That this meeting of Taranaki dairy farmers believe that Fonterra should be put on the same basis as any other dairy Company and dira restrictions should be abolished.

s 9(2)(a)

[redacted]

Is the dairy industry sustainable in its current form?

s 9(2)(a)

Contents

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Introduction

The objectives of the Dairy Industry Review Act state that "the purpose of this review is to consider:
• whether the DIRA is operating in a way that protects the long-term interests of New Zealand dairy farmers, consumers and the nation's overall economic, environmental and social wellbeing; and,
• whether, and if so the extent to which, the DIRA gives rise to any unintended consequences manifesting themselves in other parts of the wider regulatory system.

In the DIRA discussion document MPI specifically ask questions 14, 15, 16, and 41 relating to these matters. In the context of those questions this submission outlines issues relating to public health, social wellbeing, environmental issues and product stewardship. Recommendations are made on how the industry can operate more sustainably.

a) Increased nitrates in groundwater

On alluvial soils in Canterbury nitrogenous fertilizers are frequently applied (viz. throughout NZ approximately 830,000 tonnes of urea are used per annum). This adds to the nitrate burden from animal excrement (urine and faeces). Frequent irrigation ensures that nitrates from these pollutants are washed into the sub-soil and finally into groundwater. Wherever dairy intensification has occurred the monitoring of bores by Environment Canterbury shows significant increases in nitrate-nitrogen concentrations (Fig 1).

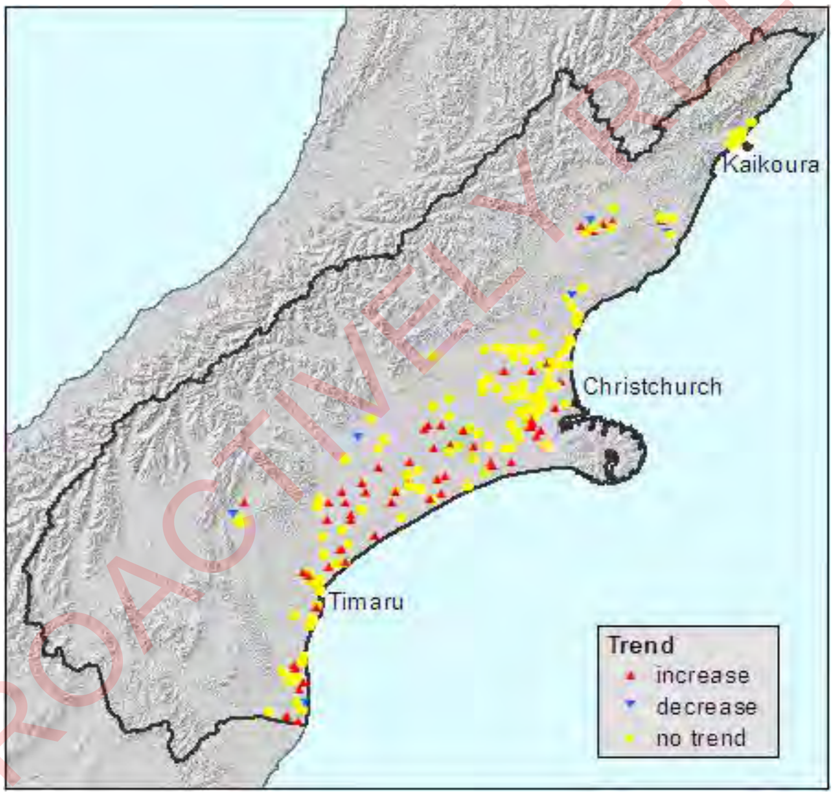


Figure 1. Trends in nitrate concentrations in Canterbury groundwater, 2003 to 2012 (Ecan).

At monitored bore sites in Central Canterbury the levels of nitrate-nitrogen have increased from threshold MCL values (4-5 ppm) to concentration levels well above those that cause cancer, methemoglobinia and other health effects; furthermore, since 2005 the monitored concentrations of bacteria and protozoa in these wells has increased to the extent that they present an ongoing risk of gastroenteritis and other health effects (Fig 2).

In a recent report it was shown that 25% of wells monitored in Canterbury during 2017 showed an increase in nitrates; a figure that is appalling in the context that 'high' levels of nitrate already existed in groundwater (Ecan 2017)

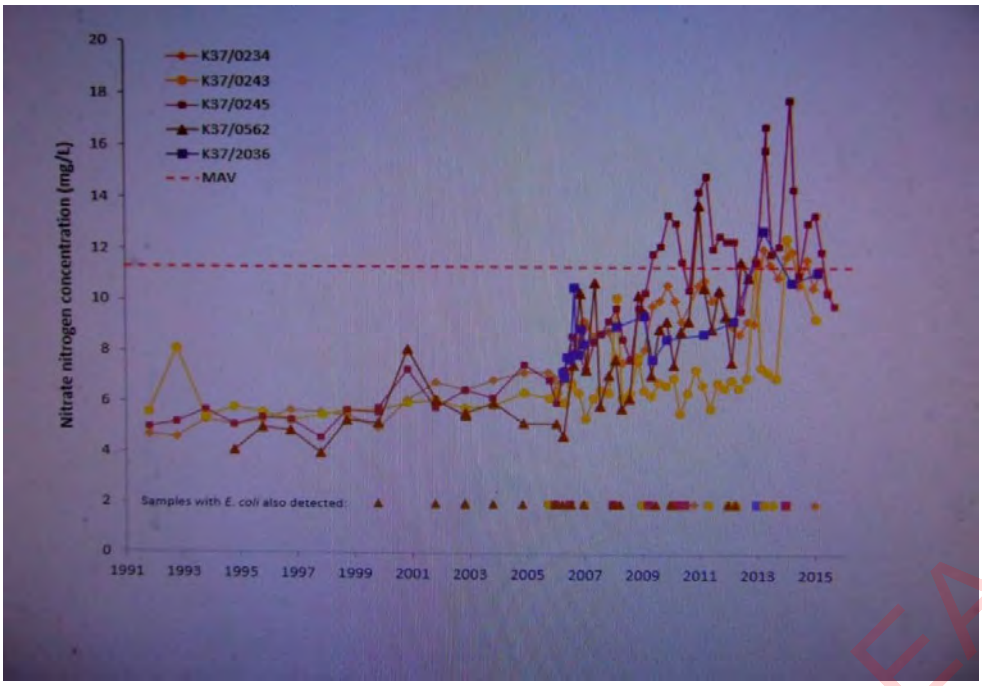


Figure 2. Increased concentrations of nitrate-nitrogen and bacteria in central Canterbury wells (Ecan 2016).

Outside of the Canterbury region concentrations of nitrate-nitrogen also frequently exceed maximum concentration levels (MCLs) (Fig 3; MFE 2008). It is not just coincidental that <u>ALL monitored rural bores</u> where nitrate levels are >5.65 mg/L (Southland, Canterbury, Tasman, Manawatu, Taranaki, Waikato) are in areas where the primary land use is dairy farming (Fig. 3).

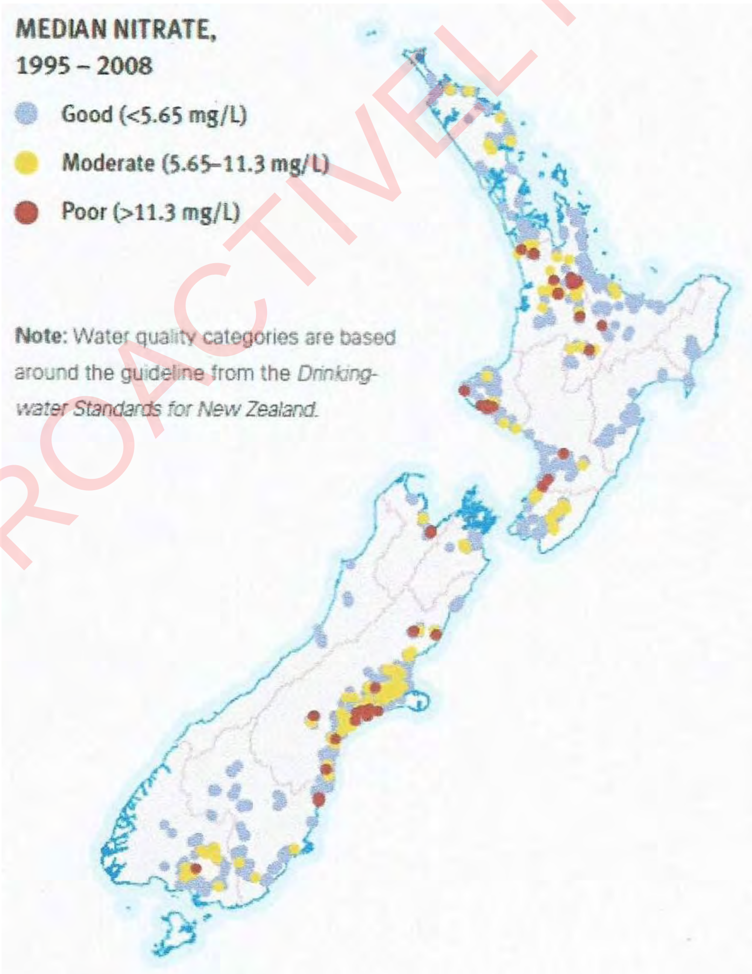


Figure 3. Nation-wide concentrations of nitrate in groundwater at bores monitored by MFE between 1995-2008.

Ancillary research demonstrates that monitored increases in nitrates are merely the 'tip of the iceberg', with only a small repository (<5%) of soil nitrates showing up in water samples, and we can look forward to the rest coming into our water over the next 20-150 years (Stewart *et al.* 20011, Close *et al*. 2001, Morgenstern *et al.* 2004). Inevitably, the problem of nitrates in drinking water <u>must get worse before it gets better</u>.

Where in the DIRA discussion document is there a comprehensive appraisal of the effects of nitrates and other dairy pollutants on groundwater? Where in the document are mechanisms outlined to prevent nitrates entering groundwater?

b) Public health

A review of available peer reviewed literature on nitrate toxicity reveals failures of the EPA to incorporate current scientific knowledge into drinking water standards. These shortcomings apply to all the toxic effects of nitrate, including:

- Methemoglobinemia. Nitrate causes methemoglobinemia in infants and this has been the principle health concern of regulators around the globe. Many juvenile deaths caused by nitrate-contaminated drinking water have occurred in the United States; but gone unreported (Johnson and Kross 1990). For example, a survey in Nebraska asked all physicians if they had seen a case of nitrate induced methemoglobinemia, and 33, or seven percent, had seen a case in the period 1973-1978. During that time not one single case had been reported in Nebraska medical literature. A similar survey was carried out after a nitrate contaminated well caused the death of an infant by methemoglobinemia in South Dakota (Johnson, et al. 1987). Doctors reported that they had treated at least 80 cases in that area during the period 1950-1980, but none of these cases were reported. Studies of infants in Europe have found that three to four percent of methemoglobinemia cases in infants occurred at doses lower than 10 ppm (Sattelmacher 1964; Simon 1962). Clearly, health authorities in many other countries believe that nitrate poses an unacceptable risk to infants and children below the current EPA standard of 11.3 ppm. Furthermore, unlike virtually all other contaminant standards, the drinking water standard for nitrate contains no margin of safety. Nearly every chemical standard in force today incorporates a ten to 100-fold safety factor to ensure that sensitive members of the population are adequately protected; unfortunately, in New Zealand approximately 5% of children are at risk of methemoglobinemia from drinking water exceeding the recommended 11.3 mg of nitrate per litre specified in water standards.

  The Ministry for the Environment monitors 86 groundwater sites throughout New Zealand; at 2 of these sites during 2017 nitrate nitrogen concentrations exceeded 11.3 mg/l. If parents inadvertently gave water from these sites to an infant it could die from oxygen deprivation (i.e., methemoglobinemia).

- Cancer. Both nitrogen in fertilizer and nitrate in drinking water cause cancer (Ward 2005, Ward 2008, Ward 2009, Ward *et al.* 2018, Weyer 2001). Nitrate is converted to nitrite after ingestion, and this nitrite reacts with both natural and synthetic organic compounds to produce N-Nitroso compounds in the human stomach. Many of these N-Nitroso compounds are carcinogenic in humans (IARC 1978, NAS 1977). Numerous researchers and a substantial body of literature suggest that high nitrate levels in drinking water increase cancer risks (Mirvish 1983, Mirvish 1991, Cantor 1997, Varela 1995, Ward 2008, Ward *et al.* 2018). Infant exposure appears to be especially important. Nitrates are transferred via the placenta to the developing foetus increasing risks of astrocytomas (brain/spinal tumours) and cancers later in life (Mueller *et al.* 2004). Animal studies have shown that rats exposed to N-Nitrosodiethylamine during infancy are six times more likely to develop cancer than those exposed after weaning (Gray *et al* 1991). Human epidemiology studies also indicate that cancer risks may be higher for those exposed to nitrate contaminated water in the first ten years of life (Cuello 1976).

Nitrate is converted in the stomach to N-Nitroso compounds (either nitrosamines or nitrosamides); most of which are carcinogens. In animal or human studies, this class of compounds has been associated with 15 different types of cancers, including tumors in the bladder, stomach, brain, esophagus, bone and skin, kidney, liver, lung, oral and nasal cavities, pancreas, peripheral nervous system, thyroid, trachea, acute myelocytic leukemia, and T and B cell lymphoma – a wider range of tumors than any other group of carcinogens (Mirvish 1991, Boeing 1991, Coss 2004, Cuello 1976, DeRoos 2003, Grosse 2006, Lijinsky 1986, Mirvish 1995, Mueller 2001, Sandor 2001, Steindorf 1994, Tricker 1997, van Loon 1998, Ward 2003, Ward 2005, Ward 2007, Ward 2006, Ward 2018). A recent longitudinal study on 2.7 million Danes between 1978-2011 demonstrated increased colorectal cancer with nitrate concentrations as low as 3.87 mg/L in drinking water (Schullehner *et al*. 2018); a figure well below the current MCLs for NZ water. Furthermore, individuals ingesting similar amounts of nitrate to those found in NZ wells had cancer rates 15% higher than urban populations drinking water with substantially lower nitrate contamination.

The median concentration of nitrate-nitrogen from 86 groundwater sites in New Zealand was 5.5 mg/L (MFE 2017); above the threshold concentration of 3.9 mg/L known to cause colorectal cancer. This begs the question; is nitrate in drinking water one of the primary reasons for New Zealand having the 2nd highest rate of cancer in the World?

- Disruption of thyroid function. An important study by Danish researchers found that individuals drinking water with a high nitrate content exhibited a dose-related increase in hypertrophy, a condition marked by enlargement of the thyroid, the gland responsible for many of the body's endocrine and hormonal functions (Van Maanen, *et al*. 1994, Tajtakova 2006). This condition in many cases progresses to thyroid cancer (Brownlie *et al.* 2012).

- Birth Defects. Many studies have indicated a link between exposure to nitrite, nitrate and N-Nitroso compounds and birth defects. The effects of exposure were first observed in animal studies; but have since been observed in human epidemiological studies (Dorsch 1984; Knox 1972; Super 1981; Lijinsky 1986, Kleinjans *et al.* 1991, van Maanen *et al.* 1996, Le *et al.* 2002, Lees *et al*. 2004, Grosse *et al*. 2006, Brender *et al.* 2013). It has been demonstrated that mothers consuming >5mg/L nitrates in drinking water have birth weights on average 1.5kg lighter than mothers with non-contaminated water, and incidences of pre-term babies (<32 weeks) are significantly elevated (Stayner *et al.* 2017). The nitrates passing through the placenta to the foetus cause congenital anomalies such as neural tube defects, cleft lip, cleft palate, improper development of limbs, spina bifida, and congenital heart defects (Brender *et al.* 2013).

- Diabetes and behavioural disorders. Studies have demonstrated links between nitrates in water and the onset of type 1 diabetes (Bahadoran *et al.* 2016). There are also putative links between nitrates and neurological disorders (e.g., Alzeihmers; De la Monte 2009) and/or behavioural maladies (Kuzenkov *et al*. 2013).

In addition to nitrate toxicity (outlined above) other health effects include:

- Bacterial and Protozoal water contamination. A report recently tabled in the NZ parliament following the Havelock North water debacle (NZ Government 2017) indicated that 759,000 residents in rural areas are at risk of exposure to contaminated ground water that does not meet health standards; of these up to 100,000 are infected annually and 35,000 suffer debilitating gastro-intestinal illness and in a few cases death. Much of this water contamination is associated with urine and faecal matter from dairy cows.

- Pesticides and herbicides in groundwater. Dairy farms in America routinely use Dicamba, Atrazine, Cyanazine, Chlopyrifos, Metolachlor, Alachlor, Imazethapyr, Glyphosate, Terbufos, Diazinon, Simazine, Pyrethroid, Fonofos, Carbofuran, Metribuzin, and Trifluralin (Perry & Christiani 1999). Unsurprisingly, there is a considerable overlap with the agrochemicals used by NZ dairy farms, but our rates of usage are high by international standards (Stevens *et al.* 2005). Residues from these chemicals occasionally contaminate dairy products, create health issues with dairy workers, and contaminate groundwater. Of 153 wells surveyed in New Zealand during 2014, it was found 17% contained agrochemicals (viz. >90% of contaminants were herbicides); a figure consistent with previous surveys in 1994, 1998, 2002, 2006 and 2010 (Humphries & Close 2014). It was reassuring that all detections were below the maximum allowable value except for one well containing dieldrin (an old persistent chemical). Terbuthylazine was the most commonly detected pesticide, being found in 16 wells at levels ranging from 0.012 – 1.39 mg m-3, with the next most common pesticide being simazine with 5 detections. None-the-less, the risks from chronic exposure to pesticides in water, in product, and for chemical applicators remains unacceptably high (Nicolopoulou-Stamati *et al*. 2016); with chronic exposure to triazine herbicides (including Terbuthylazine) linked to breast cancer, oxidative stress, cytotoxicity, dopaminergic effects, reproductive toxicity and delays in sexual maturation. Glyphosate has been demonstrated to affect human erythrocytes *in vitro*, promote carcinogenicity and disrupt endocrine activity.

- Zoonotic diseases. Cattle are carriers of brucellosis, leptospirosis, tuberculosis, giardia, listeria, and salmonella; maladies that occasionally afflict those working in the dairy industry or people drinking water from contaminated streams (myself included).

The health risks associated with nitrates in water are frequently confounded by diet (e.g., vitamin C and anti-oxidants in food lower cancer risks; red meats and preserved meats elevate cancer risks, chronic ingestion of pesticides and herbicides elevate risk, genetic differences in susceptibility confound the risk to various maladies, and the concentrations of nitrate in the water we drink may change); so legislators routinely state the precise effects of drinking nitrate-contaminated water cannot be established. However, things that are irrefutable is that the New Zealand MCL for nitrate (11.3mg/L) is more than two times weaker than the standard in Germany and South Africa (MCL=4.4 ppm), and, is twice as permissive as guidelines set by the European Community (5.6 ppm). For all other water contaminants, the standard for MCLs provide a 10 to 100-fold safety margin; but for nitrates in New Zealand drinking water regulators set the MCL at a level less than half that known to result in serious health effects. Therefore, **for nitrates there is no safety margin;** and this is a contributing factor to New Zealand having the 2nd worst cancer rate in the world at 438 per annum per 100,000 people (WCRF 2018); New Zealand has a high rate of neural tube defects outside those countries where a paucity of folate and folic acid in the diet predispose them to the condition (e.g., NZ's rate of NTDs are 2-3x the rate of Europe and USA); and, for both Europeans and Maori the incidence of thyroid dysfunction in New Zealand has increased as nitrates in drinking water have increased (Meridith *et al.* 2014). In summary, **New Zealand has one of the lowest standards for nitrates in drinking water in the world**; conversely, we have some of the highest levels of nitrate in drinking-water, and some of the highest rates of nitrate-induced effects on human health. Despite this our regulatory authorities steadfastly remain with their heads in the sand adopting a "she'll be right" attitude. **Quite simply, it is not good enough**.

The results **from longitudinal studies involving millions of people are damming**: colorectal cancer risk is elevated when nitrate levels in water exceed 3.9 mg/L (Schullehner *et al*. 2018); overall neural tube defects are 50% higher when daily intake of nitrates from water exceeds 5 mg per day; cleft palate abnormalities are doubled when daily intake of nitrates from water exceeds 5.4 mg per day; spina bifida rates are doubled when daily intake of nitrates from water exceeds 5 mg per day; limb deficiencies are doubled when intake of nitrates from water exceeds 5.8 mg per day (Brender *et al*. 2013); there is a dose-related increase in thyroid volume as nitrate levels increase (as demonstrated in Bulgaria (Radikova *et al*. 2008) and within schoolchildren living in areas of high groundwater nitrate in Slovakia (Tajtakova *et al.* 2006)); and finally, in New Zealand during 2016 approximately 759,000 people mainly in rural areas were exposed to poor quality groundwater with approximately 35,000 people debilitated by bacterial and/or protozoal infections at an estimated cost of $23.7 million (NZ government 2017). At least 5 people died following the Havelock North water contamination, and undoubtedly many other deaths associated with water contamination by dairy farmers were recorded elsewhere in the nation.

The other aspect of drinking-water overlooked by authorities is that water is deemed 'potable' by council authorities at the time a well is established; but irrespective of what happens to water quality in subsequent years that well continues to be a source of drinking water. As an example, my bore was tested with 1 mg/L of nitrate in 2008 (i.e., water was 'potable' when the well was established), but by 2017 it contained 8 mg/L of nitrate-nitrogen and *E. coli* at 'unsafe' levels; a result of local dairy intensification and/or regional earthquakes. For many wells in Canterbury levels of nitrate-nitrogen and harmful bacteria are now at 'unsafe' levels (Fig. 2); but no systematic monitoring is undertaken to inform water users of the risks from contaminated water. Because the status of water in bores is changing so rapidly it would seem **a) annual water tests are required, and b) Fonterra should pay the remedial costs** for installing a new well where dairy effluent has rendered water 'non-potable'. A DNA check on faecal coliforms in polluted groundwater should be all that is required to put the **burden of responsibility on the dairy industry for remediation of drinking water 'quality'.**

The dairy industry cannot simply put their hands in the air and say, "it's not us", because in many locations they are solely responsible for pollution of groundwater, at other locations they are mainly responsible for water contamination. How can we continue with an industry in its present form that poisons thousands of people annually, is undoubtedly responsible for the deaths of many people each year from cancer, bacterial/protozoal infections, and congenital abnormalities. The real insult to injury arises when the dairy industry then has the audacity to put sultry, self-righteous advertisements on television featuring Richie McCaw or kids playing in 'clean' rivers? The hypocrisy is appalling!! Quite simply there are too many cows on the New Zealand landscape.

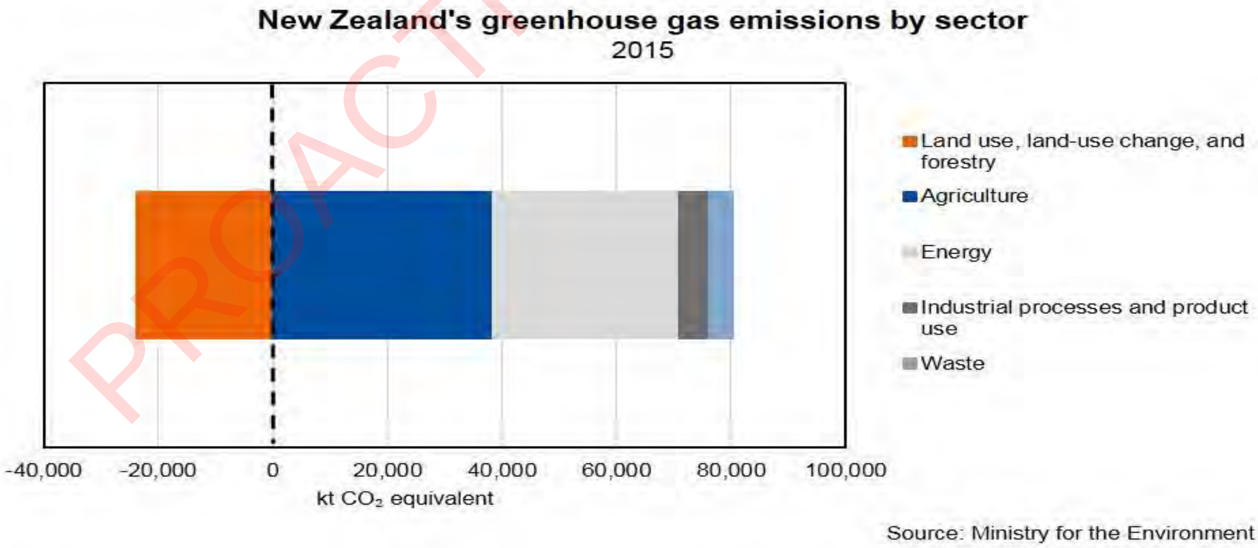
In summary, we have a **small army of men and women in red band gumboots that are poisoning the rural community** with nitrates, zoonotic diseases, and bacteria from dairy cows; no-one in local or central government seems to care!

Where in the DIRA discussion document is there a comprehensive appraisal of the risks to human health from drinking water contaminated by dairy cows? Where in the DIRA discussion document is there an evaluation of systems to prevent water contamination by dairy farmers?

c) Environmental impacts

i) Green-house gas emissions

Dairying is a major contributor to green-house gas emissions by agriculture (Fig. 4); and is singularly New Zealand's biggest emitter of nitrous oxide and methane. In the short-term there are no remedies for these discharges into the air.



Note: Greenhouse gas emissions are in kilotonnes of CO_2 equivalent (kt CO_2-e).

Figure 4. New Zealand's greenhouse gas emissions by sector in 2015

1. In New Zealand we have many sacred cows. Well, in actual fact about 7 million dairy cows and approximately 3.7 million beef cattle. These are the principle perpetrators of 49% of New Zealand's green-house gases (Fig, 4); although they do get some assistance from sheep, other livestock and residual

agriculture. To ensure the grass grows for animals, farmers apply approximately 830,000 tonnes of urea and other nitrogen-based fertilizers annually; 1.75-5% of which is eventually dissipated into the atmosphere as nitrous oxide (Shcherbak *et al*. 2014). Each nitrous oxide molecule is the equivalent of 300 carbon dioxide molecules, and nitrous oxide with a half-life of 114 years (i.e., it bio-accumulates) is 2nd only to the fluoro-carbons as the most persistent polluter. A portion of the remaining nitrogen-based fertilizer finds its way either as nitrates, manure or leachate into rivers, streams and groundwater. Dairy farming is the dirtiest industry in NZ; yet farmers pay NO CARBON TAX and NO POLLUTION TAX. **Nitrogen-based fertilisers must be ascribed a GHG/pollution tax immediately**

2. Each cow in NZ produces about 100kg of methane per annum. Each methane molecule is equivalent to 25 molecules of carbon dioxide so that equates to 2.5 tonnes of carbon. Farmers pay NO GHG TAX for methane emissions.
3. Each cow in NZ produces a further 300kg of carbon dioxide which incurs NO TAX; and then of course the Fonterra factories use fossil fuels for processing milk as well as high volumes of fossil fuels for transport.
4. A short-term solution to this problem is to **make some cows redundant** and move to synthetic milk. This is happening globally anyway; so why not lead the change and realize the economic opportunities this provides. The Irish are currently finalizing production of synthetic milk, at an estimated production cost of 3-4c per litre. There are no green-house gases in the process; no effluent destroying rivers, lakes and groundwater; and, no emissions of nitrous oxide, methane and carbon dioxide. **Seeding finance should be provided to universities and business to get synthetic milk production established as soon as possible in New Zealand**.
5. The primary industry must start paying for the cost of the resources (including water) that they use (which is normal business practice) and the costs of the waste and pollution they produce (which is also normal business practice). Although we removed agricultural subsidies in the 1980s, the taxpayer and ratepayer still subsidizes: irrigation schemes (>$600,000,000 between 2008-2017), *Mycoplasma bovis* and *Mycobacterium bovis* eradication schemes (>$900 million), MPI support to the primary industry, TAIT identification schemes, the financial, ecological and aesthetic costs of restoring ecosystems that farmers have destroyed ($2-15 billion according to Mike Joy), and agricultural emissions.
6. At current prices for carbon an average dairy farmer should be paying >$30,000 per annum in carbon tax. Long-term these costs cannot simply be absorbed and paid for by the consolidated fund (i.e., NZ taxpayers). A government serious about reducing green-house gas emissions must ensure **agriculture is <u>immediately</u> integrated into the emissions trading scheme.**
7. There needs to be a transitioning of pastoral farms to horticulture and cropping. The universities, Crown Research Institutes and HortNZ should provide technical and logistical support to facilitate this.

Where in the DIRA discussion document is there a comprehensive appraisal of the impacts of the dairy industry on global warming, and mechanisms to mitigate emissions of green-house gases?

ii) Groundwater abstraction

Dairy farming has drained rivers for irrigation. In Canterbury, 93% of allocated water use is for irrigation (Fig. 5). Every lowland river in Canterbury that drains from the foothills is now either dry during summer or is eutrophic. In Canterbury the Ashley River, Kowai River, Waipara River, Cust River, Cam River, Harts Creek, Boggy Creek, Irwell River, Kaiapoi River, Main Drain, Okana River, Ashburton River, Hinds River, Orari River, Pareora River, Otaio River, Waihao River, Kakanui River and countless other small streams are either dry during summer or contain very low water levels. The aquifers around these waterways have been pumped down by irrigation; consequently, most remaining surface water percolates through gravels to recharge depleted water tables. Thirty years ago, these catchments contained healthy aquatic ecosystems; they are now dead. Neither the Ministry for the Environment nor Regional Councils monitor 'water quality' in these catchments. The destruction of rivers doesn't end there because medium to large waterways are now affected by the large volumes of water taken for irrigation. In the last decade the Waiau River (a large catchment draining from the main divide) has periodically been reduced to a trickle near the river mouth during dry periods; while at the same time the large irrigation canals draining water from the Waiau into the Culverden basin have remained full. Quite clearly minimum flow rates for rivers are routinely overlooked so that dairy farmers can take river water to maintain production. Despite public objections the Hurunui river is now being exploited for irrigation and must inevitably suffer the same fate as the Waiau. As water volumes in large catchments have diminished and water temperatures increased, the salmon fisheries of the Rangitata, Rakaia, Waimakiriri and Waitaki Rivers have been reduced to a fraction of the resource that existed prior to 1990.

Although the Ministry of the Environment monitors rivers in Canterbury (viz. Hurunui, Waimakariri, Rakaia and Opihi Rivers) these catchments drain from the Main Divide and collect high levels of precipitation in the headwaters of each catchment (i.e., they are NOT REPRESENTATIVE of WATER QUALITY IN CANTERBURY RIVERS). The main perpetrators of nitrates in water are small drains (i.e., waterways that you could jump or step over and are shallower than gumboot depth) on farmland that collect dissolved nitrates and channel them into rivers; and they are NEVER monitored. Iconic spring-fed streams like the Irwell river in Canterbury are now dry; so, unless the source of a spring is immune to the ravages of dairy farming (e.g., Avon, Halswell and LII rivers in Christchurch), the flow-rates of that spring are either diminished or non-existent.

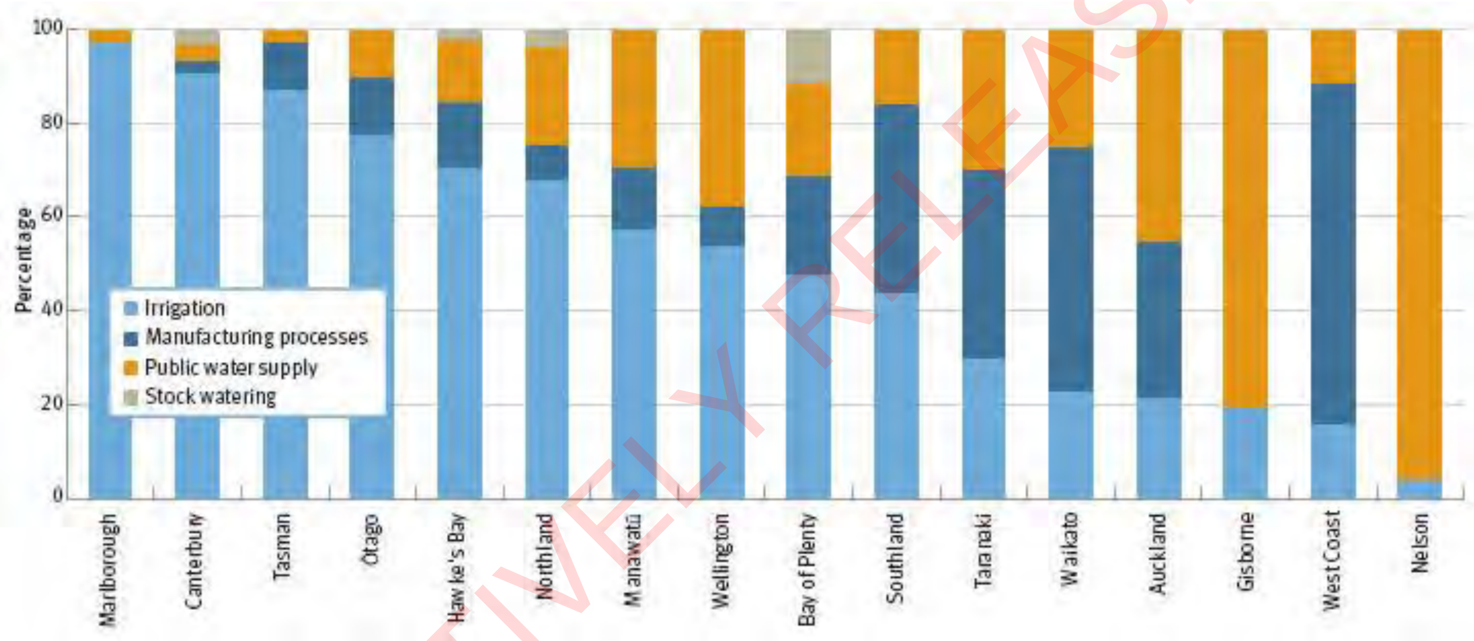


Figure 5. The percentage of water allocations by different regional councils used for irrigation, stock water, manufacturing and public water supplies

Given the demise of rivers and over-allocation of groundwater one would expect that development of further irrigation in Canterbury would be in decline; but this is not the case. The 'Canterbury Water Management Strategy' has increased the area of land being irrigated from 425,000 hectares to 507,000ha during the last 5 years; and the target is 850 000ha irrigated by 2040. Clearly the left hand (those trying to improve water 'quality') doesn't know what the right hand (those trying to increase irrigation) is doing.

Where in the DIRA discussion document is there a comprehensive appraisal of the effects of dairy farming on the sustainability of surface- and ground-water? Furthermore, how are allocations of water for irrigation going to be managed more sustainably in the future?

iii) Pollution of rivers and lakes

Dairy farming has polluted rivers and lakes to the extent that natural fauna (invertebrates, native fish) have been decimated by algae and micro-algae (MFE 2017), and stocks of introduced fish such as trout and salmon are severely depleted (Foote *et al.* 2015). The level of nitrate-nitrogen in pastoral rivers is 10x higher than in rivers surrounded by native forest; and, in 61% of the rivers monitored during 2017 the levels of nitrate is getting worse. The high levels of nitrogen, phosphorous and faecal coliforms in water has dramatically increased algal growth; algae that removes oxygen from water and impacts on the abundance of both invertebrates and native fish (Fig. 6). Consequently, during 2013 of the 435 native freshwater invertebrate types monitored, 34 per cent were either threatened with extinction (66 types) or at risk of extinction (82 types); and, 72 per cent of native fish were either threatened with (12 species), or at risk of extinction (16 species) (*see* Fig. 7 for the health of Canterbury rivers). Plants in and around freshwater were either threatened by invasive weeds and drainage, or by vegetation that was grazed, trampled by livestock, or cleared. Of 537 plant types monitored, 31 per cent were either threatened with (71 types), or at risk of (97 types) extinction in 2013. For the ecology of freshwater streams that were in "good health" prior to 1990; the statistics on the 'quality' of catchments are appalling in 2017. Although dairy farming is not solely responsible for the demise of the ecology of rivers; it is the type of farming that must assume most responsibility because of high water usage for irrigation, high use of fertilizers for pasture growth, and high production of dairy effluent. The levels of bacteria in rivers has also increased markedly, with *E.coli* in rivers flowing through pastoral lands 9.5x the rate in streams flowing through lands with natural vegetation (MFE 2017). Accordingly, many rural rivers are no longer swimable

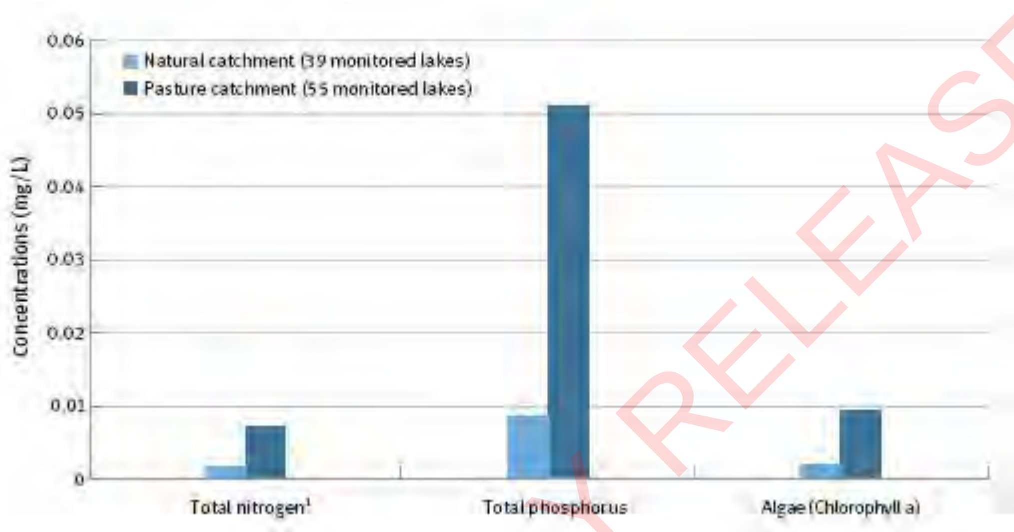


Figure 6. The levels of nitrogen and phosphorous in aquatic ecosystems throughout New Zealand. Growth of algae in 'pasture catchments' is significantly increased by addition of these nutrients to water.

With diminished water volumes in braided river systems and increased agricultural nutrients there has been a significant increase in weeds, shrubs and other v getation along shingle beds. Birds that once used braided river systems to nest and raise fledglings have plummeted in numbers. Because of fewer open riverbeds and less flowing water that contains food; there are fewer nests, and higher levels of predation by cats, rats, hedgehogs and mustelids hiding in river vegetation. At least 26 species have been affected by the changed ecology of braided rivers, including: black-billed gulls, terns banded dotterils, wrybills, pied stilts, oyster catchers, and shags; with declines >80% in the abundance of everal species (McLennan & Smith 2015, Riegen & Dowding 2003).

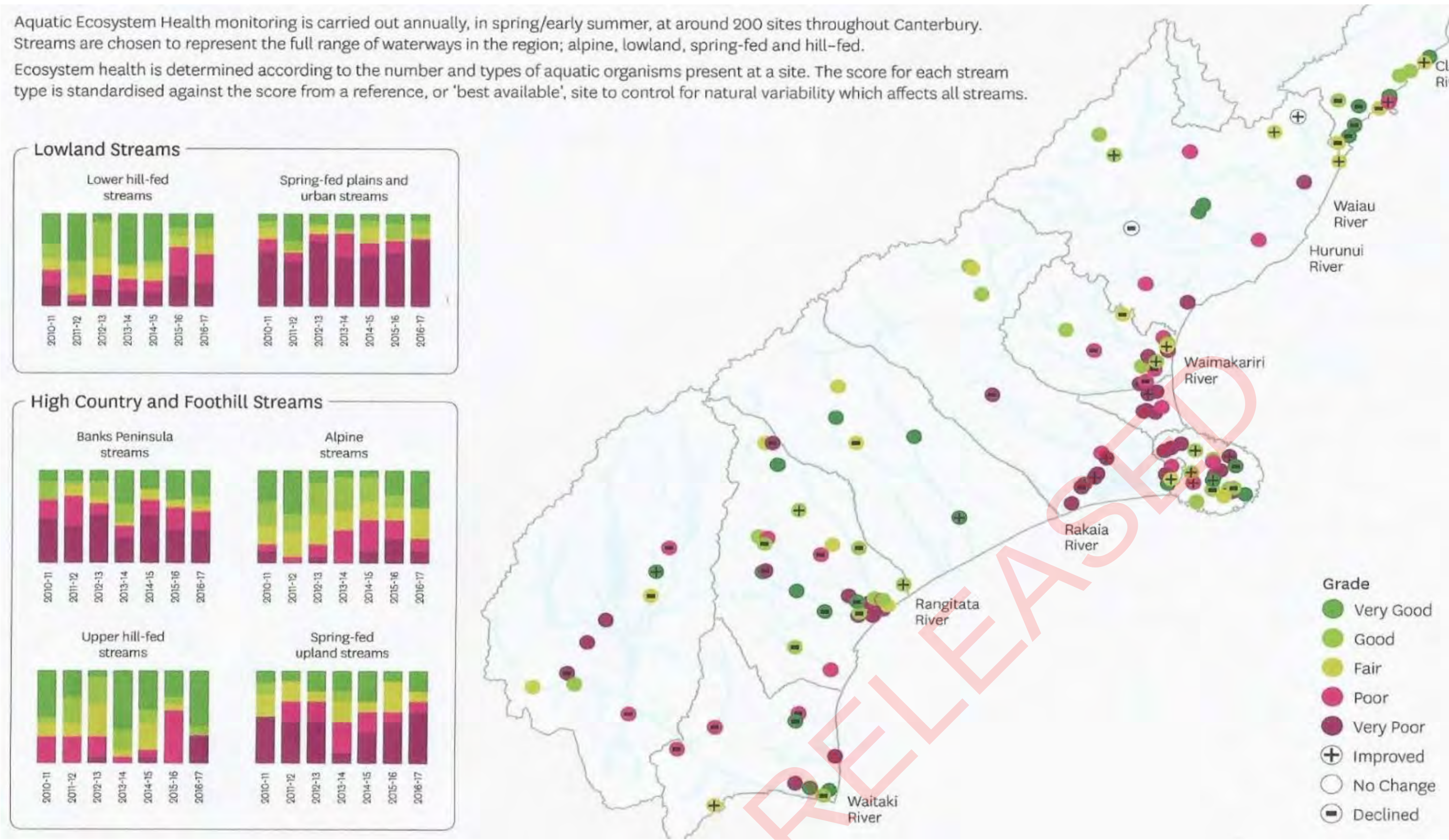


Figure 7. The poor and very poor status of aquatic ecosystems in Canterbury overlap those areas used for dairy farming.

Every lowland lake in Canterbury is now hypertrophic (4/4) or eutrophic (2/2) with nitrates, phosphorous and various types of algae that feed on these nutrients the source of water quality problems. In addition, most lakes have problems associated with *E.coli,* campylobacter, cryptosporidium, protozoa, and faecal coliforms. Lake Ellesmere once described by George Ferris in his 1954 book on fly fishing as "the finest shallow water fishery in the southern hemisphere" (Ferris 1954) is now nothing more than a cess-pond devoid of waterfowl, invertebrates and aquatic fauna. Although the destruction of extensive areas of plant macrophytes in the lake (referred to as "Ruppia beds") was initiated by the 'Wahine storm' in 1969; pollutants, including those from dairy farming have caused high levels of water turbidity that has never allowed the lake to recover. Consequently, both the numbers of trout and size of trout, monitored in the Selwyn spawning trap have declined from 12-14,000 per annum to virtually nothing in the years after 1990 (Fig. 8). Lake Ellesmere is now a 'dead' aquatic ecosystem.

Figure 8. The number of spawning trout monitored in a trap set in the Selwyn River between 1912 and 2010.

Many waterways also contain cyanobacteria that is acutely toxic to dogs and livestock. Furthermore, a perusal of the ECAN website shows that despite the lowering of water standards by Nick Smith the number of rivers remaining for swimming and other forms of recreation (58% of the total) is still in decline. Wherever there are dairy cows there has been an increase in nitrates in surface water during the last 2 decades (Fig. 9). Environmentally the cost of dairying extends beyond New Zealand to the destruction of 1.5 million hectares of rainforest to grow the 3 million tonnes of palm kernel that we import to feed cows The cost of environmental restoration in NZ has been put in the range of $2-15 billion dollars (Foote *et al* 2015). During recent attempts to place an economic value on water and thereby recover some of the costs required to clean up the mess made by dairy farmers; during 2017 they steadfastly refused to pay a cent. Quite simply dairy farming as outlined in the DIRA discussion document is unsustainable. The simple way to fix the problem is to manufacture synthetic milk (as is being done in Ireland) and reduce the numbers of cows on our landscape.

Figure 9. Trends in total nitrogen at 77 NRWQN river sites, 1989–2007

Where in the DIRA discussion document is there a comprehensive strategy to clean up rivers and lakes; where is the strategy to mitigate against further pollution of aquatic ecosystems by dairy farming?

iv) HSNO classifications

If we consider dairy farming a 'hazard', then what classifications would it trigger within a HSNO classification? The likely categories are shown n table 4 below.

Table 4. The effects of da ry farming on the health of rural people and the environment; and, HSNO thresholds the industry may trigger.

Known effects on human health and the environment	HSNO Class	Triggers
Chronic exposure to nitrate in drinking water is a known carcinogen	6.7B	Safe upper limit should be 4 ppm
Nitrates in water have made many waterways and lakes eutrophic, deoxygenated water, decimated aquatic invertebrates, reduced fish	9.1B	Environmental risks from nitrate/nutrients/micro-organisms
Development of cyanobacteria in water results in acute poisoning	9.1B	Triggers acute poisoning livestock
Production of methane, nitrous oxide, carbon dioxide as GHG gases	9.1B	Discharge into air that triggers global warming
Nitrates in water have been linked to birth defects	6.8B	Reproductive inhibitor and a suspected teratogen
Outbreaks E. coli, Campylobacter, Cryptosporidium, Salmonellosis	PHU	Gastroenteritis + other effects
Is a known cause of methaemoglobinia in infants	PHU	Under-reported overseas

- PHU = Public Health Unit investigation.

The risk factors associated with dairying under HSNO regulations should have it classed as a 'restricted activity'. How then did dairying become a widespread rural activity? How has intensification of dairy farming been promulgated? The science advisor to the last National government (Sir Peter Gluckman) should have known of the risks associated with dairy intensification, yet his warnings were either ignored by the National government of 2008-2017, or the government chose to put aside the risks to public health and risks to the environment in deference to developing dairy farming as a lucrative form of export earnings. The Medical Officer of Health in Canterbury should be all over the health risks to the rural community in that province; yet he does nothing. Similarly, Environment Canterbury should be limiting the impacts of 'dirty dairying' on rivers, lakes and the ocean; yet they have done little other than fence and plant riparian strips along riverbanks at an exorbitant cost to ratepayers. Why have the allocations of irrigation water for agriculture not been managed more sustainably?

Where in the DIRA discussion document is the 'Risk Management Strategy' that mitigates against the effects of dairy farming on the 'well-being' of rural communities, and the 'well-being' of native flora and fauna in catchment areas that once contained pristine rivers and lakes?

d) Poor 'Stewardship' of Product

If we look at the recent history of dairy farming and Fonterra we see a litany of problems associated with poor stewardship of both the company and its product including:

Corporate mismanagement of Fonterra (Oram 2018)

1) During 2008 the debacle with Sanlu (a Chinese company in which Fonterra was a 43% stakeholder) resulted in melamine being used to fortify milk. This caused the deaths of at least 9 babies and cost Fonterra shareholders $250 million when the Sanlu company was subsequently bankrupted;
2) From 2009-2017 the purchase of dairy farms and establishment of 3 big 'dairy hubs' in China cost Fonterra at least $800 million; there has been negligible return on this investment to date.
3) In 2013 there was a case of suspected botulism in whey produced at the Hautapu plant (Waikato), which elicited product recall and enabled the French company Danone to successfully sue for $232 million in damages. It was self-evident that quality assurance procedures during milk process at that time were not adequate to confident y certify all food products as fit for human consumption.
4) In 2015 Fonterra invested $755m of shareholders money in another Chinese company (Beingmate Baby and Child Food); with losses of $439million of this capital during 2018; that followed on from losses in the company share value of $212 million during 2016-17. Fonterra management acknowledges that both the investment and relationship with the company were bad from the outset; so just how and why did this business deal eventuate? Beingmate's net profits peaked at yuan 721m in 2013 fell to yuan 68.9m in 2014, improved to yuan 103.6m in 2015 (at the time Fonterra invested), then turned into a loss of yuan 780.7m in 2016, and the company lost yuan 1bn during 2017. Clearly Fonterra failed to undertake due diligence on a 'failing' company before investing millions of dollars in shareholder's funds.
5) The poor governance of Fonterra is also reflected in the fact that there has been little innovation and/or value added to raw product during the 17 years it has been in business. The NZ dairy industry still has the attitude that improved performance is reflected by increased production, so our environment is increasingly buried by dairy effluent. The NZ dairy industry needs to understand it needs growth of boutique, high-value products; not growth in the form of more nitrates, phosphates, muck and manure!!
6) Fonterra has been slow to optimize use of plant with overproduction stretching resources during spring and early summer; but production running at 55% of capacity throughout the rest of the year. The premium for winter milk could be increased.
7) If we look at revenue per kilogram of milk solids processed; Fonterra returns $US0.60 per kg, China's Yili Group returns over $1.60 per kg, the French company Danone returns $US2.40 per kg and Nestle returns $US1.90 per kg of milk solid processed. Therefore, added value per kilogram of milk solids processed by Fonterra is very poor by international standards.

8) To cater for the shortfalls in product stewardship by Fonterra and dairy farmers, the taxpayer is funding *Mycoplasma bovis* eradication at a cost of $886 million, *Mycobacterium tuberculosis* at a cost of $60 million per annum, NAIT animal tracking, biosecurity costs, herd testing, immigration expenses for dairy workers (e.g., cost of temporary work visas); development of irrigation schemes ($550 million in last decade), and road maintenance. In addition, ratepayers also fund dairy expenses (e.g. ECAN spends >$25 million on new irrigation + riparian planting of trees). Therefore, in total during 2018-19 the NZ public will subsidize dairy farming by >>$1,000 million; monies taken from the public purse by a poorly-performing private enterprise.
9) Despite paying corporate executives' extravagant salaries (e.g., Theo Spierings received $8m per annum) the management of Fonterra has not improved since 2001. Shareholders have been short-changed by appalling management blunders throughout the 17 years the company has existed. For this reason, Chinese-backed milk processors are now circling like vultures to pick the meat off the bones of an industry let down by the management of Fonterra.

<u>Health & Safety</u>

10) When dairy intensification began in the 1990s there should have been some oversight of environmental pollution and the impacts of that pollution on human health and wellbeing. Here we are 25 years later with a review in place in the form of DIRA, and still there is **no oversight of health and safety in the new legislation.** How many people need to be poisoned with sub-standard drinking water before the dairy industry is held to account?
11) In addition to health there is the concept of **personal well-being**. In the years prior to 1990 a family could go to a river or lake and enjoy a weekend's recreational activities (fishing, white-baiting, swimming, camping, etc.) but those privileges have been obfuscated by 'dirty dairying' and Ecan's infamous 'Water Management Strategy'.

<u>Environmental costs</u>

12) Overall, the levels of nitrate-nitrogen in pastoral rivers is 10x higher than in rivers surrounded by native vegetation. This has increased algae and micro-algae and caused a decline of oxygen in water, it has reduced aquatic invertebrates, and reduced both native and introduced fish.
13) The Canterbury Water Management Strategy has a target of 850,000 ha of irrigated land by 2040. **Why??** It is almost double the area currently irrigated; and, at present there is no alternative to dairy farming for cost-effective use of the water. Why are Canterbury ratepayers compelled by legislation to subsidize water schemes that pollute ground-water and destroy surface-water?
14) Emissions of green house gases by livestock account for half of all New Zealand's emissions; emissions that contribute to global warming.

<u>Foreign ownership</u>

15) i) Milk Price

Milk producers and milk processors have sold a large component of the industry into foreign ownership. For example, KPMG estimated that farms valued at $26.3 billion were sold into foreign ownership between 2013 and 2015. The Chinese own 51% of the Synlait milk factory that processes 4.2 million litres of milk/day from 150 Canterbury farms; the Yili company processes milk in South Canterbury, the Yashili Company processes milk in Waikato, the Bright company also processes NZ milk, the new $200 million Matura Milk Company has 72% Chinese ownership, plus there is Maraka and Oravida; furthermore, the Chinese now have a 52% share in PGG Wrightsons. So, in short much of the desecration of our environment; and, some of the pollution and health risks experienced by rural communities in New Zealand happen in the name of foreign investors. It is a sad indictment on the administration of this country that we have an overseas investment office (OIO) slicing up the New Zealand pie and giving it away to foreigners; while members of parliament like Nathan Guy and Damien O'Connor stand in the background and applaud during openings of foreign-owned milk factories and/or the sale of farms to foreigners. It in no way benefits farmers and export receipts; and it effectively sells New Zealand's primary industries from under the feet of future generations of Kiwis.

Figure 10 shows that when demand for milk-powder in China is high (e.g., 2014), then in that year farmers receive a good price for milk solids ($8.50/kg). The same applied in 2007-08 when Chinese demand pushed prices to $8 per/kg (Fig. 11); but for some unknown reason both politicians and farmers conspire to give the Chinese a guaranteed supply of 'cheap' New Zealand milk (i.e., milk supplied from foreign-owned milk factories and milk supplied from foreign-owned dairy farms). Guarantee of supply reduces demand, and with reduced demand the overall price for milk product will remain in that fair-middling range. We have businessmen in parliament, businessmen in Fonterra, and businessmen on farms; but it would seem none of them understand the fundamentals of supply and demand, and how that affects milk price.

Figure 10. The monthly values of milk powder exported ($NZ 2016) to China and other countries

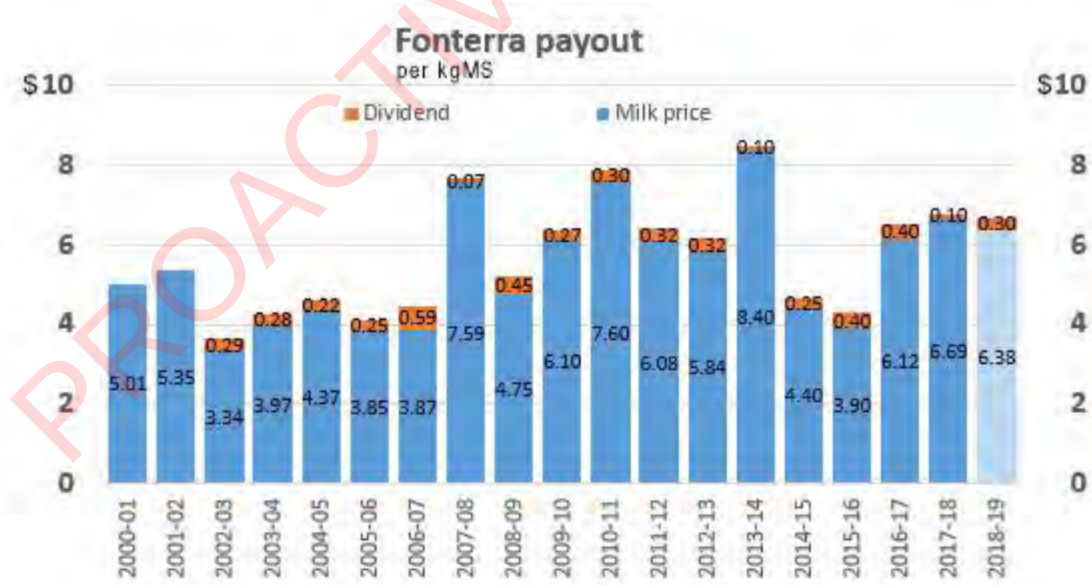


Figure 11. The pay-out by Fonterra to farmers in the years 2000-2018

ii) Farm debt

Dairy farmers have been their own worst enemy at imposing debt on the 'next generation' of farmers. Just as foreign investment in housing pushed up house prices, so too foreign investment has pushed up the price of dairy farms. Dairy farm debt at end of 2018 stands at $41.5 billion; an increase of $13 billion on debt levels in 2012 and a 4-fold increase in farm debt from 2003 (Fig. 12). Similarly, the debt burden for Fonterra in the last financial year rose 700m to $6.2 billion during September 2018. Unfortunately, as outlined above farmers wanting to realize big capital gains on their property have readily sold to foreign buyers; and farmers wanting a few extra cents for their milk have readily sold to foreign-owned milk processors. Ultimately, the price of foreign intervention in New Zealand dairy farming results in an industry treading water in a sea of indebtedness. Ultimately farmers receive a smaller price for their milk as a result of foreign intervention; and, the smaller incomes from milk are swallowed by larger mortgage payments to banks by farms with high levels of debt. JUST HOW STUPID ARE FARMERS AND THE GOVERNMENT FOR ALLOWING THIS TO HAPPEN??? Every politician should bower their head in shame for what has transpired. The National government (2008-2017) is culpable for not taking direct and decisive action to curb lending into the dairy sector as it became more and more transparent that increased debt was not going to translate into increased revenue for farms. This is just another example of how National are no longer serving the true interests of one of their core constituencies. The other agency culpable for the mire in dairy farming is the Overseas Investment Office; an agency that gives licence to foreign intervention in New Zealand domestic politics at every level (i.e., from the high costs of putting a roof over your head to corporate management of multi-million dollar businesses like Fonterra).

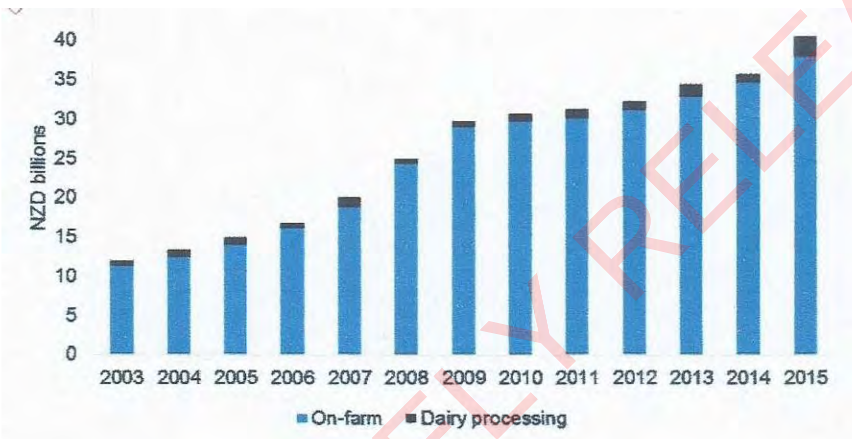


Figure 12. **The amount of debt in dairy farming between 2003 and 2015. Debt has subsequently increased from that shown for 2015 to $41.5 billion in 2018.**

e) Tax and subsidies

Dairy farming should be like any other business; it should pay fair and reasonable taxes on income at a rate of 28c in the dollar and not be sustained by subsidies. Periodically the Inland Revenue Department releases figures to politicians following 'parliamentary requests' for information. For the 2008/09 tax year statistics supplied to Stuart Nash showed that the average dairy farmer paid $1,508 in terminal tax on an average gross income of $508,000. In total dairy farmers for that year paid $26 million in tax on a dairy pay-out to farmers of $8,760 million; none-the-less the Right Honourable John Key suggested at the time that "dairy farmers pay their fair share of tax"!!. So just how does the ledger compare in terms of tax paid into the consolidated fund by farmers, and payments received from the consolidated fund by farmers in the form of subsidies?

i) Taxable income

Following the release of tax information to Nash by IRD; DairyNZ played politics and followed up with their own figure of $28,225 tax paid per annum for the period 2007-11 (Table 1). But are the figures really that different? The DairyNZ $28,225 includes PAYE payments to an average 1.7 farmworkers per farm (1.7 x $8,060=$13,702); the Milk Levy = $6,100; and, GST payments=$5,400); so about **$3,023** was paid on average in TERMINAL TAX during a 5-year period compared to $1,508 in a bad year.

Table 1. Tax paid by dairy farmers in relation to payments by Fonterra; and Fonterra profit year-on-year.

Years	Tax paid per dairy farmer	Total tax for industry/yr	Gross payment to dairy farmers	Tax rate on gross earns	Fonterra (Profit)	Tax $million
2008/09	$1,508[1]	$26 million	$8,760 million	0.3%		
May 2007-Jan 2011	$28,225[2]	298 million[3]		≈3.5%		
2014			$12,300 billion		$179million	20
2015			$9,300 billion		$506 million	82
2016			$8,087 billion		$834 million	98
2017			$ 8,484 billion		$745 million	20
2018			$10,080 billion		$196 million loss	0

[1] Figure supplied by IRD; [2]Figure supplied by NZ Dairy Farmers, [3] This sum includes PAYE, GST, Milk Levy

ii) Subsidies

Because many factors affect the viability of primary industries, the government uses taxpayer money to provide support. For dairy farming these subsidies include:

b) As a taxpayer and ratepayer you pay huge subsidies for dairy irrigation (>$750m in the last decade);
c) As both a taxpayer and ratepayer you paid huge subsidies to fence and plant trees on dairy farms;
d) As a taxpayer you fund immigration services to provide labou for dairy farms;
e) As both a taxpayer and ratepayer you pay huge subsidies to maintain the rural roads dairy farms use;
f) As a taxpayer you pay huge subsidies to eradicate *Mycoplasma bovis* ($886 million this year);
g) As a taxpayer you pay huge subsidies to con rol *Mycobacterium bovis*.($60 million this year);
h) As a taxpayer you pay huge subsidies for herd testing by MPI;
i) As a taxpayer you pay huge subsidies for MPI to provide biosecurity and animal welfare;
j) As a taxpayer you pay huge sums to universities and Crown Research Institutes to develop 'best practice' for pasture production, irrigation procedures, pest and weed control, and optimisation of milk production;
k) As a taxpayer and ratepayer you subsidize the Ministry of the Environment and/or local government to monitor waters polluted by dairying;
l) As a taxpayer and ratepayer you paid >$300 million to clean-up Lake Rotorua;
m) As a taxpayer you will pay >$200 million in the next decade for restoration work on Lake Ellesmere;
n) As a taxpayer and rat payer you will pay Maori and Waikato Regional Councils varying amounts (depending on the policy adopted) to 'clean' the Waikato river as follows;
    i) Swimmable & Fishable standard………………………………. $7.78 billion;
    ii) No further degradation; + minimal restoration ……………$3.87 billion
    iii) No further degradation beyond existing 'poor' state………$1.21 billion
o) As a taxpayer you pay "relief packages" in the event of drought, flooding, earthquake and other emergencies;
p) As a taxpayer you will pay $2-15 billion for remediation of environmental damage done prior to 2016 by dairy farmers (Foote *et al*. 2017).

In short, for every $1 that a dairy farmer pays in terminal tax he receives $3-8 in subsidies. Farmers readily criticize people on benefits; but within the private sector, dairy farmers are by far the largest beneficiaries of government hand-outs from the consolidated fund. There is an expectation that the costs of GHG emissions and any price charged for water will also be subsidised by taxpayers. So, not bad if your business is dairy farming; but governments will continue with subsidies because dairy farming still provides the highest form of export earnings.

iii) Farm sales

The asset value of a farm is what keeps many farming dairy cows. In Canterbury this asset value is constituted of land and buildings plus water rights. Water is currently a public asset; the debate during the 'foreshore and seabed' legislation resulted in the Crown labelling oceans and foreshores as public assets; for rivers and lakes there is the doctrine of *ad medium filum aquae* that cedes freshwater as an asset to which the public is entitled access. In New

Zealand the crown owns the river or lake bed in 'navigable' waters; furthermore, the public has access rights over land within a chain of these waters; something that Queen Victoria ceded to Governor Hobson as the "Queen's chain". However, these are rights ceded by the British monarchy, and Maori has an equal right to make claims under 'customary law'. The 'ownership' of fresh water needs to be finalized in the high court and the government must then put a price on water. At the minute regional council's allocate rights to use water; water which may or may not be a 'Crown asset' or may or may not belong to Maori. Once allocated that right, farmers buy and sell property thinking water rights confer some sort of asset value to their farm (i.e., farmers believe they "own" water).

It is now widely acknowledged that we must put a price on water. Farmers will object, but water should be regarded as an input cost. People in urban areas pay for water as part of their rates. How then is the cost for water to be managed by farms with high levels of debt? The logical thing to do is treat the costs of water as a service charge in much the same way as rates. If payment is not made, then the water cost appears as a liability on the title; similar to what currently happens with rates arrears. Because farmers currently regard water rights as an "asset" during property sales; then non-payment for the water resource should be regarded as a "liability" against the title. This approach may minimize the exorbitant increases in farm values and in the long-term reduce farm debt.

A similar approach could be adopted with GHG emissions where the levy is imposed as a "liability" against the title. This for farmers with a lot of debt, will help defer environmental costs unto a later date. In terms of lending the banks will regard "water costs" and "GHG levies" as part of normal cash flow when arranging loans for land purchase.

f) Sustainability of dairy farming

Clearly there are regional differences in the effects of dairy intensification on ground- and surface-water. In areas like Canterbury with alluvial soils the effects are very profound. There needs to be a plan to reduce the number of cows in that region; something that is not evident within the framework of the current legislative document seeking public submissions. There also needs to be a plan to REDUCE agricultural use of water in Canterbury; something that is not in the Regional Plan and something not evident in the Canterbury Water Management Strategy. Is it possible that Canterbury Regional Council still lives in fear of getting sacked again by central government ministers like 'dirty' Nick Smith; who said in 2010 that "Canterbury has over half of the irrigated water in New Zealand so it is critical that we manage water in a far more competent way to promote our competitive advantage and also our clean, green brand". Well Nick; in the 8 years since you dropped the guillotine on democracy and the elected representatives of ECAN; a) our competitive advantage has gone, as have our rivers, but b) we do have a "green brand" because each-and-every river has turned green with algae. Why oh why do Cantabrians still comply with the 850,000 ha target for irrigated land imposed by the National government during 2010? John Key implemented a program of dairy intensification for the region with increased irrigation that almost doubled cow numbers from 0.75 to 1.4 million; cow numbers well above what the Canterbury landscape can support (Fig. 12). Why are Canterbury ratepayers still paying rates to subsidize the 'Canterbury Water Management Strategy' when cow numbers are acknowledged as being too high?

At the same time as dairy intensification in Canterbury, the number of cows in Waikato went from 1.7 to 1.9 million; numbers in Southland went from 434,000 to 715,000; and, cows increased from 394,000 to 531,000 in the Manawatu. ALL THESE AREAS now have problems with water quality. The Manawatu River for example, was recently listed as "the most polluted river in the Western World" (Young 2009). Dairy intensification was one of the most short-sighted, ill-conceived policy agendas implemented by any government in New Zealand; and in terms of environmental impacts it is an order of magnitude worse than the 'think big' strategy during the Muldoon era. The question now is how do we get out of it; and that should be the mandate for the Dairy Industry Review Act.

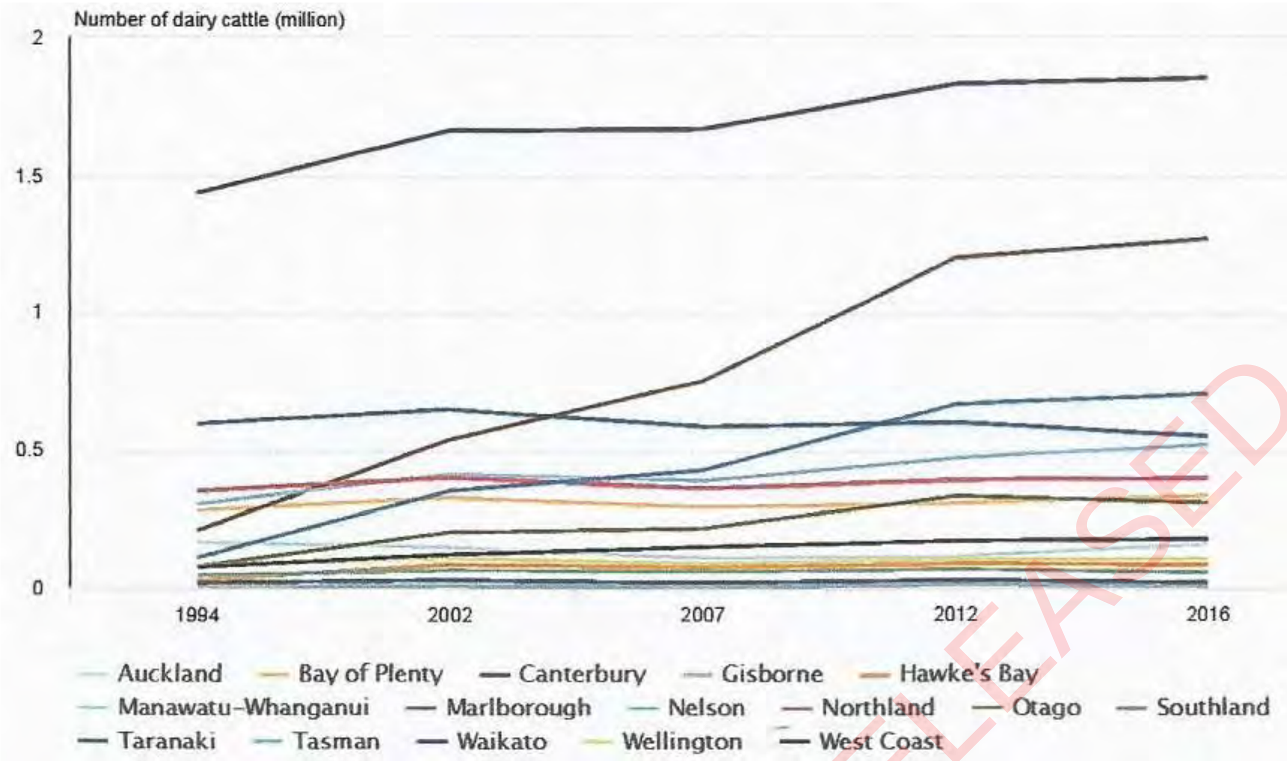


Figure 12. Changes in numbers of cows farmed in different regions throughout New Zealand (MFE 2017).

In association with dairy intensification there has been an increase in whole milk powder production (Fig. 13).

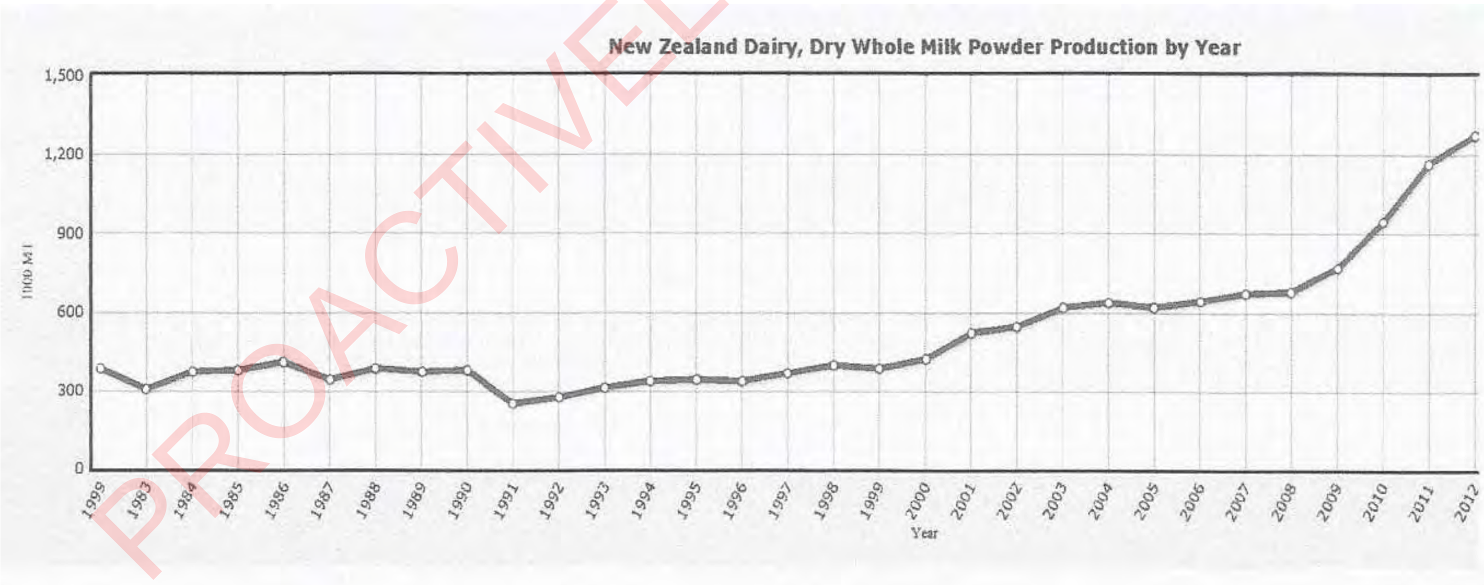


Figure 13. The metric tonnes of whole milk powder (x1000) produced by Fonterra between 1982 and 2017

Increasing levels of groundwater nitrates, over-allocation of water rights for irrigation, depleted volumes of water in lowland rivers, and eutrophication of rivers and lakes are all a consequence of unsustainable dairy farming in Canterbury. To a lesser extent we see the same problems on other lands subjected to irrigation in Southland, Marlborough and Otago; although regional problems in the latter 2 areas are more a by-product of viticulture rather than dairy farming. How can a dairy industry that desecrates so much of our environment and puts the health and well-being of rural communities at risk continue in its present form? Only bureaucrats living in an insular environment in Wellington would think this is possible; only MPI employees writing closeted legislation in a closeted office would think current dairying practices are sustainable; and, only dairy farmers living in a 2-dimensional environment enclosed by their boundary fence would think what they are doing is sustainable. Unless there is legislative change by government, it is highly probable that litigation in the form of a class action will be required to force change.

The DIRA document should in no way countenance the needs and views of foreign investors and foreign markets. It should accommodate many of the interests of farmers, but most of all it should make New Zealand a sustainable environment in which to live and do business. The existing document at best achieves half of that; It is a half-pie, half-baked legislative document that takes the dairy industry and the wider community nowhere. However, there is a way forward. If we look at the Ehrlich/Commoner model (Ehrlich & Holdren 1971) it states:

'Environmental Impacts=Population x Affluence x Technology'. Now let's adapt that model for dairy farming as;

Environmental Impacts = Cow numbers x Pasture 'quality' x Technology = Profit (i.e., gross income-costs)

We can now see that:

1) If cow numbers go down and everything else stays the same, then both impacts and profit are reduced;
2) If cow numbers go up and everything else stays the same, then both impacts and profit are increased;
3) If cow numbers go down 20% and input costs are reduced by 25% then profit is similar (<u>immediate option</u>);
4) If cow numbers go down 25% and technology is increased by 40% then impacts are low but profit is high;
5) If cow numbers go down 15%, input costs are reduced 20%, fertilizer is down 30%, technology is increased 20%; then impacts are low, and profit is high.

Although a computer model would establish the 'best' scenario it is patently obvious that: a) current impacts are unsustainable, b) cow numbers cannot be increased (as planned), c) fertilizer application increases both aquatic nitrates and global warming so must be reduced, and d) some pastures on alluvial soils (i.e., high leaching) create high levels of nitrates in groundwater that have extremely deleterious effects on public health. Therefore, to mitigate risk and increase profit requires the input of technology. That technology can take many forms; but the status quo with ongoing measurement of 'impacts' (e g., MFEs 'essential freshwater') without any change in the dairy industry takes us nowhere. Although many believe planting riparian vegetation is the panacea to river pollution, it is unlikely to yield substantial change because the small arterial streams (i.e., those less than a stride and shallower than a 'red-band') are mostly responsible for draining nitrates into rivers and these are not fenced (Joy pers. comm); and, in coastal regions leachate is pushed back into surface waters by the hydraulic pressures of seawater.

The technology likely to yield the biggest dividends is manufacture of synthetic milk. Technology can also assist farmers producing 'natural' milk by adding value to product that is exported. Both these outcomes should result in a reduction of environmental impacts and increased profit.

Discussion

The systemic problems within dairy farming are a result of 'dairy intensification'; a flawed and poorly-conceived economic strategy promoted by the National government between 2008 and 2017. As architects of a myriad of problems including farm debt, environmental pollution, and risks to public health the National party has been rather muted on how problems of their making can be resolved. Additional surcharges on dairy farming such as a cost for water and cost for GHG emissions arise in part as a result of National's short-sighted 'dairy intensification' policy. I would have thought a good place to start in providing a structured re-appraisal of issues would be the 'Dairy Industry Review Act', but at the minute that document achieves nothing. The document must be rewritten to provide a template for the dairy industry as it moves forward.

Historically no other industry in New Zealand has had such an impact on our environment as dairying. No other industry in New Zealand continues to have such an environmental impact as dairy farming. Ultimately research will show that no other industry in New Zealand has had such an impact on the health and well-being of rural communities as dairy farming. Despite this, I read through the Dairy Industry Review Act discussion document and I am reading a business prospectus with negligible concern for the environment, or the health and welfare of the people in New Zealand. A search of the document for the word "sustainable" finds several examples of phrases like "sustainable economic development" (so dairying is regarded as a business that produces a sustainable return on investment), but only on page 30 is there a one-liner stating "this has resulted in overproduction of milk and expansion of dairying to a level where in some areas this activity has now exceeded its sustainable environmental limits". However, the document quickly defers any responsibility for exceeding its environmental limits to local authorities who manage the 'Resource Management Act 1991' and MFE who develops policy for 'Essential Freshwater'. Quite simply there is an element of tokenism in everything the dairy industry does outside of making money for its shareholders.

I am an old man that has seen change. I have seen Lake Ellesmere on my doorstep go from the "finest shallow water fishery in the southern hemisphere" (Ferris 1954) to a fetid cess-pond devoid of aquatic fauna; I have seen every lowland river that drains from the foothills in Canterbury pumped dry; I have seen pristine rivers with "drinkable" water turned green with increased algae feeding off agricultural nutrients; I have seen coastal marine environments lose their rich diversity from over-exploitation and agricultural run-off; I have seen clean water in shallow wells progressively become polluted with nitrates and bacteria; I have seen a pandemic of cancer sweep through the country, I have seen the advent of global warming, and I have seen a landscape change from mixed cropping and sheep farming to a landscape littered with cows and milking sheds. **None of this is SUSTAINABLE.** Now I read a discussion document for the dairy industry review act that promulgates more of the same. When are politicians and dairy farmers going to pull their heads out of the sand and make change?? Is everyone (including MPI) associated with dairy farming so egocentric they cannot accommodate anything other than a profit motive for policy decisions?

The industry acknowledges it has exceeded its environmental limits. All recent science publications on nitrates in groundwater, nutrients in rivers and lakes, eutrophication of coastal marine systems, the role of livestock in production of green-house gases and the demise of 'swimmable rivers' indicate that dairy farming has exceeded its environmental limits. Any activity with environmental impacts has sustainable limits, and the sustainable carrying capacity of cows in the New Zealand landscape was exceeded quite some time ago. Industries that go beyond their sustainable limits get labels such as 'dirty dairying'. Sooner, rather than later, the industry will again be labelled because of its impacts on human health (phrases like 'death by dairying', 'cow cancer', 'bovine bot' come to mind). There is nothing in the discussion document that suggests it is going to pull back from its current position. There needs to be a clear and transparent pathway within the document to environmental sustainability, the provision of social well-being, and development of good community health. The dairy industry cannot simply leave things to other agencies and where necessary line up their lawyers to fight the ensuing battles. For any good industry there is such a thing as PRODUCT STEWARDSHIP. Good stewardship is reliant on industry taking responsibility for all aspects of quality control within that industry from: 'health and safety', environmental awareness, quality manufacturing procedures, quality processing, to quality packaging and quality marketing. Stewardship has been absent from dairy farming for years because, just as in the DIRA Act, the sole focus is on profit and economic sustainability.

The correct approach to developing a SUSTAINABLE dairy industry has two routes: a) use of new technologies to develop synthetic milk (this provides a route to product volume) and b) improvements to the added value of 'natural' milk (this increases profitability). Synthetic milk will provide volume, it will allow farmers to reduce cow numbers to sustainable levels that are commensurate with what the environment and public health can support, and, allow Fonterra to provide fit and proper stewardship of its products. It will allow remaining farmers to focus on producing high-value boutique products for the export market. Seeding finance should be provided to universities and CRIs to kick-start travel along the technology pathway.

In summary, I find that the DIRA discussion document only complies with 1 of its 3 objectives. I read a document that fails to address any issues relating to environmental concerns, public health, community well-being, water quality, water quantity, green-house gas emission, transport, and problems with disease in dairy farming. If this document in its present form is the blueprint for the dairy industry going forward; then heaven help us. It is a document prepared by an industry suffering from extreme myopia; a document prepared for farmers that can see no further than that bulging wallet in their pocket; a document prepared for farmers that don't care about the environment or community health; a document prepared for farmers that don't care about global warming; and, a document that simply doesn't care about the welfare of the next generation of kids yet to be born. It is the type of inane rubbish you would expect from the directors of Fonterra; directors that have failed to provide any product stewardship, and, failed to provide leadership within their industry during the 17 years that Fonterra has existed. The DIRA review document should provide a template for the dairy industry going forward; yet it fails to provide any foresight or any direction what-so-ever. Furthermore, the collateral damage caused by dairy farming is deferred to local authorities, the Ministry for the Environment, the Ministry of Health and the Ministry of Primary Industries. These agencies rarely communicate or network, so we see **systemic failures** to address ubiquitous problems that affect all agencies (i.e., the Banking industry, Fonterra, DairyNZ, Regional Councils, MFE, MoH, and MPI). The DIRA discussion document effectively says: "we in the dairy industry will take any profit that is going, do whatever is necessary to increase that profit, but very wisely defer all costs to the NZ taxpayer". **DAIRY FARMING MUST TAKE STEWARDSHIP OF ITS INDUSTRY,** and I would suggest the government agency most closely aligned to it (i.e., MPI) must take the dairy industry by the hand and lead it towards a new nirvana, instead of writing inane bureaucratic crap like what is in the document headed up "The Dairy Industry Review Act". All I can suggest at this juncture is that MPI drops the existing document in the round filing tin (because it is not fit for purpose), and, has another go at writing a comprehensive policy document. A revised policy document must be over-arching and include everything affected by the dairy industry, everything that is essential for the sustainable development of dairy farming; and, become a document that provides some direction for a headless, lifeless, moribund, inept body called Fonterra.

Conclusions

1. There have been systemic failures in the dairy industry as a result of poor **stewardship** and a lack of **networking** by the agencies involved (i.e., Banks, Fonterra, DairyNZ, MPI, MoH, MFE, Regional Councils).
2. 'Dairy intensification' was an ill-conceived policy agenda of the National party that has imposed huge environmental, health and financial costs on the country.
3. Currently the numbers of cows in the New Zealand landscape exceed the ability of the local environment to sequester greenhouse-gases and nitrates produced by the industry. Furthermore, the bacterial burden from dairy effluent increasingly contaminates groundwater, rivers and lakes.
4. The dairy industry poisons thousands of people each year with nitrates. Most maladies associated with chronic ingestion of water containing nitrate-nitrogen have a 'slow burn' before the manifestation of symptoms of cancer, thyroid hypertrophy, genetic abnormalities and neurological effects (e.g., Alzheimer's). Unfortunately for many infants exposed *in vivo* or during early life, their quality of life is affected by nitrates at a young age.
5. The dairy industry also poisons thousands of people each year with poor quality water containing *E. coli,* campylobacter, cryptosporidium and other bacteria that cause gastric malaise or zoonotic diseases.
6. Under 'Health and Safety' regulations why do we consider it <u>unacceptable</u> that 8-12 people are killed annually in logging operations; yet it is <u>acceptable</u> that dozens of people die each year from health issues related to 'dirty dairying'? Where is the consistency??
7. The Canterbury Region was compelled to expand irrigation and dairying by National party "bullies" whom sacked the CRC and then used a 'Commissioner' to undertake dairy intensification. Subsequently environmental issues have gone from bad to worse (i.e., increasing nitrates in ground- and surface-water; increases in *E.coli* and other bacteria, increased water turbidity, decreasing aquatic invertebrates, decreasing numbers of native fish, decreasing numbers of birds in braided river systems, decreasing numbers of trout and salmon, decreasing rivers and lakes for recreation and swimming and increasing emissions of green-house gases). Despite all the evidence telling land managers and local authorities that irrigation and cow numbers are already well above sustainable carrying capacity, during the last 5 years the area of irrigated land has increased from 425,000 hectares to 507,000ha; and the target is 850,000ha by 2040. **WHY????**
8. Fonterra as a player in the international dairy market is constrained by:
   - reliance on whole milk powder; a product purchased mainly by China (2 million tonnes), Brazil (0.6 million tonnes), the European Union (0.45 million tonnes);
   - seasonal production which limits output to 55% of plant capacity (c.f., overseas plants operating at 90% of capacity), so, off-season production must be increased (e.g., housed cows);
   - having China as the main market for whole milk powder;
   - a lack of capital to diversify more into high-value boutique dairy products;
   - the botulism scare that has reduced the Fonterra market for infant formula;
   - a poor culture for developing value-added goods and poor stewardship of existing products;
   - a poor track record at establishing off-shore companies (e.g., China and Australia); and,
   - environmental impacts of farming that may require a 20% reduction in cow numbers.

9. An infrastructure exists for processing and marketing of milk. To optimise the use of these amenities it makes good sense to manufacture synthetic milk for export.
10. The government must put seeding capital into universities and/or CRIs to provide technical support during the development of synthetic milk, while private enterprise must find venture capital to establish an infrastructure for manufacture of synthetic milk.
11. Once synthetic milk production is under way, then the number of cows on our landscape must be reduced to a sustainable carrying capacity. The numbers of cows in Canterbury MUST BE REDUCED by at least 20% in the near future.
12. A smaller market for 'natural' milk should be used to provide a range of boutique products similar to those supplied by Nestle' and Danone into the European market. R&D for development of these products should be subsidized by government.
13. The DIRA discussion document demonstrates how inept the dairy industry has been at undertaking **stewardship** of its products. It expects regional councils, MFE, the Ministry of Health to pick up the pieces after years of environmental pollution, exploitation of water, liberal use of fertilizer dairy intensification and increased cow numbers. It expects MPI to provide logistical support for *Mycobacterium bovis* and *Mycoplasma bovis* eradication schemes, animal tracking and biosecurity. It expects the public to pay the cost of road maintenance for damage done by milk tankers laden with 30 tonnes of milk. It expects the public to pay for much of the cost of global warming. In other words, dairying is an industry that at this moment in time is morally bankrupt, heavily subsidized and reliant on goodwill from government agencies and taxpayers. Although 'social goodwill' is evaporating quickly the dairy industry believes it can get it back with slick advertising. However, people are not stupid; they are compelled by government to pay taxes to prop up an ailing industry, they are compelled to watch their waterways being destroyed, they are compelled to watch in trepidation as global warming consumes the planet, and they are compelled by dairy farmers to have their health and well-being progressively eroded. Fonterra and farmers must take ownership of some of the issues they have caused; and ownership of these issues should be laid out in an open and transparent way within a revised Dairy Industry Review Act.

Recommendations

1. In the short term the maximum contamination limit (MCL) of nitrogen-nitrate in groundwater bores must be lowered to 4.4 ppm (in line with Germany and South Africa). For public water supplies the MCL should be set at 3ppm.
2. Annual checks on the quality of rural drinking water supplies should become mandatory.
3. A high tax should be applied to the nitrogen content of fertilizers, with a lower tax on phosphates. Both substances have deleterious effects on subterranean aquatic systems and surface waters; the former also affects the health and wellbeing of people and contributes to global warming.
4. If change is not effected in DIRA, then litigation in the form of a class action may be required against Fonterra and other milk processors; in much the same way as Monsanto was successfully prosecuted for not declaring glyphosate as a carcinogen. This will dispel any notion by the dairy industry that they are not culpable for public health and environmental issues relating to water quality.
5. It is well known that if you want to conserve a resource you MUST give it an ECONOMIC value (Jantzen 2006); furthermore, if you want to prevent pollution you must put a COST on that pollution (Heinzerling & Ackerman 2002). Therefore: i) the government must move to put a price on water. Without a value water will continue to be exploited and increasingly polluted (i.e., it will be regarded as a "valueless" commodity); ii) water pollution can be addressed with a tax on nitrogen-based fertilizers, and by more rigorous prosecutions for effluent discharge; and, iii) air pollution must be addressed by assigning a price on GHG emissions (nitrous oxide, methane and carbon dioxide) from livestock.
6. The cost of water used by farmers that are heavily indebted should be indented as a liability on the farm title, in much the same way as local body rates are a debt against the title. Similarly, where green-house gas emissions cannot be paid by farmers these costs can be placed as liabilities on farm titles. Heavily indebted farms can carry on trading with the cost of water and GHG taxes indented against the title until cash-flow improves.

7. An organizational structure should be established to develop synthetic milk. This will require input by universities, CRIs and entrepreneurs from the private sector. This will provide milk 'volume' for the export market.
8. A progressive downsizing of dairy herds to an industry that forms a sustainable component of pastoral farming is then required.
9. More value must be added to 'natural' milk before it is exported. New Zealand could provide a range of boutique, high-value dairy products for export, in the same way as Nestle' and Danone.
10. The value of milk will progressively be reduced by foreign-owned milk processing plants and the sale of NZ dairy farms to Chinese buyers. This reduces demand and correspondingly reduces the price of milk. The Overseas Investment Office must be held accountable for allowing foreign investment to undermine the viability of NZ dairy farming.
11. The dairy industry must take more responsibility for the 'stewardship' of its product.

References

Brender J.D., Weyer P.J., Romitti P.A., Mohanty B.P., Shinde M.U., Vuong A.M., Sharkey J.R., Dwivedi D., Horel S.A., Kantamneni J., et al. 2013. Prenatal nitrate intake from drinking water and selected birth defects in offspring of participants in the national birth defects prevention study. Environ. Health Perspect.;121:1083–1089.

Boeing H, Frentzel-Beyme F. 1991. Regional risk factors for stomach cancer in the FRG. Environ Health Perspect. 94: pp. 83–89.

Cantor KP 1997. Drinking water and cancer. Cancer, Causes & Control 8:209–308.

Close, M.E.; Rosen, M.R.; Smith, V.I. 2001: Fate and transpor of nitrates and pesticides in New Zealand's aquifers. Pp. 185-220 in Groundwaters of New Zealand, Rosen, M.R.; White, P.A. (eds.). New Zealand Hydrological Society Inc., Wellington

Coss A, Ward MH, Reif JLCCK. Pancreatic cancer and drinking water and dietary sources of nitrate and nitrite. Am J Epidemiol. 2004 in press

Cuello C, Correa P, Haenszel W, et al. Gas ric can er in Colombia. I. Cancer risk and suspect environmental agents. J Natl Cancer Inst. 1976;57(5):1015–1020

De la Monte, Suzanne M., Alexander Neusner, Jennifer Chu and Margot Lawton. 2009. Epidemilogical Trends Strongly Suggest Exposures as Etiologic Agents in the Pathogenesis of Sporadic Alzheimer's Disease, Diabetes Mellitus, and Non-Alcoholic Steatohepatitis. *Journal of Alzheimer's Disease*, 17:3 pp 519-529

DeRoos AJ, Ward MH, Lynch CF, Cantor KP. Nitrate in public water supplies and the risk of colon and rectum cancers. Epidemiology 2003

Ehrlich P R.; Holdren, J.P., 1971. Impact of Population Growth. Science, 171, 1212-1217.

Eshel, G.; Shepon, A; Makov, T., Milo, R. 2014. Land, irrigation water, greenhouse gas, and reactive nitrogen burdens of meat, eggs, and dairy production in the United States. PNAS 111 (33) 11996-12001

Ferris, G. 1954. Fly fishing in New Zealand. Heinemann publishing 242p.

Foote, K; Joy, M.; Death, R. 2015. New Zealand Dairy Farming: Milking Our Environment for All Its Worth. J. of Environmental Management vol. 56.

Goodman, J., Nicholas R. Dunn, Peter J. Ravenscroft, Richard M. Allibone, Jacques A.T. Boubee, Bruno O. David, Marc Griffiths, Nicholas Ling, Rodney A. Hitchmough and Jeremy R. Rolfe 2013. Conservation status of New Zealand freshwater fish. NZ threat classification series 7.

Grosse Y, Baan R, Straif K, Secretan B, El Ghissassi F, Cogliano V. Carcinogenicity of nitrate, nitrite, and cyanobacterial peptide toxins. Lancet Oncol. 2006;7(8):628–629.

Heinzerling L, Ackerman, F. 2002. Pricing the priceless: Cost-benefit analysis of environmental protection. Georgetown University Law Centre.

Howarth R.W.2008. Coastal nitrogen pollution: A review of sources and trends globally and regionally. Harmful Algae 8:14–20.

International Agency for Research on Cancer (IARC) 2010 IARC Monographs on the Evaluation of Carcionogenic Risks to Humans: Ingested Nitrate and Nitrite and Cyanobacterial Peptide Toxins IARC; Lyon, France.

Jantzen 2006. THE ECONOMIC VALUE OF NATURAL AND ENVIRONMENTAL RESOURCES. Netherlands Institute for Applied Environmental Economics. 62p.

Jörg Schullehner, Birgitte Hansen, Malene Thygesen, Carsten B. Pedersen, Torben Sigsgaard. 2018 **Nitrate in drinking water and colorectal cancer risk: A nationwide population-based cohort study**. *International Journal of Cancer*

Kleinjans JC, Albering HJ, Marx A, et al. Nitrate contamination of drinking water: evaluation of genotoxic risk in human populations. Environ Health Perspect. 1991;94:189–193

Kuzenkov, V.; Krushinskii, A.; Reutov, V. 2013. Effect of Cation Type and Concentration of Nitrates on Neurological Disorders during Experimental Cerebral Ischemia. Bulletin of Experimental Biology & Medicine, Vol. 155 Issue 6, p748-751.

Larned, S, Snelder, T, Unwin, M, McBride, G, Verburg, P, & McMillan, H (2015). Analysis of water quality in New Zealand lakes and rivers: Data sources, data sets, assumptions, limitations, methods and results.

Le ML, Donlon T, Seifried A, Wilkens LR. Red meat intake, CYP2E1 genetic polymorphisms, and colorectal cancer risk. Cancer Epidemiol Biomarkers Prev. 2002;11(10 Pt 1):1019–1024.

Lees Murdock DJ, Barnett YA, Barnett CR DNA damage and cytotoxicity in pancreatic beta-cells expressing human CYP2E1. Biochem Pharmacol. 2004;68(3):523–530.

Lijinsky W. The significance of N-nitroso compounds as environmental carcinogens. J Environ Sci Health. 1986;C4(1):1–45

Ministry for the Environment. NIWA Client Report no. CHC2015-033.

MFE 2017. Groundwater quality: nitrogen. 2p.

Ministry for the Environment. NIWA Client Report no. CHC2015-033.

Ministry for the Environment 2017. Our fresh water 2017. Report no. ME 1305

McClellan, R.; Smith, D. 2015. *Population trends of Black-billed Gulls (Larus bulleri) on South Island rivers 1962-2014*. Contract Report no. 3442 prepared for Department of Conservation, Invercargill and Christchurch offices.

Meredith, I., Sarfati, D., Atkinson, J. Blakely, T. 2014. Thyroid cancer in Pacific women in New Zealand. NZMJ 6 Vol 127 No 1395.

Mirvish SS. Role of N-nitroso compounds (NOC) and N-nitrosation in etiology of gastric, esophageal, nasopharyngeal and bladder cancer and contribution to cancer of known exposures to NOC. Cancer Lett. 1995;93(1):17–48

Morales-Suarez-Varela MM, Llopis-Gonzalez A, Tejerizo-Perez ML. Impact of nitrates in drinking water on cancer mortality in Valencia, Spain. Eur J Epidemiol. 1995;11(1):15–21.

Morgenstern, Reeves, Daughney, Cameron, Gordon 2004. Groundwater Age and Chemistry, and Future Nutrient Loads for Selected Rotorua Lakes Catchments. Institute of Geological & Nuclear Sciences science report 2004/31 Prepared for Environment Bay of Plenty.

Mueller BA, Newton K, Holly EA, Preston-Martin S. Residential water source and the risk of childhood brain tumors. Environ Health Perspect. 2001;109:551–556

Mueller B.A., Nielsen S.S., Preston-Martin S., Holly E.A., Cordier S., Filippini G., Peris-Bonet R., Choi N.W. 2004 Household water source and the risk of childhood brain tumours: Results of the SEARCH International Brain Tumor Study. Int. J. Epidemiol;33:1209–1216.

Myers, Ransom A., et al. 1997 "Why Do Fish Stocks Collapse? The Example of Cod in Atlantic Canada." Ecological Applications, vol. 7, no. 1, pp. 91–106.

National Research Council (NRC) 1981. The Health Effects of Nitrate, Nitrite, and N-Nitroso Compounds. NRC; Washington, DC, USA.

National Academy of Sciences 1977. NAS Report on Diet, Nutrition and Cancer.

NZ GOVERNMENT 2017. REPORT OF THE HAVELOCK NORTH DRINKING WATER INQUIRY: STAGE 2. 285 PP.

Nicolopoulou-Stamati P, Maipas S, Kotampasi C, Stamatis P, Hens L. 2016 Chemical pesticides and human health: The urgent need for a new concept in agriculture. Front Public Health;4:148.

Oram, R. 2018. How Fonterra hit the wall in China. Newsroom.

Perry, M., Christiani, D. 2008. Herbicide and Insecticide Exposures Among Dairy Farm Pesticide Applicators. American Journal of Public Health, Vol. 89, No. 7.

Radikova Z., Tajtakova M., Kocan A., Trnovec T , S bokova E., Klimes I., Langer P. 2008. Possible effects of environmental nitrates and toxic organochlorines on human thyroid in highly polluted areas in Slovakia. Thyroid Off. J. Am. Thyroid Assoc.18:353–362.

Riegen, A.C. & Dowding, J.E. 2003. The Wrybill *Anarhynchus frontalis*: a brief review of status, threats and work in progress. Wader Study Group Bull. 100: 20-24.

Hugh A. Robertson, Karen Baird, John E. Dowding, Graeme P. Elliott, Rodney A. Hitchmough, Colin M. Miskelly, Nikki McArthur, Colin F.J. O'Donnell, Paul M. Sagar, R. Paul Scofield and Graeme A. Taylor 2016. Conservation status of New Zealand birds. NZ threat classification series 19.

Sandor J, Kiss I, Farkas OEI. Association between gastric cancer mortality and nitrate content of drinking water: ecologi al study on small area inequalities. Eur J Epidemiol. 2001;17:443–447.

Shcherbak, N. Millar and G.P. Robertson 2014. Global meta-analysis of the nonlinear response of soil nitrous oxide (N_2O) emissions to fertilizer nitrogen. Proceedings of the National Academy of Sciences.10.1073/pnas.1322434111

Stayner L.T., Almberg K., Jones R., Graber J., Pedersen M., Turyk M. 2017. Atrazine and nitrate in drinking water and the risk of preterm delivery and low birth weight in four Midwestern states. Environ. Res. 152:294–303

Steindorf K, Schlehofer B, Becher H, Hornig G, Wahrendorf J. Nitrate in drinking water. A case-control study on primary brain tumours with an embedded drinking water survey in Germany 1. Int J Epidemiol. 1994;23(3):451–457.

Stevens, M., Walker J, Gurnsey S, Park N, Zabkiewicz J, Teulon D and Rahman A. 2005. Trends in Pesticide Use in New Zealand: 2004. Report to the Ministry for the Environment, Project SMF4193

Stewart, M.K.; Stevens, G., Thomas J.T, van der Raaij R, Trompetter, V. 2011 Nitrate sources and residence times of groundwater in the Waimea Plains, Nelson. Journal of Hydrology (NZ) 50 (2): 313-338 2011

Tajtakova M, Semanova Z, Tomkova Z, et al. Increased thyroid volume and frequency of thyroid disorders signs in schoolchildren from nitrate polluted area. Chemosphere. 2006;62(4):559–564.

Tricker AR. N-nitroso compounds and man: sources of exposure, endogenous formation and occurrence in body fluids 1. Eur J Cancer Prev. 1997;6(3):226–268.

Tucker, C. 2017. Clean, Green Aotearoa New Zealand? In Bell, A., Elizabeth, V., McIntosh, T. Wynyard, M. (eds.) A Land of Milk and Honey?: Making Sense of Aotearoa New Zealand

Van Loon AJ, Botterweck AA, Goldbohm RA, Brants HA, van Klaveren JD, van den Brandt PA. Intake of nitrate and nitrite and the risk of gastric cancer: a prospective cohort study. Br J Cancer. 1998;78(1):129 135.

Van Maanen JM, Welle IJ, Hageman G, Dallinga JW, Mertens PL, Kleinjans JC. Nitrate contamination of drinking water: relationship with HPRT variant frequency in lymphocyte DNA and urinary excret on of N-nitrosamines 3. Environ Health Perspect. 1996;104(5):522–528.

Van Maanen JM, van Dijk A, Mulder K, et al. Consumption of drinking water with high nitrate levels causes hypertrophy of the thyroid 5. Toxicol Lett. 1994;72(1-3):365–374.

Vermeer IT, Pachen DM, Dallinga JW, Kleinjans JC, Van Maanen JM Volatile N-nitrosamine formation after intake of nitrate at the ADI level in combination with an amine-rich diet 4. Environ Health Perspect. 1998; 106:459–463.

Ward MH, Cantor KP, Riley D, Merkle S, Lynch CF. Nitrate in public water supplies and risk of bladder cancer. Epidemiology. 2003;14(2):183–90.

Ward MH, de Kok TM, Levallois P, et al. Workgroup report: Drinking-water nitrate and health--recent findings and research needs. Environ Health Perspect. 2005; 13(11):1607–1614

Ward MH, Rusiecki J, Lynch CF, Cantor KP Nitra e in public water supplies and risk of renal cell carcinoma. Cancer Causes Control. 2007

Ward MH, Cerhan JR, Colt JS, Hartge P. Risk of non-Hodgkin lymphoma and nitrate and nitrite from drinking water and diet. Epidemiology. 2006;17(4):375–382.

Ward, M.H. 2008. Too Much of a Good Thing? Nitrate from Nitrogen Fertilizers and Cancer. Environ Health 24(4): 357–363

Ward MH, Heineman EF, McComb RD, Weisenburger DD. 2005. Drinking water and dietary sources of nitrate and nitrite and risk of glioma. J Occup Environ Med.;47(12):1260–1267.

Ward, M Jones, R., de Kok, T., Weyer, P., Nolan, B., Villanueva, C., van Breda, S. 2018. Drinking Water Nitrate and Human Health: An Updated Review. *Int J Environ Res Public Health 15(7): 1557*

World Cancer Research Fund. 2018. Global cancer data by country:Exploring which countries have the highest cancer rates

Weyer PJ, Cerhan JR, Kross BC, et al. Municipal drinking water nitrate level and cancer risk in older women: the Iowa Women's Health Study. Epidemiology. 2001;12(3):327–338.

Young, R. 2009. Polluted rivers of New Zealand. Cawthorn Institute report

s 9(2)(a) [redacted]

Good morning, and staff of M.P.I.

Madam Chair or Members of the Commerce Commission, ~~Good Afternoon~~.

I am s 9(2)(a) [redacted]

I am here today to give my thoughts of the Stranglelation that the Commerce Commission has over me as Shareholder of Fonterra/ I have supplied milk to a Dairy Co. since 1967.

When I turned the TV. On back in February 2018 and there was Parliament discussion the Dira Bill I was left speechless of the words spoken from members of this Coalition Govt. All the members from this Government were telling **BS.**

In the Parliament Chambers and using this privileged to make their point. And get away with it.

Whether it was Gareth Hughes, Jenny Salesa, Anahila Kanongata'a Suisuiki, Ginny Anderson, Greg O'Connor, Meka Whaitiri, Poto Williams, Chris Hipkins, Stuart Nash, Mark Patterson and Kiri Allan. These are some of the Coalition spokes people.

There they were flinging their arms around saying how great Fonterra was to NZ. Economy and we have to change what the previous Govt. Had put in place urgently otherwise Farmers in the South Island will have no other Company to pick up their Milk. Bollicks this was Bull Shit.

There was/is 6 other Companies in the South Island.

Westland, Synlait, Oceania,

Mataura Valley, Open Country Cheese and Danone.

In the North Island there is also Tatua & Miraka ((may I add here during the 2017 Edgecumbe Floods suppliers whose milk was not picked up due to floods were reimbursed, Open Country Cheese Suppliers were not)

To go back and enlighten some members on their History

When Dairy Farmers 1999 voted for a change we finished up with 3 Companies

Westland, Tatua & Mergco. (Mergco become Fonterra later 2001)

We collected 96% of the milk

The Helen Clarke Labour Govt. & Commerce Commission put the following Terms of Reference.

1, Open Entry and departure meaning we had to pick up all milk in Greater New Zealand

2, Supply milk at cost to any new start up Dairy Co. that wish to make a product out of milk.

3, WE had/have to announce before the end of May what the advance rate Fonterra will pay/set for the coming season 1st June to 31st May.

4, Supply milk to Goodman Fielder @ Palmerston North

5, Dira Expiry

Over time Fonterra and the Govt of the day have relooked at these Conditions.

You have not let go of this **Stranglelation**, yes you have lowered the % of milk that we pickup, when reached we can let go of having to harvest all this milk in New Zealand, but you kept lowering that fresh hold Percentage

NZ will finish up with lots of Dairy Co. and us with Surplus Stainless Steel Factories (Like it was in the 1930`s)

All these other Dairy Companies are not under the Stranglelation of Govt. Or Commerce Commission

What do I wish you the MPI & Commerce Commission to Change, good question Sir or Madam?

Delete Open Entry & Exit.

eg. Why should we have to pick up all Suppliers between Hicks Bay and the Eastern shoreline of the Bay of Plenty?

All milk north of Awanui (we go all the way to Houhora Heads). And all other supply that is out on a limb? Where our rivals Cherry pick their Suppliers

Announce payout range before 31 May.

What this announcement does is send a message to All Support Service Industries out there,

Those Fonterra suppliers will have a great year **let's Milk It.**

The purchase of all bought in feed goes up, grazing, transportation, etc., This includes all Plumbers, Electricians, Builders, everybody that has contact with Dairy Farmers.

No more making us Fonterra to supply milk to any more new Dairy Co. setting up in NZ.

My biggest frustration is that we are the only company that is under control by the government and commerce commission. I am supportive of the DIRA requirements but feel the current rules are no longer applicable in the environment that we are now operating in and are in need of my suggested reviews to continue to be relevant for today and the future of the industry.

That Ladies and Gentlemen of this Commerce Commission is my Wish list.

Our Owner/operator families that are shareholders of Fonterra are work long hours love all their livestock and are not rewarded enough for their Afford, and you will find that off farm employment, is seek out by one of the partners, we don`t get paid enough, your decision you make today, yesterday or tomorrow does not affect your pay packet. But it has an effect on our Bottom Line as we are like the pawns on the Chess Table we get what is left

Example, Waikato Times Nov.1st 2018 and quote!! Then say she still got paid

Shane Jones and our Delightful Prime Minister has just last week given a $10 million Loan to Westland's, and Jones did not know the name of the Dairy Company.

It is all Politics.

Thankyou

s 9(2)(a) [redacted]

10 /12 /18

The DIRA Review Team,

Ministry for Primary Industry.

Dear Sir / Madam.

Thank you for allowing me to make a submission to the review of the DRIA. as a supplying Shareholder of Fonterra.

I believe the ACT should be scrapped except for the clause relating to the milk price.

My reason being, it has done its job and why should the biggest company and export earner be regulated to the extent we are? Our company doesn't control all the manufacturing like it used to. For example, just look at the South Island down to about 70% of milk collected, and close to home at Edgcumbe, just 12 km., away a new private factory is being built.

Regarding the milk price clause could this be retained some other way?

I have been dairy farming now for some 65 yrs. and my wife and I own a 300 hundred cow and support stock property on s 9(2)(a) [redacted]

My last point is: Why does our Co.op. information have to be so public ?

Yours faithfully,

s 9(2)(a) [redacted]

Covering page to my Submission on the Review of the Dairy Industry Restructuring Act 2001

I met your team at s 9(2)(a) [redacted]
The audience, much like myself, knew what we wanted from a revamped DIRA but found it difficult to articulate our needs into "bites"of information that resembled a cohesive plan for the future.
Most of this submission is an attempt to improve that communication, and give a background of where I have been since 17 years ago when I was s 9(2)(a) [redacted] who gave submissions to the existing Legislation.
I have endeavoured to look five years into the future as to what the Dairy Industry will then require.

The presentation was a good first attempt to get Farmer involvement but to my mind didn't canvas the wider opportunities that need attention in the future.
Examples of these include the environment in which we operate under the social licence in which we operate.
The term 'peak cows'with the limitation society will give us needs to be examined.
Scant acknowledgment has been given to the history of our Industry and the level of decronian and at times 'light' legislation that has assisted the Dairy Industry over time.

So well done to date, lets make sure that we are remembered as being far sighted in five years time.

P.S.
I am prepared to meet with your team regards any clarification of this Submission.

References used:
New Zealand Dairy Industry 'A Command of Cooperatives' by A.H.Ward along with some of my recollections of interviews s 9(2)(a) [redacted]

The importance of these opinions and the marketing of N.Z.dairy products over time show the importance of few strong sellers in a market that constantly changes.
The relationship between the number of sellers and buyers is graphically illustrated on the inside of Ward's book

As a school project I recall interviewing one of Chew Chong's descendants. She well remembered being told of the Butter in a cask that was retuned to sender by Chew so that he could better understand the butter quality when it reached England. Hence the use of salt to preserve the product!
The cask of butter was described as only good for grease on a horse cart!

Both Chew Chong and Henry Reynolds of the Waikato, who first started the Sharemilking system of Anchor butter, were the leaders of the Industry.

How many of your team know that it is now 148 years since the first establishment of a Cooperative Dairy Company in New Zealand?

My submissions also used various publications by The Plunket Foundation on Cooperative Structures.
This is an Irish Foundation founded by Lord Plunket

The Rochdale Cooperative Principles

1 Open membership.
2 Democratic control – regardless of sex, race, or creed.
3 Limited interest on capital
4 Proportional distribution
5 Promotion of education

These principles remain today for Cooperatives to operate under!

Who am I

Background to my involvement in the Dairy Industry

s 9(2)(a) [redacted]

s 9(2)(a) [redacted]

Comments by Page Number
Page 6
Evidence that all milk produced must be processed by Fonterra was not forseen, as economic land use changes were not apparent seventeen years ago.
The' law' of unintended consequences always has economic outcomes, in this case to the detriment of Fonterra.
Page 7
Repealing the Act entirely would be economic disaster for our Country
Page9
Remove the unintended consequences,but tighten the environmental outcomes
Page10
Perception that giving submissions will take time is a disincentive.
Page12
No background as to why over 65% of all milk world wide is manufactured by Cooperatives
Page13
Does not talk about the economics of other land use, Fonterra is not in control of its volume but is required to accept all milk!
Page15
A duopoly does not give this assurance.
Page16
Goodman Fielder has 'used' the system by not building their own supply of raw milk; R&D must be linked to turnover and improved
Page17
Define 'Peak cows" and how this will work
Page19
The seven bullet points on top of the page needs full environmental and economic assessment. This in its self is a major task to get agreement
Page20
Stainless steel without a milk supply is worth scrap price only. Look at the meat Industry. Changes to the depreciation levels of plant must be reflected in the Balance sheet.
Page21
Gives us good reasons why this legislation needs to be changed, but retained in some form.
Page22
DIRA has is not the reason for growth, get real!
Page24
This highlights the weakness in the Regional Council system & how they have not kept up with society's expectations.

Page26
The costs of processing are on a volume basis.
Both Fat & protein prices rise & fall yet volume is the cost of processing.
Page27
Questions:10 Many factors influence farmers decision making, eg
Purchased feed surplies, costs v expected returns,DIRA is just one factor,
Question:11 Economics of other land use & capital constraties.
Question 12 Commercial reasons, eg economics of keeping existing milk keeps unit costs lower
Question13 As with all business capital becomes a 'fixed' cost in maintenance / building of plant.
Page 28
Regional Council Responsibility. How ever Fonterra has an unusual environmental policy
The wider than a stride, deeper than a redband & permentant flow does not deal with the tributaries that supply water into permanent non defined streams.
These are ten to a hundred times longer ie ephemeral streams
Working from the top of a catchment down has greater effectiveness when improving water quality. But is less P.R. effective.
Page 29
This page consists of a valid argument re environmental risk and DIRA
Page 30
3.5 Fonterra must perform to keep Shareholder support. A small number of Fonterra plants have been 'mothballed' this at present not of any real consequent but writing off of assets because of lack of milk may well become a reality.
The last paragraph of this page and top of 31 is of real concern going forward.
Page 32
DIRA and its milk price calculation are one of the parts of DIRA that I wish to keep in place. The efficiency base price is welcome to continue
Page38
Opinions vary as to how long the regulations should remain in place.
A five-year review seems to be acceptable
Controls including "peak cows' would assist the environmental lobby this would allow increase in per cow production through per cow increases only.
Great for our marketing staff!!
Page 40
This is a sound, recommended outcome. Well done!
Page46
Goodman Fielder need to grow UP

This oversees owned company has had a soft ride for the last 17 years. When their contract expires they can obtain their own milk supply.
Page47
Option4.4.3 gives them a soft landing why should they be the only purchasers of milk on a 'flat line' when we all know that winter milk costs so much more to produce

Some comments to round off.
Look at milk prices in the 1920s when Dairy Compaies sold as individual sellers.
Look at milk prices when a sole trader of milk from New Zealand (the Dairy Board)

The future:
Reveiw DIRA every five years
Establish rights to peak cows. Based on previous season's numbers.
These rights can then be purchased or sold between farmers
Abolish Fonterra's obligations to manufacture all new milk
Educate Shareholders as to why dairy farmers world wide prefer to be members of a Cooperative
Thank you

s 9(2)(a)
[redacted]

DIRA Submission.

1. My name is s 9(2)(a). I am a long time dairy farmer. Coming from s 9(2)(a) where I now own two dairy farms milking 1300 cows.
2. The DIRA in 2001 allowed Fonterra to consolidate and provide New Zealand with an industry able to compete on the world stage. Thus helping ensure the prosperity of our population.
3. However, since DIRA was enacted there has been an influx of foreign owned investors in milk processing and manufacturing plants. With all profits from these going back to the country of origin. These are generally assisted by the contract price milk being available to them. This must stop. Essentially the NZ dairy farmers through Fonterra are subsidising their competitors.
4. All competitors including Goodman Fielder must have had time to develop their market and should be paying market price for milk purchased from Fonterra. In overseas markets we are not receiving any such help. Ridiculous to be offering extended assistance to our competitors.
5. I think open entry requirements will largely be controlled by the need to buy Fonterra shares.
6. Milk price may be set by committee but really the price obtained by Fonterra on the world market has to be the price paid to its farmers. There is no way they can pay more. Less would be disclosed by the annual accounts. No one is going to pay much more to purchase milk from farmers than they need.

Yours hopefully,

s 9(2)(a)
16 January 2019

Submission form - Review of the Dairy Industry Restructuring Act 2001 and its impact on the dairy industry

The Government is reviewing the Dairy Industry Restructuring Act 2001 (DIRA) and its impact on the dairy industry. The review is currently at the public consultation stage.

We are seeking your input on the issues, options and questions as set out in the DIRA discussion document.

This form contains all the questions that appear in the online submission form at https://www.research.net/r/DIRA. These are identical to those in the discussion document. You can use this document to familiarise yourself with the questions in the form before making your submission.

If you have trouble using the form, you can email your submission to DIRA@mpi.govt nz.

You will need to read the discussion document before considering your responses to the questions set out in this form.

Your responses are due by 5pm on Friday 8 February 2019, and will help inform the recommendations that the Government will consider later in 2019.

You will be asked to select the sections on which you would like to submit, and you may submit on as many or few areas as you like. All questions a e optional.

Chapter 2: Performance of the dairy industry

Section 2.1 2001 structural reform to enable the industry to drive strategic change

Please refer to [Section 2.1] of the discussion document.

(1) Do you agree with our description of the DIRA regulatory regime and its original policy rationale? Do you consider the original policy rationale is still valid?

No.

Section 2.2 Industry performance since the restructure

Please refer to [Section 2.2] of the discussion document.

(2) Are there any other dairy industry developments or industry performance indicators that are not captured in the discussion document or its supplementary material? Please provide details and supporting evidence.

Chapter 3: The effects of the DIRA and other factors on industry performance

Section 3.1: Has the DIRA been effective at managing Fonterra's dominance in the market for farmers' milk, and is it still needed?

Please refer to [Section 3.1] of the discussion document.

(3) Do you consider the DIRA has been effective at achieving its core regulatory objective of preventing Fonterra from using its dominance to create barriers to farmers' milk and land flowing to their highest value uses? If not, please provide reasons and supporting information/evidence.

The question is interesting because it implies that other milk manufacturing plants would innovate better than Fonterra. The facts would show otherwise. Fonterra has shifted more milk off GDT and into consumer and food service including special ingredients than any of the new companies. Just one example is the infant formula anmum going into Ch na being number 1 in China. There are many more like UHT cream but just the total of around a 6 billion dollar business speaks volumes for what Fonterra is doing around consumer and food service. OCD which is the largest of the new companies is still essentially a commodity company.
The MPM (internal transfer price of milk) is a key driver within Fonterra to keep the business accountable.
It could be argued that the reverse is happening and that free entry/exit (controlled by DIRA legislation) is hampering the innovation into higher val e because of the milk that Fonterra has had to accept over recent years requiring it to deal with this by building bigger and new plant to cope rather than invest in product innovation.

(4) Do you think Fonterra is still dominant in the market for farmers' milk, at the national and regional levels?

Once again the question is subjective. You may well ask that if Fonterra had only 36% of the market but there were eight other milk companies that averaged only 8% market share each. Fonterra would still be dominant and dwarf the others. It should be about behaviour. Fonterra with its scale is better able to deal with environmental issues of both the company and its shareholder farmers. The evidence of this can be seen by comparing Fonterra farms with that of the likes of OCD farmer suppliers. A lot of this would be because Fonterra pays its farmers better and Fonterra farmers run lower cost systems making them more profitable and able to invest in environmental issues. This was highlighted by and article by George Moss recently in which he compared data from an independent source (dairy base) which showed that Fonterra farmers had up to 50% better ebit than OCD.
Also you would have to say that the new milk processors are very selective about where they wish to set up and collect milk from. A quick look at the competition for milk in key dairy areas like the Waikato, Canterbury and Taranaki you will see a strong mix of milk suppliers to different companies. If you go to outlying areas like Coromandel, Northland and Golden Bay and it's just Fonterra. This would show that new milk companies cherry pick to a large extent and Fonterra will always be left to pick up in less desirable areas meaning it will always have a greater market share. A major downside of this is that it will drive up Fonterra cost of milk collection in turn lowering the milk price which would impact not just on Fonterra farmers but all farmers as all new milk companies are not co-operative so if the cost of milk goes down they will just pay a lower price as well. Since most of these companies have a large foreign ownership those profits would then go off

shore. NZ inc would be worse off

(5) Do you think the DIRA imposes unreasonable costs on Fonterra? If so, please provide supporting information/evidence.

(6) Are there ways for the costs imposed on Fonterra to be mitigated without impacting on the effectiveness of the DIRA regulatory regime? If so, please provide supporting information.

(7) Are there any other regulatory tools that, in your opinion, would be more effective than the current DIRA provisions at managing Fonterra's dominance? If so, please provide examples and supporting information/evidence

As already discussed Fonterra dominance is no longer an issue. Fonterra is and probably will always be the dominant milk company in NZ. The focus needs to be on behaviour not size. If the DIRA serious about reducing Fonterra dominance it would force all new milk companies to pick up a percentage of it milk from outlying areas. Not until you have new milk companies setting up outside the main milk producing areas will you ever get parity in scale. I am not saying I want this because I think it's a non issue. Focus on behaviour and ten all milk companies including Fonterra will be on a level playing field and that is what the legislation must surely aim to do. The focus on dominance is creating (encouraging) bad behaviour in most other milk processors and stifling innovation.
The simple fact to support this is that if Fonterra needs to underwrite by way of having sufficient stainless steel on the ground to pick up any milk that other milk companies no longer wish to pick up (they are the only ones who can deny a supplier request to have their milk collected) would tie up capital that could be directed into other areas and also gives a poor return to Fonterra.

(8) Are there other factors you consider need to be taken into account when considering the effectiveness of the DIRA regime and whether it is still needed?

DIRA probably is not needed anymore. I don't believe it is adding value to NZ inc. A strong co-op is needed as the world over would prove. The co-op holds the bar to which others must perform. The simple fact here is that co-ops return all profits back to the farmer shareholders thus maximising the milk price. Non co-op milk companies want to lower the milk price as much as they can as this is just a cost to their business. In the case of NZ milk companies with a large proportion of foreign ownership these profits would benefit non NZ shareholders.
A big part of DIRA was to benefit the NZ consumer by having new innovative milk companies set up to deliver consumer products onto the NZ market. In this DIRA has failed badly. None of the new companies has presence in NZ and all are export led in basic commodities.

Section 3.2: Does the DIRA encourage industry growth?

Please refer to [Section 3.2] of the discussion document.

(9) Do you agree with our preliminary assessment of the extent to which the DIRA encourages industry growth? If not, please provide reasons and supporting information/evidence.

No it doesn't encourage growth. How could it? All it is doing is creating a framework for milk to leave Fonterra (the dominant player is Govt opinion) and move to new start ups. This is not growth but a transfer of milk. Also not driving new milk companies to invest in NZ consumer products as all milk going into commodity exports

Section 3.3: Does the DIRA influence Fonterra's strategy?

Please refer to [Section 3.3] of the discussion document.

(10) Do you agree with our preliminary assessment of the extent to which Fonterra can influence milk supply volumes through price, notwithstanding the DIRA open entry requirements?

This is totally counterproductive. It's like saying you need to cut off your head to remove the pimple from your nose. Fonterra is a co-op and the milk price is a very simple thing in reality. Income less cost (based on reference products) and all suppliers are to be treated the same (not like non co-ops who have individual contracts). So to have to artificially lower a milk price to reduce supply would be a disaster in so many ways. NZ inc would be worse off because non co-ops would make bigger profits for off shore shareholders Artificial milk prices will distort the market affecting land use with unknown consequences. Fonterra dividend and in turn share price could be majorly distorted. All milk companies should have free exit but not free entry. Once again it' about behaviour and its only the new milk companies who display bad behaviour by locking milk suppliers into long term contracts with automatic roll overs without notification.

You could make an argument that DIRA should be flipped to manage new processors to protect both the NZ consumer (forcing a percentage of milk collected to go into consumer products for domestic consumption) and milk producers from getting locked into long term contracts with no chance of taking their milk to new better paying companies.

Also when you look at the amount of milk these new milk companies pick up from out lying areas they could be required to take a percentage from these lesser regions. As it is free entry does not apply to them as they can just refuse.

No company should be able to reject an EXISTING supplier having their milk collected.

(11) Are there other factors that you consider should be taken into account? Please provide detailed comment in suppor of your views.

(12) Do you consider that the DIRA provisions governing Fonterra's base milk price calculation and Commerce Commission monitoring may be preventing or disincentivising Fonterra from deviating from the base milk price calculation for strategic or commercial reasons?

(13) If the DIRA is not driving Fonterra's business and investment strategy, what is? Please provide detailed comment in support of your views.

It is a bit arrogant to suggest DIRA drives investment/innovation. Fonterra has its own innovation centre at Palmerston North and being a co-op always drives the best return it can for its farmer members. This in itself is demanded by farmers and the key to this is actually an active and involved shareholder base within the co-op. Complacency here would be very damaging as witnessed in Australia.

The transfer price of milk within the co-op is vital to this as it keeps management striving to deliver better returns over the milk price. The MPM will need to continually devellope but the milk price other milk companies pay is their own business. For them to argue that they should have oversight into the MPM is spurious.

Section 3.4: Does the DIRA impact on the industry's environmental performance?

Please refer to [Section 3.4] of the discussion document.

(14) Do you agree with our preliminary analysis of the DIRA's impact on the industry's environmental performance? If not, please provide your reasons and supporting evidence.

It does but once again not as intended. The environmental performance of Fonterra farmers is superior that most other companies. OCD openly say they do not wish to get involved behind the farm gate. OCD farms (I know because I bought one) are generally of a poor standard as far as effluent management goes and generally need way more to be compliant because of the nature of the operations they run. Mostly high input winter milking herds that have a bigger impact on soils and water quality. Because they are less profitable (Moss 2018) they struggle to be able to make the investments needed to comply. They also have less fencing of water ways and their uptake here is slower. It is generally accepted that many of these farmers left Fonterra to access their share capital and so may have been financially stretched already so moving away from Fonterra has had a compounding negative effect. Once again the legislation has worked against the best interest of NZ

(15) Do you agree with our view that environmental issues are best dealt with through the Resource Management Act and not the DIRA regime?

yes

(16) Are there other environmental issues that you consider should be addressed either through the DIRA review or some other means?

No

Section 3.5: Does the DIRA incentivise inefficient entry by large dairy processors?

Please refer to [Section 3.5] of the discussion document.

(17) Do you agree with our preliminary analysis of the impact the DIRA has on new processor entry? If not, please provide your reasons and information/evidence in support of your views.

Free entry and free exit are not working. As already discussed they restrict Fonterra to innovate by being required to carry stainless steel for any milk that wishes to join the co-op. DIRA should be about encouraging good behaviour and that should apply equally to all milk processors. At the moment the only bad behaviour is from other companies other than Fonterra. Tatua often held up as a leading light in innovation has a very closed supply allowing it to innovate but distorting land prices in its area. You will not see an OCD supply number in areas without a high concentration of dairy farms. This would indicate that they are not accepting those request to supply. Yet OCD have not chosen to innovate and just supply bulk commodities for export. All this does is increase cost to Fonterra because they are forced to collect or make provision for all the milk no one else wants. This should not be the requirement of the co-op. Most of the main milk producing areas have several options to supply milk to with Synlait OCD and Fonter a in both north and south islands. Then you have several other companies like Westland Milk products Miraka and Oceania as established significant operators scattered amongst both islands.
As a Fonterra farmer I feel I have more that I enough choice should I wish to leave. My biggest concern is not that I may not be able to return to Fonterra but that I cannot leave one of these other companies because of their insistence of long term contracts. I could give example of farms locked into these who now wish they could change not just to Fonterra but other new start ups.
If DIRA was to change one thing this would be it. REMOVE FREE ENTRY/EXIT to Fonterra.
Having said that no company including Fonte ra should be allowed to refuse collection of milk from an EXISTING supplier unless it's on environmental compliance grounds

(18) Do you consider that large dairy processors should continue to be eligible to purchase regulated milk from Fonterra under the Raw Milk Regulations or not? Please provide detailed comment in support of your views.

No. They need to encourage to get their own supply. After all this is what DIRA wants. Companies competing to collect milk off farm and not to have one company collect all milk then distribute through a regulated milk price.

Section 3.6: Does the DIRA promote sufficient confidence in the base milk price calculation?

Please refer to [Section 3.6] of the discussion document.

(19) Do you consider that greater confidence in the base milk price calculation outcomes could be achieved if additional legislative guidance on the term "practically feasible" were to be provided for in the DIRA? Please provide detailed comment in support of your views.

No; What does Fonterra milk price have to do with new processor entering the market. If Fonterra is inefficient it will have a low milk price and new processors will enter the market. Fonterra cannot pay what the market does not return. You can't get money from thin air. If a new efficient processor were to enter the market they would compete for milk on price and farmers will choose who to supply on the basis of that price amongst other key considerations. The milk price calculation is only important if Fonterra were required to deliver milk to start up for the first three years. I would argue that there is enough competition now that new processors could source milk from other existing companies than Fonterra. OCD claim in many publications to have a waiting list to supply their plant. They could collect this milk and on sell it. They could do the same with Goodman Fielder. The market is large enough now to leave the transfer price of milk to the market.

(20) Do you consider that the base milk price should be set by an independent body (e.g., the Commerce Commission)? If so, please provide supporting information.

No: The base milk price cannot be a theoretical number. It has to be based on real data.

Section 3.7: Does the DIRA support competition in New Zealand consumer dairy markets?

Please refer to [Section 3.7] of the discussion document.

(21) Do you agree with our preliminary analysis of the DIRA impact on the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

DIRA has failed the consumer. As your paper states most large start ups went for export. Goodman Fielder was Meadow fresh which was already in NZ. The small niche players were always going to happen and will continue to happen. We see this with small fresh milk plants becoming more popular as well as some niche cheese makers. DIRA does not seem to be doing anything for the consumer which was one of the objectives at the outset.

(22) Are there any other factors that should be taken into account regarding the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

Chapter 4: Options for change

Section 4.1: DIRA open entry requirements

Please refer to [Section 4.1] of the discussion document.

(23) Are there any other options for the DIRA open entry requirements that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(24) What costs and benefits would each of the options for the DIRA open entry requirements create for your business? Please provide quantitative information if possible.

(25) How well do you think each of the options for the DIRA open entry requirements would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(26) What is your preferred option for the DIRA open entry requirements? Please provide your reasons and informat on/evidence in support of your views.

Option 4.1.2: Farmers are not looking to "transparent information" to decide whether to leave or join Fonterra. It is often said in farming circles the only number farmers need to judge Fonterra on is the payout. You could just as easily argue, are farmers getting the transparent information they need to join another company?

The argument that this lack of information and inability to return to Fonterra will discourage suppliers leaving and discourage new processors entering the market is flawed. In fact the exact opposite would happen. You always see new business set up where they see a weak player

As it is if Fonterra needs to supply stainless steel to cater for the potential return of any or all milk this would be a significant impost on the co-op and an unfair requirement for its shareholders. It also has the reverse effect of allowing new processors being able to come in on poor market research and poor innovation "just wanting to have a go" and being able to piggy back on Fonterra to take up any collapse as they did with Nutritech. In that case Fonterra even went so far as to pay Nutritech suppliers for money owed by the defaulting company.

It is the behaviour that needs to be looked at again as I have already stated in other parts of this submission. The new processors are blocking free entry by either flatly refusing to collect milk or by individual contracts that are prohibitive to entry.

The reputational risk component is not an issue because Fonterra as all companies can refuse pick up on animal welfare or environmental issues.

Fonterra dominance is not an issue in today's environment because there is a lot of choice and Fonterra even at 35% could still be a dominant player if the next largest was say 10% with a raft of small processors.
So to control dominance with free entry is a failed strategy. DIRA should be more concerned about behaviour and the fact that all the things that DIRA hoped to control, concerns about the behaviour of Fonterra which are in fact being practiced but the new processors.

1) Lack of transparency around their milk price paid to farmers. Only get headline numbers
2) Long term contracts, restricting free exit
3) Restricting who can supply them, free entry
4) No innovation, just commodity exports
5) No new major domestic players for consumer goods
6) Poor environmental monitoring on farm. Effluent, fencing, PKE

This piece of legislation is not achieving the desired outcomes for Fonterra or farmers or the consumer so should be repealed

Section 4.2: Access to regulated milk for large dairy processors (except Goodman Fielder)

Please refer to [Section 4.2] of the discussion document.

(27) Are there any other options for access to regulated milk for large dairy processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

Simply not needed. These processors are big enough to stand on their own merit

(28) Do you consider that the proposed 30 million litres threshold is too high or too low? If so, what would you consider the right threshold to be, and why?

About right

(29) What costs and benefits would each of the options for access to regulated milk for large dairy processors create for your business? Please provide quantitative information if possible.

(30) How well do you think each of the options for access to regulated milk for large dairy processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(31) Do you have a preferred option for access to regulated milk for large dairy processors? Please provide your reasons and information/evidence in support of your views.

No regu ated milk once they are over 30 million litres

Section 4.3: Options for the base milk price calculation

Please refer to [Section 4.3] of the discussion document.

(32) Are there any other options for the base milk price calculation that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(33) What costs and benefits would each of the options for the base milk price calculation create for your business? Please provide quantitative information if possible.

(34) How well do you think each of the options for the base milk price calculation would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(35) Do have a preferred option for the base milk price calculation? Please provide your reasons and information/ev dence in support of your views.

Section 4.4: Options for access to regulated milk for Goodman Fielder and smaller processors

Please refer to [Section 4.4] of the discussion document.

(36) Are there any other options for access to regulated milk for Goodman Fielder and smaller processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

Very small niche players should always have access to regulated milk. GF could and probably should be forced to collect its own milk to help create another processor competing for farm gate milk. This would support the removal of free entry and free exit Most farms would have a choice of up to at least five processors to supply and in many cases more. North Island, Fonterra, GF, Synlait, OCD, Miraka. South Island, Fonterra Synlait, WMP, OCD, GF. Then you have other smaller less establish processors as well

(37) What costs and benefits would each of the options for access to regulated milk for Goodman Fielder and smaller processors create for your business? Please provide quantitative information if possible.

(38) How well do you think each of the options for access to regulated milk for Goodman Fielder and smaller processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effect veness and timeliness of regulatory processes?

(39) Do you have a prefer ed option, or a combination of options, for access to regulated milk for Goodman Fielder and smaller processors? Please provide your reasons and information/evidence in support of your views.

Section 4.5: Options for the DIRA review and expiry provisions

Please refer to [Section 4.5] of the discussion document.

(40) How best do you consider "market dominance" could be measured? For example, are there certain criteria (other than a market share threshold) that could be provided for in legislation as a trigger for review and/or expiry of the DIRA?

Market Dominance is the wrong measure. Fonterra will always be a dominant processor unless there is total market failure. To be frank the way the DIRA is set up now that is what appears to be the end point. DIRA should focus on the behaviour of ALL processors equally.

1) Are they locking in supply with long term contracts?
2) Do they have good environmental oversight?
3) Do they respect existing supply?
4) Or if that milk is surplus will they not renew contracts? (as OCD do) Forced exit
5) Most competing processors operate at the flip side of Fonterra. Th y can refuse any milk they choose to and can force whoever they want to leave the company. Where Fonterra cannot remove any supplier (apart from environmental or animal welfare) and must accept all milk. Logic will say that that is counterproductive to market dominance. If you were serious you would flip that over so competing processors would have to accept all milk and could force none to leave and Fonterra could force to leave but refuse entry. A sure way to get smaller. I am not suggesting that this be an option. Just pointing out the failure of wanting to focus on "Market Dominance" and free entry exit as a means to control this

(41) Are there any other options for the DIRA review and expiry provisions that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(42) What costs and benefits would each of the options for the DIRA review and expiry provisions create for your business? Please provide quantitative information if possible.

(43) How well do you think each of the options for the DIRA review and expiry provisions would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(44) Do you have a preferred option, or a combination of options, for the DIRA review and expiry provisions? Please provide your reasons and information/evidence in support of your views.

s 9(2)(a)

From: s 9(2)(a)
Sent: Tuesday, 22 January 2019 4:00 PM
To: DIRA Project

Nz is too small to be competing against each other.

s 9(2)(a) [redacted]

23/1/19

DIRA review committee,

I wish to submit my views on DIRA .

I have been a dairy farmer for more than 30 years and have been a Fonterra supplier since its foundation.

In particular there is one aspect of DIRA that annoys me intensely.

That is the obligation for Fonterra to supply opposition start up companies with 50 million litres of milk , at cost.

There is a new company (Mataura Valley Milk) in my area which is 85% owned by a foreign company which is many times larger than fonterra.

100% of their product is exported and competes against fonterra in international markets.

Similarly there is another company, (Danone) with a factory in my area.

Danone is also many times larger than Fonterra, yet we still have to supply them with milk at cost, which they then turn into product to compete against us in the same markets.

And in Danone's case, they then filed a lawsuit for several hundred million dollars against fonterra.

Thanks for the help , guys.

I see absolutely no reason why Fonterra should be helping large multi national companies, much larger than themselves, to get started in New Zealand and then use the product they make to compete with Fonterra.

It seems so wrong, and it infuriates me when I have to drive past these new factories every time I go to town.

s 9(2)(a) [redacted]

s 9(2)(a) [redacted]

SUBMISSION ON DIRA REVIEW

To Whom it May Concern

I would like to submit that the DIRA legislation is no longer necessary.

Not long after Fonterra formed and this legislation became active competitors started setting up in opposition to Fonterra. I am not aware of any having folded, indeed most have expanded. They are clearly profitable and some of that is due to them having been able to cherry pick from Fonterra, suppliers and milk.

We now have companies competing with one another to export product into over eas markets. The Dairy Board was set up many years ago to prevent this sort of inefficiency.

We already have laws preventing momnopolies from exerting unfair pressure on competitors. We do not need DIRA. Let these other dairy comp[anies stand on their own feet so that we can get atrue measure of how efficient they ereally are. Most would survive Westland and Tatua have, and those that may not should not be in existence anyway.

It is particularly foolish of NZ Inc to now have foreign companies selling our milk into foreign markets that we could otherwise utilize.

Level Playing Field

The goal posts have been shifted several times against Fonterra, specifically in relation to Expiry dates of DIRA.

This is unjust and unnecessary. As submi ted earlier it should be clear to all that competition in the dairy industry is thriving.

It is also unjust for other companies (particularly established ones) not to have open entry requirements.

Likewise if it is deemed necessary for Goodman Fielder to be favoured as at present why are other companies (West and and Tatua especially but Open Country, Synlait and Miraka also) not required to supply them on a pro rated basis?

New Zealand needs a vibrant, healthy Fonterra. Weighing it down with the DIRA encumbrance is counter productive. The years that have elapsed since DIRA inception have proven that the safeguards that were envisaged as being necessary in 2001 have, in fact, been a success and are now a hazard.

Sincerely

s 9(2)(a) [redacted]

[redacted]

DIRA submission

s 9(2)(a) [redacted]

[redacted]

[redacted]

Background

Regulations should be minimised as a general rule and should not dictate long term strategy.

There was a clear case in 2001, with Fonterra having 96% of the milk supply, to give competitors a hand up and to protect the domestic market.

There is widespread industry acceptance that, for economic and environmental sustainability, we are at or close to "peak" cow although this varies significantly from region to region. (See LIC forecast attached)

Fonterra's economic performance (in particular return on capital) has been at best mediocre however arguably it has achieved a milk payout to NZ dairy farmers closer to the world price than previous industry structures. (Northington report attached)

However, there is no evidence competitors, many foreign owned, have added more value or innovation than Fonterra. They have generally not offered (with possible exception of Open Country) milk payment formulae independent of the Fonterra milk price and their pricing generally lacks transparency.

Dairy farmers reinvest in their farming businesses with a long term, often inter-generational, horizon and typically spend over 50% of revenue in their local districts. This has provided significant economic benefit to the regions. (NZIER report for DCANZ attached)

In most parts of Northland dairy is the best use of well contoured land, some sub-tropical horticultural crops excepted. Northland has varied topography and arable land is often in river valleys intersected with steep land. Dairy farms are thus typically smaller than average and represent modest percentages of their respective catchments. Currently 24% of farms are milked once a day and this percentage is on a sharply increasing trend. All the above together with predominant clay soil types means nutrient leakage from most catchments is low. However, smaller farms, poor reading, difficult geography and variable climate means it is not an area favoured by processors. Open Country the second biggest processor after Fonterra had milk processing consents at a number of meat processing sites throughout NZ but Moerewa in the mid North is the only site they have not developed. Northland cow numbers have steadily reduced since peak cow in 2000.

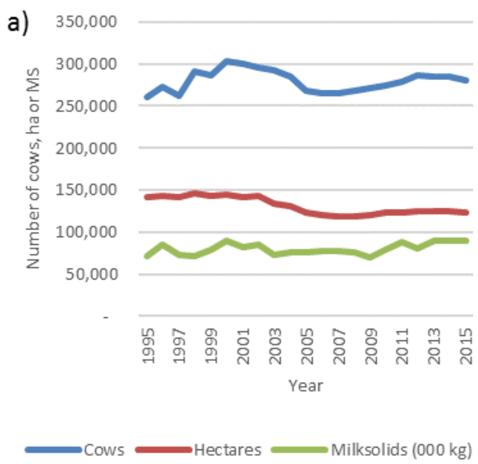


Figure 1. Trend in (a) the number of cows, hectares and milksolids produced in the Northland region between 1995 and 2015. Source Dairy Statistics.

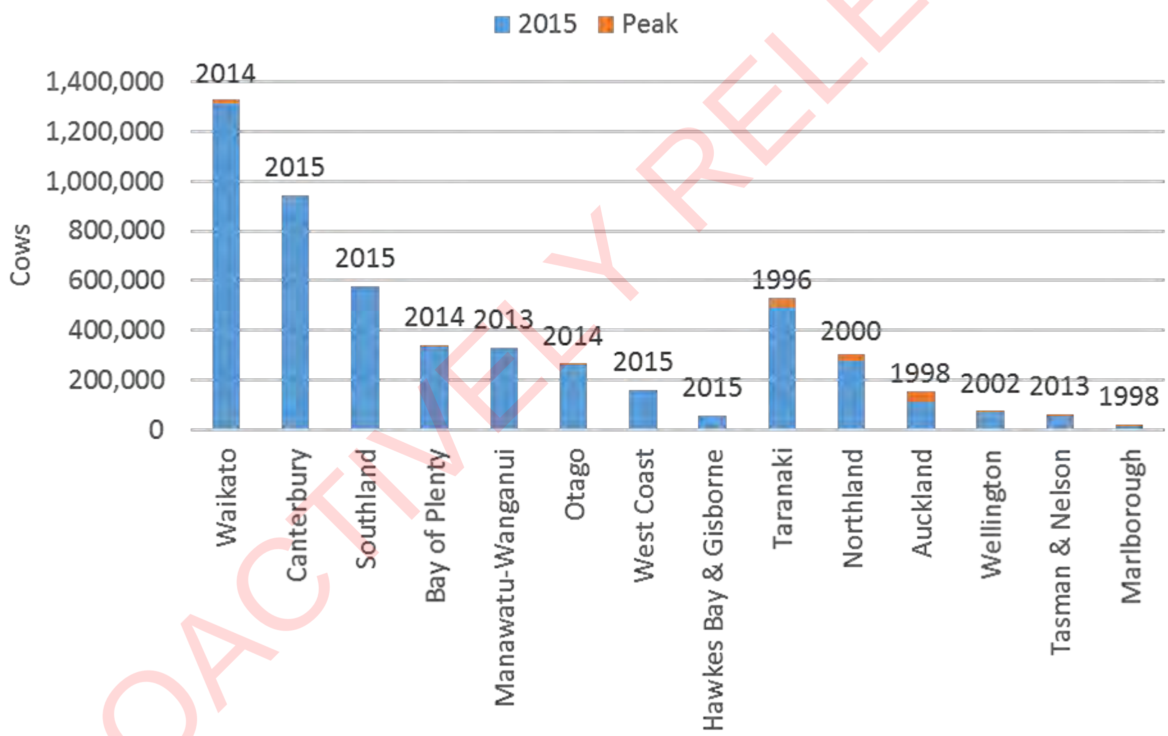


Figure 2 Peak cow number by region, the year of peak and cow numbers in 2015. Source Dairy Statistics.

There are no other material milk processing options north of the harbour bridge.

I am an experienced businessman and farmer. My family interests own and operate a dairy operation s 9(2)(a) [redacted] supplying Fonterra and I am s 9(2)(a) [redacted]

Submission

In general terms DIRA has served its purpose and most of its provisions should fall away.

DIRA encouragement of processing competition has been successful, possibly too much so. There is now a risk that there will be stranded assets if for example environmental and water constraints lead to lower production in some regions.

A further review should be undertaken in five years.

ENTRY and EXIT

- Open entry and exit should only be retained for regions such as Northland where there is currently no alternative processor to Fonterra.
- Even if open entry is more generally retained it should be qualified so that it would not apply if:
    1. Fonterra can establish that entry would necessitate further significant investment in plant capacity or adversely impact th environmental status of a catchment or
    2. A farm has previously exercised its exit rights.

Dairying constitutes 6% of the Northland economy without many of the footprint issues experienced in more intensively farmed districts. A more variable climate means a standalone processor could be vulnerable and milk collections costs tend to be higher. It is therefore reasonable that DIRA regulations provide a safety net for Northland dairy farmers at least for five years.

An unintended consequence of open entry and exit mean farmers can game their Fonterra capital obligations with little downside risk which is in turn borne by remaining shareholders. Open exit should be a one-way ticket only.

It is a business fundamental that you match your raw material supply with market demand and DIRA now unreasonably interferes with this.

Thes changes to open entry and exit would necessitate all stakeholders to fully and properly cons der the economic consequences of leaving Fonterra. DIRA regulations should not on their own r quire any further investment in stainless steel. However, regionalised open entry would allow farmers to increase production in districts without processor competition, which are outside the main dairying districts.

COMPETITOR SUPPLY

DIRA obligations on Fonterra to supply competitors is a subsidy that is no longer justified. The hand up to competitors has become a hand out. The most egregious example was the payout to suppliers of the failed NZ Dairies in Studholme .

It is unreasonable after 17 years that Goodman Fielder has no independent milk supply. This suggests that the DIRA milk price and in particular the terms of supply are concessionary. In NZ milk supply is seasonal sometimes acutely so and the ability for any competitor including Goodman Fielder to purchase milk when it wants it without forward commitment is unrealistic.

Goodman Fielder apparently has a commercial contract with Fonterra until 2021. I cannot see why they need regulatory assistance in renewing this arrangement. At the very least the regulatory volume should be halved for the next five years. Retail milk prices are consistent with other markets and many simplistic comparisons ignore that GST applies to food in NZ, unlike most other countries.

Supply of milk not in proportion to the seasonal pattern could impose considerable costs on Fonterra. Firstly, in providing standby peak milk processing capacity and secondly being deprived of shoulder milk that can generally be processed into higher vale products than those processed at peak.

It is acknowledged that historical Fonterra volume growth strategies mean this was less significant in the past. With a new government and Fonterra focus on value add and sustainability and the poor record of current competitors in this regard there is no justification for encouragement of further large-scale processing. Most DIRA subsidy has simply transfe red ealth from NZ dairy farmers to foreign processing/marketing shareholders or overseas cus omers and is unlikely to be in NZ's overall interest.

The DIRA regulations permitting farmers to supply up to 20% of their vat to a competitor could be retained.

MILK PRICE

The current Fonterra milk price manual has been shown to be reasonable via past reviews and provides transparency. The methodology allows only a cost of capital return on processing assets and is thus modestly b ased t wards a higher farm milk price. Provided such bias remains modest this seems justified as any small error in favour of farmers will benefit the regions. Strident commentary to the contrary from minor economic consultancies is typically self-interested. There is no evidence that any error has had a material impact on retail milk product pricing.

Sunlight is the best disinfectant and the DIRA provisions for disclosure and scrutiny (an independent audit via the Commerce Commission) are sufficient for now. It is imperative that DIRA does not unduly inhibit the competitive advantage and scale of NZ's largest company and exporter. Other than the Commerce Commission (CC) overview there should be no further public disclosure of what may be commercially sensitive information nor interference in Fonterra's right to determine its largest input cost.

References:

Regional peak cow statistics

Regional Changes in the New Zealand Dairy Industry:1995 to 2015, Kellogg Rural Leadership report

OAD statistics

https://www.dairynz.co.nz/media/5787197/regional_distribution_of_oad_herds_map_april_2017.png

Economic contribution of dairy (NZIER)

https://nzier.org.nz/static/media/filer_public/9f/0e/9f0e40ea-0178-4ef9 950f 5546ef483eec/dcanz_2018_final.pdf

Fonterra performance (Northington Partners)

https://nzfarmsource.co.nz/assets/SHC/FSC-Value-Review-FINAL.pdf

s 9(2)(a)

From: s 9(2)(a)
Sent: Thursday, 24 January 2019 1:31 PM
To: DIRA Project
Subject: DIRA

I wish to voice my opinion on the current DIRA rules that in my opinion force Fonterra, a New Zealand owned cooperative to subsidise foreign controlled dairy factories with cheap milk at a constant amount . This is unfair to us the New Zealand owners of Fonterra. Please do what is right and stop making Fonterra sell milk to other processors.

Sent from my iPhone

Submission form - Review of the Dairy Industry Restructuring Act 2001 and its impact on the dairy industry

The Government is reviewing the Dairy Industry Restructuring Act 2001 (DIRA) and its impact on the dairy industry. The review is currently at the public consultation stage.

We are seeking your input on the issues, options and questions as set out in the DIRA discussion document.

This form contains all the questions that appear in the online submission form at https://www.research.net/r/DIRA. These are identical to those in the discussion document. You can use this document to familiarise yourself with the questions in the form before making your submission.

If you have trouble using the form, you can email your submission to DIRA@mpi.govt nz.

You will need to read the discussion document before considering your responses to the questions set out in this form.

Your responses are due by 5pm on Friday 8 February 2019, and will help inform the recommendations that the Government will consider later in 2019.

You will be asked to select the sections on which you would like to submit, and you may submit on as many or few areas as you like. All questions a e optional.

Chapter 2: Performance of the dairy industry

Section 2.1 2001 structural reform to enable the industry to drive strategic change

Please refer to [Section 2.1] of the discussion document.

(1) Do you agree with our description of the DIRA regulatory regime and its original policy rationale? Do you consider the original policy rationale is still valid?

No!!. There is no need for DIRA going forward and past policy rationale is no longer relevant. We must look forward.

The DIRA is now 18 years old (almost) and we are no longer trying to restructure the Dairy Industry.

Why are we continuing with a regime that is well past its use by date, is used regularly as a political football and is creating distortions in the sector that are reducing NZ's ability to maximise the returns the sector achieves from our largest export industry.

The MPI document talks about DIRA being a risk mitigation tool. It however fails to identify what risks we are still trying to mitigate. That all ended a long time ago.

There is now considerable competition for milk supply in most regions (a couple of regions do not have competition), and that tells a story in its own right. New entities have targeted large concentrated milk supply regions rather than remote, smaller volume areas – quite understandably. Surely this tells us that there has been plenty of opportunity for new processors to develop, and going forward, NZ's best interests are served by ensuring these remain competitive. Encouraging further processors to set up simply increases the risk of either failure, or stranded assets or both.

MPI have made much in the document of the 'dominant position' held by Fonterra. Many other companies, including Government owned ones have a much more dominant position in their fields and they are either not regulated (as Fonterra is through DIRA) or are managed through the Commerce Act.

Examples include Auckland Airport (with extremely high barriers to entry and a monopoly position), Air NZ (large government ownership and total monopoly to most parts of NZ except the main trunk), Spark, various electricity generators (often with majority Government Ownership), Transpower (which is regulated and could be argued is highly inefficient as a result), Fletcher Building and Z Energy with over 40% market share, to name a few.

If the Commerce Act is sufficient to control these other sectors and in some cases monopoly position, why is it not capable of controlling Fonterra. MPI appear to suggest the Commerce Act is not capable, which very strongly suggests the Commerce Act needs an urgent overhaul. Is this MPI's position and if so, what are they doing to change it.

Section 2.2 Industry performance since the restructure

Please refer to [Section 2.2] of the discussion document.

(2) Are there any other dairy industry developments or industry performance indicators that are not captured in the discussion document or its supplementary material? Please provide details and supporting evidence.

Chapter 3: The effects of the DIRA and other factors on industry performance

Section 3.1: Has the DIRA been effective at managing Fonterra's dominance in the market for farmers' milk, and is it still needed?

Please refer to [Section 3.1] of the discussion document.

(3) Do you consider the DIRA has been effective at achieving its core regulatory objective of preventing Fonterra from using its dominance to create barriers to farmers' milk and land flowing to their highest value uses? If not, please provide reasons and supporting information/evidence.

Yes and no. It has achieved the aim of bringing competition and there are now many new processors in the sector.

Has this led to 'highest value use', not always. The requirement for Fonterra to have to collect all milk offered has in some cases resulted in decisions that meet the regulatory requirement without necessarily maximising value.

(4) Do you think Fonterra is still dominant in the market for farmers' milk, at the national and regional levels?

In some regions Fonterra is not dominant, and in others, it will always be dominant as competitors are unlikely to target small regions with scattered supply. However, the fundamental difference is that Fonterra is a Coop where all shareholders are treated the same. In turn this requirement prevents Fonterra from using its dominant position in some regions to disadvantage farmers as a non-coop wold be tempted to do.

(5) Do you think the DIRA imposes unreasonable costs on Fonterra? If so, please provide supporting information/evidence.

Yes.

Fonterra is required to 'underwrite' every dairy farmer by having capacity to collect their milk in the event the company they currently supply no longer wants their milk, or even if the farmer simply decides it is time to go back to Fonterra. This is inefficient. If a farmer decides that supplying another processor is the best decision for their business, they should be able to do that, but without the right to return to Fonterra if it does not work out. It is a business decision and needs to be made in that light. Regulations like DIRA add ineffic ency to the sector.

(6) Are there ways for the costs imposed on Fonterra to be mitigated without impacting on the effectiveness of the DIRA regulatory regime? If so, please provide supporting information.

DIRA is no longer effective. It is inefficient. This question seems to suggest that the Status Quo should remain. It should not.

There is no need for a regulatory regime, other than perhaps the supply of fresh domestic milk, which in its own right should be a responsibility of all milk processors.

(7) Are there any other regulatory tools that, in your opinion, would be more effective than the current DIRA provisions at managing Fonterra's dominance? If so, please provide examples and supporting information/evidence.

As noted above, Fonterra is not dominant in some areas and always will be in others (just as Westland and Tatua will be in their own patch for different reasons).

The Commerce Act is used to manage monopoly positions and very dominant positions in other sectors. Why can it not do so in the dairy sector?

(8) Are there other factors you consider need to be taken into account when considering the effectiveness of the DIRA regime and whether it is still needed?

It is nearly 18 years old and it is time for it to go. We are no longer trying to restructure the dairy industry. We should be focused on how to maximise the returns to NZ from the sector.

Section 3.2: Does the DIRA encourage industry growth?

Please refer to [Section 3.2] of the discussion document.

(9) Do you agree with our preliminary assessment of the extent to which the DIRA encourages industry growth? If not, please provide reasons and supporting information/evidence.

There is an increasing body of evidence and increasing regulation suggesting we are close to 'peak milk', so it is difficult to know what growth is being suggested here. Further conversions are not likely at any scale, increasing environmental constraints, movement to subdivision, horticulture etc is also having an effect in some regions along with tighter controls on the use of PKE. Against this will be some improvement from genetics, pasture management and on farm efficiency but it is extremely unlikely there will be the kind of expansion seen over the past 2 decades. As such, it is difficult to understand how DIRA will 'encourage growth'. DIRA Is another regulatory drag on the sector. Regulation generally reduces efficiency rather than enhances it.

Section 3.3: Does the DIRA influence Fonterra's strategy?

Please refer to [Section 3.3] of the discussion document.

(10) Do you agree with our preliminary assessment of the extent to which Fonterra can influence milk supply volumes through price, notwithstanding the DIRA open entry requirements?

If you believe that Fonterra can influence volume through price, it is obvious there is a failure to understand the global market the NZ dairy sector operates in, the Milk Price Manual and the way a Coop works. Fonterra has no control over the global diary price which ultimately becomes what dairy farmers get paid. Generally, no more or no less.

Fonterra therefore does not have the ability to control volume through price, apart from in the shoulders and winter milk scenarios.

Similarly, other processers do not control volume produced unless there are very strong and early price signals, but in general their prices follows the Fonterra price. They will not generally pay more and if they pay less than Fonterra, they may not secure the milk they desire.

(11) Are there other factors that you consider should be taken into account? Please provide detailed comment in support of your views

MPI claim (page 27) that Fonterra con influence milk volume through dividend policy. The dividend comes from the value-add component of the business and in general, the higher the milk price, the more difficult it is to add value and hence create the income to pay dividends.

For farmers, there is little differentiation between income that comes from milk price and income from dividend – it is all simply seen as income.

In the past year the dividend has fallen dramatically which challenges the claim that there appears to be a relationship between rising dividend and milk production. In the current season the opposite is true There is little or no dividend, but rising production. Further, all other processers have been talking more milk, and they do not pay farmers a dividend (unless they are another Coop or the farmer owns shares in the company, which are not linked to farm production).

It is concerning that these statements are being made and not substantiated.

(12) Do you consider that the DIRA provisions governing Fonterra's base milk price calculation and Commerce Commission monitoring may be preventing or disincentivising Fonterra from deviating from the base milk price calculation for strategic or commercial reasons?

(13) If the DIRA is not driving Fonterra's business and investment strategy, what is? Please provide detailed comment in support of your views.

Section 3.4: Does the DIRA impact on the industry's environmental performance?

Please refer to [Section 3.4] of the discussion document.

(14) Do you agree with our preliminary analysis of the DIRA's impact on the industry's environmental performance? If not, please provide your reasons and supporting evidence.

Global demand for milk product and prices that make dairying profitable are what has driven rising production. In some cases, this has led to conversions on land not well suited to dairying. However, the management of environmental impacts is something for the RMA to manage and should not even be thought of in DIRA. Dairying would have increased with or without DIRA and had already begun when DIRA was introduced. Fonterra has led the way in helping its shareholders to improve environmental performance with Farm Environment Plans, Advisors and various other support programmes.

(15) Do you agree with our view that environmental issues are best dealt with through the Resource Management Act and not the DIRA regime?

YES!

(16) Are there other environmental issues that you consider should be addressed either through the DIRA review or some other means?

Section 3.5: Does the DIRA incentivise inefficient entry by large dairy processors?

Please refer to [Section 3.5] of the discussion document.

(17) Do you agree with our preliminary analysis of the impact the DIRA has on new processor entry? If not, please provide your reasons and information/evidence in support of your views.

(18) Do you consider that large dairy processors should continue to be eligible to purchase regulated milk from Fonterra under the Raw Milk Regulations or not? Please provide detailed comment in support of your views.

No. We have got to the point where there is a real risk of either stranded assets, business failure or both. Increasing processing capacity when milk volumes are unlikely to rise is foolish.

Further, we need to ensure as much of the return available from selling our high-quality dairy products to the world is returned to NZ. Making it easy for overseas owned processors to establish in NZ reduces NZ Inc's ability to capture that value.

Section 3.6: Does the DIRA promote sufficient confidence in the base milk price calculation?

Please refer to [Section 3.6] of the discussion document.

(19) Do you consider that greater confidence in the base milk price calculation outcomes could be achieved if additional legislative guidance on the term "practically feasible" were to be provided for in the DIRA? Please provide detailed comment in support of your views.

(20) Do you consider that the base milk price should be set by an independent body (e.g., the Commerce Commission)? If so, please provide supporting information.

There is no requirement for the Base Milk Price to be set by the Comme ce Commission as this simply increases the level of regulation. The Milk price calculation is checked by the Commerce Commission and this is an adequate level of control

More importantly, there is a need for other processers to provide their own milk price calculation so that farmers can see very transparently what they are to be paid. The use of headline milk price (which might include incentives etc) is misleading. The simplest way is to divide the number of kgs collected by the dollars paid to the farmers that supplied the milk over the season. This will allow every farmer to compare what each processor is paying for milk and to make valid comparisons and informed business decisions.

Section 3.7: Does the DIRA support competition in New Zealand consumer dairy markets?

Please refer to [Section 3.7] of the discussion document.

(21) Do you agree with our preliminary analysis of the DIRA impact on the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

(22) Are there any other factors that should be taken into account regarding the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

It is important that the domestic market is supplied with milk and to date that has fallen entirely to Fonterra (with minor exceptions). While there are two 'processors' (GF and Fonterra) all of the milk comes from Fonterra. GF appear to have made no effort to secure their own supply, and while they have access to Fonterra milk, it is likely to be a poor decision to have to secure supply, collect it process it etc, when someone else is required to do it for you at a fixed price.

When DIRA was established, Fonterra collected 96% of NZ milk production. Today that is around 80%, and the volume produced has effectively doubled.

I would like to see the monopoly position of GF removed – let other processers have access to that milk if they can do it more efficiently.

Secondly, given Fonterra only collects 80% of the milk, its obligation to provide domestic milk should be reduced to 80% of the requirement and the other processors should pick up the balance of the obligation.

Chapter 4: Options for change

Section 4.1: DIRA open entry requirements

Please refer to [Section 4.1] of the discussion document.

(23) Are there any other options for the DIRA open entry requirements that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

Open entry should be removed. If required, Fonterra should be required to continue picking up milk from its current footprint, but like all other businesses, after 17 years t is time for Fonterra to be able to decide who its 'new' suppliers are even if they are farms that are returning from other processors.

(24) What costs and benefits would each of the options for the DIRA open entry requirements create for your business? Please provide quantitative information if possible.

(25) How well do you think each of the options for the DIRA open entry requirements would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(26) What is your preferred option for the DIRA open entry requirements? Please provide your reasons and information/evidence in support of your views.

As above, REMOVE OPEN ENTRY! Have a requirement for Fonterra to continue picking up its current footprint (even if farm ownership changes) but have choice over any other milk it collects.

Section 4.2: Access to regulated milk for large dairy processors (except Goodman Fielder)

Please refer to [Section 4.2] of the discussion document.

(27) Are there any other options for access to regulated milk for large dairy processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

With the exception of domestic raw milk and possibly small local processors, there is no requirement for regulated milk.

In any other business, if you wish to secure a raw material supply, you have to incentivise the supplier to sell to you. Why is dairy different, but the requirement only applies to one raw material source.

There are also the Commerce Act provisions to deal with anti-competitive behaviour as happens in every other sector.

(28) Do you consider that the proposed 30 million litres threshold is too high or too low? If so, what would you consider the right threshold to be, and why?

(29) What costs and benefits would each of the options for access to regulated milk for large dairy processors create for your business? Please provide quantitative information if possible.

(30) How well do you think each of the options for access to regulated milk for large dairy processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(31) Do you have a preferred option for access to regulated milk for large dairy processors? Please provide your reasons and information/evidence in support of your views.

Section 4.3: Options for the base milk price calculation

Please refer to [Section 4.3] of the discussion document.

(32) Are there any other options for the base milk price calculation that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(33) What costs and benefits would each of the options for the base milk price calculation create for your business? Please provide quantitative information if possible.

(34) How well do you think each of the options for the base milk price calculation would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(35) Do have a preferred option for the base milk price calculation? Please provide your reasons and information/ev dence in support of your views.

Section 4.4: Options for access to regulated milk for Goodman Fielder and smaller processors

Please refer to [Section 4.4] of the discussion document.

(36) Are there any other options for access to regulated milk for Goodman Fielder and smaller processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

As above, GF have shown no commitment to NZ and have not developed their own supply as was assumed when DIRA was introduced. It is time for their monopoly to end and it be opened up to other local suppliers. Further the 250m litres should be supplied by all processors (above a certain volume threshold) rather than just be the responsibility of Fonterra.

(37) What costs and benefits would each of the options for access to regulated milk for Goodman Fielder and smaller processors create for your business? Please provide quantitative information if possible.

(38) How well do you think each of the options for access to regulated milk for Goodman Fielder and smaller processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(39) Do you have a preferred option, or a combination of options, for access to regulated milk for Goodman Fielder and smaller processors? Please provide your reasons and information/evidence in support of your views.

Section 4.5: Options for the DIRA review and expiry provisions

Please refer to [Section 4.5] of the discussion document.

(40) How best do you consider "market dominance" could be measured? For example, are there certain criteria (other than a market share threshold) that could be provided for in legislation as a trigger for review and/or expiry of the DIRA?

Market dominance is not the right measure. It is who has the power? In grocery, there are in effect only two operators. In most parts of the country, there is only one choice for air travel. For banking there are really only half a dozen and if you don't what to deal with an Australian owned bank, there is very limited choice.

In most areas of NZ, farmers now have a choice as to who they sell their milk to

It is therefore time that dairy faced the same regulation as all other sectors.

DIRA has passed its use by date and needs to have a termination date. Throughout its history, the end date and thresholds for the end of DIRA have been moved and it has been a political football. Farmers need certainty and it is time to remove DIRA. As noted at the outset of this submission, we are not trying to restructure the dairy sector so why do we continue with restructuring regulations?

(41) Are there any other options for the DIRA review and expiry provisions that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(42) What costs and benefits would each of the options for the DIRA review and expiry provisions create for your business? Please provide quantitative information if possible.

(43) How well do you think each of the options for the DIRA review and expiry provisions would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(44) Do you have a preferred option, or a combination of options, for the DIRA review and expiry provisions? Please provide your reasons and information/evidence in support of your views.

DIRA needs to have a clear termination, no longer than three years and preferably sooner.

Not only does the ongoing reviews create uncertainty and unnecessary regulation, there is also considerable time and expense in addressing the ongoing reviews etc. This does not seem to generate any progress and thus is a waste of resource that could be employed more effectively doing productive work.

I can only reflect on the time it has cost me to get up to speed and prepare this submission and no doubt there will be further work to do on this as the review progresses. Let's call it quits now and focus on things that add real value to NZ.

s 9(2)(a)

From: s 9(2)(a)
Sent: Wednesday, 30 January 2019 4:43 PM
To: DIRA Project
Subject: DIRA re- Submission due 8 Feb 2019

Dear Minister,

We are Fonterra suppliers, 3 rd and 4 th generation farmers who supported the formation of Fonterra in 2001 and now its time for further changes to the legislation.

We strongly believe in the co-operative model.

Thank you for making the time for MPI staff to make a presentation in our local area.

1. OPEN ENTRY REQUIREMENTS

4.1.2 Repeal the DIRA Open entry requirements.

We support this change

Providing milk to other companies is a huge cost to the Fonterra
co-operative, we are providing a buffer to corporate companies

s 9(2)(a) [redacted]

From: s 9(2)(a) [redacted]
Sent: Thursday, 31 January 2019 11:43 AM
To: DIRA Project
Subject: DIRA Submissions

Follow Up Flag: Follow up
Flag Status: Flagged

As a dairy farmer of 58 years I have been against DIRA for a number of years due to the following.

Why should majority owned overseas Companies be able to have start up milk from Fonterra Suppliers. If they don't have their own supply base, then they should not be allowed to start up.

The majority of milk supplied by Fonterra Suppliers over the years have been Exported when this milk was intended for our local market.

The open Entry EXIT Rules allow all other Dairy Companies to CHERRY PICK SUPPLY at the expense of Fonterra Suppliers.

Goodman Fielders milk supplied from Fonterra under the Meadow Fresh Brand should be only available in New Zealand. In June 2018 my wife and I along with 39 other Fonterra Suppliers paid a visit to a very large Super Market in Shanghai China. On the shelves right next to Anchor and Annum Baby Food Powders, Meadow Fresh Baby Food powders were in competition. Milk supplied by us Fonterra Suppliers.

The DIRA Rules are long overdue for a major **Overhaul.** When Fonterra was formed in 2001 there were approximately 10,500 Shareholders of KIWI Farming Families. The Shareholder base is now well under 10,000 Suppliers. If this trend is allowed to continue this will be the demise of Fonterra resulting in major gains for Majority Owned Overseas Dairy Companies.

Regards

s 9(2)(a) [redacted]

Review of the Dairy Industry Restructuring Act 2001 and it's impact on the dairy industry.

s 9(2)(a) [redacted]

We would like the open entry & exit of DIRA amended to allow Fonterra to reject new suppliers if it's known they won't meet the terms of requirement.
As it stands, it's a cost to Fonterra, and us as shareholders, having to accept all new suppliers if they need managed to meet the requirements. Not only a monetary cost but a cost to Fonterra and the whole dairy industries reputation, if these new suppliers are known to have poor management of environmental, animal welfare and milk quality issues in the past.
We think it's unreasonable to expect Fonterra to take on some other companies problems.

We would like the eligibility provisions in the raw milk regulations amended to exclude large dairy processors.
Why should we as shareholders be subsidising a competitor (foreign owned) to get a leg up and get started to then send the profits off shore. No other company or Co-op in NZ helps it's competitors get a head start! It's absurd!
Let the new large dairy processors buy the milk at a fair contracted price from Fonterra.

We would like to retain the existing DIRA provisions for Fonterra's base milk price calculation as it's transparent and gives clarity. However all other dairy companies should also be transparent and their base milk calculations should be available for all to view.

s 9(2)(a) [redacted]

[redacted]

Please find my submission for the DIRA review.

It is my view that the DIRA model is outdated. The Dairy industry is now a far more global industry than when DIRA was introduced.

OPEN ENTRY
REPEAL DIRA OPEN ENTRY REQUIREMENTS
Fonterra at present, bears all the costs and risk surrounding open entry. If a farm supplying Fonterra decides to remove their supply it should be at the discretion of Fonterra whether to accept the return of that supply. Fonterra must have the ability to ascertain that this supply would be profitable and that the farm meets the environmental and milk standards required. It is to the detriment of the dairy industry that DIRA allows milk supply to swap back and forth at a whim. The cost to Fonterra to have capacity to cope with this milk is not insignificant. No other milk processor is expected to carry this.
Fonterra should also be able to use its discretion on deciding to collect new milk from new supplying farms. This new milk should be profitable for the Co-Operative. Fonterra struggles with its environmental image in New Zealand, and should not be required to collect new milk from area's that are deemed environmentally sensitive, neither should Fonterra Co-Operative suppliers be required to subsidise the transport costs of milk that closer milk companies have the ability to decline to collect.

ACCESS TO REGULATED MILK FOR LARGE PROCCESSORS (except Goodman Fielder)
I believe this creates inefficiencies, due diligence should be done by these companies on a stand-alone scenario. Fonterra should not be expected to help create exporting companies that are in competition for their own markets. Fonterra carries all the costs and risks for this supply which is not acknowledged in the cost of regulated milk. I feel this was introduced to help create a more diverse industry within New Zealand not to have international companies take advantage of cheap milk delivered to the door by their competitor. This access to Fonterra milk is now outdated.

BASE MILK PRICE CALCULATION
I believe the milk price calculation should be protected. The current model allows the milk price to be transparent and not open to manipulation. Dairy farmers could be reduced to price takers while passive overseas investors will accumulate the wealth that would normally be retained in rural areas and greater New Zealand if the milk price does not have oversight.

ACCESS TO REGULATED MILK FOR SMALLER COMPANIES AND GOODMAN FEILDER

Small companies including Goodman Fielder also create inefficiencies. No other business would be required by law to subsidise its competitors either locally or internationally. Every dairy business in New Zealand has the ability to approach any dairy farmer and ask for their supply. DIRA guaranteed Goodman Fielder supply from Fonterra until they had secured their own. To my knowledge Goodman Fielder have made no attempt at all to secure any supply. Fonterra, I am sure has no desire to close small local businesses, but these businesses must be viable and should cover the cost of milk from Fonterra. Fonterra no longer has a monopoly, milk could be accessed from any number of milk processors. This access to Fonterra milk is now outdated.

DIRA REVIEW AND EXPIRY

An automatic expiry date will give all processors accessing DIRA milk the opportunity to negotiate supply from farmers or milk processors. Fonterra is now not the only milk supplier capa le of supplying milk. If our dairy industry is to remain strong, competing companies must have the financial ability to remain profitable without support from Fonterra. I can see no need fo new processing companies to receive start up milk from Fonterra. All current obligations to supply milk need an expiry date.

Thank you for the opportunity to submit my views. If you require any further comments please feel free to contact me at the above.

s 9(2)(a)

s 9(2)(a) [redacted]

From: s 9(2)(a) [redacted]
Sent: Thursday, 31 January 2019 5:03 PM
To: DIRA Project
Subject: Consultation on DIRA review
Attachments: DIRA Submittion 2.odt

To Whom It May Concern:

We are suppliers of Fonterra, s 9(2)(a) [redacted]

We are writing this submission because we think it is time things changed.

Fonterra definitely does NOT have the monopoly in the Dairy Industry anymore.

In fact Fonterra is struggling and at a big disadvantage and things need to change.

Attached is our submission from years ago and we still feel the same.

Come on guys, things are getting so difficult that young farmers are not prepared to take it on.

There are so many farms on the market. What does that tell you.

This act is ruining the Dairy industry!

It's time for a big change.

Thank you.

s 9(2)(a) [redacted]

s 9(2)(a) [redacted]

1 February 2019

DIRA Submission

Our names are s 9(2)(a) [redacted] and we are writing this submission as dairy farmers and Fonterra shareholders. We operate a Canterbury based agricultural business that includes cropping, dairying, process vegetables and contracting operations. We have been dairy farming and Fonterra shareholders since 2002. Our views on the main points raised in your discussion document are detailed below.

In reviewing DIRA we believe two factors need to be front of mind. **What is good for New Zealand** and **what is good for dairy farmers** whom we understand DIRA was set up to protect.

What is good for New Zealand is to have a strong national exporter who can sell the New Zealand produce to the world whilst returning profits to New Zealand. This is what Fonterra does. As a farmer owned co-operative profits from the entire supply chain are returned to farmers and spent in regional New Zealand. Yet an unintended consequence of DIRA is that we now have a fragmented industry where Fonterra is competing against foreign owned entities which Fonterra was required to help get established. These entities are selling New Zealand product (tariff free in some cases) to the world and these entities are not returning profits to New Zealand. This is not good for New Zealand.

What is good for dairy farmers is a level playing field where all processors operate under the same conditions. One group of dairy farmers should not be incurring costs and carrying risk on behalf of the rest of the dairy industry. Currently the farmers that own Fonterra are providing a safety net to other farmers, subsidies (DIRA milk) to other processors and incurring additional costs (collection and capacity) because of the regulations under DIRA.

<u>Open Entry Requirements</u>

We do not believe that Fonterra should still be required to collect all milk subject to the exemptions in DIRA. The open entry requirement of DIRA has led to massive growth in the dairy industry which whilst being good for the economy is now seen as a major environmental concern for New Zealand.

From an environmental perspective the open entry requirement has the potential to affect Fonterra's reputation. The conversion at Simon's Pass in the MacKenzie Country is an example of this. Fonterra was required to collect this milk under current DIRA regulations whilst every other processor in Canterbury had the ability to decline them. Rightly or wrongly there was a perception that this conversion was bad for the environment and because the farm is now a Fonterra supplier that reflects on Fonterra's reputation.

s 9(2)(a) [redacted]

s 9(2)(a) [redacted]

The open entry requirement also has the potential for Fonterra not to meet sustainability goals around reducing the use of coal in future. A good example of this is around the Studholme factory in South Canterbury. If the Hunter Downs Irrigation Scheme was to go ahead and this lead to increased dairying in that region Fonterra would be required to collect and process that milk. This would require an expansion at the Studholme plant that would need to be powered by coal. Although this may not eventuate it demonstrates the unintended consequences of the open entry requirements and how it limits Fonterra in meeting long term sustainability targets and incurs costs in planning for expansion that may never happen. Those planning costs are ultimately borne by the owners of Fonterra being farmers like ourselves.

As Fonterra shareholders we do not believe we should be carrying the risk and cost of having to take on new suppliers. It is like telling the Heritage in Auckland that they need to build a hotel with enough rooms to take every booking they receive. Fonterra should have the ability to say no to supply based on a commercial decision as any other processor does. It also leaves Fonterra with the responsibility of collecting all milk even when transport costs and processing capacity does not make it economic to do so. Other processors are able to pick and choose suppliers based on the most efficient collections costs. This was demonstrated in the early days of Synlait. They originally had suppliers in the Waimate region but as soon as they had enough suppliers closer to their factory they no longer collected milk in the Waimate region. Once again Fonterra had to be the safety net for those suppliers to return to.

At present a dairy farmer can leave Fonterra to supply a competitor knowing that Fonterra is a safety net they can return to at any stage. This comes at a cost to loyal shareholders who have to carry the cost of having inefficient stainless steel or have to build to cater for supply that may or may not come to Fonterra.

Within our farming operation we have invested huge amounts of money to support contracts for process potatoes and carrots based on contracts held with processors. We know that if we ended our contract we may not be able to come back and obtain a new contract. For that reason we would think very carefully before switching to another processor or ending our contract. We also know that the factories processing our crops could close at any stage leaving us with no market. We do not see why the dairy industry should be any different. If you chose to leave Fonterra there should not be any guarantee that you can come back. It is a commercial decision you are making and it does not need to be regulated by government.

We therefore think the open entry requirement should cease as soon as possible (with an appropriate amount of notice).

<u>Access to Regulated Milk for Large Dairy Processors (Except Goodman Fielder)</u>

With increasing environmental and public pressures on cow numbers we believe milk supply in New Zealand is close to peaking and has the potential to decline in coming years. The dairy industry is at risk of becoming another red meat industry. With limited (and potentially declining) supply there is no need for any more dairy processors in New Zealand. If regulation continues to allow processors (predominately overseas owned) to come to New

s 9(2)(a)

Zealand and set up a factory, Fonterra farmer shareholders will be left carrying the cost of stranded assets whilst at the same time subsidising these foreign owned entities with guaranteed milk as they establish a supply base.

The dairy industry is supposed to be subsidy free and yet Fonterra farmers are subsidising foreign owned companies to come here, set up and compete against us not only for milk supply but also for sales in the international marketplace. I cannot think of another example where the owners of a business are required to assist a competitor (predominately foreign owned) to establish and ultimately take supply off your own business.

We therefore think the access to regulated milk for large dairy processors should cease as soon as possible (with an appropriate amount of notice).

Access to Regulated Milk for Goodman Fielder

The NZ dairy industry is supposed to be subsidy free yet Fonterra farmers are subsidising the consumer by providing milk at cost to Goodman Fielder to ensure there is competition in the domestic market.

Goodman Fielder have had 17 years to build their own supply base and yet they have chosen instead to rely on DIRA milk to support their business which is now foreign owned with profits going off shore.

Whilst in the past we have been happy to support the domestic market DIRA is no longer working. There is very little choice of milk at our local supermarket and standard Fonterra milk is no longer stocked. It is a bitter pill to swallow when the supermarket's answer was "it's all your milk so what does it matter?". Because of the duopoly of supermarkets in New Zealand they have too much power which has resulted in Anchor milk being shut out of all South Island New World stores.

Our understanding is that Synlait has plans to enter the fresh milk market. They have done this without access to regulated milk and therefore proof that domestic regulated milk requirements of DIRA are no longer required.

We therefore think the access to regulated milk for Goodman Fielder (or any other domestic supplier) should cease as soon as possible (with an appropriate amount of notice).

Base Price Milk Calculation

We strongly believe in a transparent milk price and for that reason would like to see Fonterra retain the way milk price is calculated.

Last year we had a small group of Australian farmers visit our farming operation. They were affected by the Murray Goldburn debacle and we received a strong message that farmers in Australia wanted to know they were being paid a fair price for their milk. They envied our milk price calculation. They also wanted a share of the profits and envied our strong co-op structure.

s 9(2)(a) [redacted]

What should be changed is that all processors should be required to also have a transparent milk price. Currently other processors announce headline milk prices that not all suppliers receive. We have heard that they question and object to Fonterra's milk price calculation but they are reluctant to show their own calculations which back up their arguments.

We therefore think the milk price calculation should stay regulated and all processors' milk price calculations should been overseen by the Commerce Commission.

DIRA Review and Expiry Provisions

As we have stated above we think most of the DIRA provisions should fall away as soon as possible with an appropriate amount of notice (2 years). However if this is not to happen we have the views below on expiry.

In the past DIRA has had expiry provisions based around percentages of milk supply. We do not think this is an appropriate measure as there are many factors that determine whether Fonterra is still considered a dominant player in the market. For example the provisions around regulated milk for Goodman Fielder should be measured against percentage of domestic market share and the provisions for regulated milk for large processors should take into account share of dairy exports and ownership of competing processors (ie we should definitely not be required to supply milk to foreign owned processors).

There should also be regional considerations and in regions where there is plenty of competition for milk supply (ie Canterbury, Southland and Waikato) the open entry requirements DIRA should cease sooner than other areas.

We thank you for considering our submission and look forward to the outcomes of the review of DIRA.

Regards

s 9(2)(a) [redacted]

s 9(2)(a) [redacted]

s 9(2)(a) [redacted]

Submission to Ministry for Primary Industries

Review of the Dairy Industry Restructuring Act 2001

s 9(2)(a) [redacted]

[redacted]

I am a supplying dairy farmer.

I would like to submit on five main points and relate to some concerns I experienced in England.

1
The DIRA open entry requirements
The objectives laid out in DIRA in 2001 have been met
Option 4.1.2 is my most favoured

+ New Independent competition has been well established for farmers to have options of alternative processors of their milk. .In our area we have OCC, MIRAKA, and FONTERRA. Indeed Three milk tankers from different companies travel our short Road.
Elsewhere In the country a similar story exists.
+18 years seems long enough for farmers to have had an opportunity to utilise that part of DIRA.

Open entry/exit should now not be mandated of Fonterra.
+ 18 years has elapsed
+lots of alternative options for farmers
+Fonterra not dominant in market as plenty supply options for farmers

2
Access to regulated milk for large dairy processors [except Goodman Fielder]
+support the option 4.2.2
It appears that the New Independents are based solely on corporate structures which are of no financial benefit to Farmer suppliers, unless they are shareholders. The independents are primarily offshore owned hence their profits go off shore which is not a benefit to our country. They also have a token amount of product in the NZ market. So no advantage for consumers either. The exported milk products from independents are potentially supplying in the same market as the Cooperatives. Personally I don't believe any milk should be made available now for startups.If start-up milk is continued all companies who have benefited should supply proportional volumes i.e. OCC,MIRAKA,SINLAIT,WESTLAND,TATUA should all provide milk as they have had the advantage when Fonterra supplied them under DIRA.

3
The Base Milk price calculation
The Status Quo should continue.
Support 4.3.1
+Transparency and Confidence exists with the current system. There should be a mandatory rule that was Dairy industry wide so that there was transparency to all Dairy processors to have clear financial payment information to suppliers.

4
Access for regulated milk for Goodman fielder and smaller processors.
+ Local consumers require fresh milk, this option must be maintained.Option 4.2.2 is the closest to my veiw

5
DIRA review and expiry conditions

+ I am not sure what the best option is but I am quite confident that an end date must be reached ASAP.
It will be close to 20years that DIRA has been in existence and it seems ridiculous that an end date is not been reached. Shifting goal posts will never find the absolute correct timing.
Option 4.5.4 is my prefered choice

General comment.

Recently I visited England and spent some time on Dairy farms. The English Co operative Dairy Company is non existent. Corporates thrive and just want the raw material [milk] as cheap as they can source it.
A condition of supply contract is the Farmer must provide his annual accounts to the Corporate so that they can be analysed to determine the cost of production and payments to farmers are determined from that information. Basically they are on a tread mill of finding almost impossible levels of efficiency.
The England experience confirmed our need for strong Cooperatives. If we didn't have our co operatives in NZ we as farmers would be used to supply a raw material to corporates as cheap as possible
No Corporate independent processor in NZ pays its farmer suppliers mo e than Fonterra. The corporates sole purpose is to maximise payments to its shareholders [as it should be].This doesn't help NZ INC,as so much of our Dairy industry is owned by offshore interests and profits go offshore.
Dira must be modified in a way that our Co Operatives are kept strong and viable and in no way should DIRA continue to make it easy for offshore companies to set up and compete with existing CO OP's. Weakening Fonterra's potential to pay its suppliers will only speed up getting its Fonterra suppliers and by default all dairy Farmers into a very weak position financially.

s 9(2)(a)

From: s 9(2)(a)
Sent: Monday, 4 February 2019 12:33 PM
To: DIRA Project
Cc: s 9(2)(a)
Subject: DIRA submission

I wish to make a submission regarding the DIRA Review.

I do not have views on each of the 44 points required in the Template review document.

Please note my views below;

I am;
s 9(2)(a)

I was s 9(2)(a) prior to and during the time that DIRA was implemented.
I s 9(2)(a) during the process.

My wife and I now milk 800 cows on our own farm near s 9(2)(a)

DIRA served an important role in 2001.

Time has moved on and the need for much of the regulation has, in my opinion, diminished or disappeared.

Having lived, worked, travelled and studied in Dairy producing countries overseas I have seen first hand the consequences for milk producers in industries without an accessible co-operative processor. (*see **Note 1** for examples)
Milk producers can be in a very vulnerable position without a strong and secure relationship with a milk processor. Milk quickly becomes an environmental liability if not collected in expected time frames.
Cows cannot be "turned on or off" at will, with lactations planned 9+ months ahead and the need for consistency of supply for at least 10 months after calving.
The New Zealand situation amplifies the reliance on processors with approximately 95% of our milk being exported.

Co-operatives give suppliers some control over the commercial relationship. Co-operatives also invariably determine the base market price for milk. Industries without Co-operatives easily end up with the milk price set at a point that allows milk producer survival, but in constrained circumstances. **This is very negative for the associated rural communities.**

The biggest carry over from 2001 is the obligation for Fonterra to accept milk from new suppliers. This is well past its' "use by date". It serves now only to add to Fonterra's capital overheads. It also perversely encourages milk production from some catchments which are environmentally sensitive to land use intensification.

Fonterra's Co-operative principles can adequately deal with new supply applications or supply

variation from existing suppliers.
The requirement to keep plant "in reserve" or a capital buffer to allow for non desired increase in processing capacity is an unnecessary handicap for a co-operative that has to deal with all the natural supplier and shareholder issues in the real world, and also export approximately 95% of its product.

The requirement to supply milk to competitors (outside that for domestic consumption) is another facet of DIRA that should be removed.

There are clearly alternative processors for many milk producers in NZ now. The South Island is now below the initial threshold set in 2001. Encouraging further processing capacity risks entering the territory the meat industry suffers from, with significant over capacity and the resulting negative commercial outcomes from that. Negative outcomes for processors, communities and ultimately producers.

Consumers in NZ are well protected from dominant behaviour in the dairy market It is important to note that only about 5% of NZ milk gets consumed in NZ

Farmers voted in 2001 to form a large, strong co-operative. DIRA ensured there were protections and measures to prevent behaviour limiting alternative processors establishing.

There is a strong risk that DIRA is now going beyond it's purpose and is actually weakening Fonterra. That is certainly not for the benefit of any milk producer in NZ, particularly those who are shareholders in Fonterra.

Our district has seen a significant number of milk producers opt to supply competitors to Fonterra. We have plenty of choice. A number of local milk producers are also choosing to change their land use away from dairying. This is having a negative impact on the economic activity in our rural community. NZ's GDP and taxable revenue will also be decreased.

We now have choice. Please don't continue to weaken a significant processor in our industry with a stated value of working in the interests of farmer shareholders. Our industry and rural communities need a robust Fonterra to survive.

Regards,

s 9(2)(a)

*** Note 1;**
- The Chilean Dairy Industry was historically dominated by co-operative processors. Due to economic, government and social factors all but one co-operative failed or was privatised. The result was processors dictating supply requirements causing inefficient production systems (Costly high input winter milk) and milk prices to producers forcing both sub optimal farming practices and producers exiting the industry. One co-operative survived, but chose to limit the number of shareholding producers. This company consistently paid significantly higher prices to producers, was a factor in limiting the downward pressure on price to producers, and some observers claim "kept the industry alive". In recent years this co-operative has accepted new members (within strict criteria) and grown it's supply base. Chilean farmers are very aware of the practical and economic benefits of co-operatives.

- The United Kingdom effectively lost meaningful dairy farmer producer participation in processing companies. The producers in this industry are subject to dictates from processors and marketers, particularly supermarkets. Milk is often a loss leader in the UK. Dairy farming effectively relies on lobbying, rural subsidies and other governmental influence to continue. Sustainability in terms of attracting reasonable calibre individuals to the industry is questionable due to the requirement to put oneself at the mercy of others in a non commercial business situation.

- The Australian Dairy Industry has had real turmoil and pain. It has recently lost a large co-operative causing rural communities to suffer. Farmer producers claim that the ACCC (government regulator) pushed the requirement for competition to the point that that was one of the factors leading to the demise of Murray Goulburn and wider industry problems. The impact for consumers has not necessarily been positive. Note that the Australian industry has a lesser, but significant proportion of its' product sold to international markets

- The United States Dairy Industry is significantly influenced by Co-operative processors.

- The Irish Dairy Industry had a mix of co-operative and private processors and was healthy, but my knowledge is now out of date.

____
s 9(2)(a)

s 9(2)(a) [redacted]

Please find our submission for the DIRA review.

The Current DIRA model is outdated. The Dairy industry is now a far more global industry than when DIRA was introduced. It has served its purpose and can be done away wi h now This would leave the dairy industry open to even competition.

OPEN ENTRY
REPEAL DIRA OPEN ENTRY REQUIREMENTS
Fonterra at present, bears all the costs and risk surrounding open entry. If a farm supplying Fonterra decides to remove their supply it should be at the discretion of Fonterra whether to accept the return of that supply. Fonterra must have the ability to ascertain that this supply would be profitable and that the farm meets the environmental and milk standards required. It is to the detriment of the dairy industry that DIRA allows milk supply to swap back and forth at a whim. The cost to Fonterra to have capacity to cope with this milk is not insignificant. No other milk processor is expected to carry this.
Fonterra should also be able to use its discretion on deciding to collect new milk from new supplying farms. This new milk should be profitable for the Co-Operative. Fonterra struggles with its environmental image in New Zealand, and should not be required to collect new milk from area's that are deemed environmen ally sensitive, neither should Fonterra Co-Operative suppliers be required to subsidise the transport costs of milk that closer milk companies have the ability to decline to collect. There i adequate competition from companies to accept milk.

ACCESS TO REGULATED MILK FOR LARGE PROCCESSORS (except Goodman Fielder)
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BASE MILK PRICE CALCULATION
The milk price calculation should be protected. Leave this to Fonterra and the other Companies to work out their own milk price. The current model allows the milk price to be transparent and not open to manipulation. Dairy farmers could be reduced to price takers while passive overseas

investors will accumulate the wealth that would normally be retained in rural areas and greater New Zealand if the milk price does not have oversight.

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DIRA REVIEW AND EXPIRY

An automatic expiry date will give all processors accessing DIRA milk the opportunity to negotiate supply from farmers or milk processors. Fonterra is now not the only milk supplier capable of supplying milk. If our dairy industry is to remain strong competing companies must have the financial ability to remain profitable without support from Fonterra. There is no need for new processing companies to receive start up milk from Fonterra. All current obligations to supply milk need an expiry date.

The quicker DIRA is gone the better.

Thank you for the opportunity to submit our views. If you require any further comments please feel free to contact us at the above.

s 9(2)(a)

s 9(2)(a)

From: s 9(2)(a)
Sent: Monday, 4 February 2019 3:14 PM
To: DIRA Project
Subject: Submission on DIRA review.

Submission on DIRA review from s 9(2)(a) a Fonterra Shareholder.

OVERVIEW.

We believe the present DIRA legislation should be revoked.

The legislation has served its purpose in ensuring that Fonterra was not in a dominant dairy processor & marketer during its start-up period.(17 years)

The sunset provisions to trigger the expiry of the legislation were achieved in 2015.{20% of market share of milk by other processors} But not actioned.

Open entry & exit by shareholders and the legislative requirement of having to take all milk,has added undue cost to Fonterra in providing sufficient & sometimes excess
processing facilities.

The legislation has permitted & encouraged start-up Dairy processors many of which are totally foreign owned,or majority foreign owned, to the detriment of N Z Inc. with any profits going outside N Z.

Goodman-Fielder have had sufficient time to establish their own supply for domestic milk, and we understand they & Fonterra have an agreed contract outside of the present legislation.

Fonterra has sufficient right to supply rules in place that ensures high environmental. animal welfare, and sustainability standards.

HOWEVER.
If the present sunset clauses of the legislation are not activated;

Open entry & exit provisions are removed so Fonterra can make the rules & regulation of supply.

The current base milk price calculation be continued. The Commerce Commission reviews the accuracy of Fonterra's calculation annually at present.

Access to regulated milk by smaller Companies & Goodman Fielder is not required. Fonterra would not like to be seen as disrupting the domestic market by undue competition.

A set date for the expiry of any amended DIRA legislation .

CONCLUSION.

We understand that the Government wished to have this broad review of the DIRA legislation to allow a strategically focussed outcome for the Dairy Industry overall.
Fonterra requires that any shackles or impediments to its journey to be successful, for the benefit of all New Zealanders, be minimised.
If we don't get it right Fonterra will end up owned by overseas interests.

Thankyou for the opportunity to submit.

s 9(2)(a) [redacted]

s 9(2)(a) [redacted]

[redacted]

Please find my submission for the DIRA review.

It is my view that the DIRA model is outdated. The Dairy industry is now a far more global industry than when DIRA was introduced.

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REPEAL DIRA OPEN ENTRY REQUIREMENTS
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BASE MILK PRICE CALCULATION
I believe the milk price calculation should be protected. The current model allows the milk price to be transparent and not open to manipulation. Dairy farmers could be reduced to price takers while

passive overseas investors will accumulate the wealth that would normally be retained in rural areas and greater New Zealand if the milk price does not have oversight.

ACCESS TO REGULATED MILK FOR SMALLER COMPANIES AND GOODMAN FEILDER
Small companies including Goodman Fielder also create inefficiencies. No other business would be required by law to subsidise its competitors either locally or internationally. Every dairy business in New Zealand has the ability to approach any dairy farmer and ask for their supply. DIRA guaranteed Goodman Fielder supply from Fonterra until they had secured their own. To my knowledge, Goodman Fielder have made no attempt at all to secure any supply. Fonterra, I am sure has no desire to close small local businesses, but these businesses must be viable and should cover the cost of milk from Fonterra. Fonterra no longer is a monopoly, milk could be accessed from any number of milk processors. This access to Fonterra milk is now outdated.

DIRA REVIEW AND EXPIRY
An automatic expiry date will give all processors accessing DIRA milk the opportunity to negotiate supply from farmers or milk processors. Fonterra is now not the only milk supplier capable of supplying milk. If our dairy industry is to remain strong competing companies must have the financial ability to remain profitable without support from Fonterra. I can see no need for new processing companies to receive start up milk from Fonterra. All current obligations to supply milk need an expiry date.

Thank you for the opportunity to submit my views. If you require any further comments please feel free to contact me at the above.

s 9(2)(a)

DIRA submission febr 2019 to MPI

1. Open Entry;

Fonterra should be allowed to decline new conversion applications if the distance is uneconomic for example MacKenzie Basin or if the applicant is unlikely to comply with Fonterra terms of supply. When a change of farm ownership of a Fonterra supplying farm takes place, the new owner should keep the right of supply to Fonterra if the new owner wants to. Also if an intergenerational (farm succession) change takes place on a Fonterra supplying farm, the new generation farmer should have a right to supply Fonterra.

2. Access to regulated milk for large processors;

Large processors should be excluded from the raw milk regulations. Overseas companies should not be allowed to set up manufacturing in NZ and have DIRA milk from Fonterra if they will compete with the product on overseas markets . DIRA was created to increase competition in the NZ domestic market and not to increase competition on the international market. Their profits will go overseas as well. Fonterra farmers will miss out on the opportunity to make a profit on the ingredients/ value add in New Zealand. It is just unbelievable that a NZ government allows that to happen.

3. Base milk price calculation;

Fonterra is doing a good job and the status quo can be held for that. However other New Zealand processors should be more transparent in how they set their milk price to their supplying farmers.

4. Access to regulated milk for Goodman Fielder and smaller processors;

Goodman Fielder should have only the current (so no increase) allocation of milk and only for the New Zealand domestic market. New smaller processors only also, for the domestic market.

5. DIRA review and expiry provisions;

DIRA should be reviewed not later than in 3 years time or earlier. If Fonterra's market share has gone down and reached a certain market share threshold, then Fonterra should not be held back further. If the South Island has reached that point earlier than the North Island then Fonterra should be able to compete there in a free market and not having to stick to having to sell milk to new entities.

s 9(2)(a)

s 9(2)(a)

From: s 9(2)(a)
Sent: Monday, 4 February 2019 11:22 PM
To: DIRA Project
Subject: REVIEW OF THE DAIRY INDUSTRY RESTRUCTURING ACT 2001 AND ITS IMPACT ON THE DAIRY INDUSTRY.

TO DIRA REVIEW TEAM.

I apologise that I have not been able to send this submission any other way at this time.

REVIEW OF THE DAIRY INDUSTRY RESTRUCTURING ACT 2001 AND ITS IMPACT ON THE DAIRY INDUSTRY.

I wish to submit the following -

Noting that the Dairy Industry Restructuring Act commenced in 2001 and this review is 17 years later in 2018, it would seem timely to review its place in New Zealand Law with the advent of alternate processing plants in the greater portion of the country. The discussion document lists the summary of the issues, the objectives and options under consideration in the form of tables on pages 54 and 55.

1] OPEN ENTRY REQUIREMENTS: There is a far greater number of processing sites in New Zealand today, half having a large portion of overseas funding, and in turn not supplying the local market. Open Entry requirements where there may be compelling reasons such as environmentally unsuitable land for dairying, could appear undemocratic and invoke reputational risk to the detriment of the whole of New Zealand itself, should such continue to be forced on Fonterra. At the very least, Option 3 does permit Fonterra to act responsibly in this area. In time however, the need for such an Act should no longer be necessary, as per Item 5.

2] ACCESS TO REGULATED MILK FOR LARGE DAIRY PROCESSORS [EXCEPT GOODMAN FIELDER]: Large processors of milk, or any organisation considering setting up a new large venture of any type should only consider the undertaking if they have sufficient means to become a profitable enterprise in their own right, particularly if they are not supplying the New Zealand market. DIRA was set up to protect the Domestic Market, not the overseas market. Therefore Option 2, expanded to also specifically exclude non New Zealand Domestic Market supplying companies would be appropriate.

3] BASE MILK PRICE CALCULATION: Option 1 has proved to be an accurate assessment of the situation and should remain.

4] ACCESS TO REGULATED MILK FOR GOODMAN FIELDER AND SMALLER PROCESSORS: The MOST important consideration is the New Zealand Domestic Market. Pricing is so very important for this market. It can be noted at various times and in various places in New Zealand that there are 'Specials' to be had at assorted outlets. There must be sufficient competition in the Domestic Market to ensure that the population always has access to suitably priced Dairy Products. Fonterra has offered the Milk in Schools programme as an aid to ensure the Nation's children are receiving adequate nourishment without penalty. It is noted that no other processor should become dependant on supply from Fonterra, but that all should be encouraged to become independent in time, thus Option 3 particularly if smaller processors were treated likewise would be the preferred choice.

5] DIRA REVIEW AND EXPIRY PROVISIONS: With the increasing number of other processors in New Zealand today, and the fact that DIRA was initiated to protect New Zealand, not overseas markets, Option 2 specifying a clearly defined review time frame such as every 3 years until it was no longer considered necessary, would balance the risk of Fonterra Farmers continuing to be required to supply milk to other processors without the reward of a margin for all their efforts, with the risk of an unacceptable situation arising in the Domestic Market. This should lead in time the the repealing of the Act itself.

Sincerely

s 9(2)(a) [redacted]

[redacted]

<u>DIRA SUBMISSION – February 209</u>

This submission is written on behalf of the following companies, their owners/shareholders – who can be contacted via

s 9(2)(a) [redacted]

s 9(2)(a) [redacted]

Owners/Shareholders:

s 9(2)(a) [redacted]

We are a family run daily business, based in s 9(2)(a) [redacted], milking approximately 2500 cows. Our involvement in dairy started in 1994 and we commenced supply to Fonterra at its inception in 2001, over time growing the business and buying shares as we did so. We have a legitimate interest in the Dairy Industry Restructuring Act and the impact it has on us as Fonterra suppliers.

Three generations live on the farms and we employ 12-15 staff members, depending on the time of year. The family has had and is continuing to have active involvement in Federated Farmers (past branch chair, current branch secretary), DairyNZ (Dexcel Consulting Officer) and Fonterra (Networker, Governance Development Programme) and believe these groups to have a voice on behalf of dairy farmers, which will hopefully be heard in the review.

However, with a variety of Batchelor degrees, a Masters in Agricultural Economics (Perdue), Masters in Business Administration (Oxford), Rabobank Executive Programme plus the recipient of the National Runner Up for Sharemilker of the Year (2013) and the Zanda McDonald Award winner (2017) amongst family members, we feel well able to voice our own comments regard ng DIRA. We have a good understanding of our own business, our capital and the community we live in and believe that aspects of DIRA are well overdue for a change.

Open Entry/Exit

There are many implications to the current conditions for entry and exit of Fonterra. Not least is the requirement of the company to have sufficient capacity to take all supply requirements and whilst this may now have dampened off with a changed environment for dairy conversions there are still future potential opportunities for an influx of demand to supply, as perhaps there would be if/when Hunter Downs irrigation comes on board. Could Fonterra then be exposed to the same inability to reject suppliers as has occurred in the McKenzie district with all the associated environmental concerns around dairy farms in that area.

We believe open entry/exit requirements under DIRA have had unintended consequences, necessitating a focus of handling quantity over quality or added value ingredients and the advantage it has given the competition to cherry pick their suppliers from their local area creates a significant cost advantage to those companies in terms of transport – removing

heartland suppliers but leaving all the peripheral farms which the competitors exclude for reasons of distance. This must be grossly unfair when Fonterra is competing with these companies in the export market. It also gives Fonterra suppliers significant protection if they choose to leave and then want to return.
We support an amendment that gives Fonterra discretion to accept new suppliers and an extended time lag for exit/return.

Raw Milk Supply – Competition

Whilst it may well be that there is only one competitor now getting DIRA start up milk, others having run out of their timeframe, this condition remains the one that has had implications for New Zealand's dairy export market. Because it doesn't differentiate between domestic and export competitors it distorts the export market by facilitating competitors with their start up and has allowed overseas companies to come into the country and diminish the st ength of Fonterra as an international exporter. It has not been an even playing field, especially before the requirement to take supply evenly along the seasonal supply curve and has aided foreign countries to establish supply chains direct to their own markets to the detriment of our own international market position.

We do not believe this was an original intention! Raw milk supply arrangements were originally to be triggered out at a market share of 80%. The South Island reached this level in 2016 but a review lowered the market share level to 70% It seems very unfair to have a moving target and compulsory. Raw milk supply to industria scale operators should cease at the earliest possible time.

Raw milk supply to small, domestic market processors – of cheese, yoghurt, speciality dairy goods should remain – this can be based on sca e and market.

Raw Milk Supply – Goodman Fielder
With the contract between Fonterra nd Goodman Fielder due to expire in 2021 there should be no 'as of right' renewal of supply 20 years is a considerable period to gain an independent supply agreement with Fonterra or any other milk processor (except no other processors seem interested in the low returns/supermarket squeeze from fresh milk) and Fonterra should not be held to supply Goodman Fielder under terms which can be detrimental to them, ie under quarterly price agreements, instead any new contractual arrangement should be on commercial, profitable terms to Fonterra terms from 2021. The market thresholds have been in place for a discontinuation of the arrangement for some time now and should be adhered to.

It is questionable whether Goodman Fielder takes milk just for the New Zealand fresh milk market – if should not be allowed to export any product milk supplied by Fonterra under the current agreement.

Mi k Price

We agree with the continuance of the existing DIRA provisions for Fonterra's base milk price calculation – with Commerce Commission monitoring. However, we believe that the other milk processors should also have to provide a base milk price calculation in order to provide transparency across the industry.

Expiry
For the above reasons, we believe the DIRA should be amended to better maintain a fluid competitive domestic market but strengthen Fonterra's position as a strong national exporter. Don't hamstring the company by forcing it to take suppliers, to provide overseas companies/governments opportunities to take advantage of the New Zealand brand, cherry

picking farmer supplies to export milk direct onto their country's supermarket shelves, or allow Goodman Fielder and its shareholders to have facilitated supply from Fonterra rather than make business decisions with whichever NZ based processor that agrees to bottle their milk. The fact that the thresholds for DIRA have been diminished rather than upheld at their original levels has upset Fonterra suppliers and supports a long overdue review and subsequent amendment.

Conclusion

DIRA in its current form should be dismantled. It has been amended during the past 20 years but still focuses primarily on the fluid competitive market – domestic and international – to the detriment of the desire for a strong national exporter. It could be seen as an act of commercial treason to allow other countries to fill their shelves with dairy products direct from their factories in New Zealand and with no tariff barriers and all New Zealand rs should support Fonterra to be the preeminent provider of dairy products in the world. Maybe as a national we should follow the example of France, China, the U.S.A., to name a few – protect, support and encourage our own farmers and agricultural sector rather than opening the door and saying "welcome" to our competitors!

s 9(2)(a) [redacted]

DIRA JANUARY 2019

submission

The regulations were set up so as farmers had a choice of who they supply but with these regulations comes increased costs for Fonterra, so, Fonterra's payout is lower. Therefore, independent processors can play less to their farmer suppliers, so with choice comes a cost of lower price for farmers milk.

That the DIRA should be abolished
Firstly, it must be acknowledged that Fonterra is a Co-Operative Company. Thereby, it is not a large Company as such but a large number of farmers that have joined together to have their milk (which is a perishable product) processed and marketed so as to give them the best price for their milk, (their hard work) which they can not get as individuals.
A regulation put on Fonterra is a cost on the supplying farmers of Fonterra not Fonterra and a benefit to the shareholders of the benefiting processing Company not the suppliers of milk to those companies.

Open entry and Exit Should be abolished

There is no need for so called open entry and exit as a supplying shareholder to Fonterra can now leave and go to another processor and take their capital with them The share sale is now not controlled by Fonterra. The shares are now traded on the market, so a supplier can make a commercial decision to leave Fonterra and get the market value for their shares.
As a Fonterra supplier can leave for commercial reasons then Fonterra should be able to take on new suppliers (whether a new or a returning supplier) based on commercial reasons. It is mostly unlikely that Fonterra would refuse to accept a new supplier as milk is its life blood. No other company has to accept all milk and have to bare the cost to be able to do so.

To supply a start up processor with 50 million litres
Should be abolished.

This basically comes down to trying to create a factory to factory market. There has never been a factory to factory market of any extent in New Zealand. If any milk is to be required by other processors from Fonterra then it must be on a Commercial price (Fonterra must get more for it than processing it themselves. Otherwise its taking payout from Fonterra supplying farmers.
It is wrong that Fonterra has to meet its obligations under this requirement before meeting its own requirements. e.g. if milk is short (in the shoulders of the season) Fonterra has to supply the 50 million litres first then either not make a product at a certain factor or get milk from further away at Fonterra's cost. The more companies we have selling new zealand milk overseas and competing against each other the worse off we are, the more sellers the better it is for the overseas buyers of new zealand dairy products.

I supply my milk to get the best price not for some other company to be supplied some of my milk so as they can make money out of my hard work. Many of the processors are overseas owned so

the profits go overseas not stay in New Zealand as is with Fonterra. It is wrong that we have legislation that takes from New Zealanders and helps/gives to overseas owners.
This is a cost on farmers that supply Fonterra. Do we want to end up like the meat industry with a lot of excess capacity which supplying farmers will pay for.

Pricing Mechanism

Fonterra should be able to set its own milk price. It is not for the Government or the Commerce Commission or any other body to set the price we are not in a communist state yet. For dairy to prosper in New Zealand it requires Fonterra to set the highest price possible for its suppliers milk. The opposing processors want Fonterra to pay the lowest price so they can pay less for their farmers milk (their suppliers do not have to be shareholders) so as to make a bigger profits for their shareholders many of which are overseas.

Domestic market
Goodman Fielder

The 250 million litres that Fonterra is required to supply Goodman Fielder under the regulations should not be increased in fact it should be reduced by say 10- 25 million litres a year. In the 17 years Goodman Fielder has done nothing to get their own farmer supply. They even critizise Fonterra for holding their price for the NZ Consumer and not lowering the price Fonterra charges for the milk Fonterra supplies to Goodman Fielder. This shows Goodman Fielder only want to be a company that clips the ticket thereby making the same profit with no risk or thought of the NZ Consumer.
It should be remembered that NZ exports about 95% of the dairy products so the export price dictates the price NZ consumers pay. It has always been an option that NZ Consumers could import dairy products from oversaes. They could buy from the GDT platform.

Fonterra is only one of the costs the other being the supermakets and there is no regulation on them.

Fonterra should not have to account for FBNZ separately.
SUMMARY

DIRA should be abolished.

The dairy industry must be deregulated.

Fonterra is no a large company but is made up of a lot of dairy farmers.

Any regulations/restrictions are a cost on Fonterra farmer suppliers.

Open entry and exit
Should be abolished. As shares now tradeable outside of Fonterra.

Supply of 50 million litres to start up processors should be abolished

Fonterra must be allowed to set its own milk price.

We need regulations that help NZ farmers not overseas shareholders

Domestic marketed

the 250 million litres Fonterra supplies to Goodman Fielder under the regulation be reduced over time.

I wish to be heard.

s 9(2)(a) [redacted]

Submission form - Review of the Dairy Industry Restructuring Act 2001 and its impact on the dairy industry

The Government is reviewing the Dairy Industry Restructuring Act 2001 (DIRA) and its impact on the dairy industry. The review is currently at the public consultation stage.

We are seeking your input on the issues, options and questions as set out in the DIRA discussion document.

This form contains all the questions that appear in the online submission form at https://www.research.net/r/DIRA. These are identical to those in the discussion document. You can use this document to familiarise yourself with the questions in the form before making your submission.

If you have trouble using the form, you can email your submission to DIRA@mpi.govt nz.

You will need to read the discussion document before considering your responses to the questions set out in this form.

Your responses are due by 5pm on Friday 8 February 2019, and will help inform the recommendations that the Government will consider later in 2019.

You will be asked to select the sections on which you would like to submit, and you may submit on as many or few areas as you like. All questions a e optional.

Chapter 2: Performance of the dairy industry

Section 2.1 2001 structural reform to enable the industry to drive strategic change

Please refer to [Section 2.1] of the discussion document.

(1) Do you agree with our description of the DIRA regulatory regime and its original policy rationale? Do you consider the original policy rationale is still valid?

I agree with the reasons that DIRA is in place and the original rationale but changes need to be made to reflect the current Dairy Industry environment.

Section 2.2 Industry performance since the restructure

Please refer to [Section 2.2] of the discussion document.

(2) Are there any other dairy industry developments or industry performance indicators that are not captured in the discussion document or its supplementary material? Please provide details and supporting evidence.

Chapter 3: The effects of the DIRA and other factors on industry performance

Section 3.1: Has the DIRA been effective at managing Fonterra's dominance in the market for farmers' milk, and is it still needed?

Please refer to [Section 3.1] of the discussion document.

(3) Do you consider the DIRA has been effective at achieving its core regulatory objective of preventing Fonterra from using its dominance to create barriers to farmers' milk and land flowing to their highest value uses? If not, please provide reasons and supporting information/evidence.

(4) Do you think Fonterra is still dominant in the market for farmers milk, at the national and regional levels?

Fonterra is not still dominant because Fonterra have to take the majo ity of the milk that local competitors are able to pick and choose from within regions they wish to collect from. Then on the flip side Fonterra also have to compete competitively with these companies on the global stage yet have been forced to pick up milk from extreme edges of two islands that is not serviced by competitors.

(5) Do you think the DIRA imposes unreasonable costs on Fonterra? If so, please provide supporting information/evidence.

It is the cost of transportation for collecting from extreme edges of the industry suppliers. It is also in holding and maintaining the stainless steel required should the milk from other companies or suppliers choosing to leave other companies need to be processed.

(6) Are there ways for the costs imposed on Fonterra to be mitigated without impacting on the effectiveness of the DIRA regulatory regime? If so, please provide supporting information.

Not based on the two areas (transport and stainless steel) that I believe unreasonable costs are imposed to Fonterra under the regime

(7) Are there any other regulatory tools that, in your opinion, would be more effective than the current DIRA provisions at managing Fonterra's dominance? If so, please provide examples and supporting information/evidence.

(8) Are there other factors you consider need to be taken into account when considering the effectiveness of the DIRA regime and whether it is still needed?

The supply of milk to Goodman Fielder to me shows the effectiveness of the DIRA regime given this was in place before the merge from MergeCo into Fonterra.

My understanding is that 7 other companies have established since DIRA was implemented and under the DIRA regime have taken advantage of the provisions under the regime. This to me shows that the regime as a whole is not effective and should form a significant factor in this consultation process.

Section 3.2: Does the DIRA encourage industry growth?

Please refer to [Section 3.2] of the discussion document.

(9) Do you agree with our preliminary assessment of the extent to which the DIRA encourages industry growth? If not, please provide reasons and supporting information/evidence.

Read feedback in sections above around the growth of competitors. I feel the DIRA regime has enabled too many competing dairy companies who have significant foreign investment to grow and compete. These companies do not have the expectations (extreme region collection) and direction/control from the commerce commission compared to how Fonterra has to operate.

Why does the commerce commission feel there needs to be competition within the NZ market? NZ has always been a significant exporting country and as such I feel DIRA has restricted Fonterra's ability to effectively compete on the global stage.

Section 3.3: Does the DIRA influence Fonterra's strategy?

Please refer to [Section 3.3] of the discussion document.

(10) Do you agree with our preliminary assessment of the extent to which Fonterra can influence milk supply volumes through price, notwithstanding the DIRA open entry requirements?

(11) Are there other factors that you consider should be taken into account? Please provide detailed comment in support of your views.

(12) Do you consider that the DIRA provisions governing Fonterra's base milk price calculation and Commerce Commission monitoring may be preventing or disincentivising Fonterra from deviating from the base milk price calculation for strategic or commercial reasons?

(13) If the DIRA is not driving Fonterra's business and investment strategy, what is? Please provide detailed comment in support of your views.

Section 3.4: Does the DIRA impact on the industry's environmental performance?

Please refer to [Section 3.4] of the discussion document.

(14) Do you agree with our preliminary analysis of the DIRA's impact on the industry's environmental performance? If not, please provide your reasons and supporting evidence.

(15) Do you agree with our view that environmental issues are best dealt with through the Resource Management Act and not the DIRA regime?

(16) Are there other environmental issues that you consider should be addressed either through the DIRA review or some other means?

Section 3.5: Does the DIRA incentivise inefficient entry by large dairy processors?

Please refer to [Section 3.5] of the discussion document.

(17) Do you agree with our preliminary analysis of the impact the DIRA has on new processor entry? If not, please provide your reasons and information/evidence in support of your views.

If the provision to supply 50 mil L of raw milk to new processors was not in place then I believe inefficient processors would die a natural death or not bother entering in the first place. What we don't want is what happened with the Meat Industry where there was mo e meat plants than stock numbers. I feel the current DIRA regime has the possibility to lead us to or has already got us at the tipping point of a parallel to the meat industry.

(18) Do you consider that large dairy processors should continue to be eligible to purchase regulated milk from Fonterra under the Raw Milk Regulations or not? Please provide detailed comment in support of your views.

No this should not be the case they could however come to a separate agreeable commercial agreement like the number that exist currently between NZ processors.

Section 3.6: Does the DIRA promote sufficient confidence in the base milk price calculation?

Please refer to [Section 3.6] of the discussion document.

(19) Do you consider that greater confidence in the base milk price calculation outcomes could be achieved if additional legislative guidance on the term "practically feasible" were to be provided for in the DIRA? Please provide detailed comment in support of your views.

(20) Do you consider that the base milk price should be set by an independent body (e.g., the Commerce Commission)? If so, please provide supporting information.

No each dairy company should be the ones setting the milk price I believe the dairy industry has evolved so much since the days where the governmen backed the milk price that the NZ dairy board set. It worked back then but I would not work now.

Section 3.7: Does the DIRA support competition in New Zealand consumer dairy markets?

Please refer to [Section 3.7] of the discussion document.

(21) Do you agree with our preliminary analysis of the DIRA impact on the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

Why does the commerce commission have the belief that we must create competition in the NZ dairy market. Go back in history butter was the only product that was produced and exported in NZ. History has it that buyers from Great Brittan kept the price low by putting NZ company against another NZ Company.

According to google the NZ marketing association was created in 1923 later to become NZ Dairy Export control board. They did all the transactions on behalf of all NZ dairy companies. Somewhere after 1935 the labour Govt renamed it the NZ Dairy Board. This NZDB. Was in place when Farmers voted in 1999 to form what was known as MergeCo and then into Fonterra as we know it. There were two other companies both co-operatives; Tatua (Morrinsville) and Westland. Neither of these two companies are under any jurisdiction by MPI, NZ Government or Commerce Commission. There are now 7 other Dairy Companies (corporates) operating in NZ who MPI, NZ Govt etc leave to their own devices. We the shareholders of Fonterra feel this s unfair and my views on the DIRA review below I believe create a fairer playing field for all concerned while still holding on to applicable policy rationale and objectives hat were set when DIRA was put in place.

(22) Are there any other factors that should be taken into account regarding the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

Chapter 4: Options for change

Section 4.1: DIRA open entry requirements

Please refer to [Section 4.1] of the discussion document.

(23) Are there any other options for the DIRA open entry requirements that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

No, I believe the 3 options provided are ones to consider.

(24) What costs and benefits would each of the options for the DIRA open entry requirements create for your business? Please provide quantitative information if possible.

(25) How well do you think each of the options for the DIRA open entry requirements would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(26) What is your preferred option for the DIRA open entry requirements? Please provide your reasons and informat on/evidence in support of your views.

4.1.3 – Amend the DIRA open entry requirements to allow Fonterra to accept or decline on T&Cs.

Believe this is the fairest option for all dairy farmers in NZ. While I believe Fonterra should be able to be on a level playing field, I also am driven by the fact we are a co-op and believe this option will be fairer than the other two options.

Section 4.2: Access to regulated milk for large dairy processors (except Goodman Fielder)

Please refer to [Section 4.2] of the discussion document.

(27) Are there any other options for access to regulated milk for large dairy processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

No

(28) Do you consider that the proposed 30 million litres threshold is too high or too low? If so, what would you consider the right threshold to be, and why?

(29) What costs and benefits would each of the options for access to regulated milk for large dairy processors create for your business? Please provide quantitative information if possible.

(30) How well do you think each of the options for access to regulated milk for large dairy processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(31) Do you have a preferred option for access to regulated milk for large dairy processors? Please provide your reasons and information/evidence in support of your views.

Option 2 – Amend provisions to exclude large dairy processors.

As I have mentioned in sections above I believe the current raw milk requirement is supporting competing companies set up and compete against us on the global stage. **The milk that is available to large dairy processors under the existing regulations (DIRA regulated milk) can end up competing with our milk overseas which is not fair.**

The question above that asked about raw milk requirements leading to ineffient processors establishing a company are under existing rules given a buffer of this regulated milk to effectively compete against us.

I mentioned we don't believe we should have to supply the milk at a regulated cost and under the request of these new companies yet other large competitors who are established in NZ do not need to supply any regulated milk.

Section 4.3: Options for the base milk price calculation

Please refer to [Section 4.3] of the discussion document.

(32) Are there any other options for the base milk price calculation that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

Yes, I would like to propose that the status quo stands however the transparency and rigour around how base milk prices are calculated should be mandatory for all of the dairy companies sourcing raw milk from dairy farms in NZ.

As DIRA stands we are the only company who has to provide a set milk price, while we are proud of the way we obtain this, there should be the same transparency for a l other companies and for them to release updates within the same period.

(33) What costs and benefits would each of the options for the base milk price calculation create for your business? Please provide quantitati e information if possible.

The way the milk price manual is written, the calculation strives to put as realistic as possible price for the farm gate milk. The transparency of the model gives me confidence that we as farmers are getting the best price possible.

(34) How well do you think each of the options for the base milk price calculation would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

As per (33) above good practices would be achieved if all the NZ dairy companies operated under the same requirements.

(35) Do have a preferred option for the base milk price calculation? Please provide your reasons and information/evidence in support of your views.

Prefer the alternative that is stipulated in (32) above however see this as a necessary extension of Option 1 in the DIRA Document.

Section 4.4: Options for access to regulated milk for Goodman Fielder and smaller processors

Please refer to [Section 4.4] of the discussion document.

(36) Are there any other options for access to regulated milk for Goodman Fielder and smaller processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

No

(37) What costs and benefits would each of the options for access to regulated milk for Goodman Fielder and smaller processors create for your business? Please provide quantitative information if possible.

(38) How well do you think each of the options for access to regulated milk for Goodman Fielder and smaller processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(39) Do you have a preferred option, or a combination of options, for access to regulated milk for Goodman Fielder and smaller processors? Please provide your reasons and information/evidence n support of your views.

Option 2 – Amend to update the terms in which Goodman Fielder can access raw milk. We want to stand by our domestic supply and enable this.

Section 4.5: Options for the DIRA review and expiry provisions

Please refer to [Section 4.5] of the discussion document.

(40) How best do you consider "market dominance" could be measured? For example, are there certain criteria (other than a market share threshold) that could be provided for in legislation as a trigger for review and/or expiry of the DIRA?

I don't believe that Fonterra or any company currently has market dominance. Therefore I believe the best option is to have a date trigger on the review and expiry. The existing % trigger has had the goal posts moved and this does not send a good message. Given the amount of competition expanding and operating in NZ currently I believe the industry is changing rapidly and a review should be triggered no later than 2yrs time. This is also important as there is a change in the licence to operate and we need to be able to support and not panic the farmers during this change and to do this legislation needs to ensure it is flexible enough to allow for that.

(41) Are there any other options for the DIRA review and expiry provisions that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(42) What costs and benefits would each of the options for the DIRA review and expiry provisions create for your business? Please provide quantitative information if possible.

If we go below 80% we are going to see surplus Stainless steel in factories throughout NZ

(43) How well do you think each of the options for the DIRA review and expiry provisions would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(44) Do you have a preferred option, or a combination of options, for the DIRA review and expiry provisions? Please provide your reasons and information/evidence in support of your views.

Option 2 with the idea that a review may in fact lead to dropping some of the clauses if applicable.

DIRA – submission from s 9(2)(a) [redacted].

We would like to make the following submission:

Open Entry:

We support option 4.1.2: Repeal the DIRA open entry requirements

Now Fonterra's % of milk has reduced to 82%, there is no valid reason to retain open entry. Open entry is a high financial cost to shareholders in the co-op having to retain and service plant/stainless steel across the country just in case of new suppliers it has no option to refuse.

As a Fonterra shareholder, if we wished to find another processor to take our milk and more importantly someone that was willing, why should we expect Fonterra to guarantee to take us back if we didn't like the other processor? Fonterra has to work in the best interests of hei current shareholders at all times.

Milk to Startup Companies

This should be cancelled. Why should Fonterra have to support foreign owned companies that are in competition especially when all the profits derived go offshore?

Supply Base – Goodman Fielder other Domestic Companies

No new Company has developed its own supply base during the 17 years DIRA has been in place. Happy for the status quo to remain but it needs to p ogress o an ultimate end.

Milk Price

Support option 4.3.1 retaining the existing DIRA p ovisions for Fonterra's base milk price calculation and Commerce Competition monitoring.

Fonterra is the market leader in paying a fair price to farmer suppliers, other processors are wanting to reduce the price paid to its suppliers but they are not being transparent around their own milk price calculations. We salute and respect Fonterra for their transparency to pay the farmers a fair market price.

Sunset

As a relativ ly new comer to the Dairy Industry (2012). We understood DIRA was to end in 2017. We are extremely concerned of the political interference that has derailed the government's prom se/commitment to cease DIRA.

Changing the goal posts at a political whim gives no one certainty as we move into the future.

s 9(2)(a) [redacted]

DIRA REVIEW

From s 9(2)(a) [redacted]

My thoughts on DIRA are that it is no longer required

With the formation of Fonterra DIRA was bought in due to it becoming a monopoly

When in fact forming Fonterra was about maximizing the return to our dairy farmers with the realization of more money back in farmers pockets which in turn would create more taxable revenue to the government

Instead DIRA was bought in with terms and conditions which have destroyed the opportunity NZ had and the true benefits of forming Fonterra have never been realised

DIRA saw the introduction of the milk price manual which sees the executives rece ving high bonus because the milk price manual puts the price down based on the GDT and sees management meeting and exceeding their targets

This also makes the milk price more vulnerable because of the inability to have long term contracts to add stability to the payout and the economy. These are the contracts they offer as guaranteed milk price or fixed price contract because they don't fit in the manual. Which defeats the purpose of a cooperative.

DIRA should only ever had applied to the domestic liquid milk market.

This issue will now be addressed with the other liquid milk company not taking up the opportunity to develop their own supply base. So there fore they must be happy to continue a contract price. Now there is competition in the market place to supply milk this presents Goodman Fielder the opportunity to source milk from these other companies. This then leaves the question of that should any DIRA rules be put in place that they must apply to all companies in respect to the liquid milk market

This does present an opportunity for fixed price contract adding stability to the milk price to Fonterra or any other company who will supply Goodman Fielder.

The milk price manual was never to succeed because it sells milk to opposition processes at a price when the price is never really been set until October the following year and to be fair most of that product could easily have been sold and consumed.

Fonterra needs long term fixed price contracts to take the vulnerability out of the payout. This will create a more stable economy and will enable their shareholder farmers to plan for the future.

Thank you

s 9(2)(a) [redacted]

[redacted]

s 9(2)(a)

s 9(2)(a) [redacted]

Please find my submission for the DIRA review.

It is my view that the DIRA model is outdated and we should do away with it all excep the Base Milk Price Calculation. The Dairy industry is now a far more global industry than when DIRA was introduced.

OPEN ENTRY
REPEAL DIRA OPEN ENTRY REQUIREMENTS
Fonterra at present, bears all the costs and risk surrounding open entry. If a farm supplying Fonterra decides to remove their supply it should be at the discretion of Fonterra whether to accept the return of that supply. Fonterra must have the ability to ascerta n that this supply would be profitable and that the farm meets the environmental and mi k standards required. It is to the detriment of the dairy industry that DIRA allows milk supply to swap back and forth at a whim. The cost to Fonterra to have capacity to cope with this m lk is not insignificant. No other milk processor is expected to carry this.
Fonterra should also be able to use its discretion on deciding to collect new milk from new supplying farms. This new milk should be profitable for th Co-Operative. Fonterra struggles with its environmental image in New Zealand, and should not be required to collect new milk from area's that are deemed environmentally sensi ive, neither should Fonterra Co-Operative suppliers be required to subsidise the transpo t costs of milk that closer milk companies have the ability to decline to collect.Fonterra shareholders are spending more thru their Co-op on environmental and sustainable issues for the greater good of NZ than all other milk processors.

ACCESS TO REGULATED MILK FOR LARGE PROCCESSORS
I believe this creates inefficiencies, due diligence should be done by these companies on a stand-alone scenario. Fonterra should not be expected to help create exporting companies that are in competition for their own markets. Fonterra carries all the costs and risks for this supply which is not a knowledged in the cost of regulated milk. I feel this was introduced to help create a more diverse ndustry within New Zealand not to have international companies take advantage of cheap milk delivered to the door by their competitor. This access to Fonterra milk is now outdated and should be left to Fonterra to decide if it wants to develop a supply arrangement.

BASE MILK PRICE CALCULATION
I believe the milk price calculation should be protected. The current model allows the milk price to be transparent and not open to manipulation. Dairy farmers could be reduced to price takers while passive overseas investors will accumulate the wealth that would normally be retained in rural areas and greater New Zealand if the milk price does not have oversight.

ACCESS TO REGULATED MILK FOR SMALLER COMPANIES AND GOODMAN FEILDER

Small companies including Goodman Fielder also create inefficiencies. No other business would be required by law to subsidise its competitors either locally or internationally. Every dairy business in New Zealand has the ability to approach any dairy farmer and ask for their supply. DIRA guaranteed Goodman Fielder supply from Fonterra until they had secured their own. To my knowledge Goodman Fielder have made no attempt at all to secure any supply. Fonterra, I am sure has no desire to close small local businesses, but these businesses must be viable and should cover the cost of milk from Fonterra. Fonterra no longer has a monopoly, milk could be accessed from any number of milk processors. This access to Fonterra milk is now outdated.

DIRA REVIEW AND EXPIRY

An automatic expiry date will give all processors accessing DIRA milk the opportunity to negotiate supply from farmers or milk processors. Fonterra is now not the only milk supplier capable of supplying milk. If our dairy industry is to remain strong competing companies must have the financial ability to remain profitable without support from Fonterra. I can see no need for new processing companies to receive start up milk from Fonterra. All current obligations to supply milk need an expiry date.

Thank you for the opportunity to submit my views. If you require any further comments please feel free to contact me at the above.

s 9(2)(a)

s 9(2)(a)

From: s 9(2)(a)
Sent: Tuesday, 5 February 2019 11:11 PM
To: DIRA Project
Subject: Review submission s 9(2)(a)

My overview of the impact of DIRA in hindsight is of almost complete failure at the expense of Fonterras balance sheet and ultimately the coops suppliers. This assistance has been primarily milked by largely corporate business to their advantage. I am a firm believer that regulation to control business behaviour outside the normal regulations is manipulated by smarter business people.
Our industry is largely export, normal regulations protect the local market.
Fonterra is a Coop it will not or be allowed by its members to act like a Corp. in the local market.
The international dairy market is attractive enough to allow local or overseas business to invest in our pastoral based supply, which will also be mainly export aimed.
The industry has developed on the basis it is largely on the free market, DIRA has distorted it, smaller suppliers as start up can and should still be able to procure milk at market rates if they are smart. Local market producers like GFielder are no different and should not be treated any different, this is a market distortion.
I think the industry went along with DIRA just to get Fonterra formed and it has been a real nz success story.
I estimate from fonterras balance sheets that the lost opportunity income from milk supplied to competitors has cost our business s 9(2)(a) in lost revenue since DIRA was introduced. A very sore point, just to appease the politicians and regulators.
On the local market food and beverage has evolved and diversified competitively far outside the peanut influence of DIRA specially the last 20 yrs.
I think Fonterra to stay healthy and competitive locally and internationally must not have to accept all new supply if it is not going to return a healthy return on that supply..
I don't think DIRA has had any influence on environmental matters.
I think Fonterras milk pricing mechanism is open and transparent and has the confidence of suppliers, if not they will consider other processors if any.
Fonterra is not a Corp but a coop so is part of nz primarily, for nz and a stable part of the dairy industry here, most of the others will have a shorter nz life probably offshore funded and milked.
s 9(2)(a)
Sent from my iPad

Dira Submission

s 9(2)(a) [redacted]

Our names are s 9(2)(a) [redacted] we are Dairy farmers and Fonterra owners and suppliers farming in s 9(2)(a) [redacted]

We have been Fonterra owner/suppliers for 10 years now. Before dairy farming, we were sheep farming but after several years of poor returns for both sheep meat and wool we took the opportunity to convert to dairy and supply Fonterra.

Over our many years of sheep farming the fragmentation of both the sheep meat and wool processors lead to weak selling by competing New Zealand sellers in the international market place and destructive procurement battles for a diminishing number of lambs.

New Zealand sheep, beef and dairy are all 90% exported Our competition for milk and meat markets shouldn't be waged in New Zealand by New Zealand and foreign owned companies competing against each other. This just fragments marketing, research and development spend and can lead to New Zealand companies competing on price with our international customers.

Open Entry Requirements

It seems unfair that Fonterra is obligated under DIRA to pick up all milk from everyone while all other processors can decline suppliers they do not want.

The example of the recent conversion of Simons Pass in the McKenzie country is a good example Under DIRA Fonterra was obligated to pick milk up form this property regardless of potential reputational damage this may have had on the company.

The ability of other companies to "cherry pick" who it picks milk up from leaves Fonterra to pick up the more difficult dairy farmers weather that difficulty is due to their location, environmental record, quality of milk or attitude.

The fact that Fonterra must allow unhindered entry and exit means the rest of the Fonterra suppliers must carry the costs involved in this. People can leave knowing they can return at their whim regardless of their track record.

Of all the DIRA requirements this to us is the most burdensome. We therefore think the open entry requirement should cease as soon as possible

Access to Regulated Milk for Large Dairy Processors

This was no doubt put in place due to the large cost of entry involved in becoming a processor in the dairy industry to ensure competition will exist, so consumers are paying a competitive price for milk. In most cases the companies receiving regulated milk are sending their products off shore. The value they may be adding to the milk products is paid to the owners of these companies who are usually living away from New Zealand so that is where the money is spent.

Effectively Fonterra owners are subsidising competing companies by supplying regulated milk to these companies which is of no or very little benefit to New Zealand consumers and to the detriment of all New Zealanders because profits are sent, in the main, to offshore owners.

We therefore think the access to regulated milk for large dairy processors should cease as soon as possible

Base Price Milk Calculation

We strongly believe in a transparent milk price

Currently not all companies have a transparent milk price as the published prices from some companies is not the price all suppliers receive.

For the protection of all farmers a milk price calculation over seen by the commerce commission ensures all farmers have access to a transparent milk price

DIRA Review and Expiry Provisions

We understand the reason for DIRA and 17years after Fonterra was formed, we can now see some of the provisions bought on by DIRA have been successful in creating competition in the market place while some have effectively provided subsidies for off shore owned companies to send New Zealand produced milk offshore to compete with New Zealand produced milk.

The most successful primary producer companies in New Zealand work together to sell New Zealand produce off shore Zespri being a great example. Further fragmentation of the New Zealand Dairy Industry is not in the best interest not just of New Zealand Dairy Farmers but of New Zealand's economy as a whole. The difficulties and years of poor prices in the wool and sheep meat industries are testament to this.

In our view the timing of further reviews and expiry provisions will depend on what changes will and will not be implemented in this review.

Given that any increase in cow numbers is highly unlikely in the near future, current DIRA provisions that encourage fur her fragmentation of the New Zealand Dairy Industry is likely to see New Zealanders worse off both financially and environmentally.

s 9(2)(a) [redacted]

From: s 9(2)(a) [redacted]
Sent: Wednesday, 6 February 2019 11:12 AM
To: DIRA Project
Subject: DIRA review

MPI

Below are two areas that I which to comment on regarding the DIRA review.
1. Open enter and exit regulations
2.Supplying other processors fresh milk.

OPEN ENTRE AND EXIT
When DIRA was first regulated there were only 3 CO-OPs operating in New Zealand. Today as well as these same CO-OPS there are many private companies collecting farmer milk across New Zealand.Dairy farmers across New Zealand now have choices of who they can supply .
The main points I want to high light are 1. All milk processors except Fonterra have the choice weather or not to accept any new supplier.
2. Now that Dairy Farmers across New Zealand have a choice which dairy company they can supply Fonterra should not have to be regulated to take all new suppliers.
3. These other private companies that collect milk from there own supplier across New Zealand should now have to operate under the same economic conditions that Fonterra must operate under to make a level playing field.
The only way to make this happen is to remove OPEN ENTRE AND EXIT regulations within DIRA .

DIRA MILK TO OTHER PROCESSORS

The regulations regards milk supplied to other processors was reviewed and changed in the last review. I as a Fonterra Shareholder am comfortable with the presents regulations .

Regards
s 9(2)(a) [redacted]

Sent from my iPad

31st January 2019

s 9(2)(a) [redacted]

RE: Submission for the review of the Diary Industry Restructuring Act and its Impact on the Dairy Industry

Dear Sir/Madam

Having commenced my farming career as a young man with limited capital in 1956, I believe that we have to look on a much broader scale of how the Co-Operative Model, which now includes Fonterra has grown the industry to where it is today.

It has been innovative and has brought greater transparency to the industry through strong debate from the producers as it has grown to be New Zealand's number one Agricultural export earner. It has established the Global Dairy Trade Auction, which initially was strongly criticised by other companies, which now gives producers and the country and understanding of the trend in world prices. It has also established a milk price with a review every three months, which is a world first; giving producers the ability to budget more accurately which is so important in today's farming business.

I am not against competition, but I believe we have to be realistic as a small country that our competition is out in the wide world, competing against large companies, tariffs and duties in many of our trading nations.

The Act when it was introduced most like had good intentions, but it was not a level playing field. It did not require other companies to supply the local market. Fonterra was obliged to supply Goodman Fielder so much milk at cost with no ob igation on their part to innovate or source raw milk e.g. no free milk in schools from this company. Up until 2016, Fonterra was required to supply raw milk to other companies who had considerable investment from offshore investors. There was also an open entry policy, which put considerable strain on capital e.g. stainless steel rather than in investment in other business areas, while other companies could pick and choose their suppliers.

We have had considerable comment from outside our company on value add versus commodity products. I would suggest that what is now termed a commodity product today would have been termed a alue add product in previous years. There seems to be considerable tension from corporate companies and commentators regarding the milk price.

I would agree the Co-Operative structure is to return the maximum amount back to the shareholders and the producers, whereas the Corporate model is to maximize returns to the investor shareholders, which means in many cases monies going offshore, rather than being spent in provincial towns and cities.

I believe we have to look back in history, because when I commenced farming in the 1950's, wool and meat reigned supreme, whereas the dairy industry was many rungs down the ladder. There would not be many meat companies of that era operating today yet the Dairy Industry Co-Operative model has evolved and changed to be where it is today and is still New Zealand owned.

As I come to the end of my working life I am saddened to see so many companies built up by visionary New Zealanders, to then be taken over by offshore investors.

In conclusion I hope the people making the final decision on DIRA take on board what has been achieved over many decades and have the vision to back the Co-Operative model for our future prosperity.

Yours sincerely,

s 9(2)(a)
[redacted]

I wish to speak to my submission

DIRA Submission 6th February 2019

We are writing this submission to help you make the right decision for us and New Zealand on DIRA.

My family and I farm in South Canterbury. We are community minded people; we love our farms and the country.

I was very involved with the M Bovis response, and s 9(2)(a) [redacted] in which we worked with MPI to help support farmers, and MPI, to eradicate M Bovis from New Zealand. So we see working with MPI, and the Government of the day, as very important to the future of our country.

<u>OPEN ENTRY</u>
I believe time is up for Open Entry. It has sparked unrealistic growth at times with he wrong class of land being converted, reflecting on all of us as an industry!!!
eg: Dairy farms around Lake Ellesmere!!

I also think the coal fire boilers, like the one the Chinese have installed in 2015 at Oceana at Glenavy, should never have happened, Fonterra needs to work on this too

<u>FAIR EXIT</u>
Continuity of supply is important for the right culture in he Co operative. The contracts need to be set by the shareholders and the company, <u>not by the DIRA Act.</u>

<u>RAW MILK</u>
Our view is that this part of DIRA needs to go! It is detrimental to the New Zealand economy. Most milk profit that comes from Fonterra milk is returned to the local and National economies. Versus overseas manufacturers here, that take as much profit as they can back to their own countries, and this is very detrimental to New Zealand as a whole.

We are one of the only countries in the world that do not subsidise our famers, but you expect Fonterra Famers to support outsiders coming in, getting a leg up, to set up companies that are competing with us in the inte national market place!

<u>LOCAL RAW MILK</u>
There is plenty of competition in this market now!

Some work needs to be done around small manufacturers, i.e. tourism and local diary culture.

The question needs to be asked why the likes of Goodman Fielder have made no attempt to get their own milk suppliers. Maybe it should be left up to companies to sort out their own deals on milk supply, no need for the DIRA Act.

<u>EXPIRY OF DIRA</u>
I don't think there is much of a need for DIRA to exist in its present form.

I would like to know my submission has been received and to speak to my submission.

Yours Sincerely, s 9(2)(a) [redacted] s 9(2)(a) [redacted]

DIRA review team
Agriculture, Marine and Plant Policy
Policy and Trade Branch
Ministry for Primary Industries
PO Box 2526
Wellington 6140
New Zealand

s 9(2)(a) [redacted]

6 February 2019

Re: Review of the Dairy Industry Restructuring Act 2001

If anything in New Zealand requires a complete overhaul or review, it is the Dairy Industry.

I am a retired farmer/dairy farmer, spending a lot of time outside of New Zealand, from where you see things from a different perspective. While this is initiated as a DIRA review, we should look at it as reviewing all aspects of dairying – so much is interlinked. Much of my report is a general overview as I see it. Many opportunities for reviews have been missed in the past.

We need an industry that puts real money in farmers' pockets. No farmer bases their income on an effective hourly rate. We have an industry that is driven by an escalation of land prices, to a point where we have some of the highest prices in the world per hectare This has led to the aggregation of land, and the demise of the family farm. We are also seeing the contraction of the 50/50 sharemilking system, once the envy of all other dairy producing countries. It was once seen as the stepping stone to farm ownership, and the survival of the family farm. Farm owners are presently living from the increase of the value of the farm. We are heading towards corporate farming, and driving young farmers out of the industry.

We now have the situation where New Zealanders do not want to milk cows, as they see no future in it. Robots are not practical, nor how we want to see farming in New Zealand, with our "clean green" image.

Our dairy industry was born from colonial days, where we produced butter and cheese for the British market. The milk was processed through scores of processing factories. We had the unique situation of seasonal milking, which suited our climate at the time, however many new milk product demand fresh milk. Instead of major changes when Britain joined the E.U. we continued with the same systems, but applied our sales to other regions, primarily Asia.

Much of our production has moved to production of powder, mainly Whole Milk Powder (W.M.P.). Seasonal milking means we have three times the factories, and stainless steel than if production were spread out over 12 months. This also applies to transport and labour all targeting milk production for October 20th. We are continually driven to produce mainly W.M.P. which leaves us in the commodity market vulnerable to world market fluctuations. We compete against the surpluses of production of other regions which have a large domestic market, land based subsidies, and also in many cases have a lower cost of production. Our competitors in the marketplace sell a product surplus to domestic requirements, while we in New Zealand export over 95% of our production. New Zealand sells into low price markets, and the terms of trade are not good. This leaves our farmers doing more for less.

The 80 cow farm of the 1950's has grown to the 250-400 farm of today, with many growing to 1000-2000 cows – being beyond the family farm concept. In a matter of years we have gone from 3 million to 5 million cows. We have seen intensification, with farms going from 2.5 cows/hectare to 4 cows/hectare or even more. This has led to sustainability problems. Land has come from trees, sheep, and arable to dairy. Has this change of land use been good? The Canterbury region can produce so many different products marketable to our Asian neighbours. We are trying to sell and build markets to Asian countries where the majority are lactose intolerant. The rise of the vegan movement and the move away from animal sourced food cannot be ignored. Giving rise to the question is dairy farming right for New Zealand? Certainly not the intensification of dairy farming. Milk production from sheep and goats offer many options. We need to look at what is best for New Zealand, with what we can produce from the land in a sustainable way.

The time has come to restructure and get away from colonial mentality, and build for the future taking into account global warming, producing value added products, selling into premium markets. The dairy industry is falling into the trap that the rest of the nation has done, namely buying high value added products and selling low value product through the commodity markets. What role has Fonterra played in the present situation? Fonterra has been sending the wrong messages: "you produce it, we will sell it." The company was formed with the historic dinosaurs of the past. Very little value added product has been created. Just building up manufacturing capacity and commodity sales into low priced markets.

Through DIRA milk, many other companies have started up. Apart from releasing the value of the Fonterra shares, they also have not delivered real money to farmer's pockets and bank accounts. As long as they are perceived to have given a similar return as Fonterra, they are accepted, when in reality it more of the same. They are riding on the coattails of Fonterra's poor performance and inefficiencies.

We have seen many conversions and increases in milk production, as well as the escalation of land prices, which cannot be sustained at present monetary return for milk solids. Land is too expensive, but with competition from overseas banks, they keep lending, so we have a situation where the cost of the land and the servicing of the debt is the largest component of the industry cost structure. In a true business sense our dairy farmers are living on the capital gains on the land, which is not sustainable. Over time land costs need to be driven down, at least to levels of our competitors in the market place. Profitability needs to be established. There is a good case for capital gains tax, as a means of steaming rampant increase of land values. Profit margins should be more important than capital gains. Often changes are only possible with financial inducements. Perhaps there is a need to take a step backward before we take a step forwards, given that bigger is not always better. The present direction is not sustainable in more ways than merely environmental. Change could be induced, to limit herd size, environmental impact and intensification through legislation.

Fonterra has not delivered. By way of performance the dairy industry has increased production, but in all other ways failed. The increased production has only put us deeper into the commodity hole, instead of working from the base of 3 million cows and improving the value added part of the industry.

Most reg ons in New Zealand have a choice for a milk processing company, therefore do not need DIRA. However where Fonterra is still the dominant company DIRA could still be kept in place.

At present DIRA is encouraging growth, which many would say is in the wrong direction, at the detriment to the industry. DIRA has left Fonterra competing for market share of new milk. New milk in many regions has created new environmental problems, with higher cost and intensification. There is a new set of environmental problems not visible in the regime of 2.5 cows/hectare. The encouragement to process new milk was largely brought about by Fonterra trying to maintain market share. Many regions with dairy and intensive dairy should never have been converted.

Fortunately the new entrant processors have come in with sharper pencils, and have promoted more efficiencies, being answerable to their shareholders. Most Fonterra shareholders believe their cooperative can do no wrong.

Obviously the base milk price calculation needs to be more transparent. This is largely controlled by Fonterra, as well as being regularly audited. While we may say that Fonterra support competition, there is still a long way to go to provide low cost milk products to our local market. Perhaps other aspects of the food chain, such as supermarkets, should be put under scrutiny at the same time.

I believe there is need for continuation of DIRA, revised on specific points that are not working well at present. Additionally new milk production should be discouraged. The industry needs to stabilise and concentrate on better net return to the milk suppliers. There are probably enough new milk processors that have started up since the formation of Fonterra to provide fair competition, but DIRA milk should still be made available in regions and circumstances where a continuing monopoly is proven. For some time to come Fonterra and it's suppliers will remain the dominant players. Much change will be needed in the governance of the company. The ultimate control is always with the farmers in a cooperative.

This review has to find a way to see profitability, and real money, to the pockets and families of our farmers.

It is an industry where costs have grown out of proportion, high in debt, where many are just working for the banks, with their huge profits going off shore.

Yours fai hfully

9(2)(a)

We are s 9(2)(a) [redacted] who are owner/operators and we are writing a submission as Fonterra Dairy Farmers. We live in Canterbury and these are our main view points on DIRA.

Milk Price calculation.

We believe this should not be changed, nor-should the commerce commission be given any control in the way we are paid for our milk. At present it is working very well, yet our competition does not show a fair and transparent payment to their average farmer.

Assess to regulated milk to Goodman Fielder.

Unlike the rest of the world our Dairy industry is subsidy free, yet Fonterra Farmers are subsidising the New Zealand consumer by providing milk at cost through Goodman Fielder. In the past I have supported this, but now we can`t even buy Fonterra milk in our supermarket. It is the duopoly of supermarkets that control the domestic milk market. It is disappointing for us considering we supply free milk to all New Zealand Primary schools. So, we do not support this regulated milk to Goodman Fielder.

Assess to regulated milk to Large Dairy Processors.

We strongly believe there is a declining trend of milk supply with so much public and environmental pressure in New Zealand now. Yet under DIRA we are subsidising foreign owned Dairy Companies (Often foreign Government backed) with guaranteed milk as they establish suppliers taken from Fonterra and leaving Fonterra with inefficient processing plants. Eroding our equity even further. In turn this subsidised DIRA milk is competing with Fonterra's products in the international market place. Of no benefit to New Zealand.

Open Entry Requirements.

We strongly disagree that Fonterra should have to pick up all milk under DIRA. As it is at a detriment to Fonterra Farmers to travel long distances when no other processor has too. This leaves us very exposed whilst other companies cheery pick milk supply within a short radius to their factory. They can naturally pay more for that milk to get supplies and still make a profit to take offshore.

Also, we are required to pick up milk in environmentally sensitive areas which is damaging to Fonterra`s reputation and doesn`t do our New Zealand's Dairy industry any good.

DIRA review and Expiry Provisions.

We understand DIRA was setup for the domestic market, yet all new processors taking DIRA milk have setup in competition with Fonterra internationally. Even Westland and Tatua used this milk to compete with us internationally. Therefore, we believe DIRA has no place anymore.

Thankyou for reading our Submission.

Regards

s 9(2)(a) [redacted]

s 9(2)(a) [redacted]

From: s 9(2)(a) [redacted]
Sent: Thursday, 7 February 2019 11:02 AM
To: DIRA Project
Subject: FW: DIRA SUBMISSION

Good Morning,

I am forwarding on a submission from a farmer that is unsure whether their email was received by MPI or not.

Regards

s 9(2)(a) [redacted]

From: s 9(2)(a) [redacted]
Sent: Thursday, 7 February 2019 1:07 a.m.
To: s 9(2)(a) [redacted]
Subject: DIRA SUBMISSION

DIRA SUBMISSION 6th February 2019 from s 9(2)(a) [redacted]

s 9(2)(a) [redacted]

I have been in Dairy all my working life and through seven Dairy Company amalgamations.

1. Fonterra should not be forced to "open entry" as some farms in undesirable regions are best in other land use. Dairy farms in out-lying regions presently in Dairy are secure while in a co-operative.

2. Access to regulated milk by any Processor is not now necessary as there are increasing numbers of opposition Companies to Fonterra that get regulated milk and also export to China in competition to Fonterra. Fonterra now only manufactures approximately 81% of NZ total milk supply.

3. Milk supply to these Companies is acceptable by Contract or Market Price. The Base milk calculation is important to NZ Dairy Farmers and does not need any change.

4. Regulated milk to Goodman Fielder is a complete NONSENSE. Yes, they can only purchase milk by Contract or Market Price. I was in China June 2018 inspecting the supermarkets etc where NZ sells Dairy Products and was disgusted and surprised that most opposition Dairy Companies to Fonterra from NZ

including Goodman Fielder, have products on Supermarket shelves in China. We know that Westland and Tatua are genuine NZ owned Companies but, all the other Companies are Hijacking the DIRA PRINCIPALS. All these NZ Companies combined are exporting approximately 30% of the volume Fonterra exports to China (from memory).

5. Very timely for DIRA review and its time now for these provisions to expire.

Thanks for the opportunity.

s 9(2)(a) [redacted]

We own s 9(2)(a) a multi farm company who employs a mixture of lower order Share milkers and Farm Managers to run our properties. Although we are a scale business, we adhere to co-operative ethos in all our business dealings.

My parents were one of the pioneering dairy farmers on the Waitaki Plains shifting there in 1975. As the Waitaki area grew in dairying so did our business and I came into the enterprise in 1993. Through the avenue of share milking as a second generation I was able to join my parents as third owners of our dairy business. We have always believed through co-op principles it is important to be involved as leaders of our community through School Board of Trustees, Bus, Pool and Hall trusts, Irrigation Companies, District Councils and Environmental Zone committees. We are passionate Fon erra suppliers and are the very grass roots family that 20 years ago when Fonterra was formed Dira set out to protect. Times have changed a lot since that time, that is why we are putting in this submiss on as we have in every Dira review in the past.

1-Open entry

Twenty years ago, at the formation of Dira Fonterra processed 96% of NZ milk and open entry fueled huge growth in milk flows as large tracts of land were converted from sheep and beef to dairy, some of this land was environmentally marginal. Fonterra had to both accept nearly all converted milk and thus have excess capacity on hand to process it whether it was economic or not to do so. This capacity was funded by shareholding in Fonterra shares held by the farmer This debt is still sitting on most Fonterra farmers balance sheets. We believe it is extremely unfair that other dairy farmers can leave Fonterra and expect us to hold spare capacity for them to return when and if it suits them. We have no objection if they do come back to Fonterra, but they should not have it of right. If the tourism industry was governed under the same set of rules it would mean they should have one bed for every tourist that stays in NZ this is simply unrealistic

Since then the rise of the independent m lk processor in the South Island has seen 96% processed by Fonterra drop in the South Island to 70% in Canterbury and 76% in Southland. This is a complex issue as alongside dairy growth new environmental regulation has embedded itself in all regional land and water plans. These LLRWP have been developed between regional councils and local communities in a consultation process. The fact that Fonterra has to pick up new milk for example from the protected McKenzie country shows how out of date open entry is. As a Dairy farmer we are under massive public scrutiny and any conve sion in sensitive catchments affects us, as the media hype is extremely negative towards this and no one understands that it is legislation that requires us to pick up this milk.

2-Raw milk regulation

We hav put in many submissions in the past regarding Dira milk being supplied to Independents as a right while they set up their own farmer supply. Oceania Dairy is an independent on our boundary we would watch tankers go out of our drive carrying milk we had to purchase Fonterra shares to supply and deliver it to Oceania. We as Fonterra suppliers had no ability to get any value add on that milk or a return on our investment in that share. As shareholders in Fonterra we feel we are the only company in the world who through Dira milk actually subside our milk manufacturing opposition. What was even more disappointing with this Dira legislation it allowed this very milk to be sent with a made in New Zealand made label and sitting on Chinese super market shelves competing against our product and they are not encumbered by export tariffs as Fonterra product is. The very reason that Fonterra was formed and Dira created was to give New Zealand dairy farmers access to large scale overseas dairy markets where all parts of the integrated supply chain flowed money back to the New Zealand economy and this filters down to our rural communities, we live in. The independent processors are further processing their product off shore where the profits from this process stays. This is a loss to New Zealand's economy.

3- Raw Milk Regulation for Domestic supply

Goodman-Fielders 20-year domestic supply contract for 250million litres of milk annually was a fair way to guarantee milk supply to New Zealand households. This contract is now up for review. In our yes 20 years which is deemed to be a generation then this market should have developed its wn s pply base. Given that now Goodman Fielder is not actually owned by a New Zealand owned entity this legislation is well out of date. This milk should be bought by the domestic supplier at commerci l rates or they can develop their own supply of farmers or other milk processors e.g. Synlait who has entered this market under the Pams brand. We see the milk supplied to White Stone Cheese and Talbot forest in our local area as complimentary to the whole New Zealand dairy industry and we would support continued protection for these boutique companies.

4-Milk Price

In our opinion as dairy farmers the milk price manual is the key protection for our own incomes and that of all New Zealand dairy farmers. Export milk markets are known to be some of the most volatile of all commodity markets worldwide. We believe that Fonterra's input into this milk calculation process alongside the Commerce Commission overs ght i vital to all dairy farmers.so they can't be treated differently to other farmer suppliers Our export markets are extremely complex, and we would be extremely unhappy to see the commerce commission run the milk price manual in its own capacity. We also believe as the independen processors often publically state that the milk price is to high the most open and transparent way to arriv at a milk price is for all independent processors to go through the same milk price manual process.

Summary

As N w Zealand is mainly an exporting nation as a dairy industry, we need to decide alongside the government do we want a strong export industry, or we want a fluid competitive market for domestic milk in New Zealand. The more we discuss this the more the legislation seems confused and doesn't meet either outcome. Simply put 100 years plus of dairy in New Zealand came together when Fonterra was formed to give scale to our dairy export markets. Dira was provided as the conduit to protect the dairy farmer not be the tool that destroys the critical mass and with it the whole New Zealand ownership of our industry

Submission

<u>Submitter</u>: s 9(2)(a)

1. Fonterra should continue to be obliged to take any dairy farm presently supplying.

2. Fonterra should not be obligated to provide regulated milk to large processors or new processor.

3. Fonterra has the choice to accept or decline applications from new and existing farmers.

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

s 9(2)(a) [redacted]

DIRA Review Team

6 February 2019

Re: Review of the Dairy Industry Restructuring Act 2001 and its impact on the dairy industry (MPI discussion document Paper No:2018/13)

Thank you for the opportunity to submit on the above documents.

<u>DIRA Open Entry Requirements: These requirements should be repealed or adjusted</u>

Open entry has allowed other milk processors to get a hand up with starting out in the m lk industry in New Zealand over the past 17 years. The time now is for all processors to be playing on a level playing field.

As a Fonterra Shareholder we are essentially providing an insurance policy to those that choose to supply companies other than Fonterra with the knowledge if it doesn't work out there then they will always be taken on by Fonterra. This happened in the case of the Russian owned NZ Dairies. This has the unintended consequence of watering down the strength of the o-operative where all owners of the co-operative benefit.

As a suggestion, look at the entry /exit provisions on a regional basis. If competition exists in a region then open entry does not apply, this means everyone is clear when they are making decisions that if there is already competition then they are not guaranteed to be able to supply Fonterra.

<u>Access to regulated milk for large dairy pr cessors (except Goodman Fielder)</u>

Any processor that is planning on expo ting and or has overseas ownership should not have access to regulated milk.

Processors that are for domestic supply should still be able to have access to encourage competition on the supermarket shelf.

<u>Milk Price</u>

The stat s quo should remain. This method has enabled a lift in the NZ milk price to now be aligned with what s paid in the US and EU.

The milk price manual is a transparent way of calculating the milk price for Fonterra suppliers/shareholders.

It would be useful to also ensure that the other milk processors have a requirement to be transparent with the milk process that they pay their suppliers.

Dominance

Yes Fonterra has the majority market share of farm gate milk collection in New Zealand. If the concern is the domestic milk supply then the supermarkets are most likely to be the ones that control the milk price domestically.

Dominance in the NZ market should not be seen as the suppression of the farm gate milk price, nor should it be seen as not encouraging innovation. As a Fonterra shareholder my milk is exported to the world stage and as such has to compete on the world stage, this means we need to be paid a price reflective of the global milk price. Innovation is key to ensuring that our products compete on the world stage.

Fonterra has a robust way of calculating the farm gate milk price and as a co-operative they are tasked with maximising the returns to it's shareholders, unlike other non co-operative New Zealand based milk processors who will only pay the least amount for the milk supplied by famer.

Goodman Fielder Regulated Milk

If the purpose of this was to ensure New Zealanders were able to have choice over their milk purchases then it is unclear as to the success of this provision. Both supermarket chains offer "house brands" which appear not to rely on this provision in the DIRA.

This regulation should be removed.

Into the future..

Other processors have had the luxury of being able to slowly ease into setting up their own supply. It would appear now that there is plenty of competition for farm gate milk in most of the major dairy farming areas. What is unclear is does this drive innovation and milk price. Fonterra has to compete on the world market which ensures innovation to remain competitive.

Cost of DIRA to Fonterra

Fonterra as a good corporate citizen provides resources over and above that is required, there does seem to be an expectation on it to do this. What are the other dairy processors contributing? You could argue that this is not necessarily a cost to Fonterra but that Fonterra farmers are paying twice through their Dairy NZ levy and the contribution that Fonterra makes.

Fonterra should be able to operate in the most efficient manner, having to keep additional capacity for those that choose to leave and return to the Co-operative means that there is an unfair playing field. Other Companies can choose who to accept supply from to ensure they operate the most efficient way; this should be the same for Fonterra.

Yours Sincerely

s 9(2)(a)

Fonterra Shareholder
Central Southland

Submission form - Review of the Dairy Industry Restructuring Act 2001 and its impact on the dairy industry

The Government is reviewing the Dairy Industry Restructuring Act 2001 (DIRA) and its impact on the dairy industry. The review is currently at the public consultation stage.

We are seeking your inputon the issues, options and questions as set out in the DIRA discussion document.

This form contains all the questions that appear in the online submission form at https://www.research.net/r/DIRA. These are identical to those in the discussion document. You can use this document to familiarise yourself with the questions in the form before making your submission.

If you have trouble using the form, you can email your submission to DIRA@mpi.govt nz.

You will need to read the discussion document before considering your responses to the questions set out in this form.

Your responses are due by 5pm on Friday 8 February 2019, and will help inform the recommendations that the Government will consider later in 2019.

You will be asked to select the sectionson which you would like to submit, and you may submit on as many or few areas as you like. All questions a e optional.

Chapter 2: Performance of the dairy industry

Section 2.1 2001 structural reform to enable the industry to drive strategic change

Please refer to [Section 2.1] of the discussion document.

(1) Do you agree with our description of the DIRA regulatory regime and its original policy rationale? Do you consider the original policy rationale is still valid?

NO

Section 2.2 Industry performance since the restructure

Please refer to [Section 2.2] of the discussion document.

(2) Are there any other dairy industry developments or industry performance indicators that are not captured in the discussion document or its supplementary material? Please provide details and supporting evidence.

Chapter 3: The effects of the DIRA and other factors on industry performance

Section 3.1: Has the DIRA been effective at managing Fonterra's dominance in the market for farmers' milk, and is it still needed?

Please refer to [Section 3.1] of the discussion document.

(3) Do you consider the DIRA has been effective at achieving its core regulatory objective of preventing Fonterra from using its dominance to create barriers to farmers' milk and land flowing to their highest value uses? If not, please provide reasons and supporting information/evidence.

NO OTHER COMPANIES HAVE DONE LITTLE TO DEVELOP DIFFERENT PRODUCTS

(4) Do you think Fonterra is still dominant in the market for farmers' milk, at the national and regional levels?

YES BY DEFAULT._ OTHER OUTFITS EXPAND AT A LEVEL THAT SUITS THEM

(5) Do you think the DIRA imposes unreasonable costs on Fonterra? If so, please provide supporting information/evidence.

IT DOES OTHERS CHERRY PIK SUPPLIERS THAT SUITE THEM

(6) Are there ways for the costs imposed on Fonterra to be mitigated without impacting on the effectiveness of the DIRA regulatory regime? If so, please provide supporting information.

(7) Are there any other regulatory tools that, in your opinion, would be more effective than the current DIRA provisions at managing Fonterra's dominance? If so, please provide examples and supporting information/evidence.

(8) Are there other factors you consider need to be taken into account when considering the effectiveness of the DIRA regime and whether it is still needed?

Section 3.2: Does the DIRA encourage industry growth?

Please refer to [Section 3.2] of the discussion document.

(9) Do you agree with our preliminary assessment of the extent to which the DIRA encourages industry growth? If not, please provide reasons and supporting information/evidence.

I AGREE

Section 3.3: Does the DIRA influence Fonterra's strategy?

Please refer to [Section 3.3] of the discussion document.

(10) Do you agree with our preliminary assessment of the extent to which Fonterra can influence milk supply volumes through price, notwithstanding the DIRA open entry requirements?

YES

(11) Are there other factors that you consider should be taken into account? Please provide detailed comment in support of your views.

(12) Do you consider that the DIRA provisions governing Fonterra's base milk price calculation and Commerce Commission monitoring may be preventing or disincentivising Fonterra from deviating from the base milk price calculation for strategic or commercial reasons?

(13) If the DIRA is not driving Fonterra's business and investment strategy, what is? Please provide detailed comment in support of your views.

Section 3.4: Does the DIRA impact on the industry's environmental performance?

Please refer to [Section 3.4] of the discussion document.

(14) Do you agree with our preliminary analysis of the DIRA's impact on the industry's environmental performance? If not, please provide your reasons and supporting evidence.

(15) Do you agree with our view that environmental issues are best dealt with through the Resource Management Act and not the DIRA regime?

I AGREE

(16) Are there other environmental issues that you consider should be addressed either through the DIRA review or some other means?

Section 3.5: Does the DIRA incentivise inefficient entry by large dairy processors?

Please refer to [Section 3.5] of the discussion document.

(17) Do you agree with our preliminary analysis of the impact the DIRA has on new processor entry? If not, please provide your reasons and information/evidence in support of your views.

(18) Do you consider that large dairy processors should continue to be eligible to purchase regulated milk from Fonterra under the Raw Milk Regulations or not? Please provide detailed comment in support of your views.

NO BECAUSE THE INDUSTRY AS A WHOLE WILL END UP WITH A LOT OF STRANDED ASSETS

Section 3.6: Does the DIRA promote sufficient confidence in the base milk price calculation?

Please refer to [Section 3.6] of the discussion document.

(19) Do you consider that greater confidence in the base milk price calculation outcomes could be achieved if additional legislative guidance on the term "practically feasible" were to be provided for in the DIRA? Please provide detailed comment in support of your views.

YES IT IS PARAMOUNT THAT FARMERS UNDERSTAND THE TRUE PRICE THE RAW MILK EARNS SEPERATE FROM INVESTMENT INCOME

(20) Do you consider that the base milk price should be set by an independent body (e.g., the Commerce Commission)? If so, please provide supporting information.

YES BECAUSE FONTERRA SPOKESMEN HAVE ADMITTED AT MEETINGS THAT UP TO 60 CENTS HAVE BEEN SHIFTED INTO MILK PRICE !!! WE WANT THE COMMERCE COMMISION /MPI TO REGULATE THE MILK PRICE

Section 3.7: Does the DIRA support competition in New Zealand consumer dairy markets?

Please refer to [Section 3.7] of the discussion document.

(21) Do you agree with our preliminary analysis of the DIRA impact on the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

(22) Are there any other factors that should be taken into account regarding the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

Chapter 4: Options for change

Section 4.1: DIRA open entry requirements

Please refer to [Section 4.1] of the discussion document.

(23) Are there any other options for the DIRA open entry requirements that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

FONTERRA SHOULD NOT HAVE THE RIGHT TO DECLINE SUPPLY ON THERE JUDGEMENT OF ENVIROMENT STANDARDS (THEY ALREADY HAVE OVERSTAFFED THEMSELVES
ON THIS MATTER AN BOUGHT ODIUM ON THE COMPANY TO BOOT

(24) What costs and benefits would each of the options for the DIRA open entry requirements create for your business? Please provide quantitative information if possible.

(25) How well do you think each of the options for the DIRA open entry requirements would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(26) What is your preferred option for the DIRA open entry requirements? Please provide your reasons and information/evidence in support of your views.

FONTERRA SHOUD BE A CLOSED CO OP/COMPANY IE .HAVE THE RIGHT TO DECLINE ADDITIONAL MILK ON ECONOMIC GROUNDS (REFER "THE LOADED BUS THEORY:

Section 4.2: Access to regulated milk for large dairy processors (except Goodman Fielder)

Please refer to [Section 4.2] of the discussion document.

(27) Are there any other options for access to regulated milk for large dairy processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(28) Do you consider that the proposed 30 million litres threshold is too high or too low? If so, what would you consider the right threshold to be, and why?

(29) What costs and benefits would each of the options for access to regulated milk for large dairy processors create for your business? Please provide quantitative information if possible.

(30) How well do you think each of the options for access to regulated milk for large dairy processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(31) Do you have a preferred option for access to regulated milk for large dairy processors? Please provide your reasons and information/evidence in support of your views.

Section 4.3: Options for the base milk price calculation

Please refer to [Section 4.3] of the discussion document.

(32) Are there any other options for the base milk price calculation that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(33) What costs and benefits would each of the options for the base milk price calculation create for your business? Please provide quantitative information if possible.

(34) How well do you think each of the options for the base milk price calculation would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(35) Do have a preferred option for the base milk price calculation? Please provide your reasons and information/ev dence in support of your views.

A RETURN ON CAPITAL + INVESTMENT INCOME THE BALANCE BEING MILK PRICE SEEMS TO MAKE SENSE

Section 4.4: Options for access to regulated milk for Goodman Fielder and smaller processors

Please refer to [Section 4.4] of the discussion document.

(36) Are there any other options for access to regulated milk for Goodman Fielder and smaller processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(37) What costs and benefits would each of the options for access to regulated milk for Goodman Fielder and smaller processors create for your business? Please provide quantitative information if possible.

(38) How well do you think each of the options for access to regulated milk for Goodman Fielder and smaller processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(39) Do you have a preferred option, or a combination of options, for access to regulated milk for Goodman Fielder and smaller processors? Please provide your reasons and information/evidence in support of your views.

Section 4.5: Options for the DIRA review and expiry provisions

Please refer to [Section 4.5] of the discussion document.

(40) How best do you consider "market dominance" could be measured? For example, are there certain criteria (other than a market share threshold) that could be provided for in legislation as a trigger for review and/or expiry of the DIRA?

THERE HAS BEEN A LARGE DRIFT TO OTHER PROCESSORS ALREADY TIME TO AMMEND

(41) Are there any other options for the DIRA review and expiry provisions hat you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

IT IS CRUCIALTHAT FONTERRAS TRANSFERING OF INVESTMENT INCOME TO MILK PRICE BE STOPPED !!!!! IT IS ALLOWING THE COMPANY TO DISGUIES GROSS UN DER PERFORMANCE OF COMPANY (IT OPERATES BY THE DICTUM OF RUN BY THE STAFF FOR THE BENEFIT OF STAFF

(42) What costs and benefits would each of the options for the DIRA review and expiry provisions create for your business? Please provide quantitative information if possible.

THE BENEFITS FOR MY BUSINESS ARE THE PRESSEVATION OF OF SHARE VALUE

(43) How well do you think each of the options for the DIRA review and expiry provisions would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(44) Do you have a preferred option, or a combination of options, for the DIRA review and expiry provisions? Please provide your reasons and information/evidence in support of your views.

Submission form - Review of the Dairy Industry Restructuring Act 2001 and its impact on the dairy industry

The Government is reviewing the Dairy Industry Restructuring Act 2001 (DIRA) and its impact on the dairy industry. The review is currently at the public consultation stage.

We are seeking your input on the issues, options and questions as set out in the DIRA discussion document.

This form contains all the questions that appear in the online submission form at https://www.research.net/r/DIRA. These are identical to those in the discussion document. You can use this document to familiarise yourself with the questions in the form before making your submission.

If you have trouble using the form, you can email your submission to DIRA@mpi.govt nz.

You will need to read the discussion document before considering your responses to the questions set out in this form.

Your responses are due by 5pm on Friday 8 February 2019, and will help inform the recommendations that the Government will consider later in 2019.

You will be asked to select the sections on which you would like to submit, and you may submit on as many or few areas as you like. All questions a e optional.

Chapter 2: Performance of the dairy industry

Section 2.1 2001 structural reform to enable the industry to drive strategic change

Please refer to [Section 2.1] of the discussion document.

(1) Do you agree with our description of the DIRA regulatory regime and its original policy rationale? Do you consider the original policy rationale is still valid?

I do not believe that the original policy rational is still valid. There is now plenty of competition in all the major dairying regions of New Zealand and farmers have plenty of choice as to who they should supply. Furthermore, lots more processing plants are being built by foreign processors proving that there is plenty of competition in the marketplace

Section 2.2 Industry performance since the restructure

Please refer to [Section 2.2] of the discussion document.

(2) Are there any other dairy industry developments or industry performance indicators that are not captured in the discussion document or its supplementary material? Please provide details and supporting evidence.

To my mind the big point that the so called performance indicators ignore is that it ignores the fact that most farmers want to see a strong farmer owned co-operative returning all of the offshore upstream profits to the farmers and the NZ economy. To achieve this New Zealand needs a very robust NZ farmer owned company with global scale to enable it to take on the likes of Nestle & Danone, and that is why Fonterra was formed. The DIRA discussion says that breaking up the industry is good, and ignores the fact that NZ wants a farmer owned Co-operative with global scale.

The alternative is that the farmers just get paid for their milk, and all of the additional upstream profits from processing and offshore selling go to overseas owned companies and farmers become paupers on their land.

I have a lot of business contact with the Canadian Grain Industry, and the deregulation of that industry has failed to deliver any tangible gains to either the farmers or Canada, and in fact the exact reverse has happenned. Now all of the processing plants are owned by massive foreign companies who pay a pittance for the grain in Canada, and then do virtually all of the upstream processing and profit extraction offshore, with none of that being returned to either the farmers or Canada. The logic that the Canadian Government used when it broke up the farmer-controlled boards was that competition would be good for the farmers and Canada. Exactly the opposite has happened, and now they have an industry owned by offshore global companies, and there is no way of reversing that. We do not want to see the NZ dairy industry go the same way.

Chapter 3: The effects of the DIRA and other factors on industry performance

Section 3.1: Has the DIRA been effective at managing Fonterra's dominance in the market for farmers' milk, and is it still needed?

Please refer to [Section 3.1] of the discussion document.

(3) Do you consider the DIRA has been effective at achieving its core regulatory objective of preventing Fonterra from using its dominance to create barriers to farmers' milk and land flowing to their highest value uses? If not, please provide reasons and supporting information/evidence.

That might have applied at the start when Fonterra was formed, but it certainly does not apply now that these is heaps of competition.

(4) Do you think Fonterra is still dominant in the market for farmers' milk, at the national and regional levels?

No. Fonterra might have the biggest market share (by farmer's choice), but there is nothing preventing farmers sending their milk wherever they want

(5) Do you think the DIRA imposes unreasonable costs on Fonterra? If so, please provide supporting information/evidence.

Yes. I do not agree with the discussion document at all.
Fonterra is forced to pay huge transport costs and pick up the milk from all of the uneconomic outlying areas, whereas the competition can cherry pick their supply area and just get the milk close to their factory, putting the opposition at a massive advantage.
In addition, Fonterra has to keep old inefficient legacy plants in place at high cost just in case suppliers want to return to Fonterra. Whilst this may not have been a problem in the past whilst growth was happening, supply has now levelled out and circumstances have changed. Fonterra should be allowed to slim itself down and not have to keep capacity just in case farmers wish to return.
The requirement to supply opposition at cost has meant that Fonterra has had to sell milk to the opposition without being able recover any of its overheads and research costs from that milk. This requirement has in effect been a massive subsidy to the opposition.

(6) Are there ways for the costs imposed on Fonterra to be mitigated without impacting on the effectiveness of the DIRA regulatory regime? If so, please provide supporting information.

Eliminate the need for Fonterra to pick up new milk from remote areas, eliminate the right for farmers to return to Fonterra whenever they wish, and eliminate the need for Fonterra to supply the opposition at cost.

(7) Are there any other regulatory tools that, in your opinion, would be more effective than the current DIRA provisions at managing Fonterra's dominance? If so, please provide examples and supporting information/evidence.

The time for DIRA has passed. Scrap it altogether.

(8) Are there other factors you consider need to be taken into account when considering the effectiveness of the DIRA regime and whether it is still needed?

I do not believe DIRA is needed any more. It's time has passed, it has done it's job for which it was created, and it should be scrapped.

Section 3.2: Does the DIRA encourage industry growth?

Please refer to [Section 3.2] of the discussion document.

(9) Do you agree with our preliminary assessment of the extent to which the DIRA encourages industry growth? If not, please provide reasons and supporting information/evidence.

DIRA may have promoted industry growth when Fonterra was formed. However, that was a long time ago and there is now plenty of diversity and competition, and there is no longer the need for DIRA.

Section 3.3: Does the DIRA influence Fonterra's strategy?

Please refer to [Section 3.3] of the discussion document.

(10) Do you agree with our preliminary assessment of the extent to which Fonterra can influence milk supply volumes through price, notwithstanding the DIRA open entry requirements?

The farmers demand the best price for their milk themselves and that alone prevents any manipulation.

(11) Are there other factors that you consider should be taken into account? Please provide detailed comment in support of your views.

(12) Do you consider that the DIRA provisions governing Fonterra's base milk price calculation and Commerce Commission monitoring may be preventing or disincentivising Fonterra from deviating from the base milk price calculation for strategic or commercial reasons?

No

(13) If the DIRA is not driving Fonterra's business and investment strategy, what is? Please provide detailed comment in support of your views.

The need to keep old inefficient legacy plants (which involves high overheads) just in case farmers wish to return. It is a risk the farmer chooses to take to leave Fonterra, & Fonterra should not be required to incur the cost of keeping processing capacity just in case he wishes to return.

Section 3.4: Does the DIRA impact on the industry's environmental performance?

Please refer to [Section 3.4] of the discussion document.

(14) Do you agree with our preliminary analysis of the DIRA's impact on the industry's environmental performance? If not, please provide your reasons and supporting evidence.

No. By forcing Fonterra to accept all supply offered, it has been forced to accept supply from remote environmentally sensitive areas like the McKenzie basin. If Fonterra had not been forced to accept the supply, many of these areas would not have been converted to dairying, which, in my view, would have been a good thing. Many of these areas are very uneconomic to Fonterra, and dairying is bad for the environment.

(15) Do you agree with our view that environmental issues are best dealt with through the Resource Management Act and not the DIRA regime?

Yes

(16) Are there other environmental issues that you consider should be addressed either through the DIRA review or some other means?

Most environmental issues are being widely discussed, and should be kept well away from DIRA. Some of the worst performers environmentally have been new players like Synlait (who have converted very poor stony land to dairying and caused huge build ups of nitrates) and in effect DIRA has done nothing about this.

Section 3.5: Does the DIRA incentivise inefficient entry by large dairy processors?

Please refer to [Section 3.5] of the discussion document.

(17) Do you agree with our preliminary analysis of the impact the DIRA has on new processor entry? If not, please provide your reasons and information/evidence in support of your views.

The discussion document misses the point that NZ wants to have a large processor with global scale. Why on earth should we be forcing NZ farmers to supply milk to foreign owned competition who undermine Fonterra in foreign markets, and in the process reduce Fonterra's ability to have scale through it's own plants. In my view, your analysis is totally wrong in that it sees competition as the aim rather than the huge benefits that come from having an NZ farmer owned processor and marketer with global scale

(18) Do you consider that large dairy processors should continue to be eligible to purchase regulated milk from Fonterra under the Raw Milk Regulations or not? Please provide detailed comment in support of your views

No, absolutely not. All of the new players in the industry are backed by massive foreign corporations who are able to stand on their own feet. They have the financial resources to go out and attract their own supply, and do not need an easy entry path. By supplying them milk at cost Fonterra is subsidising the new supplier. If Fonterra had been able to keep that milk it would have been able to make a margin from the offshore marketing plus cover Fonterra's own overheads. The need for this requirement has now long passed. If any milk is to be supplied, it should exactly follow Fonterra's own supply curve for that region. I am aware that a lot of milk has been supplied to other processors at the shoulders of the season, thus denying Fonterra the ability to process this milk into high value products. Failure to follow the milk supply curve is in effect a massive subsidy to the recipient.

Section 3.6: Does the DIRA promote sufficient confidence in the base milk price calculation?

Please refer to [Section 3.6] of the discussion document.

(19) Do you consider that greater confidence in the base milk price calculation outcomes could be achieved if additional legislative guidance on the term "practically feasible" were to be provided for in the DIRA? Please provide detailed comment in support of your views.

I have confidence in the milk price as it is.

(20) Do you consider that the base milk price should be set by an independent body (e.g., the Commerce Commission)? If so, please provide supporting information.

No, Farming is a dynamic business and government departments would not react anywhere near fast enough.

Section 3.7: Does the DIRA support competition in New Zealand consumer dairy markets?

Please refer to [Section 3.7] of the discussion document.

(21) Do you agree with our preliminary analysis of the DIRA impact on the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

Yes

(22) Are there any other factors that should be taken into account regarding the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

No

Chapter 4: Options for change

Section 4.1: DIRA open entry requirements

Please refer to [Section 4.1] of the discussion document.

(23) Are there any other options for the DIRA open entry requirements that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

Fonterra should be free to decline milk when it comes from;

- Supply from an environmentally sensitive area such as the McKenzie basin
- Supply from a geographically remote area with very high & uneconomic collection costs
- Supply from suppliers who have a poor environmental record and just give the industry a bad image,
- Suppliers who have left Fonterra to chase better money elsewhere and then all of a sudden wish to return when it suits them such as when their processor goes broke.

(24) What costs and benefits would each of the options for the DIRA open entry requirements create for your business? Please provide quantitative information if possible.

Fonterra suppliers are forced to subsidise suppl ers in remote areas by picking up their milk when it is uneconomic to do so.
In the future, Fonterra will be constrained from closing old uneconomic legacy plants because they need to cover the potential that suppliers who left may wish to return. I believe your analysis is wrong. Whilst this may not have been a problem in the past, it certainly will be in the future as Fonterra has level supply, climbs the value-added tree by building new plants for high value products, and wishes to close out old uneconomic plants. The remaining Fonterra shareholders should not be forced to provide insurance capacity just in case they wish to return. That is simply unfair.

(25) How well do you think each of the options for the DIRA open entry requirements would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and time iness of regulatory processes?

(26) What is your preferred option for the DIRA open entry requirements? Please provide your reasons and information/evidence in support of your views.

As you state in 4.1.3, but in addition, Fonterra be allowed to decline supply on uneconomic grounds due to distance, or if they are a returning shareholder.

Section 4.2: Access to regulated milk for large dairy processors (except Goodman Fielder)

Please refer to [Section 4.2] of the discussion document.

(27) Are there any other options for access to regulated milk for large dairy processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

I consider the market is now very competitive, and that there is no need for an Entrance Pathway at all. It has served it's purpose and should be abandoned.
The new processors entering the market now all have very strong international links and do not need subsidised Fonterra milk to get set up.

(28) Do you consider that the proposed 30 million litres threshold is too high or too low? If so, what would you consider the right threshold to be, and why?

The Fonterra milk is so cheap (just cost, no overhead recovery or loss of marketing profit) that the new processors will delay getting their own supply as long as possible.
To overcome this, the threshold should be very low. Zero would be good

(29) What costs and benefits would each of the options for access to regulated milk for large dairy processors create for your business? Please provide quantitative information if possible.

The new large foreign controlled processors a e getting their milk from Fonterra in the intensive dairying areas like the Waikato, and by default forcing Fonterra to operate in the less economic areas like Northland Golden Bay & Nelson etc. This means the new operators can cherry pick the profits in the intensive areas and force Fonterra to suck the losses in the remote areas.

(30) How well do you think each of the options for access to regulated milk for large dairy processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

If supply to these people is abandoned there will be no need for regulatory practice.

(31) Do you have a preferred option for access to regulated milk for large dairy processors? Please provide your reasons and information/evidence in support of your views.

In my view the need to provide an Entrance Pathway has long passed, and the market is now very competitive. The new processors setting up are all foreign controlled operators who compete overseas with Fonterra, and send all of the profits and marketing gains overseas. In my view, they have the resources to establish themselves, and do not need a soft entry

Section 4.3: Options for the base milk price calculation

Please refer to [Section 4.3] of the discussion document.

(32) Are there any other options for the base milk price calculation that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

No

(33) What costs and benefits would each of the options for the base milk price calculation create for your business? Please provide quantitative information if possible.

(34) How well do you think each of the options for the base milk price calculation would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(35) Do have a preferred option for the base milk price calculation? Please provide your reasons and information/ev dence in support of your views.

Section 4.4: Options for access to regulated milk for Goodman Fielder and smaller processors

Please refer to [Section 4.4] of the discussion document.

(36) Are there any other options for access to regulated milk for Goodman Fielder and smaller processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(37) What costs and benefits would each of the options for access to regulated milk for Goodman Fielder and smaller processors create for your business? Please provide quantitative information if possible.

(38) How well do you think each of the options for access to regulated milk for Goodman Fielder and smaller processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(39) Do you have a preferred option, or a combination of options, for access to regulated milk for Goodman Fielder and smaller processors? Please provide your reasons and information/evidence in support of your views.

Section 4.5: Options for the DIRA review and expiry provisions

Please refer to [Section 4.5] of the discussion document.

(40) How best do you consider "market dominance" could be measured? For example, are there certain criteria (other than a market share threshold) that could be provided for in legislation as a trigger for review and/or expiry of the DIRA?

Fonterra no longer has market dominance, so DIRA should be abandoned ASAP. When we voted to form Fonterra, DIRA was seen & promoted by officials as a short-term transition mechanism. That transition time was nearly 20 years ago, yet government officials still want to keep DIRA to justify their own existence in some sort of puritanical world.

(41) Are there any other options for the DIRA review and expiry provisions that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

The market is now competitive. Fonterra has less than 80% of the supply (which was the old trigger) so abandon it.

(42) What costs and benefits would each of the options for the DIRA review and expiry provisions create for your business? Please provide quantitative information if possible.

The biggest cost of DIRA reviews is that it takes the focus of the senior people @ Fonterra (Board members & senior executives) off the business of trying to run a really profitable company for all of New Zealand. The business is difficult enough as it is, without all of the DIRA regulations & reviews.

(43) How well do you think each of the options for the DIRA review and expiry provisions would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(44) Do you have a preferred option, or a combination of options, for the DIRA review and expiry provisions? Please provide your reasons and information/evidence in support of your views.

DIRA has served its purpose. The market is highly competitive. Abandon DIRA

My thoughts on the review. Any business wishing to buy milk from Fonterra should be only able to purchase for a limited time- say no more than 5 years. In that time they should be able to find their own supply. For suppliers who wish to leave Fonterra should not expect to be readmitted at their own whim - only if Fonterra has room. s 9(2)(a)

Dear Minister

Thank you for giving us the opportunity to meet with your staff in Carterton to discuss this very important review.

We are Third generation dairy farmers and now our sons have joined us to make it Fourth Generation, we are proud to be part of the co-operative Fonterra.

We supply Fonterra under the following supply numbers:

s 9(2)(a) [redacted]

The points we wish to make are:

We would like you to repeal the Open Entry Requirements, this will help improve our milk price, every cent counts to the Fonterra suppliers, we need to be able to choose our sup liers subject to location, environmental and economic issues.

We resent new company set ups with the assistance of cheap Fonterra milk

We are a co-operative not a corporate company therefore we have voting rights to protect the shareholders

Milk price regulations, we are happy with the proces used to set our milk price, we do not want a centralised price setting process.

We want the best price for our milk for our suppliers

DIRA has been an effective tool to manag the formation of Fonterra but some changes are now due.

Thank you for considering our submission

Kind regards

s 9(2)(a) [redacted]

s 9(2)(a) [redacted]

[redacted]

To whom it may concern,

We are s 9(2)(a)

We believe that existing shareholders should continue to have their milk collected unimpeded, including being able to increase milk production.

However, Fonterra should be able to create a formula to provide criteria for the collection of new milk .i.e. new farms.

Farmers should feel free to leave Fonterra with minimal hinderance, however as previously stated a transparent formula created, would give criteria for those farmers to consider before leaving should they wish to return at a later date.

Fonterra should never have been required to provide milk to competing companies for export. We do accept that the domestic consumer does need an element of protection, however the shifting of goal posts as to what is considered fair competition is of concern.

The price of milk provided to start-up companies for domestic supply should be based on the actual cost to Fonterra.

Fonterra is a company that all New Zealanders should be proud of, while it has had its hiccups it is held in high regard around the world. Domestically the percept on is perhaps not as acceptable, but that is mainly due to the negative politics engaged in this country.

There are elements of Dira that need to be retained but not to the detriment of Fonterra to perform at its potential.

Thank you for allowing this submission in the review process.

Regards

s 9(2)(a)

Submission form - Review of the Dairy Industry Restructuring Act 2001 and its impact on the dairy industry

The Government is reviewing the Dairy Industry Restructuring Act 2001 (DIRA) and its impact on the dairy industry. The review is currently at the public consultation stage.

We are seeking your input on the issues, options and questions as set out in the DIRA discussion document.

This form contains all the questions that appear in the online submission form at https://www.research.net/r/DIRA. These are identical to those in the discussion document. You can use this document to familiarise yourself with the questions in the form before making your submission.

If you have trouble using the form, you can email your submission to DIRA@mpi.govt nz.

You will need to read the discussion document before considering your responses to the questions set out in this form.

Your responses are due by 5pm on Friday 8 February 2019, and will help inform the recommendations that the Government will consider later in 2019.

You will be asked to select the sections on which you would like to submit, and you may submit on as many or few areas as you like. All questions a e optional.

Chapter 2: Performance of the dairy industry

Section 2.1 2001 structural reform to enable the industry to drive strategic change

Please refer to [Section 2.1] of the discussion document.

(1) Do you agree with our description of the DIRA regulatory regime and its original policy rationale? Do you consider the original policy rationale is still valid?

I do agree to get Fonterra on the road. For that we needed an Agreement so that it could happen without unfair consequences for NZ consumers and/or suppliers.
I do think that competition inside NZ borders destroys value for NZ inc. that is the same then as it is now.
We have a uniek situation that we are producers of a very valued product for the rest of the world. 97% ? is exported. So once produced we have to sell it overseas The one thing we have is that we sell in other countries with different regimes, governments and habits. Remember that Dairy is probably the most subsidies product by governments around the country. So to get the best for our product is not easy.

For us to sell is harder than for a overseas multinational who lives and knows the regulations plus who knows the market (culturally and just local knowledge).
For them it is easier just to get the great product and sell. They are our biggest competitors. Should we help them to get the great product to compete against our (the same) product? NO.

Selling product to another processor in NZ ? No problem that is good sound business to get the best prices for NZ consumers.
But have we seen any foreign company starting up a processing plant to supply the domestic market?

Section 2.2 Industry performance since the restructure

Please refer to [Section 2.2] of the discussion document.

(2) Are there any other dairy industry developments or industry performance indicators that are not captured in the discussion document or its supplementary material? Please provide details and supporting evidence.

Chapter 3: The effects of the DIRA and other factors on industry performance

Section 3.1: Has the DIRA been effective at managing Fonterra's dominance in the market for farmers' milk, and is it still needed?

Please refer to [Section 3.1] of the discussion document.

(3) Do you consider the DIRA has been effective at achieving its core regulatory objective of preventing Fonterra from using its dominance to create barriers to farmers' milk and land flowing to their highest value uses? If not, please provide reasons and supporting information/evidence.

Yes and No.
The 'wall of milk' that has been coming in the last 17 years have been processed in world class processing plants and sold the extra products into the market with the usually difficulties yet normal of selling.
Has it flowed to the highest value? With the extra milk that has come on it is hard to build processing and markets at the highest value. As the backstop of the dairy industrie Fonterra needed to have the capacity to process this extra milk.
Looking back what would have been different if it would have been under the 'old regime'? Impossible!
We can only speculate or second guess and I do believe we have a big different according to which side of the arguments you sit. And irrelevant now

(4) Do you think Fonterra is still dominant in the market for farmers' milk, at the national and regional levels?

Dominant only because it had to. There are not enough processing plants to test this.
But than also the question should include at what value and to who?
Only now with an supply market that has reached its maturity I could be tested.
The targets are changing all the time but maybe we are seeing now going forward of the 'dominance'.

(5) Do you think the DIRA imposes unreasonable costs on Fonterra? If so, please provide supporting information/evidence.

Yes. Every stainless Steel plant build (by compitors) to export NZ milk is milk that Fon erra has to build extra capacity just in case it comes to Fonterra.
Now with an mature market it is much costlier. Fonterra has to have plants to process and then its is leaving. So empty processing plants is a great threat .
Not that I am complaining – ultimately it is competition.
I just cheque the market where the product is sold if that is fair over there as well!
Holistic looking instead of only looking at producing level!!

(6) Are there ways for the costs imposed on Fonterra to be mitigated without impacting on the effectiveness of the DIRA regulatory regime? If so, please provide supporting information.

Are we talking about measuring the imposing cost of marketing and selling our product against our'own NZ products' overseas and seeing what sort of consequences it has on Fonterra?
Impossible we will have a debate until we see blue in the face and still not agree!!!
Arguments around Value Add?
We should or could be higher up the chain on this! Again easier said that done in what happened in last 17 years.
Question is seeing that there are now companies that claim Value added businesses and doing well on the stock exchange. That is good?
My question would be what are the supplying farmers getting paid? That produce these products?
Secondly what would they be paid if these companies get what they want?
They are always making noises that Fonterra pays a to high Milkprice?
Why would that be? Could that be because now they have to pay their suppliers to much???
As a supplier I far rather be in charge of my product and not a corporate
But the answer to this question of do I get the highest price for our valued product, will never be correct answered.
If I make an attempt, the market has changed again.

(7) Are there any other regulatory tools that, in your opinion, would be more effective than the current DIRA provisions at managing Fonte ra's dominance? If so, please provide examples and supporting information/evidence.

Managing Fonterra's dominance? In what sense? Just the size of the beast?

NO. Question should not be around 'dominance' but around wanting to build.

I don't think any body wants to bui d s ainless steel in NZ to take all supplies away from Fonterra. And no they don't have to because if someone builds another 10-20% extra capacity and take the cost of this in estment on the balance sheet – Fonterra will be gone if they have 20% empty Stainless steel. And so whatever the competition can buy the rest of Fonterra Stainless steel and low? Prices.
This is not fair toi answer it this way but asking to give examples is impossible because it is happening at a ve y small scale and there is no evidence because we cannot see balance sheets from opposition and we will definitely never know what the cost are!

(8) Are there other factors you consider need to be taken into account when considering the effectiveness of the DIRA regime and whether it is still needed?

Consider NZ inc. and try to understand the world markets. Government regulations and all.
We can have a go, I am in for a good debate.
it is speculating. Better let this over to do by people who live and breed this stuff. Markets.

Section 3.2: Does the DIRA encourage industry growth?

Please refer to [Section 3.2] of the discussion document.

(9) Do you agree with our preliminary assessment of the extent to which the DIRA encourages industry growth? If not, please provide reasons and supporting information/evidence.

I agree.
Having a world class processor as a back stop of picking up the product and sell it, must have been an encouragement to convert.
Straight away , if anything else, the increase in land value is/was enough of an incentive to start.
(same as Auckland housing market – you have to be in to make the money ! Oh and by the way has it done any good to NZ inc. this increase house value?)
Fonterra has managed to build and sell that extra milk at mostly a good Milk price.
So in a way growth has helped Fonterra to a greater size of a newe – more efficient processing plants.
It has – as a percentage- “lost” value add. These plants are much dearer to build and harder to set up a market up for.

Section 3.3: Does the DIRA influence Fonterra's strategy?

Please refer to [Section 3.3] of the discussion document.

(10) Do you agree with our preliminary assessment of the extent to which Fonterra can influence milk supply volumes through price, notwithstanding the DIRA open entry requirements?

Economics 1 0 1 . Highlight CAN.

What sort of strategy should Fonterra have had if milk supply is on the increase then of course Fonterra has to say; we are in the market for this supply.
You imaging if Fonterra would have said : No we don't want extra milk?
A few motives for that : we don't want your milk because we don't value milk?
We don't want your milk because it doesn't add any value to our business ?
We haven't got processing plants?
Market tells us they don't want extra product?
Any of these the commerce commission would have come down like a tonne of bricks.

It is a chicken and egg thing. No point going over this.

(11) Are there other factors that you consider should be taken into account? Please provide detailed comment in support of your views.

(12) Do you consider that the DIRA provisions governing Fonterra's base milk price calculation and Commerce Comm ssion monitoring may be preventing or disincentivising Fonterra from deviating from the base milk price calculation for strategic or commercial reasons?

What do we know.
If all Milk processors disclose their calculation based on what they get out of the market and what their cost of processing is.
Then we MIGHT get a clue.
But this is getting far to deep into the gear box of marketers.
Whe e will there ever be a competitive market when you start doing that?
We will end up like communism that every thing is regulated or controlled. See the success of that!

(13) If the DIRA is not driving Fonterra's business and investment strategy, what is? Please provide detailed comment in support of your views.

Board and management. DIRA is only rerlevant on the dominance of picking up milk supply in NZ. I don't think DIRA is set up to run Fonterra or any other business for that matter.

Really this is a dumb question isn't it? !!!
Or is it a test? NO can't be, you would not have all these people working on it. But……

Section 3.4: Does the DIRA impact on the industry's environmental performance?

Please refer to [Section 3.4] of the discussion document.

(14) Do you agree with our preliminary analysis of the DIRA's impact on the industry's environmental performance? If not, please provide your reasons and supporting evidence.

YES. It was a race to get supply up and running. But I do believe farmers and regulators are getting up to speed and infra structure is now far ahead of dairy farms 30 years ago.

(15) Do you agree with our view that environmental issues are best dealt with through the Resource Management Act and not the DIRA regime?

Environmental issues should be managed by a NZ governed body that s responsible for all dairy farming in NZ.
DIRA is only set up for Fonterra farmers.

(16) Are there other environmental issues that you consider should be addressed either through the DIRA review or some other means?

Again DIRA is not designed for this.
I hope that the new DIRA might incl. all of this .
Sustainable farming but then for every dairy farmer in NZ.
But this has nothing to do with the "dominance" factor.
So get DIRA scrapped and set standards and targets for the whole industry would be better.

Section 3.5: Does the DIRA incentivise inefficient entry by large dairy processors?

Please refer to [Section 3.5] of the discussion document.

(17) Do you agree with our preliminary analysis of the impact the DIRA has on new processor entry? If not, please provide your reasons and information/evidence in support of your views.

No comments.

(18) Do you consider that large dairy processors should continue to be eligible to purchase regulated milk from Fonterra under the Raw Milk Regulations or not? Please provide detailed comment in support of your views.

No. Regulated milk. People that are discussing this do like discussing things. There is no answer. In 2001 the outcome was 80% was enough to let Fonterra go Now some other discussion later that number is 70%? It is just a number with no real back up facts. Do we ever agree on a number? I think it is irrelevant. My (wise) saying is; I can find a thousand reasons not to do it, but I only need one to do it .And then when you made the decision, I do everything I can to make sure it is the right decision.

Section 3.6: Does the DIRA promote sufficient confidence in the base milk price calculation?

Please refer to [Section 3.6] of the discussion document.

(19) Do you consider that greater confidence in the base milk price calculation outcomes could be achieved if additional legislative guidance on the term "practically feasible" were to be provided for in the DIRA? Please provide detailed comment in support of your views.

No This commercial sensitive. Ask any company to show there true cost what do you think the answer will be?
But looking at Australia just recently : There was? No MP and then it can get ugly

So there is a need for oversight but it should be over all processors from at least inside NZ or maybe overseas as well?

But in NZ I think it is about right.
Farmers in the Co-op complain it is –at times- to low. And corporate processors (for them it is their cost price they have to pay NZ farmers) say it is to high. So in my logic it must be about right!.

(20) Do you consider that the base milk price should be set by an independent body (e.g., the Commerce Commission)? If so, please provide supporting information.

Domestic market, absolutely.
But for overseas markets ? You will create a burocratic facility that is not needed.
Commerce is working at its own pace Some times rational sometime irrational.
To try to make sense out of it – it is impossible.
Looking at farming overseas at moment,
EU farmers and USA farmers for argument sake (the two biggest producers of milk)
Are complaining that MP is to low and farmers are going in retirement in big numbers.
Yet the production is increasing!
Now how does a regulator make sense out of this.
It is the Market and it will correct itself. If it is correcting itself wisely is another discussion but that is something different. HUMAN behaviour at play!!!

Section 3.7: Does the DIRA support competition in New Zealand consumer dairy markets?

Please refer to [Section 3.7] of the discussion document.

(21) Do you agree with our preliminary analysis of the DIRA impact on the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

(22) Are there any other factors that should be taken into account regarding the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

Answer in 20. Another saying : be careful what you wish for. Or be careful what y u want to regulate.

Chapter 4: Options for change

Section 4.1: DIRA open entry requirements

Please refer to [Section 4.1] of the discussion document.

(23) Are there any other options for the DIRA open entry requirements that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

Open Entree. We can keep this which some modefications. Seeing that NZ and NZ government believe that we are at peak cow numbers. So WHY not put this in place. Fonterra should not be picking up any more milk from any more cows then what i does now. Ie if a dairy farmer want to switch then Fonterra has to have spare capacity in cow numbers. If not then the dairy farmer either cannot convert or if it comes from another processor it cannot switch.

(24) What costs and benefits would each of the options for the DIRA open entry requirements create for your business? Please provide quantitative information if possible.

I can not specify this but most of the consequences are emotional and irrelevant. After every action there is a reaction and that reaction you cannot predict. In most cost and benefits it is the unintentional consequences that keeps me busy. Because most of the time rational tells me something but it is human behaviour that will catch me out. We can react completely wrong (and have to fix it later) because of not overseeing the whole picture.

(25) How well do you think each of the options for the DIRA open entry requirements would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

Nice words. But again regulations in it selve cause wrong outcomes. Even if they are temporary consequences it is unnecessary. If all processors can come to an agreement on this would be helpful but if we can only start by transparent showing the supply and what MP they pay would be a good start and the build it from there. Either up (more regulation) or down (no regulation) .

(26) What is your preferred option for the DIRA open entry requirements? Please provide your reasons and information/evidence in support of your views.

See 23.

Section 4.2: Access to regulated milk for large dairy processors (except Goodman Fielder)

Please refer to [Section 4.2] of the discussion document.

(27) Are there any other options for access to regulated milk for large dairy processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

No more comments. See 23

(28) Do you consider that the proposed 30 million litres threshold is too high or too low? If so, what would you consider the right threshold to be, and why?

No it should not need regulation.

(29) What costs and benefits would each of the options for access to regulated milk for large dairy processors create for your business? Please provide quantitative information if possible.

Mainly Cost. It is not within NZ . What sort of consequences does our own milk have on competing against our own milk going thru another processor? Blow me down, I cannot see benefits in that, so it must not come as a cost but more as in a lost opportunity. That is market related and cannot be Managed.

(30) How well do you think each of the options for access to regulated milk for large dairy processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(31) Do you have a preferred option for access to regulated milk for large dairy processors? Please provide your reasons and information/evidence in support of your views.

NO . Domestic market, keep it. but export ? NO.

Section 4.3: Options for the base milk price calculation

Please refer to [Section 4.3] of the discussion document.

(32) Are there any other options for the base milk price calculation that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

Base milk as it is now. It will be refined over time by the oversight from various committees.

(33) What costs and benefits would each of the options for the base milk price calculation create for your business? Please provide quantitative information if possible.

(34) How well do you think each of the options for the base milk price calculation would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

I do not like regulations. Might hope it will solve transparency , or cost effectiveness and timeless but it will be not humans who then start playing the game of playing the regulators. We are back to square one or even worse we are gone burger and will never get back to where we are now.

(35) Do have a preferred option for the base milk price calculation? Please provide your reasons and information/evidence in support of your views.

see 32.

Section 4.4: Options for access to regulated milk for Goodman Fielder and smaller processors

Please refer to [Section 4.4] of the discussion document.

(36) Are there any other options for access to regulated milk for Goodman Fielder and smaller processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

NO

(37) What costs and benefits would each of the options for access to regulated milk for Goodman Fielder and smaller processors create for your business? Please provide quantitative information if possible.

(38) How well do you think each of the options for access to regulated milk for Goodman Fielder and smaller processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(39) Do you have a preferred option, or a combination of options, for access to regulated milk for Goodman Fielder and smaller processors? Please provide your reasons and information/evidence in support of your views.

Section 4.5: Options for the DIRA review and expiry provisions

Please refer to [Section 4.5] of the discussion document.

(40) How best do you consider "market dominance" could be measured? For example, are there certain criteria (other than a market share threshold) that could be provided for in legislation as a trigger for review and/or expiry of the DIRA?

NO in 2001 the then wise heads decided that 80 % is a trigger , now in 2018 some other wise people decide it is 70%. Go figure.
Obviously the future doesn't agree with the past.
So how can we now- today be in charge of saying what is right for tomorrow !!!!

(41) Are there any other options for the DIRA review and expiry provisions that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

I would be happy to put a(temporary) moratorium on cow numbers until we can see what the consequences are from our actions. Reviewing things regular is common practice I would think.

(42) What costs and benefits would each of the options for the DIRA review and expiry provisions create for your business? Please provide quantitative information if possible.

Shawshank redemption quote.

(43) How well do you think each of the options for the DIRA review and expiry provisions would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

See 42

(44) Do you have a preferred option, or a combination of options, for the DIRA review and expiry provisions? Please provide your reasons and information/evidence in support of your views.

Let's make less regulations and let's go!
Then monitor, Rather than trying to fix it with to many rules and then having to unpick it.
Lot messier that way.
See 18

The scene in Shawshank redemption that I talked about is when RED comes up for parole the 3 and last time.

Morgan freeman does a good reflection of how I feel.

Morgan freeman walks in parole board office, Parole board see as MPI- government.

Morgan freeman – Fonterra.

Crime – farmers forming Fonterra thru DIRA.

Boards question is; served 18 years of the sentence of DIRA.

Do we think Fonterra is rehabilitated?

Morgan freeman askes DO I EVEN KNOW WHAT THAT MEANS REHABILITATED?

Board chair; explaining rehabilitation means if we are ready to re-join society.

Morgan freeman butts in ; I know what it means,sonny.

"but to me it is just a made up word- a politician word, so that fellows like you can ware a suit and tie – have a job, but what do you realy want to know."

Board asks ; Will I…

Morgan F ; " ther is not a day go by that i feel regret. Not because I am regulated , but because you guys think we should be regulated. I look back to 2001 and how it was then. A young and willing business that wanted to get going no, matter what. Without thinking lon term.

Now I want to talk to the ones that signed that DIRA. I would try to talk sense into them.

Telling how things could look like and what the consequenses are .

But I cannot do that

That opportunity is gone.

And this industrie is what it is now. And I have got to live with that.

Rehabilitated – it is just a bullshit word.

So you get on and do what you have to do – stop wasting my time asking if we are rehabilitated!

Because to tell you the truth – I don't give a shit!."

And then he gets released!!!!!!

Now this sounds a bit drastic but it comes down to what I said earlier.

How do we know the market is ready.?

It is just a decision.

Lets make it the right one!!!.

Thank You

s 9(2)(a)

[redacted]

s 9(2)(a) [redacted]

<u>DIRA submission</u> – February 2019

To whom it may concern,

I submit that DIRA has served its purpose and that it is now detrimental to the prosperity of rural New Zealand.

It is vital to the wellbeing of rural NZ that Fonterra, a cooperative of over 10,000 farmers, is a strong business now and in the future.

I understand the need to support competition in the industry but believe that this competition is now well established and should now be able to stand on its own two feet.

Further support of new businesses, which are foreign owned and which take their profits off shore, is not helpful to improving the prosperity of rural NZ.

Unlike other industrial development we have the ability to process the milk we produce and with further investment from higher returns higher value processing may be more achievable.

DIRA lowers income in a number of ways;

- Fonterra bears the cost of managing suppliers, not insignificant in terms of communication, coordination and directors time and effort.
- Fonterra needs to have capacity to handle the milk that open entry requires. Reduces the efficiency of capital spending.
- Large companies with other income streams investing in milk processing in NZ can afford to compete unfairly in overseas markets to secure access.

- Lowering the payout to farmers by the above lowers the amount other companies need to pay to compete, further reducing the potential income in the provinces.
- Fonterra's payout determines what other companies pay. They will only pay what they have to to stay competitive.

A strong farming industry will bring more into provincial NZ than any provincial growth fund. Just look at the prosperity of South Canterbury due to dairy farming.

I submit that DIRA should be abolished.

I support the points made in s 9(2)(a) submission.

I support the submission of Fonterra.

I wish to be heard.

s 9(2)(a)

SUBMISSION OF DIRA REVIEW

s 9(2)(a) [redacted]

1. Yes we agree.

B. But it's not valid today.

2.

3. Yes – Fonterra milk supply was 95% at formation and is now down to 83% approx. while NZ production has increased significantly in the same period. I now believe there is now 5 overseas companies processing milk in NZ.

4. While Fonterra is still the largest processor in NZ, farmers in most regions have the ability to supply other processors.

5. Yes – The milk sold to independent processors at cost could be channelled into higher value products.

Yes – the milk price does not reflect the true cost of all milk collected.

6. Yes – The removal of compulsory supply to new independent processors and limiting ongoing supply to the liquid milk market when they could and should get their own supply base sorted.

7. Yes deregulation and let market forces rule.

8. No – We feel you have overstated the effect of DIRA. Open market forces would have created similar response to world demand.

13. Feel this is a very arrogant view and that this document is very bias against Fonterra.

The share hold base expectations of the Board and Senior Management to have a sound business and investment strategy.

17. Yes we agree you have obviously researched this well.

18. No – we see no reason why Fonterra Shareholders should continue to subsidize independent processors.

19. No

20. No – Will independent bodies have overseas market experience.

21. YES.

22. Goodman Fielder should secure their own supply base as was proposed.

23. No.

24. 1) Didn't see any costs.

Allows us to grow or shrink supply - and leave if we want to.

2) No we feel we have enough protection with constitution and terms of supply.

Benefits – improve financial performance of company.

– get rid of non-conforming farmers.

3) No costs to existing suppliers.

Benefits – possible improvements to image.

– cost savings not having to build new stainless steel for new milk.

25. We are farmers not economists and planners.

26. Option 3.

27. ------------

28. ----------------

29. Option 1. – cost in possible lost potential.

– Yes possible other options for supply.

Option 2. -----------

30. Don't know.

32. No

33.

34.

35. Option 1

39. Option 3. Goodman Fielder are in a position to start organising their own supply and should be pushed to do so.

44. Option 4. – Based on a percentage of market share.

– when reached Dira should be dissolved.

s 9(2)(a)

Submission to DIRA Review

This is where I view the DIRA legislation.

My basic principal is that the Fonterra farmers are all members of a team.

New Zealand has many high performing teams. Some of these teams are the NZ sevens, Men's and Women's rugby teams, cricket, our sailors, rowers etc. They all have a monopoly and are either paid or funded for their services. When these teams win, we celebrate them because they bring returns to New Zealand. A feel-good richness to New Zealanders.

Because they win: do we say "that's not fair". The other side should have a better chance to win because their team complains they do not have enough skilled players.

Should we be playing with 1 less team member or give some of our best team members to the opposition or handicap us in some way.

What would the NZ public reaction be to this suggestion!!

Let's talk the Fonterra team.

Ten thousand, five hundred NZ farmer shareholders (owners of Fonterra) striving to achieve excellence in NZ and the world market. I am first to agree that Fonterra is the biggest NZ farmer shareholder supplier owned company. We provide one of NZ's premium food sources, therefore fair and equal supply should be offered to NZ processors / manufacturers who predominately supply the NZ nation and the present milk price model fits well here

Is it not enough that Fonterra have to compete worldwide for every $ we earn by innovation and excellence without giving start-up companies a helping hand?

Do the New Zealand public know what the DIRA legislation handicaps are put on Fonterra to supply competing exporting companies? These may or may not have some NZ ownership.

Not only do those companies export their wealth but can gain substantial extra return by having this DIRA milk available to them.

Create richness for ''New Zealand Inc'' not for overseas companies.

Let Fonterra be guided by a high performing team of dairy farmers.

DIRA – Let the restrictions of DIRA go for the supply of overseas markets as far as competing exporting companies are concerned.

Another Comment:

Fonterra should be able to reject milk pickup from any new supplier that has sensitive environmental issues or extreme transport component costs. Present DIRA legislation makes it difficult for Fonterra to refuse milk pick up. This needs to be adjusted.

<u>Submission to the DIRA Act</u>

I understand in principle why the DIRA was formed but I believe it is time for a change.

Competition within the milk market has occurred over the past 17 years but not always for the benefit of New Zealand Dairy Farmers or New Zealanders with many dairy companies now foreign owned or controlled entering the market.

Over the past 17 years how often has Fonterra used its dominance in the market to the disadvantage of farmers or New Zealanders or competing companies? What anti-competitive behaviour has Fonterra been part of? Was the DIRA act really required in retrospect?

Having a strong co-operative in the dairy market is vital for New Zealand and its dairy farmers. Not undermining Fonterra's ability to get the best milk price for farmers is vitally important for the long-term prosperity of all dairy farmers irrespective of what company they support as Fonterra's milk price underpins the pay out of all the dairy companies.

Worldwide, farmers fall into three categories:

- Peasants.
- Subsidised.
- And the New Zealand farmers and their co-operatives. The envy of farmers around the world.

Everything should be done to maintain a strong New Zealand owned dairy co-operative.

Open Exit, Open Entry and having to collect milk,

- Removes the ability to control pickup allowing,
    - Poor performers to stay farming,
    - Environmentally sensitive areas being farmed,
    - Fonterra taking the risk of dairy farmers decision to change dairy companies. This should be the farmers risk to manage as currently if things don't work out, they have the option go back to Fonterra without any penalty.
    - An oversupply of processing capacity in Fonterra as Fonterra must have the capacity to process all of NZ's milk supply. The result of this is increased stainless steel maintenance, deprecation and inefficient use of Fonterra's and ultimately the farmers capital which could be better invested elsewhere.
    - The reduction in Fonterra's ability to invest in higher value processing plants because of having to create the cheapest way of processing all of NZ's milk production even though it is unlikely that would ever occur.

There is a risk to suppliers in isolated areas that Fonterra must pick up under the current law. I believe that Fonterra shareholders would regulate this if this was to change. If Fonterra was to cease picking up in these areas it would leave another group of farmers at risk and shareholders would not allow this to happen.

Access to Milk

This needs to cease. There is any amount of competition and supply options for most dairy farmers. DIRA has helped new companies into their market but my main cause for concern is that many of them are foreign owned with profits going overseas. Furthermore, Fonterra's aid to new companies has been far further reaching than the milk price. Fonterra continues to be held solely responsible by the public and media for all the environmental and milk price issues within the NZ dairy industry despite having no influence over 19% of the industry.

I do not believe that controlling the dominance of Fonterra should be achieved by bringing in foreign money and companies is the right thing to do for farmers or New Zealand.

Goodman Fielder

Although the overall supply of milk to Goodman Fielder is not all that large and supplies the New Zealand market Goodman Fielder has had 17 years to find their own milk supply.

They have not done so as having a guaranteed milk supply from Fonterra is the cheapest least risky way of sourcing milk.

There are other suppliers of domestic fresh milk in New Zealand who unfairly must compete with Fonterra supplied milk to Goodman Fielder (Synlait).

It is time for Goodman Fielder to find its own milk supply like other companies do.

Base Milk price Calculation

Works well in its current state except,

I am not sure if Fonterra should have to disclose its milk price in advance as it gives competing companies to Fonterra the minimum price they must pay for milk solids. This means that non-Fonterra companies must only pay suppliers Fonterra's milk price to maintain milk supply. This disadvantages non-Fonterra suppliers receiving a fair price from their companies.

Having a transparent milk price is important and Fonterra has done this which ha been tested over the last 17 years. Other companies do not have to do this, and their prices seem to be "all smoke and mirrors" to what they really pay their farmers. If Fonterra must disclos the milk price then should other companies not need to do so to make it fair for all.

Mataura Valley Milk

- Foreign owned company.
- Takes about half its milk from Fonterra suppliers.
- A new plant which burns fossils fuels, leaving a GHG urden for New Zealand to pick up.
- Uses water which the area does not have urplus of.
- Has not created any extra dairy farms to source milk. Takes from existing farms (makes the industry less efficient).
- Competes in overseas markets with Fonterra with Fonterra supplied milk.
- Profits from the company goes off shore.
- Only pays NZ farmers what it must, sets their milk price on Fonterra's milk price.
- Unsure if they must pay tar ffs on products as Fonterra must when entering China.

The DIRA is fundamentally flawed when all the above can occur in New Zealand. Foreign owned companies being subs dised by New Zealand farmers for the good of another country. There is any amount of competit on in New Zealand at the farmers gate and in the markets.

s 9(2)(a)

[redacted]

Submission DIRA Amtink Ltd,

Open entry/exit.

This must be changed from it's current form for the following reason's;
First and foremost existing suppliers must be assured that if conditions of supply are met they, or their farm, can't loose this right to supply the coop.
If however a supplier chooses to leave Fonterra the right to come back should not automatically be granted. Why?
1. It's simply not fair nor economic for all other shareholders to fund and maintain sufficient capacity for this milk to come and go as people see fit.
2. The rule for open entry exit doesn't apply to all other milk processing competitors therefore they can choose and cherry pick close supply to the factory which is unfair competition.
3. Certain sensitive area's of supply Fonterra simply has to collect new supply whether they like it or not.

Access to regulated milk for large dairy processors (except Goodman Fielder).

Access to this milk as a start up must go as there is plenty of competition for milk now that a new processor can and should be able to source it's own supply.
It's simply unfair for Fonterra shareholders to give a competitor milk while their own factories got plenty of capacity.

Base milk price calculation,

This must stay in it's current form; Fonterra calculates it; Commerce Commission monitors it.
Why? The Milk price Manual is a big piece of work, which gives every processor (including Fonterra!) a very honest robust milk price. New factory efficiency for example cou d give an increase off \$0.45/kg/ms, but without the Milk Price Manual suppl ers would loose out on this especially in a non-cooperative model. Therefore let Fonterra operate this manual with the commerce commission looking over it's shoulder for the sake of all farmers.

Access to regulated milk Goodman Fielder and smaller processors.

This should stay in it's current form as this leaves good space for competition in the domestic market which is a good thing for the New Zealand Consumer.

DIRA review and expiry provisions.

Amend it require periodic reviews to determine whether the DIRA regulatory regime needs to be retained, repealed or amended.

Why? Competition playing fields change over time eg. competition for milk, environmental rules, different land uses therefore we should be able to revisit DIRA.

Thank you for reading my submission.

s 9(2)(a)

To who it may concern ,

Name: s 9(2)(a)

1 Repeal open entry

2 Large suppliers should have no pathway to milk supply ,they require milk they have to manage their own supply.

3 New entrant have to organise their own milk, how they get it is their problem.Companies with overseas investment should not have access to any milk other than what the company organise themselves .

Thank you

s 9(2)(a)

Submission - DIRA Review

Submitter

s 9(2)(a) [redacted]

I have been a dairy farmer for 37 years, a s 9(2)(a) [redacted]. I have been active in all facets of the dairy industry in Otago.

The strength of the NZ dairy industry over the decades has been its cooperative nature and structure. I recent times this is disappearing with the promotion of new foreign owned dairy companies forming an increasing portion of the industry.

The aim of DIRA to prevent milk flowing to their highest value uses is not working. This is demonstrated on page 60 of the consultative document. Tatua with its restricted supply having revenue of $22.26 kgMS, Fonterra then with $12.60, Synlait at $11.69 and OCD at $8.73. The new entrants to the industry are reducing the revenue from the milk and hence value to the country DIRA should not be facilitating the access to milk for these new companies. Fonter a should not be forced to supply these companies, especially to export in opposition to Fonterra.

If companies have an advantage over Fonterra the should stand on their own. Many eg Donone are based in counties with much government support and protection for their industry and now want to make use of favourable conditions for them in NZ.

Industry Growth

The inability of Fonterra to take into account wider commercial factors in setting its basic milk price has promoted growth in the industry. Being unable to carry income from peak years to strengthen the industry to meet the bad years has seen very high peaks in payout promoting conversion of land to dairy. Much of this land is marginal for dairy and has higher environmental risks. The risk of fluctuating MS price is now put on the farmer completely and has greatly increased the banking risk of the industry.

Fonterra as a cooperative must be able to set its price for the long term benefit of its suppliers and owners and not on a formula model.

Open entry and exit has put pressures on Fonterra that it should not have. It has been required to accept milk when it is not in the best interest of the company to do so.

Some land is not politically acceptable for dairy eg. McKenzie Basin. Some farmers do not have the competence to be a good supplier. Fonterra should be able to turn down these suppliers.

Fonterra should have the ability to tell existing farmers that they need to restrict milk supply for a time if market conditions dictate or plant to process the milk is not available.

Requiring Fonterra to take back farmers that leave to other companies puts all the risk on the long term supporters of Fonterra. There is always dissatisfied suppliers but in a cooperative company the majority dictate the terms. People should be free to leave but not expect to come back on the same terms.

New Zealand does not need to promoter the increase in dairying at this time.

Key Points

Remove access to regulated milk to new and large dairy processors

Give Fonterra more flexibility to set its base milk price.

Remove open entry requirements from Fonterra

Response to MPI Discussion Document

Paper No: 2018/13

Ministry of Primary Enterprises

Wellington, New Zealand

Paper Title:

The curse of insightful legislation: A source of blame or an excuse for poor performance?

Authors:

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Submission form - Review of the Dairy Industry Restructuring Act 2001 and its impact on the dairy industry

The Government is reviewing the Dairy Industry Restructuring Act 2001 (DIRA) and its impact on the dairy industry. The review is currently at the public consultation stage.

We are seeking your input on the issues, options and questions as set out in the DIRA discussion document.

This form contains all the questions that appear in the online submission form at https://www.research.net/r/DIRA. These are identical to those in the discussion document. You can use this document to familiarise yourself with the questions in the form before making your submission.

If you have trouble using the form, you can ema l your submission to DIRA@mpi.govt.nz.

You will need to read the discussion document before considering your responses to the questions set out in this form.

Your responses are due by 5pm on Friday 8 February 2019, and will help inform the recommendations that the Government will consider later in 2019.

You will be asked to select the sections on which you would like to submit, and you may submit on as many or few areas as you like. All questions are optional.

Introduction

The provisions of the Dairy Industry Restructuring Act 2001 (DIRA) commenced on 27 September, 2001. The Act resulted from three important drivers. First, in the race to capture existing supply/gain market-share the dairy industry had reached a near duopoly between Kiwi Co-operative Dairy Company and New Zealand Dairy Group. Both cooperatives had exhausted their respective growth-by-acquisition strategies and had nowhere further to expand onshore. Together these two cooperatives eventually collected 96% of New Zealand s milk production, while dairy exports remained under the New Zealand Dairy Board, a statutorily-mandated single desk marketing board. The two large dairy cooperatives subsequently sought approval from the Commerce Commission to merge a continuation of their respective extant strategies. Second, the Commerce Commission's dr ft findings to this proposal reported that the intention to merge was likely to be anti-competitive leading to less innovation and lower farm prices[1], and hence returns to New Zealand over time. Third[2], the acceptability or otherwise of a 'new' and significantly larger dairy cooperative was anticipated to be untenable by the World Trade Organization on one hand and could result in the loss of valuable quota markets on the other.

Therefore, DIRA emerged as an extraordinarily insightful response to: a) enable the merger; b) maintain and develop adequate domestic competition by domestic and international players in liquid milk and dairy products markets; and, c) provide a competitive market mechanism to ensure price and market transparency, and satisfy the need for local competition in our global markets - as opposed to those markets being confronted with a 'new' monopolist while retaining access to tariff quota markets. To this end DIRA has been effective and met these three aims, as listed in detail at Part 1, Section 4 (a - i) of the Act.

The purpose of DIRA can be summarised as ensuring that Fonterra, which emerged as a resul of he Act, is 'exposed' to competitive market forces in domestic milk procurement and

[1] The anticipated response at the time was a mirror of the recent Irish experience of lower on-farm milk prices; substantial investment off-farm by processors; and, rapidly increasing share prices.

[2] Note that there is no mention of global trade, global competitiveness, trade barriers, non-tariff barriers, industry deregulation, and tariff quotas in MPI discussion document Paper No:2018/13. While, the common response across the OECD at the time was industry deregulation, to which the World Trade Organization (WTO) was attempting to hold nations to account, global dairy trade was highly regulated by way of tariff quotas to protect farmers in foreign markets. The creation of a 'new' monopolist would have challenged/breached many trade agreements, while possibly exposing New Zealand's valuable quotas to competitors. Existing quota (regulated) markets needed to be maintained and new markets (regulated & less regulated) accessed.

domestic milk product manufacturing and retailing that would/may not otherwise exist in the absence of such enabling legislation. There are then a series of successive assumptions made in the MPI discussion document Paper No:2018/13 that result from the *market* that was expected to be created as a result of DIRA, not DIRA itself. These assumptions remain embedded throughout the document, of which some appear reasonable as a response to the competitive environment to which Fonterra is exposed through DIRA and the organisation's (Fonterra's) subsequent strategy of which the latter may or may not have anything to do with DIRA.

Our aims of this submission are twofold. First and foremost, we discuss the attributes of DIRA, including the major unintended consequences, and align that discussion with the series of questions raised by MPI. Second, we make a much needed distinction between DIRA and Fonterra's strategy, that many industry pundits and commentators fail to observe. Much is wrongfully attributed to DIRA. DIRA has become a scapegoat for many and an excuse for others – including Fonterra's decision makers. MPI too appear to have struggled at this point, namely attributing behaviours, especially those of Fonterra to DIRA (to which we will add others) and the consequences of DIRA itself – to which we also add others.

Our response to each questions follows:

1. We agree, within reason, to the description of the DIRA regulatory regime, but remain surprised that there is no mention of the need to demonstrate a competitive domestic industry to international markets and regulators. The Labour government at the time had no philosophical resistance to the creation of what was euphemistically called 'GlobalCo' while the preceding National government had systematically disestablished the producer boards across the agricultural sector (e.g., Enza, formerly The New Zealand Apple and Pear Marketing Board) in the belief that perfect competition produces optimal industry configuration and performance. This may be the case with a large domestic economy, but no evidence exists for the argument's support in the case of small economies with land-based export-dependent industries. The original policy rationale remains valid, despite the WTO lacking the functionality to uphold global trade regulation.

2. Yes. For the time being we will ignore topics in Chapter Two, Appendix One that are not the result of DIRA, for example, the industry's impact on the environment (i.e.,

nitrogen consumption and discharge to waterways and ground water, and emissions). Quite how the regulatory framework is supposedly responsible for the environmental consequence, and not the lack of an effective environmental regulator (e.g., regional councils) remains unexplained. The one single consequence of DIRA, that was entirely unintended is the ability of farmers to raise debt capital – in the knowledge that their milk is always going to be collected (and paid for); and, in bankers' knowledge that regardless of farmer ability the milk will always be collected and paid for). The industry now holds some NZ$40bn of debt, and nearer $50bn if *all* term and current liabilities on-farm are included. That debt has been raised against the certainty of milk collection and payment. DIRA has, inadvertently reduced risk across the sector, enabling debt raising to levels previously unseen in New Z aland or elsewhere. The industry is, and remains highly bankable du to DIRA.

3. We consider that DIRA has been highly effective in achieving its core regulatory objective of preventing Fonterra from using its dominance to create barriers to farmers' milk and land use shifting to its highest value. Farmers sell milk, they don't not sell processed products. So while they may now differentiate between first stage processor (e.g., Fonterra v Synlait; or, Fonterra v Open Country; or Fonterra v Westland), that selection criteria can almost all be explained in financial terms. There is an equally strong argument that because of DIRA so much land use in New Zealand has shifted to dairying because it has been so easy to raise and cashflow debt capital (cf. sheep & beef farming).

4. Fonterra, in collecting some 79-81% of farmgate milk remains dominant at a national level. However, Fonterra is less dominant in Southland (due to Open Country); Central Canterbury (due to Synlait & Westland); Manawatu, Wanganui and South Taranaki (due to Open Country); the Central North Island (due to Miraka); and, Waikato (due to Open Country). That lack of dominance remains Fonterra's fault entirely and can almost all be attributed to the strategic decision to establish Trading Amongst Farmers (TAF). The effectiveness of the other players to enter and compete was highly constrained prior to TAF. However, TAF unlocked substantial farmer capital and allowed farmers explore opportunities with other players. Overtime a small trickle quickly became a massive wave as farmers and rural professionals became more sophisticated in analysing and evaluating options available to them.

What is important to understand is that without TAF, the growth of competition and farmers switching would have been severely constrained.

5. The cost of DIRA to Fonterra can be observed to be the marginal cost of picking up milk from less desirable or marginal districts (e.g., Rangiwahia & Motu Bush, Western Southland); and, the cost of picking up milk from farmers when a competitor fails, such as those formerly supplying New Zealand Dairies Limited. The cost of the former is only known to Fonterra, and could be recovered by the introduction of a *real* transportation levy based upon the distance from their closest processing plant. Appropriate adjustments could be made for legacy producers when their cooperative plant was closed down for the pursuit of scale efficiencies. Costs are also attributed as being the need to have sufficient processing capacity onshore to meet 'peak milk' each spring – the result of their own 3V growth strategy There is industry rhetoric that having to supply the domestic wholesale market also imposes costs on Fonterra, however, we have no evidence to this effect. Instead Fonterra has continued to build new plant throughout the past five years while facing increased competition and decreasing farmer numbers.

6. We have partly addressed this above, namely a transport levy for distance. However, of greater concern are property rights. DIRA and the establishment of Fonterra institutionalizes historic and bestows new property rights on New Zealand dairy farmers. The value of these property rights is now capitalised into dairy farms, runoffs, and adjoining land values. The removal of those property rights, especially the ability to produce milk and have that milk collected by Fonterra via open entry and open exit and paid for due to DIRA would need some market related compensation (i.e., just as the Treaty of Waitangi does so for Maori).

7. There are no known regulatory tools that would be more effective than DIRA. DIRA remains an extraordinarily insightful response to a) enable the merger between New Zealand Dairy Group and Kiwi Co-operative Dairies and the New Zealand Dairy Board; b) maintain adequate competition onshore in whole milk and dairy products markets; and, c) provide a competitive market mechanism to satisfy the need for local competition in our global markets. The requirement to uphold b) and c) above

remains, while the necessity to demonstrate a competitive domestic market to international buyers and regulators (subsequent to a), even in the absence of an effective WTO should not be underestimated.

8. While DIRA provided the statute through which GlobalCo emerged as Fonterra the lack of understanding of what DIRA does, and how it actually works, to say nothing of the consistent misinterpretation of s. 150D 3. b. – advise – remains a concern to us, and should be a primary outcome of this review process.

9. The review should extend to an independent analysis of Fonterra's knowledge, understanding and response to s. 150D Milk Price Panel, over time. Our informed estimates, suggest that Fonterra consistently overpays its suppliers by some 50c per kg milk solids (MS) per year, which should be retained for subsequent reinvestment. However, our criticism of the level of their payment to farmers (see Farmers Weekly, Vol. 17, No. 35, p. 1) was met with a strong retor from Fonterra to the effect that, "we have to pay this price" – because of he milk price model. Therefore, the milk price model is being used by Fonterra as the reason to overpay their suppliers (shareholders & contracted supply) as is evident in the company's own balance sheet, indebtedness and lack of investment DIRA has become a defensive mechanism against competition. This is not a fault of DIRA, but a weakness of Fonterra's strategy. Consequently, what has emerged is a widely held view that it is DIRA that is at fault, not Fonterra's strategy; that it is DIRA that determines price, as opposed to advising on price and providing a stretch goal, as stated on p. 24 of the Discussion Document As noted in the Discussion Document (p. 25), "DIRA does not prevent Fonterra from adjusting its milk price". But we do not support the view that "adjusting the milk price presents a significant challenge to management". Our discussions with *some* in Fonterra suggest that they had little if any understanding of the consequences of removing production quotas across the EU on 31 March, 2015 or the impacts of a sustained reduction in the price of global oil – and the near immediate reduction in the market for biofuel. Hence our opening remark concerning the need for a distinction between DIRA and Fonterra's strategy, that many industry pundits and commentators fail to observe.

10. No doubt Fonterra has had a significant influence on milk supply volumes, to which new entrants have benefitted (with the exception of Miraka, most new entrant supply has come from former Fonterra suppliers). However, the impact of DIRA - that has significantly enhanced the ability of entrants (new and through expansion) to raise debt capital, from which that volume has emerged – and Fonterra consistently overpaying their suppliers has invoked an entirely rational market response, produce more milk. Fonterra's own advance and retro payment mechanism, which is a legacy of the New Zealand Dairy Board, provides an inter-seasonal cashflow smoothing mechanism unique to the dairy sector, one not fully adopted by their compe itors. The net impact is a reduction to the on-farm risks of one-year market shocks, that then provides greater risk to lagged effects over time, especially coming out of a downturn.

11. We introduced the industry's indebtedness and why, as a result of DIRA the industry is now more "bankable" than it was prior to DIRA, and why it remains considerably more attractive to lenders than alternate land uses such as sheep and beef at 3. above.

12. No. The regulation is well worded. The limitation is that the term 'advise' does not appear to be well understood. There is a lack of independent transparency being communicated to farmers as to what the role of the stretch price model is designed to achieve, namely a highly efficient single plant sole processor, with effectively no new investment beyond depreciation. This creates a misalignment between the milk price model used for pricing by Fonterra and the strategic model used by Fonterra, of which the latter requires the retention of some 50c per kg MS per annum to ensure that the company actually has sufficient capital to finance their strategy: they pay their farmers too much and seldom use the transparency offered by the Act.

13. We don't understand why Fonterra's strategy is being reviewed by MPI as part of a review of DIRA. Fonterra has pursued their 3V strategy for a decade, that strategy is Fonterra's alone, and should not be confused with DIRA. That is solely a commercial decision for Fonterra and should not be controlled by government policy by way of regulation, DIRA. If Fonterra gets its strategy wrong, or the implementation of its strategy wrong they should be open to the market consequences as is any other New Zealand business.

14. No. Again MPI appear to be looking to allocate blame to DIRA, as opposed to relatively weak environmental regulation throughout New Zealand. DIRA has created a highly efficient and bankable market, to which farmers have rapidly responded in shifting production systems that have resulted in unintended negative externalities, to which the RMA and regional councils are only just beginning to respond.

15. Yes.

16. No.

17. No. The lack of understanding of DIRA resulting in the consistent overpayment to Fonterra suppliers imposes a greater impediment to processor entry. Some of the success of new entrants can also be attributed to Fonterra's folly of TAF. Where alternate processors exist Fonterra suppliers are able to a) sell their shares; b) supply a proprietary processor, or subscribing co-operative (i e., Westland); and, c) then apply the capital from the sale of their shares to their next dairy farm, raising debt capital for the balance of the purchase. The failure of New Zealand Dairies Limited, and resultant Supreme Court judgement dismissing Fonterra's appeal is the only evidence of the *cost* of DIRA to Fonterr Does this cost outweigh the benefits? We don't think so.

18. Yes. New Zealand needs a vibrant wholesale competitive domestic milk market. With near 80% market share it is a natural monopoly, if Fonterra's market share declines below 40% (the Commerce Commission's typical threshold) that natural monopoly wil no longer hold. However, the cost of acquiring supply is expected to be a significant barrier to entry. The regulation provides a mechanism whereby supply emerges, and one to which Fonterra can rightfully be expected to respond competitively. That they do (or do not) is a measure of the effectiveness of their own strategy.

19. There needs to be a separation between the base milk price set in New Zealand which is the base level expected of any efficient single-site toll processor, independent of any specific company. The components of the base milk price need to be transparent to the market. The current requirements of the Act result in Fonterra's price and the

base milk price mostly being the same, as opposed to the two being both a) transparent and, b) potentially different. There is a misunderstanding and misinterpretation amongst farmers and bankers as to the price derived from the milk price model vis a vis Fonterra's pricing decision and their set milk price offer. The need to advise is covered by the Act, s. 150H 3. b. while the requirement for transparency sits with 150G 2. b.

20. Yes. See responses above.

21. Yes. There are questions concerning the competitiveness of the supermarke duopoly in New Zealand that remain outside the scope of this review.

22. No.

23. There needs a 'grandfathering clause' having open entry and open exit to be provided to current dairy farms in New Zealand. Open entry and exit need *not* be extended to new dairy farms. These property rights were created to ensure that at the formation of Fonterra no existing dairy farm would have been worse off after the formation than what they would have been beforehand. This was a fundamental provision in the establishment of Fonterra to protect the property rights of dairy farmers at the time of establishment, all o whom were supplying their respective co-operative. This provision need not be extended to new dairy farms. However, there remains a challenge of how to deal with those dairy farms developed between the establishment of Fonterra and today.

24. An effective response to Q. 24 requires a substantive analysis of the impact of individual property rights, well beyond the scope of this feedback.

25. The industry requires open entry and open exit with fair constraints that a) recognise and uphold property rights assigned to the dairy farms at the time of the establishment of Fonterra; b) deal with the complex and convoluted property rights that have subsequently been created for and assigned to new dairy farms since the formation of Fonterra; and, c) potentially exclude new dairy farms from open entry and open exit. It is important to note that we are making an explicit distinction between dairy farms

and dairy farmers because the property rights are associated with the dairy farm and not the individual farmer. Without well defined property rights substantial uncertainty will be created within land markets in New Zealand resulting in high volatility of land prices and sales creating balance sheet pressure and undue financial stress.

26. Our preferred option for open entry requirements are a) dairy farms at the time of the establishment of Fonterra maintain full open entry and open exit and associated property rights within the constraints of good agricultural practices (i.e., animal welfare, environmental & people); b) dairy farms established since the formation of Fonterra may have modified entry and exit with appropriate constraints; and, c) newly created dairy farms are not extended open entry and open exit provisions. There is an important difference between the property rights of the dairy farms at the formation of Fonterra and those created since.

27. No comment.

28. No comment.

29. No comment.

30. No comment.

31. No comment.

32. The Milk Price Panel (s. 150D) should be independent of Fonterra and appointed by MPI, on recommendation from industry.

33. Options 4.3.1 and 4.3.2 do not provide requisite transparency, independence and separation between the panel and Fonterra, resulting in misinterpretation and misunderstanding by dairy farmers and the price becomes Fonterra's default without disclosure of their reasoning, as is now the case. Option 4.3.3 results in a conflict between the regulator and the price setter – these two responsibilities need to be kept separate to avoid any conflict or perception of conflict for the market to respond

competitively and efficiently in the presence of a disproportionately player. A better alternative sits at our recommendation, 32.

34. The only option is an independent Milk Price Panel, with oversight provided by the Financial Markets Authority (FMA), as a result of TAF. Fonterra's other derivative is already overseen by the FMA. This would allow the Commerce Commission to maintain their regulatory role over the structural and competitiveness issues for the entire industry.

35. The base price milk model currently does a very good job, but there needs to be greater separation between the milk price model and the price being used by Fonterra due to the constant misinterpretation and misunderstanding.

36. No comment.

37. No comment.

38. No comment.

39. No comment.

40. Any measure used is effectively a blunt instrument, therefore, nothing will be perfect. The time and circumstances under which market dominance is eroded is simply unknown, and cannot be anticipated other than expecting with a high degree of cer ainty hat it will occur. Market dominance could be exerted, depending on market conditions and structure from as little as 20% market share. The New Zealand Commerce Commission typically uphold a 40% market share as being dominant, however, the current threshold of 80% is too high.

41. No.

42. Not applicable.

43. Unknown.

44. The primary aim of DIRA, to create competitive-like market conditions in the presence of a statutorily created dominant actor (Fonterra) ceases to be relevant when that actor's ability to behave either monopsonistically or monopolistically ceases. At such point perfect or imperfect market conditions are expected to prevail. It is flawed logic to attempt to anticipate when and under what circumstances this will occur. The single most important, and unintended consequence of DIRA are the property rights established for dairy farms in New Zealand. Regardless of the competition impacts and erosion of dominance by Fonterra it is critical that these underlying property rights are maintained – this could well extend beyond Fonterra's dominance. These property rights are critical as they have enabled the dairy industry in New Zealand to become highly bankable driving its expansion over the past two decades.

We look forward to the opportunity to meet with the DIRA Review Team to discuss and debate our comments. We remain open to engaging with MPI and other stakeholders to encourage further analysis of our contributions to ensure a first best solution; and, seek to ensure the continued success of this vital industry in New Zealand.

Chapter 2: Performance of the dairy industry

Section 2.1 2001 structural reform to enable the industry to drive strategic change

Please refer to [Section 2.1] of the discussion document.

(1) Do you agree with our description of the DIRA regulatory regime and its original policy rationale? Do you consider the original policy rationale is still valid?

Section 2.2 Industry performance since the restructure

Please refer to [Section 2.2] of the discussion document.

(2) Are there any other dairy industry developments or industry performance indicators that are not captured in the discussion document or its supplementary material? Please provide details and supporting evidence.

Chapter 3: The effects of the DIRA and other factors on industry performance

Section 3.1: Has the DIRA been effective at managing Fonterra's dominance in the market for farmers' milk, and is it still needed?

Please refer to [Section 3.1] of the discussion document.

(3) Do you consider the DIRA has been effective at achieving its core regulatory objective of preventing Fonterra from using its dominance to create barriers to farmers' milk and land flowing to their highest value uses? If not, please provide reasons and supporting information/evidence

(4) Do you think Fonterra is still dominant in the market for farmers' milk, at the national and regional levels?

(5) Do you think the DIRA imposes unreasonable costs on Fonterra? If so, please provide supporting information/evidence.

(6) Are there ways for the costs imposed on Fonterra to be mitigated without impacting on the effectiveness of the DIRA regulatory regime? If so, please provide supporting information.

(7) Are there any other regulatory tools that, in your opinion, would be more effective than the current DIRA provisions at managing Fonterra's dominance? If so, please provide examples and supporting information/evidence.

(8) Are there other factors you consider need to be taken into account when considering the effectiveness of the DIRA regime and whether it is still needed?

Section 3.2: Does the DIRA encourage industry growth?

Please refer to [Section 3.2] of the discussion document.

(9) Do you agree with our preliminary assessment of the extent to which the DIRA encourages industry growth? If not, please provide reasons and supporting information/evidence.

Section 3.3: Does the DIRA influence Fonterra's strategy?

Please refer to [Section 3.3] of the discussion document.

(10) Do you agree with our preliminary assessment of the extent to which Fonterra can influence milk supply volumes through price, notwithstanding the DIRA open entry requirements?

(11) Are there other factors that you consider should be taken into account? Please provide detailed comment in support of your views.

(12) Do you consider that the DIRA provisions governing Fonterra's base milk price calculation and Commerce Commission monitoring may be preventing or disincentivising Fonterra from deviating from the base milk price calculation for strategic or commercial reasons?

(13) If the DIRA is not driving Fonterra's business and investment strategy, what is? Please provide detailed comment in support of your views.

Section 3.4: Does the DIRA impact on the industry's environmental performance?

Please refer to [Section 3.4] of the discussion document.

(14) Do you agree with our preliminary analysis of the DIRA's impact on the industry's environmental performance? If not, please provide your reasons and supporting evidence.

(15) Do you agree with our view that environmental issues are best dealt with through the Resource Management Act and not the DIRA regime?

(16) Are there o her environmental issues that you consider should be addressed either through the DIRA review or some other means?

Section 3.5: Does the DIRA incentivise inefficient entry by large dairy processors?

Please refer to [Section 3.5] of the discussion document.

(17) Do you agree with our preliminary analysis of the impact the DIRA has on new processor entry? If not, please provide your reasons and information/evidence in support of your views.

(18) Do you consider that large dairy processors should continue to be eligible to purchase regulated milk from Fonterra under the Raw Milk Regulations or not? Please provide detailed comment in support of your views.

Section 3.6: Does the DIRA promote sufficient confidence in the base milk price calculation?

Please refer to [Section 3.6] of the discussion document.

(19) Do you consider that greater confidence in the base milk price calculation outcomes could be achieved if additional legislative guidance on the term "practically feasible" were to be provided for in the DIRA? Please provide detailed comment in support of your views.

(20) Do you consider that the base milk price should be set by an independent body (e.g., the Commerce Commission)? If so, please provide supporting information.

Section 3.7: Does the DIRA support competition in New Zealand consumer dairy markets?

Please refer to [Section 3.7] of the discussion document.

(21) Do you agree with our preliminary analysis of the DIRA impact on the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

(22) Are there any other factors that should be taken into account regarding the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

Chapter 4: Options for change

Section 4.1: DIRA open entry requirements

Please refer to [Section 4.1] of the discussion document.

(23) Are there any other options for the DIRA open entry requirements that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(24) What costs and benefits would each of the options for the DIRA open entry requirements create for your business? Please provide quantitative information if possible.

(25) How well do you think each of the options for the DIRA open entry requirements would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(26) What is your preferred option for the DIRA open entry requirements? Please provide your reasons and information/evidence in support of your views.

Section 4.2: Access to regulated milk for large dairy processors (except Goodman Fielder)

Please refer to [Section 4.2] of the discussion document.

(27) Are there any other options for access to regulated milk for large dairy processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(28) Do you consider that the proposed 30 million litres threshold is too high or too low? If so, what would you consider the right threshold to be, and why?

(29) What costs and benefits would each of the options for access to regulated milk for large dairy processors create for your business? Please provide quantitative information if possible.

(30) How well do you think each of the options for access to regulated milk for large dairy processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(31) Do you have a preferred option for access to regulated milk for large dairy processors? Please provide your reasons and information/evidence in support of your views.

Section 4.3: Options for the base milk price calculation

Please refer to [Section 4.3] of the discussion document.

(32) Are there any other options for the base milk price calculation that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(33) What costs and benefits would each of the options for the base milk price calculation create for your business? Please provide quantitative information if possible.

(34) How well do you think each of the options for the base milk price calculation would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(35) Do have a preferred option for the base milk price calculation? Please provide your reasons and information/evidence in support of your views

Section 4.4: Options for access to regulated milk for Goodman Fielder and smaller processors

Please refer to [Section 4.4] of the discussion document.

(36) Are there any other options for access to regulated milk for Goodman Fielder and smaller processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(37) What costs and benefits would each of the options for access to regulated milk for Goodman Fielder and smaller processors create for your business? Please provide quantitative information if possible.

(38) How well do you think each of the options for access to regulated milk for Goodman Fielder and smaller processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(39) Do you have a preferred option, or a combination of options, for access to regulated milk for Goodman Fielder and smaller processors? Please provide your reasons and information/evidence in support of your views.

Section 4.5: Options for the DIRA review and expiry provisions

Please refer to [Section 4.5] of the discussion document.

(40) How best do you consider "market dominance" could be measured? For example, are there certain criteria (other than a market share threshold) that could be provided for in legislation as a trigger for review and/or expiry of the DIRA?

(41) Are there any other options for the DIRA review and expiry provisions that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(42) What costs and benefits would each of the options for the DIRA review and expiry provisions create for your business? Please provide quantitative information if possible.

(43) How well do you think each of the options for the DIRA review and expiry provisions would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency cost-effectiveness and timeliness of regulatory processes?

(44) Do you have a preferred option, or a combination of options, for the DIRA review and expiry provisions? Please provide your reasons and information/evidence in support of your views.

s 9(2)(a) [redacted]

8 Feb 2019

Review of the Dairy Industry Restructuring Act 2001 and its impact on the dairy industry.

I am a Fonterra supplier. I am writing to encourage the DIRA review team to give weight to the views expressed by the Tatua Co-operative Dairy Company in their Response to Terms of Reference for the Review of the Dairy Industry Restructuring Act 2001 and its impact on the dairy industry, July 2018.

In particular (with permission):

- 1.7 Tatua believes a strong Fonterra Co-operative is good for New Zealand. The co-operative model provides an essential risk management function for the whole dairy sector, because it passes the effects of market volatility onto the farming sector which has the greatest financial value and resilience. In the absence of a dominant Fonterra Co- operative, and Fonterra eference milk price there is a real risk that long term farm returns would diminish, resulting in erosion of farm resilience, and at the extreme, failure of the farm-gate milk market in some regions.

- 1.8 Tatua accepts that the regulatory requirement for Fonterra to accept offers of milk supply may have included areas with a high intrinsic environmental value. However, this is fundamentally an issue arising from regional planning decisions, resource consents and other factors outside the scope of DIRA. In the case of so-called ‘uneconomic milk Tatua is open to adjustment of DIRA to avoid this outcome, but suggests caution in undermining the otherwise overwhelming benefits of competition and notes also that this issue will become irrelevant as milk-growth slows or reverses

- 3.6 In the current environment there is a different risk attached to regulation around farm- gate milk price. With static or declining milk volumes, and the very real likelihood of excess processing capacity, it is more likely that some companies will pay more than they can afford in the long term to secure milk in the short term. i.e. a procurement war similar to what has been seen in the meat industry at various times. This could escalate until one or more firms actually fails. The problem is that regulation of Fonterra’s farm- gate milk price alone will not resolve the issue, given the involvement of other equally motivated participants. Also, it would seem unreasonable in the extreme to regulate the farm-gate milk price of independents.

In any case, the current regulation relates almost entirely to transparency, with no real powers of enforcement, and the model has already been disregarded at times.

- 5.2 Fonterra's market dominance in New Zealand means that it sets the benchmark for farm gate milk prices. This means that Fonterra's dominance combined with its co-operative structure and farm-gate milk price helps ensure global market returns are reflected in the milk price received for all dairy farm operators, including those supplying independently owned processors.

- 6.3 Tatua rejects the notion that DIRA should be re-constructed to achieve outcomes other than the efficient functioning of the industry itself. The issue of Mackenzie Country, and indeed all land-use change, is properly the business of other Government regulation and policy (i.e. Resource Management Act, National Environmental Standards, and National Policy Statements) and of the affected Regional Councils (i.e. Regional Policy Statements, Regional Plans). If there was any failure in regards to permitting dairy conversions in Mackenzie Country, it resides with those parties. It is disingenuous to suggest that DIRA's free-entry-and-exit rules are responsible.

- 6.5 There has been a further suggestion that DIRA's requirement for Fonterra to accept all milk offered, in conjunction with high milk growth, somehow forced it to focus on developing large-scale commodity ingredients processing capacity rather than developing a sustainable value-added business. In our view, the decision to build a large powder- processing capacity across New Zealand has been economically rationa based on relative stream returns and market demand. Independents have focussed on milk powder driers for the same reason. Whatever the case, the current industry phase with low/zero/declining milk growth renders this argument obsolete. It will be competition rather than regulation which drives innovation in value-added milk products.

On the issue of market power NERA Economic Consulting: An Assessment of the DIRA Triggers, 30 March 2010.

4.1.2. Incentive to Exercise Market Power

Fonterra’s cooperative nature means that it would not have the incentive to exercise market power against its own farmer suppliers/shareholders – there would be little point in lowering prices to farmers in order to make greater profits, which would then be cycled back to those same farmers as shareholders. But would Fonterra have the incentive to behave anticompetitively against IPs (in the absence of the DIRA)?

Fonterra’s suppliers/shareholders have two hats on. As shareholders, they would like Fonterra to exercise market power. But as suppliers they would like to have options in terms of who to sell to. Also, there are likely to be a variety of preferences among farmers – a certain proportion of farmers may be particularly loyal to Fonterra or at least to the cooperative model, while others may be keener to test other models. Therefore it seems likely that Fonterra’s cooperative nature would at least partly reduce its incentive to behave anticompetitively in respect of the farm gate market compared to an investor-owned firm.

- There is also a possible principal-agent issue. Even if the majority of Fonterra’s farmers would prefer that competition at he farm gate develops, it is possible that Fonterra’s management might have a different objective. We stress that we do not have any evidence as to this happening, but note it as a conceptual possibility. Principal-agent concerns be ween shareholders and management are a well recognised issue in the economics literature on organisational form.

- The classic rationale for a firm with market power to behave anticompetitively is to damage rivals and to then charge monopsony prices to suppliers. But that rationale is likely to be relatively inapplicable to Fonterra, for the reasons discussed above.

In summary, I encourage the review team to look beyond the challenges and solutions the dairy industry faced in 2001.

s 9(2)(a)

DIRA review January 2019

s 9(2)(a) [redacted]

[redacted]

[redacted]

Dear DIRA review Panel

I have taken the freedom to follow the MPI discussion document No: 2018/13 and give my opinions and experiences subject by subject.

*Ministers Foreword;

Hon Damien O'Connor spells it out quite well with saying, "**We want to ensure that future dairy industry performance is optimised for the benefit of the NZ economy, farmers and consumers. "**

I totally agree with this statement and will use this as my reference vision.

I also like to refer to another statement in the Ministers foreword; "The DIRA also created a regulatory regime to mitigate the risk associated with there being a company with a near monopoly position in the domestic dairy market."

Fonterra may be s a **major** player in the local dairy industry but is definitely **not dominant .** There are at least 10 major dairy companies in NZ today**,** Therefor there cannot be regulations for Fonterra alone .

*DIRA discussion document Overview;

1. The DIRA was enacted in 2001 to facilitate the formation of a national champion, Fonterra.

2. The expansion of the dairy industry has had negative impacts on the environment.

In my opinion **it is not the place of DIRA to regulate environmental issues**. There is the resource management act, local council rules and so on.

3. The DIRA regulations have contributed to adverse industry performance! Competitors have cherry picked easy dairy area's leaving Fonterra to pick up farms the competitors are not interested in because of size, distance, quality of milk and performance.

4. **The DIRA is also responsible for the excessive growth in milk supply** and rate of conversion of sheep farms to dairy. Due to the poor economic performance of sheep farms, partly due to overcapacity and competition against each other in overseas markets, sheep farmers have been looking to better land use. **The DIRA made that Fonterra had to accept all milk offered.** The DIRA is now also responsible for the New Zealand Dairy Industry heading in the same way as the unprofitable sheep industry is now.

*Risk to future earnings of dairy farmers, and the overall economy;

This section talks about the risk of putting all eggs in one basket. DIRA has increased that risk at a cost to Fonterra farmers. Since the formation of Fonterra, competing companies have set up in NZ, with a guaranty of milk top up for many years of the up to 50 million litres of DIRA milk. Most of these new competing companies have a corporate structure with big offshore investors. All of the new comers are solely focused on the Asian markets and all of the new comers are mainly focused on milk powders. Because of DIRA they have been able to set up more specialised milk powder plants, set themselves up in areas with easy access to big dairy farms and been given DIRA milk they didn't even have to compete for.

Fonterra ,unlike most of the other New Zealand dairy companies :

-has every incentive to pay a good price for the milk

-supplies local markets with dairy products

-supplies a variety of international markets with a variety of products

We now have Fonterra **competitors in NZ** who:

have **no incentive to pay the maximum** for their milk from NZ farms

-**do not supply local markets** with dairy products at all

-**focus solely on the Asian markets** with a very small product mix

-**take profits of the company out of NZ to their overseas investors**

-have **no responsibility to NZ farmers** and can easily cease processing if this would be unsustainable, as has happened before with NZ Dairies in Studholme.

So instead of having the risk of having all the eggs in one basket, **DIRA has created an industry that has <u>all eggs in one basket</u> in <u>one geographical area in one product</u>. The new processors have <u>no responsibility, or interest in a healthy nz economy</u> and also <u>have no interest in supplying the nz public with fresh dairy products.</u> This has created a very risky situation as they compete with one of our own overseas and not local and in doing so weaken New Zealand's economic position .**

*Risk of New Zealand consumers of dairy products being charged excessive monopoly prices and/or having limited product choice.

1. The 50% divestment of Fonterra's domestic consumer business has resulted in again an overseas business (Goodman Fielder) having a very easy business set up in NZ.

2. The provision for up to 250 million litres of raw milk to Goodman Fielder should have only been for a few years. Goodman Fielder was expected to develop its own milk supply but surprise surprise this never happened.

3. The **raw milk regulation to smaller processors supply ng the domestic consumer market is the only sensible in the DIRA regulation.**

High level observations of industry performance

The reference to R&D investment from Fonterra compared to other food producers as a percentage of turnover is totally irrelevant. It can be that the Fonterra spend is more effective.

The environmental cost of dairying? The numbers of dairy cows have increased to the detriment of other livestock numbers. Not a real increase in environmental cost. The number of new dairy conversions has meant a younger average age of dairy farm infrastructure. As with housing or automobile stock new investments normally means better environmental outcomes.

The ast point I like to make on **environmental cost** is that it **is not related to the DIRA or Fonterra, as all new entrants have been targeting new conversion farms.**

The effects of the DIRA and other factors on industry performance

1.Is Fonterra still dominant?

In this section it becomes very clear to me that the DIRA is set up to REGULATE AGAINST Fonterra. DIRA has shifted the goal post in 2011 and postponed deactivation in 2018. The reason Fonterra is still dominant in 2019 has more to do with farmers liking the cooperative structure and the benefits for NZ-Inc more than the overseas owned corporate structures. It can be seen as a failure for the DIRA not to have regulated the new entrants to set up a factory in Northland and Wairarapa.

By the tone of this writing it seems to be a good thing that the market share in milk supply of our "National Champion" has fallen from 96% to 80% and that government should make sure it will drop further!

By now it should be very clear that Fonterra is a Cooperative. Fonterra doesn't pay suppliers in Northland or in the Wairarapa any more or less than it shareholders in Canterbury, Waikato or Southland. Contrary to the competing dairy companies all suppliers/shareholders are equal.

Answers to questions

3. The DIRA has achieved what it was set out to do. We have competition for farmer's milk. We have rules for Fonterra to supply Goodman F elder. **It's time to create a new DIRA 2019 act involving the whole DAIRY INDUSTRY, and not only Fonterra.**

4. Fonterra will most likely stay the majority stake holder for farmer's milk no matter how many DIRA's you throw at it as **the majority of farmers will prefer a cooperative above private capital.**

5. Until now the DIRA has been the DIRA against Fonterra or the Fonterra Regulation Act. All cost and responsibilities have been with Fonterra with new entrants being the beneficiaries of regulated milk open entry and exit, no need to supply local markets….

7. **STOP being fo used on Fonterra's dominance. A strong local NZ owned dairy factory has many benefits for the NZ economy, just ask the red meat industry.**

8. The DIRA has done its job. Abolish the DIRA 2001 and if needed set up the DIRA 2019 in olving the whole dairy industry. The NZ dairy industry in 2019 involves at least 10 reasonable sized players.

10. **The milk price is influenced by supply and demand. Fonterra cannot directly control the share price to attract or lower milk supply. It is all intertwined with milk price and performance.**

14. NO! The effects on the environment are predominantly based on perception. The average NZ stock numbers have not changed that much. With the change to more dairy cow

have come some negative effect, for example more nitrogen use, but considering the size of the increase in dairy cow numbers, the environment has not changed that much. I would call it growth pains. As recent figures show, better farm management with newer infrastructure will improve the environmental cost very soon.

15. YES

16. NO

17. YES. With their newer plants, cherry picked locations, open entry and exit regulat ons, higher value product mixes, direct supply chains into Asian markets and regulated milk supplied, still none of the new entrants has competed with Fonterra at the farm gate milk price.

18**. NO. Regulated milk should only be supplied to processors who supply the local market.**

19. NO. The fact that Fonterra over the last 17years only twice deviated from the milk price manual derived milk price means it is practically feasible.

20. NO.

21. YES.

23. Abolish open entry and exit. Abolish the DIRA 2001

24. opt. 4.1.1 ; Fonterra would still need to keep extra capacity on hand to cater for returning suppliers or for extra supply when there would be another spike in milk prices.

opt. 4.1.2 ; * Fonterra could sell off old infrastructure and restructure its business to drive performance and efficiency just as new entrants can with their new plants.

- Fonterra could control reputational quality

opt. 4.1.3 ; * Difficult to police

- Only provide for reputation damage risk

26. Repeal the open entry and exit. If I would like to supply one of the new entrants I will most likely have to go on a waiting list. I would have no guaranty that I ever would be accepted as supplier with no explanation required from the company as to why.

It would make Fonterra a leaner business more agile to react to market forces.

27. 1. **Let all dairy companies with their own supply over 30 M litres supply, supply new entrants with regulated milk. This is the Dairy Industry Restructuring act. Not the Fonterra Restructuring act.**

2. Leave a window for NZ owned new dairy processor entrants as long as that NZ owned company stays in NZ hands for at least 15 year. This will provide fair competition for Fonterra and instead of profits going to overseas investors it would stay in NZ.

28. about right

31. Option 4.2.2 Amend to exclude large dairy processors with overseas backing. Take away the unfair advantage new dairy processors get.

32. Fonterra's milk price manual has now worked very well for many years. To be fair with 10 dairy companies active in NZ, we should not need a milk price calculation. The market should determine the milk price through competition. The new entrants rely too much on Fonterra to set the price.

35. option 4.3.1 Status quo! Keep politics out of the milk price, let Fonterra be as flexible as possible and keep all new entrants on their toes to pay the most possible for the farm gate milk.

39. option 4.4.3 reduce Goodman Fielder's eligibility to access regulated milk.

Goodman Fielder was expected to have set up its own milk supply. They have had 17 years to do so. In the meantime there are 10 di ferent dairy companies in NZ who can supply Goodman Fielder contracted milk if needed. Abolishing the regulated milk supply will make Goodman Fielder a more assertive player in the domestic market.

40. Stop focusing on market dominance! The DIRA has done its job. Abolish the DIRA 2001 and level the playing field. The dairy industry in 2019 is more than Fonterra. There is plenty of options out there but most people will remain with the cooperative.

41. Abolish the DIRA 2001. Expiry provisions are hollow words as has been proven in the past. Politics and other bus ness pressure will muddy the water.

44. Same as above

End remarks;

The ideas behind the DIRA 2001 were great and Fonterra has proven to be do well and be trustworthy.

The DIRA has however made that the dairy industry is back to its' 10 or more dairy manufacturers from before 1990.

The DIRA so far has been “the DIRA against Fonterra” or the FRA, The Fonterra Regulation act.

The DIRA was set up to make a strong company able to compete overseas. To regulate so NZ consumers would have plenty of choice in the supermarket.

Fonterra has been the envy of the red meat industry but that is where we are heading now.

The dairy industry is more than Fonterra alone. It has now 10 or more sizable players, who all should be expected to have the best for NZ INC. at heart.

For me, the DIRA 2001 has done its job. We have plenty of competition at the farm gate, but none of the new entrants is interested in the nz domestic market. **It has been a missed opportunity not to require new entrants to supply the domestic market as a condition to set up a factory in NZ.** China sets plenty of rules before a business can get into their market. It would be fair to expect all new and past entrants to supply the NZ market with at least 2 products and over at least 95% of the country. This way we would create a great benefit for the NZ consumer by getting new products on the shelf and /or competition in the super market.

Fonterra has obeyed the DIRA regulations very well. For the benefit of NZ and NZ consumers it is time that all dairy processors start to play their part.

s 9(2)(a) [redacted]

s 9(2)(a) [redacted]

Review of the Dairy Industry Restructuring Act 2001 and its impact on the dairy industry

Submitter: s 9(2)(a) [redacted]
Dairy Farmer, employing herd owning sharemilkers,
s 9(2)(a) [redacted]

Submission
Chapter 2: Performance of the dairy industry Section 2.1 2001 structural reform to enable the industry to drive strategic change

The MPI DIRA discussion document is well prepared and adequately covers he key policy components to consider.
An alternative perspective on some of the commentary in the discussion document may be helpful before drawing final conclusions.

General observations

DIRA was conceived and executed to facilitate the integration of the NZ dairy industry, at a time when the alternative was disintegration, which would have resulted in significant value destruction through disruption in splitting the functions and asse s of the former NZ Dairy Board. DIRA was a pragmatic and sensible solution to a vexing problem.

Farmer (shareholder) support for combining the resources of the major Co-operatives and NZ Dairy Board was overwhelmingly in favour It gave the industry confidence. Enacting DIRA at the time was good policy making.

The high level of farmer support was conditional upon understanding that DIRA was a transitional step on the path to full deregulation.

Since 2001 the dairy industry's economic performance and contribution to both farmer and national wealth crea ion has exceeded any forecasts prepared at the time in terms of export earnings, farm gate milk price, asset values, direct and indirect employment and critically, the contribution to improvement NZ's terms of trade, which has benefited every New Zealander.

The evolution of the externally verifiable and fully transparent Farm Gate Milk Price is one of the most important developments in the NZ dairy industry's history. True visibility into the base value of milk is essential for driving economic efficiency and optimising capital and recourse allocation. This development alone places NZ dairy farmers in a unique and enviable position the world. Everyone can see what milk is earning in its basic processed form, from sales in the freely traded world market. This measure provides a benchmark milk price which processors must pay farmers, before the processor can make a profit, and must be retained to prevent a trust deficit returning, and to ensure the performance of investments in 'value adding' in the context described in the discussion document can be measured.

Fonterra has performed well in its core co-operative function of valorising farmers' milk. Milk returns to NZ farmers are now on a par with US and EU farmers and without subsidy or intervention. This achievement was unimaginable at the time of Fonterra's creation. Significant value has been added to farming businesses via Fonterra's transparent and verifiable milk price, ensuring Fonterra delivers the full value for milk while keeping other processors honest.

Fonterra has performed well in value adding activities in technical dairy ingredients and foodservice business, both largely associated with its core co-operative business.

Fonterra's co-operative ownership and capital structure severely limits its capacity to raise and govern high risk investment capital. It is not DIRA, or the milk price mechanism that constrains it. Capital-intensive long-term investment, at scale, particularly in consumer branded products (which are largely indifferent to the origin of milk solids contained in them) in crowded offshore FMCG markets, remains a significant challenge for Fonterra, and a serious conundrum for many of Fonterra's farmer shareholders.
These value growth investments add value to the business, not to the milk used.

Chapter 3: The effects of the DIRA and other factors on industry performance

Section 3.1: Has the DIRA been effective at managing Fonterra's dominance in the market for farmers' milk, and is it still needed?

(3) Do you consider the DIRA has been effective at achieving its core regulatory objective of preventing Fonterra from using its dominance to create barriers to farmers' milk and land flowing to their highest value uses? If not, please provide reasons and supporting information/evidence.

Milk will always flow to its highest value uses, provided price signals are clear and not interfered with.
In large multi-product processing companies, sophisticated optimisation models ensure the highest value applications for milk solids will attract milk first and the lowest value uses attract milk last. This occurs with or without DIRA.
Land use has been steadily shifting out of lower value pastoral farming and cropping or forestry use into higher value dairy use.
The single biggest factor in ensuring competition is individual farmers exercising their right to choose where and when they use their capital.
No one leaves Fonterra to get a higher milk p ice. They leave because they have a higher priority use for their capital tied up in Fonterra shares.
Milk prices paid by independent processors are not materially different from the Fonterra milk price, and in some cases the reality does not match the headline prices published. Nor do they pay dividends.
Similarly, new farms entering dairy are often capital constrained, and appreciate the option of being able to supply a processor without the obligation to buy shares.

(4) Do you think Fonterra is still dominant in the market for farmers' milk, at the national and regional levels?

Over ninety percent of NZ milk collection area is serviced by at least two major processors.
With few exceptions, farmers can leave Fonterra and supply an alternative processor.
Fonterra retains around 80% of national supply, because farmers supplying milk to Fonterra choose to do so. They can leave any time, and some will come and go.
It appears there may be significant surplus processing capacity emerging, so that won't be a constraint to farmers switching processors.

Section 3.2: Does the DIRA encourage industry growth?

(9) Do you agree with our preliminary assessment of the extent to which the DIRA encourages industry growth? If not, please provide reasons and supporting information/evidence.

Industry growth is a rational response to market opportunities, not to due to DIRA per se.

Growth was occurring at pace in the NZ dairy industry well before DIRA arrived. In fact, this was one of the key drivers for the first steps to full deregulation which was integrating the manufacturing Co-ops with the Dairy Board.

In the face of growing milk supply, the Co-ops were having to spend significant capital putting up new processing facilities. The processing Co-ops took all the financial risk in building specific product manufacturing plants, but they had no control over or visibility into the revenue generated from those investments.
The Co-ops did introduce 'Growth funds Growth' shareholding, i.e. requiring new milk o provide enough share capital to fund the equity portion needed to build new plants, while the existing milk supply assumed all the risk around the additional debt.
A sophisticated model of cost reimbursement, together with a series of opaque and capricious product mix incentives set the revenue received by the Co-ops from the NZDB.
Co-ops which were not large enough to beat the 'average cost' became uncompetitive regardless of what their products were earning in the market.
In an endeavour to maintain their milk price competitiveness, and their independence, many small Co-ops pursued the kind of 'value adding' referred to in the MPI document (page 25). Most of them failed, and where assimilated into the larger Co-ops

Section 3.3: Does the DIRA influence Fonterra's strategy?

(10) Do you agree with our preliminary assessment of the extent to which Fonterra can influence milk supply volumes through price, notwithstanding the DIRA open entry requirements?

NO.
The MPI discussion paper makes a vague reference (page 24) to a concept that Fonterra could start arbitrarily underpaying for milk, in the hope of reducing milk supply, and to divert earnings from milk to a capital retention for investment in what the MPI discussion document refers to as "consumer driven value-added processing assets".

This is suggesting Fonterra would deliberately reduce the milk price to increase its profit and retain it for investment. In other words, return to common industry practice pre DIRA.
That will not work stably without a statuary monopoly, and nobody wants that.

The analysis may have overlooked or misunderstood some of the key drivers of dairy supply and price dynamics.

Global demand for dairy consumption currently 400 bn litres (excluding India) is steadily rising at around 6 bn litres per year (+1.5%) in all its product forms. Most of that demand is filled by 'in country' milk supply, mainly for fluid/fresh product and cheese consumption. The remainder is filled with traded commodities or ingredients, and with finished dairy products produced in exporter nations.
From time to time global supply rises above that demand growth or falls below it.
Wholesale trade price is very sensitive to any short-term supply imbalance. When traded prices rise materially, there is always a supply response, the milk will come from somewhere.

If not NZ, then certainly it will come from EU or US. Additional milk from short term supply responses will be utilised in intermediate products (commodities or ingredients) which can be stored, transported and sold on the world market.
When there is a supply deficit, prices rise until the deficit is filled, and it always gets filled.

Dairy product manufacturers in milk deficit countries face a simple choice. They can purchase locally sourced milk to provide the milk fat and protein needed in the products they make, or source these components from the world market (where trade rules allow).
The issue they face in sourcing milk locally is it often too expensive for use in most manufactured consumer dairy products, or not fit for purpose.
Typically, on a milk solids basis, it will cost an in-market manufacturer 30% more to use local fresh milk as an ingredient for manufacturing than the landed cost milk solids contained in globally traded WMP or SMP plus AMF at world traded prices. Few applications other than highest value fresh products can support utilising expensive locally produced milk in these countries, especially in the tropics and Middle East. Consumers can't afford it. Hence the demand for imported dairy commodities.
Billons of low-medium income people globally have been able to consume dairy products because trade in commodities/ingredients has made it affordable to do so.

It is the price point where foreign manufacturers are indifferent between using locally produced fluid milk, or imported ingredients which ultimately sets the world price of traded commodities, and it is this world price which informs the Fonterra Farm Gate Milk Price.
This price point has been fluctuating around a gradually rising trend and will continue to do so over time as the milk deficit grows in importing countries.
Any policy setting which interferes with the transmission of that price information back to NZ farmers will undermine efficient economic outcomes. It will certainly provide opportunities for other exporting nations to capture demand growth at the expense of NZ. It will achieve nothing.

It is worth recognising

- Any extra milk from NZ comes with a lower carbon footprint than milk from EU or US.
- If Fonterra were to pay less for milk than milk is earning, especially for an extended time, Fonterra will lose large amounts of milk. The milk will still be produced and processed by another NZ processor, and almost certainly made into commodities. Quite possibly a new processor built by Fonterra suppliers taking their milk and capital out of Fonterra, i.e. becoming efficient processor themselves. (Ironically, this is what DIRA originally intended).
- Fonterra has a limited dividend reinvestment programme; where shares can be issued at modest discount to market price when farmers choose to reinvest the dividend. The point is that decision is voluntarily where farmer shareholders can exercise choice in the use of their capital. This is conventional standard routine practice for companies.
- Fonterra does not compensate farmers with share issues where one off 'adjustments' to the milk price are made. This is basically confiscating milk value from farmers supplying the principle manufacturing raw material, i.e. its farmers' milk. 50c kg/ms was diverted from milk earnings to profit in 2014, and 5 c kg last year. The only tolerable aspect to this practice was that it was transparent.
- Sharemilkers would be seriously disadvantaged and aggrieved when milk price is 'adjusted', or artificially reduced.

The commentary outlined on page 25 (3rd bullet) indicates the MPI writer recognises the long-term nature of some forms of "consumer driven value-added investment", particularly where demand must be created. The cash burn capital required in such ventures, and the associated risks are not trivial, nor is the need for exceptional entrepreneurial leadership in executing it.
Often it is cheaper to buy a brand than build one, but the capital needed for material acquisitions is often beyond what can be raised from farmers alone, who usually have other more pressing demands on capital. Nestle spent USD 11 bn buying Pfizer's infant formula brands.

It is not surprising that the two benchmark companies referred to in the Frontier Economics analysis to illustrate success in value added strategy (Gambia and Kerry) are both investor owned

firms, not Co-operatives. Their legacy Co-operatives may still be shareholders, but it is largely private investor capital which has funded the growth and taken the risk in these activities. It is also relevant to the discussion that large parts of these company value added activities do not use dairy solids supplied by their Irish suppliers. Milk is sourced in-market. Glanbia and Kerry are major processors in the USA, and elsewhere.
Whereas many of Fonterra farmer shareholders have an aversion to investing in offshore processing, Investors do not.

When successfully executed, total returns from these value adding investments can greatly exceed those generated by farming for commodities production. However, they inevitably take time to mature, and most fail before maturity. Furthermore, the value is captured in company value (share price), rather than through cash distributions to investors for many years, and rarely if ever through milk price. This is pure investment activity.

It is also worth noting

- for commodity production, the demand is already there, only the price varies.
- Despite NZ higher exposure to dairy commodities, measured over time, arm gate milk price volatility, in local currency, is virtually identical in USA and China and the export states of Australia to what has occurred in NZ.

Fonterra has a value adding strategy, and does not appear to have been constrained in building 'value add' assets to meet demand growth for a range of selected foodservice products and technical ingredients.
Parts of strategy has been executed very well and have created significant value, others have not.
Fonterra's first duty to its owners is to process their milk, and to pay them what it is worth. This function has been operating very well.

There are many Fonterra shareholders who would voluntarily invest to provide additional capital when they do have high milk prices and profitable years, rather than overpay for additional land to expand milk production. However, Fonterra's current capital structure prevents additional voluntary capital subscription in any meaningful way. Fonterra cannot raise additional investment capital other than through increasing milk supply and issuing new shares, retentions from earnings, or by raising new debt.
Retentions from genuine profit makes sense. Underpaying for milk to prop up earnings or confiscating milk earnings from farmers by making 'adjustments' to the milk price does not make sense
Fonterra's capital structure needs to change, not its milk pricing policy.

(11) Are there other factors that you consider should be taken into account? Please provide detailed comment in support of your views.

For the record, it should be noted the reference on page 26 (bullet 1) to milk with high protein levels at racting a premium, while milk with high fat levels receiving a discount is completely wrong Fat and protein values in the FGMP are set based on what those components are earning. Milk fat values are higher than protein values in the milk solids price, so milk with a high fat content is earning a significant premium.
It is a myth than the growth in milk value over time has been driven by Asian demand for protein. The trend in protein values has been almost flat since Fonterra was formed, while the trend change in milk fat values has rising at been 22 c/kg milk fat every year. Milk fat values are now higher per kg than protein values.
This is an important point because transparency supports good decision making around product mix investment, breed choice and feeding regimes.
Companies which are now paying more for protein than milk fat in their milk price are underpaying farmers for their milk, unless the cows produce only skim milk, which they don't.

(12) Do you consider that the DIRA provisions governing Fonterra's base milk price calculation and Commerce Commission monitoring may be preventing or disincentivising Fonterra from deviating from the base milk price calculation for strategic or commercial reasons?

NO. Fonterra can, and does vary its milk price where its governing board judges that it is in the interest of the company to do so. Usually when it is in trouble.
This variation is transparent to farmers, and must remain so.

The most critical component of dairy industry restructuring was processor/marketer integration which provided line of sight through the whole value chain, and introduction of the externally verifiable Farm Gate Milk Price.
Dairy farmers, as producers of a highly perishable product (raw milk), have had to operate with a significant power imbalance between themselves individually, and processors who have all the information and processing assets, and consequently all the market power. This is why Co-operatives exist. It is a form of vertical integration.
The inherent danger in the Co-operative solution to managing this market power imbalance where the Co-operative, or any other form of business ownership, has a high level of market dominance It can effectively write its r own profit by making the value of milk the residual after deducting from revenue their cost of operation and whatever margin they want to make
A profligate dominant Co-operative or monopolist processor will always be profitable, its staff will be overpaid, its strategic mistakes will go unnoticed, and its supplying f mers will be underpaid.

Fonterra is first and foremost a farmer co-operative. It is a collective extension of 10,000 farmers' individual businesses, not the other way around.
Fonterra's farmer owners' expectation is that their Co-opera ive will efficiently take all their milk to market, and provided that the supplying farmer meets the terms of supply to the Co-operative, it will accept their milk. The seasonal supply profile and composition of milk which individual farms choose produce will vary depending on their individual circumstances and preferences and physical constraints. The Co-operative in turn must provide clear and accurate price signals to farmers so they can make the right decisions. This is done through paying what milk is earning and its associated costs of collection processing and channel to market.
Fonterra provides the information, and sets the terms of supply, and farmers make their own decisions. This ensures the most efficient use of resources.
The risk and consequences of a large processor like Fonterra underpaying for milk are too high. External well-informed impartial oversight and commentary of the milk price calculation is very important in the New Zealand context.

Section 3 4: Does the DIRA impact on the industry's environmental performance?

(15) Do you agree with our view that environmental issues are best dealt with through the Resource Management Act and not the DIRA regime?

Yes. Environmental stewardship is wider than the dairy industry and is not relevant to DIRA.

Section 3.5: Does the DIRA incentivise inefficient entry by large dairy processors?

(17) Do you agree with our preliminary analysis of the impact the DIRA has on new processor entry? If not, please provide your reasons and information/evidence in support of your views.

The dairy industry does not need DIRA to encourage completion. No single factor has had more influence on farmers' decisions to switch processors than their compulsion to hold Fonterra shares in proportion to milk supply.

(18) Do you consider that large dairy processors should continue to be eligible to purchase regulated milk from Fonterra under the Raw Milk Regulations or not? Please provide detailed comment in support of your views.

NO Large and small dairy processors purchase milk from each other all the time. They do not need DIRA for this. If Fonterra wouldn't supply milk to a purchaser at the regulated price, it will be because there is a significant opportunity cost doing so. Purchasers who fully compensate Fonterra for the milk costs and delivery cost and opportunity costs would probably get the milk they want if it is available. Many non-Co-operative processors around the world prefer not to deal directly with farmers at all. Being able to simply dial in the milk, knowing it meets Fonterra's raw milk quality standards, food safety and composition standards is a huge advantage to independent processors.

Section 3.6: Does the DIRA promote sufficient confidence in the base milk price calculation?

(19) Do you consider that greater confidence in the base milk price calculation outcomes could be achieved if additional legislative guidance on the term "practically feasible" were to be provided for in the DIRA? Please provide detailed comment in support of your views.

The Fonterra Farm Gate Milk Price (FGMP) calculation is the only milk price calculation farmers have confidence in to accurately reflect the value of milk. Its framework means • It is set independent of Fonterra management, essentially a proxy for an efficient market price based on externally verifiable prices and costs used to calculate a milk price that must be paid before Fonterra can print a profit. • It is overseen independently by the Commerce Commission, the milk price panel, and is reviewed by external experts. • Its methodology and inputs workings are published for wide scrutiny. Fonterra's Farm Gate Milk Price may be the only one announced where the headline matches the reality. If a Fonterra supplier's milk matched the company average milk composition, and the company average seasonal supply pattern, and is free of quality downgrades, they receive the announced price. The adjustments between farmers are a zero-sum game, with the under matching the overs. The milk price is not a theoretically achievable number, it is what is actually paid to farmers on average. Fonterra publishes its reference commodity price revenue, It publishes its milk solids collected. It publishes its payments for fat and protein contained in the milk. It is very easy to confirm what Fonterra has actually paid for milk. Fonterra does not obscure its milk price paid to farmers by adding in speciality milk or seasonal premiums. These additional payments are add-on's not paid to everyone. Fonterra reports an honest milk price.

It is useful to reflect on the response to the crisis in confidence in the Australian dairy industry in the wake of the failure of its largest dairy Co-operative.
Australia no longer has a cornerstone Co-operative setting a bench mark price.
A ACCC investigation identified a range of market failures resulting in a power imbalance and information asymmetry in farmer processor relationships.
It was identified that milk pricing practices of processors, and anti-competitive contract conditions had caused inefficiencies in dairy production.
In short, the processors have all the information, and all the power, the farmer has none, and must sell their milk every day, so they can't argue.

The reference products informing the Milk price revenue are standard specification n products and collectively consume around 70% of NZ milk solids. The values of milk solids contained in all other manufactured products eventually equalise with the fat and protein values contained in the reference products. Manufacturing assets and operating cost for reference plants are relatively easy to quantify.

There is unlikely to be any value in legislating further prescription into the milk p ice methodology or calculation.
In all cases, there is at least one processor achieving, or should be achieving the parameters set in the milk price calculation if they are efficient processors.

Where further regulation is urgently needed is to ensure that all processors collecting milk from farmers are obliged to accurately disclose the average milk price they have actually paid to farmers.
This can be reasonably done by requiring disclosure of total milk solids collected from farmers, and total payments made to the farmers which they collected milk solids from.
Milk or cream purchased from other processors should be included in other costs of goods, so as not to obscure the disclosure of milk payments to farmers.

(20) Do you consider that the base milk price should be set by an independent body (e.g., the Commerce Commission)? If so, please provide supporting information.

NO
The Commerce Commission performs a valuable public good service overseeing the Farm Gate Milk Price methodology and calculation, and commenting independently on this each year . . Its independent opinion is respected.
Companies must set their own milk price, or there is a major disconnect between authority and responsibility.

s 9(2)(a) [redacted]

Thank you for the opportunity to submit to this legislation.

I write as a farmer in Northern Southland, and a member of several environmental groups.
I am a s 9(2)(a) [redacted] and a present member of the s 9(2)(a) [redacted]

I write this submission on behalf of myself.

I see no good reason to continue adding further dairy farms to our agriculture sector.
Indeed we need to reduce dairy numbers by returning to traditional methods of farming including carrying capacity of soils, reduction in artificial fertilisers,protecting upper catchments, ceasing the feeding of PKE, over-Wintering on the base farm with feed provided from that farm, protection of wetlands and bush, and making the economic basis per
unit(cow) rather than the number of cows.

There is little point in destroying our environment in order to feed the world.

Our job is to lead by example, one that is sustainable env ronmentally, inspiring others to feed themselves and to live with nature, not trash it.

Education is the key, here and in every other country.

If we protect every source of water, both fresh and saline, that would be a very good start.

Our children, and their children, will thank us.

I do not wish to speak to my submission.

Yours Sincerely,

s 9(2)(a) [redacted]

[redacted]

DIRA Submission

I enter this submission as a university academic with 8 years experience working in the NZ dairy processing industry, and a lot of subsequent research mostly on processing, but also on farm energy efficiency. I consider myself to be independent.

The two main issues are: the requirement to supply independent processors; the requirement for Fonterra to take any milk.

The requirement to supply independent processors;

Clause 14 of the Dairy Industry Restructuring (Raw Milk) Regulations 2012 required Fonterra to inform the Chief Executive of MPI of requests. However there does not seem to be a need for public disclosure. Such disclosure would better inform this debate. I can only assume that Westland Tatua, Synlait, Open Country, Oceania and Miraka no longer have any right to request Fonterra milk. I would guess that Mataura Valley still has that right. I would also guess that most craft cheese producers would still have that right as few would exceed 30 m L/year.

It would be good not to guess and to have access to data to determine the extent of the supply issue. I recommend that the Regulations allow easily accessible public disclosure of supply volumes.

The Act and Regulations do not distinguish between the type of independent processor. I see the export industry as very distinct from the local market industry

For local market processors, I guess that the amount of milk is low, and that it would be inefficient for the companies and for the country if each had to have its own dairy herds. Fonterra will know that companies like Kapiti are good for NZ and Fonterra, and hence should be supported.

Now that Fonterra process only about 81% of NZ's milk, it would seem sensible that all companies should be required to contribute to local market producers. It would seem silly if a craft cheese maker was to set up in Hokitika and require access to Fonterra milk. Westland should be involved in the same basis.

For export processors the situation is entirely different. The minimum scale for export production has typically been at least 12 t/h of milk powder. The most recent, Mataura Valley, will require about 100 million L/year, which is well above the 50 million L/year nominal limit. The Regulations are currently quite coarse in setting the limits. For a company this size, they need to be down to zero by year 4. A reducing limit, e.g., 50, 33, 16, 0 million L/year would still allow new competition and would be realistic for a new company as it transitioned to its own full supply. Any more than this is "free loading".

I recommend that the Regulations (or Act if necessary) differentiate between export production and production for the local market.

The requirement for Fonterra to take any milk.

The perception among many of the public is that regional councils are quite ineffective in long term environmental thinking. I am most aware of this in Canterbury, but from my industry days, I'm aware that Taranaki Regional Council was controlled by farming interests with less environmental concern than some people desired.

Hence I do not believe that regional councils, with changing national governments, can be relied upon to make sound environmental decisions. Fonterra is becoming much more aware that its public licence to operate in NZ is dependent on it taking a strong lead. Fonterra cannot lead if it is required to take milk from any farm anywhere.

Lake Tutira is an example. I've known for at least 20 years that the lake was not well. A recent article (https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12021634) claims that it goes back many more years than that, but Fonterra knows and still collects milk from there. Perhaps because the farms are historical it has no choice but to continue. But the public will not allow pollution of the lake to continue.

The new example is the Mackenzie area. Many people are hoping that Fonterra can show real environmental leadership here, but it can't.

The Act needs to provide Fonterra with a mechanism to have a say in the location of farms that it might be forced to collect from. The easiest way is to not require it to collect from every new farm.

I recommend that the Regulations have effective methods for Fonterra to act in response to environmental pressures from its customers or the NZ public.

s 9(2)(a) [redacted]

Submission form - Review of the Dairy Industry Restructuring Act 2001 and its impact on the dairy industry

The Government is reviewing the Dairy Industry Restructuring Act 2001 (DIRA) and its impact on the dairy industry. The review is currently at the public consultation stage.

We are seeking your input on the issues, options and questions as set out in the DIRA discussion document.

This form contains all the questions that appear in the online submission form at https://www.research.net/r/DIRA. These are identical to those in the discussion document. You can use this document to familiarise yourself with the questions in the form before making your submission.

If you have trouble using the form, you can email your submission to DIRA@mpi.govt.nz.

You will need to read the discussion document before considering your responses to the questions set out in this form.

Your responses are due by 5pm on Friday 8 February 2019, and will help inform the recommendations that the Government will consider later in 2019.

You will be asked to select the sections on which you would like to submit, and you may submit on as many or few areas as you like. All questions a e optional.

Chapter 2: Performance of the dairy industry

Section 2.1 2001 structural reform to enable the industry to drive strategic change

Please refer to [Section 2.1] of the discussion document.

(1) Do you agree with our description of the DIRA regulatory regime and its original policy rationale? Do you consider the original policy rationale is still valid?

No As disscussed in sections 3.2 and 3.3 below, DIRA has dictated the direction of the industry with little ability for Fonterra to shape its direction

Section 2.2 Industry performance since the restructure

Please refer to [Section 2.2] of the discussion document.

(2) Are there any other dairy industry developments or industry performance indicators that are not captured in the discussion document or its supplementary material? Please provide details and supporting evidence.

Chapter 3: The effects of the DIRA and other factors on industry performance

Section 3.1: Has the DIRA been effective at managing Fonterra's dominance in the market for farmers' milk, and is it still needed?

Please refer to [Section 3.1] of the discussion document.

(3) Do you consider the DIRA has been effective at achieving its core regulatory objective of preventing Fonterra from using its dominance to create barriers to farmers' milk and land flowing to their highest value uses? If not, please provide reasons and supporting information/evidence.

Yes. There is no doubt that Fonterra's requirement to pick up all milk has allowed land to flow into dairy conversions (higher value) at a stagering rate. At the same time it has not allowed for Milk to flow into its highest value use due to the rate of change (increased supply). As disscusseed below, the rate of this change and Fonterra's inability, due to the DIRA's restrictions, to slow this are a key reason 'value add' milk has been slow and we still produce mostly low value commodities.

(4) Do you think Fonterra is still dominant in the market for farmers' milk, at the national and regional levels?

Regionally, in the South Island, Fonterra is not dominant. As a North Otago Farmer, we have other options of supply, as with Canterbury and Southland.
Others are better placed than I to comment Nat onally except to say that we supply Fonterra because it is a cooperative, and because of that we know they will pay us a fair and equal price for our milk. Fonterra can not use its dominance to secure milk supply without paying an unequal price to different shareholders/farmers, which, as shown from past situations of 'tactatical pricing', is meet with swift opposition from shareholders not receiving the same pricing for being loyal to Fonterra.
Furthmore, it is worth considering the risks to ALL dairy farmers if Fonterra was not there to set a minimum price for milk Any corporate processor would automatically only pay the lowest possible price to attain the milk they needed and what would this do to the 'land value' DIRA helped create discussed earlier.
Australia's dairy industry in recent years has shown us a prime example of what would happen. With the demise of Murray Gouldburn (the local cooperative and 'price setter') corporate processors (of which Fonterra Australia is one) dramatically reduced forcasted milk prices to improve revenue streams.
Lastly I th nk its worth always remembering the cost to farmers who choose to supply Fonterra for the sole reason of garanteeing a fair price for their milk. Our farm produces around 500 000kgMS annually which means we have around $2.5 million invested in Fonterra. Assuming bank debt costs of 5%, Fonterra needs to pay a $0.25 dividend just for that investment to break even. On top of that is the business risk of having such a large investment in a singular company. How many investors with a total asset value of around $20 million would invest 12% of that in a singular company when the other 88% is already tied to the same industry, in the same part of the world. We take those risks on to our Dairy Farming business because the consequences of not getting paid a fair milk price would be disastrous to our cashflows and therfore land values (equity) in the long run, not to mention the New Zealand dairy industry and New Zealand economy.

(5) Do you think the DIRA imposes unreasonable costs on Fonterra? If so, please provide supporting information/evidence.

Yes. The cost of supporting poor farmers whose milk it must collect and going forward the cost of subsidising new processors when there is already enough processing capacity in the industry to process the milk produced.

(6) Are there ways for the costs imposed on Fonterra to be mitigated without impacting on the effectiveness of the DIRA regulatory regime? If so, please provide supporting information.

(7) Are there any other regulatory tools that, in your opinion, would be more effective than the current DIRA provisions at managing Fonterra's dominance? If so, please provide examples and supporting information/evidence.

(8) Are there other factors you consider need to be taken into account when considering the effectiveness of the DIRA reg me and whether it is still needed?

Section 3.2: Does the DIRA encourage industry growth?

Please refer to [Section 3.2] of the discussion document.

(9) Do you agree with our preliminary assessment of the extent to which the DIRA encourages industry growth? If not, please provide reasons and supporting information/evidence.

There is no doubt that open entry and the provision in the DIRA that has required Fonterra to collect all new milk has definitely driven economic growth in NZ through the rapid expansion of land use change since 2001. As a farmer looking for investment opportunities in land conversion at this time, it was clear that the conversions being made were only possible with Fonterra in the background which, being a co-operative would always pay a fair price for the milk we produced and also had no choice but to pick up whatever amount we were able to produce. Any restrictions on access to processing would have made the overall of farm investment a lot more risky and possible unviable, due to the uncertanity.

The key area I believe the submission document misses is it's assumption that the DIRA has created an environment where the highest value was achiev d over this time. Yes, the industry has grown rapidly since 2001 but this rapid growth has also driven the industry to be forced into focusing on commodity products.

Fonterra is ultimately responsible for setting its own stragey but with the large increases in growth over this time (around 450 million kgMS growth 2001-2014) large WMP dryers are the only way of ensuring this huge quantity of increased milk year-on-year, especially the peak milk, could be processed. It's true that without the DIRA, Fonterra may have followed the same strategy of accepting all milk and processing it into commodities but it is also true that to a large extent the abilty to invest capital into value add processing site was unachiveable given its requirement to pick up ALL milk and the rapid land use change into higher value Dairy farming land facilitated by the DIRA.

As mentioned in the disscussion document, this rapid land use change ('industry growth') has had huge economic benefits for the economy to date but has also left us in a situation where we are now still a commodity driven industry that has reached peak milk and with the forementioned environmental pressures on the industry, there will likely be a decrease in milk flows moving forward. This now poses the biggest risk to the industry with the real possibility of stranded processing assets.

In summary, Yes I agree with the above statement that the DiRA has encouraged industry growth, but I disagreee that this growth has been the sustainable, longterm growth that was needed for the industry or the economy.

Section 3.3: Does the DIRA influence Fonterra's strategy?

Please refer to [Section 3.3] of the discussion document.

(10) Do you agree with our preliminary assessment of the extent to which Fonterra can influence milk supply volumes through price, notwithstanding the DIRA open entry requirements?

No I do not.

Milk price is set by the milk price manual. Although Fonterra controls this process it is transparent and audited by the commerce commission. History will show changes to this system are difficult to achieve with competitors always trying to drive it lower to decrease their input costs whilst 'farmer shareholders' want a 'fair price' for there milk to justify the investment.

This 'fair milk price' is the only reason a co-op exists in the first place. As a farmer myself, why would I make the huge investment in shares (on our farm this is 12% of the total capital invested) just to get paid a milk price that wasn't fair. One-off adjustments to this 'milk price' have occurred (as per the disscussion document) for various reasons, but the underlying principle is the the cost of investment for a farmer in processing (Fonterra) is only justified through the achievement of a long term fair milk price. If my goal in buying shares was to simply invest in a multi-national milk company for dividend returns, sound economic sense would state that I would not invest 100% of this capital into a singular company.

Futhermore, as a cooperative, Fonterra must treat all of its Farmer sharholders equally so a change in pricing strategy needs to be applied across the entire company.

Take a senario where a factory in the Waikato is near ng capacity so 'price signals' are sent to farmers to limit supply to its economic optimum. Meanwhile the same price signals are also being sent to farmers in Southland where more milk is needed to fill its factory which is only at 60% capacity. The use of price signals will never find the economic optimum for both factories when the DIRA forces open entry and exit. For a cooperative like Tatua with one processing site, price signals as mentioned work fine, but not for Fonterra.

In summary, to say that deliberate manipulation of the milk price or share structure has been a viable option for Fonterra to manage milk flows is false and misleading.

(11) Are there o her factors that you consider should be taken into account? Please provide detailed comment in support of your views.

Yes

I think it is worth considering a farmers opinion on why the presence of a strong cooperative setting a fair milk price is so important to us and the viability of our business going forward.

Simple economics state that the lower a company can drive input costs, the easier it will be to make a profit. For this reason any knowlegable farmer, irrespective of wether they supply Fonterra or an independent corporate, will agree the importance of Fonterra setting the benchmark milk price (minimum milk price) for the viability of their farms.

The value of farms that supply Tatau are often s 9(2)(b)(ii) higher than similar farms supplying Fonterra, driven by the high milk price they have consistently paid. If inefficiencies caused through stranded assets causes Fonterra to not be able to pay a fair milk price, and corporates pay the minimum they have to, farm values will drop and the industry will lose value whilst increasing profits of the corporate processors driven by lower milk costs are taken off shore.

Desiree Reid, in her Nuffield Scholarship report (pg 11, link attached) provides example of Kerry Group in Ireland which had tremendous success as company. They have since transitioned from cooperatively owned to corporately owned and now the next generation of farmers are paid a milk price in the bottom third of the industry, and are 'now only underpinned by other farmer-owned cooperatives in the area.

In our local area, Synlait Milk will often reduce a previous higher forcast to match a lower one from the Milk Price Manual, only to later announce a record profit. It's not that they couldn't pay the higher amount, its just that it didn't make good business sense.

Im definitely not against this simple business logic or these companies trying to make a greater return for their investment but the point that needs considered links to the industry growth and value creation talked about in question 3.2. If there is no strong Fonterra to set a 'fair milk price' a lot of the industry growth will be eroded. A lower milk price means lower returns on capital which will lead to lower land prices and less industry growth. Furthmore, because of its large geographical spread, Fonterra sets the Milk Price for the country further increasing the risks of a large correction across the entire country simultanously.

It is this point that I believe should be considered when deciding on restrictions to how effectively Fonterra is allowed to compete in the market, whilst always remembering that a strong Fonterra is good for ALL dairy farmers regardless of who they supply.

https://nuffieldinternational.org/live/Report/NZ/2010/desiree-reid

(12) Do you consider that the DIRA provisions governing Fonterra's base milk price calculation and Commerce Commission monitoring may be preventing or disincentivising Fonterra from deviating from the base milk price calculation for strategic or commercial reasons?

Yes. Apart from the 'one-off' occassions mentioned in the disscussion document, the 'milk price manual' is always pitched to farmers and investors in units as a transparent representation of the fair milk price set by an independent panel. Any deviations must be explained by the Board so they will not deviate from it for commercial or strategic reasons unless absolutly needed for fear they will degrade the trust of its independence to farmers and unit holders who obviously have different goals for milk price.

https://www.fonterra.com/content/dam/fonterra-public-website/phase-2/new-zealand/pdfs-docs-infographics/pdfs-and-documents/milk-prices/pdf-milk-price-questions-and-answers-1-aug-2011.pdf

(13) If the DIRA is not driving Fonterra's business and investment strategy, what is? Please provide detailed comment in support of your views.

Section 3.4: Does the DIRA impact on the industry's environmental performance?

Please refer to [Section 3.4] of the discussion document.

(14) Do you agree with our preliminary analysis of the DIRA's impact on the industry's environmental performance? If not, please provide your reasons and supporting evidence.

Yes

(15) Do you agree with our view that environmental issues are best dealt with through the Resource Management Act and not the DIRA regime?

Yes but you need to look at the cause and effect. The environmental issues are best dealt with through the RMA but if the cause of these enviromental issues is the DIRA then it needs adjusted or else we have an 'ambulance at the bottom of the cliff' scenario'. The DIRA allows for 'marginal land' to be converted to a land use that it is not suited to and there is guaranteed collection for it.

(16) Are there other environmental issues that you consider should be addressed either through the DIRA review or some other means?

No, the changes on farm are already coming and if Fonterra can turn down new supply based on stricter "Terms of Supply' then this will help speed up the change in my opinion.

Section 3.5: Does the DIRA incentivise inefficient entry by large dairy processors?

Please refer to [Section 3.5] of the discussion document.

(17) Do you agree with our preliminary analysis of the impact the DIRA has on new processor entry? If not, please provide your reasons and information/evidence in support of your views.

(18) Do you consider that large dairy processors should continue to be eligible to purchase regulated milk from Fonterra under the Raw Milk Regulations or not? Please provide detailed comment in support of your views.

Section 3.6: Does the DIRA promote sufficient confidence in the base milk price calculation?

Please refer to [Section 3.6] of the discussion document.

(19) Do you consider that greater confidence in the base milk price calculation outcomes could be achieved if additional legislative guidance on the term “practically feasible” were to be provided for in the DIRA? Please provide detailed comment in support of your views.

No. The process is transparent, all parties see how it is calculated.

(20) Do you consider that the base milk price should be set by an independent body (e.g., the Commerce Commission)? If so, please provide supporting information.

No. As farmers we invest huge amounts of capital in Fonterra for the ab ltiy to get paid fairly for our milk. Corporate processors will always want to see the milk price lower as this will drive higher revenues for them but the New Zealand farmers who supply them need Fonterra setting an efficient and fair milk price as much as any New Zealnd Fonterra supplier. The wealth of our farmers relies on Fonterra paying the best possible price for the milk we produce.

Section 3.7: Does the DIRA support competition in New Zealand consumer dairy markets?

Please refer to [Section 3.7] of the discussion document.

(21) Do you agree with our preliminary analysis of the DIRA impact on the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

No.
The DIRA has intended to provide adequate competition in the domestic market.
Page 13 of the Disscussion document talks about DIRA as a monopoly risk mitigation tool with a key risk being; 'risk of New Zealand consumers being charged excessive monopoly prices and/or having limited product choice.'

As a South Island consumer, limited product choice seems to be driven by the monopoly of two supermarket chains, with supporting evidence being the fact that we can't buy Fonterra (Anchor) milk anywhere in the South Island. It would seem the DIRA's attempts to mitigate the aforementioned monopoly risks has only achieved in moving those risks further up the chain with no genuine benefits to New Zealand consumers.

(22) Are there any other factors that should be taken into account regarding the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

The effectivness of the DIRA on domestic competition needs to be looked at the consumer level and not the processor level as discussed in the discussion document. Although competition has been created in the domestic processing, very little of this benefit flows through to consumers, as disscussed above.

Chapter 4: Options for change

Section 4.1: DIRA open entry requirements

Please refer to [Section 4.1] of the discussion document.

(23) Are there any other options for the DIRA open entry requirements that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

No

(24) What costs and benefits would each of the options for the DIRA open entry requirements create for your business? Please provide quantitative information if possible.

This is very difficult to quantify for our business as there are many variables.

(25) How well do you think each of the options for the DIRA open entry requirements would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

If Option 1 (Status Quo) is maintained, then Fonterra will be unable to effectively manage the risk to its reputation if it is continually required to pick up the milk from poor farmers that no other processor wants.

(26) What is your preferred option for the DIRA open entry requirements? Please provide your reasons and informat on/evidence in support of your views.

Option 4.1.2: Repeal the DIRA open entry requirements.

Section 4.2: Access to regulated milk for large dairy processors (except Goodman Fielder)

Please refer to [Section 4.2] of the discussion document.

(27) Are there any other options for access to regulated milk for large dairy processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(28) Do you consider that the proposed 30 million litres threshold is too high or too low? If so, what would you consider the right threshold to be, and why?

(29) What costs and benefits would each of the options for access to regulated milk for large dairy processors create for your business? Please provide quantitative information if possible.

The only (but very large) risk to our dairy farms business is the cost of stranded assets to the industry if Fonterra has to continue to help fund new proccessing infrastructure without an increase in new milk production in the area to match it. As mentioned in section 4.1, new milk growth will likely be static over the coming years, therefore any new processing capacity will likely make the industry less efficient.

(30) How well do you think each of the options for access to regulated milk for large dairy processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(31) Do you have a preferred option for access to regulated milk for large dairy processors? Please provide your reasons and information/evidence in support of your views.

Option 4.2.2: Amend the eligibility provisions in the Raw Milk Regulations to exclude large dairy processors As discussed above, in a static NZ milk pool, subsidization of new processing capacity would drive inefficiencies in the industry.

Section 4.3: Options for the base milk price calculation

Please refer to [Section 4.3] of the discussion document.

(32) Are there any other options for the base milk price calculation that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(33) What costs and benefits would each of the options for the base milk price calculation create for your business? Please provide quantitative information if possible.

Fonterra has the obligation of setting a fair milk price for its farmer shareholders The only reason we make such a large investment in Fonterra in the first place is to retain the ability of setting a milk price, which provides security for the investment we have on farm in land, cows and infrastructure. To remove this right from Farmers, removes the very essence the cooperative was set up in the first palce. We invest for the right to get paid fairly for our milk, not for a stand alone investment in a milk processing company, and hence require the ability to set the price. My investment in Fonterra is worthless if the Commerece Commission is just going to set a price that they see fit.
The transparancey is good, and as a farmer-shareholder I would demand this of Fonterra irrespective of any DIRA requirements.
When considering this option, Fonterra needs to be viewed as the farmer-shareholders who invest in the company to secure their investment in 'on farm assets' instead of a corporate company seting a milk price.

(34) How well do you think each of the options for the base milk price calculation would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(35) Do have a preferred option for the base milk price calculation? Please provide your reasons and information/evidence in support of your views.

Option 4.3.1: Status quo: retain the existing DIRA provisions for Fonterra's base milk price calculation and Commerce Commission monitoring.

Section 4.4: Options for access to regulated milk for Goodman Fielder and smaller processors

Please refer to [Section 4.4] of the discussion document.

(36) Are there any other options for access to regulated milk for Goodman Fielder and smaller processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(37) What costs and benefits would each of the options for access to regulated milk for Goodman Fielder and smaller processors create for your business? Please provide quantitative information if possible.

(38) How well do you think each of the options for access to regulated milk for Goodman Fielder and smaller processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(39) Do you have a preferred option, or a combination of options, for access to regulated milk for Goodman Fielder and smaller processors? Please provide your reasons and information/evidence in support of your views.

Section 4.5: Options for the DIRA review and expiry provisions

Please refer to [Section 4.5] of the discussion document.

(40) How best do you consider "market dominance" could be measured? For example, are there certain criteria (other than a market share threshold) that could be provided for in legislation as a trigger for review and/or expiry of the DIRA?

(41) Are there any other options for the DIRA review and expiry provisions that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(42) What costs and benefits would each of the options for the DIRA review and expiry provisions create for your business? Please provide quantitative information if possible.

(43) How well do you think each of the options for the DIRA review and expiry provisions would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(44) Do you have a preferred option, or a combination of options, for the DIRA review and expiry provis ons? Please provide your reasons and information/evidence in support of your views.

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Chapter 2: Performance of the dairy industry

Section 2.1 2001 structural reform to enable the industry to drive strategic change

Please refer to [Section 2.1] of the discussion document.

(1) Do you agree with our description of the DIRA regulatory regime and its original policy rationale? Do you consider the original policy rationale is still valid?

Overall I do not agree, but aspects are still valid.

I agree that there is validity in having a milk price formula, but we must also remember that in the case of a co-operative, the profit over and above that is paid in a dividend that goes to the shareholders- who, even with the Fonterra Shareholders Fund unitholders, is nearly all still the farmers themselves. This is a stark contrast to many competitor who are privately owned and want the milk price as low as possible to keep pro ts in their own pockets. In turn, this is more likely to be reinvested in the NZ economy

Having open entry has resulted in Fonterra having over-capacity in processing plants, and as competition has entered and taken away some of that milk Fonterra was processing, this has made a less efficient and higher cost processing system which lowers the milk price farmers receive instead of the intention to give them the best price possible. With the significant slowing of dairy conversions and the introduction of more environmental regulations, the effect of this in terms of farmers being able to operate their highest land use, is likely to be managed more by Regional Councils than by dairy companies, thus again removing some of DIRA's validity.

Open exit rules as they are seem fair, but I believe Fonterra needs more choice in the acceptance of new milk, and also re-accepting "old" suppliers who left the co-op and want back in- so only a small part of that is still valid and could be phased out.

I completely disagree with the validity of the raw milk regulations. As a young, new farm owner, I haven't had the opportunity for all the large scale local operators to give me a bit of land for a few years at cost, just so I can get established in their markets and compete against them. It would be ridiculous! So why does Fonterra have to do it? If you can't get finance for the first few years of your start up it certainly is not for the dairy farmers of NZ to be helping you compete against their own co-operative. They aren't even paying "cost price" for it because Fonterra is left with money stuck invested in plant to process that extra capacity after the new processor steals their suppliers, it is not as simple as a milk price.

Section 2.2 Industry performance since the restructure

Please refer to [Section 2.2] of the discussion document.

(2) Are there any other dairy industry developments or industry performance indicators that are not captured in the discussion document or its supplementary material? Please provide details and supporting evidence.

Chapter 3: The effects of the DIRA and other factors on industry performance

Section 3.1: Has the DIRA been effective at managing Fonterra's dominance in the market for farmers' milk, and is it still needed?

Please refer to [Section 3.1] of the discussion document.

(3) Do you consider the DIRA has been effective at achieving its core regulatory objective of preventing Fonterra from using its dominance to create barriers to farmers' milk and land flowing to their highest value uses? If not, please provide reasons and supporting information/evidence.

Yes, it has been effective at "managing" Fonterra's dominance if by managing you mean eroding it.

It also has been effective at ensuring land keeps "flowing to its highest value use" but given the current pressure on the environment I do not at all believe that it is still a valid objective.

No, it no longer is effective at making milk flow to its highest value use. If they didn't have to take all the milk (and then let some of it go again when competitors come in), Fonterra would be better placed to process that milk into a higher value product and to do so more efficiently because they would better be able to align their processing capacity and milk supply.

(4) Do you think Fonterra is still dominant in the market for farmers' milk, at the national and regional levels?

"Dominant" is very difficult to define in this context, as DIRA uses the word as if it is a bad thing- but when we talk about a NZ company being "dominant" in a world market we celebrate! I think there is a lot of New Zealand's tall poppy syndrome at play here, and it is doing no favours for NZ as a whole, but a select few are benefitting unfairly.

In terms of market share then they are still the largest player, but definitely not monopolistic. I see no reason why there is an issue with NZ farmers being the main owner of their processing plants. Their dominance has been significantly eroded (Fonterra's market share in Canterbury is now only 70%) and must be near tipping point.

The scales are t pped very much in favour of the competition and this unfairness is no longer reasonable or necessary. It is essential to remember that "Fonterra" is the farmers themselves (a co-op) and not just a big corporate.

(5) Do you think the DIRA imposes unreasonable costs on Fonterra? If so, please provide supporting information/evidence.

Yes, it does impose unreasonable costs.

Having to provide raw milk to competitors at the forecast rather than actual milk price has its pros and cons- milk supplied in a low forecast year where the price rises during the season is costing Fonterra money, but the opposite can also occur. It would seem that at a minimum the price the competitors get milk at should be the same as what Fonterra has to pay their farmers, and never less. That doesn't compensate for Fonterra being left with capacity to process the milk after the new processor gets their own suppliers.

Milk collection that may not be economic-in terms of transport cost, and having to build capacity to process it, or having to produce more low-value products to handle the excess milk.

There also are reputational costs- such as having their tankers and gate signs up in the McKenzie Country which has seen some controversial conversions to dairy.

(6) Are there ways for the costs imposed on Fonterra to be mitigated without impacting on the effectiveness of the DIRA regulatory regime? If so, please provide supporting information.

(7) Are there any other regulatory tools that, in your opinion, would be more effective than the current DIRA provisions at managing Fonterra s dominance? If so, please provide examples and supporting information/evidence

(8) Are there other factors you consider need to be taken into account when considering the effectiveness of he DIRA regime and whether it is still needed?

Yes.

It seems to be overlooked that Fonterra is a co-operative owned by its roughly 10 500 farmer suppliers! So many of the locals are proud to be Fonterra farmers- some even have signs up on their farms beside State Highway 1 declaring it- and they really believe in the co-operative model. Their passion for Fonterra is amazing, and inspiring. These farmers are working so hard and investing so much time and money into their industry. Please remember that these are the owners of Fonterra! As a non-dairy farmer we would love to have something like this to market our grain and grazing. We need the milk price to be as high as possible too, because that is what drives the price of our products, largely.

There is a lot of debt in the dairy industry and farmers need their Fonterra share value to hold, as well as a fair milk price.

In the long term it is clear that competitors such as Oceania are going to pay as low a milk price as possible, to their farmers who are already those on the edge financially- the main reason I have seen for people leaving the co-op to supply other processors is that they are highly indebted and "need" to sell their shares. The farmers I have talked to would all acknowledge that the Fonterra milk price is still holding up their business even after they leave to supply Oceania.

We don’t want the dairy industry getting fractured like the meat industry when that’s the whole reason Fonterra was set up- so that they aren’t all competing in the same overseas market, and left in NZ competing against themselves and potentially overcapitalised in excess capacity.

I believe that money invested by New Zealanders into New Zealand business and returned to the New Zealand economy is something we should encourage and support where possible.

Section 3.2: Does the DIRA encourage industry growth?

Please refer to [Section 3.2] of the discussion document.

(9) Do you agree with our preliminary assessment of the extent to which the DIRA encourages industry growth? If not, please provide reasons and supporting information/evidence.

Yes, I agree.

Section 3.3: Does the DIRA influence Fonterra's strategy?

Please refer to [Section 3.3] of the discussion document.

(10) Do you agree with our preliminary assessment of the extent to which Fonterra can influence milk supply volumes through price, notwithstanding the DIRA open entry requirements?

No, I do not agree. It appears you're including the shareholder dividend in your definition of "milk price" that farmers receive, which is not right. (Refer the third bullet point of the "Fonterra's price for farmers' milk" section)

It's important to note that in a non-cooperative situation (as is the case with mo t of the competition for Fonterra milk supply) the value add goes to the owners and not to the suppliers. By regulating against the co-op model which is the farmers themselves it is likely long term that the farmers who supply other processors will get nothing mo e than the minimum milk price (which will only get lower as Fonterra loses market share) and in many cases that value-add component is going off shore to the investors We have seen in previous DIRA submissions that other processors believe the milk price is too high- imagine what they will (or won't!) pay their farmer suppliers if they get their way.

The last two paragraphs in "Fonterra's terms of supply" appear to contradict themselves entirely- on one hand it says that they can treat people differently but then it says they can't. They also have the complication (generally this is a benefit) of being a co-op so it is far harder to disadvantage/ advantage any suppliers over others, because they all own the company.

"Fonterra's shareholding requirements" section suggests that My Milk is only in competitive regions. Unless it has changed recently, I believe My MIlk is a South Island only option at this stage.

(11) Are there other factors that you consider should be taken into account? Please provide detailed comment in support of your views.

(12) Do you consider that the DIRA provisions governing Fonterra's base milk price calculation and Commerce Commission monitoring may be preventing or disincentivising Fonterra from deviating from the base milk price calculation for strategic or commercial reasons?

Yes, it is disincentivising them from deviating from that milk price calculation- but I don't consider that a bad thing. Farmers appreciate a transparent milk price, I think.

(13) If the DIRA is not driving Fonterra's business and investment strategy, what is? Please provide detailed comment in support of your views.

DIRA certainly influences Fonterra's strategy but as with any business I would think the value-add component is also a large factor. Farmers and unit-holders (who are nearly all dairy farmers anyway) have invested a lot into Fonterra shares and there is an obligation to generate a return on that investment.

Fonterra knows though, that the farmers would generally prefer a high milk price than a high dividend- this is especially the case for sharemilkers, who are the future of their industry, because often they don't get the dividend and only receive the milk price. Therefore, working within the milk price model's calculation while maximising the milk price paid to farmers, is definitely a huge driver for the Fonterra team, and also a challenge. But looking after the future of the industry is essential, whereas it seems DIRA is looking at the past.

Section 3.4: Does the DIRA impact on the industry's environmental performance?

Please refer to [Section 3.4] of the discussion document.

(14) Do you agree with our preliminary analysis of the DIRA's impact on the industry's environmental performance? If not, please provide your reasons and supporting evidence.

Yes.

(15) Do you agree with our view that environmental issues are best dealt with through the Resource Management Act and not the DIRA regime?

Yes.

(16) Are there other environmental issues that you consider should be addressed either through the DIRA review or some other means?

Section 3.5: Does the DIRA incentivise inefficient entry by large dairy processors?

Please refer to [Section 3.5] of the discussion document.

(17) Do you agree with our preliminary analysis of the impact the DIRA has on new processor entry? If not, please provide your reasons and information/evidence in support of your views.

No, I do not agree.

“Large dairy processors would not necessarily be Fonterra’s closest competitors” is a very vague statement, and I would expect that to some extent, any large processor is competing with Fonterra albeit potentially indirectly e.g. they may supply a market that Fonterra is not already supplying, but one of Fonterra’s direct competitors may also supply that market of the new processor. If we help out the new processor and they grow their market share, then another of Fonterra’s competitors is probably being pushed out of a market and forced to compete more on Fonterra’s market.

Or from my business’s perspective, it is like when sheep farmers grow barley because they think the price will be good. They don’t necessarily sell their barley to farmers that we normally sell to, but the price tends to drop because of the increased supply. Or maybe they sell the barley to someone that normally buys off another cropping farmer, and that farmer then sells his barley to our usual market.

(18) Do you consider that large dairy processors should continue to be eligible to purchase regulated milk from Fonterra under the Raw Milk Regulations or not? Please provide detailed comment in suppor of your views.

No, not through regulations. If they can come to a commercial agreement with Fonterra would be a more fair option.
If the defence of allowing these large internationals is that they have their own supply channels and are not competing with Fonterra, then I see no reason why they can’t establish their own supply base straight up rather than requiring Fonterra to essentially subsidise them. disagree with the theory that they’re not competing with Fonterra at some level anyway.
Milk processed, exported and sold by Fonterra gives NZ farmers (the owners of Fonterra) the chance to add value above and beyond the base milk price. In turn, they are returning the money to NZ and that money flows through the economy, far wider than just dairy farmers Many of these larger suppliers are further processing their products off shore and much of the profit is not returned to NZ.

Section 3.6: Does the DIRA promote sufficient confidence in the base milk price calculation?

Please refer to [Section 3.6] of the discussion document.

(19) Do you consider that greater confidence in the base milk price calculation outcomes could be achieved if additional legislative guidance on the term "practically feasible" were to be provided for in the DIRA? Please provide detailed comment in support of your views.

Fonterra has an excellent graphic explaining the milk price (and dividend) calculation, which I gather is accepted by Fonterra suppliers- but the calculation is often misunderstood until they have seen it. Aside from this, I'm not in a position to comment

(20) Do you consider that the base milk price should be set by an independent body (e.g., the Commerce Commission)? If so, please provide supporting information.

As the process is already scrutinised, I see no reason to change bu again, am not really in a position to comment. Other companies should also be subject to scrutiny for thei milk price, if that is the case. Farmers, most likely through Fonterra, would still need some input, so I think that the Commerce Commission would struggle to do that . The current system doesn't seem to be broken so don't change it.

Section 3.7: Does the DIRA support competition in New Zealand consumer dairy markets?

Please refer to [Section 3.7] of the discussion document.

(21) Do you agree with our preliminary analysis of the DIRA impact on the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

Yes. Although instead of “maybe” I would say it clearly has created a long term dependency from Goodman Fielder, and that they need to step into the real world instead of being babysat by a largely outdated regulation.

(22) Are there any other factors that should be taken into account regarding the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

As stated, the domestic market is very small and it is worth also noting that Fonterra vales and has invested a lot in improving its public perception within NZ so I can’t see them hiking prices- it will be supermarkets that need monitored, not Fonterra.

It’s very easy for consumers to complain about the cost of butter at the supermarket, for example, but nearly all of them have no idea what it cost to produce. Surely farmers should be allowed to add some more value to their product than just selling it via Fonterra at the DIRA price currently available to Goodman Fielder.

Chapter 4: Options for change

Section 4.1: DIRA open entry requirements

Please refer to [Section 4.1] of the discussion document.

(23) Are there any other options for the DIRA open entry requirements that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(24) What costs and benefits would each of the options for the DIRA open entry requirements create for your business? Please provide quantitative information if possible.

Difficult to measure for us. Ultimately we want the dairy price as high as possible because then our local towns and surrounds thrive, we get paid more for our grain, grazing and silage. The cost of open entry for us would be that if we were to convert to dairy today, we would be investing in shares that also buy us “empty” capacity because Fonterra has to have space for people that might return but in the meantime really generate no return. I also think the cost as it stands today, from open entry, is that agriculture in NZ is getting even more negative publicity because Fonterra has nearly no right to stop people converting marginal land. We all get tarred with the same brush.

(25) How well do you think each of the options for the DIRA open entry requirements would perform against the principles of good regulatory practice of promoting certainty and predictabili y of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(26) What is your preferred option for the DIRA open entry requirements? Please provide your reasons and information/evidence in support of your views.

The third option. This would solve most of the issues so long as Fonterra were given a fair hearing on what they would want in there. The second option would also be fine but anything is better than the first option.

Section 4.2: Access to regulated milk for large dairy processors (except Goodman Fielder)

Please refer to [Section 4.2] of the discussion document.

(27) Are there any other options for access to regulated milk for large dairy processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(28) Do you consider that the proposed 30 million litres threshold is too high or too low? If so, what would you consider the right threshold to be, and why?

Too high. Domestic processors for boutique markets, like our local Whitestone Cheese, should be eligible but eligibility should be not just on milk volume but on what the end use is- if the intention is to directly compete with Fonterra on a large scale then it isn't fair to expect Fonterra farmers to subsidise them.

(29) What costs and benefits would each of the options for access to regulated milk for large dairy processors create for your business? Please provide quantitative information if possible.

(30) How well do you think each of the options for access to regulated milk for large dairy processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(31) Do you have a preferred option for access to regulated milk for large dairy processors? Please provide your reasons and information/evidence in support of your views.

The second option. But I don't think three years is necessary- once they hit the 30m litres (if that is the right target? I don't know.) within a year, kick them out.

Section 4.3: Options for the base milk price calculation

Please refer to [Section 4.3] of the discussion document.

(32) Are there any other options for the base milk price calculation that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(33) What costs and benefits would each of the options for the base milk price calculation create for your business? Please provide quantitative information if possible.

(34) How well do you think each of the options for the base milk price calculation would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(35) Do have a preferred option for the base milk price calculation? Please provide your reasons and information/ev dence in support of your views.

Section 4.4: Options for access to regulated milk for Goodman Fielder and smaller processors

Please refer to [Section 4.4] of the discussion document.

(36) Are there any other options for access to regulated milk for Goodman Fielder and smaller processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(37) What costs and benefits would each of the options for access to regulated milk for Goodman Fielder and smaller processors create for your business? Please provide quantitative information if possible.

(38) How well do you think each of the options for access to regulated milk for Goodman Fielder and smaller processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(39) Do you have a preferred option, or a combination of options, for access to regulated milk for Goodman Fielder and smaller processors? Please provide your reasons and information/evidence in support of your views.

4.4.3 Farmers don't get subsidies, why should Goodman Fielder?

Section 4.5: Options for the DIRA review and expiry provisions

Please refer to [Section 4.5] of the discussion document.

(40) How best do you consider “market dominance” could be measured? For example, are there certain criteria (other than a market share threshold) that could be provided for in legislation as a trigger for review and/or expiry of the DIRA?

Someone has to be dominant, or else it is a fragmented industry and that does not work- it defeats the whole reason that farmers chose to amalgamate into Fonterra in the first place- why must we make the same mistakes twice? Surely we have reached any thresholds required to trigger the expiry of some of the clauses in DIRA, and if the problematic ones in the eyes of Fonterra farmers are removed then any review period should be able to be extended.

I really don’t understand why you’re hung up on market dominance when market share that was once 96% is now as low as 70% in some regions. So I don’t think how it is measured is relevant, because dominance itself is irrelevant when the biggest player is owned by the very farmers you claim to be trying to protect.

(41) Are there any other options for the DIRA review and expiry provisions that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

The NZ economy is going to be best off when profits from dairy are returned to NZ. This should be more important than what % of farms supply each processor.

(42) What costs and benefits would each of the options for the DIRA review and expiry provisions create for your business? Please provide quantitative information if possible.

(43) How well do you think each of the options for the DIRA review and expiry provisions would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(44) Do you have a preferred option, or a combination of options, for the DIRA review and expiry provisions? Please provide your reasons and information/evidence in support of your views.

4.5.4 Don’t be conservative, just get in and make it work to get rid of DIRA and the hassle of all these reviews. There must be other ways that you can ensure farmers get a fair milk price without all these other limitations on their co-op, and private agreements between Fonterra and Goodman Fielder or niche smaller processors, if DIRA was to go. The other factors are outdated and mostly only help a few large corporates and not the majority of farmers or New Zealand as a whole.

Good Evening,

My name is s 9(2)(a), and my wife s 9(2) and I dairy farm in South Otago supplying Fonterra.

I think DIRA mostly has been successful particularly regarding the milk price manual.

What we don't agree with is having to supply new processors the 50 million litres of milk/year for 3 years, when they can set up a plant in a central location and cherry pick milk supply to minimise there collection routes and picking suppliers that meet their processing requirements when Fonterra cannot turn down any farmer no matter how far they have to go for their milk.(inside normal collection zones and Fonterra supply requirements)

If a new processor moves into a Dairy farming region they should have to find their own suppliers and not be sold milk at a low price to get them started. Fonterra has to operate in a competitive world why shouldn't our competition?

Also the open and exit provision is unfair to loyal Fonterra suppliers who have stood by the co-operative in the past when other suppliers have jumped ship taken there share capital and supplied another company which is most likely foreign owned.

If this is allowed to continue in its current form Fonterra could be placed under considerable strain from stranded assets.

How is this good for New Zealand?

Yours sincerely,

s 9(2)(a)

From
s 9(2)(a) [redacted]

s 9(2)(a)
[redacted]

s 9(2)(a) [redacted]

[redacted]

To Whom it May Concern.

He iti, He pounamu

It may be small but it is very precious

Ko Oreti taku awa
Ko Takitimu taku maunga,
Ko Takitimu taku waka
Ko Ngaitahu taku iwi
Ko Te Rau Aroha taku marae

No Mossburn taku kainga

s 9(2)(a) [redacted]

8th February 2019

To
dira@mpi.govt.nz
DIRA review team
Ministry for Primary Industries
PO Box 2526
Wellington 6140, New Zealand

Submission on the Review of the Dairy Industry Restructuring Act 2001

Kia ora Koutou
I am pleased to be able to submit on the review of the Dairy Industry Restructuring Act (**DIRA**).

My question is whether the DIRA is protecting the long term interests of New Zealand dairy farmers, consumers and the nation's overall economic, environmental and social wellbeing.

My concerns join with many other people in this country along with the evidence and wide acknowledgement that the dairy industry is having a severe impact on the health of our environment and the stability of our climate.

NZers are being impacted through a decline in their health and wellbeing. Economic benefits of the dairy industry are not spread equally across NZ and have not helped those most in need of them eg people on benefits and low incomes can not afford to buy dairy products to help their health. These economic benefits of the dairy industry come at great financial cost when the cost of cleaning up environmental pollution and degradation are taken into account.

The Government itself acknowledges the environmental impacts. In the foreword to this review the Minister for Primary Industry states that:

> *"... the growth of the dairy industry has had negative effects on our environment, through increased greenhouse gas emissions, nitrate leaching, and the expansion of dairy into increasingly marginal land areas."* - Minister for Primary Industries, Damien O'Connor.

The Government must turn this knowledge into regulatory action on intensive dairying.

I expect that every effort will be made, across Government departments and policies, to decrease the dairy industry, swiftly and significantly eg by reducing cow numbers, stopping more farm conversions, ensuring all streams and rivers are fenced to keep animals out. Soil loss in our country each year due to over grazing, intensification and wintering huge numbers in small spaces is not only affecting the sediment levels in our waterways but alos reduces future generations to have viable farming options.

Technology can not fix the problems created and are inefficient and insufficient to deal with the scale of the issues. New Zealand must undergo a rapid shift in land-use away from intensive dairy and livestock farming. Land use must be heavily diversified and put into high-value, plant-based farming, producing food eg high quality vegetables to feed our own people rather than waste food miles getting to overseas markets with milk products eg dried milk powder. .

I recommend that the DIRA is amended so that it now enables a rapid contraction of the dairy industry and a large-scale reduction in cow numbers and milk volume.
Specifically that the open-entry provision be removed and that the text is clarified to ensure that Fonterra has the ability to differentially price its milk supply based on its Terms of Supply.

Marginal and ecologically sensitive areas must be retired from production altogether and restored to their natural states. Land use practices across every type of farming must move away from the high-input, high damage methods that dominate today, into low/no input regenerative practices.

Without effective regulatory action driving these changes we will be unable to combat catastrophic climate change, clean up rivers or safeguard drinking water sources.

The DIRA has played and continues to play a role in the ongoing expansion and intensification of dairying. The discussion document accepts that "DIRA has enabled the industry's growth".

DIRA is only one of the many regulations that need to be amended to deal with the dairy industry's negative impacts.

As the discussion document notes "the DIRA has provided a regulatory environment conducive to industry growth." The wider regulatory environment, including DIRA, must be amended to ensure that it not only becomes conducive to the contraction of the dairy industry but that it forces it.

Dairy expansion and intensification

New Zealand has undergone one of the world's highest rates of agricultural land intensification over recent decades.[1]

Since 1990:

- Dairy cow numbers have more than doubled[2]
- The use of synthetic nitrogen fertiliser increased seven-fold.[3]
    - *(Dairying is the biggest user by far, using 70% of all the urea in NZ.*[4])
- NZ has had the highest percentage increase in synthetic nitrogen fertiliser use out of all of the OECD countries.[5]

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[1] Ministry for the Environment & Stats NZ (2017). "New Zealand's Environmental Reporting Series: Our fresh water 2017."
[2] Ministry for the Environment 2017: Environmental Reporting Series; Livestock numbers http://archive.stats.govt.nz/browse_for_stats/environment/environmental-reporting-series/environmental-indicators/Home/Land/livestock-numbers.aspx
[3] Ministry for the Environment 2017: New Zealand's Greenhouse Gas Inventory 1990-2016, Snapshot.
[4] Statistics NZ 2017 Agircultural Census Tables https://www.stats.govt.nz/information-releases/agricultural-production-statistics-june-2017-final Note: The NZ Government does not specifically measure all the use of all synthetic N fertilisers, only Urea.
[5] OECD 2008 Environment Performance of Agriculture in OECD countries

- The use of PKE went from virtually nothing to 2.2 million tonnes.[6]
- The average herd size has more than doubled.[7]
- Stocking rates have been increasing, from an average of 2.35 to 2.81.[8]
- Land in dairying has increased by 46% (from 1993 to 2012).[9]

Through the open-entry provision Fonterra has been legally obliged, in the majority of cases, to pick up milk from all new dairy conversions. This has facilitated dairy expansion and continues to do so.

The review notes that conversions have "fallen away sharply to around ten in 2017/18 year".

It must be noted that in terms of climate change even one new conversion to dairying, let alone ten, will cause increased emissions at a time when we must be urgently be reducing them.

It must also be noted that a single dairy conversion can have severe and irreversible environmental consequences. At the time of writing a mega-dairy conversion is underway in the iconic and ecologically fragile Mackenzie Basin.

15,000 cows, seven dairy sheds, applications of over 650 tonnes of chemical fertiliser and an irrigation pipeline that will suck over 57 million cubic metres of glacial water annually have all been given consent by the Canterbury Regional Council.[10]

The land is home to the world's rarest wading bird, the Kakī, or black stilt, along with several other endangered animals, plants and invertebrates.[11] The soils on which this conversion are planned are characterised as either well drained or excessively well drained. Conservative estimates predict that the conversion will leach an additional 76,615 kg/N/yr and lose an additional 1,938 kg/P/yr into the Waitaki catchment.[12]

Fonterra has publicly stated that in terms of his particular conversion it stated "*we'd prefer not to see more dairy expansion in the Mackenzie Basin."*[13] However, under DIRA's open entry provision they have no choice but to pick up milk from this dairy conversion.

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[6] https://www.indexmundi.com/agriculture/?country=nz&commodity=palm-kernel-meal&graph=imports
[7] Dairy NZ 2017 https://www.dairynz.co.nz/media/5788533/nz-dairy-statistics-2016-17-web.pdf
[8] Ibid.
[9] Kyleisha J. Foote, Michael K. Joy, Russell G. Death (2015) "New Zealand Dairy Farming: Milking Our Environment for All Its Worth".
[10] CRC062867 CRC082311 (2012) Upper Waitaki Group hearing Simons Pass Station decision final CRC062867 (2016) Pukaki Water Take Consent and FEMP. CRC136283 (2013) Simon's Pass Pukaki Flats Consent to discharge dairy effluent to land. CRC176720 CRC082311 (2017) Application Change Simons Pass Station State Highway 8 Lake Pukaki Variation Changes Tracked
[11] Land Information New Zealand - LINZ (2008) Crown pastoral tenure review, Simons Pass
[12] CRC062867 (2016) Pukaki Water Take Consent and FEMP. CRC136283 (2013) Simon's Pass Pukaki Flats Consent to discharge dairy effluent to land.
[13] https://twitter.com/fonterra/status/1013704354249838592?s=21

Climate change and the dairy industry

Climate change is an existential threat, posing grave danger to our health, homes, communities, food security, culture and livelihoods, as well as the wildlife and wild places with which we share this Earth.

Extreme weather events, intense wildfires,drought, flooding, sea level rise, displacement and resource conflicts are just some of the consequences of climate change. These consequences are already taking lives and causing major instability in our global society.

The most recent research by the Intergovernmental Panel on Climate Change (IPCC) confirms that we must limit the world's temperature increase to 1.5 degrees if we are to avoid worsening the impacts of catastrophic climate change. Furthermore, it outlines that achieving this requires us to reduce global emissions by half by 2030.[14]

This report also confirmed that climate change disproportionately affects our poorer working people, our neighbours and kin in the Pacific, developing nations, indigenous people, people of colour and women. These are the people who are least responsible for causing this crisis.

Every single sector of society, starting with policy-makers and the biggest climate polluters, must turn their full attention to reducing emissions and preventing climate breakdown.

In NZ, agriculture is the country's worst climate offender, causing 49% of all our emissions and those emissions are rising.[15] Dairying accounts for the majority of agricultural emissions and is the cause of the ongoing increases in emissions.

> *"Between 1990 and 2016, emissions from the agriculture sector increased by 12 per cent. This is **primarily due to the national dairy herd nearly doubling in size since 1990 and an increase of over 600 per cent in the application of nitrogen-containing fertiliser** during the same period" **-** Ministry for the Environment* [16]

New Zealand's Parliamentary Commissioner for the Environment (PCE) reviewed available science on reducing agricultural emissions and found that there were no quick technological fixes available to reduce emissions from livestock farming. It noted in this report that:[17]

> *"It is axiomatic that the fewer sheep and cattle there are on a farm, the lower the biological emissions will generally be."* - PCE[18]

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[14] IPCC (2018) Intergovernmental Panel on Climate Change, Special Report https://www.ipcc.ch/sr15

[15] Ministry for the Environment 2017: New Zealand's Greenhouse Gas Inventory 1990-2016, Snapshot.

[16] Ibid.

[17] Parliamentary Commissioner for the Environment 2016: Climate change and agriculture: Understanding the biological greenhouse gases

[18] Ibid.

Furthermore, Fonterra has become the second largest burner of coal in New Zealand which it burns in its dryer plants. The amount of coal burnt is directly influenced by the volume of milk produced ie. the more milk produced the more coal Fonterra burnt to dehydrate the milk. It has refused to rule out building new coal boilers until at least 2030.[19]

In order to reduce both agricultural emissions and Fonterra's emissions from coal the only viable option is to reduce the number of cows and eliminate the use of synthetic nitrogen fertiliser.

Climate change is threatening the lives of present and future generations and disproportionately impacting on those least responsible for causing it. With this knowledge, it would be immoral for legislators to continue to enable the dairy industry to retain its level of intensity or to facilitate it's growth.

Water quality and the dairy industry

After decades of growth in the dairy industry, enabled by DIRA, New Zealand is now facing an unprecedented freshwater crisis.

Nitrate pollution is getting worse in over half of NZ's monitored rivers.[20] More than two thirds of monitored rivers are unswimmable.[21] 72% of native freshwater fish are threatened with extinction.[22] 44% of monitored lakes are in heavily polluted (eutrophic) states.[23]

Over half (53%) of NZ's drinking water comes from groundwater.[24] There are already monitored groundwater sites where nitrate concentrations breach human health limits, in many regions of NZ.[25] Worryingly, levels much lower than the current human health limit have now been linked to increased likelihood of bowel cancer.[26]

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[19] https://www.fonterra.com/nz/en/our-stories/media/fonterra-partners-with-government-on-roadmap-to-low-emissions-future.html

[20] Ministry for the Environment & Stats NZ 2017: New Zealand's Environmental Reporting Series: Our fresh water 2017

[21] NIWA (2017)) Technical Background for 2017 MfE 'Clean Water' Swimmability Proposals for Rivers

[22] Ibid

[23] Schallenberg, M., de Winton, M.D., Verburg, P., Kelly, D.J., Hamill, K.D. and Hamilton, D.P., 2013. Ecosystem services of lakes. *Ecosystem services in New Zealand: conditions and trends. Manaaki Whenua Press, Lincoln*, pp.203-225.

[24] Ministry for the Environment. 2018. Review of National Environmental Standard for Sources of Human Drinking Water. Wellington: Ministry for the Environment

[25] Ministry for the Environment 2009 - National groundwater quality indicators update: state and trends 1995-2008 Note: Monitored groundwater sites measured are not currently used for drinking water.

[26] Schullehner, J., Hansen, B., Thygesen, M., Pedersen, C.B. and Sigsgaard, T., 2018. Nitrate in drinking water and colorectal cancer risk: A nationwide population-based cohort study. *International journal of cancer*, *143*(1), pp.73-79.

Dairy cows are the biggest nitrogen polluter into NZ's waterways with direct synthetic nitrogen fertiliser pollution coming in as the third biggest, after sheep. [27]

According to the Ministry for the Environment nitrate pollution is increasing "*due to increases in dairy cattle numbers (& therefore urine which contains nitrogen) & nitrogen fertiliser use*" [28]

Dairying also pollutes waterways with e.coli, sediment and phosphorous. It is the country's single largest user of water through irrigation. This negatively impacts on the river flows necessary for the healthy functioning of aquatic ecosystems.

This freshwater crisis is seriously impacting on the physical, cultural and emotional wellbeing of New Zealanders. Many mahinga kai sites and waterways of cultural significance are now polluted. Fishing, swimming and freshwater recreation are all being severely limited. Nitrate and E. coli contamination in drinking water sources and rivers is making people sick.

Nitrate contamination of aquifers is an intergenerational issue, which, if allowed to continue unabated, will severely diminish the health and wellbeing of future generations.

Economic "benefits" of the dairy industry

The DIRA consultation paper frequently refers to the economic benefits delivered by the dairy industry. It states that "The New Zealand dairy sector has provided, and continues to provide substantial economic benefit to New Zealand."

The discussion document does not specify to whom these economic benefits have benefitted and to whom they have left behind. Nor does it mention the financial cost of dealing with environmental pollution and degradation it has caused that has been left to New Zealand's taxpayers to deal with.

These two points must be taken into consideration when balancing the costs and benefits of this or any other industry

The dairy industry's "economic benefits" have failed to be shared equally across our nation and indeed have failed to accrue to those most in need of them. While the dairy industry is not the cause of the growth in poverty, inequality and homelessness, it's "economic benefits' have clearly failed to alleviate these issues.

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[27] Ministry for the Environment & Stats NZ 2017: New Zealand's Environmental reporting series : Freshwater and nitrogen leaching.
http://archive.stats.govt.nz/browse_for_stats/environment/environmental-reporting-series/environmental-indicators/Home/Fresh%20water/nitrogen-leaching-agriculture.aspx

[28] Ibid

Since 2001, homelessness has risen by 30%. In 2013, almost one in every hundred New Zealanders, more than 40,000 people, were homeless, many of them families.[29]

Income and wealth inequality remain high. The top 1% of adults own 16% of the country's total wealth, while the entire bottom half of adult New Zealanders collectively own just over 5%. In the lowest 10% of incomes, people are no richer now (once housing costs are taken into account) than they were in 1987. [30]
Child poverty is persistent. One in five New Zealand kids are living in houses without access to enough food or healthy food. In 2017 an estimated 290,000 NZ children (27%) were living in income poverty.[31]

Furthermore, research suggests that when the cost of cleaning up the pollution and degradation caused by the dairy industry is taken into account, the economic benefits of the industry are almost entirely negated.

"At the higher end, the estimated cost of some environmental externalities surpasses the 2012 dairy export revenue of NZ$11.6 billion and almost reaches the combined export revenue and dairy's contribution to Gross Domestic Product in 2010 of NZ$5 billion…. This assessment is in fact extremely conservative as many impacts have not been valued, thus, the total negative external impact of intensified dairying is probably grossly underestimated."[32]

Economic growth and GDP is not a measure of the health and wellbeing of our society and the government has indicated that it will no longer be treated as such a measure.[33]

As discussed, the water and climate pollution caused by the dairy industry is negatively affecting the health and wellbeing of present and future generations of New Zealanders.

Global context

Another purpose of the review is to consider where DIRA remains fit-for-purpose given the global and domestic challenges and opportunities.

In order to fight climate change and feed the world's growing population a growing chorus of scientists and reports are calling for a global transition away industrial livestock farming into more plant-based food production and consumption.

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[29] Amore, K., 2016. Severe housing deprivation in Aotearoa/New Zealand 2001–2013. *Wellington: He Kainga Oranga/Housing and Health Research Programme. University of Otago*.
[30] Rashbrooke, M. ed., 2013. *Inequality: A New Zealand Crisis*. Bridget Williams Books.
[31] The Child Poverty Monitor 2017 and 2018. **www.childpoverty.co.nz/!/#/resources/downloadable**
[32] Foote, K.J., Joy, M.K. and Death, R.G., 2015. New Zealand dairy farming: milking our environment for all its worth. *Environmental management*, *56*(3), pp.709-720.
[33] https://www.budget.govt.nz/budget/2018/economic-fiscal-outlook/budget-2019-focus-on-wellbeing.htm

In the most thorough research paper on the issue to date scientists used data from every country to assess the impact of food production on the global environment. They found that "GHG emissions cannot be sufficiently mitigated without dietary changes towards more plant-based diets."[34]

Plant-based milks have emerged as a strong competitor to cow milk. In the UK for example, the Guardian reports that plant-based milk sales have increased 30% while reduced demand and falling prices for cow's milk between 2013-2016 has led to the closure of 1,000 dairy farms.[35]

In this changing global context, the continued economic dominance of the dairy industry in New Zealand is a threat to our long-term economic prosperity.

I do wish to be heard with respect to my submission.

Thank you for the chance to comment on these issues.

He iti, he pounamu. It may be small but it is very precious.

Nau te rourou, naku te rourou, ka ora te iwi.

From your food basket and my food basket, there is plenty for everyone.

Kia kaha, rangimarie, blessings, hope and joy as you carry out this very meaningful work

s 9(2)(a) [redacted]

[34] Springmann, M., Clark, M., Mason-D'Croz, D., Wiebe, K., Bodirsky, B.L., Lassaletta, L., de Vries, W., Vermeulen, S.J., Herrero, M., Carlson, K.M. and Jonell, M., 2018. Options for keeping the food system within environmental limits. *Nature*, *562*(7728), p.519.

[35] https://www.theguardian.com/news/2019/jan/29/white-gold-the-unstoppable-rise-of-alternative-milks-oat-soy-rice-coconut-plant

DIRA review January 2019

s 9(2)(a) [redacted]

[redacted]

[redacted]

Dear DIRA review Panel

I have taken the freedom to follow the MPI discussion document No: 2018/13 and give my opinions and experiences subject by subject.

*Ministers Foreword;

Hon Damien O'Connor spells it out quite well with saying, "We want to ensure that future dairy industry performance is optimised for the benefit of the NZ economy, farmers and consumers. "

I totally agree with this statement and will use this as my reference vision.

I also like to refer to another statement in the Ministers foreword; "The DIRA also created a regulatory regime to mitigate the risk associated with there being a company with a near monopoly position in the domestic dairy market."

*DIRA discussion document Overview;

1 The DIRA was enacted in 2001 to facilitate the formation of a national champion, Fonterra.

2. The expansion of the dairy industry has had negative impacts on the environment.

In my opinion it is not the place of DIRA to regulate environmental issues. There is the resource management act, local council rules and so on.

3. The DIRA regulations have contributed to adverse industry performance! Competitors have cherry picked easy dairy area's leaving Fonterra to pick up farms the competitors are not interested in because of size, distance, quality of milk and performance.

4. The DIRA is also responsible for the excessive growth in milk supply and rate of conversion of sheep farms to dairy. Due to the poor economic performance of sheep farms, partly due to overcapacity and competition against each other in overseas markets, sheep farmers have been looking to better land use. The DIRA made that Fonterra had to accept all milk offered. The DIRA is now also responsible for the New Zealand Dairy Industry heading in the same way as the unprofitable sheep industry is now.

*Risk to future earnings of dairy farmers, and the overall economy;

This section talks about the risk of putting all eggs in one basket. DIRA has increased that risk at a cost to Fonterra farmers. Since the formation of Fonterra, competing companies have set up in NZ, with a guaranty of milk top up for many years of the up to 50 million litres of DIRA milk. Most of these new competing companies have a corporate structure with big offshore investors. All of the new comers are solely focused on the Asian markets and all of the new comers are mainly focused on milk powders. Because of DIRA they have been able to set up more specialised milk powder plants, set themselves up in areas with easy access to big dairy farms and been given DIRA milk they didn't even have to compete for.

Instead of having a controlling dairy company that as a cooperative is owned by New Zealand farmers:

-has every incentive to pay a good price for the milk

-supplies local markets with dairy products

-supplies a variety of international markets with a variety of products

We now have Fonterra competitors in NZ who:

-have no ncentive to pay the maximum for their milk from NZ farms

 do not supply local markets with dairy products at all

-focus solely on the Asian markets with a very small product mix

-take profits of the company out of NZ to their overseas investors

-have no responsibility to NZ farmers and can easily cease processing if this would be unsustainable, as has happened before with NZ Dairies in Studholme.

So instead of having the risk of having all the eggs in one basket, DIRA has created an industry that has all eggs in **one** basket in **one** geographical area in **one** product. The new processors have no responsibility, or interest in a healthy nz economy and also have no interest in supplying the nz public with fresh dairy products. This has created a very risky situation.

*Risk of New Zealand consumers of dairy products being charged excessive monopoly prices and/or having limited product choice.

1. The 50% divestment of Fonterra's domestic consumer business has resulted in again an overseas business (Goodman Fielder) having a very easy business set up in NZ

2. The provision for up to 250 million litres of raw milk to Goodman Fielder should have only been for a few years. Goodman Fielder was expected to develop i s own milk supply but surprise surprise this never happened.

3. The raw milk regulation to smaller processors supplying the domestic consumer market is the only sensible in the DIRA regulation.

High level observations of industry performance

The reference to R&D investment from Fonterra compared to other food producers as a percentage of turnover is totally irrelevant. It can be that the Fonterra spend is more effective.

The environmental cost of dairying? The numbers of dairy cows have increased to the detriment of other livestock numbers. Not a real increase in environmental cost. The number of new dairy conversions has meant a younger average age of dairy farm infrastructure As with housing or automobile stock new investments normally means better environmental outcomes.

The last point I like to make on environmental cost is that it is not related to the DIRA or Fonterra as all new entrants have been targeting new conversion farms.

The effects of the DIRA and other factors on industry performance

1.Is Fonterra still dominant?

In this section it becomes very clear to me that the DIRA is set up to REGULATE AGAINST Fonterra. DIRA has shifted the goal post in 2011 and postponed deactivation in 2018. The reason Fonterra is still dominant in 2019 has more to do with farmers liking the cooperative structure and the benefits for NZ-Inc more than the overseas owned corporate structures. It can be seen as a failure for the DIRA not to have regulated the new entrants to set up a factory in Northland and Wairarapa.

By the tone of this writing it seems to be a good thing that the market share in milk supply of our "National Champion" has fallen from 96% to 80% and that government should make sure it will drop further!

By now it should be very clear that Fonterra is a Cooperative. Fonterra doesn't pay suppliers in Northland or in the Wairarapa any more or less than it shareholders in Canterbury, Waikato or Southland. Contrary to the competing dairy companies all suppliers/shareholders are equal.

Answers to questions

3. The DIRA has achieved what it was set out to do. We have competition for farmer's milk. We have rules for Fonterra to supply Goodman Fielder. It's time to create a new DIRA 2019 act involving the whole DAIRY INDUSTRY, and not only Fonterra.

4. Fonterra will most likely stay the majority stake holder for farmer's milk no matter how many DIRA's you throw at it as the majority of farmers will prefer a cooperative above private capital.

5. Until now the DIRA has been the DIRA against Fonterra or the Fonterra Regulation Act. All cost and responsibilities have been with Fonterra with new entrants being the beneficiaries of regulated milk, open entry and exit, no need to supply local markets….

7. STOP being focused on Fonterra's dominance. A strong local NZ owned dairy factory has many benefits for the NZ economy, just ask the red meat industry.

8. The DIRA has done its job. Abolish the DIRA 2001 and if needed set up the DIRA 2019 invo ving the whole dairy industry. The NZ dairy industry in 2019 involves at least 10 reasonable sized players.

10. The milk price is influenced by supply and demand. Fonterra cannot directly control the share price to attract or lower milk supply. It is all intertwined with milk price and performance.

14. NO! The effects on the environment are predominantly based on perception. The average NZ stock numbers have not changed that much. With the change to more dairy cow have come some negative effect, for example more nitrogen use, but considering the size of

the increase in dairy cow numbers, the environment has not changed that much. I would call it growth pains. As recent figures show, better farm management with newer infrastructure will improve the environmental cost very soon.

15. YES

16. NO

17. YES. With their newer plants, cherry picked locations, open entry and exit regulations, higher value product mixes, direct supply chains into Asian markets and regulated milk supplied, still none of the new entrants has competed with Fonterra at the farm gate milk price.

18. NO. Regulated milk should only be supplied to processors who supply the local market.

19. NO. The fact that Fonterra over the last 17years only twice deviated from the milk price manual derived milk price means it is practically feasible.

20. NO.

21. YES.

23. Abolish open entry and exit. Abolish the DIRA 2001

24. opt. 4.1.1 ; Fonterra would still need to keep extra capacity on hand to cater for returning suppliers or for extra supply when there would be another spike in milk prices.

opt. 4.1.2 ; * Fonterra could sell off old infrastructure and restructure its business to drive performance and efficiency just as new entrants can with their new plants.

- Fonterra could control reputational quality

opt. 4.1.3 ; * Difficult to police

- Only provide for reputation damage risk

26. Repeal the open entry and exit. If I would like to supply one of the new entrants I will most likely have to go on a waiting list. I would have no guaranty that I ever would be accepted as supplier with no explanation required from the company as to why.

It would make Fonterra a leaner business more agile to react to market forces.

27. 1. Let all dairy companies with their own supply over 30 M litres supply, supply new entrants with regulated milk. This is the Dairy Industry Restructuring act. Not the Fonterra Restructuring act.

2. Leave a window for NZ owned new dairy processor entrants as long as that NZ owned company stays in NZ hands for at least 15 year. This will provide fair competition for Fonterra and instead of profits going to overseas investors it would stay in NZ.

28. about right

31. Option 4.2.2 Amend to exclude large dairy processors with overseas backing. Take away the unfair advantage new dairy processors get.

32. Fonterra's milk price manual has now worked very well for many years. To be fair with 10 dairy companies active in NZ, we should not need a milk price calculation. The market should determine the milk price through competition. The new entrants rely to m ch on Fonterra to set the price.

35. option 4.3.1 Status quo! Keep politics out of the milk price, let Fonterra be as flexible as possible and keep all new entrants on their toes to pay the most possible for the farm gate milk.

39. option 4.4.3 reduce Goodman Fielder's eligibility to access regulated milk.

Goodman Fielder was expected to have set up its own milk supply. They have had 17 years to do so. In the meantime there are 10 different dairy companies in NZ who can supply Goodman Fielder contracted milk if needed. Abo ishing the regulated milk supply will make Goodman Fielder a more assertive player in the domestic market.

40. Stop focusing on market dominance! The DIRA has done its job. Abolish the DIRA 2001 and level the playing field. The dairy industry in 2019 is more than Fonterra. There is plenty of options out there but most people will remain with the cooperative.

41. Abolish the DIRA 2001. Expiry provisions are hollow words as has been proven in the past. Politics and other bus ness pressure will muddy the water.

44. Same as above

End remarks;

The ideas behind the DIRA 2001 were great and Fonterra has proven to be do well and be trustworthy.

The DIRA has however made that the dairy industry is back to its' 10 or more dairy manufacturers from before 1990.

The DIRA so far has been “the DIRA against Fonterra” or the FRA, The Fonterra Regulation act.

The DIRA was set up to make a strong company able to compete overseas. To regulate so NZ consumers would have plenty of choice in the supermarket.

Fonterra has been the envy of the red meat industry but that is where we are heading now.

The dairy industry is more than Fonterra alone. It has now 10 or more sizable players, who all should be expected to have the best for NZ INC. at heart.

For me, the DIRA 2001 has done its job. We have plenty of competition at the farm gate, but none of the new entrants is interested in the nz domestic market. It has been a missed opportunity not to require new entrants to supply the domestic market as a condition to set up a factory in NZ. China sets plenty of rules before a business can get into their market. It would be fair to expect all new and past entrants to supply the NZ market with at least 2 products and over at least 95% of the country. This way we would create a great benefit for the NZ consumer by getting new products on the shelf and /or competition in the super market.

Fonterra has obeyed the DIRA regulations very well. For the benefit of NZ and NZ consumers it is time that all dairy processors start to play their part.

DIRA Submission

Thanks for those who led the DIRA process at Kumara for not mucking around and no confusing jargon.

1.) The entitlement of any existing or proposed new milk processor to set up, poach and be subsidised by Fonterra supplier shareholders as of right be scrapped immediately.
2.) It is not Fonterra but the farmer shareholders who subsidise the benefits for these new or established processors.
3.) I find it ironic that existing and new startups are all so hell bent that DIRA stays in place because with DIRA they are on the pigs back.
4.) To target a confined area with concentrated supply is ripping the guts out of an already competitive market in New Zealand.
5.) We already have to compete against subsidised milk throughout the world.
6.) I am sure no processor has set up where there is a scattered supply base under DIRA.
7.) Other processors will have supplier contracts in place to protect continuity of their business, unlike Fonterra under DIRA it is open entry and exit.
8.) How can any business be profitable and other entities can feast on your supply with the backing of government legislation still 17 years later.
9.) Goodman Fielder have had 17 years to set up a processing facility which in reality they at present get subsidised milk.
10.) There is now another significant national milk supplier in the South Island but they have also taken the liberty of utilising DIRA legislation to set up another site.

In conclusion with the legislation still in place means to me that with DIRA rules existing processors are competing with those privileged to still have access to legislation supported by previous and present government when this protection was to be abandoned at least 10 years ago.

In my opinion by big business hiding behind DIRA to weaken and bleed those Fonterra farmers who contribute a major component of NZ export earnings, otherwise they wouldn't require DIRA and need the state to keep protection in place which satisfies a privileged few.

s 9(2)(a)

[redacted]

Dairy Industry Restructuring Act 2001 (DIRA) review consultation submission

Co-Authored by s 9(2)(a) [redacted] and s 9(2)(a) [redacted]

08/02/2019

Introduction and disclosure

The intention of this submission is to provide feedback and direction to the DIRA review process from the perspective of two young farmers that have a strong passion for the Dairy Industry and see their futures firmly in it. As stakeholders of the review who have large exposure to the risk of any prolonged negative impacts it is imperative that the review achieves the best outcome for all and that prompt action is taken when the time ultimately comes that the implemented legislation is no longer in keeping with the current industry environment. For the purposes of transparency it is critical to advise that both authors are currently under Fonterra's employ and one of whom is a shareholder of a Fonterra having a part ownership interest in a supplying farm. The views expressed in this submission are independent of Fonterra Co-operative Group Limited and are those of the authors alone.

1. **Open exit and entry:** There is a clear case for the removal of these regulations for the below reasons.

   1.1. NZ milk production has now stabilised with the prospect of growth sitting steadily at around 2%, this means that there is little requirement for these regulations anymore as strong competitors have been established some of whom have large successful value-add operations that can and have proved to be willing to collect many different suppliers around the country. This means that in many cases Fonterra is no longer just the default choice for a Dairy Farmer to supply.

   1.2. Having the ability to manage milk supply through acceptance control will in the longer term allow Fonterra to better manage their shift to higher value products as plants are constructed in different regions to diversify product mix. This is a good move for the industry as a whole because Fonterra will remain for the foreseeable future, the benchmark in terms of milk price and will therefore ensure competitors pay good prices.

   1.3. The environmental impacts of Dairy farming are clear and sensitive catchments require prudent land use practices, while it may be allowable from a regulatory perspective to Dairy farm in a certain way in that area public perception is against it. Recent conversions particularly in the Central North Island and Mackenzie Basin have proven to be unpopular and created negative sentiment toward the industry as a whole for marginal gain. This development is underpinned by the requirement for Fonterra to collect that milk.

2. **Raw milk regulations:** The view taken by the authors is that these regulations are now outdated and are beginning to have a negative impact on the industry so should be removed or adjusted for the following reasons.

   2.1. While this was made with the best of intentions to grow domestic market supply there has been a clear subsidisation given to competing independent processors which to a considerable degree are foreign owned entities. Competition is good but if the goal of these independents is to pay as little as possible and make the maximum profit then for them to be given a helping hand is no longer in the best interest of New Zealand or its Dairy industry.

   2.2. A good alternative would be to limit this supply to domestic supply entities, in future these entities may grow to become specialis Niche exporters that present a great opportunity for Farmers to achieve better pricing. The length and quantity involved in these arrangements could also be tailored to better suit both Fonterra and the party being supplied.

   2.3. The current set of regulations also presents a large risk of the New Zealand Dairy industry being over equipped to process milk, this may hinder the ability of processors to pursue value add strategies with additional capacity weighing down their balance sheets and cost structures.

3. **Milk price manual:** After careful consideration the authors take the view that Fonterra needs to be set free of any obligations or regulation around milk pricing. The success of the Dairy industry as it is today can be traced directly back to deregulation and the removal of central government intervention, there is strong evidence to suggest taking this step again will not harm the Industry, New Zealand public or Economy.

   3.1 With plenty of strong competition in the market now with different structures and drivers for pricing, Fonterra as the benchmark needs to be agile and astute with how it prices farm gate milk to maximise returns to all farmers whether they supply them or not.

   3.2. In addition food supply chains are inherently becoming more complex and consumers a willing to pay for clear provenance and food safety. This value needs a direct method of exchange back to farmers and an incorporation of that into milk pricing is an important point to consider. Giving Fonterra the ability to incentivise farmers with ease could have good outcomes for the entire industry by pushing competitors to keep up with initiatives.

Conclusion:

We hope this submission finds you well and you have understood our positions clearly in the areas we have chosen to submit around. A small slice of the future of the New Zealand Dairy industry lies in our hands but collectively Young Dairy farmers have lot to lose or gain from the outcome of this review and want to see the latter of those two happen.

To MPI

I wish to submit as follows on behalf of Taranaki Community Rugby Trust
Fonterra s 9(2)(a) [redacted]

1. The Trust favours an end to the current Open Entry requirements which makes it compulsory for Fonterra to accept all new milk. This encourages the establishment of dairy farms in marginal areas and is counter productive for the NZ dairy industry.

2. The Trust opposes the requirement to supply new start up exporting companies that export raw milk. These businesses should stand or fall on their own merits and not be subsidised by Fonterra shareholders.

3. The Trust is in favour of Fonterra's right to set its own milk price and opposes any other mechanism for setting the milk price by an externa entity.

4. The Trust opposes DIRA measures that encourage the setting up of more manufacturing facilities when it is likely that there will be a surplus of "stainless steel manufacturing infrastructure" as milk supply continues to move from Fonterra to these new entities. This is highly inefficient utilisation of resources within NZ and not good for the national economy.

s 9(2)(a) [redacted]

s 9(2)(a) [redacted]

To MPI

I wish to submit as follows on behalf of s 9(2)(a) [redacted]

1. We favour an end to the current Open Entry requirements which makes it compulsory for Fonterra to accept all new milk. This encourages the establishment of dairy farms in marginal areas and is counter productive for the NZ dairy industry.

2. We oppose the requirement to supply new start up exporting companies that export raw milk. These businesses should stand or fall on their own merits and not be subsidised by Fonterra shareholders.

3. We are in favour of Fonterra's right to set its own milk price and opposes any other mechanism for setting the milk price by an external en ity

4. We oppose DIRA measures that encourage the setting up of more manufacturing facilities when it is likely that there will be a surplus of "stainless steel manufacturing infrastructure" as milk supply continues to move from Fonterra to these new entities. This is highly inefficient utilisation of resources within NZ and not good for the national economy.

DIRA Review Submission

Preliminary comments:

"The Act has provisions to promote the efficient operation of dairy markets in New Zealand by regulating the activities of Fonterra to ensure New Zealand markets for dairy goods and services are contestable." Dairy Industry Restructuring Act 2001

More specifically the purpose as stated in Subpart 5 is "… to promote the efficient operation of dairy markets in New Zealand" and this was further expanded in the Dairy Industry Restructuring Amendment Act 2012, in Subpart 5A – Base Milk Price; 150A:

"(1) The purpose of this subpart is to promote the setting of a base milk price that provides an incentive to Fonterra to operate efficiently while providing for contestability in the market for the purchase of milk from farmers.

(2) For the purposes of this subpart, the setting of a base milk price provides for contestability in the market for the purchase of milk from farmers if any notional costs, revenues, or other assumptions taken into account in calculating the base milk price are practically feasible for an efficient processor."

While there are a number of other principles and rules defined in the Act it is this setting of the milk price that is at the core of the purpose "to promote the efficient operation of dairy markets in New Zealand" and the regulation of dairy markets and obligations of Fonterra.

That said, the Review of DIRA Discussion Document has created another **core regulatory objective** of "preventing Fonterra from using its dominance to create barriers to farmers' milk and land flowing to their highest value uses". Those words cannot be found anywhere in the Act or its amendments or in the Hon Damien O'Connor's 2018 Cabinet paper; they are emotive and show a conscious, or unconscious, bias that is not conducive to a balanced discussion. The statement also largely ignores the plight of others in the value chain, notably the NZ consumers and the wider economy.

While Fonterra did have an unacceptably large (almost monopolistic) share of the farm milk supply in 2001 at 80%, now, it is en par with Friesland Campina and Arla, two large European cooperatives who also had to divest assets and shrink after mergers. The focus of this discussion should be on the purpose, as defined in the Act, and what efficient operation of dairy markets in New Zealand should be for all players in the value chain – farmers, processors, exporters, retailers/food service and consumers – and not on some contrived objective.

QUESTIONS:

1. Do you agree with our description of the DIRA regulatory regime and its original policy rationale? Do you consider the original policy rationale is still valid?

The description of the regime is too simplistic particularly with respect to price setting. The regulatory regime developed hand in hand with Fonterra constitutional changes as described in the footnoted paper[1] There is a need first however to properly describe the rationale for dairy cooperatives worldwide, the review suggests they are a means to reduce risk and enhance viability and are more attractive to NZ dairy farmers due to the seasonality of supply. This tells but part of the story and fails to recognise the fundamental rationale for cooperative formation that is market failure, or more specifically the inability of farmers individually to have market power for a perishable product their situation is further exacerbated leaving them in weak bargaining positions. The accumulation of funds to co-own and manage transport and processing assets is logical and explains why so many dairy farmers worldwide, irrespective of seasonality, have vertically integrated into cooperatives. The task of the cooperative is first to guarantee the milk is picked up, then to pay the best possible price for it and then to sell it in whatever form the cooperative designs with a sensible portion of profits paid back to the suppliers as rebates/dividends. User owned, user controlled, user benefits are the principles that guide all cooperatives, Fonterra is no exception. Fonterra is therefore tasked to deliver the best possible price for its owners' milk, quite the converse of corporates who endeavour to minimise their COGS to improve profits.

As outlined in the paper footnoted there are some key points of difference between what is termed a traditional cooperative and Fonterra. The first is the cost of membership, traditionally that cost is a fee that is paid at entry and repaid (usually with some delay) at exit. Fonterra, in contrast, was established with

[1] s 9(2)(a) (2014). Fonterra as a case study of co-operative capital structure innovation. In *Quebec 2014 International Summit of Cooperatives* (pp. 432-448). Canada: International Summit of Cooperatives. Retrieved from http://www.sommetinter.coop/

shares issues and surrendered at their 'fair value'; this was motivated to address 'free-rider' tensions during periods of rapid industry expansion and it served Fonterra well as it ensured the funds were available to build the additional processing required as milk volume grew. Fonterra shareholders also voted to issue shares (dry shares) in addition to those required for membership (wet shares based on supply of milk). This is also atypical but did provide Fonterra with equity funds over and above that associated with milk volume growth share purchases. However, while these changes are not dissimilar to the evolution of some cooperatives elsewhere in the world there is no cooperative that opts to, or is legislated to, allow 'open entry and exit' as Fonterra is under DIRA

The reasons for this are obvious. In a business model that is user owned, user controlled and user benefits collective action is required to ensure efficiencies are created and maintained. The typical cooperative (Tatua is a good example) therefore has a determined catchment commensurate with its processing capacity that delivers transport efficiencies and has a focus on providing the best returns for the milk collected. It does not add suppliers unless it decides to grow its business and invest in more processing capacity and it does not aim to lose suppliers either. A measure of the success of cooperatives such as Tatua is that the benefit of being a member is capitalised into the value of the land within its catchment. Professor Mike Cook describes this as loosely defined property rights of cooperative ownership.

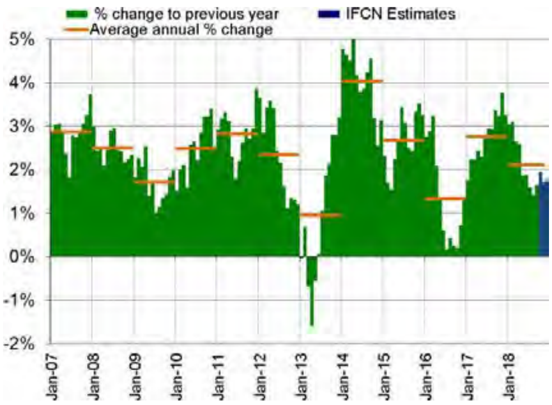
Overseas cooperatives provide various examples of managing to a determined catchment, and of how that catchment might change with mergers or farmers changing allegiances When the quota system was in place in Europe supply control was not necessary but once it was lifted a number of cooperatives have had to replace it with methods to limit supply in line with their processing capacity; significant balance sheet losses occurred in the transition as cooperatives were caught paying a higher price than they could sell at (due to long term contracts) for more milk than they could handle. Some product ended up in intervention, other products landed in overseas markets disrupting local producer profitability and world dairy prices.

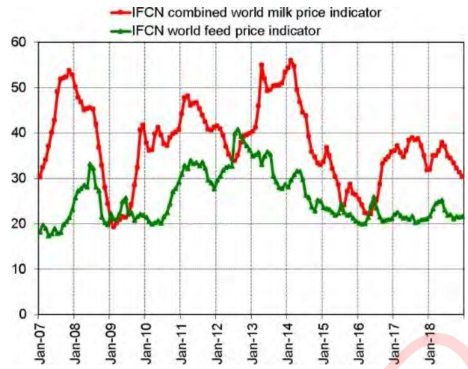
To meet the purpose of having an efficient operation of dairy markets in New Zealand the ability of processors to manage their milk supply in line with their investment in processing capacity and other infrastructure is critical. Open entry-open exit does not allow Fonterra this essential discipline.

The comment is made that "the chief way in which the DIRA intervenes in the industry dynamics is by incentivising Fonterra to use price signals as the means of managing the volume of its milk supply. It leaves Fonterra with an ability to control its milk supply volumes from farmers through the price it pays them for their milk, and through the cost of farmers' shareholding in Fonterra. The intent is that Fonterra is incentivised to set its milk price and cost of shareholding in a way that produces an optimal volume of milk to run its existing processing capacity (i.e. its sunk investment) while directing further investment to higher value use/product lines." This comment is naïve at best, it fails to recognise the role of global market dynamics in setting milk price (this is elaborated in the next section) and that cooperative ownership expectation is that the best milk price possible will be paid.

The comment is also in stark contrast to the explanation in section 3.3 of how DIRA influences milk price by setting out the purpose, principles and processes that underpin the base milk price calculation against which the Commerce Commission then monitors activity and passes judgement. While DIRA permits Fonterra to determine a price that differs from that calculated through the Milk Price Manual it is no small decision; it has to be publicly disclosed along with the reason for deviating from the calculated base price. The final price is determined after the season has ended by which time milk supply has already happened so there is no influence on supply. To state that Fonterra is free to set its own milk price and to use it to manage volumes is misleading rhetoric.

Farmers will respond to price trends and will invest accordingly, the growth in NZ dairying is proof off that. The price they are responding to is created by global supply and demand dynamics As outlined in the next section that dynamic has been favourable to supply growth since 2006. There is a fundamental difference, however, between the drivers of supply growth in pastoral and housed farming systems. The latter, that represents the majority of dairy production globally, is driven by the ratio between milk price and feed price, if that ratio is favourable milk supply will increase and vice versa. Feed prices, in turn, can be influenced by a range of factors such as climatic events, oil prices, trade challenges, and demand from alternative livestock industries. This is illustrated in the graphs below taken from the IFCN Dairy Newsletter Dec, 2018; the left hand graph is the change in global milk supply year on year and the right hand side is the change in price indicators for milk and feed. When the ratio between the two prices is unfavourable milk supply decreases and vice versa. In these countries milk supply can be influenced by providing support for with milk or feed prices and that is the basis of much government intervention.





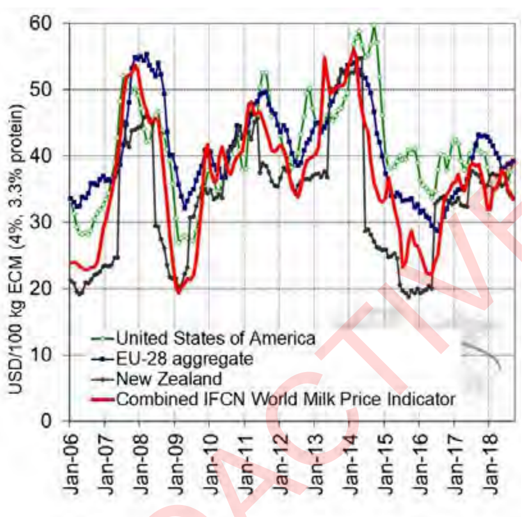
In contrast, pastoral dairy milk production is primarily driven by climate/grass growth; for 20 years similar IFCN graphs illustrate how production will increase or decrease independently of milk price due to abundant or inadequate supply of grass as rainfall and temperature vary. When grass supply is inadequate and/or when milk prices are high pastoral farmers can bring in feed supplements at which point the milk price to feed price ratio is relevant but it is not the primary driver to their milk supply. To state Fonterra can adjust i s milk price to manage volumes of milk not only indicates ignorance of pastoral dairy systems but also suggests a link to the Almighty that is beyond anyone's' imagination!

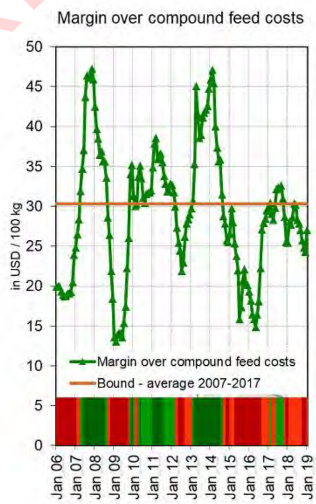
DIRA was an enabling framework as it did remove the export monopoly of the Dairy Board and it has facilitated new competition and new strategies in the dairy industry. The dairy industry has evolved in response to changes in domestic and global markets, it is possible that this would have happened regardless of DIRA but whether it has maximised economic performance and achieved the lowest regulatory and compliance costs is less clear.

2. Are there any other dairy industry developments or industry performance indicators that are not captured in Chapter 2, Appendix 1, or the reports by Frontier Economics? Please provide details and supporting evidence

The summary of global dairy missed some critical facts and made some gross generalisations that must be challenged. With just 7% of global milk supply crossing borders this thinly traded market is always going to be volatile[2], small imbalances in supply and demand can shake or disrupt the market. For product categories that have a high trade to production ratio – not surprisingly they are those less perishable products (WMP, SMP with 80% and 50% of production traded respectively) –such imbalances can have a significant impact on the dynamics of trade.

This disruption is not only felt by the trading nations and is certainly not exclusive to commodity traders. Milk price volatility as illustrated in the IFCN farm price graphs is common to dairy farmers worldwide. The countries not as impacted are those with closed supply management such as Canada, Israel, India, Peru and/or those with other forms of protectionism such as Switzerland, Norway. It does seem counter intuitive that such small global trade volumes/prices can influence domestic milk prices but they do. So despite the fact that the European and US processors sell a higher proportion of fresh and branded product the farmers still get volatility in their farmgate price, that is the reality not fully understood in NZ.





The difference between the milk price system in New Zealand and elsewhere is that we have a price for the season and a seasonal milk curve while most others have monthly milk prices and a flat milk curve with the majority of milk sold as fresh consumer products (cheese making the exception). The price estimated by Fonterra is never the price realised at season end for all the obvious reasons – markets and exchange rates change. Also the price calculated is based on GDT

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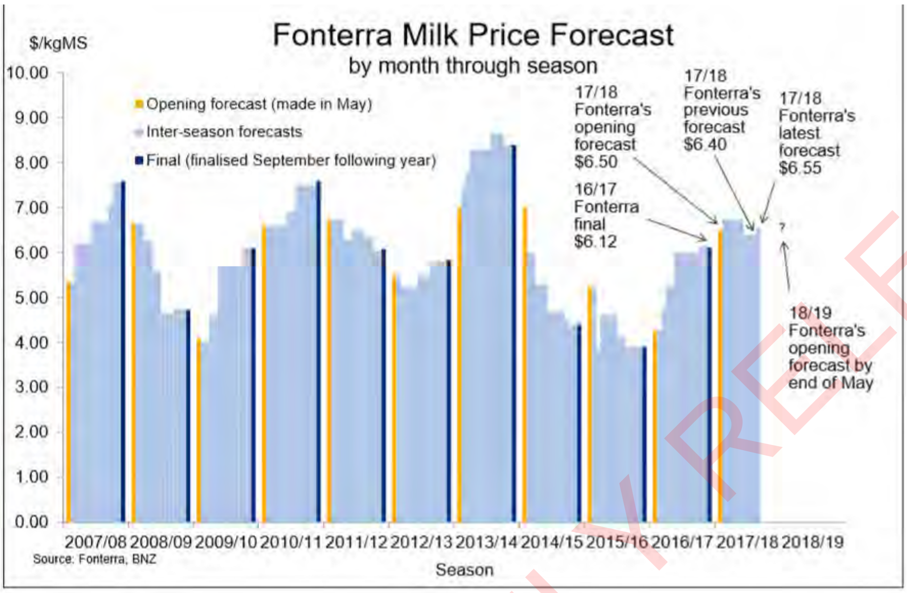
[2] s 9(2)(a) [redacted] (2016). Factors influencing the Dairy Trade from New Zealand. *International Food and Agribusiness Management Review*, *19*(B), 241-251.

and is not delayed by long term pricing commitments or protectionist acitivities so the Fonterra price adjusts quicker, both up and down, than other countries, there is no lag. The price Fonterra sets and then adjusts is based on GDT achieved prices; it becomes the NZ milk price by default. However, as the graph below shows the final price (dark blue line) is always different from the opening forecast (orange line), and it is determined by global market volatility.



Source: Chris Lewis and Stefan Bryant, BakerAg, Masterton.

So with regards industry developments and performance indicators once it is established that the milk price is determined by global market dynamics – supply, demand, exchange rates, interest rates, trade barriers/enablers – then the focus of the DIRA review can be on the purpose “to promote the efficient operation of dairy markets in New Zealand”. How can DIRA enable Fonterra and other dairy cooperatives and companies operate efficiently? As identified by Harvard Business School in its case study of Fonterra the introduction of GDT has provided price signals to the world, it has become the global benchmark for dairy prices and has enabled GDT (NZ) prices to converge with other markets; all dairy companies and farmers in NZ have befitted from this. DIRA provides the purpose, principles and processes that underpin the base milk price calculation against which the Commerce Commission then monitors activity and passes judgement. This is a good outcome of DIRA as it provides a clear line of sight to global markets and milk price; the defining activity for milk processors then is to turn a profit at that price. If farmers wish to vertically integrate and take part in that investment and profit they will become/remain members of a cooperative, if not they will supply a corporate. That decision should not be influenced by legislation, it is the farmers' choice. However the cooperatives (Fonterra in this case) should not be restrained through open entry/open exit from developing an efficient system. Processing capacity and capability is optimised by a determined supply base, number of farms, not by 'adjusting price to manage volume of supply' as the review document naiively states.

3. Do you consider the DIRA has been effective at achieving its core regulatory objective of preventing Fonterra from using its dominance to create barriers to farmers' milk and land flowing to their highest value uses? If not, please provide reasons and supporting information/evidence.

4. Do you think Fonterra is still dominant in the market for farmers' milk, at the national and regional levels?

5. Do you think the DIRA imposes unreasonable costs on Fonterra? If so, please provide supporting information/evidence.

6. Are there ways for the costs imposed on Fonterra to be mitigated without impacting on the effectiveness of the DIRA regulatory regime? If so, please provide supporting information.

7. Are there any other regulatory tools that, in your opinion, would be more effective than the current DIRA provisions at managing Fonterra's dominance? If so, please provide examples and supporting information/evidence.

8. Are there other factors you consider need to be taken into account when considering the effectiveness of the DIRA regime and whether it is still needed?

The above six questions have largely been responded to in the previous sections. This review is about whether DIRA is delivering to its purpose. It has enabled clear price signals that benefit all dairy farmers in New Zealand and required all processors to develop systems to improve their economic efficiency at those prices. Fonterra's share of milk supply is now at similar levels to its competitors overseas so dominance is not the conversation. Processors will attract farmers' milk through the extra services and rewards they offer, the milk price is largely determined by GDT and global markets. The decision to remain in a cooperative will be based on individual farmer belief in and commitment to collective action for market power (globally Fonterra has market strength), the ability of the cooperative to generate profits and the strategy it sets for the future. The ability to action that strategy should not be compromised by an inability to optimise assets through supply management. To suggest that Fonterra

9. Do you agree with our preliminary assessment of the extent to which the DIRA encourages industry growth? If not, please provide reasons and supporting information/evidence.

Industry growth has been driven by markets not the DIRA legislation. DIRA has however enabled new processors to enter the market. Strong global demand driven by various shocks (food contamination events increasing demand for imported product, foot and mouth disease decreasing local supply) that led to price spikes as well as constant global demand growth leading to higher prices on average has encouraged industry growth. There have been unintended consequences of this uncontrolled growth, open entry meant Fonterra had no choice but to take all eligible farms, some in areas not traditionally suited to dairying, the resultant environmental issues are now evident and have been flagged in the review.

Overseas the industry response to growing demand has been significant investment in processing plant and supply chains. In some cases the plant has been in advance of expected milk supply growth. Where supply growth has exceeded plant capacity for cooperatives that are committed to picking up their owners' milk, the response has been to manage that supply, restricting volume accordingly to protect their balance sheets.

10. Do you agree with our preliminary assessment of the extent to which Fonterra can nfluence milk supply volumes through price, notwithstanding the DIRA open entry requirements?

11. Are there other factors that you consider should be taken into account? Please provide detailed comment in support of your views.

12. Do you consider that the DIRA provisions governing Fonterra's base milk price calculation and Commerce Commission monitoring may be preventing or disincentivising Fonterra from deviating from the base milk price calculation for strategic or commercial reasons?

13. If the DIRA is not driving Fonterra's business and investment strategy, what is? Please provide detailed comment in support of your views

Again, much of this has been covered in previous responses. Fundamentally the milk price regime is working and providing clear price signals both to global and NZ dairy farmers so for question 12 the answer is no. There is much in the rhetoric of this section that needs to be challenged as it again shows ignorance of the cooperative model and global dairy markets and where pricing comes from. There are some very good examples of cooperatives and corporates that ignored global prices at their peril, Murray Goulburn in Australia set farmer milk price independently of world prices and lost all farmer equity as a result. To suggest Fonterra should pay less for its milk to increase profits so as to have more to invest is just naïve! It might sound logical but completely overlooks the fact that competitive landscapes exist in industry so if a firm pays less when others pay more because the world price is higher then that firm will lose its milk supply, rendering such investment null and void! To pay out less of the profit to enable investments to occur is a different argument and makes more sense, maybe that is what the authors of the review meant. That decision is for the board to make and does not require legislation, just sensible board decisions.

Similarly, odd statements are made in the report with respect to shares held by farmers. Ownership of companies/cooperatives is through shares, the cost is the investment in those shares and the returns are the earnings overall per share some of which is paid out in dividends each year. To state that the cost of holding shares can be reduced by farmers having fewer shares beggars belief, if they do not hold the shares who will? To suggest the overall profitability of supplying milk is influenced by increasing or decreasing the number of shares is odd as the profitability of ownership is entirely predicated on what the returns are for those shares. If the authors are suggesting Fonterra cease to be a cooperative as a solution to profitability that is for Fonterra farmers to determine and way beyond the scope of this review.

To put things in perspective Fonterra's business and investment strategy is driven by local and global market opportunities and threats, which are much wider than DIRA legislation. However, as mentioned in previous sections such legislation should not impede its ability to make sensible investment decisions.

14. Do you agree with our preliminary analysis of the DIRA's impact on the industry's environmental performance? If not, please provide your reasons and supporting evidence.

15. Do you agree with our view that environmental issues are best dealt with through the Resource Management Act and not the DIRA regime?

16. Are there other environmental issues that you consider should be addressed either through the DIRA review or some other means?

As noted previously there have been unintended environmental consequences of uncontrolled dairy development, some of which is only known in hindsight. Fonterra's inability to refuse entry on the grounds of environmental impact is a problem rightly identified in the review. Of note the issue of environmental impact form existing suppliers is not as easily resolved as the review suggests. Choosing who your suppliers are is fundamental to the success of any milk processor as the business' reputation is only as strong as its weakest supplier. There are suppliers in all companies, some receiving bonuses for best practice that are delivering unacceptable levels of nutrient discharge to waterways. As the review correctly states this is an issue beyond its scope.

17. Do you agree with our preliminary analysis of the impact the DIRA has on new processor entry? If not, please provide your reasons and information/evidence in support of your views.

18. Do you consider that large dairy processors should continue to be eligible to purchase regulated milk from Fonterra under the Raw Milk Regulations or not? Please provide detailed comment in support of your views.

Again there are some are gross generalisations made in this section that should be challenged. To suggest that foreign ownership has provided access to markets that may otherwise have not been available is naïve in current market conditions. Global demand is growing each year at greater than NZ's total production. Their investment is to ensure they control supply, it is that simple. This is not the place to argue whether innovation has occurred because of them, a conversation on the difference between commodities and ingredients is in order. Most processors produce ingredients and some are very valuable. Milk supply in NZ is seasonal so most mil will be processed into a non-perishable form before export. Large dairy processors have no further need to purchase regulated milk from Fonterra.

19. Do you consider that greater confidence in the base milk price calculation outcomes could be achieved if additional legislative guidance on the term "practically feasible" were to be provided for in the DIRA? Please provide detailed comment in support of your views.

20. Do you consider that the base milk price should be set by an independent body (e.g. the Commerce Commission)? If so, please provide supporting information.

As previously noted milk price is at the core of this legislation as it aims to promote consistency with contestable market outcomes. The current system works and should be left as is.

21. Do you agree with our preliminary analysis of the DIRA impact on the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

22. Are there any other factors that should be taken into account regarding the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

DIRA has largely failed to deliver a better outcome for NZ consumers. Every other year IFCN publish a comparison between what farmers are paid and what consumers pay for liquid milk and NZ does not come out of that comparison well. Processors, including Goodman Fielder, who access Fonterra milk inevitably end up exporting all or some of it as the NZ market is so small. It is odd that the high margins are not attracting new players, this is something requiring further attention.

Options for Change

23. Are there any other options for the DIRA open entry requirements that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

24. What costs and benefits would each of the options for the DIRA open entry requirements create for your business? Please provide quantitative information if possible.

25. How well do you think each of the options for the DIRA open entry requirements would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

26. What is your preferred option for the DIRA open entry requirements? Please provide your reasons and information/evidence in support of your views.

It is important when assessing options to, once again, be reminded of the purpose of the Act. It has provisions to promote the efficient operation of dairy markets in New Zealand by regulating the activities of Fonterra to ensure New Zealand markets for dairy goods and services are contestable. As previously discussed the milk pricing system that has evolved under DIRA delivers transparency, cost effectively and in a timely manner. It also provides certainty, as much as is possible in a volatile world, by determining and overseeing the methods and calculations used to determine price. Once that price is set it is then up to each processor to make best endeavour to generate a profit by managing all other costs regarding milk supply and processing the milk into market led products.

Option 4 1.1, as previously discussed, would continue to hamper Fonterra's ability to manage its supply to optimise existing and intended investments. Option 4.1.3 is a step in the right direction and would address unintended consequences but as indicated could get caught up in dispute resolution territory. It also fails to address the fundamental supply dynamics that drive processor efficiency. If farmers in a certain district leave Fonterra a possible outcome is that the processing plant in that area is decommissioned. As an efficient operator Fonterra would optimally adjust its asset base in line with expected supply from that area. If some or all of those farmers then decide to return to Fonterra the choice for the cooperative would be to build a new plant or incur high transport costs shipping that milk to other plants that may or may not have capacity. Or Fonterra just hangs on to plant in the off chance farmers will return, running a sub-optimal business carrying plant that is not fully utilised. That does not deliver to the DIRA's aim to 'promote the efficient operation of dairy markets in New Zealand'. So while the 'principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes' might be met, the outcome is undesirable.

So Option 4.1.2 makes sense if the desired outcome of promoting efficient operation in dairy markets is to be achieved. The comment in the review that under this option Fonterra could offer different terms of supply to new shareholders once again overlooks or ignores the fact that shareholders of a cooperative by definition receive the same terms of supply with respect to milk price and dividends. Both options 4.1.2 and 4.1.3 will also provide the opportunity for Fonterra to remove or not accept suppliers who put their business at risk due to their environmental, animal welfare or other practices that contravene their terms of supply.

27. Are there any other options for access to regulated milk for large dairy processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

28. Do you consider that the proposed 30 million litres threshold is too high or too low? If so, what would you consider the right threshold to be, and why?

29. What costs and benefits would each of the options for access to regulated milk for large dairy processors create for your business? Please provide quantitative information if possible.

30. How well do you think each of the options for access to regulated milk for large dairy processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

31. Do you have a preferred option for access to regulated milk for large dairy processors? Please provide your reasons and information/evidence in support of your views.

These options are predicated on the necessary requirement in 2001 to reduce Fonterra's share of farm milk supply. This has already occurred so the measures are no longer relevant and should be removed under option 4.2.2**.**

32. Are there any other options for the base milk price calculation that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these

33. What costs and benefits would each of the options for the base milk price calculation create for your business? Please provide quantitative information if possible.

34. How well do you think each of the options for the base milk price calculation would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

35. Do have a preferred option for the base milk price calculation? Please provide your reasons and information/evidence in support of your views.

As previously discussed DIRA has performed well in this area, the addition of the Commerce Commission monitoring since the introduction of TAF adds further transparency. It would appear from reading other submissions that the clarity has not been as obvious so that is now improved. Option 4.3.1 would be sensible given this clarity and that the Commerce Commission has to date been satisfied with all but one of Fonterra's assumptions, inputs and processes that feed into the 'practically feasible' part of the base milk price calculation. The asset beta debate is not new and both Fonterra and commentators have taken various positions on it over time, given current capital market trends it should not be difficult to resolve without the added regulatory burden of options 4.3.2 and 4.3.3. As the review notes aiming to provide for technical terms in legislation can lead to unintended consequences. The milk price determined needs to be commercially sensible given that most all processors use it as the basis to generate profits.

36. Are there any other options for access to regulated milk for Goodman Fielder and smaller processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

37. What costs and benefits would each of the options for access to regulated milk for Goodman Fielder and smaller processors create for your business? Please provide quantitative information if possible.

38. How well do you think each of the options for access to regulated milk for Goodman Fielder and smaller processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

39. Do you have a preferred option, or a combination of options, for access to regulated milk for Goodman Fielder and smaller processors? Please provide your reasons and information/evidence in support of your views.

There is no rationale provided in the review for the ongoing supply of 250m litres of milk to Goodman Fielder. They have enjoyed excellent margins since 2001 with no improved outcomes for New Zealand consumers. They have also made no effort to source their own milk due to their favourable supply status, which the review correctly describes as having created undue, regulatory dependency. Their products also can now be found in overseas markets in direct competition with Fonterra and other processors/exporters. The status quo, option 4.4.1, as the review concludes, would do nothing to address competition in the domestic consumer dairy markets or reduce the regulatory dependency.

There is no easy solution for the domestic market and New Zealand consumers and none of the options provided seem to address the current predicament. If a dairy processor focuses just on the domestic market, and few do, success is constrained by the small market size. The increasing consumer demand for variety in dairy products also creates challenges in a small market. A case in point is just one farm is required to meet the current demand for fresh A2 milk in the NZ market. All NZ supply has to be year round requiring higher prices to be paid to farmers in the winter months due to the added cost of production. So the cost of tha milk averaged over the year is higher than the base price, margins are therefore not as high as the IFCN report suggests. With the increasing demand for fresh dairy products (UHT milk and cream and soft cheeses) in overseas markets there has been a significant increase in winter milk supply for export so the availability for the domestic market is not now as much of an issue. The suggestion in the review that domestic markets might best be served by companies that had both export and local focused dairy processing assets and/or a close cooperation between stand-alone producers of domestic products and exporters is worth exploring. On that basis regulated milk would cease and the respective processors would compete in domestic markets as opportunities determined. This would seem a logical solution and would result in milk for local consumption being sourced from whichever large processor the domestic producer determined, it would not have to be Fonterra.

40. How best do you consider "market dominance" could be measured? For example, are there certain criteria (other than a market share threshold) that could be provided for in legislation as a trigger for review and/or expiry of the DIRA?

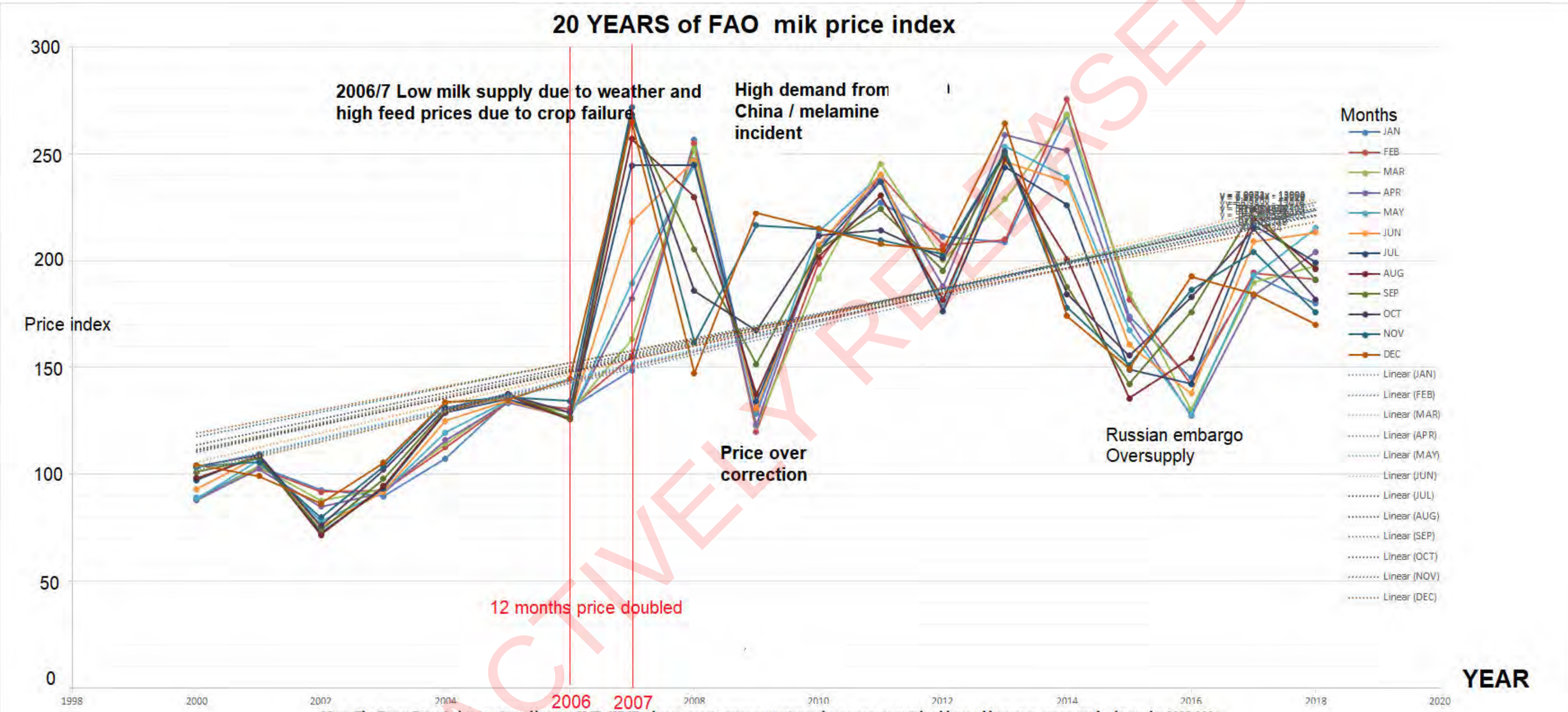
41. Are there any other options for the DIRA review and expiry provisions that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

42. What costs and benefits would each of the options for the DIRA review and expiry provisions create for your business? Please provide quantitative information if possible.

43. How well do you think each of the options for the DIRA review and expiry provisions would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

44. Do you have a preferred option, or a combination of options, for the DIRA review and expiry provisions? Please provide your reasons and information/evidence in support of your views.

Much of this has been covered in previous discussion, suffice to say that the issue of market dominance as was evident in 2001 with Fonterra's almost monopolistic position was unacceptable and has now been addressed. The level it is now at is the same as its competitors so it is time this was removed from the conversation. At the risk of being competitive the purpose of DIRA was to promote the efficient operation of dairy markets in New Zealand. Market share metrics, as the review states, cannot determine if sufficient competition exists. With the possibility that some regulation such as the milk price regime will still be in place after this review there should be a time set at which it is next reviewed, option 4.5.2. At that time sufficient movement will have occurred in global markets to alter the competitive landscape and, through good policy NZ dairy firms will have been able to invest accordingly to efficiently capture the opportunities that will evolve.



Note: The Dairy Price Index consists of butter, SMP, WMP, cheese, casein price quotations; the average is weighted by world average export trade shares for 2002-2004.

From: s 9(2)(a)
Sent: Friday, 8 February 2019 1:36 PM
To: MPI Customer Enquiries Centre <Info@mpi.govt.nz>
Subject: I need help finding something on the MPI website

Here is my Dira submisson as I carn't find the on line page.

Open entry needs to stop as we carn't sell the milk we are getting at a fair price as it is!
There is plenty of competition though out the country to supply other companies now.
Supplying milk to start up companies is ok if it is for the local market as was the original intent As I recall it was to keep a competitive local market.Not to compete against us on the world market, all this has done is drag the milk price down for all concerned.

s 9(2)(a)
[redacted]

Submission to DIRA review 2018

Submitter s 9(2)(a)

I would like to speak to my submissions.

This is a supplementary submission to the one completed on-line. This submission focusses on the DIRA Regulation, Milk Price Manual and Milk Price Statement, Goodman Fielder regulated milk and defining Market Dominance

Summary:

The DIRA legislation is obsolete and should be repealed. It has been in place or 18 years and one must question what has it really achieved and what can it really achieve in the future. Commentators suggest that there is unlikely to any significant inc ease in new milk supply and therefore to have Government intervene and facilitate new pro essing capacity and strand Fonterra's capacity is irresponsible.

The Milk Price Manual is no longer fit for purpose in determining a transfer price of regulated milk to qualifying processors. Further, with only a small number of qualifying processers having access to regulated milk the Government oversight is not needed and Fonterra should be able to supply milk on a "willing buyer/willing seller" basis.

Why is Fonterra the only processor require to declare its Milk Price Methodology? Natural justice and open transparency should require that all established processors provide financial information needed to determine their milk price.

If Government considers that regulated mi k should be provided to upstart processors then that burden should be shoulder d by all established processors in proportion to their share of NZ milk produced.

Fonterra is a Member Co operative and cannot be compared to a corporate processor. Fonterra has a high ntry barrier with members having to buy shares, yet farmers continue to join. Dominance in the market cannot be measured simply by the proportion of milk being proce sed. With many competitors paying a similar base milk price, why would a farmer investor choose Fonterra and have to own shares? Membership and ownership of the full upply chain makes Fonterra a preferred processor.

DIRA l gislation is obsolete

Many section of the Act were written to create certain outcomes which have primarily been achieved either through Fonterra Constitution or the market moving on.

Sections related to Export licenses periods have long since expired.

Sections related to fixing share prices have been replaced by a external market trading mechanism. Non Fonterra processors do not have this encumbrance. Fonterra has had to implement mechanisms to assist new members to buy shares. Members continue to join.

Sections regarding LIC and stewardship of the core data base no longer apply with the Core Database have be transitioned to Industry stewardship via DairyNZ.

Sections regarding Open exit and Open entry are matter between Fonterra and the Member. It is inappropriate for Government to Legislate that Fonterra must accept supply and not require similar impositions to other processors.

Sections relating to market trading are adequately catered for within other Financial Markets legislation.

Sections referencing the roll of the Commerce Commission are redundant. The Commission is able to carry out its duties without being embedded in DIRA.

Sections relating to the Milk Price Manual and Milk Price Panel has created a bazar situation. The manual has been progressively modified to the point that is in effect Fonterra Base Milk Pricing mechanism. It will not generate a fair transfer price to regulated processors. It has become the maximum value a processor could pay for milk, with little or no margin left on the table. With the number of qualifying processors declining and likely to expire in 2-3 years the pricing mechanism is obsolete. It will be naturally replaced by a “Willing Seller/Willing Buyer”.

Proposals to add sections to impose Environmental Performance constraints on new entrants should remain with Regional Councils and the RMA. Fonterra has included many performance standards within its Terms of Supply and those must be achieved before milk is collected. Collection can also be terminated for non-compliance of it Terms. Any provision on environmental performance would need to apply to all processors.

Goodman Fielder Regulated Milk

Fonterra should also be released from the requirement to supply Goodman Fielder 250mL of regulated milk. It is clear that after 18 years there seems to be little appetite by GF to secure its own supply base. By being able secure milk as needed GF is able to avoid dealing with processing seasonal over supply or managing winter milk under supply should it have its own suppliers. GF needs about 680kL/d, equal to about 25 tankerloads. That in turn would require a fleet of 4 or 5 tankers collecting 6 loads a day. GF would also need associated staff, driver rostering and milk testing facilities. It would also need to maintain a supplier payment system for about 100 suppliers.

Clearly the transfer price to GF is low enough to justify not establishing its own supply. The advantage of utilizing Fonterra’s supplier and payment systems are clearly not reflected in the current transfer price. Fonterra should be free to negotiate a new “willing buyer/willing seller” model with GF.

As an interesting side bar: Fonterra uses milk permeate to standardize fresh milk sold in NZ. To reduce the average protein content from 3.80% to 3.40% increases fresh milk yields by 10%. In contrast GF advertises that it does not standardize its milk, suggesting that consumers will receive milk containing undiluted Protein content. In theory GF is forgoing 10% of its revenue yield, confirming that significant margins still exist in selling fresh milk. Potentially GF would able to pay more than the DIRA transfer price for milk from its own suppliers and still compete with Fonterra in the local market especially if it adopts permeate technologies.

The Milk Price Manual

The original purpose of the Milk Price Manual was to determine the price a new competitor could pay for milk in the New Zealand market. It was based around a standard plant and a competitor processing around 200mL/yr. This might be an 8 ton/h drier with processing capacity for processing surplus Fat into Butter of AMF.

Fonterra management also believed that they could create a transparent mechanism to determine Commodity Prices through GDT. In reality Fonterra was able to attract a higher market price for products than through GDT and therefore using GDT would underestimate the true market value of Commodity Products.

It became apparent that Fonterra could not/would not determine a fair cost structure for such a plant because it did not have precise enough information for that sized plant. Consequential y this methodology was seemingly over estimating production and capital costs.

With income being underestimated and costs potentially overstated the resultant Milk Price would be significantly lower than what Fonterra or a Competitor could reasonably pay. To use such a price as the default DIRA transfer price from Fonterra to a competitor would leave t o much value on the table for a competitor.

Other submitters have quoted Fonterra staff and Share Hold r Co ncilors suggesting that upward of $0.40c/kg MS has been transferred from the dividend str am to the Base Milk Price. For members this is not an issue due to members needing to hold shares in proportion to supply. This does pose a significant issue for holders of Fonterra Fund Shares. Fonterra should be guided by its members not the stock market.

The DIRA price also defined the internal transfer price of milk within Fonterra and for a period of time Fonterra had little difficulty adding value to hat and posting high dividends. This was desirable as a high dividend yield justified a high share p ice. This was promoted as providing a transparent mechanism for traders to value Shareholder Fund Shares (and by extension Members wet shares).

The reality became that the high share value became a natural barrier for members to join Fonterra or increase production. This in turn prompted reviews of the Milk Price Manual and progressively the revenue line was lifted by including “off GDT” sales. In turn Fonterra also included values closer to its actual costs of running significantly bigger and more efficient plants. This increases the estimated DIRA transfer price. Unless a new entrant was able to operate a significantly more efficient plant or produce products of much higher value or have a lower administrative cost structure they would be unable to profit from DIRA milk.

I fully support the changes to DIRA that removed access to DIRA milk with new entrant companies needing to secure their own suppler base after 3 years. This leaves the industry in a position where in a short space of time all new entrants will no longer have access to DIRA milk. I consider this a good thing in that any new entrant should have a business plan that is not dependent, long term, to regulated milk.

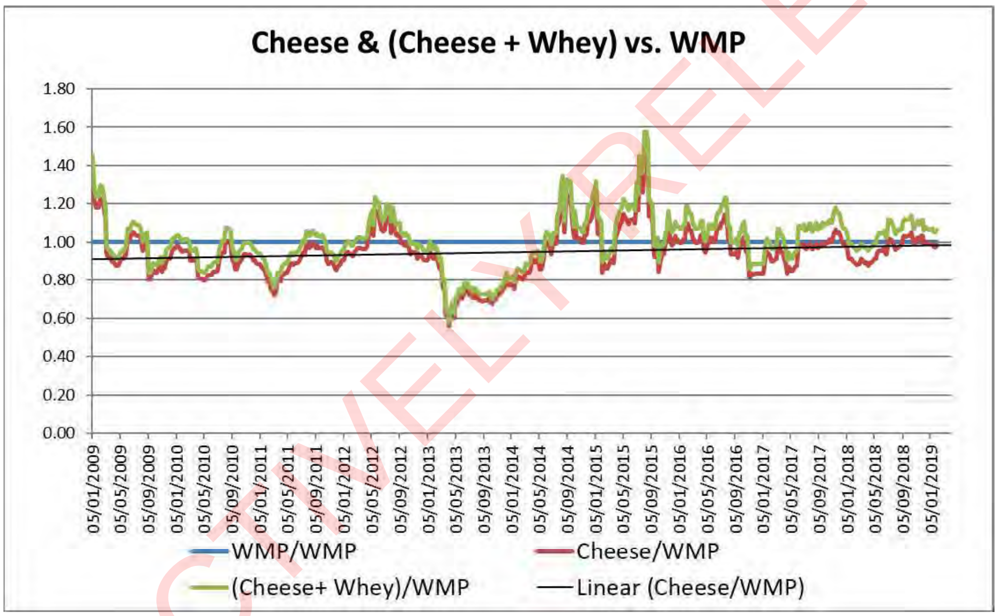
Current new entrants seem to have significant capital input from overseas companies seeking access to New Zealand milk or are Maori Trusts seeking to add value to their own milk. Government regulation is not needed and natural market forces with determine the success of failure of these proposals. They must stand on their own merits.

About the Milk Price Manual

The Milk Price Manual and Milk Price Statement have become Fonterra mechanism to inform the base price of members milk. It is promulgated as a fair and transparent mechanism to determine the base price of milk if Fonterra made only the reference basket of commodity products which Fonterra does not.

Other products, such as Cheese or Casein are considered value add options but for most of the time do not yield a revenue stream greater that WMP or SMP & AMF (or Butter) product mix. As was demonstrated several years ago when Fonterra reduced its milk price below the Milk Price Manual estimate. Base commodity products do not accurately estimate the true milk value when other products are being produced such as cheese or casein.

As an illustration the following chart compares the revenue potential of Cheese with WMP for the last 10 years.



Source NZ Agri for underlying data.

Methodology 1,000 kg of WMP has 251kg of Protein, 265 kg Fat, 389 kg Lactose and additional mineral . Chee e yield is determined by the Casein content of milk, in this case 80% of the Protein in WMP. The Red trace shows the ratio of Cheese revenue plus excess Fat revenue compared to WMP. Without revenue from other solids, namely whey proteins and Lactose, Cheese typically underperforms WMP and therefore the role of other solids is critical to adding value.

Lactose

This is a personal gripe between myself and Fonterra. I bring to your attention because of how it is described in the Milk Price Manual, an ingredient manufacturing cost, but in the Milk Price Statement as an arbitrage adjustment to gross Commodity Product Revenue line. (Why?)

Extract Fonterra Milk Price Statement 2018

TABLE 1: FARMGATE MILK PRICE SUMMARY

SEASON	2018 NZD$ MILLION	2017 NZD$ MILLION	2016 NZD$ MILLION
Farmgate Milk Price Revenue	13,164	12,400	9,134
Lactose	(441)	(415)	(302)
Net Revenue	12,723	11,985	8,832
Farmgate Milk Price Cash Costs	(1,753)	(1,763)	(1,815)
Farmgate Milk Price Capital Costs[4]	(817)	(873)	(915)
Total Costs	(2,570)	(2,636)	(2,731)
Aggregate Commodity Milk Payments	10,153	9,349	6,101
Additional Commodity Milk Payments and Standard Supply Adjustments	(11)	(13)	
Aggregate Farmgate Milk Price	10,142	9,336	6,101
Million kgMS	1,505	1,526	1,566
Farmgate Milk Price calculated under the Manual (NZD$ per kgMS)[5]	6.74	6.12	3.90

For 2018 the Lactose cost is reported as $441m ($0.29c/kg MS) and is in addition to the $2.570b ($1.67c/kg MS) total costs. Its treatment in the Milk Price Statement lowers manufacturing costs which have been held in the range of $1.67 - $1.88 over the last 6 years yet Lactose cost has fluctuated from $0.19 - $0.52.

The irony is that much of Fonterra's Lactose is derived from internal sources, such as milk permeate from Cheese and Casein manufacture and obtained at a cost significantly lower that the declared Customs importation price. Additional Lactose is also refined from whey streams. This is one place where Fonterra may be overstating costs and generating a lower DIRA price. That in turn supports a value add opportunity which will flow to the dividend stream.

The manual provides many places where small changes can be implemented and justified, such as appropriate Weighted Average Cost of Capital for determining the Capital return on processing plants.

As an civilian observer it is very difficult to replicate the Milk Price Manual and its methods. Even with Fonterra Milk Price Worksheet it would be challenging for anyone to properly audit the outcome. Thus by making it extremely difficult to replicate or audit, observers become fully dependent that the information providers and hope that they have not made any errors.

Finally, the Milk Price paid to members is adjusted in several ways, differential Fat and Protein prices, volume related costs and more recently seasonal capacity adjustments. Other adjustments relate to quality penalties. Similar mechanisms are used by other processors. It would be difficult to refine the Manual to transparently demonstrate these. Further if Fonterra is required to disclose this financial payments, Natural Justice should require all processors to provide their values to maintain transparency in the market. All parties would suggest that these values are commercially sensitive and would refuse to supply it. Why must Fonterra?

Market Dominance

The inquiry asks how dominance should be measured. The current method of simply measuring Fonterra share of raw milk supply is a crude method.

We currently have a market in NZ where many processors simply adopt Fonterra's milk price. Therefore in a free market where two buyers offer the same price there is little to influence to who a seller would choose.

If however one buyer also insisted that you must invest with them (Fonterra) and the milk price is neutral (the same) then there must be another compelling influence to choose that buyer. Despite 18 years of competition Fonterra is still able to secure over 80% of supply available. This cannot be regarded market dominance but rather market preference.

Therefore market share cannot be used alone in determining dominance in the NZ market.

If however the concern is Fonterra acting in a monopolistic manner then the measure of dominance needs to measure churn and the ability of suppliers to join or leave Fonterra. Why would Government insist that Fonterra surrender supply to competitors and strand plant just to satisfy an academic view that Fonterra attracting over 70% (reported Commerce Commission target) of available supply is placing farmers at a disadvantage.

Tatua has for many years out performed Fonterra in terms of payout. Tatua remains able to reject new milk supply despite many nearby Fonterra farmers wishing to join. Fonterra cannot loose supply to Tatua.

By comparison many Westland Dairies supplies might like to join Fonterra. Under DIRA Fonterra can be compelled to accept that supply even though it is out of zone. Again Fonterra is unlikely to loose supply to Westland.

Which leaves other companies such as Synlait. There has been some transfer of supply from Fonterra to and from Synlait.

Te Anau ,8 feb 2018

By s 9(2)(a)

We run the company s 9(2)(a) and have a dairy farm of 225 ha milking 520 cows .

s 9(2)(a)

Submitting my own application to the discussion as I am totally frustrated and angry with the current state of the NZ dairy industry.

Where milking the cows is now a hazard and a stupidity

(and I am not even talking about plant and insect proteins)(and as this is a big issue now and MPI is totally out of tuch with the people who mik the cows .this issue should be in this review!!!)

Where the DIRA is a copy of the englisch Milk Marketing Board(and the englisch farmers lose money for fourthy years).

(In the Netherlands there is five manufacturing plants in one village and the farmers supplying the milk lose money.DIRA is going the same way .all the money is in the manufacturing .the wages ,salarys and allowed depreciation is just massive and only crums for the people who put in the milk)(and the new entry levels for land values is now half what we paid for them)

The DIRA was wrong in 2001 to create the murder o the cooperative and a fragmentation of the industy Now cooperative(Fonterra and L.I.C) is enslavement of the producer to salary and wage urners,(4miljon for Theo Spierings)(gros unequallity)and allowed depreciation .The tanker picking up your milk is realy shiny and the farmer has to walk as there is no money to replace the bike as he lost six figure sums for more than one season

Where we have a 91 environmental act that is totally outdated with rules based on mistaken believes .where we lack the resolve to get sience backed rules.

Now you can give a drugadict a vieuw pils and tel him to hold a big magnet to the effluent gadgets of your target(prominent rich farmers(s 9(2)(a))and the environmental gestapo wil come and make the farmer out a criminal and convict the farmer without a jury to massive fines that wil lead to financial and emotional ruin.Then the rich bargain hunters (wich were the ones (or the mongrels)disching out the pils)wil come and buy you cheap.

Not o mention ofcourse the friendly OSCH ,labour department ,assure quality.personel

To deal with .(and pay them)

Where the MY Farm directors can enrich themselves by the tune of 22 miljon and the commere commission does nothing

There was a court case between federated farmers ,commerse commission and the banks for the SWAP loans rip of .

They won .18miljon compensation.!!!(nobody knows who got the compensation)We thought we get some to ..Swans versus National Bank through law firm whitefield/brown from Hamilton dec 16

We won(all up cost100000) but had time issues and there is a(under the table) deal with the commerce commission and the banks that no further SWAP compo wil be paid after the first compo.

That suggest theNZ Commerce commission is corrupt !! and the Banks ???(and you talk about them working out the milkprice!!!???)

The Australian CC is now going to a suprime inquiry into the banks !!!NZCC does nothing!!(NZ groceries now 2.5 times dearer than Europe)!And where is NZMPI??stil stuck with 2001DIRAand a crippling 91 environmental act

The ANZ gets a 10% GST collection fee for al parcel imports if you import anything the e is 25% surcharge!!and with the now muschrooming debt collection agencys with there crazy powers and charges.I got a parcel from Australia and got angry with the surcharge and send back. I had to fight hard as they stil seem to have the right to enforce me to pay even though I had evidence of sending back.i had to pay them and I had to get the refund elsewere.i did not do that but still was treated like a criminal for months

My frend from RABO bank I the Netherlands tells me that the deal Fonterra has with Royal Friesland Campina is corrupted by the ANZ.We tried to get the info from the last autum deal where The Anz sold something out of our trading amoung farmers platform. Nothing was given

We claim that the funding for that deal was done by ANZ and got to setup the Trading amaong farmers skeme

Wich we think is a legal insidertrading skeme and the growth contracts are set up By the ANZ and the farmers have to buy shares by date (and no minimumpayout was put in deliberately so the farmer has to no matter what and so create healthy profit .the rich can buy the shares on the low and sell when the growth con act farmer has to buy on the 20^{th} of January when Fonterra buys them for you .

We aslo thi k there i a Fonterra employee superfund in the funding of DFE Pharma wich is the copany that is 50/50 owned by Fonterra and friesland campina

There is no transparency in this deal as the books are under Campinas embrella

Th nk we need to do away with this DIRA and start again

This having to give start ups milk is absolute crazy and stand in the way of maximizing economic performance

Incorporate the LIC discussion and who owns the herdtest date and stop the enslavement of the people that milk the cows for LIC bull supremety and gros big salarys in the top of the cooperatives

Adress the huge inequality within the dairy industry

Get a public inquiry into TAF/DFE Pharma/and the ANZ as that is sick

Get the environment act updated and more sience based

Get the oldboy attitude out of the Commerce commission and salary commission .

Rampant unequal and corrupt we need to get clear understanding of what happened with the SWAP compensation

And we need to get MY FARM directors punnisched for enriching themselves

As we need to get rid of this terrible desease in our cooperatives and companys .

The dairy hub deal in china is a exsampel the only people making money is the ones setting it up.

Bit like OPUS and Agritec ,you don't get what you need or is most cost effective

You get what gives them the most profit.

The milk price has to be more equal .if the price goes down we all go down including the allowed depreciation and retained earnings

I endeavour to set up a society for the people who milk the cows with a video on facebook

Herewith hopefully creating a roar from the ground up to send to the government

s 9(2)(a)

Submission form - Review of the Dairy Industry Restructuring Act 2001 and its impact on the dairy industry

The Government is reviewing the Dairy Industry Restructuring Act 2001 (DIRA) and its impact on the dairy industry. The review is currently at the public consultation stage.

We are seeking your input on the issues, options and questions as set out in the DIRA discussion document.

This form contains all the questions that appear in the online submission form at https://www.research.net/r/DIRA. These are identical to those in the discussion document. You can use this document to familiarise yourself with the questions in the form before making your submission.

If you have trouble using the form, you can email your submission to DIRA@mpi.govt.nz.

You will need to read the discussion document before considering your responses to the questions set out in this form.

Your responses are due by 5pm on Friday 8 February 2019, and will help inform the recommendations that the Government will consider later in 2019.

You will be asked to select the sections on which you would like to submit, and you may submit on as many or few areas as you like. All questions are optional.

Chapter 2: Performance of the dairy industry

Section 2.1 2001 structural reform to enable the industry to drive strategic change

Please refer to [Section 2.1] of the discussion document.

(1) Do you agree with our description of the DIRA regulatory regime and its original policy rationale? Do you consider the original policy rationale is still valid?

The original policy rationale is now largely irrelevant in today's environment, while it may have served purpose18 years ago, it needs to be revised.

Section 2.2 Industry performance since the restructure

Please refer to [Section 2.2] of the discussion document.

(2) Are there any other dairy industry developments or industry performance indicators that are not captured in the discussion document or its supplementary material? Please provide details and supporting evidence.

Chapter 3: The effects of the DIRA and other factors on industry performance

Section 3.1: Has the DIRA been effective at managing Fonterra's dominance in the market for farmers' milk, and is it still needed?

Please refer to [Section 3.1] of the discussion document.

(3) Do you consider the DIRA has been effective at achieving its core regulatory objective of preventing Fonterra from using its dominance to create barriers to farmers' milk and land flowing to their highest value uses? If not, please provide reasons and supporting information/evidence.

It was but in many cases these objectives are no longer relevant due to changes in the market and industry in general.

(4) Do you think Fonterra is still dominant in the market for farmers' milk, at the national and regional levels?

Obviously in some regions of NZ – but not in others, where there is a sound competitor for milk supply. DIRA needs to reflect this.

(5) Do you think the DIRA imposes unreasonable costs on Fonterra? If so, please provide supporting information/evidence.

Yes – reputational / environmental costs due to having no choice in whom to accept milk from.
Over capitalisation of some manufacturing assets to process increased capacity of raw milk supply, rather than investment into higher returning manufacturing assets. (opportunity cost).

Long term R&D cost due to not putting enough money into these areas in the short to compete with overseas companies in future markets / products (currently Fonterras R&D spend is less than the average of other overseas processors) because of the current DIRA constraints.

Cost of supplying overseas owned companies who we then have to compete with in the export market – giving them an advantage of a risk-free supply chain. Fonterra could be making more money by applying a mark-up

(6) Are there ways for the costs imposed on Fonterra to be mitigated without impacting on the effectiveness of the DIRA regulatory regime? If so, please provide supporting information.

(7) Are there any other regulatory tools that, in your opinion, would be more effective than the current DIRA provisions at managing Fonterra's dominance? If so, please provide examples and supporting information/evidence.

(8) Are there other factors you consider need to be taken into account when considering the effectiveness of the DIRA regime and whether it is still needed?

Section 3.2: Does the DIRA encourage industry growth?

Please refer to [Section 3.2] of the discussion document.

(9) Do you agree with our preliminary assessment of the extent to which the DIRA encourages industry growth? If not, please provide reasons and supporting information/evidence.

Disagree – Are we seeing the right industry growth? There is little incentive for farmers to push themselves and their on-farm practices to be more aligned with current environmental pressures with open entry and exit and no financial rewards for applying best practice to their business. Do we need any more industry growth in the sense of increased raw milk supply? Current environmental / political thinking suggest not. The growth should be focused on increasing value –added products, increasing our competitiveness in the international market, against foreign owned companies. Fonterra is unable to a degree to focus on putting financial resources eg(R&D, plant etc) into these areas, with open entry / exit

Section 3.3: Does the DIRA influence Fonterra's strategy?

Please refer to [Section 3.3] of the discussion document.

(10) Do you agree with our preliminary assessment of the extent to which Fonterra can influence milk supply volumes through price, notwithstanding the DIRA open entry requirements?

Not to the extent Fonterra may wish to if they didn't have the consideration of open entry. Their strategy is highly restricted by supply volumes at certain times – they may have many other choices if this wasn't an issue. It is too restrictive on any company, especially when having to compete on a global scale.

(11) Are there other factors that you consider should be taken into account? Please provide detailed comment in support of your views.

(12) Do you consider that the DIRA provisions governing Fonterra's base milk price calculation and Commerce Commission monitoring may be preventing or disincentivising Fonterra from deviating from the base milk price calculation for strategic or commercial reasons?

Yes absolutely – the same rules should apply to all other processors in a fair market.

(13) If the DIRA is not driving Fonterra's business and investment strategy, what is? Please provide detailed comment in support of your views.

Section 3.4: Does the DIRA impact on the industry's environmental performance?

Please refer to [Section 3.4] of the discussion document.

(14) Do you agree with our preliminary analysis of the DIRA's impact on the industry's environmental performance? If not, please provide your reasons and supporting evidence.

I think DIRA has definitely contributed to current environmental issues we face; helping to drive the increase in numbers due to a lack of barriers to entry.

(15) Do you agree with our view that environmental issues are best dealt with through the Resource Management Act and not the DIRA regime?

No – I think it should be both; Fonterra shouldn't be forced through DIRA to risk their reputation / environment due to open entry. There should be certain minimum on-farm standards that must be met in the first season or contracts should be terminated. Financial incentives should be able to be given for excellence in these areas – in keeping with their competitors.

(16) Are there other environmental issues that you consider should be addressed either through the DIRA review or some othe means?

Section 3.5: Does the DIRA incentivise inefficient entry by large dairy processors?

Please refer to [Section 3.5] of the discussion document.

(17) Do you agree with our preliminary analysis of the impact the DIRA has on new processor entry? If not, please provide your reasons and information/evidence in support of your views.

Yes I agree.

(18) Do you consider that large dairy processors should continue to be eligible to purchase regulated milk from Fonterra under the Raw Milk Regulations or not? Please provide detailed comment in support of your views.

Definitely not. Especially not foreign owned processors who we then have to compete with in the export market. This is not fair and immediately puts them in a more advantageous position. They should have to compete for supply.

Section 3.6: Does the DIRA promote sufficient confidence in the base milk price calculation?

Please refer to [Section 3.6] of the discussion document.

(19) Do you consider that greater confidence in the base milk price calculation outcomes could be achieved if additional legislative guidance on the term "practically feasible" were to be provided for in the DIRA? Please provide detailed comment in support of your views.

I don't think the DIRA should set the MPC.

(20) Do you consider that the base milk price should be set by an independent body (e.g., the Commerce Commission)? If so, please provide supporting information.

Yes and not by the government of the day. If it was set by the commerce commission then it should apply to all processors and not just to Fonterra. Other large companies aren't dictated by governmental restrictions.

Section 3.7: Does the DIRA support competition in New Zealand consumer dairy markets?

Please refer to [Section 3.7] of the discussion document.

(21) Do you agree with our preliminary analysis of the DIRA impact on the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

I think there is enough competition now in the domestic market given Synlaits move into here, DIRA is no longer required to influence this. The big players have the capital to get into the market without being subsidised. Domestic consumer choice is largely driven by the two major supermarket chains (you cannot buy anchor milk in any Progressive owned SI supermarket so no consumer choice.) I don't think Fonterra should be subsidising milk for domestic consumption when there are alternative products.

(22) Are there any other factors that should be taken into account regarding the domestic consumer dairy markets? Please provide your reasons and information/evidence in support of your views.

If the raw milk price is to be regulated then there should be more regulations around the supermarket's selling price.

Chapter 4: Options for change

Section 4.1: DIRA open entry requirements

Please refer to [Section 4.1] of the discussion document.

(23) Are there any other options for the DIRA open entry requirements that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

Give new suppliers a fixed term supply contract of one season, to give them an opportunity to supply and meet certain standards– but which doesn't have to be renewed if they don't comply with Fonterra's policies / requirements.

(24) What costs and benefits would each of the options for the DIRA open entry requirements create for your business? Please provide quantitative information if possible.

(25) How well do you think each of the options for the DIRA open entry requirements would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(26) What is your preferred option for the DIRA open entry requirements? Please provide your reasons and information/evidence in support of your views.

Repeal the DIRA open entry requirements

Section 4.2: Access to regulated milk for large dairy processors (except Goodman Fielder)

Please refer to [Section 4.2] of the discussion document.

(27) Are there any other options for access to regulated milk for large dairy processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

Repeal the regulated milk regime altogether, this should be a commercial decision whether or not Fonterra wish to supply other large processors and they should be free to negotiate with each other without legislation.

(28) Do you consider that the proposed 30 million litres threshold is too high or too low? If so, what would you consider the right threshold to be, and why?

There should be no threshold of litres. There is currently only one company that is taking this milk, which proves this provision is not required.

(29) What costs and benefits would each of the options for access to regulated milk for large dairy processors create for your business? Please provide quantitative information if possible.

(30) How well do you think each of the options for access to regulated milk for large dairy processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(31) Do you have a preferred option for access to regulated milk for large dairy processors? Please provide your reasons and information/evidence in support of your views.

No regulated milk for large processors, they should be subject to the buesiness risks of securing their own milk supply. These are big foreign owned players with large resources – Fonterra shouldn't be subsidising their profits.

Section 4.3: Options for the base milk price calculation

Please refer to [Section 4.3] of the discussion document.

(32) Are there any other options for the base milk price calculation that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

(33) What costs and benefits would each of the options for the base milk price calculation create for your business? Please provide quantitative information if possible.

(34) How well do you think each of the options for the base milk price calculation would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(35) Do have a preferred option for the base milk price calculation? Please provide your reasons and information/ev dence in support of your views.

Option 3 – Commerce commission the power to set the base milk price.

Section 4.4: Options for access to regulated milk for Goodman Fielder and smaller processors

Please refer to [Section 4.4] of the discussion document.

(36) Are there any other options for access to regulated milk for Goodman Fielder and smaller processors that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

No access to regulated milk as set out by legislation – this should be a commercial decision by Fonterra.

(37) What costs and benefits would each of the options for access to regulated milk for Goodman Fielder and smaller processors create for your business? Please provide quantitative information if possible.

(38) How well do you think each of the options for access to regulated milk for Goodman Fielder and smaller processors would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(39) Do you have a preferred option, or a combination of options, for access to regulated milk for Goodman Fielder and smaller processors? Please provide your reasons and information/evidence in support of your views.

Preferred option is option 5 – this would create a fairer environment.

Section 4.5: Options for the DIRA review and expiry provisions

Please refer to [Section 4.5] of the discussion document.

(40) How best do you consider "market dominance" could be measured? For example, are there certain criteria (other than a market share threshold) that could be provided for in legislation as a trigger for review and/or expiry of the DIRA?

Company performance? Level / percentage of R&D? Percentage of milk supply – where targets are not continually being changed?

(41) Are there any other options for the DIRA review and expiry provisions that you think should be considered? Please provide sufficient detail when describing any alternative options as well as reasons for considering these.

Percentage of milk supply – but this should be regionally based

(42) What costs and benefits would each of the options for the DIRA review and expiry provisions create for your business? Please provide quantitative information if possible.

(43) How well do you think each of the options for the DIRA review and expiry provisions would perform against the principles of good regulatory practice of promoting certainty and predictability of regulatory outcomes, transparency, cost-effectiveness and timeliness of regulatory processes?

(44) Do you have a preferred option, or a combination of options, for the DIRA review and expiry provis ons? Please provide your reasons and information/evidence in support of your views.

s 9(2)(a) [redacted]

[redacted]

SUBMISSION ON THE REVIEW OF THE DAIRY INDUSTRY RESTRUCTURING ACT

Introduction

My name is s 9(2)(a) [redacted] from the Wairarapa. I firmly believe that NZ produces the best milk in the world.

This submission is produced on behalf of myself, my wife s 9(2)(a) [redacted] I am a fifth-generation dairy farmer who proudly represents Fonterra shareholde s from the Wairarapa on the Fonterra Shareholders' Council. This is my own submission from my per onal point of view, and quite separate from the Shareholders' Council submission.

In this submission I will provide a bit of context from my perspe tive, and then touch on the four main discussion points of the DIRA review.

Context

There is no doubt about the significant contribution that dairy makes to our local regions and our domestic economy. Pastoral farming is where New Zealand has a significant competitive advantage over the rest of the globe.

In my view dairy farming in NZ is unde going one of the most significant transitions it has ever experienced. After a period of global market-driven growth, we are now in a consolidation phase. Rapidly increasing compliance in regard to environmental, animal health, milk quality and human resources are adding significant cost to dairy farm businesses whilst also placing increasing stress on farm owners and managers Rapid innovation and development of technology is assisting to overcome many of these issues, however it does come at a cost.

On our farms, nearly all of our available capital in the last few years has been spent on large environmental projects. These investments are not necessarily rewarded in terms of our social licence to operate. The negative public perception of the dairy industry is having an increasing impact on the mental wellbeing of farmers who work hard and in the main, care very deeply for their animals, environment and their staff.

I firmly believe that at a high level, the DIRA review needs to consider what the future of the NZ Dairy Industry looks like. By that I mean who are the future owners of NZ dairy farms, and how are they going to get to that position of ownership? Increasing compliance costs and regulation are often viewed through a lens of whether existing farmers will be able to cope with the changes.

From my perspective as a younger farmer I believe this needs to change. For the next generation of NZ Dairy farmers to move into ownership there needs to be the ability for young people to work hard and grow a business. The next generation is very aware of their environmental responsibilities and are willing to embrace change, but to move into ownership these requirements cannot be an insurmountable burden. If there is not a viable business model then future owners will inevitably end up being entities that already hold significant amounts of capital. There are numerous examples overseas where farm ownership is out of reach of many. I want to ensure this is not the case in NZ.

The one constant that has enabled this transition to ownership in the past has been the co-operative model, where as much return as possible is delivered to owners. Fonterra is not a big corporate company, it is a co-operative that is still largely owned by NZ farming families. Farmers have direction over the company, as exhibited in the recent director elections.

Open Entry / Exit

18 years on since the formation of Fonterra, it is clear that the competitive landscape within the NZ dairy industry has changed significantly. There appear to be two drivers around the original and continued implementation of the DIRA. One was for there to be an established competitor to Fonterra in the domestic market within NZ. The second is around the protection of farmers from this monopoly situation

DIRA has achieved the establishment of competition for supply in many regions. Whether or not this has eroded its ability in these areas to not exert undue influence is a theo etical discussion, and one that can only be tested in practice and by examining how it b hav s without restrictions. History has shown that arbitrary figures assigned across large reg ons o not work, as they have continued to be changed. Farmers have made it very clear that they have no confidence that there will be action if a market share percentage derived through his review is triggered. This is based on past behaviour.

From a supplier's perspective, in the Wairarapa we farm in an area where Fonterra is the only processor. Under DIRA we have protection that Fonterra will continue to pick up our milk. If the open entry provisions were to fall away, all farmers I have spoken to have faith that the co-operative nature of the company would drive to ompany to look after existing members. No farmers have indicated they want the regulations around open entry to remain. Some have made comment that they would like some legislated saf guards around existing Fonterra suppliers. This security would be provided if the agreement between Fonterra and Federated Farmers was put into legislation. This agreement protects Fonterra's existing footprint of suppliers, as long as they remain suppliers of Fonterra.

Disloyalty in unappreciated by many shareholders, so I firmly believe that if an entity chooses to supply a competitor, then they should not have the automatic right to return to Fonterra. In all likelihood Fonterra would take many of them back, but this decision should be a commercial one. This would also bring some more value to being a member of Fonterra, and help with farmers est blishing more of an identity with Fonterra. Membership would not be something that would be taken for granted. This is something that is not often recognised, but the ability to move to and from Fonterra without checks negatively impacts the co-operative culture of Fonterra. Most farmers feel quite aggrieved that we have to take "every man and their dog", whilst NZ based overseas owned competitors get to pick and choose.

Fonterra also needs to be able to protect its brand and add value through the standards of those who supply milk to it. The current DIRA makes this very difficult. If we are to be competitive in the international marketplace we need to produce milk in a manner seen to be superior to our competitors, who are often based closer to our markets. Having no selectivity of the standards of new supply and where that supply comes from does impact Fonterra's ability to add value.

In light of the above, I recommend that the open entry provisions fall away, and that the agreement between Fonterra and Federated Farmers be put into legislation.

Raw Milk Regulations

My view around the raw milk regulations is very simple. There should be no requirement for Fonterra to provide milk for exporting companies. There is no benefit to NZ from this.

In regards to the supply for the domestic market, it is disappointing that there has been no efforts made by Goodman Fielder to establish their own supply (in line with the original intention of the Act). I do not fully support the argument that reputational risk is removed from Fonterra around there not being a monopoly, because as soon as the price of butter or milk goes up mainstream media and the public always reference Fonterra in their discussions.

However, it is important that there is competition in the domestic market. Similar to points I have made earlier, I believe that if we are looking to provide direction around the future of the dairy industry, then regulation needs to apply to the whole industry. I would support a model whereby all processors have to supply milk to Goodman Fielder for the domestic market, the proportion of which is based on their market share of supply in a region. Why should Fonterra, owned by NZ farming families, have to supply 100% of this milk whilst other processors can add more value by directing their milk into export products. Many farmers I have spoken to have indicated that this requirement is extremely unfair.

Milk Price Manual

One of the most valuable assets NZ dairy farmers have is the milk price manual. This ensures NZ farmers get value for their milk which is reflected in the market. Evidence of this can be seen through the historical milk price comparison between NZ, Europe and the USA. Prior to Fonterra there was a significant gap, now they follow a similar trend very closely. This tells me we are getting a market price for our milk. This is not the case overseas. When the Shareholders' Council visited Australia recently the farmers there all indicated they wanted a similar model, as they did not have confidence in the fairness of the price they were getting for their milk.

This model needs to be protected. Adding to the powers of the Commerce Commission in this process is very scary from a suppliers point of view. I strongly disagree to this suggestion. A strong Fonterra milk price also supports the milk price paid to suppliers of other NZ processors. It is interesting that a number of them submit that Fonterra's milk price is too high. I struggle to see how this argument is good for the NZ farmer and subsequently the regions of NZ.

Review

As mentioned earlier, farmers have little confidence that market share triggers will implement deregulation. The continual shifting of goalposts in the past drives this belief. The idea that I agree with most is to look at the behaviour of Fonterra to judge whether it is exerting undue influence or acting in a dominant fashion. To estimate this by having a theoretical discussion would be wildly inaccurate, and the results would likely vary by region, depending on how much competition was in an area. The only way to truly judge this is to remove regulation, particularly around open entry, and have a mandated review in three to five years time to assess the market then. DIRA was supposed to be a pathway to deregulation. I suggest removing the open entry regulation and then reviewing if it is successful.

Conclusion

The dairy industry has evolved significantly since the creation of Fonterra in 2001. Regulation on just Fonterra will not assist in providing direction for the future of the industry and in returning the benefits of our competitive advantage to regional NZ.

Therefore, I recommend that:

- The DIRA review comes up with a clear pathway to deregulation,
- Open entry / exit regulations be repealed with safeguards for exis ing onterra suppliers, with the behaviour of Fonterra to be mandatorily reviewed in three to five years time,
- Suppliers who choose to leave Fonterra should not have an au omatic right of re-entry,
- Remaining regulation focuses on driving the entire dairy industry, not just Fonterra,
- Raw milk entitlements for exporting companies are to be ceased,
- Regulated milk to continue to be provided for Goodman Fielder, and
- The milk price manual to remain the same

Dairy farmers are traditionally long term in their thi k ng. Even though our children are all under 5, we already discuss the possibility of our children having the opportunity to work the family land in the future if they choose to. We need to get th s rev ew right so that they have the opportunity to do so.

I would be happy to discuss and speak to this submission during this process or the select committee process.

Kind regards

s 9(2)(a)
[redacted]

s 9(2)(a) [redacted]

From: s 9(2)(a) [redacted]
Sent: Wednesday, September 19, 2018 3:34 PM
To: 'contact@comcom.govt.nz'
Subject: foodstuff newworld countdown milk

s 9(2)(a) [redacted] subject milk in supermarkets , I would like to put a complaint against the dominance of medowfresh in the supermarkets ,medowfresh is owned by goodman fielder a Singapore owned company , the Anchor brand which is Fonterra is cut out of all stores in the fresh milk market . A anchor distributer told me that the reason was that goodman fielder payed foodstuff or neworld owners a backhander or cash to keep Fonterra out plus a rebate of .20cents not sure of the actual ,but Fonterra Anchor brand milk is not on any shelf in the south island , not sure about the north island ,which for me as Fonterra supplier is very frustrating given that it is Fonterra milk bottled by goodman fielder .The most frustrating thing is that medowfresh is distributed in Anchor branded crates that are stacked on display on the supermarket cool shelf . This is not only a problem at the supermarket these crates are at cafes as well .Fonterra under dira is regulated to supply milk at cost , and are told to give a breakdown of the costs through comcom . This problem goes further as the consumer cannot buy the Annum brand baby formula , another Fonterra product in these supermarkets . Competition in the Dira restructuring act was set back in 2001 at about 80 per cent or there abouts as Fonterra was the dominant milk supplier it has gone below the threshold and ComCom re set the threshold because of the lack of competition in the market .Today Fonterra is losing 200 million dollars due to the Danone French company taking it to court through a Singapore court and Being mate that had a 400 million write down . The French have set up in new Zealand in direct competition on our most high ticket infant formular market , The Chinese have read the Dira rules and come in on the same high ticket infant formula and dominate the China market for these products ,and Fonterra must supply low cost high quality milk delivered to these factories some of these factories don't have suppling shareholders ,but dominate the China market . Yilli Oceana are a Inner Mongolia Chinese company 8th largest dairy company in the world turnover of 15.5 billion, getting cheep subsidized milk through the DIRA system .This about New Zealand and protecting NZ agriculture and its Fonterra shareholders .In China Fonterra got ripped off by Beingmate a state owned company ,It was losing money the day after the deal was signed Share values plumeted as the Chinese state owned had been overvalued and Chinese govt made it impossible to distribute our Fonterra Anchor brands to protect their own factories that have been allowed to be set up in New Zealand . Fonterra turnover was 19.2 billion for 16/17 year , there new marketing tool is alibaba ,hena ,but once again on this site I could not find our Annum infant brand it appears Fonterra has a lot of competition and locked out of China, Danone founded in 1896 , for over 100 years donone nutricia has been involved in infant fomula , Personally I feel these are not start up companies .The comcom should not allow the dairy industry of NZ to be beat into the ground and walked over .The solution is to let Fonterra charge its competition a good high price for the high end market that they have taken from Fonterra and in that way we don't have to market our product or worry about exchange rates ,this cannot come soon enough . s 9(2)(a) [redacted]