

HOTLINE

Newsletter of the United Dairyfarmers of Victoria



A New Year Dawns

The new year has started where last year finished with seasonal conditions across the Victorian dairying regions being considerably more favourable than the previous years. Rain kept our pastures going deep into the season and kept the summer crops growing, taking cost pressure off our cow feeding programs and sustaining our farm dam water supplies.

Our fodder reserves have improved remarkably, again taking pressure off the cost of supplementary feeding. And lower key cost inputs such as fertiliser, grain and water have softened the impact of last year's dairy crisis and poor farm gate milk returns.

Importantly, we are seeing international demand of dairy products strengthen, largely on the back of falling world production. The expectation is that farm gate prices will rise. Hopefully the uncertainty being created with the new US President and the UK exit from the European Union will not unsettle dairy trades.

We have had some major challenges presented to us in the last season with trust and confidence knocked for six, however we must unite as farmers and begin to look at the bigger picture and begin to ask questions around the vision and future for the Victorian dairy industry.

We must reflect and learn lessons from the past and begin to build our dairying future with the premise of never returning to the behaviours of 2016.

With major investments pre farm gate and post farm gate we must build an industry that has organic growth to ensure prosperity.

Farm Gate Competition

Strong farm gate competition for milk is important, however, if processor growth is built on supplier churn alone then this has long term implications for investment in our industry. With high costs of manufacturing in our sector already, we need the processors to continually invest to become more efficient and stay globally competitive.

The long term demand and supply equation for milk is positive, however farmers need more confidence than just politicians speaking around a golden era for agriculture.

Therefore it is incumbent on all of us to be involved in developing a long term blue print for our great industry.



(Left to right) Patrick Glass, Robert Cook, Senator Bridget McKenzie, Ann Jarvis and UDV President Adam Jenkins at the first Dairy Farm Household Allowance & Concessional Loan Roundtable held at Tangambalanga in December.

Plans for the Future

Whilst it can sometimes be difficult to understand the benefit of industry visions and discussions around the future of the industry, when the day to day operations of farming are so financially and emotionally challenging, it is important.

It is important that we identify what we want our industry to look like so that farm based research and political measures reflect industry wishes.

For example, it has helped the dairy industry gather the regulatory support that led to the Unfair Contracts legislation and the implementation of the Effects Test. The Unfair Contracts legislation has been the basis of the introduction of fairness, equity and transparency in the new milk supply agreements between farmers and processors.

Effects Test Introduction Important

The introduction of the Effects Test provides a new and important tool for the industry trying to change the sale of milk for a \$1 a litre by holding supermarkets more accountable for

the impact on people like dairy farmers affected by their marketing strategies.

Whilst the delays in outcomes of the ACCC and ASIC inquiries are frustrating, we still expect the comprehensiveness of the investigations to be helpful, and therefore important, to the dairy industry.

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Both of these inquiries are being conducted by independent, experienced and well resourced regulators. We expect that both ACCC and ASIC will assist industry understand exactly what happened last year and, from that, assist the industry to ensure it never happens again.

Planning for the future has also assisted the industry with a range of 'social licence' programs with increasing scrutiny on animal welfare practices.

This will include a review of the calving induction changes introduced last year, and a number of bobby calf issues including dehorning & disbudding.

Positive Young Farmers

As I travel around the state I am always energised when I meet young dairy farmers. Despite the intensity of the pressures they face as new entrants to the industry in this horrible trading environment, they are always looking to the future and how their future fits in dairying.

I am pleased to report that UDV will be looking at what can be done to support these people as they make their way in dairy farming.

This will be the focus of our annual get together at the MCG on Friday May 12. Be great to see you there.

Happy farming.



Adam Jenkins

President, United Dairyfarmers of Victoria

Dairy Levy Poll Process

Background

During 2015 there was a levy poll review process undertaken to consider the requirement for Dairy Australia to hold a levy poll every 5 years.

That process led to a recommendation to levy payers to change the regulations and form a Levy Poll Advisory Committee (LPAC) which would undertake a review of levy funded activities and make recommendations to industry on whether a levy poll to change the levy rate was required.

Levy payers voted in late 2015 to accept the proposed changes to the levy setting process. New regulations to give effect to the changes were signed by Minister Joyce in late December 2016.

Australian Dairy Farmers and Dairy Australia, under the new regulations process, were required to provide the LPAC with a joint paper and recommendation on what should happen with the levy rate. The joint recommendation was for no change in the levy rate.

What happens next?

As required by the new regulation requirements, LPAC advised DA and Minister Joyce, of the decision of the Committee.

DA had 14 days from receipt of the decision of the LPAC to advise all levy payers of the outcome.

Any levy payers wishing to oppose the LPAC recommendation and propose an alternative option can initiate a petition.

Levy payers who are Group A members of DA and who together represent 15% of total levies paid in the previous financial year, have 75 days to lodge a petition with DA, requesting a levy poll be held and specifying their proposed levy option.

If there is one or more petitions which each represent at least 15% of the total levies paid then DA are required to hold an Extraordinary General Meeting at which Group A members of DA have the opportunity to vote to either proceed or not proceed with a levy poll.

If the resolution to hold a levy poll is passed at the EGM, DA must present the petition and the results of the vote to the LPAC within 14 business days after the resolution is passed.

The LPAC must also request DA arrange a levy poll as soon as reasonably practicable and must set out the levy options proposed by the petition and may set out any other levy options which LPAC proposes. LPAC has an ongoing role in the conduct of a levy poll including, but not limited to, information to be provided to levy payers to use in determining their voting intention.

In the event of no petitions which represent 15% of total levies paid within the 75 day period, the levy rate remains unchanged and there will be no Levy Poll.



Code of Practice for Contractual Arrangements Between Dairy Farmers and Processors in Australia

A draft Code of Good Practice for Contractual Agreements between farmers and processors has been drawn up. It is not yet final and is the subject of further industry discussion.

The Code intends to set out good practice for contracts between farmers and processors. This Code intends to address a number of issues with dairy contracts that may be contested under the Unfair Contract Terms law for small business which began operating on the 12th November 2016.

The Code will apply to standard form contracts between processors and farmers. The Code does not preclude a farmer negotiating an individual contract with a processor.

Whilst adherence to this Code is voluntary, it sets out minimum good practice in terms of dairy contracts.

For purposes of definition, a contract is any written or verbal agreement between a farmer and a processor whether it is termed a contract or a supply agreement.

Farmers and processors are encouraged to engage in discussion on all elements of the standard form contract prior to signing.

The Code has been developed for the benefit of the dairy industry and will be lodged as a Voluntary Code with the Australian Competition and Consumer Commission (ACCC).

The following 11 elements are a summary of the Code of Practice.

1. Transparency

Clauses in the contract should clearly and simply state the mutual obligations of both farmer and processor.

2. Pricing

Contracts between farmers and processors must set out either a clear price, and/or a clear pricing mechanism (such as a formula) or a price notification process (the process by which the processor notifies the producer of the price), such that at any given point in time, a producer can be certain of the base milk price that will be paid for the milk produced.

Processors should negotiate contracts which;

- have a price or pricing mechanism that is negotiated and agreed between the farmer and the processor; and/or
- have a price, pricing mechanism or price notification process that is at the processors discretion.

3. Pricing Mechanisms

Where the contract provides for a pricing mechanism (as opposed to a fixed price or a price notification process), such as a pricing formula, the contract should specify:

- the exact pricing mechanism/formula to be used; and
- how any variations to the pricing mechanism/formula are to be dealt with.

4. Contractual Variations e.g. Step-Ups and Step-Downs

The actual price paid to the farmer may be subject to adjustments, provided that such adjustments are compliant with the Code.

In all cases, a description of how any contract adjustments, including pricing (or adjustment calculations) desired by either party must be set out clearly in the contract at the outset.

Any downward changes to such adjustments (or adjustment calculations) cannot be made unless the dairy farmer has been given 30* days' written notice of any proposed downward changes and for the avoidance of doubt, no changes should ever be made retrospectively.

The contract must allow the dairy farmers to terminate their contract with the processor without penalty on 30* days written notice from the date of notification to the farmer (or shorter period where the contract is due to expire in less than 30 days) of any change made by the processor to the price adjustment(s). Such notice may be served by the dairy farmer at any time within 30 days of receipt of notice from the processor of any price change.

Where a farmer has given 30 days written notice (or other agreed notice period) of terminating their contract there will be a cooling off period of 21 days for the farmer to rescind the notice to terminate from the date of notification by the processor of a change.

5. Loyalty Payments

A farmer is entitled to all loyalty and other payments where they have supplied to the end of a contract and/or term irrespective of whether they remain a supplier post a contract.

6. Volume/Exclusivity Clauses

If a farmer produces more milk than required or contracted to their primary processor, then they have the right to negotiate other supply options for the additional milk produced.

7. Contract Duration

Supply agreements may be for fixed terms or may be rolling arrangements.

8. Termination/Notice to Terminate

For fixed term contracts notice of termination needs to be a minimum 90 days, and/or by mutual consent, but farmers must supply to at least the end of the contract period.

9. Termination on Fundamental Breach

The contract must allow either party to terminate the contract with immediate effect if the other party fundamentally breaches the terms of the contract.

The contract should specify what would constitute a fundamental breach by either party.

10. Dispute Resolution

A contract must include a clause which describes the process on how disputes between the parties to the contract will be managed.

11. Review

It is proposed that the completed best Practice Code on Contractual Arrangements as agreed by industry be reviewed after one year and then subject to a review every three years or whenever a need arises. A review can be requested by one or more parties to the Code.

**Dairy farmers and processors may agree a longer notice period, beyond the 30 days' notice period, provided that such longer notice period is agreed through a process of negotiation with the farmer or a farmers Collective Bargaining Group.*

'Effects Test' Changes Important for Dairy

ADF has long-advocated for change to tackle big business misusing its power and reducing competition in markets.



The introduction of an effects test is in line with competition policy around the world.

Included in section 46 of the Competition and Consumer Act 2010, the misuse of market power provision will help address the current unequal distribution of market power and encourage transparency to the benefit of producers, consumers and retailers.

Background

It has been six years since major supermarkets cut the price of supermarket branded fresh milk to \$1 per litre.

Milk at this price is unsustainable for all involved. This predatory pricing tactic has seen hundreds of millions of dollars lost from the dairy value chain.

The continuation of aggressive discounting of milk and other dairy products is directly affecting market supply and demand functions. It is also effectively blocking processors from being able to provide stronger prices to farmers to stimulate milk production.

The impact

The considerable amount of work, investment, planning and risk required to produce, transport, process, distribute and deliver a perishable product, fresh milk, on a daily basis is not reflected in the discounted price of dairy by major retailers.

By continuing their pricing structures, supermarkets are causing unnecessary hardship resulting in once sustainable dairy farmers being forced to exit the industry.

Pricing milk below production costs has the effect of unfairly and inappropriately excluding proper competition in the market, as well as causing hardship to the farmer.

This hardship experienced by dairy farmers also has a negative flow on effect to the economic security and sustainability of rural communities.

What is an effects test, and what does it mean?

The effects test relates to section 46 of the Competition and Consumer Act: the provision of our competition laws which regulates individual conduct. There are numerous laws affecting arrangements between two or more parties, but only section 46 of the Act focuses on big business misusing market power.

The best example is the big supermarkets and their \$1 milk.

For the supermarkets, \$1 milk was a way to get more customers in the door, and so long as that was their purpose (as opposed to destroying their competitors), they were not engaging in a misuse of market power.

Under the new law, selling \$1 milk is considered a misuse of market power. Their intentions are not important, what they do is judged if it results in a substantial lessening of competition by pricing milk so cheaply that nobody can compete with them.

Under the previous law, the onus was on small businesses to prove that a large firm intended to reduce competition through its actions.

The introduction of the effects test means regulators only need to show that the outcome of the actions reduces competition.

The test will be does the supermarket conduct have the purpose or likely effect of substantially lessening competition through its direct actions. The effects test will prohibit a company with a considerable degree of power from engaging in conduct that pushes out smaller businesses or bullies them into devaluing their product with lower prices.

What does it mean for you?

Without the introduction of an effects test as an additional tool for ACCC, the current tactics of the major retailers would have continued to result in substantial lessening of competition in the market place. This means significant impact on the viability of branded dairy products, less product variety on supermarket shelves, less choice and in the long term, higher prices for consumers.

By helping to correct the unequal distribution of market power, the milk and dairy markets will stop suffering from such imbalances.

Through the restriction of overtly dominant and anti-competitive actions by powerful players such as large supermarkets, the 'effects test' will encourage more transparent market actions that are mutually beneficial.

Where we stand

Australian Dairy Farmers (ADF) has advocated strongly for this change since 2011. We believe the effects test will assist in preventing damaging practices, including predatory pricing in future.

The effects test is another tool to provide integrity and transparency regarding the impact of retailer actions on suppliers.

ADF would like to thank the Prime Minister, Deputy Prime Minister, the Treasurer, the Minister for Small Business for their support and action on this important reform.

We also want to thank the Queensland Dairy Farmers Organisation and other state dairy farmer organisations for their tireless work in highlighting the issues within industry and working on this important reform.

Written by Australian Dairy Farmers



Delays to the ACCC Inquiry into MG & Fonterra



UDV has written to the ACCC Agriculture Commissioner expressing concerns at the absence of any communication from ACCC about their inquiries into Murray Goulburn & Fonterra.

The ACCC announced last year it was investigating the behaviour of MG & Fonterra and whether they had engaged in unconscionable conduct when deciding to 'step down' their farm gate milk prices late in the 2015-16 year.

The results of the inquiry were originally expected in August or September.

Of further concern has been the opening of a second, separate enquiry into the dairy industry while this initial inquiry continues. This second inquiry is welcomed, but with two ongoing reviews being carried out at the same

time there is concern that confusion between the two separate issues could occur. Such confusion could arise in meetings with suppliers, causing further frustration with the process and impeding the effectiveness of both processes.

Powerline Bushfire Safety Program reducing the risk to communities

The Victorian Government continues to introduce new measures to better protect Victorians from bushfires started by powerlines.

In line with recommendations from the 2009 Victorian Bushfires Royal Commission, the \$750 million Powerline Bushfire Safety Program (PBSP) includes a number of initiatives to improve key infrastructure and reduce the risk of electricity-related fires across Victoria.

The package includes a Powerline Replacement Fund to replace high voltage bare-wire powerlines with insulated underground or overhead options, alongside a Local Infrastructure Assistance Fund to install back-up power generators for residential care facilities.

Regulations will also make sure electricity network operators focus on reducing powerline ignitions in high fire risk areas and during fire danger periods.

These latest changes follow major infrastructure upgrades and changes to the management of the electricity network over the last five years and continue the Government's commitment to the 2009 Victorian Bushfires Royal Commission.

As part of the program, safety electricity infrastructure is being upgraded in Victoria's highest risk bushfire areas, with the aim of significantly reducing the risk of bushfires caused by powerlines.

In addition to direct infrastructure investment, the program has also been used to bring strategic investment to research and development initiatives that will support the next generation of network safety technology.

The PBSP has also been accelerated and is well ahead of the 10-year deliver schedule, saving Victorian taxpayers around \$3 million.

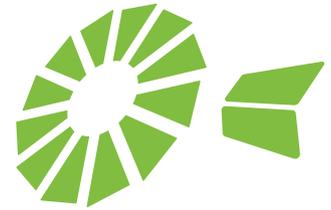
Works scheduled can now be brought forward immediately and delivered by the 2018-19 summer season, 2.5 years ahead of schedule.

More information on the Powerline Bushfire Safety Program is available here: <http://delwp.vic.gov.au/energy/electricity/powerline-bushfire-safety-program>



Jo Gleeson, of Ballangeich, Vic, watches as her boys Max, 7, and Sam, 4, having fun on the jumping castle at the UDV Farmers Day Out at Koroit.
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2017 UDV Annual Conference and Meeting



**Victorian
Farmers
Federation**



The 41st UDV Annual Conference & Meeting will be held at the Melbourne Cricket Ground (MCG) on Friday May 12, 2017.

The meeting will focus on a number of young dairy farmer issues and commence with the Annual Breakfast and finish with the UDV Presidents' Dinner that evening.

Business will include elections for UDV Vice President plus UDV Regional Representatives for Region 1 (Cohuna & districts); Region 3 (Goulburn Valley); Region 5 (Macalister Irrigation & districts); Region 7 (Warragul & districts); Region 9 (Corangamite).

The meeting will also receive reports and deal with member resolutions.

Office bearer nominations must be completed as specified and submitted to returningofficer@vff.org.au by no later than the close of business (5pm), Monday April 3, 2017

Nomination forms for the listed office bearer and regional positions are available at www.vff.org.au/udvconference, or on request from the VFF CEO, Graeme Ford, on 1300 882 833.

Due to a constitutional change passed at the 2016 VFF Annual Conference, the current Regional Representatives for Region 1 (Cohuna & districts) & Region 3 (Goulburn Valley) are unable to re-nominate for their positions as they have served the allowable maximum council term.

Your New UDV Policy Officer



UDV Project and Policy Officer, Chris Paynter

Chris Paynter represents the fifth generation of the Paynter dairy farming family in West Gippsland.

Chris was raised on the farm and began working full time with his father and grandfather at the age of 19. Now, ten years later, Chris has completed a Bachelor of Agricultural Science at La Trobe University, focusing on soil sciences.

During his time both on farm and studying, Chris has developed a keen interest in policy making. This interest was encouraged by a strong tradition of involvement by both his father and grandfather in policy at local, state and national levels.

Chris joins the UDV taking on two of the five policy focus areas:

Chris Paynter

Markets Trade & Value Chain and Natural Resource Management

Ashlee Hammond

Farming Systems & Herd Improvement and People and Human Capacity

Vin Delahunty

Animal Health & Welfare

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