

15 June 2020

Hon. David Littleproud MP
Minister for Agriculture
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House of Representatives
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Dear Minister,

RE: Policy response to retailing of dairy products

At last month's meeting of national and state dairy farmer advocacy bodies, which you attended, we agreed to provide you with a policy response to retailer pricing of dairy products and the use of dairy terms in labelling of plant-based alternatives. Since then, our policy committees and Board of Directors have considered these issues and determined that:

1. Our submission to the Senate Standing Committee on Rural and Regional Affairs and Transport for its *Inquiry into the Performance of Australia's dairy industry and the profitability of Australian dairy farmers since deregulation in 2000* is still valid; and
2. We will work with you to explore mechanisms, such as a retail sales levy, to provide a meaningful increase in returns to all dairy farmers.

Retailer pricing of dairy products

The *Independent Review of the Food and Grocery Code* and the *ACCC Dairy Inquiry* identified an imbalance of bargaining power (market failure) between retailers and dairy processors. Key statements validating this are:

- 'Supermarkets have leveraged their buying power to drive wholesale prices down and reduce the profit margins of processors. This has particularly been the case with private label drinking milk and private label cheese.'
- 'The \$1 per litre price represents a real 12 per cent decline in the retail price of private label milk since its inception in 2011. It is an arbitrary 'cap' imposed by retailers on private label milk which does not reflect the costs of production and supply.'
- 'The Review received consistent complaints from suppliers in relation to the retailers' process for negotiating an increase in the price of goods.'
- 'The retailer plays a significant role in controlling prices through their acceptance or rejection of the supplier's price point. In practice, the retailer acts as the gatekeeper to pricing changes and will only purchase product at a price that has been approved or permitted by them.'
- 'With a lack of visibility of the sale transaction or access to market information, growers can find themselves vulnerable to 'price skimming' practices by traders.'
- 'Some suppliers reported instances where they have been unsuccessful in requesting a price rise for their product but later found that the retailer had increased the retail price on the shelves to capture additional profit for themselves.'
- 'Heightened retail price competition has limited suppliers from raising prices in line with their higher overheads.'
- 'The Review does not believe that the current verification process being used by retailers is leading to the best outcomes for suppliers or consumers.'
- 'Price rises were accepted by the retailer on the condition that the cost was off-set, in whole or in part, by some other means by the supplier.'

To resolve this issue, our submission to the Senate inquiry suggested that:

1. Retailers need to increase their price of home brand milk to at least \$1.50 per litre. This figure was determined by analysis of market demand and supply responses following the introduction of the \$1.00 per litre prices in 2010; and
2. A taskforce be appointed to insert clauses in the *Food and Grocery Code* to deter retailers from using dairy as a loss leader. It is noted that in your government response to the independent review (March 2019) you committed to expanding the good faith provision and improving the price verification process (imposition of a 30-day limit on resolving price rise notifications that do not require disclosure of all commercially sensitive information). While these amendments are welcomed it may not be enough to deal with dairy's long-standing issue.

Recently, we completed a cost/benefit analysis of various interventions a federal or state government could implement (refer attached). This covered a:

1. Farmgate Minimum Floor Price (proposed by One Nation, Katter Party and the Australian Labor Party);
2. Minimum Retail Sales prices;
3. Retail Sales Levy (proposed by John Dahlsen);
4. Two-Tier Pricing for farmgate milk; and
5. Government subsidized investment in regional processing.

While our analysis found the retail sales levy to have the strongest case, like other options, there are challenges that need to be resolved. Some of these are outlined in our response to the John Dahlsen report (refer attached). It is recommended that another taskforce be established to determine actions to resolve these issues and identify the type/s of price intervention most suitable for consideration in the retail sector.

Use of dairy terms in labelling of plant-based alternatives

At the November 2019 meeting of the Australia and New Zealand Ministerial Forum of Food Regulation, ADF's request for a holistic review of labelling and marketing of non-dairy alternatives, and development of additional regulations to prevent plant-based products from trading on the labelling, qualities, and values of dairy, was not supported. The meeting communiqué provided limited justification for this decision. Truth in labelling is critical to ensure there is no market failure by way of information asymmetry. Until we are provided with a clear explanation and rationale why this action is not valid there is no need for us to change our policy position.

A Dairy Australia survey found 54% of consumers purchased non-dairy alternatives because they perceived them to be healthier than dairy milk. The evidence clearly demonstrates consumer purchasing decisions on this basis cannot be substantiated. Pursuing compositional parity regulation is an option for resolving this misunderstanding. However, ADF considers it an addendum to the original policy position and only to be progressed if further research and analysis is conducted on the risks and benefits. For example, the Codex General Standard for the Use of Dairy Terms CODEX STAN 206 (GSUDT) includes significant protections for dairy terms. Australia and New Zealand supported the development of the Codex GSUDT and are WTO signatories. Compositional parity regulation has the potential to move us further from the CODEX standard.

I hope this provides the clarity you need for your parliamentary and government responses. We look forward to working with you to progress these important priorities for Australian dairy farmers.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Terry Richardson". The signature is written in a cursive style and is contained within a light grey rectangular border.

Terry Richardson

President
Australian Dairy Farmers