Economic Affairs Scrutiny Sub-Panel Report

Review of the dairy industry

Part of a joint project between Scrutiny, the Chief Minister and the Economic Development Department

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1. INTRODUCTION

1.2 Glossary

‘Bulk’ milk products – ‘bulk’ butter (usually an ingredient for other products) skimmed milk powder

EASP - Economic Affairs Scrutiny Panel

EDD – the Economic Development Department

EU - European Union

Genetic material – bull semen. This can also refer to fertilised cow embryos, although not in the context of this report.

‘**High-value’ milk products** – yogurt, retail butter, cream, ice cream

JCRA - Jersey Competition Regulatory Authority

JMMB - Jersey Milk Marketing Board

Jersey Dairy – the distribution and processing arm of the JMMB. Formerly Jersey Milk.

JSPCA - Jersey Society for the Prevention of Cruelty to Animals

Milk supply curve – the difference in milk quantity supplied in summer and in winter. This is due to cows naturally producing additional milk in summer, the availability of fodder, and the fact that cows only produce milk for 10 months of the year.

MMS – Milk Marketing Scheme

PAC - Public Accounts Committee

PPE - Public Policy Exemption

ppl – pence per litre (of milk)

Promar International – the consultancy firm employed by Scrutiny and the Chief Minister to conduct a review into the dairy industry. Promar is the consultancy division of Genus Plc, formerly part of the Milk Marketing Board. It has wide experience advising jurisdictions on dairy matters, including the Isle of Man.

RJA&HS – the Royal Jersey Agricultural and Horticultural Society

1.3 The joint nature of the review

At the outset, concerns were expressed from various quarters that the nature of Scrutiny did not sit well with this kind of joint project, and that it would not be possible for the review to satisfy the Chief Minister, the Economic Development Department and the Sub-Panel.

These concerns have proved unfounded and the relationship developed at political and officer level between the Sub-Panel and the Executive has proved robust enough to survive a rapidly changing situation that threatened to carry the review far away from its terms of reference. Although there was some initial friction over the provision of information, this can be ascribed simply to misunderstandings due to lines of communication still being established and perhaps at the outset a certain level of reluctance on both sides to trust the other party.

The Sub-Panel considers that it has been well supplied with information and evidence during the review, and would like to express its thanks to the Chief Minister in person, whose involvement has smoothed the passage of evidence from the Executive to the Sub-Panel considerably and who has maintained a positive attitude to the involvement of Scrutiny throughout. For its part, the Sub-Panel has attempted to offer an alternative method of access to the political process, carry out effective consultation, and add value to the Promar report by positively questioning methodology and direction throughout. It has attempted to maintain a 'no surprises' relationship with the Executive, and with the exception of the withdrawal of P.65/2006 and P.68/2006 by the Treasury Minister (which appears to have been a surprise to many parties), feels that this has been reciprocated.

The term 'benchmark' has been used with increasing frequency during this review, with good reason. This has been an example of Scrutiny fulfilling the critical friend function, while hopefully adding value to decisions of government.

The Sub-Panel would also like to express its thanks to those involved with the industry that have assisted it during the course of its review and to the attendees at it public hearings.

The nature of the Sub-Panel

The Economic Affairs Sub-Panel (Dairy Review) is a subordinate body to the Economic Affairs Scrutiny Panel, with membership drawn from a cross-section of Scrutiny.

The Sub-Panel report is presented in the name of the Economic Affairs Scrutiny Panel, in accordance with Standing Order 136 (g).

1.4 Terms of reference

To define the optimum production, processing, marketing and retail components of a sustainable dairy industry value chain in Jersey. The scope includes, but is not limited to, the structure, operation and efficiency of the current production, processing, distribution and marketing arrangements undertaken by the dairy industry and the Jersey Milk Marketing Board (JMMB). The final report will identify and compare the advantages and disadvantages of alternative industry structures that could provide lower prices to the consumer, an acceptable return to the retail sector, an adequate profit for the efficient milk producer, safeguard the countryside and cultural environment, meet Government support targets and operate within current Jersey and EU legal requirements.

In addition, the Economic Affairs Dairy Sub-Panel will investigate the situation regarding school and welfare milk provision, as well as the application of the Rural Economy Strategy.

Specific Aspects to consider

1. To assess the Jersey Milk Marketing Scheme operated by the JMMB and its processing, distribution and marketing arm, Jersey Milk.

2. To identify, compare and consider the advantages and disadvantages of differing milk marketing structures for the dairy industry in Jersey in order to comply with current competition legislation.

3. To critically analyse the dairy industry recovery plan in light of the current proposals to relocate a new dairy complex at Howard Davis Farm involving a commercial evaluation of optimum location, with consideration of the recent Public Accounts Committee report.

4. To review farm efficiency and improving the genetic status of the Jersey Island breed.

5. To evaluate the optimum level of milk production in Jersey in light of current liquid milk consumption in the Island, and the effects this level has on the marketing strategy of Jersey Milk. To review the price paid for liquid milk by customers and returns paid to milk producers, and to consider the Guernsey situation and report thereon.

6. To identify mechanisms to allow a change to the optimum level of production which leads to a orderly shift in production as needed, that maintains the production above the liquid milk market and which creates value which can be realized by those producers that would wish to leave the industry

7. To consider the effects of the States controls on the importation of liquid milk on the future of the dairy industry in Jersey.

8. To identify the most appropriate future structure for the dairy industry in Jersey to provide value for money for consumers, provide an adequate return for the efficient milk producer and cost effective States aid payments.

9. To consider further matters raised through the Project Manager by the Economic Affairs Scrutiny Panel Dairy Review Sub-Panel as the report is in progress and development.

10. The Dairy Sub-Panel will keep under review the provision of school and welfare milk as well as the application of the Rural Economy Strategy.

2. RECOMMENDATIONS

PRIMARY RECOMMENDATIONS

The recommendations are cross referenced with the terms of reference.

Ra1) The Sub-Panel is fully supportive of the move to Howard Davis Farm, on the understanding that the land can be secured by a long-term lease arrangement. This will give confidence to local milk producers and is vital for the survival of local milk production. The efficiency savings would allow increased payment to farmers (avoiding additional subsidy) and a fall in the consumer price of milk. It recommends that government support the relocation by giving agreement in principle by approving P.170/2006 – 'Draft Howard Davis Farm (Partial Abrogation of Covenant) (Jersey) Law 200-'. **(ToR No. 3)**

Ra2) Jersey Dairy should fund all relocation and site management costs associated with the move, including the Jersey Society for Prevention of Cruelty to Animals (JSPCA) incinerator which should only be relocated if required by local or European Union health or food possessing regulations (or similar). **(ToR No. 3)**

Ra3) The Sub-Panel recommends that a producer co-operative should be formed to replace the existing structure of the Jersey Dairy and the Jersey Milk Marketing Board. The 'compelling incentive' for producers to remain within the co-operative would be participation within a pro-active, professionally managed, open and transparent producer owned business, with ownership of a purpose built new dairy facility. **(ToR No. 8)**

Ra4) The Sub-Panel recommends that a Public Policy Exemption should be put in place to protect the JMMB initially for 2 years, to allow time for reorganisation to take place (this would not be necessary were the JCRA to approve an individual exemption under Article 9 of the Competition Law). Ideally, the JMMB should retain the processing monopoly but be prepared to sub-contract specialist product manufacture such as soft cheeses. **(ToR No. 8)**

Ra5) The Sub-Panel recommends that Jersey Dairy produce an export strategy to establish the 'Jersey' brand as belonging to the Island. The Sub-Panel also recommends that Jersey Dairy should continue to strengthen its marketing expertise, and the Economic Development Department should support in practicable terms the development of an export market. Jersey Dairy should detail as soon as possible the plan for its export strategy, and this should be subject to rigorous external scrutiny and financial examination in order to determine the size of the milk surplus necessary. **(ToR No. 5)**

Ra6) The Sub-Panel fully approves of the importation of pure, traceable Jersey semen. A poll should be taken only of current dairy farmers to determine the level of industry support, although the producers should bear in mind that this is ultimately the decision of the States. The Sub-Panel does not consider that the importation of genetic material will have an effect on the milk importation ban. It considers that the competitive status of the Jersey herd relies on improvement to the breed locally. The importation should be instituted as soon as possible in order to allow the delayed benefits to take effect before changes to the milk importation ban. The Royal Jersey Agricultural and Horticultural Society, as the only organisation that carries out artificial insemination in Jersey, should undertake formally not to utilise any non-Jersey genetic material, or to supply the equipment for producers to do so. **(ToR No. 4)**

SECONDARY RECOMMENDATIONS

Rb1) The role of States appointed directors needs to be reviewed and clarified in any future structure. While the Sub-Panel acknowledges that they bring valuable experience to the board, they should also be used as a link between the dairy operators and the government. To this end, a reporting structure should be set up to allow these directors to feed back to the States through the Economic Development Department as and when required. **(ToR No. 1)**

Rb2) The Sub-Panel has considered the proposals contained within the Binet/Perchard 'corporate herd' strategy and agrees that it could be of competitive benefit. However, it considers that the strategic benefit of a producer-owned (but professionally managed) dairy outweighs competitive considerations. The Sub-Panel believes that a producer-owned voluntary structure is more appropriate than a private monopoly. The Sub-Panel therefore recommends that government should not support the corporate herd plan. **(ToR No. 2)**

Rb3) If a system is put in place that does not maintain the monopoly, and producers are permitted to leave the JMMB/Jersey Dairy scheme and establish their own processing operations, Jersey Dairy should be permitted to charge for services provided (i.e. laboratory testing and collection) at a fair market rate. Also, Jersey Dairy should not be compelled to purchase surplus milk but should make commercial arrangements. **(ToR No. 2)**

Rb4) The Chief Minister should seek legal advice concerning the position of the Milk Marketing Scheme with regard to the possibility of altering the appropriate legislation to allow it to comply with the Competition (Jersey) Law 2005 while permitting some independent producers to operate. **(ToR No. 2)**

Rb5) The assets of the Jersey Milk Marketing Board and Jersey Dairy should be 'ring-fenced' under independent supervision in order to avoid asset-stripping. **(ToR No. 8)**

Rb6) Some form of exit strategy should be instituted to enable producers who wish to do so to leave the industry, although incentives should be clearly set so that such a strategy assists the achievement of a manageable surplus but does not lead to the exit of producers who could play a vital role in the industry's future. **(ToR No. 6)**

Rb7) Given the continuing uncertainty, the Chief Minister must assist Jersey Dairy to clarify the situation regarding the importation of liquid milk. **(ToR No. 7)**

Rb8) Ongoing States financial support should be reviewed as part of on ongoing review of the Rural Economy Strategy to determine its effectiveness. The Comptroller and Auditor General should be requested to consider the costs, benefits and operation of the Rural Economy Strategy now that it has been in place for over twelve months. **(ToR No. 10)**

Rb9) The Sub-Panel recommends that the educational and tourist element of the new dairy site be maintained in order to maximise the benefit of the dairy to the people of Jersey. **(ToR No. 3)**

3. ANALYSIS OF EVIDENCE

This is a summary that collates key points found elsewhere in the full report.

The Sub-Panel undertook this review in co-operation with the Chief Minister and the Economic Development Department. The Economic Development Minister was conflicted and thus took no part in the review.

The Sub-Panel carried out extensive consultation with the industry and the jointly engaged consultancy firm, Promar International. Promar, the Department, and the Sub-Panel have maintained good communication throughout the review and all matters raised by the Sub-Panel have been duly considered.

It was understood from the commencement of the review that the ultimate aim of government was to develop a competitive industry that would survive into the future while maintaining **'brown cows in green fields'**. The particular terms of reference are dealt with in the main report.

The Jersey Milk Marketing Board (JMMB)

The JMMB is an organisation to which all dairy producers belong. It is represented by a Board of 12 members, nine elected by the producers and three appointed by the Economic Development Minister. The JMMB historically purchased and marketed all milk produced on the Island under the Milk Marketing Scheme (MMS).

The price paid to Jersey dairy farmers is 33 pence per litre (ppl), while in the UK it is only 19p (for black and white cows). This is necessitated by higher land, feed, and staff costs and lower productivity per cow.

This price paid to producers is an average of the profit gained from all sales. The MMS has worked well in a closed market and the high price paid to producers has allowed small farms to stay in the industry, although this has led to a situation where the quality of dairy farms on the Island varies widely as less efficient producers are not removed from the industry.

Evidence suggests that governance and financial reporting of the JMMB's commercial arm, the Jersey Dairy (formerly Jersey Milk) was historically in need of reform. The current board is committed to 'best practice' in governance and management. Past managerial problems were not necessarily due to the design of the MMS.

The Sub-Panel was also concerned that the States-appointed JMMB board members have no formal introduction to the role, neither had they been briefed on the States' position at any time, and that they have no structured contact with the Economic Development Department or the Minister. They understand that their role is simply to provide good governance.

The position of the JMMB is under threat as the current rules of the Milk Marketing Scheme (MMS) appear to conflict in certain respects with the Competition (Jersey) Law 2005. Also, Promar have suggested that the supply chain is unnecessarily lengthened by the position of the JMMB and that this could distort commercial signals between the producer and processor.

Jersey Dairy has permitted a producer to set up his own processing facility.

The JMMB rules have been questioned by the Jersey Competition Regulatory Authority.

The future structure

Promar have considered 5 options for the future structure of milk processing (detailed in Appendix 1), and concluded that the JMMB be discontinued or its function altered to allow Jersey Dairy to deal directly with the producers. This should be done after the completion of a new dairy.

The previous monopoly situation has served the Island well. However the Sub-Panel believes there should be accommodation for niche operations while realising that a collective working arrangement gives strength to the industry. Fragmentation could cause weakness for operation and marketing.

A local producer, Mr. R. Perchard, and the owner of the Jersey Royal Company, Mr. T. Binet, appeared before the Panel at its public hearing to discuss a new plan for the industry under which farmers would be encouraged to sell their herds to a central company (initially controlled by Mr. Perchard and Mr. Binet) in return for shares.

The Sub-Panel has considered the proposals contained within the proposed Binet/Perchard 'corporate herd' strategy, and agrees that it will be of competitive benefit. However, it considers that the strategic benefit of a producer-owned (but professionally managed) dairy outweighs competitive considerations – the Sub-Panel believes that a producer-owned voluntary structure is more appropriate than a private monopoly.

The Sub-Panel understands that once a dairy herd reaches a certain size, (approximately 300), it is considered inefficient to send the cows out to pasture and return them for milking twice per day given the prevailing local conditions of small separated fields. This could result in the cows being kept permanently undercover. These large herds are, however, more efficient than small ones. The stated aim of maintaining ‘brown Jersey cows in green fields’ is therefore incompatible with maximum efficiency.

The corporate herd strategy is the logical extension of increasing herd size to improve efficiency. While it appears commercially more efficient than the current situation it does not meet government objectives as proposed. The economic logic of the proposals could easily lead to a private monopoly and to factory-style farming and pure profit maximisation.

Proposed dairy relocation

Jersey Dairy has been campaigning for some time to be allowed to move to a new site at Howard Davis Farm to allow it to sell its current site at Five Oaks for an estimated £9-£10 million.

The value of this new site cannot be determined conventionally due to its uniqueness and the existence of a ‘protective covenant’ as part of the agreement by T. B. Davis to give the land to the States. This currently precludes any use that does not relate to agricultural training and development.

The Sub-Panel understands that the present dairy site at Five Oaks is inefficient and the equipment outdated. Modernisation is therefore essential. The move to Howard Davis Farm would make this possible by unlocking land value for the replacement costs. The Royal Jersey Agricultural and Horticultural Society (RJA&HS) estimate that the cost to Jersey Dairy of servicing the debts that could be repaid if the dairy were to relocate is now in the order of £1,000 per day. This could result in a fall in the milk price to consumers and an increase in the distributions to producers (although Jersey Dairy will require a low cost base in the future).

It is difficult to ignore the benefits of using the Howard Davis Farm site for a new dairy, especially given the progress made so far in terms of planning permission, site planning etc, and the ‘marriage value’ of having the dairy next to the ‘home of the breed’, the RJA&HS and the World Jersey Cattle Bureau.

It had been suggested that there might be a ‘payout’ to the industry should this sale occur, but Promar considered that given the site value of approximately £9-£10 million, and the construction and infrastructure costs of a new dairy of approximately £6-£7 million, any funds remaining would be earmarked by the creditors for debt repayment. A payout, either to allow reinvestment or to let farmers leave the industry, is therefore extremely unlikely.

Jersey Dairy finds the delays that it has experienced in relocating particularly disagreeable and contends that it has not sought subsidy for the Howard Davis Farm site, and the price had been determined by the States. During the course of the review, a further complication appeared in the form of an objection from the Davis family to the lifting of the covenant. This further delayed the debate of the relocation, with the family making comments on how the site should be utilised.

Some evidence suggests that the Jersey Dairy would be considered a ‘bad neighbour’ and therefore could not construct housing on its current site at Five Oaks if it were to build a new facility there. Jersey Dairy needs to maximise financial gain from the Five Oaks site in order to allow it to invest in the future of the industry, and high-value development (such as housing) appears essential in order to allow the full value of the site to be realised. It would also be necessary to make significant investment in the existing structures were Jersey Dairy to stay on its current site.

Should the relocation be agreed there will be increased confidence within the industry, which could increase investment ‘on-farm’. Also, Jersey Dairy would then be better placed to negotiate with potential export customers from an improved position even before construction begins. Government would also be able to demonstrate its support for the industry in a practical way by approving the relocation. However, concerns have been raised that the proposed processing facility may be too large if an export market cannot be established. The industry is likely to re-align itself after relocation.

The concept of linking the dairy facility with an educational centre had been put forward. Promar have suggested that this would be a disadvantage to Jersey Dairy in terms of commercial efficiency. The Sub-Panel does not agree. The Sub-Panel challenges Promar’s contention that this would reduce efficiency, and considers that a purpose-built visitor centre, separated from the processing element, would not affect operations. The Sub-Panel envisages enclosed viewing overlooking productions areas, for instance. This could link with the adjacent RJA&HS headquarters and provide an educational experience. The Sub-Panel believes that this could be both of local educational benefit and a visitor attraction.

With a site valued at £9-£10 million asset stripping is considered a genuine risk. ‘Ring-fencing’ would avoid the situation where an individual or group could obtain sufficient support to terminate the scheme and divide the assets between the producers with no intention of continuing milk production. There is a need for effective ‘ring-fencing’ of the Jersey Dairy’s assets to be put in place so this does not occur while the transition is underway.

Genetics

One of the most divisive issues for the dairy producers is the question of the importation of genetic material. It is not disputed, however, that the cumulative financial benefits of using imported genetics begin to outweigh the costs after approximately seven years.

The milk market

Jersey has a closed milk market and it is illegal to transport milk into the Island for sale. This does not apply to products made from milk such as yogurt, cheese, etc. The legal status of this control has never been fully tested, although it is not likely to be defensible in the longer term. Therefore, milk importation appears inevitable, although who might challenge that ban and when is not apparent.

The Island's consumption of liquid milk averages approximately 9 million litres of milk per year. However, lifestyles in Jersey mean that the population are consuming less milk on average per person year-on-year

In recent years, Jersey Dairy has increased the payment to farmers, while reducing staff and increasing efficiencies. This has allowed it to freeze the milk price to consumers. Had the price continued to rise in line with inflation, it would now stand at £1.05 - £1.10.

Promar estimate that Holstein milk could be brought into the Island from the UK at 65 pence per litre (ppl), and that all major retailers would sell it if permitted. In the current situation, Promar estimate that importation would cost Jersey Dairy about 50% of its market immediately, with residual local loyalty being the maintaining factor. It is essential to lower the price of milk to consumers before importation occurs and that loyalty is tested against a significant price differential.

Possible export market

The development of an export industry is seen by Promar as the best response to the importation of milk, as this would allow the industry to seek to grow a niche market selling high-value products. There is no growth and little profit to be had competing with UK producers to sell liquid milk within the Island. It is therefore not advocating a cut in milk production as this would make development of an export market much more difficult.

Promar believe that the industry must start developing an export market immediately. It must be established before milk importation begins. It is not considered that exporting processed products would fatally damage importation control.

Promar contend that exports would give much-needed confidence to the industry, and could allow an increase in the production of milk in the long-term. However, the development of an export market would be made more difficult by the usurpation of ‘Channel Island’ and ‘Jersey’ branding by non-local producers and retailers. Also, Jersey has no successful long-term track record on dairy exports.

The level of investment in marketing has risen and Jersey Dairy suggests that a number of export possibilities are being examined. The Sub-Panel has seen no evidence to date of a viable export market having been identified or developed, although Jersey Dairy have conducted a review into the subject resulting in the rebranding of certain products and is pursuing ‘Protected Designation of Origin’ status for some products, to differentiate them from products of overseas Jersey cows. This is one of the most critical aspects of the Promar strategy, and one with which the Sub-Panel has considerable concern. If the export strategy is not viable, the whole case for an ‘export-capable’ dairy suffers.

School and welfare milk

Milk has traditionally been provided free or at discount rates to sections of the population that are deemed to need it. This has provided Jersey Dairy with an additional source of revenue.

School milk, previously to be stopped under budget cuts, has now been funded into 2007. Evidence suggests that in general terms it is well received and utilised. The distribution system also appears to be considerably more efficiently organised than the comparable UK system which was recently abandoned.

‘Welfare milk’, (subsidised milk previously received by pregnant women, children under 5, and people over 70, or 65 in some cases) has been replaced by a substitute welfare payment made directly by the Social Security Department to claimants, and this will itself be subsumed into the Low Income Support Scheme in 2007.

The Guernsey situation

The RJA&HS have suggested that an investigation into the way Guernsey supported its dairy industry should be undertaken as a comparison. There has been programme of investment in the industry in Guernsey which has set their industry up for the future. The subsidy system in place results in a lower price to consumers, at 56 pence per litre wholesale and 71ppl retail. The Sub-Panel has, however, been unable to visit the Guernsey dairy due to objections from the Minister of Commerce and Employment. This response may have wider ramifications in terms of inter-Island co-operation.

Conclusion

Overall, the Sub-Panel has concluded that operating dairy farms in a high cost environment like Jersey is very challenging. While it acknowledges that the Competition (Jersey) Law 2005 appears to require a free market, the difficulties of moving the industry to that model should not be underestimated.

Clearly, a modern dairy able to develop sustainable export markets is key to the industry's recovery. However, it is absolutely vital that the assumptions upon which the dairy is built, particularly that of a strong export market, are fully tested.

The Sub-Panel has been impressed by the enthusiasm for change shown by the industry, in the context of understandable concerns. However, it must emphasise the need for a time-limited and tightly focussed programme of change.

4. THE CURRENT DAIRY SITUATION

Jersey's milk producing industry is inextricably linked with the Island's history and heritage. It has been a staple of the Island's economy for hundreds of years and has shaped the countryside and rural environment that makes up the majority of the Island.

An overview of that history is central to understanding the current structures within the industry and its operation.

4.1 The history of milk production in Jersey

Isolation

The importation of cattle from France was banned in 1763, and again in 1789, to curb the fraudulent importation of Normandy cattle into England. Since the States banned the importation of any bovine animals into the Island in 1786, local Jersey cows have evolved in isolation from all other breeds.

This isolation allowed the Jersey cow to develop its particular characteristics of short maturation, longevity, small stature, and high-butterfat milk. These qualities were of benefit to local farmers who had limited land, little desire for beef (pork being the common meat), and who wished to make butter and not hard cheeses.

The Royal Jersey Agricultural and Horticultural Society was formed in 1833 to promote the Jersey breed, and began recording pedigree in its 'Herd Book' from 1866.

Exportation

Jersey began to export animals in the late 18th century, when other European breeders discovered that the isolated Jersey herd had developed one of, if not the, best butter producing cows in the world.

Jersey began to export cows at a significant rate - 3,050 animals from 1810 to 1813 and 5,756 from 1829 to 1832. The trade peaked as late as 1948, when 2,041 cows were exported in a single year.

This trade declined from the 1950s onwards, with the advent of artificial insemination, and the breeding of superior cattle from the now-enormous overseas herd, with which Jersey's best cows, from its small genetic base, could not compete.

Farming methods

The traditional pattern of farming was by smallholdings – there is anecdotal evidence to suggest that there were roughly two cows per holding in 1781, and the RJA&HS herd book suggests that there were around 2000 smallholdings with approximately six each in 1866[1].

By the early part of the 20th century there were around 30 small private dairies established and dotted around the Island collecting milk from farms and selling directly to the public[2].

4.2 The Jersey Milk Marketing Board

Rationale and powers

The Jersey Milk Marketing Board (JMMB) was created by an Act of the States, the 'Milk Marketing Scheme (Approval) (Jersey) Act 1954', under the Agricultural Marketing (Jersey) Law 1953, and the structure has remained unchanged.

The development of milk marketing boards in many countries had occurred in the 1950's when international competition was less developed, with the intention of correcting the historic situation under which competing dairies operated without central control. Since the 1990's the vast majority have either been discontinued or had their responsibilities reallocated to leave them as research and promotional bodies only.

The JMMB exists to administer the Milk Marketing Scheme, and has powers to-

> *"'Regulate sales of any regulated produce by any registered producer', and may determine 'the quality of such produce which may be sold, and the prices at, below or above which, and the terms on which, such produce may be sold by registered producers."*

> *"The Board may by prescriptive resolution require registered producers to*

sell any regulated produce, … only to or through the agency of the Board … in such a case, the Board may determine the times at which, the days on which and the places at which delivery of such produce shall be made by registered producers or any of them.""[3]

The Board also has potent sanctions against transgressors-

"If any registered producer contravenes any requirement made by the Board under paragraph 30, 31 or 32, the Board shall, subject to the provisions of paragraph 41, by resolution impose upon and recover from the registered producer such monetary penalty as the Board thinks just."[4]

The JMMB theoretically has total control over sales of milk and milk products in Jersey, and can impose any monetary penalty it sees fit on producers who do not co-operate.

The Board

The JMMB consists of 12 members, nine elected by the registered producers to serve three year terms and three appointed by the Minister.

Most of the powers of the JMMB are delegated to an Executive Committee consisting of five members, three States-appointed and two elected by producers.

The States-appointed board members have no formal introduction to the role, neither have they been briefed on the States' position at any time. It is also the case that they have no regular structured contact with the Department or States members. They understand that their role was to provide good governance, and the Board was of the opinion that they did this, and that the skills that they brought, on occasion from outside the Island, were of value to the industry.

The members of the Executive Committee also act as non-Executive Directors of Jersey Dairy.

4.3 Jersey Dairy

Jersey Dairy (formerly known as Jersey Milk) is the commercial arm of the JMMB, and the sole processor of milk in Jersey. It is geared towards processing JMMB members' milk and selling it for the highest possible return to those members. It has certain responsibilities above and beyond those that a commercial organisation would have, including processing all milk produced in

Jersey and paying a sufficient sum to farmers for their milk to maintain the viability of the industry.

Milk Surplus

The Island's liquid milk market is approximately 9m litres per year, while Jersey Dairy's intake is approximately 14.3m litres. The difference in volume is due to the nature of the industry, and the fact that the delivery mechanism for milk (cows) cannot be turned on and off like a tap. Dairy cows produce milk for only 10 months of the year, and tend to produce more milk in summer than in winter. Additionally, the quality of grazing changes with the weather, and long hot summers can result in a downturn in production. These variables mean that a milk surplus, or 'buffer', must be maintained in order to ensure that a shortage never occurs.

The surplus is currently used to produce a range of products for the local market including butter, cheese and ice cream. However, Jersey Dairy faces competition from imported milk products in all areas other than liquid milk.

Once all other product options have been exhausted the dairy must produce a balancing product. In the Jersey situation this is skimmed milk powder and bulk butter (other dairies might produce cheese). This process entails skimming cream from the milk which is used to produce butter with the skimmed milk remaining being dried to produce 'skimmed milk powder'.

These products produce the lowest return from the producers' milk and well below the average return of 33 pence. These products are normally exported to the UK where a ready commodity market exists.

Profitability

The priority of Jersey Dairy is to ensure a sufficient level of return to producers. Because of this, the price that it pays for its primary raw material varies according to how much money it has available to distribute between farmers.

This causes difficulties with the calculation of what is a profitable product, and what is not. For instance, the current level of payment to dairy farmers is 33 pence per litre (ppl) – which means that any product that cannot be sold for (33ppl + processing and staff costs + transportation costs) is, on paper, making a loss.

However, Jersey Dairy is required to purchase all of the milk produced in the Island. It is also required to do something with that milk. The local and export markets together cannot soak up all of the milk and excess butterfat that is generated from the milk buffer and skimming process as high-value products (i.e. packed Jersey butter and yogurt).

Jersey Dairy must therefore produce lower value ‘commodity’ products (i.e. bulk butter and skimmed milk powder) in order to regain some return on the milk that it was required to buy. This necessitates Jersey Dairy carrying ‘unprofitable’ or marginal products.

An additional complication is that the price paid to producers for their milk represents the average value at which it can be sold (minus costs). Therefore, Jersey Dairy will always have products that appear to sell for less than they cost to produce, due to the profitable lines raising the price to producers.

Jersey Dairy’s problems are compounded by the fact that their equipment is so outdated that the skimmed milk powder that it produces is not suitable for most purposes and is used mostly for animal feed and bulk ingredients.

This poor quality powder is symptomatic of a dairy plant that has become seriously outdated. The current facility was constructed in a piecemeal manner over several decades, occupies seven different building on an unsuitable site, and is generally considered to be the largest hindrance to a further reduction in milk prices.

Governance

Jersey Dairy has suffered from governance problems in the past. Due to the nature of the JMMB as representatives of the entire industry, it has been suggested in the past that it might put the needs of farmers before commercial considerations. This accusation has sprung in part from the large debts incurred by Jersey Dairy (then called Jersey Milk) at a time when the roles of Chairman and Chief Executive were combined. It appears that Jersey Milk incurred significant debts by maintaining artificially high levels of payment to farmers for their milk while undergoing a serious commercial crisis due to the collapse of the ‘mini-pot’[5] export market.

Given the problems that it faces, it is no surprise that Jersey Dairy is also in a serious financial deficit. Recently, new management has revitalised Jersey Dairy to an extent. There has been a reduction of staff by one third, and the resulting savings have gone not into an increase in the payments to producers but a reduction in the cost to consumers. Although the price of liquid milk in Jersey remains very high, it has been estimated that if the rate of increase under the previous management had been maintained milk would now cost consumers between £1.00 and £1.10 per litre, instead of the 87p to 96p currently charged[6].

However, milk prices are unlikely to fall further as the current plant precludes more efficiencies and the dairy is carrying debts estimated to cost £1,000 per week to maintain[7].

The proposed Howard Davis Farm relocation

Jersey Dairy believes that it has found a solution to its financial situation. It has submitted a planning application to relocate its operation to a section of Howard Davis Farm, which has been approved. This site is classified as 'Built-Up Area', permitting industrial use. Howard Davis Farm is currently occupied by the States experimental farm, and adjacent to the RJA&HS, which is responsible for the preservation and promotion of the Jersey breed of cow. This would allow Jersey Dairy to construct a more efficient plant, which would lower the production cost per unit. This would allow Jersey Dairy to both increase the payment to producers and reduce the price to consumers. It has been estimated that a new dairy could begin processing milk approximately 12 to 18 months after construction began.

An additional advantage would be to allow Jersey Dairy to release the value locked up in its Five Oaks site. The original dairy plan to consolidate on site had been discarded after it became clear that using the remainder of the site for housing would be impossible due to the status of the dairy as a 'bad neighbour'. Were the dairy to stay on its current site, it would be necessary to make investment in the existing structures equating to approximately the same overall cost as the new facility. As the Five Oaks site is within the Built-Up Area, it would be feasible to use the site in its entirety for housing use, maximising the return to Jersey Dairy.

Relocation delays

The proposed relocation has been dogged by difficulties and controversy. Initially, objections were raised by senior politicians, including the now-Housing Minister Senator Terry Le Main, that Jersey Dairy was receiving preferential treatment, and that the planning application had not been properly completed. The objections are partly due to the history of the site and its particular circumstances. The Economic Development Committee (then responsible for the site) however, endorsed the planning application from Jersey Dairy.

The site was gifted to the States by Mr. T. B. Davis in 1927, in memory of his son, Howard Davis, who had been killed in the First World War (although the site was initially referred to as 'Glenham Davis Farm'). It was intended by Mr. Davis that it be used for-

> *"the purpose of establishing there, under the administration of the Committee of Agriculture of the States, an experimental farm for developing*

the study of agriculture and for instructing in that science young Jersey people and other interested parties"[8].

The site has been under-utilised recently as agriculture in the Island has declined, and since November 1983 the site has been used in part by the Agriculture Department (now the Rural Economy Section of the Economic Development Department) as office facilities.

Various other uses have been found for sections of the Howard Davis Farm, including-

- Acorn Enterprises (although this is partly based on non-covenanted land) which provides employment opportunities for people who are currently unable to enter full employment.
- Glasshouse and polytunnels structures.
- The Philip Mourant Centre (the Adult Education Centre of Highlands College).
- Transport and Technical Services storage sheds.
- Residential units.
- An animal crematorium operated by the Jersey Society for Prevention of Cruelty to Animals (JSPCA)

The JSPCA consider the pet crematorium to be essential to their operation. It deals not only with domestic pets but also with wildlife brought into any veterinary surgery on the Island that cannot be saved.

It also contributes the revenue of the animal shelter. The JSPCA has a commercial arrangement with the veterinary surgeries as well as charging for cremation of domestic pets. Major Stephen Coleman, the Chief Executive of the Jersey Society for Prevention of Cruelty to Animals, noted at a public hearing that-

> *"99 per cent of our funds are from public subscription and therefore this is one area where we look to try and offset our costs …the income for last year from audited accounts was £65,000"*

Although the covenant has not been used to preclude the construction of these buildings, despite the fact that their uses do not strictly adhere to it, it clearly would not permit the construction of a food production factory on the site without amendment or removal. Paul Tucker, the Director of Property Services at the time, noted that-

> *"the advice of Her Majesty's Solicitor General prevented the actual construction of the dairy on that site"*

Proposals for the removal of the covenant and sale of the land to Jersey Dairy were lodged for debate by the States as P.65/2006 and P.68/2006 in May and June 2006 respectively. The debates were repeatedly delayed until it was decided that they would go to the States on 7th and then 21st November 2006, before being withdrawn in October.

A Public Accounts Committee report into the valuation of the site presented as comment on P.68/2006 raised concerns over the method of valuation, and the family of T.B. Davis in South Africa raised objections to the removal of the covenant, having been contacted by the Jersey branch of the Davis family after the government failed to locate them

Jersey Dairy finds the current delays particularly disagreeable as it maintains that it has not sought subsidy for the Howard Davis Farm site, and the price had been determined by the States. It has also pointed out that there are overwhelming advantages to the site, and that it understands that the site has been selected by the States.

There is some disagreement between Jersey Dairy and the government as to the source of the suggestion that Jersey Dairy should relocate to Howard Davis Farm. It has been variously attributed to 'the government', Jersey Dairy itself, and civil service officers. The Sub-Panel has not been able to draw a conclusion.

4.4 Dairy producers

Structure

There are currently 33 dairy producers in Jersey, and numbers have been consistently declining since records began. The two reasons for this decline are the rationalisation of smallholdings into larger herds and the decreasing profitability of dairy production in the post-war economic environment.

The average herd size in Jersey is also relatively small, which brings associated problems with economies of scale. The historical fabric of the Jersey countryside is also an issue, with cows grazed on numerous small fields, often separated by roads or other obstructions, with land ownership very fragmented due to inheritance laws. The piecemeal growth of farms means that grazing land is likely to be scattered across several locations which increases costs.

The local conditions also have an effect on land rents. The Sub-Panel has heard anecdotal evidence[10] that land values have peaked and are falling in some circumstances, although it has been noted that they remain high, on a par with the most expensive land rents to be found in the UK and Ireland.

A comparatively large proportion of farmland is rented, providing little or no security of tenure, and unlike the UK there are very few ‘whole farms’, comprising both land and buildings, available to rent. Many farm buildings are owned by one party, with the surrounding fields rented from others. Additionally, obtaining a large area of land necessitates dealing with a number of different landlords, which is a challenge for any agricultural enterprise, but especially so for dairy farming.

The dairy farms on the Island are highly variable in quality as well as size. The Sub-Panel has visited contrasting operations from a high tech dairy unit with computerised milking parlours and individual cow recognition systems controlling food and supplementation, to extremely basic and outdated sites and equipment with no future possibility of reinvestment due to low margins.

This variability means that the industry displays a wide range of opinions on many issues. Consensus is hard to achieve on most subjects, and this complicates the task of developing a strategy to benefit all producers, both large and small.

The importation of Genetics

This is a controversial subject, and has been rejected by the overall membership of the RJA&HS on several occasions. Many producers now feel that times have changed and importation of genetics in the form of pure, traceable Jersey bull semen is acceptable.

The effect of improved genetics is illustrated by the milk production values which show considerable variation between open herds and the Island’s closed herd. A Jersey cow in the USA can to produce up to a maximum of 8000 litres of milk per year, while a local cow produces on average approximately 4300. This combined with the having a higher cost base than some other producing countries, means that Jersey can not currently compete internationally, or produce inexpensive milk locally.

The cumulative financial benefits of using pure, traceable imported Jersey semen begins to outweigh the costs after seven years, and that this long lead time means that the decision to import genetics has to be taken before any importation threat crystallises, as it will then be too late to assist the industry.

The RJA&HS has informed the Sub-Panel that the States would not, under EU law, be able to limit the importation of genetic material to pure, traceable Jersey semen as it would have no legitimate reason to refuse importation except on health grounds. Therefore semen from non Jersey dairy and beef breeds could freely enter the Island. However, RJA&HS has noted that the Artificial Insemination Station has its own rules and guidelines, and could simply refuse to allow non-purebred Jersey material to be used. This view would need to be examined to ensure that it is legally sound.

Apart from commercial pressure, those farmers who chose not to use imported genetics could find themselves without sufficient ‘purebred’ local bulls to maintain a viable herd (although all cows in the Island would be of pure Jersey breeding). There is, however, a considerable reserve of pure Jersey genetics available in the Island, and this could be used to maintain a viable population. It is considered unlikely that farmers who do not use imported genetics would be significant players in the industry, as the competitive advantage will quickly become apparent.

As a comparative point, it was noted that native Guernsey cows were more productive than, and generally superior to, UK-based Guernsey cows, as a result of the importation of genetics. Guernsey was generally considered to be the international centre of the Guernsey breed, whereas there had been some adverse publicity over the experimental exportation of Island Jersey bull semen, which was seen to have had a detrimental effect on the overseas Jersey herds to which it was introduced.

Effect of imported genetics on milk importation controls

Previously the industry had expressed concerns that the importation of genetics could damage the case to retain milk importation controls. However, the ‘closed herd argument’ is not the strongest reason against importation, and as milk importation is believed to be inevitable this is not considered to be a valid reason to refuse to import genetics.

Milk Licence (Quotas)

The milk quota system has been in place for 5 years, and is intended to avoid the oversupply of milk. Up to a producer’s quota limit milk is purchased by Jersey Dairy at 33 ppl, while any production over the quota is purchased for 1 ppl. There is therefore a powerful incentive to aim for quota production.

Quota can be traded, and while no formal price has been established, are typically sold for approximately 15p per quota litre. Concerns have been raised that this sale of quotas could lead to a buy-out, and it has been noted that the value of the quota in its entirety is only in the region of £2 million, while Jersey Dairy Five Oaks site would be worth an estimated £9-£10[11] million to a purchaser.

Jersey Dairy have noted that it would not be possible to implement a quota system without the powers of the JMMB in place.

Current issues

Due to the problems currently facing the industry, some producers are looking for an exit strategy that will allow them to sell their quota and herd and possibly their holdings at a reasonable value in order to fund either their retirement or an alterative business.

Additionally, some producers are not happy either with the MMS or the JMMB, and are actively seeking change in the industry. The governance of Jersey Dairy prior to the recent management change has not helped this situation.

A further burden (as it has been described) for the industry is the Water Pollution (Jersey) Law 2000, and the associated Water Pollution (Code of Good Agricultural Practice) (Jersey) Order 2004, which imposes on farmers the need to dispose of slurry in a non-polluting way. The usual method is to construct slurry stores to hold slurry that cannot be spread immediately (two-thirds funded by the States), but many farmers feel that the future of the industry is so tenuous that even one third of the necessary investment, which could be up to £50,000, is too much at this uncertain time.

4.5 Government intervention and involvement

The challenge to the Milk Marketing Scheme

One of the key reasons that the structure of the JMMB has come under scrutiny was the investigation being conducted by the Jersey Competition Regulatory Authority (JCRA) into the legality of the statutory monopoly system. = following a complaint by a registered producer.

The manner in which the JMMB operates under the provisions of the Milk Marketing Scheme (MMS) appears to conflict in certain respects with the Competition (Jersey) Law 2005. This is because, while the JMMB is *empowered* under the Scheme to regulate the sale of milk and milk products by dairy farmers, a literal reading of the Scheme suggests that it is not *strictly required* to do so. The view of the JCRA is that because the JMMB has discretion in this area such regulation should not be undertaken as it may be a breach of the Competition Law.

The position is complicated by the fact that the wording of the Jersey scheme is different from that of the UK milk marketing schemes (revoked in 1994), which *required* the MMBs to regulate the market in accordance with the provisions of the schemes. There was no discretion.

The actual wording of the Jersey MMS, in the relevant section, is as follows –

"…….. the Board *may* regulate sales of any regulated produce by any registered producer by determining by prescriptive resolution all or any of the following matters, that is to say, the quality of such produce which may be sold, and the prices at, below or above which, and the terms on which, such produce may be sold by registered producers." [12]

The corresponding sections in all the UK schemes were worded in more mandatory fashion without providing for the discretion implicit in the phrase "may regulate".

The JCRA's formal investigation could lead to action being taken against the JMMB at some point in the future, although this investigation has been suspended pending the outcome of the joint review. The JCRA has noted that it has not yet come to any conclusion regarding the outcome of the review.

It is not universally agreed that the MMS conflicts with the Competition (Jersey) Law 2005. There is an argument that the primary legislation asserts that the purpose of the Scheme is to regulate the market, and this cannot be achieved if the JMMB does not exercise the relevant powers. If this reasoning were to be sustained it may call into question the competition law issue in relation to the JMMB.

The JCRA investigation has been held in abeyance in order to allow the Chief Minister and Dairy Sub-Panel to complete the joint investigation, and it now appears that by allowing producers to sell milk 'at the farm gate' the JMMB can meet some of the concerns of the JCRA by effectively making the monopoly voluntary not mandatory.

'Welfare' milk

Until 2005, residents of Jersey were entitled to subsidised milk if it was deemed to be of particular benefit to them. Subsidies were previously received by pregnant women, children under 5, and people over 70, (or 65 in some cases). This was administered by making cheaper milk available from roundsmen who delivered door to door.

Welfare milk was sold directly to the claimants by Jersey Dairy, which was reimbursed the difference by the Social Security Department. Once the milk delivery scheme was terminated, the funds were distributed do the recipients by cheque. It is intended that the welfare milk payments will be subsumed into the low income support payments once that system is in place.

The 2004 subsidy for the various classes of beneficiary were-

Children under 5 were eligible to 3500 millilitres of milk per week at a reduction of 22p per 500 millilitres

The over 70s (and over 65s with medical need) were eligible to 2000 millilitres of milk per week at a reduction of 24p per 500 millilitres

Expectant mothers were eligible to 3500 millilitres of milk per week at a reduction of 22p per 500 millilitres[14]

School milk

School milk is currently available provided free of charge, with the cost of the milk paid to Jersey Dairy by the Economic Development Department. The Economic Development Minister has stated that the funding for school milk will be in place for 2007, but will not continue into the future.

The Sub-Panel has polled schools and found that the majority appreciate milk provision, that most children drink the milk, and that there is little wastage in the system. Most schools would like to see the service continue indefinitely and feel that it represents a positive use of public money.

Although the dietary benefits of additional milk for the under 10s has been challenged by a UK report[15], the social aspects and the increased propensity of children who receive this milk to drink it in the future are considered benefits.

4.6

Opinion of producers on government involvement

The general opinion of producers appears to be that government has shown a lack of direction and that its actions in respect of their industry have been generally negative. They have commented on a number of occasions and at public meetings that the onus is on the government to resolve the relocation issues and clarify future intentions.

Despite the current high milk price, it has been suggested by some producers that the industry is in need of further government funding in order to outweigh the additional costs of milk production in Jersey. Although in reality the subsidy scheme is comparatively generous (having risen by 25% in 2002 after the industry restructuring), dairy farmers feel poorly supported by the government, due in no small part to the delays over the relocation of the dairy to Howard Davis Farm, although this issue is fairly recent.

The majority of producers agree that they would wish the Howard Davis Farm site to be made available to Jersey Dairy in order to improve milk processing efficiency and therefore increase their payment per litre. They consider that this would make the industry more effective and guarantee its future. It is also recognised that prices to consumers should fall in real terms.

The industry in need of a positive ‘message’, which could do more to ensure the long-term future of milk production in Jersey than additional subsidy. Allowing Jersey Dairy to relocate to Howard Davis Farm on a lease agreement basis, subject to an amended covenant as detailed in P.170/2006 - ‘Draft Howard Davis Farm (Partial Abrogation of Covenant) (Jersey) Law 200-‘ would be considered a very positive step that would send out the ‘right signals’.

The Rural Economy Strategy

The Rural Economy Strategy is considered worthy of further detailed consideration. While it has only been operating for one year it introduces significant new concepts to the industry, as well as setting up a framework to reduce direct payment to farmers by approximately 25% between 2007 and 2010. This rational for this reduction is that-

> *5.5.1 The dairy industry has identified efficiency gains that will flow from, for instance, the relocation of the dairy. It is proposed that current levels of direct aid are maintained until 2007 during this initial transition phase. Thereafter the overall level of financial aid (including support service payments) will be reduced.*

The government strategy is therefore based on the relocation of the dairy, and the Sub-Panel hopes that consideration will be given to the industry if the relocation is delayed.

5. THE FINDINGS OF THE PROMAR REPORT

5.1 The structure of Jersey Milk Marketing Board and Jersey Dairy

The JMMB and the 'farmer controlled business' model

Promar suggest that the JMMB is hindering the operation of Jersey Dairy, inasmuch as it represents an unnecessary layer of separation between consumers and producers[16], although the Sub-Panel has seen no evidence that this has caused difficulties. Promar also noted difficulties with local competition legislation.

Promar concluded that the best option for the industry was to wind up the JMMB and to develop a farmer's co-operative or farmer controlled business to allow Jersey Dairy to deal directly with the producers. This would be a voluntary arrangement, and therefore conform to the Competition (Jersey) Law 2005. Although the co-operative would belong to the producers it would be run by professional management.

Promar envisaged that independent producers or groups of producers would be able to process their own milk. This would allow them to develop niche markets such as the production of soft cheese, while the co-operative concentrated on liquid milk demand within the Island and the development of a viable export market, and purchase excess milk from the independents at a commercial rate.

It would be necessary to have some 'compelling reason' for farmers to enter into this new co-operative, in order to avoid the fragmentation of the industry. Access to a state-of-the-art dairy-processing facility at Howard Davis Farm was suggested as an advantage that would encourage farmers to join the system. Promar recommends that change should therefore be delayed until after the completion of a new factory.

5.2 The structure of production

Under the proposed new voluntary co-operative scheme, Promar consider it inevitable that the total number of farmers will fall. It cites the nature of local holdings, and that fragmented and small farms will fail if not efficient. This, it suggests, is an unavoidable situation and will not be a result of the change in structure but of the same commercial pressures that have seen the number of dairy farmers on the Island fall consistently throughout recent history.

It had been suggested that there might be sufficient funds available from the sale of Five Oaks to make a disbursement to farmers who choose to leave the industry. Promar have indicated that, in their opinion, this is very unlikely, as the site value is approximately £9-10 million, and the reconstruction and infrastructure costs of approximately £6 to £7 million, with any monies remaining likely to be earmarked by Jersey Dairy's creditors for debt repayment. Promar considers that a payout, either to allow reinvestment or to let farmers leave the industry, is therefore not a realistic option. This could result in a less than satisfactory exit strategy for some farmers, as the value of equipment on some of the less efficient farms is negligible, and if a producer rents land and facilities they are likely to leave the industry with only the value of their milk quota (which Promar suggested should be 20 pence per litre) and cattle.

5.3 The new dairy facility

Promar fully endorsed the move to Howard Davis Farm, on the grounds that a more efficient plant was clearly necessary and would aid price competition, that there was no opportunity to develop an export market with the facilities available, and that the opportunity to release the value of the Five Oaks site would fund the new dairy.

The concept of linking the dairy facility with an educational centre had been put forward. Promar reported that this would be a disadvantage to Jersey Dairy in terms of commercial operation.

Promar has noted in the report that while rapid action was essential, changes should be staggered as the industry would not be in a position to survive rapid change, and any new structure would be of little value without a new dairy facility.

5.4 Export market

Promar consider an export market was seen as essential due to concerns that the controls on liquid milk importation was not defensible in the long term, and that it would not be possible for the dairy industry to compete on price with cheap imports of UK milk. Developing an export market would be assisted considerably by a pro-active marketing initiative combined with a modern dairy processing facility. Promar noted that it was not advocating a cut in milk production as this would make development of an export market much more difficult.

Promar believe that the industry must start developing an export market immediately. It must be established before milk importation begins. It is not considered that exporting processed products would fatally damage importation control.

5.5 The milk importation controls

Promar estimate that Holstein milk could be brought into the Island from the UK at 65 pence per litre (ppl), and that all major retailers would sell it if permitted. This would have a massive impact on the sales of Jersey Dairy products.

It sees development of an export industry as the best response the importation of milk, as this would allow the industry to engage in a growth market selling high-value products. There would be no growth in future and little profit to be had competing with UK producers to sell liquid milk within the Island.

5.6 The importation of genetic material

Promar reported that a great benefit to individual farmers in terms of lowering costs would be the importation of genetic material. This would allow the production of the same amount of milk with less cows, or with a similar number of cows and less feed, or an increase in milk production, depending on the preference of the individual producer. Improved genetics would essentially mean a more efficient transformation of fodder into milk. This needs to be combined with efficient husbandry and good animal welfare.

In response to concerns that the overall numbers of cows in Jersey might fall as the efficiency per cow increased, Promar have suggested that numbers could rise as each cow could be bred for low food consumption and similar yield, and the improvement of genetics could restart the dormant export industry.

6. RECENT DEVELOPMENTS

After the production of the Promar report, Mr. R. Perchard, in co-operation with Mr. T. Binet outlined an alternative strategy for the development of the dairy industry.

The 'corporate herd' model

It was suggested that the dairy industry would be more effective if under single ownership. It was envisaged that a company be created, initially to be owned jointly by Mr. Binet and Mr. Perchard. Shares in this company would be transferred to producers as they entered the scheme, in return for transferring their cows into the ownership of a single 'corporate herd'. This would replace the JMMB scheme.

The group planned to liquidate the assets of the JMMB and sell the Five Oaks site, in order to fund the exit of operators from the industry. Mr. Binet commented that-

> *"I think there is a one-off opportunity here to rationalise the industry hard and give cash to people that choose to leave and an opportunity to reinvest for those that stay in"*[i].

The model calls for the production of a dairy and the provision of an exit strategy for producers from the proceeds of the Five Oaks sale. The Sub-Panel is unclear how the funds will be used for both purposes.

It has been suggested that the new dairy would be much cheaper to construct as it would not be required to produce the same range of products as Jersey Dairy currently do. However, Mr. Binet suggested at the Sub-Panel's Public Hearing on 11th December 2006 that machinery would be in place to convert the limited milk surplus and by-product of skimming into crème fraiche, butter and yogurt.

This being the case, it seems that the 'buy-out' offer is conditional on funds being left in reserve after the construction of a dairy similar to that to be built by Jersey Dairy. Promar have reputedly stated that this will not be possible, a position with which the Sub-Panel agrees.

Mr. Binet had previously consolidated and rationalised the Jersey Royal potato growing industry. Although undoubtedly creating a more efficient potato production chain, this rationalisation had been met with a degree of unease and discomfort due to the effect on small farmers.

The method that Mr. Binet suggested would be used to replace Jersey Dairy with a corporate herd begins with the collapse of the current model, as an incentive for farmers to move to the company that he and Mr. Perchard were to form-

> *"It is my personal opinion that just withdrawing the 9 per cent of the milk that La Ferme Limited* [Mr. Perchard's company] *produces at the moment - and if that is to happen, and it pretty much is decided that it will - it will not be to stay at 9 per cent.*
>
> *If there is a free market, that will grow as quickly as it can possibly grow as a joint venture, and every per cent that it grows, it takes liquid milk away from what is the remainder of the collective* [the JMMB system]*, if you like, and that becomes less and less viable with each percentage that slips away. I would suggest that taking 9 per cent away from it collapses the model altogether, in any event.*

Land use

Mr. Perchard stated as part of the case for the creation of a corporate herd that there was a 'marriage value' between the dairy and potato growing agricultural sectors. He noted at the public hearing that -

> *"Jersey Royal Potato Company has an important part to play in the future prosperity of the dairy industry by virtue of the fact that it is directly responsible for approximately 10,000 vergées of first crop potato land* [out of an estimated total of 32,000 vergées of farmed land[17]] *which can be used for economical forage production after the potato crop has been lifted. There will be opportunities for the dairy and potato sectors to work constructively together, for example by continuing and expanding the practice of land swapping to the mutual benefit of both enterprises."*

This would not only benefit the dairy industry but also potato production as well which had experienced a lack of available land-

> *"As a company, Jersey Royal Company is short of maintaining its critical mass to keep the brand healthy. There comes a point where you have to produce a minimum amount of potato crop for an export business to warrant*

the sort of advertising campaign that we are going to have to pay for, and quite simply, the land is draining away … I have to do everything I can to make sure that we have the land base to do our job. "

The argument that there is a natural synergy between the two industries is widely accepted. However, not all farmers agree that the use of second crops from potato production is as beneficial as has been suggested.

The counterpoint to Mr. Binet statement is the assertion of at least one local dairy producer that the 2002 Dairy Industry restructuring released approximately 2,500 – 3,000 vergées. Jersey Royal Company consolidated a number of potato growers (reducing competition for land) and caused others to retire, dismantling lease arrangements with landlords, some of whom have chosen to offer their land to dairy farmers instead. This has resulted in additional land becoming available to dairy farmers, reducing their reliance on second crops after potatoes. This has also coincided with improved dairy farm efficiency, and the recognition that crops such as barley and maize grown after potatoes often have lower yields with reduced feed value in comparison to those grown as a 'first crop' planted in March and April and that second-cropping can be expensive.

Winding-up of the Milk Marketing Scheme

The collapse of the JMMB would pave the way for the corporate herd company to obtain the assets of Jersey Dairy. If the company was operating a viable alternative dairy, producers could be brought into that scheme. Eventually the support for the corporate herd in terms of producer and cow numbers would represent 50% of the industry. This would allow the supporter to demand a poll in accordance with the Milk Marketing Scheme (Approval) (Jersey) Act 1954-:

"A poll may be demanded in writing by not less than one quarter of the registered producers possessing not less than one quarter of the milch cows possessed in Jersey by all registered producers –

(a) on the question whether or not a substitutional scheme or an amendment of this Scheme shall be submitted to the Minister, within one month from the publication thereof; and

(b) on the question whether or not this Scheme shall be revoked, at any time."[18]

This being done, the supporters could cast votes for the winding-up of the scheme, and its assets would be distributed between all dairy producers -

> *"Where, at the winding-up, the assets of the Board are more than sufficient to discharge the debts and liabilities of the Board, the surplus shall be distributed in such manner as the registered producers in general meeting shall determine."*[19]

Were the value of the Five Oaks site then to be realised, this would give the company the funds to construct its processing facility, or to reimburse itself should that facility have already been constructed.

The Sub-Panel does not dispute the commercial benefits of the corporate herd model, which is likely to lower the price of milk in the short-term. It has concerns, however, about the management of the changes to the industry and the effects on existing producers (as in the centralisation of the Jersey Royal industry). The corporate herd model also involves a production cut, and this is contrary to the recommendations of the Promar report which advocates the development of an export market with the liquid milk surplus.

The concern is that if changes to the milk importation controls were to occur, then the reliance of the industry on liquid milk sales on-island would mean its eventual collapse.

7. BACKGROUND AND METHODOLOGY

7.1 Consultation and site visits

The Sub-Panel consulted widely during the course of this review, in order both to cover areas which were primarily its responsibility, and to ensure that sufficient information was available to make an informed consideration of the Promar report when it was produced.

Producers

The Sub-Panel toured several dairy farms on 24th August. It visited a small holding, a large modern farm, and a farm that has chosen to operate independently of the MMS.

The Sub-Panel discussed areas of concern with the farmers involved, and gained a valuable understanding of the opinion of the producers. Due to the sensitive and sometimes critical nature of these personal discussions, only Mr. D. Quenault has allowed the Sub-Panel to release the text of his meeting. (See Appendix 2).

The Sub-Panel visited Jersey Dairy on 25th August and had a wide-ranging discussion with the senior management and the Executive Committee. The financial position of Jersey Dairy, the intended relocation, the operation of the JMMB, and the recent Public Accounts Committee (PAC) report were discussed. Due to the commercially sensitive nature of most of these discussions the Sub-Panel has agreed to allow the record to remain confidential.

The Sub-Panel also met the RJA&HS at its headquarters on 28th September 2006, and discussed matters regarding the importation of pure, traceable Jersey semen into the Island from overseas herds, the possible importation of milk, and the state of the industry in general.

Promar

The Sub-Panel first met with representatives of the consultants on 7th September 2006. The Sub-Panel was assured that the consultation process would be thorough, and the consultants and the Executive agreed that the Sub-Panel was fulfilling a valuable function in ensuring that any organisation or individual who wished to contribute to the review process would not be denied an opportunity to contribute.

Promar had originally intended to produce the draft report on 2nd October 2006, but experienced delays and eventually provided a draft on 13th October 2006 and an addendum on 16th October 2006.

The Sub-Panel met again with the consultants on 25th October 2006, to discuss the draft report, and attended a Council of Ministers meeting on the subject on 1st December 2006.

Guernsey

The Sub-Panel had intended to visit Guernsey to evaluate their dairy operation, in particular the equipment and practices of the Guernsey dairy processing plant. This was intended to provide a comparison with the ageing Jersey Dairy plant, to allow the Sub-Panel to understand the benefits of upgraded equipment on a purpose-built site. The Sub-Panel understood that the experience of a small island dairy could translate to the Jersey situation and perhaps inform the deliberations of the States.

The opportunity to visit Guernsey was denied, however, as the Minister of Commerce and Employment, Deputy S. Falla, considered that the presence of Jersey Scrutiny in Guernsey would be politically divisive. The Sub-Panel received a letter from the Minister informing it that it would not be able to visit Guernsey, and quoting a directive from Guernsey's Policy Council that stated-

> *"It has to be remembered that the Scrutiny process in both islands is primarily of a political nature and that at a time when departments are being encouraged to consider opportunities for closer working with Jersey there is the potential for relationships to become fraught if Guernsey politicians are seen to be getting too closely involved in Jersey's scrutiny process"*

The Sub-Panel does not accept this line of argument as it does not consider a fact-finding visit to a dairy plant to be of a political nature. Furthermore, it understands Scrutiny to be a non-executive function of the States of Jersey, and fails to understand why the call for closer co-operation between Islands does not equally apply, especially in the case of a joint review with the Chief Minister.

The Chairman challenged the view of the Minister of Commerce and Employment but he maintained his position and the Sub-Panel was not permitted to formally visit Guernsey. This response may have wider ramifications in terms of inter-Island scrutiny co-operation.

7.2 Timescale

It was initially the Sub-Panel's intention to submit a report to be considered alongside P.65/2006 and P.68/2006, the propositions to remove the covenant on a section of the Howard Davis Farm site and to sell it to Jersey Dairy.

These propositions were later withdrawn by the Treasury and Resources Minister after objections were raised by the Public Accounts Committee, other States members, and the family of T.B. Davis in Jersey and South Africa.

The Sub-Panel then agreed to prepare a report to be submitted to the Council of Ministers to be considered alongside the work carries out by Promar, and then to comment upon any proposition that was developed by the Council of Ministers.

The emergence of the Binet/Perchard scheme had a significant impact on the timing of the proposition, and the Treasury and Resources Minister lodged P.170/2006 'Draft Howard Davis Farm (Partial Abrogation of Covenant) (Jersey) Law 200' without passing it through a scheduled Council of Ministers meeting. The Sub-Panel could therefore not submit its report as planned.

It was therefore decided that the Sub-Panel would present its report as S.R.3/2007, and present the executive summary and recommendations of that report as a comment on P.170/2006.

7.3 Timetable

8th February 2006	The Economic Affairs Scrutiny Panel (EASP) agrees to undertake review into effects of, amongst other things, school milk cessation upon Jersey Dairy, **at a later date.**
22nd February 2006	EASP receives information on school milk cessation and decides to broaden review into other areas of dairy industry. Meeting with Dr. McQueen sought.
6th March 2006	EASP meets Dr. McQueen to discuss dairy matters. The Panel receives a detailed briefing.
8th March 2006	EASP meets Kevin Keen and Andrew Le Gallais to discuss future review.
20th June 2006	EASP agrees in principle to form Sub-Panel to consider dairy relocation following completion of outstanding Postal matters.

26th June 2006	States members, including the Chairman of EASP and the Chairman of the Public Accounts Committee (PAC) meet to form a working group to investigate the £750,000 price decided for the Howard Davis Farm site by Property Holdings.
28th June 2006	A working group, subordinate to the PAC is formed consisting of the Chairman and Vice-Chairman of PAC.
12th July 2006	EASP agree to create a Sub-Panel with own funds and officer support to be chaired by Deputy Breckon, with a four-point set of terms of reference limited mostly to school and welfare milk.
24th July 2006	The proposed Chairman of the Sub-Panel, Deputy Breckon, meets the Chief Minister to discuss the review. As the Executive had previously arranged to engage a consultant to carry out a review of the whole industry, it is agreed that the two reviews will be combined to avoid duplication, and ten–point terms of reference are established.
25th July 2006	First meeting of Economic Affairs Sub-Panel (Dairy Review).
8th August 2006	The PAC working group submits a report to the States in the form of comments on P.68 – ‘Howard Davis Farm, Trinity - part of Fields 562, 827 and 828 – sale of land’.
24th August 2006	The Sub-Panel visits three dairy farms to discuss the industry and its future.
25th August 2006(am)	The Sub-Panel visits the Jersey Dairy to view the facilities and meet the JMMB.
25th August 2006(pm)	The Sub-Panel meets to formulate a call for evidence and discuss its recent site visits.
7th September 2006	The Sub-Panel meets the consultants, Promar, to discuss their terms of reference and methodology.
25th September 2006	The Sub-Panel meets Mr. Taylor to discuss his submission. The Sub-Panel arranges for him to meet with Promar.
28th September 2006	The Sub-Panel meets the RJA&HS to receive a presentation and discuss the current state of the industry and the importation of genetics.
2nd October 2006	Original date for receipt of Promar report.
13th October 2006	The Sub-Panel receives the draft Promar report.
16th October 2006	The Sub-Panel receives an addendum to the draft Promar report.
19th October 2006	The Sub-Panel meets Promar to discuss the contents of their draft report.
24th October 2006	The Treasury and Resources Minister withdraws propositions

regarding the covenant and sale of the Howard Davis Farm site.

25th October 2006	The Sub-Panel meets to discuss the response to the Promar report.
1st November 2006	The Sub-Panel meets to consider a future timetable
7th November 2006	First indicated date of debate for propositions regarding the covenant and sale of the Howard Davis Farm site (withdrawn on 23rd October).
8th November 2006	The Sub-Panel meets to consider attendees and timings for future public hearings
13th November 2006(am)	The Sub-Panel attends a presentation by Promar to the Chief Minister.
13th November 2006(pm)	The Sub-Panel attends a presentation by Promar to Jersey Dairy and the Jersey Milk Marketing Board.
21st November 2006	Second indicated date of debate for propositions regarding the covenant and sale of the Howard Davis Farm site (withdrawn on 23rd October).
17th November 2006	The Sub-Panel attends a presentation by Promar to dairy producers
23rd November 2006	The Sub-Panel meets to finalise public hearing dates and attendees. Invitations are distributed.
27th November 2006	Mr. D. Quenault announces his intention to sell processed liquid milk from Manor Farm.
1st December 2006(am)	The Sub-Panel attends a presentation by Promar to the Council of Ministers. Three Ministers and one Assistant Minister attend, two of whom stay for the entire presentation.
	A letter is delivered to the meeting from Andrew Le Gallais, Chairman of the JMMB, stating that a dairy producer and Mr. T Binet plan to develop an alternative to Jersey Dairy.
1st December 2006(pm)	The Sub-Panel meets to note responses from attendees and revise the timetable for its public hearings. A completion date of 2nd January 2006 is agreed.
11th December 2006	The Sub-Panel holds a public hearing. (See below)
	Mr. T Binet and Mr. R Perchard announce their intention to form a corporate structure to replace the Jersey Milk Marketing Board.
12th December 2006	The Sub-Panel holds a public hearing. (See below)
13th December 2006	The Sub-Panel holds a public hearing. (See below)

15th December 2006	Meeting between Treasury and Property Service to discuss replacement projets re the sale of land at Howard Davis Farm and the related covenant to be brought before the States.
18th December 2006	28 out of 33 local dairy producers endorse a document giving full support to the JMMB Executive Committee and the Managing Director of Jersey Dairy, Kevin Keen.
21st December 2006	The Treasury and Resources Minister lodges 'au Greffe' P.170/2006 - Draft Howard Davis Farm (Partial Abrogation of Covenant) (Jersey) Law 200-.
29th December 2006	The Sub-Panel meets to discuss draft report
10th January 2007	The draft report is discussed by the full Economic Affairs Scrutiny Panel.
16th January 2007	The States approve the request of the Treasury and Resources Minister to consider P.170 on 30th January 2007, 2 days before the completion of the formal lodging period.
19th January 2007	The draft report is passed to the Chief Minister and stakeholders for consideration.
23rd/24th January 2007	The Sub-Panel presents S.R.4/2007
30th January 2007	Proposed date of debate of P.170

7.4 Public hearings

Monday 11th December

John Giles, Promar Consultant	10.15am – 1.00pm
Gerald Voisin, ex-President of Economic Development	1.45pm – 2.30pm
Robert Perchard	2.45pm – 3.30pm
Tom Binet	“
Senator T. Le Main, States Member, Objector	3.45pm – 4.30pm

Tuesday 12th December

Major Steven Coleman, Executive Director, JSPCA	10.00am – 10.30am
Eric Le Ruez, Director of Property Holdings, and	10.45am – 11.45am
Paul Tucker, ex-Director of Property Services	“
Kevin Keen, Managing Director, Jersey Dairy	3.45pm – 5.15pm

Wednesday 13th December

Andrew Le Gallais, Chairman of JMMB	10.00am – 11.30am
Bill Brown, Director, JCRA	1.00pm – 1.45pm
Charles Webb, JCRA	“
Dr. Donald McQueen, Departmental Dairy Advisor	2.00pm – 3.00pm
Senator F. Walker, Chief Minister, Political Head of Review	3.15pm – 4.30pm

Appendix 1 - Promar options for the future of the dairy industry

Promar have put forward 5 options for the industry, as follows-

- **Option 1 – the modification of the current MMS**

Option 1 – of looking to modify the current MMS - will in effect buy some time for the Jersey dairy sector – but probably not much more than this. This can only be justified if the time is used to maximum effect – and the key aspect here would be to be make full use of this time to build the new JD factory which is so badly needed.

However, it only deals with the internal threats that exist on the Island as to the position of the JMMB. It does absolutely nothing to deal with the threat of imported liquid milk, which is a critical issue for the successful development of the sector. The JMMB and JD might well argue that protecting the domestic market in the short term is essential to allow them time to lower costs and develop export markets – and to a degree they are right. The reality is that the time they have to do this is beginning to slip away and action needs to be taken now to safeguard the future structure of the dairy sector.

The legal possibility of actually achieving this modification is not proven – and it may take some time (at least 6 – 9 months) to actually put in place even if it can be achieved. It is likely that even if it were achievable, it would be challenged almost straight away. Another damaging and energy sapping legal case is the last thing that the Jersey dairy sector needs – not least it sends out very negative signals to potential customers, both on the Island and even more importantly potential new customers on the mainland. It would also highlight the lack of internal certainty as to the future of the industry – one that is constantly under challenge and therefore produces a lack of confidence in the industry, low investment etc.)

Rather than look to modify the existing scheme, the buying of time that is required can be achieve by the application of a PPE which will achieve the same end result but only for a specified time. However, again it does not deal with the real issue of beginning to position the Jersey dairy sector to deal with the external rather than the internal threats to the sector that exist and which are the real drivers for the mid to long term development of the industry. There is only limited consumer benefit to be derived from Option 1 but government objectives – g*reen fields, brown cows* – are largely met. This option maximises the number of cows in Jersey and provides the highest (short term) returns at least to farmers.

- **Option 2 – the JMMB remains, but only deals with the liquid milk market**

Option 2 is what we believe to maybe the *“worst of all worlds*” – the liquid milk market on the Island is still under the control of the JMMB. However, the JD has no opportunity to operate in the growth markets of exports to the UK and then the more modest growth that might be achieved in the local added value markets.

The JMMB in effect remains a statutory type body for the local market. This option does nothing to deal with the threat of imported milk on to the Island and acts as a hindrance to exports. Cow numbers will decline over a period of time - as a result Government objectives – *green fields, brown cows* - will not be met. There are medium – high benefits to the consumer of seeing liquid milk prices reduced to potentially around 70 ppl. In the mid to long term, the JD would begin to loose critical mass and even in the situation of Option 2, the role of the JMMB in the domestic market could well be challenged. And as we have stated under Option 1 - further damaging, expensive and energy sapping legal cases should be avoided – not least because of the negative signals it sends out to customers on the Island and the mainland too, as well as other key industry stakeholders.

• Option 3 – a totally free market

Option 3 for the Jersey dairy sector is in its current state, a *"short cut to disaster".* The benefit to consumers is however high – milk is sourced at the lowest possible price, which might be in the region of between 45 – 65 ppl at the retail level. However, the implication here is that all milk could be imported and in its current position, huge amounts of the local market would be lost in a very short space of time. Farmers on Jersey would be exposed to the full force of EU and world market prices and find it almost impossible to compete.

There would be significant fall out within the industry in terms of farmer numbers and the number of cows – and government objectives of brown cows in green fields will be tested to the very limit. While consumers win – farmers lose out and the mid to long term sustainability of a dairy sector on Jersey is hugely compromised. Imports of liquid milk would dominate the market and over a period of time, extreme pressure from imports means that increasingly dairy farming on Jersey as it has been known becomes something of a *"museum piece – this is the way we used to do it"*

Even any possible advantage gained by the Government in terms of reduced subsidy to dairy farmers as they are forced to exit the sector would be negated by increased additional exposure to the running of the abattoir and the costs of increased payments to support better environmental practises.

• Option 4 – a 'free-er' market but with some external controls

Option 4 in effect produces the same end result as Option 3, only over a longer period of time. It does not position the dairy sector on Jersey to deal with the combination of imported liquid milk and the development of exports to the mainland – both of which we believe are the critical issues for the sector to deal with. In the short term, it would probably produce a milk price war – which is good for consumers but bad for dairy farmers and in the mid to long term might not even be that good for consumers either. As the industry is forced to re consolidate, it might be argued that it will eventually produce a "private monopoly" which would be ultimately challenged on a legal basis. In reality, Option 4 for consumers produces a lower price for milk, but not the lowest.

Over a period of time, cow numbers will be reduced putting Government objectives in to some doubt. However, this decline will not be at the same rapid pace as seen in Options 2 and 3. A fragmented industry, with no one single player being able to achieve a degree of critical mass will mean that the development of any exports business is put into severe doubt. As we have mentioned several times already, exports are critical for the future development of dairy farming on the Island. It might also be more difficult from a legal perspective to have a "semi free" market rather than a totally free one, not least in dealing with the question of if (and how) farmers not involved with the JMMB are regulated with milk licences. Something akin to a "half way house" scenario,

Option 4 is most likely to produce a *"slow route"* to disaster rather than the *"quick route"* that would be produced under Option 3.

• Option 5 – the development of a Farmer Controlled Business (FCB)

We believe that Option 5 is the most appropriate for the dairy sector in Jersey to consider: • It provides a genuine long term solution for the industry – but this is not to say it is without risk - and this is discussed later on – not least it requires a strong industry vision and leadership to "sell" the concept to the dairy sector and other key stakeholders on Jersey •

It is likely to address the concerns of organisations such as the JCRA • A more competitive environment on the Island will see some consumer benefit in terms of milk price paid • It is a proactive solution for the sector and avoids potentially further damaging internal legal action and/or having a solution and/or industry structure imposed on it externally • It deals with both the internal and external issues confronting the sector – the development of exports and looking to produce a more efficient supply chain on the Island (i.e. more efficient farms and cows, a more efficient factory etc) •

The JD remaining a key player on the Island allows a degree of critical mass to be retained and cow numbers will be retained – having said this, Option 5 does not prevent farmers exiting the sector – and in the very short term, might even acerbate this • It provides an opportunity to develop the new factory required and which is critical for exports - it also reduces the opportunity for asset stripping – although a careful change over will be required here • It needs to be achieved over a period of time in a controlled and managed fashion • it represents something of a "new start" for the dairy sector and leaves behind much of the negative baggage of the past • It has been achieved in other dairy producing countries – albeit it not without some pain

Appendix 2 - Correspondence and meeting notes

Notes from a meeting with Mr. D. Quenault at Manor Farm on 24th August 2006.

In respect of his decision to become independent of the JMMB, Mr. Quenault stated that he had been in contact with the former Agriculture Committee and later the Economic Development Committee and had attempted to alert them to 'mismanagement' of the Dairy for some time. He was unhappy in part with the failure of the JMMB to produce annual accounts prior to 2003. Farmers still received no details as to cost analysis of different product lines, and no management accounts.

It was clear to him in 2003 that the milk price to farmers was unlikely to increases over 35p/litre in the next ten years. He was also concerned about the behaviour of the board and the lack of control over the dairy by farmers.

He cited a flaw in the structure of the dairy as the reason for bankruptcy in 1981, and the financial situation 20 years later.

He did not feel that the importation of genetics was necessary, as his herd produced a milk yield 50% above average (c.6000 litres/year) without importation (total 300-350,000 litres/year). There is a tendency to blame poor genetics instead of poor farming.

As the total milk consumption of the Island is 20m litres/year (including products), and the milk production 14m litres/year, he considered that there was considerable scope for 'value-added' milk products.

He considered that importation of milk would lower consumption of locally produced liquid milk by approximately 50%.

He noted that he was legally required to send all of his milk to Jersey Dairy. The board could allow another dairy to operate but would be permitted to set its prices. He would be able to sell liquid milk himself if necessary but would rather produce value-added products.

He was aware that the Economic Development Minister was considering an application by the dairy for an exemption from the provisions of the Competition (Jersey) Law 2005 governing the abuse of a dominant position and anti-competitive behaviour.

He noted that the dairy was not a limited company, despite the recommendation in the 'Best' report that this should be the case.

He considered that the 9 farming member on the JMMB board were acting out of self-interest.

He considered overproduction to be a problem. Farmers were producing uneconomical quantities of milk and still demanding a high price for it. Farms should produce less milk, and the production of low-value products such as skimmed milk powder should cease. Jersey Dairy are keen to avoid another pro-rata cut, and would rather remove some small farms altogether.

Many UK based companies were selling 'Jersey' branded products.

Milk is a low-value product, and requires premium branding to make a profit. No profit is made in selling milk on supermarket shelves, as the supermarkets in the UK 'squeeze' producers and then sell milk as a loss-leader to encourage customers into their stores.

Jersey would be better placed to compete in the UK market if it had more organic farmers.

The size of the agricultural sector was diminishing, and it would not be possible to keep the milk importation ban for ever.

Promar appear to consider the importation of genetics to be inevitable, and are arguing that it should be done sooner rather than later. This would damage the rationale behind the milk importation ban.

The island should import beef semen, lower the total milk production, and produce quality beef with the remaining capacity. This would produce less profit, but still more than break-even.

The proposed move of Jersey Dairy to Howard Davis Farm would be a subsidy. It is not reasonable to sell the Howard Davis Farm site at one price and to sell the Five Oaks site at another. The dairy should have sold the Five Oaks site back to the States and leased it from them, giving them funds to go forward when it was virtually bankrupt in 2003.

The agricultural subsidy system should be used to develop the industry, not support unprofitable operators. Also the ‘first-charge’ agreements required by the States for loans mean that it is difficult for anyone with a mortgage to obtain a loan.

The industry in Guernsey is unsustainable, as it has been over-protected and is not efficient.

The more cows owned by an individual, the less time that those cows will spend outside in fields.

Milk consumption in the UK dropped when milk delivery was discontinued. The last set of accounts from the dairy indicated that is had occurred in Jersey as well. Jersey Dairy was unable to get a pint of milk from the dairy to the doorstep for 17p.

Farmers hold no equity in the dairy. Any possible disbursement from the sale of the Five Oaks site would probably be in the form of a payment based on quotas, or an increase in the milk price to producers.

Jersey Dairy is not making sufficient effort to replace the imported milk products with its own products.

Jersey Dairy could organise the marketing for small farms producing value-added products.

Jersey Dairy is unable to increase the liquid milk price steeply as it has to cater for all islanders, from the poor to the very rich.

The States have not been of assistance during Mr. Quenault’s attempt to produce soft cheese. Planning issues have been a regular problem.

The new policy of stopping weekend shift at the dairy is not good for milk quality.

The local production of food for cows is expensive. Vets also.

Local farmers do not need to push to maximise milk production as the Island already produces a surplus.

Correspondence with Guernsey Minister for Commerce and Employment

1. Sub-Panel request to visit Guernsey

Scrutiny Office

Direct Line: 441080
Fax: 441077
e-mail: scrutiny@gov.je

Our Ref: 515/6

Deputy S. Falla, MBE, Minister
Commerce and Employment Department
PO Box 459
Raymond Falla House
Longue Rue
St Martins
Guernsey
GY1 6AF

20th September 2006

Dear Minister,

Economic Affairs Scrutiny Panel
Sub-Panel (Dairy Review)

As you may be aware, the Scrutiny function and the Chief Minister's Department in Jersey are conducting a review into the future of the local dairy industry.

The main elements of the review are being carried out by a consultancy firm, Promar. The Panel is gathering information in order to allow it to evaluate and amend their work at the appropriate time.

The Panel has revised the initial terms of reference of the review to include consideration of the situation of the Guernsey dairy industry. We feel that both islands stand to gain from a fuller understanding of the operation of the other's industry, so that we may share best practice.

We had hoped that we might visit the Guernsey dairy in order to gather more information about its operation. In particular, we would like to determine the difference in operation between your much more modern plant and our own. As you will be aware the improvement of the Jersey Dairy and its relocation are central to our review.

I look forward to hearing from you as soon as possible.

Yours faithfully,

Alan Breckon

Deputy Alan Breckon
Chairman, Economic Affairs sub-Panel (Dairy Review)

2. Guernsey Minister for Commerce and Employment response

515/6(1)

COMMERCE AND EMPLOYMENT
A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

Commerce and Employment
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STATES GREFFE
REGISTERED
- 6 OCT 2006
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Deputy A Breckon
Chairman, Economic Affairs Sub-Panel (Dairy Review)
Scrutiny Office
States Greffe
Morier House
Jersey
JE1 1DD

2nd October 2006

Dear Deputy Breckon

ECONOMIC AFFAIRS SCRUTINY PANEL SUB-PANEL (DAIRY REVIEW)

Thank you for your request to visit the Guernsey Dairy. While I appreciate that your Panel would naturally regard Guernsey Dairy as a useful reference point for any review of your own facility and while I would not preclude the hosting of a visit from our Jersey colleagues at some appropriate point in future – sadly I do not believe that now is that point.

The announcement at the end of 2005 that the Commerce and Employment Department was considering recommending the States to repeal our 1958 Milk Law sparked off a sequence of events including a Guernsey Scrutiny Review of this and related matters. The Scrutiny Report was published in May of 2006 and if you have not already received a copy it can be accessed on www.gov.gg/com/general/scrutinycommittee/scrutinycommitteereview-milkdistributionproposals.eu

My Department is currently working on preparing a report which is likely to go to the States early in 2007 which will address a number of issues which I am sure will be of interest to your Panel. In the interim, however, my Board is in the middle of talks with the Guernsey Milk Retailers Association (in Guernsey responsible for 50% of distribution of milk) and is in ongoing dialogue with the Transport & General Workers Union over certain changes that we intend to make to the operating regime at the Dairy to improve efficiency. As this will result in a reduction of processing days, it is an issue for the Union and has already been the subject of industrial action.

In addition, due to a problem with bacteria which led to the recall of some of our product during the summer, we are now awaiting a review from a technical expert and in addition we have engaged a consultant to review a whole range of issues affecting the Dairy including corporate governance, management structure, processing regimes and so on.

I am sure you will appreciate, therefore, that well intentioned though your request may be and useful though it could turn out in the long run, to have members of the Jersey Scrutiny Panel

arriving on the scene while these other issues are in train could well confuse matters to say the least.

I am sure you are aware that the Department has already declined a request from Jersey to provide either written submissions and/or act as witness at a formal hearing in your Island. In this respect Guernsey's Policy Council has advised all departments that "it has to be remembered that the Scrutiny process in both Islands is primarily of a political nature and that at a time when departments are being encouraged to consider opportunities for closer working with Jersey there is the potential for relationships to become fraught if Guernsey politicians are seen to be getting too closely involved in Jersey's Scrutiny process".

In all these circumstances, I regret that we are unable to accept your request at this point but we will ensure that the Report to the States, when concluded, is forwarded to your Panel for information.

Yours sincerely

Stuart Falla
Minister

3. Sub-Panel letter of clarification

Scrutiny Office

Deputy S. Falla, Minister
Commerce and Employment
Raymond Falla House
PO Box 459
St. Martin's
Guernsey

Our Ref: 615/6(1)

15th October 2006

Dear Minister,

I write further to your letter dated 2nd October 2006.

The Panel regrets that it will be unable to visit the Guernsey Dairy. The Panel had hoped to gather information about its operation, and had not intended to involve itself in the peripheral political issues, which it recognises are very much an internal matter.

In respect of the advice of the Guernsey Policy Council, I have passed the matter to the Chief Minister for his consideration. I would respectfully point out that Scrutiny is a Department of the States of Jersey, and that treating it differently from other Departments cannot possibly be beneficial to closer relations.

I would also respectively mention that a Guernsey Sub-Committee, which I believe came under "Commerce & Employment" spent some time in Jersey to familiarise itself with the Competition Law and meet with a number of persons with an experience of the Law. I say that because I was one of them, and they were afforded unfettered access to whatever information and persons they wanted and accommodated to assist them to do that.

I have over the years attended a number of gatherings on Gambling, Trade & Industry, Ferries & Social Security to name but a few, so I am amazed at your "closed door" policy bearing in mind that my experience has always been to be positive and provide all assistance requested and I should add that this has been mutual to date, with only your exception.

Notwithstanding the less than ideal beginning to our association, I hope that we will be able to develop a workable relationship in the future.

Yours sincerely,

Alan Breckon

Deputy A. Breckon
Chairman
Economic Affairs Sub-Panel (Dairy Review)

4. Guernsey Minister for Commerce and Employment final response

515 | 6(1)

COMMERCE AND EMPLOYMENT
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STATES GREFFE
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26 OCT 2006
FAP

Deputy A Breckon
Economic Affairs Sub-Panel (Dairy Review)
Scrutiny Office
States Greffe
Morier House
Jersey
JE1 1DD

24th October 2006

Dear Deputy Breckon

Thank you for your letter of 15th October regarding the proposed visit of your Panel to the Guernsey Dairy.

I fear that you may have misconstrued the point of my letter to you. In no sense is there is a "closed door" policy and, of course, we fully value the free interchange of ideas between the two Islands and the access afforded to States members and our departmental staff, on all manner of issues. I have no doubt that should, and will, continue in the future.

My point regarding the Dairy was that we are at a sensitive moment in various reviews that are still taking place and I believe that the time was not right for your Scrutiny sub-panel to come to the Dairy. I fully expect the Dairy, both as an organisation in its own right but as part of the wider dairy industry, to be charting a new course in the coming months and when these matters are settled it will be a far more productive time for any interchange of information between our Islands.

I believe we do have a fully workable relationship, but this particular example is an exception brought about by a combination of events and timing which mean that this is not the best moment for the information gathering visit you propose.

Yours sincerely

Stuart Falla
Minister

[1] Info from 'Jersey: Not Quite British' – David Le Feuvre

[2] Info from Jersey Dairy

[3] Article 30 and 32 of the Milk Marketing Scheme (Approval) (Jersey) Act 1954

[4] Article 33 of the Milk Marketing Scheme (Approval) (Jersey) Act 1954

[5] The dairy had previously developed a fledgling export market producing milk 'sachets' for hot drinks. It was, however, driven out of the UK market by price competition from Ireland. This made the significant investments in equipment worthless.

[6] Figures provided by Jersey Dairy and RJA&HS

[7] Figures provided by Jersey Dairy

[8] From the 1927 Deed of Gift

[9]

[10] No formal record of private land rents over time is available so the Sub-Panel has access to approximations only

[11] Estimated value from Jersey Dairy, agreed by Promar.

[12] Milk Marketing Scheme (Approval) (Jersey) Act 1954, Article 30. Articles 31 and 32 also deal with the powers of the JMMB and its prescriptive resolution.

[13] Milk Marketing Scheme (Approval) (Jersey) Act 1954, Section 30

[14] Milk (Sale to Special Classes) (Jersey) Regulations 2004, Regulation 3

[15] 'Evaluation of the National Top-Up to the EU School Milk Subsidy in England' *- London Economics for DEFRA*

[16] Promar refers to this as 'Option 5' – see Appendix 1

[17] Figure from the Rural Economy Section of the Economic Development Department

[18] Milk Marketing Scheme (Approval) (Jersey) Act 1954 (Part 6) Article 52

[19] Milk Marketing Scheme (Approval) (Jersey) Act 1954 (Part 6) Article 53 (2)