



Dairy Herd Improvement Industry

Review of Regulation

MPI Discussion Paper No: 2018/10

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1 Submissions

The Ministry for Primary Industries (MPI) invites comment from interested parties on updating and amending regulatory requirements relating to the dairy herd improvement industry as set out in this document.

This consultation follows on from changes initiated in 2012 and 2014, in relation to the Livestock Improvement Corporation's (LIC)'s statutory obligations and the process to transfer the New Zealand Dairy Core Database (Core Database) from LIC to DairyNZ. It is now timely to consider how the regulatory regime governing the herd improvement industry could more effectively support the performance of the industry into the future.

This document sets out issues MPI has identified for review in the herd improvement regulatory regime in a number of areas. Your submission will help us assess whether we have correctly described these issues and ensure options are as practical as possible before the final proposals are put to Government for approval.

1.1 HOW TO HAVE YOUR SAY

MPI welcomes written submissions on the proposals contained in this document. We are interested to hear your thoughts about the herd improvement regulatory regime and what changes are needed to ensure it meets the industry's animal evaluation and data needs, now and into the future. Throughout the document, there are a series of questions designed to help us understand what impact the various options and approaches would have (a summary of discussion document questions is provided in Appendix 1). We encourage you to answer the questions and we seek your views on the proposals. We will consider all relevant material in submissions, and welcome you to provide information supporting your comments.

Consultation will run for six weeks, from Monday 1 October to Monday 12 November 2018. All submissions must be received by MPI no later than 5.00 pm Monday 12 November 2018. Submissions should be sent to: info@mpi.govt.nz, with *Dairy Herd Improvement Regulatory Review* in the subject line.

While we prefer email, if you wish to forward hard copy submissions, please send them to the following address to arrive by close of business on Monday 12 November 2018.

Herd Improvement
Agriculture, Marine & Plant Policy,
Ministry for Primary Industries
PO Box 2526
Wellington 6140

Please make sure you include the following information in your submission:

- the title of this consultation document;
- your name, title and contact details (that is, phone number, address, and email); and
- your organisation's name (if you are submitting on behalf of an organisation), and whether your submission represents the whole organisation or a section of it.

1.2 YOUR FEEDBACK IS PUBLIC INFORMATION

Any submission you make becomes public information. Anyone can ask for copies of all submissions under the Official Information Act 1982 (OIA). The OIA says we must make the information available unless there is a good reason for withholding it. You can find those grounds in sections 6 and 9 of the OIA.

Tell us if you think there are grounds to withhold specific information in your submission (e.g. commercially sensitive or personal information). MPI will take such indications into account when determining whether or not to release the information. Any decision MPI makes to withhold information can, however, be reviewed by the Ombudsman, who may require the information be released.

MPI may post all or parts of any written submission on its website at www.mpi.govt.nz. Unless clearly stated otherwise in your submission, MPI will consider that you have consented to its publication.

2 Scope

The regulatory regime governing the herd improvement sector is set out in subpart 4 of the Dairy Industry Restructuring Act 2001 (DIRA), and Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Regulations 2001 (the Regulations).

The DIRA and Regulations provide for the collection of data, management and protection of the New Zealand Dairy Core Database (Core Database), Access Panel oversight of core data, the certification of herd testers, and monitoring and reporting.

The regulatory regime has not been comprehensively reviewed since it was put in place, although there have been some substantive developments in recent years. These include:

- In 2012 MPI consulted industry on management arrangements for the Core Database. As a result, in November 2014, Livestock Improvement Corporation (LIC), the then Manager of the Core Database, transferred a copy of the Core Database to DairyNZ. The Minister for Primary Industries notified in the Gazette that DairyNZ was now the Manager.¹
- In 2014 MPI consulted industry on the possible removal of statutory restrictions on LIC, namely its ability to make changes to its Constitution and corporate form, and a requirement to provide nationwide herd testing at uniform prices.
- Following this consultation, the Regulations were amended in 2014 to remove the requirement regarding nationwide herd testing services.² No amendments have as yet been made to the statutory obligations on LIC's corporate form.

No further consultation is proposed on the issues outlined above.

2.1 ISSUES FOR REVIEW

Stakeholder consultation in 2014 indicated industry concerns about the management of herd improvement data. It is now timely to consider how the regulatory regime governing the herd improvement industry could more effectively support the performance of the industry into the future.

The key issue discussed in this paper centres around how to ensure that the regulated ('core') dataset remains well aligned with the dairy industry's current and future animal evaluation needs.

MPI has also identified a number of ancillary and minor issues which warrant review. It is important from a regulatory stewardship perspective to seek industry feedback on these issues to test whether current arrangements remain fit for purpose. They include:

- Whether the role and membership arrangements for the Access Panel remain appropriate.
- How to provide for monitoring of, and reporting on, the use of core data.

¹ Note that technical amendments have yet to be made to the DIRA to reflect that DairyNZ, and not LIC, is the manager of the Core Database. An amendment Bill will be required in due course for this purpose.

² In 2014, Cabinet agreed that the DIRA could be amended to remove the requirements consequent on technical arrangements relating to the handover of responsibility for the Core Database to DairyNZ being completed (while DairyNZ had assumed responsibility for the management function, the technical operation of the aspects of the Core Database continued to rely on LIC). The former Government introduced a DIRA Bill to give effect to that decision. This Bill was subsequently withdrawn.

- Whether there are amendments that could improve the clarity of the processes relating to the certification of herd testers.

2.2 MATTERS OUT OF SCOPE OF THE REVIEW

The following issues are not addressed in this review:

- LIC's statutory obligations on corporate form: as discussed above, consultation took place on this issue in 2014.
- The Herd Testing Regulations 1958. These regulations remained in force when the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Regulations 2001 were made. This was intended as a transitional measure to manage any residual issues for affected parties (namely certified herd testers and the breed societies). MPI undertook targeted consultation in 2017 with these organisations. Consultation has confirmed that the 1958 Regulations could be revoked. Breed societies indicated that they continued to rely on a limited number of Gazette notices issued under the 1958 Regulations. No further consultation on this issue is proposed.
- The New Zealand Standard for Dairy Herd Testing: review and updating of the Standard is subject to a separate process. The Standard was reviewed in 2015 by a Committee in association with Standards New Zealand.
- This review is separate from any review of subpart 5 of the DIRA, which promotes the efficient operation of dairy markets.

3 Next steps

We will consider all information and perspectives provided and will use this to further inform our analysis. A summary of the information we have received through consultation will be made available.

If the submissions received during consultation suggest that change is needed, we will advise the Minister of Agriculture on recommended policy proposals. If any decisions are then made to progress with policy proposals they could then be included in a DIRA Amendment Bill alongside any proposals from review of subpart 5 of the DIRA.

4 Introduction and purpose

4.1 NEW ZEALAND'S DAIRY HERD IMPROVEMENT INDUSTRY

The term “herd improvement industry” in this discussion document is used to cover dairy herd testing, herd recording, animal evaluation, artificial breeding and database services. These services all rely on the regular collection and maintenance of data derived from individual dairy herds and used for the benefit of individual farmers and the national dairy herd.

The New Zealand dairy industry and successive governments have long recognised that data collected on New Zealand's dairy cattle is fundamental to breeding cows with the genetic make-up for optimum production and profitability. Experts consider that this is the fundamental reason New Zealand's farmers are among the most efficient and competitive dairy producers in the world.³ For over a century, New Zealand farmers have been testing samples of milk from their dairy cattle and recording data to inform their herd management decisions.

Herd testing has developed from those early beginnings and now supports modern animal evaluation. Today's farmers are well equipped with animal evaluation tools to help them make breeding and sale/purchase decisions to improve the productivity and efficiency of their herds. Aside from its direct contribution to the economy, dairy herd improvement has the potential to support better environmental and animal health and welfare outcomes by selecting animals with traits that contribute to these outcomes. The foundation of these tools remains the data collected on farm through herd testing and herd recording.

The genetic gain resulting from animal evaluation delivers significant economic benefits to the New Zealand dairy industry, estimated at around \$300 million per annum.⁴ DairyNZ has estimated that over a ten-year period genetic improvement would add \$257,730 to the bottom line of an individual farmer with an average-sized dairy herd.⁵ The dairy industry's ability to achieve optimal rates of genetic gain in the future depends on an ongoing supply of, and access to, essential data.

For over 100 years New Zealand dairy farmers have monitored their cows' production and shared the resulting data, developing local, then regional and now industry-wide datasets to support ongoing herd improvement. Data collection standards have been regulated since 1936. Today, data from around 70 percent of dairy herds is entered into the Dairy Industry-Good Animal Database, or DIGAD, which contains information on over 35 million animals.

4.1.1 The Dairy Industry Restructuring Act 2001 and the Core Database

Prior to 2001 herd testing and management of the resulting data was carried out exclusively by LIC, which was then a subsidiary of the New Zealand Dairy Board.

When the Dairy Board merged with the two largest dairy cooperatives to form Fonterra, the DIRA restructured LIC into a farmer-owned co-operative and paved the way for competition in the herd testing market.

The DIRA required LIC to manage the Core Database, a regulated set of 46 data fields about cows' milk production, their parentage and key events such as mating and calving that are collected by herd testers. The Core Database is an industry-good data repository which forms the basis for animal evaluation. It currently contains data on over 35 million animals, with the oldest record dating back to 1903.

The DIRA also established an Access Panel to make decisions on applications to use core data. The Access Panel must grant access where this is likely to benefit the New Zealand dairy industry, and may grant access where satisfied that this would not cause harm.

³ New Zealand Dairy Herd Improvement Database Review, Anderson Committee Report, Commissioned by DairyNZ 2009, page 4

⁴ P Amer (2012) 'Cost Benefit Implications of a New National Breeding Objective for the New Zealand Dairy Industry'

⁵ Value of Genetic Improvement, DairyNZ Technical Series Issue 22, July 2014

4.1.2 Transfer of the Core Database

In 2007 funding body Dairy InSight and researcher Dexcel merged to form DairyNZ, the industry-good body for the dairy industry. In 2009 a report on the New Zealand Dairy Herd Improvement Database Review (the Anderson Report) recommended that the Core Database be owned and managed by an industry-good organisation.

Widespread consultation throughout the dairy industry showed support for the Core Database to be transferred from LIC to DairyNZ. This included formal stakeholder consultation by MPI in December 2012.

In August 2013, DairyNZ and LIC agreed to transfer the Core Database from LIC to DairyNZ. In April 2014, after public consultation, Cabinet agreed to amend the Regulations to reflect the transfer. LIC transferred a copy of the Core Database to DairyNZ in November 2014, along with additional (unregulated) data that includes data received from CRV Ambreed and the dairy breed societies. Collectively this data enables DairyNZ to carry out animal evaluation runs to update key indices, such as breeding values. The core and unregulated data together make up the DIGAD.

There are some technical issues to be resolved to fully complete the transfer arrangements, which mean that LIC continues to have a role in the operation of the Core Database. DairyNZ is currently developing the necessary IT capability to address this.

4.1.3 Information in the Core Database

The Regulations require companies providing herd testing services to be certified, and require certified herd testers to provide 46 prescribed fields of data (known as core data) to the Core Database, which forms part of a much larger DIGAD database. There is no obligation for persons other than herd testers, such as dairy farmers using inline milk meters, to contribute data to the Core Database. The regulated data fields are set out in Appendix 2.

Herd testers also voluntarily contribute additional data obtained from herd testing and herd recording to the DIGAD, such as liveweight, and traits other than production, including body condition score. The supply of this unregulated data is governed by industry agreements.

Together, the regulated and unregulated data held in the DIGAD is used by DairyNZ to calculate animal evaluation indices. The most important of these are breeding values (BVs), which estimate a cow or bull's genetic merit for heritable traits such as protein, milkfat and fertility, and Breeding Worth (BW), which is calculated by combining eight breeding values for different traits with an economic weighting for each. The industry, through DairyNZ, has adopted BW as its standard measure of progress towards the National Breeding Objective, which is to "identify animals whose progeny will be the most efficient converters of feed into farmer profit".

Data held in the DIGAD is also used by researchers to further refine the existing animal evaluation indices and to develop new measures from time to time, as well as to develop new tools for on-farm use. The data is used by artificial breeding companies for bull breeding and sire progeny testing, and to identify animals with specific traits.

Access to regulated data (the 46 core fields) is obtained by making an application to the Access Panel. Prices are determined by DairyNZ. The Access Panel's statutory role only relates to core (regulated) data and not to other data held in the wider DIGAD or owned by other parties (e.g. herd testers, herd recorders, or farmers). Access to unregulated data is by negotiation with either LIC or CRV Ambreed at a price that they determine.

4.2 PURPOSE AND OBJECTIVES OF THE REVIEW

The key issue which this review aims to consider is how to ensure that the regulatory regime provides certainty that the industry will have available the necessary data to meet its needs, and that the availability of data for industry-good purposes keeps pace with changing needs and technology. The current prescriptive approach that specifies a list of data to be provided by herd testers does not accommodate changing needs or farming practice, and is not readily updated. Any prescribed list is likely to become outdated in a relatively short time, and the process of amending regulations can take some time.

Currently herd improvement relies primarily on phenotypic⁶ evaluation. However, there is some use of genomic information, primarily for the selection of bull calves for breeding purposes. The genetic merit of a bull has traditionally been proven through testing the milk production and other traits of the bull's daughters over seven years. Genomic selection allows a reliable estimate of genetic merit (and commercial viability) to be made at a bull's birth and allows selection from a wider range of potential sires.

While genomic data may not replace phenotypic data in the future, it is likely to make an increasingly important contribution to animal evaluation. Genomic data is not covered by regulation at present and is therefore not captured for industry-good purposes. Ideally the regulatory regime pertaining to core data should be made sufficiently flexible to accommodate the contribution of genomic data for the future.

The other issues raised in this document are secondary to the main issue (which relates to the data used for animal evaluation). MPI has less information about how these aspects are functioning and therefore does not have a firm view on whether changes are required to the current regulatory regime. However, MPI is seeking the views of stakeholders on whether the current arrangements remain fit for purpose.

This consultation provides an opportunity for the industry to inform MPI about how these other aspects of the current system is performing and whether there are any improvements which can be made in terms of transparency and clarity.

4.2.1 Criteria for review

The herd improvement regulatory regime as a whole would benefit from comprehensive updating. MPI considers that the herd improvement regulatory regime should:

- Meet the data and animal evaluation needs of the New Zealand dairy industry now and into the future;
- Provide dairy farmers, artificial breeding companies, researchers and others in the herd improvement industry with reasonable certainty of access to industry-good information;
- Avoid creating barriers to competition and the development of new services by competing companies; and
- Minimise compliance costs.

⁶ Phenotypic: how an animal looks and performs as a result of the interaction of its genetics and the environment.

5 Data used for animal evaluation

5.1 KEY ISSUE: THE LIST OF REGULATED (CORE) DATA IS OUT OF DATE

The Regulations have not kept pace with modern animal evaluation requirements. They cover only part of the data needed for animal evaluation, with supply of the remaining data relying on voluntary arrangements. While voluntary arrangements have worked to date, this does not necessarily provide the certainty that the industry needs for the future.

In addition, the mix of regulated and unregulated data increases complexity for people accessing data. Researchers, artificial breeding companies and other data users have to make multiple applications using different processes when they wish to access both regulated and unregulated data held in the DIGAD.

The herd improvement sector is heavily reliant on a reliable and comprehensive supply of data to support the performance of the dairy industry. For example, New Zealand Animal Evaluation Limited (NZAEL) researches and develops new Breeding Values, and farmers aim to increase the productivity of their herd while managing costs and mitigating environmental impacts.

Options

The Government could:

- i. Keep things as they are, retaining the regulated 'core' dataset of 46 data fields, and relying on herd testers to provide additional data to the DIGAD voluntarily.
- ii. Expand the regulated dataset to include the additional fields currently needed to calculate breeding values and animal evaluation indices.
- iii. Provide a more broadly focussed mechanism that allows the regulated fields to be updated without requiring amendment to the Act or the Regulations.

Option (i) Status quo - retain the regulated dataset of 46 data fields

Under this option there would be no change to the regulated dataset. There would be no additional administrative or compliance costs and no commercial impact. There is a risk to the comprehensiveness of the Core Database, in that the additional information on which animal evaluation relies would continue to depend on voluntary data contribution by herd testers. It would also mean that any new ways of collecting data (e.g. by in line milk meters) or new types of data (such as genomic information), would not be automatically supplied to the Core Database.

As a result, there is a risk that the dairy industry would not have access to all of the information required to support ongoing genetic improvement. Any updating in the future to address gaps would therefore require a further review and making of new regulations.

Option (ii) Expand the regulated dataset to include data currently required for animal evaluation

Under this option the list of prescribed data in the Regulations would be expanded to include all of the data that is currently required for animal evaluation as undertaken by DairyNZ (approximately 100 data fields). Supply and access arrangements for data needed for animal evaluation would continue to be covered by the Regulations.

The obligation to supply data to the Core Database would remain, as now, on certified herd testers. As now, there would not be any requirement on farmers to supply data to the Core Database where on-farm data collection is used, or to change the way data is collected. Where data for any or all of the additional fields was entered into a system such as LIC's MINDA® or CRV Insight, the holder of that database would need to send the data to DairyNZ within a specified timeframe for inclusion in the DIGAD.

Access to all regulated data would be determined by the Access Panel and the price for all regulated data would continue to be determined by DairyNZ, as is the case for the currently regulated fields. This would mean that there could be some loss of revenue to CRV Ambreed and LIC, as they would no longer be able to charge for that data. MPI has not been able to quantify that cost.

This option would protect interests of the dairy industry by providing certainty that all data that is now required for calculating breeding values or animal evaluation indices would be held in the DIGAD and made available for industry benefit. It would also align the regulatory regime with current industry practice, would lessen the industry's dependence on voluntary supply of data and would improve confidentiality of requests for data.

The disadvantage of this option is that it is not future-proof. If data requirements for animal evaluation changed in response to changing technology or the dairy industry's herd improvement needs, the Regulations would again need to be updated, with inherent delays arising from review and administrative processes.

Option (iii) Provide a mechanism that provides flexibility for core data to be redefined without requiring formal regulatory amendment

This option would require certified herd testers to provide data to the Core Database, in accordance with a list issued from time to time by the Manager of the Core Database (currently DairyNZ), and made public. The list would replace the list of prescribed data that is currently included in a Schedule to the Regulations (see Appendix 2). A variation to this approach would be to empower the Access Panel, rather than the Manager of the Core Database, to determine, consult on, and notify changes to required data.

The Regulations would include criteria to be met by the Manager of the Core Database when determining changes to the list of required data. Such criteria could include a requirement that the Manager consult before notifying changes, and have regard to the costs and benefits of additional data in relation to the value it could add in terms of genetic improvement. Access to such data for research or other industry-good purposes could be governed by the Access Panel, in the same way as currently applies to existing regulated data.

The benefit of this option is that it would help to future-proof the regulatory regime. Data required for the benefit of the dairy industry could be readily updated in line with any new animal evaluation requirements and changing science and technology. It would avoid the need to amend the Regulations, with associated administrative processes and possible delays, and place decision-making about industry-good data requirements in the hands to the industry (through the Manager of the Core Database or Access Panel).

There would be some additional work and cost on the Manager of the Core Database (or the Access Panel) in relation to proposed updating of required data fields. DairyNZ already carries out research and cost benefit analysis on proposed new breeding values and is assumed to have the capability to make assessments of possible new data requirements. Additional costs may therefore mostly relate to the need to consult with the dairy sector.

Certified herd testers could also face costs in having to collect and submit further data to the Core Database, although we note that they already supply non-regulated data voluntarily to the DIGAD. There may accordingly be little substantive impact on costs.

MPI view and questions

MPI's preliminary view is that Option (iii) could provide a streamlined and flexible approach that best meets the data and animal evaluation needs of the herd improvement industry now and into the future, by ensuring that data required for the benefit of the dairy industry can be readily updated in accordance with identified industry needs. A flexible approach will give the herd improvement industry reasonable certainty that it will be able to access industry-good information as data and animal evaluation needs may change.

Questions on the data used for animal evaluation

- Q1 Have we correctly described the issue? (If not, please provide detail)
 - Q2 Of Options (i), (ii), and (iii) above, which do you prefer? Please provide reasons for your preference.
 - Q3 Under Option (ii) are you able to provide an indication of costs or possible loss of revenue to herd testers?
 - Q4 Are there other options that could be considered?
-

5.2 KEY ISSUE: HERD TESTING TECHNOLOGIES ARE CHANGING

The herd improvement sector is inherently dynamic. Over time, developments in technology and science will have an impact on how data is captured, as well as the range of data that may be used for herd improvement.

The technology that enables the collection of herd testing data is changing. The majority of farmers who herd test at present use the services of a certified herd tester. However, some farmers are now using in line milk meters that capture data on their cows as they are being milked, without requiring a professional herd tester.

At present, the data collected by on-farm systems is not regulated and is not automatically provided to the Core Database. For this to happen, a Standard would first need to be established to ensure that on-farm systems meet consistent accuracy requirements, so that DairyNZ can be certain that that data entered into the Core Database is accurate and reliable.

Even with a Standard in place, companies collecting data on-farm from in line systems would not necessarily be certified herd testers and therefore not obliged to supply data to the Core Database. Over time, as on-farm systems become more pervasive and a Standard is established, it is possible that on-farm systems may start to displace the certified herd testing services. In time, therefore, it may be necessary to give consideration to how and to whom the obligation to provide data to the Core Database is applied.

Options

Given that there is not yet a Standard in place for on-farm systems, it may not be practical at this time to make changes to the regulatory regime to impose obligations on the collection and contribution of such data to the Core Database. We are, however, seeking preliminary views from the industry on this issue in order to inform thinking and possibly make provision for new technology over time. The Government could:

- i. Keep things as they are, with the obligation to provide data only imposed on certified herd testers.
- ii. Provide for a new class of persons or systems to provide data.

Option (i) Status quo - only certified herd testers are required to provide data

Under this option, as is currently the case, only certified herd testers would be required to provide core data to the Core Database. Data collected by on-farm systems would not be required to be provided to the Core Database. MPI would continue to monitor the role of in line systems in relation to the Core Database.

This option recognises the difficulty of regulating data from in line systems in the absence of the necessary accuracy standards. In the long-term this option may pose a risk to the comprehensiveness of the Core Database. This approach would not impose any extra compliance cost onto businesses implementing on-farm systems.

Option (ii) Provide for a new class of persons to provide data

This option would require persons other than certified herd testers to provide data to the Core Database, effectively imposing some requirements on persons (for example herd recording companies) collecting or managing data from in line systems to make it available to the Core Database. It would provide for a continued flow of data into the Core Database if, over time, on-farm systems did start to displace the services of certified herd testers.

This option may offer added on-farm biosecurity benefits. For example, in light of *Mycoplasma bovis*, farmers may wish to reduce the number of people visiting their herd to limit the chance of contamination, and look at technological solutions to do so.

This option would impose added compliance costs on herd recording companies implementing on-farm systems, as they would have to ensure data collected on their systems is able to be entered into the Core Database.

MPI view and questions

MPI considers that the obligation to provide data to the Core Database should continue to apply only to certified herd testers, as described in Option (i). This is consistent with current practicalities around the need for data to meet accuracy standards. We consider that technological developments should be kept under review to ensure the herd improvement regulatory regime meets the data and animal evaluation needs of the New Zealand dairy industry now and into the future. This consultation provides an opportunity to consider flexibility required for future data collection needs. This would help to determine whether, over time, automated and in line systems were displacing herd testing services to the point that the Core Database was compromised. MPI does not believe this will be an issue in the immediate future. However, in the event that risk is realised, further consultation would be undertaken to identify options for addressing this.

Questions on the requirements to provide data

- Q5 Have we correctly described the issue? (If not, please provide detail)
 - Q6 Under Option (ii), are there any arrangements that could provide for a new class of persons to provide data? If so, please outline details and provide reasons for your proposal.
 - Q7 Are there other options that could be considered?
-

6 Regulatory Stewardship: secondary issues

The issues raised in this section are secondary to the main issue for review (which relates to the data used for animal evaluation).

These issues cover some administrative aspects of the dairy herd improvement regulatory regime. MPI has less information about how these aspects are functioning and therefore does not have a firm view on whether changes are required to the current regulatory regime. However, MPI is seeking the views of stakeholders on whether the current arrangements remain fit for purpose.

This consultation provides an opportunity for the industry to inform MPI about how these other aspects of the current system is performing and whether there are any improvements which can be made in terms of transparency and clarity.

6.1 THE ACCESS PANEL

The Access Panel has statutory responsibility for considering applications for access to data in the Core Database. Details of the Panel's functions, membership and decision-making criteria are set out in the Regulations, and have not been substantively reviewed since the Panel was established in 2001.

The Panel comprises three members appointed by the Minister of Agriculture. Two members are recommended by DairyNZ and one member must, in the Minister's opinion, have expertise in competition policy. The Regulations task the Access Panel with making decisions on applications to use core data. The Access Panel must grant access where this is likely to benefit the New Zealand dairy industry, and may grant access where satisfied that this would not cause harm.

The Panel may set terms and conditions (excluding the Manager of the Core Database's charges) on which data in the Core Database must be made available, including the form in which it must be made available and the time limits within which it must be made available.

While considering how regulated data is defined and collected, it is timely to consider the arrangements for how it is accessed. This section poses questions on a range of issues relating to the Access Panel. We seek to test whether other arrangements may more effectively and/or efficiently provide dairy farmers, artificial breeding companies, researchers and others in the herd improvement industry with reasonable certainty of access to industry-good information. MPI seeks views on whether stakeholders consider current arrangements for accessing data remain appropriate and will continue to effectively support the performance of the industry into the future. The following issues are discussed below:

- Whether the criteria for approving or rejecting access to core data are appropriate.
- Whether the Access Panel should carry out additional functions.
- In light of changes in technology and data, whether the Access Panel's membership remains suitable.
- Whether Access Panel should continue to have oversight of LIC's copy of the Core Database.

6.1.1 Issue: Criteria for decision-making

There is a question as to whether the current criteria for approving or rejecting applications are appropriate. The Regulations provide that:

“The Panel must grant an application for access to data in the Core Database only if it is satisfied that to do so is likely to be beneficial to the New Zealand dairy industry.

If the Panel is not satisfied that granting an application for access to data in the Core Database is likely to be beneficial to the New Zealand dairy industry, the Panel may grant an application for access to data in the Core Database only if the Panel is satisfied that to do so would not be harmful to the New Zealand dairy industry.”

The current criteria are very broad and do not provide any guidance for applicants or the Access Panel on what constitutes “beneficial” or “harmful” impacts on the New Zealand dairy industry. According to the Access Panel’s annual report for 2016/17, the Panel has approved 87 applications since it was established in 2001. Few applications have been rejected. The Access Panel’s annual reports do not, and are not required to disclose, how the Panel determined that applications were beneficial or not harmful to the dairy industry.

Options

In the interests of transparency it may be appropriate to consider whether the clarity of the criteria could be improved. The Government could:

- i. Retain the current criteria.
- ii. Retain the current criteria with published guidance.
- iii. Retain the current criteria with statutory guidance.
- iv. Replace the criteria.

Option (i) Status quo – retain the current criteria

This option would see no change to the current criteria. The lack of transparency around decision-making would remain, with no guidance for applicants as to how Access Panel decisions are informed.

Option (ii) Retain the current criteria with published guidance

This option would retain the current criteria, but require that the Access Panel publish guidelines as to how its decisions on the criteria are informed. There would be a requirement to make explicit what factors were taken into consideration when determining whether an application was beneficial, not harmful, or harmful to the New Zealand dairy industry.

This option would increase transparency around decision-making and enable applicants to make a more informed applications for access to data. It would also retain flexibility for the Access Panel, which would be free to set and vary its own guidelines, in response to changing dynamics in the dairy industry.

Option (iii) Retain the current criteria with statutory guidance

This option would retain the current criteria and would add additional factors to be taken into account in determining what is beneficial, what is harmful or not harmful to the dairy industry. It differs from Option (ii) above in that these factors would be written into the Regulations, rather than determined by the Access Panel.

Like Option (ii), this option would provide increased transparency and clarity around the interpretation of the criteria. Putting these factors in statute would also mean that they reflected government policy as they would be passed through a parliamentary process, rather than being left to the Access Panel’s discretion. The disadvantage is that any updating would require amendment to the Regulations.

This option would change the existing criteria to set out in detail the factors to be taken into account when determining applications. These could include for example, the extent to which, and how, the dairy industry would benefit from the use of the data requested; how pervasive that benefit would be (e.g. broadly across the national herd or captured by specific parties); or whether the application had implications for the sustainability of the dairy industry (e.g. management of environmental or animal health impacts).

This option would increase transparency around decision-making and enable applicants to make a more informed applications for access to data. The disadvantage is that any future updates would require amendment to the Regulations.

MPI view and questions

MPI does not have a firm view on how the criteria for decision-making can be improved, but does not consider the status quo, as described in Option (i), is sustainable. This is as MPI does not consider that the current arrangement provides the herd improvement industry with reasonable certainty of how access to industry-good information is determined. MPI seeks input on factors which could be useful criteria to assess applications for access against.

Questions on the criteria for Access Panel decision-making

- Q8 Do you consider that the statutory criteria by which the Access Panel determines applications for access to data should be retained or amended? Please give reasons for your views.
- Q9 Which of the above options do you prefer and why? Please give reasons for your views.
- Q10 If the criteria were amended or added to, what factors could be useful criteria to assess applications for access against?
- Q11 Are there any other options that should be considered? Please outline any other options in detail and provide reasons for your views.
-

6.1.2 Issue: Functions of the Access Panel

The functions of the Access Panel, as set out in the Regulations, are to:

- Decide applications for access to data in the Core Database (the Panel must take into account criteria set out in the Regulations in making a decision).
- Determine other circumstances in which the manager of the Core Database must make data in the Core Database available (including, for example, at the request of persons who have supplied the information from which that data results).
- Appoint an auditor to audit compliance by the Manager of the Core Database and LIC with requirements regarding the maintenance and provision of access to data as set out in the Regulations.

In considering how access to core data is provided, it is timely to also consider whether the Access Panel should, or could, carry out any other functions. Seeking views on Access Panel additional functions means that we can consider whether its role will continue to serve the data and animal evaluation needs of the New Zealand dairy industry now and into the future.

Options

In considering changes to the dairy herd improvement regulatory regime, it is timely for the Government to consider whether to:

- i. Keep things as they are, with the Access Panel continuing to carry out the functions outlined above.
- ii. Give the Panel additional functions. These could include, for example:
 - a. identifying and updating details on what should be considered to be core data, and/or
 - b. controlling access to non-core (unregulated) data held in the DIGAD.

Option (i) Status quo – retain current Access Panel functions

Under this option the Access Panel would continue to determine applications for access to core data, as defined in the Regulations. The status quo would provide continuity in the regulatory regime, with a group of experts taking decisions on who can access data.

Option (ii) Give the Access Panel additional functions

Under this option, the Access Panel would continue to carry out its existing functions but also take on new responsibilities, for example:

- (a) *Identifying and updating details on what should be considered to be regulated (core) data*

Section 4.1.1 proposed a flexible mechanism for defining and updating what should be regarded as core data (see Section 4.1.1 Option (iii)). A variation of the option was that the Access Panel could be charged with determining this. If the Access Panel were to undertake this function, it would need to establish criteria for determining what should be core data, procedures for consulting with the industry and documenting its decisions.

A possible benefit of this approach is that the determination of core data in the future would be done by an expert independent body. The advantages of using the Access Panel would need to be weighed against other options, such as having DairyNZ undertake this function. DairyNZ is responsible for the management of the Core Database and for animal evaluation, and therefore also has the necessary expertise to determine core data.

(b) *Controlling access to non-core (unregulated) data held in the DIGAD*

Under this option, the Access Panel's functions could also be extended to determining who should have access to unregulated data in the DIGAD. Access to unregulated data should at present be a matter for negotiation only between an applicant and LIC or CRV Ambreed. In practice, the Access Panel does screen applications for access to unregulated data, with the agreement of DairyNZ. However, the Access Panel has no statutory authority to do this.

Giving the Access Panel oversight of non-core (unregulated data) would provide a consistent approach across all herd improvement data. However, providing a statutory mandate to control access to unregulated data would in effect be imposing regulation on such data.

MPI view and questions

Seeking views on additional functions for the Access Panel means that we can consider whether it can better serve the data and animal evaluation needs of the dairy industry now and into the future. MPI does not have a firm view on whether the Access Panel should carry out additional functions and seeks input on options and alternatives.

Questions on Access Panel functions

- Q12 Do you consider that the Access Panel should carry out additional functions? Please give reasons for your views.
- Q13 Which of the options above do you prefer? Please provide reasons in support of your preference.
- Q14 Are there any other functions that should be considered? Please outline any other functions in detail.
-

6.1.3 Issue: Access Panel membership

The current skill set of the Access Panel covers institutional and scientific knowledge about herd improvement, experience in economics and competition policy, and practical farming experience. It is timely to consider as a part of this review whether the current arrangements for membership and appointments (as outlined in Part 6, paragraph 2) remain fit-for-purpose.

Views are invited as to whether the current skill set is appropriate, or whether there are additional skills that may be required in the future. The required skills may be affected, for example, by any changes to functions as discussed in Part 6.3, or by changes to the range and type of core data as discussed in Part 5 of this paper.

The Regulations do not specify a term of appointment or how many times a person can be reappointed. In practice, members have been appointed for a period of three years, with unlimited renewals. This means that the Panel can benefit from continuity of membership, but may lack regular input of new experience and perspectives.

Options

In considering changes to the dairy herd improvement regulatory regime, it is timely for the Government to consider whether to:

- i. Keep the current membership and appointment arrangements as they are.
- ii. Vary appointment and/or membership requirements.

Option (i) Status quo – current membership and appointment arrangements

Under this option, the Panel would continue to comprise three members appointed by the Minister of Agriculture - two members who are recommended by DairyNZ and one member who, in the Minister's opinion, has expertise in competition policy. The benefit of this approach is that the Panel comprises a group of industry experts who take decisions on who can access data.

A risk with this approach is that if there are changes to what is included in core data (e.g. genomic information) then the criteria for appointing members may not provide the necessary expertise to assess applications.

Option (ii) Vary appointment and/or membership requirements

Variants to the Access Panel membership could include:

- a) Allowing DairyNZ to appoint all of the members, after consulting the industry, and the Minister (i.e. the Minister would no longer have a formal role in choosing a Panel member). Having identified suitable candidates, DairyNZ could publicly notify details of an appointment. This variant would streamline the process to appoint members.
- b) Specifying the number of consecutive terms of appointment that a Panel member can serve. This variant would provide for regular input of new experience and perspectives. This differs from the status quo in that Panel currently has some long-serving members, for example one member has served on the Panel since it was established in 2001.
- c) Specifying additional or different skills and experience required for Panel members. This variant would ensure the Access Panel has the required skills to assess the types of applications it may receive in the future.

MPI view and questions

Ensuring the Access Panel has the correct membership, and therefore the correct skill-set, will help it to continue to serve the data and animal evaluation needs of the New Zealand dairy industry. MPI does not have a firm view on what the membership of the Access Panel should be and seeks feedback on possible variants.

Questions on Access Panel membership

- Q15 Do you consider that the current membership and appointment arrangements should be retained? Please provide reasons to support your preference.
 - Q16 Do you consider that the membership and appointment processes should be changed? If so, do you support the any of the approaches listed in (ii) above?
 - Q17 If you support Option (ii) variant (c) do you have views on what additional skills or experience might be included?
 - Q18 Do you consider that there are other variants? Please provide reasons in support of your views.
-

6.1.4 Issue: Continued Access Panel oversight of LIC's copy of the Core Database

When the transfer of the Core Database was agreed in 2014, Cabinet noted that LIC would continue for the time being to have a complete copy of the Core Database. Persons seeking to access core data could therefore potentially bypass the Access Panel and request data direct from LIC. To address this, Cabinet agreed that the Access Panel should continue to have oversight of core data held by LIC, and directed MPI to consider whether this was still required within three years of the transfer. As of August 2018 three of the five planned stages of the transfer have been completed.

MPI considered the issue of Access Panel oversight in 2015 and found that:

- The transfer of the Core Database from LIC to DairyNZ was at that time partially completed.
- Although LIC had made a copy of the Core Database available to DairyNZ in late 2014, it was not yet technically possible for organisations other than LIC to send core data directly to the Core Database held by DairyNZ.
- Core data collected by CRV Ambreed and the breed societies was therefore sent to LIC, for transmission to the Core Database. LIC's database therefore continues to contain all core data.

As a result, Access Panel oversight of LIC's copy of the Core Database has remained in place for the time being. DairyNZ is establishing the necessary IT capability to receive data direct from CRV Ambreed and any other herd testing company that might enter the market in the future. These arrangements are expected to be completed in 12 to 18 months. Once these arrangements are in place, LIC will no longer have access to CRV's data and over time its copy of the Core Database will become increasingly incomplete.

As this happens, Access Panel oversight of LIC's copy of the Core Database will eventually become redundant as it will not remain a comprehensive copy. It is important to note that LIC contributes a significant amount of data to the Core Database. MPI is seeking views on options in relation to the Access Panel oversight of LIC's copy of the Core Database, once the input of all core data is no longer reliant on LIC.

Options

The Government could:

- i. Keep things as they are, with the Access Panel continuing to have oversight of access to core data held by LIC.
- ii. Remove Access Panel oversight of core data held by LIC once at a defined point in time after DairyNZ is able to receive core data direct from other organisations.

Option (i) Status quo – retain Access Panel oversight of core data held by LIC

Under this option the Access Panel would continue to have oversight of access to core data held by LIC indefinitely. This option would provide a high level of assurance regarding access to core data. However, it appears unnecessary to continue Access Panel oversight indefinitely once DairyNZ can receive data from CRV Ambreed and others directly, without its being transmitted through LIC, and LIC's copy of the Core Database no longer contains complete and up to date data. Third parties would therefore be able to obtain only historically comprehensive data from LIC, making it unlikely that they would seek to bypass Access Panel processes. If the Access Panel retains oversight of LIC's copy of the Core Database, it may create barriers to competition as other herd testers would not be required to have such oversight of their databases.

Option (ii) Remove Access Panel oversight of core data held by LIC once LIC's database no longer contains all of the data held in the Core Database

Under this option, Access Panel oversight of core data held by LIC would be removed at an appropriate interval (either 12 or 24 months) after DairyNZ was able to receive data direct from CRV Ambreed and other organisations.

The 12 or 24 month interval would ensure that Access Panel oversight was retained while LIC still held a relatively complete copy of the Core Database, and would be removed once DairyNZ and LIC's databases started to diverge. By that time, the risk of third parties seeking to circumvent Access Panel decisions by approaching LIC for data would have lessened since the only recent data LIC would hold was the data it has collected itself.

An interval of 12 months would mean that when oversight was removed LIC would not hold the most recent season's data collected by CRV Ambreed and the dairy breed societies. An interval of 24 months would extend this to two seasons.

MPI view and questions

MPI considers Option (ii) is the more pragmatic approach to manage access to LIC's copy of the Core Database. We consider a 12 to 24 month time period for removing Access Panel oversight would be appropriate. This approach is in line with the criteria to avoid creating barriers to competition by retaining Access Panel oversight of LIC's copy of the Core Database once it has been transferred to DairyNZ.

Questions Access Panel oversight of core data held by LIC

- Q19 Do you prefer Option (i) or (ii)? Please provide reasons to support your preference.
- Q20 With regard to Option (ii), should Access Panel oversight of LIC's copy of the Core Database be removed 12 months or 24 months after DairyNZ has established the necessary IT capability to receive core data direct? Please provide reasons to support your preference.
-

6.2 MONITORING AND REPORTING

6.2.1 Issue: Access Panel annual reporting

The Access Panel must provide to the Director-General of MPI, no later than two months after the end of its financial year, an audited annual report that includes:

- a report on the exercise of the Panel's functions and powers during the financial year; and
- a report on the receipt and expenditure of any income during the financial year.

The Annual Report currently does not provide information on the source of applications for core data, what information is sought, or for what purpose. The Access Panel considers that the current drafting of the Regulations means that it cannot disclose in its Annual Report the full range of information relating to applications for access to core data. This consultation provides an opportunity to consider whether the Annual Report could provide more substantially useful information about applications for core data.

There is also a question as to whether the requirement to report to the Director-General is appropriate. The Access Panel is funded by the dairy industry through the levy paid to DairyNZ by dairy farmers⁷ and, as such, it may be more appropriate for the report simply to be published for the information of the dairy industry, or submitted to levy payers at DairyNZ's Annual General meeting.

While considering how the Access Panel operates, this consultation is an opportunity to review whether the current provisions provide transparency around access decisions, and provide the herd improvement industry with reasonable certainty of access to industry-good information.

Options

It is timely for the Government to consider whether to:

- i. Retain the status quo – the Access Panel would be required, as now, to report to the Director-General of MPI.
- ii. Require the Access Panel to submit its report to the dairy industry, rather than to the Director-General of MPI.
- iii. Regardless of decisions on (i) and (ii) above, require more stringent and informative reporting, for example, to explain the basis for decision-making on applications and to address a drafting anomaly in the current arrangements that appears to limit the release of information.

Option (i) Status quo – retain the current reporting requirements

Under this option the Access Panel would continue to send its Annual Report to the Director-General. The disadvantage of the status quo is that, while MPI has a policy interest in the Access Panel's decisions, the Panel is funded by, and therefore more directly accountable to, the dairy industry. As discussed above, the current form of the Annual Report also lacks substantive detail that would make it more truly informative.

Option (ii) Require the Access Panel to report to levy payers, rather than to the Director-General

This option would change the focus of the Access Panel's reporting so that the key accountability was to levy payers, rather than to the Director-General. A variant of this approach could be for it to report to the Minister of Agriculture.

The cost of preparing and auditing the Annual Report is the Access Panel's largest expense. If the Access Panel's reporting lines were directed to dairy farmers rather than the Director-General, this may improve the transparency of the benefit received from this levy expenditure.

⁷ Dairy farmers pay levies to DairyNZ under the Commodity Levies (Milk solids) Order 2014.

Under this option, more transparent and informative reporting would be enabled. The Regulations could be amended to require additional information to be included in the Annual Report. For example, information on the source of applications, what information is sought, or for what purpose.

Consideration would need to be given to how the information was disclosed, in order to protect any commercial confidentiality associated with an information request. The inclusion of such detail in the Access Panel's reporting requirements would provide a better sense of how core data was being used, as well as helping to track developments in the herd improvement sector.

This option could be combined with Option (ii), to provide more comprehensive and transparent information on the Panel's decisions.

MPI view and questions

MPI considers that it a combination of Option (ii) and Option (iii) is preferable to the status quo and seeks views on the type of information that should be included in the Annual Report. Publishing high-level information will improve clarity around access decisions, and go some way to provide the herd improvement industry with reasonable certainty of access to industry-good information.

Questions on the Access Panel's Annual Report

- Q21 Which of the above options do you prefer and why?
- Q22 Are there any other options that should be considered? Please outline any other options in detail and provide reasons for your views.
- Q23 What type of information do you consider should be included in the Annual Report?
-

6.2.2 Issue: Manager of the Core Database annual reporting

At present, the regulatory regime makes no provision for monitoring or reporting on the regulatory regime. The Manager of the Core Database (i.e. DairyNZ) is expressly prohibited from disclosing information on applications or the release of core data. Further, there are no requirements for DairyNZ to publish any information, for example about the amount of information provided to the Core Database, or trends in Animal Evaluation. This limits MPI's ability to monitor the effectiveness of the Access Panel, the Core Database and the regulations that govern them.

This consultation is an opportunity to review whether MPI's oversight of the regulatory regime could be improved. This will allow MPI to assess the effectiveness of the regulatory regime and identify any opportunities for improvement to ensure it continues to meet the data and animal evaluation needs of the New Zealand dairy industry

DairyNZ is not able to report to levy payers on a service they pay for. There is a question as to whether the accountability to levy payers could be improved.

Options

In considering changes to the regulatory regime, the Government can also consider whether to:

- i. Keep things as they are, so the Manager of the Core Database is not required to disclose information on the regulatory regime.
- ii. Establish reporting requirements and enable publication of some high-level information.

Option (i) Status quo – the Manager of the Core Database (DairyNZ) remains unable to disclose information

Under this option there would be no change to the existing regulations. It is currently difficult for MPI to assess the effectiveness of the regulatory regime, and DairyNZ is prevented from disclosing any information to levy-payers. These limitations would remain.

Option (ii) Establish reporting requirements and enable publication of some high-level information

Under this option DairyNZ would be able to publish high-level statistics on the use of the Core Database and trends in Animal Evaluation, and could use that information in reporting to levy-payers.

Under this option the Manager could also be required to provide MPI with information relating to applications, including the types of organisation requesting data, the number of applications received, approved and declined by the Access Panel each year, and the reasons for its decisions. The confidentiality of individual applicants would be preserved.

This option would better enable MPI to assess the effectiveness of the regulatory regime and identify any opportunities for improvement.

MPI view and questions

MPI considers that publication of some high-level information, as described in Option (ii), is preferable to the status quo and seeks views on the type of information that should be published. This is because publishing high-level information will improve MPI's oversight of the regulatory regime. It would also go some way to provide the dairy industry with clarity around a service they pay for through levies and provide reasonable certainty of access to industry-good information.

Questions on the Manager of the Core Database Annual Report

- Q24 Which of the above options do you prefer and why?
- Q25 Are there other options that should be considered for monitoring and reporting? Please outline any other options in detail and provide reasons for your views.
- Q26 If Option (ii) is decided on, what information should DairyNZ
- a) be required to provide confidentially to MPI; and
 - b) be able to make publicly available, including to levy-payers?
-

6.3 CERTIFICATION OF HERD TESTERS AND ASSOCIATED OBLIGATIONS

The Regulations provide that no person may undertake regulated herd testing unless that person is a certified herd tester⁸. The requirement for certification reflects the need for herd testing to be carried out in compliance with a recognised technical standard, which is incorporated by reference into the Regulations. Certification provides assurance to farmers about the technical reliability of the herd testing and recording services they purchase. From a wider industry-good perspective, it ensures the integrity and quality of the data that is contributed to the Core Database.

Certification must be undertaken by an independent certification body, approved, under the Regulations, by the Director-General of MPI. TELARC is currently the approved certification body. There are currently two certified herd testing companies in New Zealand: LIC and CRV Ambreed.

Certified herd testers must provide data to the Core Database as prescribed under the Regulations. To ensure the integrity and accuracy of the data going into the Core Database, the Regulations require that equipment used for sampling, measuring and analysing milk must meet the operating and accuracy standards specified in the 2015 Dairy Herd Testing Standard.

As noted in earlier parts of this document, we do not propose any substantive policy change to the scope of the certification or data collection requirements in the Regulations. There are, however, a number of amendments that could be considered, in order to ensure that the regulations operate effectively.

6.3.1 Issue: Criteria for appointing or revoking approval of certification bodies

The Director-General of MPI approves certifying bodies for herd testing. The Regulations do not include any criteria on which to base approvals. The Regulations simply provide in Schedule 1, clause 1(1) that *“The chief executive may, on the application of any person or body, approve that person or body as a certification body...”* As a matter of internal practice, MPI has to date relied on an audit by JAS-ANZ to confirm the ongoing competence and capability of the certifying body.

Similarly, there are no criteria in the Regulations in the event that the Director-General wishes to revoke an approval. The Regulations simply state in Schedule 1, clause 1(2) that *“the chief executive may at any time revoke an approval ...”*

There is a lack of transparency for certification bodies as to whether they are likely to be appointed or removed. This consultation provides an opportunity to review whether the current provisions for decisions to appoint or revoke certification bodies could be improved.

Options

Amendments the Government could make are to:

- i. Include a requirement to publish guidelines, or criteria, in the Regulations that outline what the Director-General is to base its decision on for approving the certifying body.
- ii. Include a requirement to publish guidelines, or criteria, in the Regulations in the event that the Director-General wishes to revoke the approval of a certifying body.
- iii. Include an obligation on the certification body to advise the Director-General if it considers that its approval may be in question, or a delay may arise that impacts on the certification body's ability to recertify a herd tester.

⁸ The Regulations define “regulated herd testing” as “the operation of testing the milk of milk cows in 2 or more herds that are the property of different persons for the purpose of recording the production of individual cows within those herd in respect of milk or components of milk”. In effect this means that if a person (including an organisation or company) wants to offer herd testing services on a commercial basis they must be certified and comply with the Regulations. Dairy farmers herd testing their own herds are not subject to the Regulations. Researchers, laboratories and persons herd testing only for the purposes of taking a somatic cell count are also exempt.

Option (i) Increasing decision-making clarity for the appointment of certification bodies

This option would involve including a requirement to publish guidelines (or some formal criteria) for decision-making relating to the appointment of certification bodies. The benefit of this approach is that it would provide guidance for potential certification bodies and improve the transparency of decision-making.

Option (ii) Increasing decision-making clarity for the revocation of approval of certification bodies

This option would involve a requirement to publish guidelines (or inclusion of criteria) for decision-making relating to the revocation of approval of certification bodies. A benefit of this approach is that it would improve the transparency of decision-making.

Option (iii) Including an obligation on the certification body to advise the Director-General if its ability to certify may change

The duties of certification bodies (Schedule 1, clause 2 of the Regulations) could usefully include some sort of obligation on the certification body to advise the Director-General if the certification body considers that its approval may be in question, or a delay may arise that impacts on the certification body's ability to recertify a herd tester (for example, if the certification body's capability was inadvertently compromised).

Currently the approval process runs on a three year cycle, and there is no regulatory requirement to monitor the status of approvals and recertification in the interim. Such a requirement could mirror existing provisions that require the certification body to advise the Director-General when it recertifies or revokes the certification of a herd tester.

MPI view and questions

MPI considers that the amendments listed above would improve the clarity and transparency of the processes relating to certification bodies. These amendments would also respond to the criteria for this review, in that improving the clarity of decision-making may avoid creating barriers to competition and the development of new services by competing companies.

Questions on certification of herd testers and associated obligations

Q27 What are your view on Options (i), (ii), and (iii) suggested above?

Q28 If you consider that there are other issues arising in relation to the current certification processes and requirements please outline them and provide reasons for the matters you raise.

Appendix 1: Summary of discussion document questions

Questions on the data used for animal evaluation

- Q1 Have we correctly described the issue? (If not, please provide detail)
- Q2 Of Options (i), (ii), and (iii) above, which do you prefer? Please provide reasons for your preference.
- Q3 Under Option (ii) are you able to provide an indication of costs or possible loss of revenue to herd testers?
- Q4 Are there other options that could be considered?
-

Questions on the requirements to provide data

- Q5 Have we correctly described the issue? (If not, please provide detail)
- Q6 Under Option (ii), are there any arrangements that could provide for a new class of persons to provide data? If so, please outline details and provide reasons for your proposal.
- Q7 Are there other options that could be considered?
-

Questions on the criteria for Access Panel decision-making

- Q8 Do you consider that the statutory criteria by which the Access Panel determines applications for access to data should be retained or amended? Please give reasons for your views.
- Q9 Which of the above options do you prefer and why? Please give reasons for your views.
- Q10 If the criteria were amended or added to, what factors could be useful criteria to assess applications for access against?
- Q11 Are there any other options that should be considered? Please outline any other options in detail and provide reasons for your views.
-

Questions on Access Panel functions

- Q12 Do you consider that the Access Panel should carry out additional functions? Please give reasons for your views.
- Q13 Which of the options above do you prefer? Please provide reasons in support of your preference.
- Q14 Are there any other functions that should be considered? Please outline any other functions in detail.
-

Questions on Access Panel membership

- Q15 Do you consider that the current membership and appointment arrangements should be retained? Please provide reasons to support your preference.
- Q16 Do you consider that the membership and appointment processes should be changed? If so, do you support the any of the approaches listed in (ii) above?
- Q17 If you support Option (ii) variant (c) do you have views on what additional skills or experience might be included?
- Q18 Do you consider that there are other variants? Please provide reasons in support of your views.
-

Questions Access Panel oversight of core data held by LIC

- Q19 Do you prefer Option (i) or (ii)? Please provide reasons to support your preference.
- Q20 With regard to Option (ii), should Access Panel oversight of LIC's copy of the Core Database be removed 12 months or 24 months after DairyNZ has established the necessary IT capability to receive core data direct? Please provide reasons to support your preference.
-

Questions on the Access Panel's Annual Report

- Q21 Which of the above options do you prefer and why?
- Q22 Are there any other options that should be considered? Please outline any other options in detail and provide reasons for your views.
- Q23 What type of information do you consider should be included in the Annual Report?
-

Questions on the Manager of the Core Database Annual Report

- Q24 Which of the above options do you prefer and why?
- Q25 Are there other options that should be considered for monitoring and reporting? Please outline any other options in detail and provide reasons for your views.
- Q26 If Option (ii) is decided on, what information should DairyNZ
- a) be required to provide confidentially to MPI; and
 - b) be able to make publicly available, including to levy-payers?
-

Questions on certification of herd testers and associated obligations

- Q27 What are your view on Options (i), (ii), and (iii) suggested above?
- Q28 If you consider that there are other issues arising in relation to the current certification processes and requirements please outline them and provide reasons for the matters you raise.
-

Appendix 2: Information to be supplied to manager of Core Database

Key data

- Farm location
- Herd number
- Participant code

Static data

- Unique animal identifier
- Sire official indicator
- Sire
- Genetic dam
- Sex
- Date of birth
- Date of birth confidence indicator
- Breed
- Breed 16ths

Event data

- Herd management number
- Herd management number start date
- Herd management number end date
- Date animal entered herd
- Date animal exits herd
- Animal fate
- Cause of fate
- Calving date
- Abnormal calving circumstances
- Calving assistance
- Calf number within parturition
- Fate of calf
- Comment code
- Date of mating
- Mating type
- Mating sire
- Embryo implant serial number
- Embryo implant date
- Embryo donor
- Embryo sire
- Embryo recipient
- Drying off date
- Drying off reason

Production data

- Herd test date
- Abnormal test code
- PM milk volume
- AM milk volume
- Fat percentage
- Protein percentage
- Somatic cell count
- Average number of milkings
- Pre-test milking date stamp
- Test 1 date stamp
- Test 2 date stamp