

Process Paper – Review of the Milk Price Manual for the 2013/14 dairy season

28 August 2013

Purpose of the process paper

1. The purpose of this process paper is to:
 - 1.1 set out the process for our review of Fonterra’s Milk Price Manual (the Manual) for the 2013/14 dairy season as required by the Dairy Industry Restructuring Act 2001 (the Act); and
 - 1.2 provide interested parties with an opportunity to comment on the information we have received from Fonterra in accordance with s 150L of the Act, prior to us making our draft report on the Manual.

Process for our review of the Manual

2. Under s 150H of the Act, we are required to review the Manual for each dairy season and make a report on the extent to which the Manual is consistent with the purpose statement set out in s 150A of the Act.¹
3. This statutory review is concurrent with, but separate from, our review of Fonterra’s 2012/13 base milk price calculation, which we will complete by 16 September 2013.²

Opportunity to comment on the information for the review

4. In order for us to review the Manual, s 150L of the Act requires Fonterra to provide us with the following information:
 - 4.1 the Manual for the current season;

¹ **Section 150A Purpose of this subpart**

- (1) The purpose of this subpart is to promote the setting of a base milk price that provides an incentive to new co-op 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.

² The two statutory review processes are governed by separate provisions in the Act and apply to different dairy seasons. Refer to ‘Figure A3: Timeline for Fonterra’s FGMP setting processes and statutory review process’ in Commerce Commission, *Review of Fonterra’s 2012/13 base milk price calculation: Draft Report*, 15 August 2013.

- 4.2 any recommendations by the Milk Price Panel in relation to the setting of the base milk price;
 - 4.3 notify the Commission of any change in the economic and business environment that, in Fonterra's view, requires a change to the Manual;
 - 4.4 certify to the Commission the extent to which Fonterra considers that the Manual is consistent with the purpose of s 150A; and
 - 4.5 provide the Commission with the reasons for the views expressed in Fonterra's certification.
5. We have received the above information from Fonterra on 1 August 2013 and published it on our website.³
6. We now invite all interested parties to comment on the information provided to us by Fonterra. In particular, we welcome your comments on:
- 6.1 the reasons Fonterra has provided for why the Manual for the 2013/14 dairy season is consistent with the purpose in s 150A of the Act; and
 - 6.2 any other information we should consider in our review of the Manual for the 2013/14 dairy season.
7. All comments are due by no later than 5pm on Friday 13 September 2013.

Opportunity to comment on our draft report

8. Section 150M of the Act requires:
- 8.1 us to provide Fonterra with a draft of our report to be made under section 150I by 15 October; and
 - 8.2 Fonterra to make a submission to the Commission on the draft report (or notify the Commission that it does not wish to make a submission) by 15 November.
9. In addition to this statutory process, we have decided to also provide an opportunity for other interested parties to comment on our draft report.
10. A summary of the process and our indicative timing is set out in Table 1 below.

³ <http://www.comcom.govt.nz/regulated-industries/dairy-industry/review-of-fonterra-s-farm-gate-milk-price-and-manual/statutory-review-of-milk-price-manual/201314-season/>

Table 1: Process and indicative timing for review of the Manual for the 2013/14 dairy season

Process step	Indicative timing
Comments due on matters outlined in this process paper (paragraph 6)	No later than 5pm, 13 September 2013
Commission releases draft report to Fonterra and any other interested parties for consultation.	No later than 15 October 2013
Submissions on draft report due	No later than 15 November 2013
Final report published	16 December 2013 ⁴

How you can provide your comments

11. Comments should be sent to: regulation.branch@comcom.govt.nz, for the attention of Paolo Ryan.

Requests for confidentiality

12. While we discourage requests for non-disclosure of your comments, we recognise that there may be cases where parties wish to provide information in confidence. We offer the following guidance.⁵
- 12.1 If it is necessary to include confidential material in your comments, the information should be clearly marked.
- 12.2 Both confidential and public versions of your comments should be provided.
- 12.3 The responsibility for ensuring that confidential information is not included in a public version rests entirely with the party providing the comments.

⁴ The Act requires us to publish our final report annually by 15 December. In 2013, 15 December falls on a Sunday. Consistent with s 35(6) of the Interpretation Act 1999, we will publish our report the following business day, which is Monday 16 December 2013.

⁵ Parties can also request that we make orders under s 100 of the Commerce Act in respect of information that should not be made public. Any request for a s 100 order must be made when the relevant information is supplied to us, and must identify the reasons why the relevant information should not be made public. We will provide further information on s 100 orders if requested by parties. A key benefit of such orders is to enable confidential information to be shared with specified parties on a restricted basis for the purpose of making submissions. Any s 100 order will apply for a limited time only as specified in the order. Once an order expires, we will follow our usual process in response to any request for information under the Official Information Act 1982.