

Notes



DIRA Discussion Document – Overview

What is the purpose of this document and what do we need from you?

The Government is reviewing the Dairy Industry Restructuring Act 2001 (DIRA) and its impact on the dairy industry.

This document sets out the key issues in relation to the DIRA and the extent to which it has, or has not, driven the performance of the New Zealand dairy industry over the past seventeen years.

We are asking for your thoughts in relation to the issues discussed, and views on if, and how, the DIRA should be amended to achieve different outcomes for the dairy industry and New Zealand as a whole.

Why is the DIRA being reviewed?

The DIRA was enacted in 2001 to facilitate the formation of a national champion, Fonterra, to drive New Zealand dairy industry's economic performance in global dairy markets, and to regulate Fonterra's dominance domestically, for the long-term interests of New Zealand dairy farmers, consumers and the wider economy.

Since 2001, the dairy industry's economic contribution to New Zealand has more than doubled, and there has been significant processor entry and some product diversification, both in export-focused and domestic consumer dairy markets.

However, economic value growth has come primarily from greater volume of commodity production, in response to demand from global markets, and increased cow numbers. The expansion of the dairy industry has had negative impacts on the environment.

Some stakeholders are concerned that the DIRA regulatory provisions may have contributed to adverse industry performance outcomes. For example, there are concerns that the DIRA may be encouraging uneconomic and environmentally unsustainable milk production; preventing Fonterra from transitioning to higher value-add processing activities; and incentivising inefficient market entry by new dairy processors. There is also a question of whether the DIRA regulatory regime is still needed.

The purpose of the review is to ensure that the DIRA:

- is effective at achieving its regulatory purpose and remains fit-for-purpose;
- does not create unintended consequences; and
- does not stay in place for longer than necessary.

What stage is the DIRA review at?

Following the release of the Government's terms of reference for the review, the Ministry for Primary Industries (MPI) engaged with a large and diverse group of key industry stakeholders to help clarify concerns, establish facts and build evidence to inform preliminary analysis of issues and options for potential legislative amendments.

We completed 28 engagement meetings and received written input from twelve organisations. We have also commissioned two reports from an independent economic consultancy, Frontier

Economics, on the performance of New Zealand dairy industry and its underlying drivers. The industry input and consultancy reports can be found at <http://www.mpi.govt.nz/dira-review>.

The purpose of this discussion document is to:

- test current understanding and preliminary analysis of issues and options with the wider industry and public, and
- seek input on costs, benefits and other impacts of the options for change to help ensure that any legislative amendments deliver the right outcomes and are workable.

What have we found so far?

DIRA REGULATORY PURPOSE

As depicted in the diagram, the DIRA's core regulatory objective is to prevent Fonterra from using its dominance to create barriers for farmers' milk and land flowing to their highest value uses.

The DIRA achieves this by ensuring that farmers have access to transparent information about Fonterra's performance (in terms of Fonterra's milk and share prices). This transparency is provided through the DIRA's requirements for the base milk price calculation and Trading Among Farmers (TAF) provisions.

The DIRA's open entry and exit provisions then enable farmers to act on Fonterra's performance information by freely switching their milk supply from and to Fonterra.

The DIRA also facilitates an entrance pathway for new dairy processors and supports competition in the domestic consumer dairy markets through the Raw Milk Regulations. These provide for independent processors without their own viable milk supply to have access to a limited quantity of regulated milk from Fonterra.

PRELIMINARY ANALYSIS OF ISSUES

In developing this discussion document, we have spoken to a wide range of people operating in the dairy industry. The preliminary analysis of stakeholder concerns indicates that the DIRA is:

- ✓ effective at achieving its core regulatory objective of managing Fonterra's dominance;
- ✓ still relevant and needed at this stage; and
- ✓ unlikely to be encouraging inefficient industry growth or preventing Fonterra from pursuing a value-add strategy.

But, the DIRA appears to be:

- ✗ preventing Fonterra from effectively managing some aspects of its farmers' environmental performance, thus producing unintended consequences; and
- ✗ providing access to regulated milk for large dairy processors for whom it may no longer be necessary, thus not being fit-for-purpose.



In addition, there is an opportunity to consider whether the DIRA should be amended to:

- promote greater confidence in the base milk price calculation; and
- preserve competition in the domestic consumer dairy markets in the short term, while discouraging any undue regulatory dependency in the longer term.

OPTIONS FOR POTENTIAL LEGISLATIVE AMENDMENTS

The discussion document outlines a range of options for potential legislative amendments.

The options aim to address the issues and opportunities identified by the preliminary analysis, while maintaining the effectiveness of the DIRA in achieving its core regulatory purpose.

The key areas of focus for potential legislative amendments are:

1. the DIRA open entry requirements;
2. access to regulated milk for large dairy processors (except Goodman Fielder);
3. the base milk price calculation;
4. access to regulated milk for Goodman Fielder and smaller processors; and
5. the DIRA review and expiry provisions.

In each of these areas of focus, the options range from 'retaining the status quo' to 'modifying the current provisions' and in some areas to 'repealing the current provisions entirely'.

The discussion document does not have preferred options. Instead, at this stage, we are seeking feedback on all options outlined in this document, and any additional options stakeholders may put forward, in order to understand the costs, benefits and impacts associated with each option to help inform future policy decisions.

Where to next?

Written submissions on issues, options and all other aspects of this discussion document are due by 5pm on Friday 8 February 2019. This can be provided by:

- Filling in the online submission form at <http://www.mpi.govt.nz/dira-review>.
- Emailing your submission as a Microsoft Word attachment to dira@mpi.govt.nz.
- Mailing your submission to:

DIRA Review team
Agriculture, Marine and Plant Policy, Policy and Trade Branch
Ministry for Primary Industries
PO Box 2526
Wellington 6140
New Zealand

During the consultation process, public meetings will be held throughout the country to give all interested persons an opportunity to get involved in the process. These will be publicised on the MPI's DIRA Review webpage and MPI social media channels.



Once we have received written submissions, we will analyse these to identify and synthesise views on all issues and options. We will then work with affected stakeholders to include them in the process of identifying and assessing the preferred solutions and their impacts.

We expect to hold a series of targeted workshops post consultation, during the months of February and March 2019. These discussions will inform the final recommendations that the Government will consider later in 2019.