



**Australian
Competition &
Consumer
Commission**

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31 October 2012

Dear interested party

Pact Group Pty Ltd – proposed acquisition of Drum Reconditioners NSW

The Australian Competition and Consumer Commission (**ACCC**) is reviewing the proposed acquisition of Drum Reconditioners NSW (**DR**) by Pact Group Pty Ltd (**Pact**) (**proposed acquisition**).

Background information

Pact (through various subsidiaries) is involved in the manufacture and supply of packaging products, including plastic containers, steel drums and intermediate bulk containers (**IBCs**). In addition to manufacturing new containers, Pact has a container reconditioning business in NSW.

Container reconditioning refers to the process whereby drums and other containers (including IBCs) that have been used to store chemicals, oils, solvents and food material, are collected, cleaned and repaired before they are made available and sold to end-users.

DR is based in Seven Hills NSW and provides container reconditioning and disposal services for drums and IBCs.

The ACCC understands that Pact and DR currently overlap in:

- the acquisition of used drums and IBCs in NSW; and
- the supply of reconditioned drums and IBCs in NSW.

Request for submissions

The ACCC is currently considering the proposed acquisition under section 50 of the *Competition and Consumer Act 2010* (**the Act**). Section 50 of the Act prohibits acquisitions that substantially lessen competition in a market, or are likely to do so. The purpose of this letter is to seek your comments on the proposed acquisition.

The ACCC is seeking comments from customers, market participants and interested parties to assist with its review and would welcome any comments that you have in relation to the competitive effects of the proposed acquisition. Specific issues and questions relevant to the ACCC's assessment are set out in **Attachment A**.

If the information provided is of a confidential nature, you can be assured the details provided by you will be treated confidentially. That is, the ACCC will not disclose the confidential information to the merger parties or other third parties, other than advisors or consultants engaged directly by the ACCC, without first providing you with notice of its intention to do so, such as where it is compelled to do so by law. Please note that any information provided by you that you believe to be of a confidential nature should be clearly marked or identified as such.

In order to allow consideration of your response, please provide your response by no later than **15 November 2012**. Responses may be emailed (preferably in PDF format) to mergers@acc.gov.au with the title: *Submission re: Pact proposed acquisition of Drum Reconditioners (attention Paul Mulhall)*.

Updates regarding the ACCC's assessment of this matter will be available on the ACCC's public Mergers Register at (www.accc.gov.au/mergersregister).

If you have any queries relating to this letter, or would like to discuss a response over the telephone, please contact Paul Mulhall on (02) 9230 3847, or Morag Bond on (02) 9230 3824.

Yours sincerely

A handwritten signature in grey ink, appearing to be 'Rami Greiss', written in a cursive style.

Rami Greiss
General Manager
Merger Investigations Branch

Attachment A – Questions for market participants

1. Please provide a brief description of your business, including your relationship to the merger parties (e.g. customer, competitor, supplier or interested third party).

Market definition

2. To what extent do customers consider reconditioned drums and reconditioned IBCs substitutable (i.e. to what extent would customers consider switching from using reconditioned drums to reconditioned IBCs, and vice versa, in response to an increase in price of one of them)?
3. Please comment on the approximate cost and time required for a supplier of reconditioned drums to switch production to reconditioned IBCs.
4. To what extent do customers consider reconditioned drums and IBCs (together referred to from here on as **reconditioned containers**) substitutable with:
 - a. new steel drums or new IBCs;
 - b. plastic drums; and/or
 - c. other forms of packaging.

In your answer you may wish to have regard to the functional properties and relative prices of reconditioned containers, new containers and/or other types of packaging.

5. Please estimate the transport costs (as a proportion of the total cost of acquisition) involved in purchasing reconditioned containers interstate.

Availability of substitutes

6. Please comment on the extent to which the merger parties compete for:
 - a. the acquisition of used containers in NSW; and
 - b. the supply of reconditioned containers in NSW.
7. To what extent do customers source reconditioned containers from multiple suppliers?
8. Identify the alternative suppliers of reconditioned containers in NSW. Do any of these suppliers represent a viable alternative to the merger parties?
9. To what extent do alternative suppliers of reconditioned containers in NSW have sufficient spare capacity to satisfy demand from very large customers currently supplied by the merger parties? To the extent that they lack sufficient spare capacity, please comment on the likelihood of alternative suppliers, acting as a consortium, viably satisfying demand from very large customers that are currently supplied by the merger parties.

Barriers to entry and expansion

10. Please comment on the cost, expertise and/or necessary scale that would be required to commence the supply of reconditioned containers in NSW on a scale that would be competitive with the merged firm.
11. Please identify any barriers that existing suppliers of reconditioned containers in NSW may face in expanding their operations.

Countervailing power

12. To what extent do customers seeking reconditioned containers in NSW hold countervailing power? For example, to what extent could customers import unfilled containers, or recondition their own used containers, in response to the merged firm increasing the price of reconditioned containers?

Other

13. Please comment on the extent to which the merged firm could gain a competitive advantage from bundling the supply of new containers with the supply of reconditioned containers. As part of your answer, please identify if the proposed acquisition increases the ability of the merged firm to bundle the supply of new containers with reconditioned containers.
14. Please comment on how the demand for reconditioned containers in Australia has changed over time.
15. Please provide any other information or comments you consider relevant to the likely competitive effects of the proposed acquisition.