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Submission to the Inquiry into the performance and profitability of Australia's dairy industry since deregulation in 2000

Thank you for the opportunity to share with you, in this written submission, my thoughts about dairying in Australia. I note that the Rural and Regional Affairs & Transport Committee is considering the following:

a. the ability of Dairy Australia to act independently and support the best interests of both farmers and processors;
b. the accuracy of statistical data collected by Dairy Australia and the Australian Bureau of Statistics;
c. the funding of Dairy Australia and the extent of its consultation and engagement on the expenditure of levies revenue;
d. the merits of tasking the ACCC to investigate how it can regulate the price of milk per litre paid by processors to dairy farmers to ensure a viable dairy industry;
e. alternative approaches to supporting a viable dairy sector;
f. the introduction of a mandatory industry code of practice; and
g. any related matters.[i]

Before I address the terms of reference, it is worth pointing out that your inquiry is the *ninth* into Australia's dairy sector since 1999.[ii] After all prior inquiries, nothing positive changed for dairy farmers. In fact, our situation got worse – much, much worse. We need brave decisions to re-engineer the dairy sector.

The core message of my submission to your inquiry is this: **Australia's regulators, and the ACCC in particular, have failed dairy farmers.** They've made a profoundly damaging conceptual error by assuming domestic fresh milk production can be equated to the global export dairy market. Further, the regulators, and the ACCC in particular, have refused to acknowledge the need to regulate the greed, manipulation, market distortions and profiteering of supermarkets and processors in the fresh milk value chain. By failing to correct their error, the ACCC has allowed others (e.g. Australian Bureau of Statistics and Dairy Australia) to be scrutinised all while taking zero responsibility for their own role in substantively damaging the dairy sector.

What follows below is my detailed response to your inquiry's terms of reference.

Term of reference (a): the ability of Dairy Australia to act independently and support the best interests of both farmers and processors

Dairy Australia was set up to support dairy farmers through research, development, extension and marketing (RDE&M). Dairy Australia is not the industry's advocacy body, and it is not meant to advocate on behalf of dairy farmers.

Dairy Australia has a team of dedicated staff who do excellent work to support dairy farmers, like me. I want to single out Charlie McElhone (Group Manager: Trade & Industry Strategy) and Helen Dornom (Manager: Sustainability, Food Safety & Integrity) for their exceptional professionalism. I also want to acknowledge the leadership of Dr David Nation (Managing Director) who has kept Dairy Australia focused on its mandate and who has allocated resources where they need to be. Dr Nation and his team have excelled at their tasks given the funds available to them. From the Dairy NSW team, I want to recognise the excellent contribution and professionalism of Greg Duncan, South Coast Extension Coordinator.

Let me be very clear: the crisis in the dairy industry was not facilitated by Dairy Australia at all. It is not the result of RDE&M. Your inquiry needs to look elsewhere.

I note that your terms of reference do not mention the role of Australian Dairy Farmers (ADF), the national dairy advocacy body. It's an unforgiveable omission.

Quite simply, the ADF has been and is still "missing in action". They're Victoria-based and Victoria-biased. The ADF has far too many traditionalists in roles of influence who have ignored the dramatic changes happening to domestic milk production and retailing trends in Australia. Firstly, up to 75% of Victoria's milk is now sold for domestic consumption where before 80% of it went to export. Secondly, Australian dairy exports are substantially down. Yet the ADF has remained focused on exports while being utterly indifferent to the challenges facing the majority of Australian dairy farmers who now supply the domestic market. Thirdly, processors are highly influential within the ADF. It has allowed itself to be manipulated to reflect processors' interests, not those of the majority of dairy farmers.

Term of reference (b): the accuracy of statistical data collected by Dairy Australia and the Australian Bureau of Statistics

Dairy Australia and the Australian Bureau of Statistics (ABS) provide trend information about and for our industry. It is enormously short-sighted of this inquiry to knit pick over the value of, say, an article in a particular issue of a Dairy Australia newsletter or the accuracy of an ABS statistic for production volumes in September 2012, hypothetically speaking.

ABS staff visit my farm regularly to collect data from me as part of a benchmarking study. They're professional, friendly and dedicated to their jobs. They do good work providing the industry with trend information about its performance and profitability. They should not be held to account for why there is a crisis in dairy. The error is not theirs.

The ADF, our national advocacy body, is not acting on any of that trend information showing shifting consumption markets for Australian milk, decreasing export importance, falling production, rising costs, fewer farms, fewer farmers, etc. It is the ADF which needs to raise its game, not Dairy Australia or the ABS.

Term of reference (c): the funding of Dairy Australia and the extent of its consultation and engagement of the expenditure of levies revenue

In NSW, the Regional Development Corporation of Dairy Australia is Dairy NSW.

Dairy NSW delivers excellent consultation, engagement and extension. They continue to do wonderful work even as their budget has been dramatically impacted by the decline in farmer numbers. Dairy NSW used to operate on levies from 2,000 farmers (when deregulation occurred) but now only 500 farmers remain. The programs instigated by Dairy Australia / Dairy NSW have been of considerable assistance to remaining dairy farmers, like me, as we fight to maintain production and keep farming.

Term of reference (d): the merits of tasking the ACCC to investigate how it can regulate the price of milk per litre paid by processors to dairy farmers to ensure a viable dairy industry

The ACCC has played a major role in creating and maintaining the dairy crisis in Australia. It has made several major conceptual errors, which have had devastating consequences for dairy farmers and rural communities. The regulator has not been held to account by the ADF which has chosen to be silent in the face of the crisis in dairying.

The ACCC’s first error was to assume that the cost of producing fresh milk for domestic market consumption – which is a 24/7/365 activity – is the same as the cost of seasonal, exported-oriented production. It is not. The cost of production for year-round fresh milk production is approximately 20% higher than seasonal milk production. Being paid a farmgate milk price which doesn’t factor in a production cost that is at least 20% higher is what has devastated thousands of dairy farming businesses in Australia.

The ACCC’s second error was to assume that Australian fresh milk could be, and still can be, valued relative to export milk prices set in a global, corrupted market awash in subsidised dairy products (e.g. cheese, milk powder, butter) produced in the EU and the USA, among others. Australian dairy farmers do not receive production subsidies, unlike their counterparts in France, Belgium, the Netherlands, etc. Fresh, high-quality milk should be valued more highly than export milk but it is not. Australian dairy farmers who produce some of the highest quality fresh milk in the world are paid less than the cost of production. Even in New Zealand, which exports 95% of its milk, the minimum retail milk price is $1.70. This price reflects the value placed on fresh milk and a recognition of the higher costs of production for those who carry out 24/7/365 milk production for domestic consumption.

The ACCC’s third error flowed directly from the first two: the regulator *repeatedly* dismissed dairy farmers’ concerns about the negative impact of supermarket giants’ practice of selling $1-litre milk. The ACCC stood back and allowed Coles and Woolworths to use the ACCC’s report into fresh milk pricing against dairy farmers. (On a personal note: I received a cease-and-desist letter from Coles in 2018 in which they quoted from the ACCC report about why the $1-milk price was not detrimental to farmers like me!) For a decade, Coles refused to end the $1-milk price until consumer and farmer pressure forced a change in autumn 2019. Some suggested it was a “Tuesday night surrender” for Coles and Aldi when they followed Woolworths and lifted their milk price for the first time since

January 2011.[iii] Others crowed about a "major win for the dairy industry".[iv] It was *not* a major win. It was *not* a victory for dairy farmers. It was a few cents rise which has not been passed on to farmers entirely or evenly. Only farmers supplying home-brand milk – which is approximately 500 to 600 farms – received it. The vast majority of farmers – the remaining 4,500 – missed out.

While dairy farmers were experiencing financial and personal hardship, the big supermarkets (and their shareholders) were profiteering:

- Woolworths five-year summary report shows market capitalisation up from $34 billion in 2015 to $41.6 billion in 2019; and profit before tax up from $5.8 billion to $8.5 billion.[v] The Woolworths CEO, Brad Banducci, earned $12.6 million in 2018/19.[vi]
- Coles reported sales revenue of $38.2 billion in 2019 and net profit of $1,1 billion (a change of 5.4% since 2018).[vii] Coles paid its shareholders $473.5 million in total dividend payments, and its CEO, Steven Cain, received $5.4 million in 2019. Mr Cain is due to receive another $1.5 million in compensation at the end of December 2019.[vi]

With a combined market share of 70%, Coles and Woolworths sell most of Australia's fresh milk and dairy products. They have enormous influence over dairy retailing pricing – and therefore, dairy farming – in Australia. Coles and Woolworths set pricing, as they did with $1-litre milk. Farmers' complaints have been dismissed by them with appeals to the mythology of trickle-down economics.

Their unethical behaviour has not been limited to dairy farmers alone. They've underpaid their own staff by hundreds of millions of dollars[viii], and turned an indifferent eye to unethical (even slave-like) conditions among fresh agricultural suppliers[ix].

The ACCC's fourth error was to look the other way while the supermarkets offered milk processors large contracts and, together, shut out dairy farmers. They are still doing so. In recent days, Lactalis (Parmalat) has been accused by Queensland senator Susan McDonald of "unreasonable corporate bastardry at a time when Australian dairying is fighting for its existence"[x]. Lactalis has refused to pay a higher price for milk produced by a 110-strong farmers' collective, Premium Milk. The collective wanted only a 5-cents increase to the farmgate price.[x]

I, too, am a supplier to Lactalis (Parmalat). Right now, I receive a base price of 48 cents per litre. The maximum I receive is 60 cents a litre for premium-grade milk. In-store milk prices of fresh, own-brand milk are $1.20 a litre. My current cost of production is 60 cents per litre. In 2018, my average cost of production was drought-affected and about 80 cents per litre.

The ACCC has stood by while farmers like me have produced milk at a loss for years. So, unless the ACCC rectifies its misunderstanding of fresh milk production, there is no merit in asking it to investigate the milk price. I expect the ACCC to repeat its failed message again and again.

Term of reference (e): alternative approaches to supporting a viable dairy sector

Dairy, the third largest agriculture sector in Australia, is in crisis. At the time of writing, the most recent public data from Dairy Australia showed:

- National YTD decline of -6%.
- State YTD declines of -7.3% in NSW, -14.2% in Queensland, -10.9% in South Australia, -5.2% in Victoria.
- For September 2019 compared to September 2018, NSW production declined -5.4% with -14.0% in Queensland, -4.5% nationally.[xi]

Australia is also exporting dairy heifers to China. In the last financial year, China received over 20% of our young, breeding stock. There will not be enough animals to replenish our existing dairy herds, let alone grow them. Production will continue to fall without these animals.

Australia used to export over 50% of its milk output. Australia is now bordering on becoming a net dairy importer. Victoria, which traditionally was an export-focused producer, now overwhelmingly produces fresh dairy products and ingredients for domestic consumption – nearly of all of which is sold by the supermarkets. This means the influence of the supermarkets on the farmgate milk price is growing. The retailers' pricing practices have forced the farmgate milk price to unsustainably low levels. Coles' *Down, Down, Prices Are Down*-campaign has had a devastating impact on dairy farmers' financial and psychological wellbeing. It is utterly demoralising to see fresh milk (along with other fresh foods) treated in this way by a supermarket which refuses to consider the actual costs of year-round, fresh milk production. All of the retailers have been allowed by the ACCC to set prices and contract with processors who far too eagerly put the squeeze on dairy farmers, the most vulnerable player in the supply chain. We have competition market failure: the retailer duopoly continues to undervalue fresh milk. We have a supply chain failure: supply is no longer linked in any meaningful way to demand. Dairy farmers should be receiving a higher farmgate price but we are not. The supermarkets and processors broke the link between supply and demand, and the ACCC has allowed this to continue.

Intervention in the market is needed. Better options are available than setting a floor farmgate price. A floor farmgate price is not going to correct the manipulated dynamics in the supply chain. The introduction of a floor price may also have the unintended consequences of disadvantaging seasonal, export-orientated dairy farmers and their processors.

Until competition market failure and supply chain failure are rectified, an all-milk levy is a better solution. It does not discriminate against those operating in the export arena, nor will it distort market forces in the fresh milk supply chain. An all-milk levy will allow an even distribution of financial support to all dairy farmers.

Term of reference (f): the introduction of a mandatory industry code of practice

The intention of introducing a mandatory code was to protect dairy farmers: we were meant to get a fairer price in a transparent marketplace. The most recent draft of the code is a failure: it protects the interests of processors and retailers. How ironic that processors and retailers, who together have manipulated and distorted the fresh milk supply chain to their advantage and at the expense of farmers and regional communities, have managed to reverse and block the rehabilitative intention of a mandatory code.

I will not give my support to a mandatory code where retailers are excluded. Retailers have enormous influence over the farmgate price and the fresh milk supply chain. Supermarkets are already directly sourcing milk from farmers. Coles has been buying fresh milk from farmers in NSW and Victoria since July 2019.[xii] Woolworths has also been sourcing milk for some time.

We cannot leave retailers to be "regulated" by a Voluntary Food and Grocery Code because, according to Senator Susan McDonald, it is not worth the paper it is written on. [x] It is pointless having a mandatory code which excludes retailers. They have extraordinary power in the fresh milk supply chain, and their influence needs to be checked.

Term of reference (g): any related matters

On the issue of “any related matters”, I want to share with you my personal experience of what it is like to live through this crisis in dairy, and also share with you what it means when we say that farmers are exiting the industry. I want your committee to keep in mind the human and animal costs of a failed sector.

I am a fifth-generation dairy farmer operating one of the larger dry-land dairy farms in Australia. My farm is located in prime dairying country and my herd produces millions of litres of fresh milk annually. I am again hand-feeding my animals because there was no suitable grazing in the paddocks. Drought, which devastated my farm last year, is doing so again this year. In financial terms, I am unable to expand my business or achieve profitability. This should not be the case. I am an educated man with university qualifications in economics and agriculture. In the 1990s, I worked in corporate and international banking before switching to international commodity trading. Unlike many of my peers who did not have the privilege of higher education, I did – and I consider myself to be one of the most financially astute farmers in the industry. In 2010, I bought a second farm as part of my business expansion plan. My milking herd, cultivated over decades, is a magnificent collection of healthy, productive animals. They should be grazing on lush pasture in prime dairying land because Milton (on the NSW South Coast), where I farm, is historically a high-rainfall area. But they aren’t.

This is not the first occasion on which I have had to extensively hand-fed my herd. In 2018, I purchased feed from as far afield as Katharine in the Northern Territory because there was none for sale in NSW, Queensland or the southern states. The price of feed rose dramatically during the 2018 drought. The cost of landed-feed on my farm went from $250 per tonne to over $750 per tonne. Along with trying to find feed and the money to pay for it, I also had to negotiate delivery of freighted feed to my farm with authorities who restricted B-double trucks travelling on the main arterial highway, and who refused to permit my tractors to move along highways and roads delivering feed from one farm to the next when my animals were starving in paddocks which had no grass to graze.

I cut my own remuneration to $0.

Three-hundred perfectly healthy cows and multiple breeding heifers were culled in September 2018 to pay for feed costs for the remaining animals during the drought.

I changed the employment status of some of my staff from full-time to part-time.

My staff numbers were reduced dramatically.

All of which doesn’t even begin to touch on the costs – financial and psychological – of farming through the Millennial Drought of 2002 to 2010. My personal relationship did not survive the Millennial Drought. My partner left me in 2009 (after 7 years of drought), choosing to relocate to Sydney with my two young daughters for a better life, and limiting the amount of time I had with them to a handful of days each year. My mental health suffered and my business lost money.

As a dry-land farmer I do not have the benefit of access to easy/ready irrigated water. Without rain, grazing is impossible. Rain hasn’t fallen in the volumes it needs to on my farm so there’s little surprise that my milk production is drastically down. Right now, in the middle of spring, I am buying 25 tonnes (1 semi-load) of feed every day at approximately $10,000 a load.

I am still farming; others are not.

Thousands have exited the industry since deregulation. Stop for a moment and consider what it means in human and animal terms when we say farmers exit the industry. In the best-case scenario, the farm is sold to another dairy farmer, production is maintained or improved, and the herd allowed to continue grazing on open paddocks. But in the typical scenario, that's not what happens. Animals in the prime of their productive lives are sent to abattoirs and turned into cheap, meat products. Farm workers lose their jobs and must hunt for alternative employment in regional towns where jobs are already scarce. Farm owners are left to cope with "their" failure and the stigma of bankruptcy. On family farms, these "failed farmers" cannot pass on a family farm to adult children. For many, they're forced into CentreLink offices to face queues, scrutiny, forms and the social stigma of the dole. Mostly, though, it is women and children who suffer the heaviest, invisible costs. For dairying families struggling to survive, parents can't take time off and their children aren't able to attend sports or cultural events because there simply isn't money to pay for sports equipment or musical instruments or art supplies. Children's dreams are shattered, and their opportunities limited by financial stresses and psycho-social ones. For women and children in regional areas, the risk of domestic and family violence is also huge:

- Living in a regional and rural area increases women's vulnerability to partner violence.[xiii] [xiv]
- 21% of women living outside capital cities experienced intimate partner violence compared to 15% of women living in a capital city. [xiv]
- Drought, bushfires and floods put women and children at greater risk of domestic and family violence. For example: following the 2009 Black Saturday bushfires, the reported incidence and severity of domestic violence went up. [xiv]

Looked at in human and animal terms, when dairy farmers exit the industry, hundreds of thousands of dairy cows are slaughtered unnecessarily, and thousands of families affected by unemployment, violence, and emotional and financial stresses. But for those clinging to their devotion to trickle-down economics, these global market forces have supposedly weeded out weak producers, and left behind the most capable and flexible. That's the hype anyway.

As I write this submission, NSW and Queensland are burning. The size and number of fires is unprecedented.[xv] When a bushfire ravages a dairy farm, it burns sheds, fencing, feed, equipment along with homes, and injures (or kills) dairy cows and other animals. A dairy farmer might be able to save the herd, but there is no guarantee that the animals can be grazed on burned grasslands and unfenced paddocks. Recovery from bushfires is sometimes not possible for dairy farmers already running production on the narrowest of margins or cutting wage bills by hiring family to work for board and lodging only.

I cannot assume that some magical recovery is on the horizon when bushfires burn fences and tractors, and rains do not arrive to replenish dams and rivers, and drought drives production costs up drastically, and regional communities suffer while the market distorting actions of the retailers and processors go unchecked.

There has been a catastrophic failure of leadership by the ADF. They have not reigned in the errors of regulators, such as the ACCC, and they have not used their power and influence as the national dairy advocacy body to bring the crisis to an end. Dairy has shrunk by a third because of competition policy failure and supply chain market failure. The ACCC hasn't acknowledged its devastating conceptual errors and misunderstanding of the dairy industry.

If we want a viable dairy sector in Australia, we have to make brave decisions and implement market reform. Legislative change is essential. Dairy is the equivalent of agriculture's caged canary in the coalmine: it's not dead yet, but is in very poor health – as are dairy farmers like myself.

Yours respectfully,

Rob Miller

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