



Public Competition Assessment

30 June 2022

Culligan - proposed acquisition of Waterlogic

The ACCC's decision

1. On 19 May 2022 the Australian Competition and Consumer Commission (**ACCC**) announced its decision not to oppose the proposed acquisition by Culligan Group (**Acquirer**) of Waterlogic Group Holdings Limited (**Target**) (the **proposed acquisition**) after accepting a section 87B undertaking to divest the Australian Billi business (the **undertaking**).
2. The ACCC considers that the proposed acquisition, in the absence of the undertaking, is likely to substantially lessen competition in contravention of section 50 of the *Competition and Consumer Act 2010* (the **Act**). However, the ACCC considers that the Undertaking offered by the Acquirer will address the ACCC's competition concerns. Section 50 prohibits acquisitions that would have the effect, or be likely to have the effect, of substantially lessening competition in any market.
3. The ACCC considered the competitive effects of the proposed acquisition on the manufacture, supply and servicing of multi-functional taps in Australia. Culligan's parent company, Osmosis Buyer Limited, offered an up-front undertaking to address potential competition concerns in the supply of multi-functional taps and this was taken into account in the ACCC's review.
4. The ACCC considers that without the divestment, the proposed acquisition would be likely to substantially lessen competition in the markets in which multi-functional taps are manufactured, supplied and serviced in Australia. The acquisition would combine the two largest suppliers of multi-functional taps in Australia, potentially resulting in price rises or reductions in quality or innovation.
5. The ACCC considers that a divestiture as contemplated by the Undertaking will address its competition concerns with the proposed acquisition as it will ensure that there will be at least two key competitors for the supply of multi-functional taps.
6. This Public Competition Assessment outlines reasons for the decision by the ACCC not to oppose the proposed acquisition, taking into account the undertaking.

7. Please note that this and other public competition assessments are subject to the following qualifications:
 - The ACCC considers each transaction on a case-by-case basis and so the analysis and decision outlined in one assessment will not necessarily reflect the ACCC's view of another transaction.
 - As assessments are relatively brief and do not refer to confidential information, assessments do not necessarily set out all of the issues and information considered by the ACCC.

The parties and the transaction

Culligan Group

8. Osmosis Buyer Limited (**Osmosis**) controls entities that operate the Culligan Group (**Culligan**), an international provider of water treatment solutions. In Australia this includes Zip Industries Pty Ltd and Zip Heaters (Aust) Pty Ltd (together **Zip**).
9. In Australia, Zip supplies and services:
 - Multi-functional taps which are the primary revenue driver for Zip. It manufactures, sells and services a range of multi-functional taps in Australia;
 - Bottle-free coolers;
 - Wall-mounted boilers;
 - Bubblers; and
 - Other water dispensing products (via its Vestal brand).

Waterlogic

10. Firewall is the majority shareholder of Waterlogic Group Holdings Limited (**Waterlogic**).
11. Waterlogic is an international provider of purified drinking water dispensers. Waterlogic manufactures water products (multi-functional taps and bottle-free coolers) in China, the United States and Australia.
12. In Australia, Waterlogic manufactures and supplies water products and services through Billi Australia Pty Ltd (**Billi**) and Waterlogic Australia Pty Ltd (**Waterlogic Australia**).
13. Billi manufactures, supplies and services Billi-branded multi-functional taps.
14. Waterlogic Australia also supplies:
 - A small number of multi-functional taps on a rental basis
 - Bottle-free coolers, which are the primary revenue source for the Waterlogic brand

- Wall-mounted boilers
- Bubblers
- Other water dispensing products (via its Purezza brand).

The transaction

15. The proposed acquisition is a global transaction whereby Osmosis proposes to acquire 100% of the shares in Firewall.
16. In Australia, Osmosis is the owner of Culligan, and Firewall is the majority shareholder in Waterlogic. The proposed acquisition includes the Waterlogic Australia business and the Billi business. However, Osmosis offered an up-front undertaking to divest the Billi business post-acquisition.
17. The transaction was subject to the receipt of regulatory approvals from the ACCC, as well as international jurisdictions including New Zealand, Germany, Austria, the United States and the United Kingdom.

Market inquiries

18. The ACCC conducted market inquiries with a broad range of market participants and received feedback from customers, trade stores, resellers, and competitors. The ACCC consulted on the substantive competition issues and the Undertaking.

Market definition

19. The ACCC's starting point for considering which markets will be affected by the proposed acquisition is to identify the areas of overlap between the products actually or potentially supplied by the merger parties. The ACCC then considered other actual or potential suppliers of those products, as well as what other products constituted sufficiently close substitutes to provide a significant source of constraint on the merged entity.
20. The parties overlap in the supply and servicing of the following products:
 - Multi-functional taps – taps with under-bench units which purify and filter mains fed water and add functionality, such as heating, cooling and/or carbonation.
 - Bottle-free coolers – freestanding or countertop units which purify and filter mains fed water and dispense ambient, cold, hot or sparkling water dependent on the machine's functionality.
 - Wall-mounted boilers – mains fed units attached to a wall which deliver only boiling water, which can be filtered or unfiltered depending on the product.
 - Bubblers – connected to mains water and used in environments where a robust and impact resistant water machine is required, frequently in public spaces and schools.

- Other water dispensing solutions (Zip via the Vestal brand and Waterlogic Australia via the Purezza brand) – taps which can fill refillable bottles with filtered still or sparkling water, commonly used by hotels, restaurants and cafes.
21. Market inquiries indicated that there is limited substitutability by users between the drinking water products listed above, with customers often having strong preferences for a particular product.

Competition analysis

22. The ACCC's review focused on the markets in which multi-functional taps are manufactured, supplied and serviced in Australia. The ACCC considers that the proposed transaction will be unlikely to substantially lessen competition for the supply of bottle-free coolers, wall-mounted boilers, bubblers or other water dispensing solutions as Culligan and Waterlogic are not close competitors, and primarily focus on different product types. Market feedback also indicates that Culligan will continue to face sufficient competition from alternative suppliers.
23. The ACCC identified competition concerns in the markets in which multi-functional taps are manufactured, supplied and serviced in Australia, where Culligan (through their Zip brand) and Waterlogic (through their Billi brand) are the two largest manufacturers and suppliers.
24. Market feedback indicated that there are limited alternative suppliers of multi-functional taps that act as a competitive constraint on Zip and Billi. Market feedback suggested that customers considering purchasing a multi-functional tap are generally making a choice between Zip or Billi products with limited consideration given to other small suppliers, such as Boiling Billy or Insinkerator.
25. The ACCC considered whether Zip and Billi would face constraint from suppliers of other water dispensing products, such as bottle-free coolers. Market feedback indicated that multi-functional taps and bottle-free coolers are not close substitutes as they are suitable for different physical spaces and serve different purposes.
26. The ACCC considers that the proposed acquisition without the divestment would remove Zip's most effective competitor in the markets in which multi-functional taps are manufactured, supplied and serviced leading to there being one very large player with few alternatives. The ACCC considers new entry is unlikely given high barriers to entry. This loss in competition would potentially result in price rises or reductions in quality or innovation.
27. The ACCC considers that, in the absence of the divestiture Undertaking offered by Osmosis, the proposed acquisition is likely to substantially lessen competition in markets for the manufacture and supply of multi-functional taps. Further information about the Undertaking is set out below.

Undertaking

28. In order to address the ACCC's competition concerns in relation to multi-functional taps, Osmosis offered the Undertaking pursuant to section 87B of the

Act. The ACCC spoke to a range of market participants for feedback on the Undertaking.

29. The ACCC considers that a divestiture as contemplated by the Undertaking will address its competition concerns with the proposed acquisition as it will ensure that there will be at least two key competitors for the supply of multi-functional taps. A copy of the Undertaking is available on the ACCC mergers register and undertakings register.
30. Pursuant to the Undertaking, Osmosis is required to divest the Billi business to a purchaser approved by the ACCC. The divestment will include:
- the relevant Australian entities which form part of Billi,
 - the Billi manufacturing plant in Thomastown, Melbourne, including all property, plant and equipment, including assembly lines, necessary for manufacturing Billi products,
 - at the option of the purchaser, any or all of the five Waterlogic Australia leased service centres located in Sydney, Melbourne, Brisbane, Adelaide and Perth, including property and equipment located on site necessary for the operation of Billi at the service centre,
 - at the option of the purchaser, the transfer of relevant employees,
 - the global Billi brand and other Billi owned or licensed intellectual property,
 - all assets used to supply aftersales services and spare parts,
 - all existing customer contracts, sales orders and purchase orders entered into by Billi,
 - all material supply and distribution contracts entered into by Billi, and
 - all current and historical customer records and other marketing materials used by Billi.

Conclusion

31. Based on the above analysis, the ACCC concluded that:
- the proposed acquisition of Waterlogic by Culligan, in the absence of the Undertaking, would be likely to have the effect of substantially lessening competition in markets for the manufacture and supply of multi-functional taps
 - a divestiture as contemplated by the Undertaking would address its competition concerns with the proposed acquisition.