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Ministry for Primary Industries
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Feedback on the Terms of Reference for the 2026–27 Review of the Dairy Industry Restructuring Act 2001

DairyNZ appreciates the opportunity to provide feedback on the Terms of Reference for the Ministry for Primary Industries' 2026–27 review of the Dairy Industry Restructuring Act 2001 (**DIRA Terms of Reference**).

DairyNZ is the industry-good organisation representing New Zealand's 11,000 dairy farmers. Our purpose is to progress a positive future for New Zealand dairy farming, advancing the industry's long-term sustainability, profitability and competitiveness.

GENERAL COMMENTS – ENABLING COMPETITION

DairyNZ considers that the Terms of Reference provide an appropriate foundation for the review contemplated under section 147 of the Dairy Industry Restructuring Act 2001 (**DIRA**).

However, for the reasons outlined below, DairyNZ requests that the Terms of Reference be expanded to include the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Regulations 2001 (**Regulations**) and the governance of the core database. This is essential for the Regulatory framework enabling the New Zealand dairy industry to remain internationally competitive, driving productivity and enabling competition.

While the current review is framed around competition provisions in DIRA relating to Fonterra, the herd improvement regulatory regime is an integral part of the broader DIRA framework and has a direct and material influence on competition outcomes across the dairy sector. DIRA explicitly regulates herd testing and the core database alongside Fonterra-specific provisions, reflecting their role as core market infrastructure.

DairyNZ acknowledges that section 147 of DIRA defines the minimum scope of the current review by requiring the Ministry to report to the Minister on whether Subparts 5 and 5A of Part 2 of the Act should be retained, repealed, or amended. Section 147 does not, however, restrict the Ministry from examining other relevant issues concurrently. The Ministry retains a general advisory and consultative function, and has power to consider adjacent regulatory issues alongside the section 147 review – particularly where those issues are directly relevant to the contestability outcomes that DIRA was designed to protect. The Regulations and the governance of the core database directly affect whether the upstream and adjacent markets that the DIRA competition provisions rely upon are genuinely contestable. DairyNZ accordingly asks the Ministry to exercise its general advisory function to include these issues within the scope of the review, so that Parliament receives a coherent and complete picture of competition conditions across the dairy sector.

THE REGULATIONS' IMPACT ON PRODUCTIVITY

Expanding the scope of the review to include dairy industry data access and use would provide a significant opportunity to improve the productivity of the New Zealand dairy sector and its competitiveness on the world stage. Genetic gain is responsible for over 60% of the improvements in animal performance representing a key aspects of the Dairy industries ongoing productivity. In 2024, an Industry Working Group (IWG) on Genetic Gain found that:

- (a) Prior to the introduction of genomic selection, NZ was among the world leaders in genetic gain, with gains very close to the maximum possible under progeny testing.
- (b) However, fifteen years after the introduction of genomic selection, the rate of gain in New Zealand lags behind other countries. Over the period 2010 to 2020, the rate of genetic gain in New Zealand's national dairy herd was less than a third that achieved in comparable countries.
- (c) New Zealand's current system for genetic gain is "not fit for purpose" due to a range of structural, behavioural and other factors.
- (d) One of the factors found to be driving accelerated rates of genetic gain in New Zealand's international competitors was more successful adoption of genomic technologies.

Critically, the ability of New Zealand's dairy industry to adopt emerging technologies (e.g. genomics) depends on the data governance and access frameworks that underpin genetic evaluation. Key aspects of these frameworks are determined by the Regulations. The herd testing and core database regimes provided for in the Regulations shape the conditions under which firms can enter, compete, and innovate in upstream and adjacent markets, including herd improvement services, genetics, and data-enabled farm advisory services. Regulatory requirements relating to certification of herd testers, mandatory data provision, and a narrow scope of what constitutes core data all influence the cost of entry and the ability of new or smaller providers to compete effectively. Similarly, the rules governing access to the core database - including the Access Panel's decision-making authorities and conditions on use - have a direct bearing on whether markets are contestable, and whether the benefits of industry data are broadly shared or concentrated among established incumbents.

KEEPING PACE WITH TECHNOLOGY AND MARKET NEEDS

There is also a strong case for review on the basis that the herd improvement regulatory regime has not kept pace with changes in technology and market structure. The current framework was designed in a very different operating environment and remains highly prescriptive in relation to data collection and use. Since its introduction, there has been significant growth in digital technologies, on-farm data capture, and advanced analytics, alongside the emergence of new service providers and business models. In this context, existing regulatory settings risk constraining innovation, limiting the efficient use of data, and creating unnecessary barriers to entry - outcomes that are directly contrary to the competition objectives DIRA was designed to achieve.

One particularly pressing issue is the fields that make up core data in the Dairy Industry Good Animal Data (**DIGAD**) database. DIGAD is the current embodiment of the core database created by DairyNZ and LIC and therefore is at least partially governed by the Regulations. The Regulations designate 46 mandatory core data fields which must be provided by Certified Herd Testers to DairyNZ for inclusion in the core database (and therefore in DIGAD). However, effective animal evaluation - including calculation of Breeding Worth (BW) and the identification of elite animals - requires access to approximately 70 additional data fields that fall outside the statutory definition of core data. Market participants can only access these non-core fields by commercial arrangements, with direct consequences for the contestability of markets for herd improvement services, genomic evaluation, and data-enabled farm advisory services.

There is broad industry consensus that the Regulations need to be updated to make them "fit for purpose" for modern animal evaluation. In July 2024, the Herd Testing Standard Review Committee wrote to the Ministry - with the endorsement of 18 dairy industry organisations including genetics companies, accreditation bodies, herd testing providers, farm organisations, and academic institutions - requesting that the Regulations be reviewed. The signatories specifically identified the need to update core data fields, clarify the scope of the Regulations in relation to modern technologies, and consider what arrangements are needed to keep the Regulations responsive to evolving data requirements. That letter also explicitly noted that the NZS8100 Standards review process, despite taking 3.5 years, had been unable to resolve key issues about the intent of the Regulations and the data supply arrangements necessary for animal evaluation, demonstrating that industry-led processes alone have not been sufficient to address the structural issues DairyNZ identifies in this submission. A copy of the Herd Testing Standard Review Committee's correspondence to the Ministry is **attached** as Appendix 1.

RESOLVING A PERSISTENT PROBLEM

The concerns raised in this submission are not new to DairyNZ, nor to the Ministry. DairyNZ has raised related issues in prior submissions to the Ministry, including during the 2018 - 19 DIRA review. That these concerns have persisted across multiple regulatory cycles without resolution underscores why the current



review presents a timely and appropriate opportunity to address them comprehensively. DairyNZ's position is also consistent with its February 2026 submission to the Select Committee on the Commerce (Promoting Competition and Other Matters) Amendment Bill, in which DairyNZ emphasised the need for a competition law framework capable of addressing cross-market data access issues, monopolisation of data assets, and interoperability failures that entrench incumbents.

Bringing the Regulations and core database governance within the scope of this review would enable a more coherent, system-wide assessment of whether DIRA is delivering efficient, contestable markets across the dairy sector. The effectiveness of Fonterra-focused competition provisions cannot be fully assessed without also considering how herd testing and core database settings influence access to critical inputs, the development of new services, and the ability of competitors to scale. A narrow review risks overlooking a material set of regulatory levers with direct consequences for farmer choice, innovation, and the long-term productivity of the sector.

CONCLUSION

The core database is critical industry infrastructure. Its value depends not only on the integrity of the data it contains, but on the completeness of the data which it holds due to correct settings on obligations to provide that data, and the terms on which that data is accessed and used. Whether those terms support broad participation and innovation, or entrench existing incumbents, is an important competition policy question which DairyNZ submits this review should address.

DairyNZ looks forward to engaging constructively with the Ministry as the review progresses and is available to provide further technical evidence in support of any expanded scope.

SUBMISSION ENDS

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Appendix 1 – Letter from the Herd Testing Standard Review Committee to the Ministry for Primary Industries dated 1 July 2024