



**Australian
Competition &
Consumer
Commission**

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Dear interested party

Pact Group Pty Ltd – completed acquisition of Sunrise Plastics Pty Ltd

The Australian Competition and Consumer Commission (**ACCC**) is reviewing the completed acquisition of Sunrise Plastics Pty Ltd (**Sunrise Plastics**) by Pact Group Pty Ltd (**Pact**) (the **completed acquisition**).

Background information

Pact (through various subsidiaries) is involved in the manufacture and supply of packaging products including thin-walled plastic packaging products designed for the food industry. Pact manufactures thin-walled plastic food containers using a variety of techniques, including injection moulding (**IM**) and also extrusion and thermoforming (**E&T**).

Sunrise Plastics is based in Melbourne and primarily manufactures and supplies thin-walled plastic food containers using IM technology.

The ACCC is considering the likely effect of the completed acquisition on competition for the supply of thin-walled plastic food containers (particularly those manufactured using IM) in Australia.

Request for submissions

The ACCC is currently considering the completed 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 completed 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 completed 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 **1 February 2013**. Responses may be emailed (preferably in PDF format) to mergers@accc.gov.au with the title: *Submission re: Pact completed acquisition of Sunrise Plastics (attention Paul Mulhall and Andy Gallagher)*.

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 Andy Gallagher on (02) 9230 9129.

Yours sincerely

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

Rami Greiss
General Manager
Merger Investigations Branch

Attachment A – Questions for market participants

Background

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).
2. For customers of thin-walled food containers, please provide details of:
 - a. the approximate number, size and type of thin-walled containers that you acquire annually and your annual spend on thin-walled containers;
 - b. the proportion of containers you acquire which are manufactured by injection moulding (**IM**) or extrusion and thermoforming (**E&T**);
 - c. the supplier(s) you currently use, including, where relevant, overseas suppliers or domestic distributors; and
 - d. whether you have a contract in place with your supplier and the duration of this contract.

Market definition

3. To what extent do customers consider thin-walled food containers manufactured using IM substitutable for thin-walled food containers manufactured using E&T or other processes?

In your answer, you may wish to have regard to the functional properties of the container (e.g. durability), the type of product the container is designed to contain, and the relative prices of thin-walled food containers manufactured using IM, E&T or other processes.

4. Are there any other packaging types you would consider to be substitutable for IM and E&T thin-walled food containers?

Availability of substitutes

5. Please list the alternative suppliers of thin-walled food containers. Where possible, please provide details about each of these competitors, including, for example, the types of containers they supply (such as whether they supply food containers decorated with in-mould labelling or thin-walled dairy containers), their relative pricing, product quality and service levels.
6. Who do you consider to be each of Pact's and Sunrise Plastics' (prior to its acquisition) closest competitors in the supply of thin-walled food containers? Please explain the reasons for your view.

Barriers to entry and expansion

7. Please comment on the cost, expertise and/or necessary scale that would be required to commence the manufacture and supply of thin-walled food containers in Australia on a scale that would be competitive with the merged firm.
8. To what extent can suppliers manufacturing other types of plastic containers easily expand into the manufacture of injection moulded thin-walled food containers? Please detail the additional equipment required and the likely cost and time involved in a manufacturer expanding production to thin-walled food

containers. Are there any economies of scope that would assist manufacturers in this manner?

9. Please identify any potential firms which may be expected to commence the manufacture and supply of thin-walled plastic food containers in the short to medium term.

Countervailing buyer power

10. Please comment on the ability and/or incentive for customers using thin-walled food containers to:

- a. sponsor another manufacturer to commence or expand their supply (for example by offering a contract to the potential new entrant); or
- b. manufacture these products in-house,

in the event of a price increase by the merged firm.

Imports

11. Do you consider that imports provide a viable alternative to domestically produced thin-walled plastic food containers? In providing your answer you may wish to consider the relative prices, quality, product range, service levels and lead times associated with imports.
12. Please list the overseas suppliers and domestic distributors from which Australian customers are likely to be able to source thin-walled plastic food containers. Please provide contact details if available.
13. To the extent of your knowledge, please provide examples of customers that have switched or threatened to switch from domestic to overseas suppliers of thin-walled plastic food containers, or customers that have benchmarked domestic suppliers against the import price.

Other

14. Prior to the completed acquisition, did you consider Sunrise Plastics to be a vigorous and effective competitor for the supply of thin-walled plastic food containers in Australia? For instance, was Sunrise Plastics known as a leader in price competition, innovation or service quality?
15. Please comment on whether the merged firm would have any greater ability or incentive to offer a bundle of packaging products including thin-walled food containers, or to alternatively supply thin-walled food containers on condition that customers also acquire other products. In particular, please comment on:
 - a. whether the merger parties currently offer bundles of packaging products;
 - b. whether the merged firm would have any ability to leverage unique or 'must-have' products in creating a bundle, and the extent to which such ability would foreclose distribution of any of the bundled products by the merged firm's rivals; and
 - c. the ability and incentive of the merged firm's rivals to offer a bundle of products.
16. Please provide any other general information or comments you consider relevant to the likely competitive effects of the completed acquisition.