

To: The New Zealand Productivity Commission

From: Cooperative Business New Zealand

Date: February 2021

Feedback on the Productivity Commission Report

I am writing to you on behalf of New Zealand's member owned businesses (co-operatives and mutuals) in response to the draft report on New Zealand frontier firms produced by the Productivity Commission in December 2020.

Cooperative Business NZ is the peak body representing New Zealand's member owned businesses. My submission is supported by the global co-operative movement, as co-operatives and mutuals in New Zealand have long been represented by the International Cooperative Alliance (ICA). Established in 1895, the ICA is the global body representing, promoting and uniting cooperatives and it is also the custodian of the [International Statement on the Cooperative Identity](#).

This submission includes expert feedback from members of ICA's Co-operative Law Committee that specialises in laws and regulations affecting co-operative enterprises. The first part of my letter deals with co-operatives in general, and the second part deals with contributions of co-operatives to the dairy sector of New Zealand that appear to have been overlooked in interpreting productivity for the purposes of the Commission's report.

Part I

Firstly, tenets of the aforementioned Identity Statement have become part of international law. And with it, inclusion in the [Promotion of Cooperatives Recommendation \(No. 193\)](#) of 2002 of the ILO or ILO R. 193, as well as the United Nations 2001 Guidelines, aimed at creating a supporting environment for the development of co-operatives (A/56/73) that together indicate a united approach as well as a legal method to monitor, assess and negotiate policy and legislative reforms for co-operatives.

The very 'idea and practice of organising shared interests in co-operatives' was inscribed on the Representative List of the Intangible Cultural Heritage of Humanity vide the 2016 Decision 11.COM 10.b.14 of the [Eleventh Session of the UNESCO intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage](#).

The purpose of the Commission's report to identify policies and interventions to maximise the contribution of frontier firms falls a few strides short of appearing fully advised on the Governments need to acknowledge and protect the special characters of co-operatives, and to avoid in law or practice of any discrimination arising from the special status, organisation and management of co-operatives.

The aforementioned UN Guidelines also call on Governments to acknowledge the special contribution, in both quantitative and qualitative terms, made by co-operatives to the national economy and society. It is most important for our members, and the international community of co-operatives, that the Productivity Commission initiates an inquiry report on productivity matters dedicated to co-operatives and mutuals, and with the help of mentioned international legal and policy instruments, and continuing its practice of holding consultations, generate awareness on co-operative enterprises in the interest of the responsible ministries, business fraternity and New Zealanders in general.

According to a report by the ICA Asia and Pacific, [cooperatives in New Zealand](#) represent at least six broad business categories and 29% of the population co-owns the movement. 50,000 persons are employed by co-operatives and the top 40 co-operatives generate NZ\$ 47 billion in revenue. The advanced and significant role of New Zealand can be attributed to the collective commitment of our producers, credit union savers consumers and workers. The value created by this contribution needs to be nurtured and not subsumed into a generic perspective of productivity as noted in the report.

Globally, New Zealand co-operatives have held seven positions in [the top 300 co-operatives in the world that account together for more than 2.3 trillion USD](#), for more than five years (Fonterra, Foodstuffs North Island, Foodstuffs South Island, Zespri, Farmlands, Silverfern Farms and Alliance). This helps New Zealand retain the position of being a trusted seat for co-operative growth in the world, which may be threatened with the release of the Commission's report in its present form.

The United Nations continues to recognise co-operatives as a distinct and major stakeholder in both national and international affairs and most recently included co-operatives in the UN Agenda 2030 on Sustainable Development thereby clarifying the role co-operatives, as part of the diverse private sector, have in realising the 17 sustainable goals. I think there is a lack of diversity of businesses covered, and a narrow outlook to assess co-operatives, in the Commission's 2020 draft report. This would be a good opportunity to revisit national policies affecting co-operatives, including those that cover the Productivity Commission's inquiries under the Commission Act, 2010, with the aim to protect and advance the potential of co-

operatives to help members achieve their individual goals, and by doing so, to contribute to society's broader aspirations.

The report notes maximising the contribution from frontier firms as its central vision, but does that to the detriment of the co-operative sector due to its narrow view of the only industry it visits in reporting about the multidimension co-operatives and mutuals sector.

New Zealand's problems with housing affordability, inequalities, health care, urgent climate action as well as protecting and promoting the traditional knowledge of New Zealanders, are all within the nature of and scope of what co-operatives can do to enhance productivity.

The productivity of Small Advanced Economies from Europe also thrive largely because of their rich co-operatives, and while aspiring that kind of success, we should not lose the understanding of our own collective history of co-operation and the potential our experience holds.

The co-operative sector has the competitive advantage in its inherent ability to collaborate and co-operate with other co-operatives. This needs focus, and efforts at the international level by our co-operatives need encouragement and promotion, by first structuring an engagement with an industry body like ours. This is in line with the recommendations made by the International Labour Organisation that prescribes for an effective and collaboration-based relationship between the Government and co-operative peak bodies to promote and advance co-operatives, internationally.

I submit that the productivity report suffers from a serious lack in understanding of the unique nature of co-operatives and displays disregard for the need for their separate and distinct treatment in law and practice.

It is imperative that Cooperative Business NZ engage in a series of dialogues with the Productivity Commission to identify and elaborate on the notion of productivity in the case of co-operative enterprises. Co-operatives are unique, people centred associations of persons and go beyond the notion of productivity of 'investor owned firms' (IOF) founded mostly on the concept 'return on investment'.

Part II

On the issues concerning the dairy sector specifically, while we realise the need to strike an efficient balance between size, position and competition; we disagree with the conclusion F9.3 and recommendation 9.2 of the Productivity Report that recommends the reversal of the July 2020 amendment to the Dairy Industry Restructuring Act 2001 and disallow Fonterra's current

right to refuse immediate re-entry of those farmers who leave the co-operative to supply another processor.

This reversal could dilute the co-operative character of Fonterra and relatedly, rights and privileges of those farmers who continue to be members of the co-operative. Incidentally, Fonterra has featured yet again in the latest edition of the [World Cooperative Monitor report](#), joining other large co-operative groups forming the global top 300. Some of these groups from the dairy sector are mentioned later in this letter.

New Zealand has one of the most highly advanced primary sectors internationally. Our use of technology in areas such as processing, grading and genomics¹, allows us to get some of the best returning value for our produce. Fresh produce is our key differentiator and the advanced primary sector has been key in securing New Zealand's position in the global dairy industry by enhancing proximity of farms and processors.

Aside from the proven success of small and medium sized co-operative dairy leaders like Tatura, New Zealand has been able to retain a largely farmer-owned dairy industry because of our commitment to Fonterra as a co-operative, and the long sighted recirculation and reinvestment of benefits into the economy of New Zealand, envisioned as part of restructuring the dairy industry in 2001, which itself was a move to create the advantages of economies of scale and of facilitating co-operation among co-operatives. New Zealand's Voluntary National Review Report – the country's progress towards the SDGs 2019¹, brings forward² Fonterra's contribution in accelerating sustainable dairying, restoring freshwater habitats, reducing nutrient pollution, and building ecosystem resilience.

This has not been the case in Australia where there is only one significant co-operative dairy processor (Norco), and with the sector now dominated by foreign owned corporations, including a wholly owned subsidiary of Fonterra.

The experience in New Zealand resonates with paragraph 6.e of the Promotion of Cooperatives Recommendation (No. 193) of 2002, that in the context of building a balanced society with the existence of strong public, private and co-operative sectors, recommends Governments provide a supportive policy and legal framework by *inter alia*, encourage the development of co-operatives as autonomous and self-managed enterprises, particularly in areas where co-operatives have an important role to play or provide services that are not otherwise provided. The Productivity Commission's report does not take into account the historical contribution of cooperatives to the primary produce for milk farmers, as well as its

¹ https://sustainabledevelopment.un.org/content/documents/23333New_Zealand_Voluntary_National_Review_2019_Final.pdf

² Cooperatives present but not visible, 2020, available at <https://www.smu.ca/webfiles/10.36830-IJCAM.202010Singh.pdf>

disregard for Fonterra's direct contribution toward climate action, warrants a fresh look at the draft report's findings and the specific recommendation to reform the DIRA.

The ILO R. 193 obliges Governments to consult the co-operative organisations as well as employers' and workers' organisations concerned in the formulation and revision of legislation, policies and regulations applicable to co-operatives.

Secondly, I submit that co-operative value is missing in the report. The co-operative form enables wealth distribution amongst its large farmer base. The farmers in turn redistribute this wealth in their local communities, and in turn support small businesses. Because co-operative wealth is distributed and circulated locally, the co-operative's surplus distributed to members has a multiplier effect. This has been referred to as 'sticky money' in the context of Australia as reported by Ernst & Young in 2014, which recognised the total value created by Australian co-operatives and mutuals was not captured well in financial disclosures alone. The distinct value and features of co-operatives provide a diversity of organisational form in the market that is good for competition, (Altman 2015), particularly from the supply side of the equation.

Dairy co-operatives in New Zealand work largely with perishable goods and further processing leads to greater costs and creates greater risk, which is more pronounced during emergency situations like we faced, and the world continues to face, during the COVID-19 pandemic. The ability to quickly pivot to meet the market demand and assure dignified returns to suppliers are critical to ensure these businesses are able to adapt. The Productivity Commission reports correctly the distinction between profits and productivity. The former may be achieved without contributing to the latter. While an IOF must focus on its return on capital to investors, co-operatives must focus on providing value to its members as users of its services or facilities.

The co-operative capital is not portable – it belongs to the farmers, past present and future. The intergenerational nature of co-operative capital means it must take a long-term view of its strategy and business decisions. Fonterra Co-operative has owners that live locally and by organisational design, must internalise negative costs like water and air pollution, land degradation, unaccepted work conditions etc. This incentivises the co-operative to innovate and minimise negative costs ([Environmental Policy of Fonterra](#)). For this reason, co-operatives are more likely to take a conservative approach towards risk, and therein lies the value of co-operatives as resilient forms in times of crises.

The report fails to acknowledge that regulation to disincentivise companies for producing negative external costs may not restrict a foreign owned company with portable capital to relocate part or all of its enterprise to avoid control and minimise costs, and reduce the farmers to merely suppliers, much less than their position as members of co-operatives under Fonterra. Unlike an in IOF, the relationship between a farmer supplier member and its co-

operative is based on membership based mutual obligations, loyalty and trust. As an owner and investor, the farmer obtains a stake in the supply chain and potentially the value chain for its product and the co-operative maximises its value to the farmer including by paying the farmgate milk price. The reciprocal nature of the relationship between co-operatives and the farmers has important implications for both the New Zealand economy and New Zealanders way of life.

It should be acknowledged that the top four dairy exporting countries in 2019 were³ New Zealand, Germany, Netherlands and United States and in each of these countries the largest dairy processor is a farmer owned co-operative (Fonterra, DMK, Friesland Campina and Dairy Farmers of America). Each of these co-operatives are also included in the top 20 dairy firms along with four other co-operatives, including India's Gujarat Cooperative Milk Marketing Federation owned AMUL, which is one of the world's fastest growing dairy firms.

The Productivity Commission's report notes Fonterra's 'lacklustre' performance in past years but does not link this 'poor performance' to the legal requirement that dairy farmers have 'open entry' to the co-operative. This legal requirement incorporated in the DIRA has been subject to considerable debate and submissions to Government reviews on the legislation culminating in amendments to DIRA in July 2020 to remove the open entry requirement. The removal of the open entry requirement had strong bipartisan support from all political parties. ([Hansard](#)). The PC report's recommendation that the Government reverse the amendment and reinstate the 'open entry' requirement is anomalous as the dominant (and ultimately successful) argument for removal of open entry is that it has unfairly constrained Fonterra's capacity to improve its productivity.

Finally, an enquiry along similar lines to those undertaken by co-operatives in Australia may be one idea in the steps in estimating more accurately the productivity of co-operatives in the country. The United Nations has for more than two decades, urged Governments concerned with creating, and with maintaining as conditions change, an enabling environment for co-operative development, and as part of such an environment, encouraged an effective partnership between Governments and the co-operative movement.

It is in this context and in line with the ILO obligations on states, employers' organisations and workers' organisations, as well as being mindful of the upcoming UN International Day of Cooperatives (July 2021) themed on people-centered and environmentally just recovery, we

³ <https://www.statista.com/statistics/805280/top-exporters-of-milk-global/>

as Cooperative Business NZ, express our disagreement with the Commission's overall view of co-operatives and mutuals, and convey we are keen to work with the current Government in the best interests of co-operatives and mutuals, including co-operative start-ups promoting democratic entrepreneurship on internet platforms that are currently under-funded and need support especially in the rebuilding post COVID-19.

I look forward to hearing from you regarding an opportunity to meet and discuss your findings.

I'm co-operation / Kia kaha

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