



Review of 2013/14 base milk price calculation – invitation for submissions on Fonterra’s section 150T Reasons Paper

2 July 2014

Purpose

1. The Commerce Commission is seeking submissions from interested parties on Fonterra’s paper which describes Fonterra’s approach to setting the base milk price for the 2013/14 season.¹
2. Submissions should be sent by email to: regulation.branch@comcom.govt.nz for the attention of Patricia Jennings by 5 pm on Tuesday 15 July 2014.

Our 2013/14 review of the base milk price calculation

3. We are beginning our process of reviewing the calculation Fonterra uses to determine the price it pays to farmers for milk, known as the base milk price (or farm gate milk price) for the 2013/14 season.²
4. This is the second of two reviews we are required to undertake on the base milk price each season. The first review, of Fonterra’s 2013/14 Milk Price Manual, was completed in December 2013.³

Scope of our review

5. The scope of our review is confined to Fonterra’s base milk price calculation. It will consider the extent to which the assumptions adopted, and the inputs and processes used by Fonterra in calculating the base milk price provide an incentive to Fonterra to operate efficiently, while providing for contestability in the market for the purchase of milk from farmers.⁴

Fonterra’s s 150T Reasons Paper

6. Section 150T of the Dairy Industry Restructuring Act 2001 (the Act) requires Fonterra, by 1 July each year, to:

¹ Fonterra “The setting of Fonterra’s milk price for the 2013/14 season” (1 July 2014), available at: <http://www.comcom.govt.nz/regulated-industries/dairy-industry/review-of-fonterra-s-farm-gate-milk-price-and-manual/statutory-review-of-milk-price-calculation-2/review-of-milk-price-calculation-201314-season/>

² As is required under s 150O of the Dairy Industry Restructuring Act 2001

³ Commerce Commission “Review of Fonterra’s 2013/14 Milk Price Manual: Final Report” (16 December 2013)

⁴ Refer s 150A and s 150P of the Act

- 6.1 provide us with a list of the assumptions adopted, and inputs and process used in calculating the base milk price for the preceding season; and
 - 6.2 certify to the Commission the extent to which, in Fonterra's view, the assumptions adopted, and inputs and process used by Fonterra are consistent with the legislative purpose set out in s 150A.
7. Fonterra's s 150T Reasons Paper, which sets out its assumptions adopted, and inputs and process used to calculate the base milk price, along with Fonterra's certification, is published on our website.
 8. In the event that Fonterra sets the base milk price other than in accordance with a recommendation by the Milk Price Panel, s 150N of the Act requires Fonterra to make publicly available a statement of its reasons for doing so. For 2013/14, Fonterra is proposing to pay less than the milk price calculated under the Milk Price Manual, and has included the reasons why in its Reasons Paper.
 9. The Act requires us to have regard to information provided and any submission made by Fonterra. There is no requirement to consult more broadly with other interested parties. However, we have decided to extend the consultation for this review to interested parties. At this stage we are seeking submissions from interested parties on Fonterra's Reasons paper.

Our proposed approach in reviewing the 2013/14 base milk price calculation

10. We propose to focus our analysis for the 2013/14 base milk price calculation review on the issues noted in our process paper published on 9 June 2014⁵ and any areas where Fonterra has changed its approach since 2012/13. For other components of the base milk price calculation, we do not consider it will be necessary to undertake the same depth of analysis as in 2012/13 to reach a conclusion on the extent to which that component is consistent with the purpose in s 150A of the Act.
11. Because Fonterra is proposing to pay less than the milk price calculated under the Milk Price Manual, our approach above may change, based on the outcome of our assessment of Fonterra's assumptions adopted, inputs and process in determining a milk price that is expected to be less than the milk price derived under the Manual.
12. In particular, we draw the attention of interested parties to s 150C of the Act, which requires the base milk price to be set in a way that is consistent with certain principles. We are interested in views on whether Fonterra's proposed approach for setting the 2013/14 base milk price, as described in its Reasons Paper, is likely to be consistent with those principles, and on any implications the s 150C provisions might have for our approach to this year's review.

⁵ Available at: <http://www.comcom.govt.nz/regulated-industries/dairy-industry/review-of-fonterra-s-farm-gate-milk-price-and-manual/statutory-review-of-milk-price-calculation-2/review-of-milk-price-calculation-201314-season/>

Timeline for the review

13. Submissions on Fonterra's Reasons Paper are due by Tuesday 15 July 2014. A summary of the consultation process and our indicative timeline for the remainder of the review is set out in Table 1 below.

Table 1: Timeline for the remainder of the review

Process step	Indicative timing
Fonterra's Reasons Paper released for public consultation	Wednesday 2 July 2014
Submissions on Fonterra's Reasons Paper due	Tuesday 15 July 2014
Draft Report on base milk price calculation released	Friday 15 August 2014
Submissions on Draft Report due	Friday 29 August 2014
Final Report on base milk price calculation released	Monday 15 September 2014

Requests for confidentiality

14. Submissions will be published on our website. Certain information interested parties may wish to provide to us to support or substantiate their comments may be commercially sensitive. We encourage all relevant information to be provided and offer the following guidance for commercially sensitive material.
- 14.1 All commercially sensitive information should be clearly marked. Both confidential and public versions of this information should be provided. The responsibility for ensuring that confidential information is not included in a public version rests entirely with the party providing the information.
- 14.2 Reasons why this information is commercially sensitive should be clearly stated.
15. Interested parties may 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. 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.