having major corporate supermarket chains which can pressure even large suppliers to supply milk for home brand products at cost or below cost price in order for them to be allowed to sell their own branded products should not be allowable under the Trade Practices Act. The ACCC did not properly look at those issues.

They only looked at normal milk; they did not look at the variations in prices. They did not actually assess the fact that the farm-gate prices and the retail prices became disconnected, and this has had a major impact not only in the dairy industry, but also in many other primary produce areas in Australia. If you do that forced disconnection between the farm-gate prices and retail prices then you have a problem when there are problems like drought and floods and a whole range of other issues at the farm gate to be able to enable those industries to survive. And of course even in a tough year, if the prices are not sufficient to enable the farmers to survive in another year then they are never going to repay their debts. So we have a problem not only with the dairy industry, but also with a range of farming sectors in Australia, and that is why I am saying there needs to be a way for us to systematically find out what errors have been made as a result of National Competition Policy and what new directions have to take place.

**Senator PRATT**—In your submission you raise an issue regarding international milk prices and the false linking of the milk price to international milk prices. I would have thought on the basis that particularly for fresh milk products, and the range of products attached to them, there would be a high level of resistance to it. Western Australians do not want to buy milk from the eastern states. They might be happy to do it with yoghurt, but fresh milk is very much a local product. So it does seem illogical to me that there should be any sense that such prices should be linked internationally in any way.

**Ms Margetts**—I think you are right. The artificial linking of farm-gate milk prices to a so-called international milk price, which is one of the lowest international farm-gate prices in the world, was simply a link to the chain using market power because in normal circumstances, in a normal negotiation, that would not happen. The international price would be one thing because you would be looking at what the other options are for sale or for use of those items, but in a state where the vast majority of your product is for domestic fresh milk production, the fact that it is artificially linked to one of the lowest farm-gate milk prices in the world is an indication of market and market power abuse. And that is really important—that is, the logic of just concentrating on the export sector when the vast majority of the value of Australia's milk production is domestic, as I have mentioned before. Even if, on average, we are exporting half of it, the value of the milk, the vast majority of that, is Australian based.

**Senator PRATT**—Based on the values of competition it appears to me the ACCC would not care where the milk came from because it is about a cheap product and lowering the price for the consumer as much as possible. In your opinion, to what extent do they, if at all, factor in the fact that for fresh foods people want a local product and that that should naturally have an influence on those competition dynamics?

**Ms Margetts**—Yes, there is a preference for local production wherever possible, that is true, but in terms of—

**Senator PRATT**—It is not a very straightforward question on my part, but I suppose the ACCC does seem to have ignored factors to do with local production. Would that ring true to you?

**Ms Margetts**—Yes. Obviously an issue that came up a lot in the ACCC grocery price inquiry was the necessity for better labelling for local production. I forgot the first part of your question.

**Senator PRATT**—The question is: has the ACCC ignored the issue of local food production? Does it only just care about competition?

**Ms Margetts**—One of the major assumptions that came out of the milk deregulation was that the consumer would be the major winner, and that is not the case. The fact that, even with market milk, the price of retail milk increased at a higher rate than the CPI indicates that that assumption did not occur. They assumed that getting rid of the regulatory authorities would get rid of a cost, and that cost would almost thoroughly flow to the consumer. That did not happen. The problem with the ACCC's assessment in a range of things is that they never look to the medium or long term—because a lot of time what happens in the immediate term as a result of deregulation is not the same as what happens in the medium to long term—and the ACCC's narrow approach to market theory, for me, is problematical in lots of ways. So, no, they were not actually right in relation to the consumer benefits, but when you look at other dairy products throughout Australia they were even more wrong and the impacts on the supply sector were worse. So they said the consumer was going to be the main winner. They have never properly looked at the supply sector and, unfortunately, during the ACCC grocery price inquiry their level of assessment in relation to the supply sector did not look at what the impacts would be. Therefore if you lose your supply sector the results will be substantially different.

**Senator PRATT**—In your submission you also quote the ACCC back to us in saying that processors have said that they do not 'generally engage' in the practice of increasing the price of branded products to offset the increases in producing private label products. You seem to be challenging what they mean by the word 'generally'.

**Ms Margetts**—Yes, but I think I also said that they did at least admit that there was at least one—they did not say who but there was at least some evidence that there was a waterbed effect resulting from price discrimination. If they were saying that other people said 'generally' that was not the case, then that does mean that they were at least admitting that it was happening. But I also would like to say that the ability of suppliers, even large suppliers, to give such evidence publicly would be difficult. That is why, rather than simply asking suppliers whether their wholesale prices are being forced down or whether they are required to put much higher prices on their branded products because of what is happening to their supply of home brand products, it would become extremely difficult, even for large suppliers, to provide that kind of information to such an inquiry—it is because of the potential impacts that could happen. For many suppliers who have given evidence during the ACCC grocery price inquiry I imagine there were very similar implications. If you ask whether they are being damaged or whether something is having a major impact on the way they operate, they would be in a very difficult position to provide that. The fact that they say 'generally' gives me an indication that at least one of the people giving evidence did say 'yes', and to say that the rest said 'generally' indicates that there was more than that evidence. But, as I have done in my submission, I have given you a range of quotes from submissions which clearly indicate that it was problem, and I am disgusted that the ACCC should not have even mentioned that evidence that was given to them.

**Senator MILNE**—You heard us say many times today that we would actually like some recommendations of how to fix it—and of course I take your general point that what we need is a review of the validity of the assumptions behind international competition policy and the whole lot. That is not going to happen in the short term and it is not going to happen in time to save dairy farmers from low farm-gate prices. So in terms of what could be done by way of recommendation of these committees with a chance of actually getting us somewhere, you talked about the abolition of the price discrimination out of the Trade Practices Act. If we put that back in, is that a start?

**Ms Margetts**—I believe it is, and there is quite a lot of evidence from other countries as well that indicates that even in deregulated countries like the United States those kinds of regulations are still there.

**Senator MILNE**—So, if you were back in the Senate, and thinking of all the work you have done on this in your PhD and so on, what are the specific changes you would make to the Trade Practices Act or the way the ACCC operates that would actually get us somewhere on this? You have mentioned price discrimination. You have mentioned the supply chain margins audit to establish what is actually happening. What are some other very specific things that you think might help us along this way?

**Ms Margetts**—As a basic issue, there would have to be a proper investigation into the way the ACCC is operating. I also think there ought to be a mechanism by which changes which occurred and which are continuing to roll out should be assessed along the way to find out whether they are going in the right direction. There are issues with the public interest. I agree with the evidence that was given today.

**Senator MILNE**—That is another one: the change to the public interest test.

**Ms Margetts**—The public interest test, yes. In Western Australia the Economic Regulation Authority is being operated by people who are also ideologically in the economic rationalist field. If you have a situation where the ones assessing the public interest are, in effect, separated from government then you have a problem with the way those decisions are going to be made. The assumptions need to be checked. As I have mentioned, the fact that competition policy was based on reducing corporate costs and increasing corporate profits means that many of the public statements that it was about increasing competition need to be checked.

I wanted someone to do this kind of research for many years. I was hoping someone would do it. I did not want to be sitting around being an academic. But in effect somebody had to go and research what were the outcomes of competition policy. What did they say was going to happen and what did happen? At a federal level, whether it is the Productivity Commission or the ACCC, I can find huge gaps in the way they use evidence. We know that in the grocery price inquiry they wanted information and data for five to 10 years. They did not want data going back from 1995. So if you have a situation with the dairy industry it is not just about the dairy industry; it is about the increased market power of corporations. If you have other problems that are occurring, we need to find out whether or not public interest assessments were correct, which ones were correct, which ones were not correct. I know Professor John Quiggin has clearly stated that there may have been some benefits, there may have been some non-changes and there may have been some major problems and mistakes. But we have never had a situation in Australia which has required a systematic assessment of whether we are going in the wrong direction. We know that at an international level people are beginning to scratch their heads and realise that corporate deregulation in many ways creates problems for whole communities when things go wrong.

So there are a lot of things that need to be done. With the dairy industry I think in a way we have to understand the range of reasons for those changes. In some ways, if we just link to the dairy industry, we are never going to be able to change the problems that are associated with bodies like the ACCC and the Productivity Commission, who have a specific narrow ideological direction. I am sorry that is not very good at being specific.

**Senator MILNE**—I know that the ideal is a systemic overview, a look at the whole thing—and I agree: I would like to see that happen, but it is not going to happen in the time frame that we are reporting in—or, indeed, an opportunity to actually change something in the short term that will contribute to a better outcome.

**Ms Margetts**—No. But you are quite right. There has been evidence given that the ability of dairy farmers to negotiate and to have reasonable market power is extremely important. We know—and you have had evidence provided to you today—that the ability of Western Australian dairy farmers to get together, to find a way of bargaining cooperatively, was knocked back. Not only was it knocked back by the ACCC and almost just swept aside, but those people who tried to get together to argue that case were punished.

If the government is really interested in fair competition, then the ability for people to not be separated—to not have to deal as one to one, as farmers or small businesses, with corporations including major supermarket chains, and deal with whatever they throw at them—then we have got to change that issue. We have to look at how Australia is moving or did move in that direction. At the time that the National Competition Policy was introduced, it was assumed that the rest of the world would link in. They did not. As I mentioned in my submission, they dropped it out of the World Trade Organisation agenda because the rest of the world did not want to go along with that. Australia needs to assess whether or not we went in the right direction and what changes have to be made.

The dairy industry would be a very good example, and maybe that is one way of looking at it quickly: see if there are ways of improving the balance of marketing power of dairy farmers and small industries compared to that of the major supermarket chains and the very small number of very large producers. And, as I have mentioned, we have lost many of the Australian producers. Many of the Australian dairy manufacturers have been taken over. So the assumption was that manufacturing was going to increase as a result of competition policy. But in the dairy industry, clearly, our manufacturing sector has mainly been bought out.

**CHAIR**—As Senator Milne said, we have now held several hearings into this issue. We are looking for solutions. Do you have any thoughts about how producers might be better protected, how the power balance between the producers and the people who market milk products might be readdressed and made more equal, and how the kinds of adverse economic impacts which the producers seem to be suffering around Australia might be mitigated?

**Ms Margetts**—The statutory marketing authorities that we had enabled negotiations. They were negotiations between government, the producers, manufacturers and so on. So a range of groups were

represented in those negotiations. The fact that we have so-called free trade between states has made that more difficult. But I am of the view that we do need more regulations that enable a fair market, because the assumption is that we have created a more competitive market and, clearly, the evidence that has been provided is that we have a less competitive market. If you have market domination, if you have less market power in your producer sectors—which makes their productivity more difficult and makes it more difficult for them to survive and requires them often to find unfair cuts—then we have to do something if we are serious about that.

So I think we do need more regulations—maybe some form of new statutory marketing authorities. They will not be the same, but we have to look at the implications of some other states threatening to undermine a basic statutory marketing authority decision which reduces the uncompetitive behaviour of corporations against individual producers. If you have an unfair market structure in the dairy industry, which I believe we have, then there does need to be a new regulatory system. If, currently, the ACCC would demand that the government did not accept that, under national competition policy, then that is one good reason for there to be a recommendation that national competition policy and the ACCC itself has to be strongly looked at to find out why this is continuing to happen. I would like to give some really simple responses to this. I am doing a range of case studies and I guess over the next couple of years I am hoping to come out with some other more general responses. I knew if I did a reasonable dairy case study, academically, the response would be ‘Yeah, but what about the rest of the economy?’ Clearly there are problems with dairy industry deregulation—the way it happened, the outcomes and the market power abuse that became more obvious. So if we have clear evidence that the dairy industry regulation happened like that, then there are issues with other parts of the economy. Unfortunately, for me, it means that in effect I am doing a PhD that is four PhDs. That is taking me a long time. I have a lot more evidence and I wish I could give it to you today but I cannot, until my next case study is ready. But I believe there is a lot of evidence around that there are many problems that ought to be looked at. And even if it was just one sector—and it is not—or one part of the economy that had serious problems, then we would have to say that you cannot simply go by the same rules you have been going by since 1995 without rechecking whether they are going in the right direction. Sometimes just trying to alter what is happening as a result will not actually fix it in the long term if you cannot actually deal with the market power abuse that has been created.

**Senator MILNE**—I would agree with that. You just mentioned regulating for a fair market and how to re-regulate for a fair market after deregulation has taken place. There is the example, that you are well aware of, of the New York code. Are you aware of what they do there? The Commissioner of Agriculture is empowered on petition of a producers bargaining agency to set a minimum milk price after giving consideration to prices paid to producers, cost of production, prices paid to producers in adjoining markets and the interests of the general public. The commissioner is then given further authority to examine the price of drinking milk and determine what it should be. That is why I was asking this morning, as you heard, whether we should regulate to say that the retail price can only be three times or four times, or whatever you decide, the farm-gate price. I accept what you are saying about a one-off interference not fixing the system, and that in itself might have some perverse outcomes because it is not fixing the underlying problem. Do you think that that could work, where, as you say, you simply cannot sell a product that is any more than a certain percentage greater than what the farm-gate price is? That way, you actually guarantee your farm gate as a reasonable price.

**Ms Margetts**—I think you are correct. The reality is that kind of code has a lot of elements similar to the statutory marketing authorities. It is not that I was disagreeing with that, but what I was saying was that unless we also look at what is happening with market power abuse there are going to be other problems. One of the reasons I was saying that was that we can say, yes, this is what should be happening in the dairy industry, but under the current rules I imagine the ACCC would say to the government, no, they would disagree that that is going to be a way to improve the market. Under the current national competition policy rules, they would say you can only do things which are market based.

Regarding the difficulties with the public interest tests and the difficulties with the way assessments were taken, even if the public interest tests were meant to have a range of other issues considered, a lot of the time they were not. Professor Bronwen Morgan—and I do not agree with her general views about competition policy—admitted that much of the public interest tests were never properly done. I agree that those kinds of changes should be looked at for the dairy industry—absolutely—but one of the problems I have is that the pressure put by the Productivity Commission and the ACCC will probably resist any such changes.

**Senator MILNE**—Almost definitely, but that does not mean to say it is not worth the parliament taking them on.

**Ms Margetts**—But, in some ways, trying to get COAG to actually talk about whether competition policy was going in the right direction almost never happened. In my view it is because the state governments did not really understand what they were signed up to and, in effect, they never got back to negotiating with each other and talking about the direction. It is like the Emperor has got no clothes. In effect, to some extent you have to actually work with the states and try to get some new agreement, as to how they want to change the kind of agreement they got pushed into signing in 1995. With what is happening in Tasmania and even what is happening in Victoria now, where those states were supportive of competition policy or deregulation of the dairy sector in the first place, maybe we can now get them to talk together and find out new ways of going about amending. But, in fact, because there is so much power within elements of bureaucracy trying to get those kinds of changes, it will still be extremely difficult.

**Senator MILNE**—Nevertheless, it is a place to start, with the public interest test and the possibility of reregulation in that way.

**Ms Margetts**—Yes.

**Senator MILNE**—Thank you.

**CHAIR**—Thank you. It has been very interesting evidence and your submission was a very good one, I must say.

**Ms Margetts**—Thank you.

**Committee adjourned at 3.12 pm**