



# MEDIA RELEASE



25 August 2008

## National Foods to acquire Dairy Farmers for \$910 million

Australian Co-operative Foods Limited (ACF), which trades as Dairy Farmers, and National Foods today announced that National Foods will acquire all of the shares in the Co-operative for a cash consideration of \$5.65 per share<sup>1</sup>.

This equates to an enterprise value of \$910 million<sup>2</sup> for ACF and implies a multiple of 12.8x fiscal 2008 earnings before interest, tax, depreciation and amortisation (EBITDA)<sup>3</sup>, which compares favourably with precedent transactions in the sector.

Under the terms of the proposal, it is intended that part of the cash consideration of \$5.65 per share will include a fully franked special dividend from ACF of up to 59<sup>4</sup> cents per share.

In addition, suppliers to Dairy Farmers Milk Co-operative (DFMC) who sign revised contracts will receive competitive farm-gate milk prices. The average regional price will increase between 1 and 2 cents per litre compared with those recently announced by ACF and DFMC and will continue to be linked to composition, supply pattern, farm size and location.

The proposal is unanimously recommended by the ACF Board in the absence of a superior offer and subject to an independent expert's report determining that it is in the best interests of shareholders. The proposal has also been unanimously recommended by the DFMC Board<sup>5</sup>.

The proposal will be effected via a scheme of arrangement and is subject to shareholder and Court approvals.

ACF Chairman Ian Langdon said: "The National Foods proposal offers ACF shareholders an attractive cash price as well as providing certainty regarding forward farm-gate milk pricing and security of milk supply arrangements<sup>6</sup>. In addition, the proposal delivers on the Board's commitment to provide shareholders a liquidity event following the Co-operative's 2004 restructuring.

"To be successful, the National Foods proposal is subject to a number of conditions precedent including the support of more than 75 per cent of active members who vote.

"The proposal is also subject to DFMC entering into revised supply contracts with new or existing suppliers until at least 30 June 2010. This will be for minimum specified volumes by region which will maintain overall milk volumes based on current milk supply levels<sup>7</sup>. This in turn, provides certainty of milk off-take for farmers.

"This competitive farm-gate milk pricing will apply from the first day after the end of the milk supply month in which completion of the acquisition occurs until 30 June 2010.<sup>8</sup> After this period, National Foods has indicated that it intends to continue to pay DFMC suppliers farm-gate milk prices that are competitive in the relevant region," said Mr Langdon.

## **National Foods proposal maximises shareholder value**

ACF Chief Executive Rob Gordon said the National Foods' proposal recognised the inherent value of the ACF business including its stable of iconic brands, strong financial performance on the back of an extensive restructuring and the significant cost synergy benefits available from rationalisation of the dairy sector.

"ACF has been systemically restructured during the past four years to achieve sustainable growth in advance of a liquidity event for shareholders," Mr Gordon said.

"Despite absorbing approximately \$170 million in costs during fiscal 2008, ACF achieved full year EBITDA of \$71 million before costs related to the shareholder liquidity event, which represents a 25 per cent jump in earnings compared with prior year.

"On that basis, the National Foods' proposal represents an implied multiple of 12.8x fiscal 2008 EBITDA, which compares favourably with precedent domestic and offshore transactions in the sector.

"If successful, the proposal will allow shareholders to reap the rewards of significant sector rationalisation. In turn, this will lead to a stronger and more vibrant dairy industry – one that provides ongoing benefits for suppliers," said Mr Gordon.

## **Vision for the combined business**

National Foods Managing Director, Ashley Waugh said, "National Foods' successful acquisition of ACF would result in the most respected portfolio of dairy brands in Australia.

"National Foods has the capability and financial strength to leverage the acquisition of ACF to create new business opportunities domestically and in the vitally important Asian region – providing suppliers with secure and growing demand for their milk," Mr Waugh said.

Mr Waugh said, "If the proposal is approved by shareholders, a strategy will be implemented to ensure a seamless transition to the new ownership arrangements for both businesses' stakeholders, including farmer suppliers, customers, employees and franchise owners."

"We will also pursue the Cheese joint venture with Warrnambool Cheese and Butter with respect to ACF's cheese assets as previously announced"

## **DFMC support for the proposal**

DFMC will, subject to ACCC authorisation, continue as a supply co-operative with the existing Milk Supply Agreement, subject to certain amendments.

DFMC Chairman Ian Zandstra said the National Foods proposal has the unanimous support of the Board of the DFMC. Importantly it provides existing DFMC suppliers with certainty regarding forward farm-gate milk pricing and surety of milk off-take.

"This recommendation is in the absence of a superior offer being received, is subject to the recommendation of the ACF directors, announced milk prices in the revised farmer supply contracts applying until 30 June 2010 and the independent expert determining the proposal is in the best interest of ACF shareholders," Mr Zandstra said.

“Subject to ACCC authorisation DFMC’s co-operative model of farmer ownership, supply aggregation and price negotiation will be addressed through a revised Milk Supply Agreement that has been negotiated directly with National Foods.

“The benefits of DFMC’s model will allow individual farmers to focus on investing and building their own businesses.

“Bringing ACF together with National Foods will give rise to a new era in Australian dairying that will ultimately benefit DFMC suppliers,” said Mr Zandstra.

### **A unanimous recommendation**

ACF Chairman Ian Langdon said: “The National Foods’ proposal has been unanimously recommended by ACF Directors in the absence of a superior offer and subject to an independent expert’s report determining that it is in the best interest of shareholders. ACF has appointed Grant Samuel & Associates to consider the proposal.

“Today’s announcement follows a methodical assessment by the ACF Board of a range of options and a lengthy competitive trade sale process stretching over many months under which short-listed parties lodging expressions of interest were provided access to the business to undertake due diligence and submit binding offers.

“Importantly, National Foods has already obtained Australian Competition and Consumer Commission and Foreign Investment Review Board clearances to acquire ACF. As part of this process, National Foods has provided the ACCC with legally binding undertakings that will involve a limited number of divestments.

“ACF has maintained a comprehensive communication program with shareholders in recent months and will shortly embark upon a series of regional meetings to explain the proposal prior to the commencement of a formal ballot process,” said Mr Langdon.

### **Implementation Agreement**

ACF and National Foods have entered into an implementation agreement in relation to the proposal. The implementation agreement, and therefore the proposal, is subject to a number of conditions precedent. These conditions precedent are summarised in Appendix A.

The implementation agreement also imposes a number of obligations on ACF to deal exclusively with National Foods and to pay a break fee to National Foods in certain circumstances. These provisions are summarised in Appendix A.

## Timetable and implementation

The current indicative timetable for implementation of the transaction is set out below. If there is a material change in the likely timing, ACF will advise shareholders accordingly.

Scheme booklet lodged with Co-operatives Registrar	Early September
First court hearing to approve scheme documentation and convene Special General Meeting	Late September / early October
Scheme booklet sent to ACF shareholders	Early October
Special General Meeting of ACF shareholders	Early November
Shareholder vote via postal ballot closes	Mid November
Outcome of vote announced and subsequent court hearing	Late November
ACF shareholders, CCUs and former qualifying members receive cash payments	Late November

ACF is being advised by Goldman Sachs JBWere and Allens Arthur Robinson. National Foods is being advised by Macquarie Capital Advisers and Freehills.

ACF shareholders requiring additional information should contact the toll-free shareholder information line on 1300 728 854 Monday to Friday between 9:00am and 5:00pm (AEST).

### For further information:

ACF/Dairy Farmers  
Lina Melero  
General Manager, Corporate Affairs  
02 8732 5210  
M: 0401 700 000

National Foods  
Julian Caples  
General Manager External Relations  
(03) 9234 4194  
M: 409 019 832

Stephen Ellaway  
Group External Affairs Manager  
02 8732 5146  
M: 0418 470 556

## Appendix A

### Conditions Precedent

The conditions precedent in the Implementation Agreement between National Foods and ACF include the following:

- \* Approval of the scheme and certain ancillary resolutions by special resolution of ACF active members by means of a special postal ballot.
- \* Approval by the Supreme Court of NSW.
- \* No material adverse change in relation to ACF or its business.
- \* DFMC suppliers entering into revised milk supply contracts for a minimum period up until 30 June 2010 for certain minimum volumes of milk by region. The principal revisions to the existing milk supply agreements relate to the termination rights of the supplier on sale of their farm or their herd.
- \* No ACF prescribed occurrences (as defined in the Implementation Agreement) prior to the Court confirmation hearing.
- \* No breach of ACF representations and warranties in the implementation agreement.
- \* An exemption from the Minister for Fair Trading, relating to former members
- \* ACF's financial indebtedness (as defined in the Implementation Agreement) as at the month end prior to the Second Court Hearing Date not exceeding a specified limit.

### Exclusivity Provisions

In summary, the Implementation Agreement requires that:

- \* (No-shop restriction) ACF not directly or indirectly solicit, procure, encourage or invite any Competing Proposal.
- \* (Notification of approaches) ACF must notify the bidder if it becomes aware of any approach by a third party in respect of any possible Competing Proposal, together with details of that person and the proposal.
- \* (Matching) The ACF Board must not change its recommendation to recommend a Competing Proposal without first giving National Foods 72 hours notice of its intention to do so.
- \* (No-talk restriction) ACF not (i) participate in any discussions in relation to any Competing Proposal or which may reasonably be expected to lead to a Competing Proposal; (ii) provide any due diligence information for the purposes of enabling a third party to make a Competing Proposal; or (iii) enter into any agreement or arrangement requiring ACF to abandon or otherwise fail to proceed with the transaction.
- \* (Other undertakings) ACF not grant any consents or waivers under the confidentiality agreements entered into with other parties involved in the prior bidding process, and that ACF require the return of confidential information provided to them.

The above (other than the no-shop, notification and matching provisions) do not prevent ACF from (i) undertaking any act if not undertaking that act will, in the opinion of the ACF Board determined in good faith and after having received specific written advice from its external legal advisers, involve a breach of their fiduciary duties or statutory obligations or be otherwise unlawful; or (ii) undertaking any action in respect of a Competing Proposal, provided that the Competing Proposal was not brought about by a contravention by ACF of the no-shop restriction; and the ACF Board has determined, acting in good faith, and after having consulted with and received specific written advice from its external legal and

financial advisers, that the Competing Proposal constitutes, or is reasonably likely to constitute, a superior proposal.

For the purposes of the above provisions, a Competing Proposal means a proposed transaction or arrangement that will, subject to satisfaction of any conditions and if completed substantially in accordance with its terms, result in (i) a third party acquiring a relevant interest (as defined in the Co-operatives Act) in more than 50% of the ACF Shares; (ii) a third party acquiring control of ACF, within the meaning of section 50AA of the Corporations Act; (iii) a third party otherwise acquiring or merging with ACF (including by a reverse takeover bid, reverse scheme of arrangement or dual listed companies structure); (iv) a third party acquiring directly or indirectly any interest (including legal, equitable or economic) in all or a material part of the assets and undertaking of the ACF Group (including by the establishment of a joint venture); or (v) ACF or an entity that owns (directly or indirectly) ACF or a material part of the assets and undertaking of the ACF Group undertaking an initial public offering of its securities or otherwise becoming listed on a securities exchange.

### **Break Fee Obligation**

Subject to certain limited exceptions:

- (a) if during the term of the Implementation Agreement, any ACF Director changes their recommendation to vote in favour of the proposal with National Foods (or recommends a Competing Proposal),
- (b) if during the term of the Agreement, a Competing Proposal is announced and, within 12 months of the date of the Agreement, that Competing Proposal is completed substantially in accordance with its terms,
- (c) if the Bidder terminates for material breach of the Agreement by ACF, or
- (d) if the conditions precedent relating to prescribed occurrences or representations and warranties are breached by ACF or, if such breach was within the control of ACF, the condition precedents relating to material adverse change or financial indebtedness are breached by ACF,

ACF is required to pay to National Foods a break fee of \$6.75 million. However, no break fee is payable if the National Foods proposal succeeds despite any change in recommendation.

### **Qualifying Former Members and Holders of CCUs**

It is intended that on completion of the transaction former members of ACF who have had their ACF shares forfeited under the active membership provisions of ACF's Rules since ACF's 2004 restructure will receive in satisfaction of their entitlements under the Act a cash amount per forfeited share equal to the aggregate amount per share received by ACF members (ie \$5.65 per forfeited share).

Those former members will not receive any special dividend paid on ACF shares. The amount paid to former members will, where ACF has previously repaid the \$1.00 per share paid up capital in respect of any forfeited share, also be less than \$1.00 per share.

The above applies in relation to shares forfeited by ACF since ACF's 2004 restructure only.

ACF also has convertible co-operative capital units (CCUs) on issue. Subject to certain approvals being obtained, those CCUs will convert into ordinary shares in ACF prior to the

record date of the scheme so that CCU holders will receive the same consideration as other shareholders under the proposal and the special dividend (ie \$5.65 per share in total).

## **DFMC**

If the transaction proceeds, DFMC's shares in ACF would be transferred to National Foods in return for the scheme consideration and DFMC would receive any special dividend, in the same way as other members.

Subject to DFMC obtaining any necessary regulatory approvals, DFMC will distribute the net proceeds received from the sale of its ACF investment (after associated costs and tax (if any)). Further details of the method of distribution and the parties eligible will be set out in the Explanatory Memorandum for the DFMC Plebiscite.

---

<sup>1</sup> The cash consideration is based on the number of total shares (including Qualifying Former Members and Holders of CCUs) at the time of the close of the transaction representing total equity value of \$675 million

<sup>2</sup> Assuming a forecast financial indebtedness as at the time of the close of the transaction and before netting off for surplus assets of \$26 million

<sup>3</sup> EBITDA of \$71 million before costs related to the shareholder liquidity event

<sup>4</sup> Dividend subject to a favourable tax ruling from the Australian Taxation Office and payable to those persons who hold ACF shares immediately prior to completion of the transaction

<sup>5</sup> This recommendation is in the absence of a superior offer being received and is subject to the recommendation of the ACF directors, the DFMC Board being satisfied that the announced milk prices in the revised farmer supply contracts will apply until 30 June 2010 as well as the independent expert determining the proposal is in the best interest of ACF shareholders. Under DFMC's Rules, DFMC is required to hold a plebiscite of its members (which can be held at the same time as the vote by ACF members on the scheme) to direct the DFMC board how to exercise DFMC's vote on the scheme. However, DFMC, like other ACF active members, only has one vote on the ACF scheme

<sup>6</sup> Milk supply certainty via continuation of milk supply arrangements with DFMC

<sup>7</sup> The National Foods proposal is subject to revised contracts at the new prices but with reduced termination rights being entered into prior to the Court hearing to approve the scheme for certain minimum specified volumes by region

<sup>8</sup> Prices in Southern and Far Northern Queensland regions that have a market linkage will be reconfirmed in July each year