Improving Commercial Relationships in the Food and Grocery Sector

Problem

Government in-action, and lack of legislative power of ACCC has led to Australia having one of the most concentrated supermarket sectors in the world. The lack competition in the longer term will eventually see consumers paying higher prices. In fact, consumers already pay higher prices in suburbs where there is a lack of competition, compared to suburbs where there is intense competition, due to supermarkets differential pricing structures. In addition, the recent increased profitability of supermarkets, has been at the expense of their suppliers. The dominant market power of supermarkets has allowed them to implement programs such as “Active Retail Collaboration” , which required rebates to be paid by suppliers with a script threatening commercial consequence to ensure the suppliers complied. The suppliers for fear of going bankrupt had no choice but to agree, which was at the detriment of the suppliers own profitability.

Solutions

1. A **Mandatory Code of Conduct**, like the United Kingdom. The United Kingdom has implemented the legislation for a mandatory code of conduct because of the market power of supermarkets, this is despite there being many more players and less concentrated supermarket sector in the United Kingdom.

2. **Increased legislative powers to the ACCC**. Introduce strong legislation that addresses the market failure in supermarket sector and also addresses the market dominance of the of supermarket duopoly, that will allow the ACCC to prosecute the supermarkets for breaches, ie the effects test and Birdsville amendment. In addition, the ACCC should be able to subpoena emails, documents and executives of supermarkets under oath. This will put less pressure on suppliers to come forward, for fear of losing contracts, delisting products etc., which has the potential to bankrupt the suppliers. In fact, many suppliers and even large ones have already gone into receivership eg CRF, Rosella as result of the supermarkets.

3. **Enforceable fines** which reflect profitability of the supermarkets, not the pittance they are currently paying for breaches. The supermarkets should be forced to pay 10% of their profits for significant and widespread breaches, and individuals executives who are responsible for these breaches be fined 50% of their total income including bonuses.

4. To **restore competition in Australia**, forced divesture where a player has more than 25% of each market, i.e. in groceries or fresh food or clothing or hardware or alcohol or hotels or poker machines, etc. To maintain competition in banking, we have the **four pillars of banking** policy, and this has led to Australia major banks being the most profitable in the developed world. Consequently, forcing the supermarkets to divest will improve the competitiveness of the smaller players, so we have a fairer and more equitable supermarket sector for consumers in the long term.

Measures of success

When farmers, suppliers and other small shop owners make similar return on assets to the supermarket giants, this would be a **win/win** result and demonstrate a correctly functioning market. The current market is a **win/lose** situation, where the supermarkets make massive profits and suppliers and farmers profits are massively decreased.

Dairy Case study

New Zealand is recognised as one of the cheapest places to produce milk, yet the home brand milk at Countdown stores (Woolworths owned supermarkets in NZ) is **not** selling for **$1 L, but 2.35 L**. By having a sustainable milk price in NZ their dairy industry is rapidly growing while Australia’s has declined. The NZ government is very supportive of their dairy industry, while the Australian government has been missing in action. The $1/L for milk has devastated the dairy industry in NSW, Qld WA in particular, by eroding every single dairy farmers profitability and sustainability and in the process has forced many dairy farmers out of business and many more are barely holding on. This is just so that the supermarkets can get a gimmick, to use as a loss leader to massively increase their own profits in recent years, where is the equity and fairness? In addition, to negate the negative publicity about the effect of $1 /L on decreasing the dairy farmers milk price. Coles engaged in misleading conduct by distributing via social media an animation suggesting that farmers received a higher farm-gate price after the milk wars had started. Eventually the ACCC forced Coles to remove it, but the damage of misinformation was already done, consumers did not know what to think, as the corrective measures were far less well distributed than the misleading animation.

We as farmers are not asking for handouts, but regulations that place farmers of all persuasions supplying the supermarkets and small shop owners on a level playing field, not the distorted market situation which we are now faced with, where the supermarkets determine the price and supply conditions.