

Dairy Company fined \$420,000 for misleading "100% Pure New Zealand" claims on products sourced internationally

"Commercial Sleepwalking" lands Hamilton based dairy company hefty fine

In January 2024, the Commerce Commission launched a prosecution against Hamilton-based dairy company Milkio Foods Ltd (**Milkio**). The case centered on false claims made by Milkio regarding the origin of ingredients used in its ghee products and unauthorised use of the FernMark fern logo.

By April, Milkio had plead guilty to fifteen charges under the Fair Trading Act 1986 (**FTA**). Eleven of these charges were laid under section 13(j), which relates to false or misleading representations about the origin of goods. The remaining four charges were under section 13(f), which relates to false claims of sponsorship, approval, or endorsement.

Milkio's charges under section 13(j) were laid based on it falsely representing that some of its ghee products were made entirely from New Zealand ingredients, through its use of descriptions such as "from the clean green pasture-based dairy farms in New Zealand", and "produced and manufactured in pristine New Zealand", despite it sourcing key ingredients, including butter, from India.

The charges laid under section 13(f) related to Milkio's misuse of the FernMark logo on its buffalo ghee products without receiving proper authorisation and its use of false and incomplete information to retain authorisation for the logo and license number on its cow ghee products. The FernMark logo, internationally recognised as a symbol of New Zealand-made goods, was improperly used to give Milkio's products the appearance of authenticity.

On 26 August 2024, the Hamilton District Court handed down its ruling, fining Milkio \$420,000 for its misleading representations. In his ruling, Judge Ingram stressed the wider impact of Milkio's misrepresentations by highlighting the significant potential damage that such

conduct can inflict on the New Zealand dairy industry, noting that the harm is "not merely to consumers, but also to other producers who rely upon "brand New Zealand" in connection with sales of dairy products".

Judge Ingram described the case as involving a level of "wilful blindness" which could potentially be described as "commercial sleepwalking". Further stating that the use of the FernMark logo was the "cherry on top of Milkio's brand positioning strategy...intended to provide an additional and unassailable layer of quality assurance to the consumer."

Commerce Commission Fair Trading General Manager Vanessa Horne highlighted the significance of the case in protecting the integrity of New Zealand's export brand. "New Zealand's reputation for high-quality dairy products underpins our industry and exports", she said. "Milkio took advantage of this reputation to promote their products with claims that were simply not true".

Ms. Horne further noted that the conviction should serve as a warning to others considering similar deceptive practices. The Commission remains committed to protecting both consumers and businesses that comply with the FTA, ensuring product claims are accurate and verifiable.

The investigation was initiated following a referral from the Ministry for Primary Industries.

The case highlights importance of being accurate when marketing agri products in New Zealand and the potential fines available for serious breaches.

Want to know more?

If you have any questions about please contact [David Goodman](#), [Reuben Adams-Cook](#) or a member of our specialist [Rural and Agribusiness Team](#).