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Our ref: IM - 70210
Your ref:
Contact officer: Braeden Smith
Contact phone: 02 6243 4936

9 May 2019

Dear Interested Party

Re: Request for submissions: ANZ Terminals Pty Ltd's proposed acquisition of GrainCorp Liquid Terminals Australia Pty Ltd

The Australian Competition and Consumer Commission (**ACCC**) is seeking your views on the proposed acquisition of GrainCorp Liquid Terminals (**GLT**) Australia Pty Ltd by ANZ Terminals Pty Ltd (**ANZ Terminals**) (the **proposed acquisition**).

GLT and ANZ Terminals both provide bulk liquid storage services, specialising in the storage and handling of bulk liquid fats and oils, fuels and chemicals.

As part of the proposed acquisition, ANZ Terminals intends to divest its terminal at Osborne in Adelaide. As such, it has provided a draft proposed s87B undertaking to be considered as part of this review. A copy of the draft proposed s87B undertaking can be found on the ACCC's Public Mergers Register at ([ACCC mergers register](#)).

Further details regarding the acquisition and the draft proposed s87B undertaking can be found at **Attachment A**.

The ACCC's investigation is focused on the impact on competition. In particular, we are seeking your views on:

- whether GLT and ANZ Terminals compete closely
- the impact of the proposed acquisition on prices, availability and quality of the storage and handling services for bulk liquids
- the impact of the proposed divestment of the Osborne Terminal in Adelaide.

Further issues you may wish to address are set out in **Attachment B**.

This matter is public and you can forward this letter to anybody who may be interested.

The legal test which the ACCC applies in considering the proposed acquisition is in section

50 of the *Competition and Consumer Act 2010*. Section 50 prohibits acquisitions that are likely to have the effect of substantially lessening competition in a market.

Please provide your response by no later than **5pm on 23 May 2019**. Responses may be emailed to mergers@acc.gov.au with the title: *Submission re: ANZ Terminals proposed acquisition of GLT- attention Braeden Smith*. If you would like to arrange a time to discuss the matter with ACCC officers, or have any questions about this letter, please contact Braeden Smith on 02 6243 4936.

Updates regarding the ACCC's investigation will be available on the ACCC's Public Mergers Register at ([ACCC mergers register](#)).

Confidentiality of submissions

The ACCC will not publish submissions regarding the proposed acquisition. We will not disclose submissions to third parties (except our advisors/consultants) unless compelled by law (for example, under freedom of information legislation or during court proceedings) or in accordance with s155AAA of the *Competition and Consumer Act 2010*. Where the ACCC is required to disclose confidential information, the ACCC will notify you in advance where possible so that you may have an opportunity to be heard. Therefore, if the information provided to the ACCC is of a confidential nature, please indicate as such. Our [Informal Merger Review Process Guidelines](#) contain more information on confidentiality.

Yours sincerely



Tom Leuner
General Manager
Merger Investigations

Attachment A

ANZ Terminals

ANZ Terminals is a wholly owned subsidiary of Helios Investments Australia Pty Limited (**Helios**), which is a wholly owned subsidiary of Hyperion Investments Australia Pty Ltd (**Hyperion**). ANZ Terminals offers storage and handling services in Australia for a range of liquid products, including industrial chemicals, petroleum fuels, bitumen, marine fuels, aviation fuels, base oils and oils and fats. The services that it provides include the transfer of liquid products to and from bulk ships by pipeline, storage in bulk quantities, loading and discharge of road tanker trucks, product blending and heating and drumming.

Some or all of these services are provided at five terminals across Australia:

- Osborne terminal and Pelican Point (both at Port of Adelaide) in South Australia
- Geelong (Port of Geelong) and West Melbourne (Port of Melbourne on Coode Island) in Victoria
- Port Botany in New South Wales

Graincorp Liquid Terminals

GLT is a wholly owned subsidiary of GrainCorp Limited (**GNC**). GNC is an international food ingredients and agribusiness company. Its business includes activities across the edible oils and fats supply chain. GLT currently operates as part of GNC's integrated edible oils and fats supply chain. GLT stores and handles bulk liquids including fats and edible oils, chemicals and petroleum. A large portion of GLT's capacity is allocated to storing GNC's products. GLT also provide some storage and handling services for external customers.

GLT operates seven terminals across Australia:

- Port Kembla in New South Wales
- Largs Bay in South Australia, located in close proximity to Port of Adelaide
- Pinkenba in Queensland, located in close proximity to Port of Brisbane
- Devonport, at the Port of Devonport in Tasmania
- Coode Island (located at the Port of Melbourne) and North Laverton (approximately 12km inland from Port of Melbourne) in Victoria
- North Fremantle, at Fremantle Port in Western Australia

The Transaction

ANZ Terminal's parent company, Helios proposes to acquire GrainCorp Liquid Terminals Australia Pty Limited (**GLT**) from GrainCorp Commodity Management (Holdings) Pty Ltd, a wholly owned subsidiary of GNC. Following the proposed acquisition, GLT will be operated by a wholly owned subsidiary of ANZ Terminals.

Overview of divestment proposal

As part of the proposed acquisition ANZ Terminals intends to divest its terminal at Osborne in Adelaide. As such, it has provided a draft proposed s87B undertaking to be considered as part of this review. ANZ Terminals' divestment proposal includes:

- The terminal operated at Osborne, in Port of Adelaide, South Australia, including 26 bulk storage tanks and all associated equipment used to carry on the business and the transfer of all relevant employees
- A transitional supply agreement for any goods or services that are required by the purchaser to establish itself as a competitor in the provision of bulk liquid storage and handling services in South Australia (at the purchaser's option)
- A transitional technical assistance agreement that is required by the purchaser in order to effectively operate the Osborne terminal (at the purchaser's option)
- Independent management of the Osborne terminal during the divestiture period (from date of the merger to the completion of the divestiture)

The ACCC will also have the discretion to approve or reject the proposed purchaser of the Osborne terminal.

Attachment B

1. Please provide a brief description of your business or organisation.
2. Please outline the reasons for your interest in the proposed acquisition, including any commercial relationship/s with either of ANZ Terminals or GLT.

Relevant market(s)

3. Please describe your organisation's purchase/supply of bulk liquid storage and handling services. The ACCC would appreciate receiving information about the specific types of services you use/supply, how you source these, how they are utilised by customers, and volumes/value of your purchases/supply.
4. Please identify and describe other suppliers of bulk liquid storage and handling services, including the extent to which they compete with ANZ Terminals and/or GLT. Relevant factors may include the type of liquid products stored, the geographic areas of supply, scale and quality of storage and ancillary services. When answering please also consider the availability of products/services that are close alternatives for bulk liquid storage and handling facilities, with particular reference to the functionality and relative prices of those alternatives. Such alternative services may or may not include ISO-tanks, bladder bags/flexi-bags or pillow tanks. Please provide specific examples where possible.
5. Please comment on the geographic area over which customers generally acquire bulk liquid storage and handling services and their ability to source these services from further away in response to the combined ANZ Terminals/GLT attempting to increase prices. For example, could customers currently acquiring these services at a terminal in New South Wales feasibly acquire them from an alternative location, for instance in Queensland. Please identify transport costs and any other relevant factors.

Competitive dynamics

6. Please address the closeness of competition between ANZ Terminals and GLT for the supply of bulk liquid storage and handling services. Relevant factors may include the range of liquid products stored and handled, geographic areas of supply, whether the parties respond to each other's promotional and pricing activity, whether customers often switch between the two, and/or their participation in tender processes. Please provide specific examples where possible.

Potential competitive constraints on merged firm

New entry/expansion

7. Please address the ability of either new entry or competing suppliers of bulk liquid storage and handling services expanding supply in response to the combined ANZ Terminals/GLT attempting to increase prices. Factors to consider are:
 - a. competing suppliers' excess capacities and any obstacles to expansion;
 - b. the ability of existing suppliers to switch between providing storage for different products, e.g. between supply of storage for base oils to edible oils and fats, chemicals or hazardous materials;

- c. the ability of existing suppliers or a new entrant to acquire the appropriate land to build new storage facilities;
- d. the ability to acquire the appropriate approvals to build new storage facilities;
- e. the required economies of scale and the minimum efficient scale of market entry;
- f. timeframe for market entry;
- g. any requirements for exclusive/long-term customer contracts in order to facilitate entry;
- h. overall market growth/decline, is demand for storage services changing, and if so, are there reasons for these changes. Please provide any recent examples of market entry and exit.

Countervailing power of customers

- 8. Please address the extent to which there are significant customers with the ability to bypass supply from the combined ANZ Terminals/GLT by vertically integrating into internal supply of bulk liquid storage and handling facilities or sponsoring new entry. If known, please provide any examples of this happening in the past.

Proposed s87B Undertaking

Questions for market participants

- 9. Does the undertaking include all necessary assets and personnel that a purchaser would require to effectively operate the Osborne terminal? If not, please explain what additional assets or personnel would be required?
- 10. Are you aware of any third party, including regulatory, consents required to transfer the Osborne terminal to a purchaser that may impact on the effective implementation of the undertaking?
- 11. To what extent would the purchaser of the Osborne terminal need existing bulk liquid storage facilities and/or experience in the bulk liquid storage and handling services industry in order to be a viable, effective and long term competitor in bulk liquid storage and handling services in South Australia?
- 12. Would the divestment of the Osborne terminal fully address any concerns you may have relation to the effect of the proposed acquisition on bulk liquid storage and handling services in South Australia?

Other information or competition issues

- 13. Please provide any additional information or comments, or identify other competition issues, that you consider relevant to the ACCC's consideration of the proposed acquisition under section 50 of the Act.