Australian Competition & Consumer Commission

Public Competition Assessment

22 February 2007

Johnson & Johnson - proposed acquisition of Pfizer Inc's consumer healthcare business

Introduction

1. On 21 December 2006, the Australian Competition and Consumer Commission (**ACCC**) announced its decision not to oppose the proposed acquisition of Pfizer Inc (**Pfizer**) by Johnson & Johnson (**J&J**) (**proposed acquisition**), subject to the provision of section 87B undertakings by J&J and Pfizer which were accepted by the ACCC on 21 December 2006. The ACCC was of the view that the proposed acquisition, in conjunction with the undertakings, would be unlikely to have the effect of substantially lessening competition in a market in contravention of section 50 of the *Trade Practices Act 1974* (**the Act**).

2. The ACCC formed its view on the basis of the information provided by the merger parties and information arising from its market inquiries. This Public Competition Assessment outlines the basis on which the ACCC has reached its view on the proposed acquisition, subject to confidentiality considerations.

Public Competition Assessment

3. To provide an enhanced level of transparency and procedural fairness in its decision making process, the ACCC issues a Public Competition Assessment for all transaction proposals where:

   - a merger is rejected;
   - a merger is subject to enforceable undertakings;
   - the merger parties seek such disclosure; or
   - a merger is approved but raises important issues that the ACCC considers should be made public.

4. This Public Competition Assessment has been issued because J&J's proposed acquisition of Pfizer is subject to court enforceable undertakings.

5. By issuing Public Competition Assessments, the ACCC aims to provide the market with a better understanding of the ACCC's analysis of various markets and the associated merger and competition issues. It also alerts the market to the

circumstances where the ACCC's assessment of the competition conditions in particular markets is changing, or likely to change, because of developments.

6. Each Public Competition Assessment is specific to the particular transaction under review by the ACCC. While some transaction proposals may involve the same or related markets, it should not be assumed that the analysis and decision outlined in one Public Competition Assessment will be conclusive of the ACCC's view in respect of other transaction proposals, as each matter will be considered on its own merits.

7. Many of the ACCC's decisions will involve consideration of both non-confidential and confidential information provided by the merger parties and market participants. In order to maintain the confidentiality of particular information, Public Competition Assessments do not contain any confidential information or its sources. While the ACCC aims to provide an appropriately detailed explanation of the basis for the ACCC decision, where this is not possible, maintaining confidentiality will be the ACCC's paramount concern, and accordingly a Public Competition Assessment may not definitively explain all issues and the ACCC's analysis of such issues.

The parties

The acquirer: Johnson & Johnson

8. J&J is a global manufacturer of health care products and related services for the consumer, pharmaceutical, medical devices and diagnostics industries. J&J has more than 230 operating companies in 57 countries and it sells products throughout the world. J&J's portfolio of consumer health care brands include *Band-Aid*, *Tylenol*, *Johnson's Baby*, *Motrin*, *St Joseph aspirin*, *Benecol*, *Splenda*, *Imodium A-D*, *O.B. Tampons*, *Stayfree*, *Mylanta*, *Pepcid AC* and *Monistat*.

The target: Pfizer Inc

9. Pfizer discovers, develops, manufactures and markets pharmaceutical, animal and consumer healthcare products. Pfizer's key consumer healthcare brands include *Benadryl*, *Listerine*, *Nicorette*, *Cortizone*, *Desitin*, *e.p.t.*, *Lubriderm*, *Neosporin*, *Rolaids*, *Sudafed* and *Visine*.

The proposed transaction

10. Pursuant to a Stock and Asset Purchase Agreement entered into between J&J and Pfizer on 25 June 2006, J&J proposed to acquire from Pfizer, on a global basis, its worldwide consumer healthcare business.

11. The proposed acquisition was conditional upon the approval of competition agencies in the United States, Canada and the European Union. On 11 December 2006, the European Commission (**EC**) announced that it had approved the proposed acquisition subject to certain divestitures.

12. The proposed acquisition was not subject to ACCC approval. However, to address the ACCC's competition concerns in the anti-diarrhoeals, worm

treatments and nicotine replacement therapy (**NRT**) product categories, J&J offered the ACCC an undertaking pursuant to section 87B of the Act (**the J&J Undertaking**).

13. The ACCC undertook market inquiries in relation to the J&J Undertaking in mid December 2006. The J&J Undertaking, and an additional section 87B undertaking provided by Pfizer (**the Pfizer Undertaking**), were accepted and signed by the ACCC on 21 December 2006. The closing of the proposed transaction took place on or about 20 December 2006.[1]

14. The J&J Undertaking and the Pfizer Undertaking are available on the ACCC's website at www.accc.gov.au/completedinformalbyyear.

Timing

15. The following table outlines the timeline of key events in this matter.

Date	Event
04-Oct-2006	ACCC received submission from Johnson & Johnson. ACCC commenced review under the Merger Review Process Guidelines. Market inquiries commenced.
11-Oct-2006	ACCC requested further information from Johnson & Johnson. Indicative timeline suspended pending receipt of Johnson & Johnson's response.
16-Oct-2006	ACCC received Johnson & Johnson's response to ACCC information request of 11 October.
18-Oct-2006	Johnson & Johnson advised intention to make submission to ACCC addressing possible competition effects.
20-Oct-2006	Closing date for submissions from interested parties.
01-Nov-2006	ACCC received submission from Johnson & Johnson addressing possible competition effects.
06-Nov-2006	Proposed date for announcement of ACCC's findings (30 November 2006) delayed pending the resolution of Applicant's claim for confidentiality and related matters.
24-Nov-2006	Applicant's claim for confidentiality and related matters resolved. ACCC timeline recommenced.
28-Nov-2006	ACCC published Statement of Issues outlining its preliminary competition concerns.
11-Dec-2006	Closing date for submissions from interested parties responding to ACCC's Statement of Issues.
13-Dec-2006	Johnson & Johnson submitted s.87B Undertaking relating to its divestiture proposal for market inquiries by ACCC, and ACCC commenced market inquiries on Johnson & Johnson's proposed divestiture.
15-Dec-2006	Closing date for submissions from interested parties regarding Johnson & Johnson's proposed divestiture.
21-Dec-2006	ACCC accepted section 87B undertakings from Johnson & Johnson and Pfizer and announced it will not oppose the proposed acquisition.

Market inquiries

16. The ACCC conducted market inquiries with a range of industry participants, including other manufacturers and distributors of healthcare products, industry

[1] J&J's news release dated 20 December 2006 - http://www.jnj.com/news/jnj_news/20061220_162712.htm

associations, and customers for healthcare products, including retail pharmacy chains. Submissions were sought in relation to the substantive competition issues and the proposed undertakings.

Statement of Issues & the undertakings

17. The ACCC published its Statement of Issues in relation to the proposed acquisition on 28 November 2006 identifying a number of 'issues of concern'. In the Statement of Issues the ACCC stated its preliminary view that the proposed acquisition would be likely to lead to reduced competition and increased prices in Australia for the supply of:

    - worm treatments;
    - anti-diarrhoeals; and
    - NRT products.

18. As discussed above, J&J and Pfizer subsequently provided court enforceable undertakings, pursuant to section 87B of the Act, to address the competition issues identified by the ACCC in the Statement of Issues.

19. Set out below is an overview of the competition issues arising from the proposed acquisition (as identified by the ACCC), the key elements of the s87B undertakings provided by J&J and Pfizer, and the ACCC's views on the impact of the proposed acquisition on competition for the supply of worm treatments, anti-diarrhoeals and NRT products in light of the undertakings provided.

Worm treatments

Competition concerns

20. J&J and Pfizer competed in Australia for the supply of worm treatments through their respective brands *Vermox*, and *Combantrin* and *Combantrin-1*. These products are all considered to be non-prescription medicines which can be obtained from pharmacies over the counter (**OTC**). According to J&J, there are at least twelve other suppliers of worm treatments in Australia.[2]

21. Market inquiries suggested that the merged firm may account for approximately 80-85% of sales of worm treatments in Australia, with its next largest competitor having a very small share of the sales of worm treatments in Australia.[3]

22. In light of the high level of concentration likely to result from the proposed acquisition and given that existing or potential competitors would be unlikely to provide a sufficient competitive constraint on the merged firm, the ACCC formed the view that there was the potential for a substantial lessening of competition for the supply of worm treatments.

[2] Although, two of these suppliers, Alphapharm and GSK, supply worm treatment products which are prescription only medicines. The brands of Alphapharm and GSK are respectively *Anthel*, and *Eskazole* and *Zentel*.

[3] *Combantrin* and *Vermox* brands accounted for the largest and second largest shares, respectively, of the supply of worm treatments in Australia.

Background – Vermox brand

23. As set out in detail below, J&J proposed to divest its *Vermox* brand in the worm treatments product category to address the ACCC's competition concern. However, according to J&J, J&J have experienced supply problems with the *Vermox* brand since December 2005. According to J&J, its subsidiary, Janssen-Cilag Pty Ltd (**Janssen**), received its final deliveries of *Vermox* in February 2006 after its third party manufacturer ceased trading. J&J stated that Janssen has no remaining inventory of *Vermox*.

24. Notwithstanding this, J&J stated that it was in discussions with the Therapeutic Goods Administration (**TGA**) and it was hoping the TGA would shortly grant approval to the registration of one of its Italian manufacturing plants within the Janssen-Cilag group to be the finished product manufacturer of *Vermox*.

Impact of the Undertaking

25. The J&J Undertaking provides (at clause 21), in particular, for the divestment to a purchaser approved by the ACCC (approved purchaser) of J&J's *Vermox* brand by way of transfer of:

- the trademark and other intellectual property associated with this brand (as listed in clauses (a) to (c) of Schedule 4 of the J&J Undertaking);
- a list of J&J's customers in Australia for the *Vermox* product;
- any finished goods inventory of the *Vermox* product for sale in Australia held by J&J on the date of completion of the *Vermox* sale;
- any contractual rights that relate exclusively to the *Vermox* brand and which are capable of being assigned;
- all relevant data, books and records that relate exclusively to the *Vermox* business in Australia and *Vermox* customers in Australia; and
- all relevant TGA registrations and approvals together with related licences.

26. J&J has also undertaken (clauses 22 and 25) to assist the approved purchaser, if the approved purchaser requests, to secure a source of supply of the *Vermox* product. This would be primarily achieved by J&J fulfilling its obligation, if requested by the approved purchaser, to supply the approved purchaser with the requested quantity of the *Vermox* product on reasonable commercial terms for a two year transitional period, commencing within 3 months of J&J obtaining all necessary TGA approvals for its Italian manufacturing plant. However, this period may be extended for a further 12 months if requested and if the approved purchaser is unable to commence retailing the *Vermox* product sourced from an alternative supplier due to delays in obtaining the necessary approvals from the TGA (provided such delay is not caused by the approved purchaser).

27. In addition, J&J is also required, unless requested otherwise, to pursue diligently and within the shortest time possible all necessary approvals from the TGA relating to its Italian manufacturing plant and to assist the approved purchaser to

gain any approvals, authorisations and licences necessary for it to obtain supply of *Vermox* for retail sale within Australia.[4]

Conclusion – worm treatments

28. In considering J&J's proposal to address the ACCC's competition concerns through the divestiture of its *Vermox* brand, the ACCC took into account *Vermox's* recently diminished market share, caused by J&J's problems in securing a supply of *Vermox*. However, given the previous strength of the *Vermox* brand and the fact that market inquiries indicated that there is potential for *Vermox* to be acquired by an experienced supplier of consumer healthcare products, the ACCC formed the view that J&J's divestiture proposal would maintain competition to J&J's *Combantrin* brand once supply is recommenced.

Anti-diarrhoeals

Competition concerns

29. J&J supplies a range of anti-diarrhoeal products in Australia under the *Imodium* and *Imodium Advanced* ranges. Pfizer supplied two ranges of anti-diarrhoeal products in Australia, *Lomotil* and *Lofenoxal*. According to J&J, each of these products is most commonly sold in the form of non-prescription medicine which can be obtained from pharmacies OTC.

30. Market inquiries suggested that the merged firm may have approximately a 55% share of the supply of anti-diarrhoeals in Australia. J&J submitted that a strong competitor in this area was Aspen Pharmacare (**Aspen**) through its supply of the *Gastrostop* product. J&J stated that other competitors in this area included Hamilton and Sigma, including Amcal. The brands of these suppliers are respectively *Harmonise*, *Diarrhoea Relief* and *Amcal's Anti-diarrhoeal.*

31. In light of the high level of concentration likely to result from the proposed acquisition and given that existing or potential competitors would be unlikely to provide a sufficient competitive constraint on the merged firm, the ACCC formed the view that there was the potential for a substantial lessening of competition for the supply of anti-diarrhoeals.

Background – manufacturing of Lomotil and Lofenoxal

32. As set out in detail below, J&J proposed to divest Pfizer's *Lomotil* and *Lofenoxal* brands in the anti-diarrhoeals product category to address the ACCC's competition concern. However, as a result of the proposed acquisition, J&J submitted it would only acquire the assets of the Australian Pfizer company which owns the rights to sell *Lomotil* and *Lofenoxal*, and not a source of supply of those products. The *Lomotil* and *Lofenoxal* products distributed in Australia are manufactured overseas by a third party, NPIL Pharmaceuticals (UK) Limited (**NPIL**), under a manufacturing and supply agreement (**the NPIL Agreement**) with a part of the Pfizer Group that was not part of J&J's proposed acquisition.

[4] Clause 22(a) and Clause 22(c) of the J&J Undertaking.

Impact of the Undertakings

33. The J&J Undertaking provides (at clause 21), in particular, for the divestment of the *Lomotil* and *Lofenoxal* brands by way of transfer of:

- the trademark and other intellectual property associated with these brands (as listed in sub-clauses (a) to (c) of Schedule 2 and subclauses (a) to (d) of Schedule 3 of the J&J Undertaking);
- any other assets possessed by J&J which relate exclusively to these brands in Australia and which the approved purchaser of these brands requires for the conduct of the business in respect of these brands;
- customer lists for these brands; and
- all relevant TGA registrations and approvals together with related licences.

34. Given that J&J will not acquire that part of the Pfizer Group which is a party to the NPIL Agreement and that the commercial arrangements which will be entered into following the *Lomotil* and *Lofenoxal* sales are uncertain at this stage, J&J and Pfizer have both provided undertakings to the ACCC so that the approved purchaser/s of *Lomotil* and *Lofenoxal* are provided with a transitional source of supply of these products if it is required. Clauses 26 to 31 of the J&J Undertaking as well as, in particular, clause 4 of the Pfizer Undertaking contain these obligations. These clauses provide that if the approved purchaser/s requires transitional supply, J&J will require Pfizer to provide transitional supply to the approved purchaser/s in certain circumstances. Alternatively, J&J will be required to provide transitional supply of *Lomotil* and *Lofenoxal* to the approved purchaser/s in certain circumstances.

35. Providing transitional supply of *Lomotil* and/or *Lofenoxal* to the approved purchaser/s will be primarily achieved by J&J and/or Pfizer, fulfilling its obligations, if requested, to supply the approved purchaser/s with the requested quantity[5] of the *Lomotil* and/or *Lofenoxal* product at cost price for a two year transitional period. However, this period may be extended for 12 months if requested[6] and if the approved purchaser/s is unable to commence retailing *Lomotil* and/or *Lofenoxal* sourced from an alternative supplier due to delays in obtaining the necessary approvals from the TGA (provided such delay is not caused by an approved purchaser/s).

36. Further, in the event that the approved purchaser/s of *Lomotil* and *Lofenoxal* obtain or seek to obtain supply of these products from a source other than J&J, Pfizer or NPIL, J&J must use best endeavours to procure that the approved purchaser/s secure a competitive source of supply of *Lomotil* and/or *Lofenoxal*, including by assisting the approved purchaser/s to gain any approvals,

[5] Clause 4(d) of the Pfizer Undertaking provides that in any 12 month period Pfizer will not be required to supply to the approved purchaser/s an amount of *Lomotil* or *Lofenoxal* which is greater than 175% of the total amount of either product acquired or sold by Pfizer Australia Pty Ltd (whichever is the greater) in the 2005 calender year.

[6] Clause 4(f) of the Pfizer Undertaking provides that the approved purchaser/s must request an extension to the two year transitional supply period 3 months prior to the expiry of this two year period.

authorisations and licences necessary in order for it to obtain supply of *Lomotil* and/or *Lofenoxal* for retail sale within Australia.[7]

Conclusion - Anti-diarrhoeals

37. The ACCC formed the view that J&J's divestiture in relation to anti-diarrhoeals, together with the Pfizer Undertaking, would be sufficient to address the ACCC's competition concerns in this area. In forming this view regard was given to the strength of the *Lomotil* and *Lofenoxal* brands (together these brands account for the third largest share of the supply of anti-diarrhoeal products in Australia), the potential for these brands to be acquired by an experienced supplier/s of consumer healthcare products, including anti-diarrhoeal products, and given that together J&J and Pfizer have provided an enforceable mechanism by which the approved purchaser/s could obtain transitional supply.

Nicotine replacement therapy products

Competition concerns

38. ALZA Corporation (**ALZA**), a wholly owned subsidiary of J&J, develops and manufactures transdermal drug delivery mechanisms. GlaxoSmithKline plc (**GSK**) obtains supply of NRT patches from ALZA pursuant to an exclusive distribution agreement. GSK markets and distributes NRT patches in Australia under the *Nicabate CQ* brand. The *Nicabate CQ* brand also includes other NRT products such as gum and lozenges.

39. Pfizer manufactures and distributes various NRT products in Australia, including patches, gum, sublingual tablets, nasal sprays and inhalers, under its *Nicorette* brand.

40. The ACCC formed the view that as a result of the proposed acquisition there was likely to be a substantial lessening of competition in the supply of NRT products in Australia, as J&J would likely have significant influence in relation to the NRT patch products of the two leading Australian brands, *Nicabate CQ* and *Nicorette*, undermining the competitive tension between these two brands. Market inquiries suggested that *Nicabate CQ* and *Nicorette* may together account for approximately 65% of total Australian NRT patch sales.

Impact of the Undertaking

41. The J&J Undertaking addresses the ACCC's competition concerns relating to supply of NRT products in Australia by incorporating the commitments offered by J&J to the EC to divest part or all of the global ALZA supply business of NRT products (**the EC Commitments**).

42. The EC Commitments form Schedule 1 of the J&J Undertaking. In addition, clauses 8, 12, and 32 of the J&J Undertaking seek to incorporate these EC Commitments in the Undertaking, so that they are enforceable in Australia.[8]

[7] Clause 31 of the J&J Undertaking.

[8] Clause 8 sets out the background to why the ACCC has incorporated the EC Commitments in this Undertaking. Clause 12 contains a definition of EC Commitments. Clause 32 of the Undertakings incorporates J&J's commitment to the EC to divest the ALZA nicotine supply business.

Further, clauses 34 to 44 and 66 to 69 (which are discussed below) set out additional obligations upon J&J which have been included in the Undertaking to guard against potential conflicting competition outcomes in Europe and Australia.

43. The EC Commitments provide that J&J will:

- first seek to divest the nicotine patch business of J&J in all countries except USA, Canada & Sth Korea (**the International Nicotine Patch Business**); and
- if this divestiture has not succeeded within the confidential timeframe provided, then J&J will seek to divest its worldwide nicotine patch business (**the Global Nicotine Patch Business**).

44. As summarised by the EC in its press release,[9] the main assets to be transferred to the purchaser of the ALZA supply business under the EC Commitments include:

> "...the relevant supply agreements, trademarks, technology and, as an option for the purchaser, ALZA's nicotine patch production lines. In addition, J&J has committed to provide manufacturing capacities and technical assistance to the purchaser until the latter has become fully operational".

45. The EC Commitments require J&J to obtain approval from the EC in relation to a proposed purchaser, and to appoint a Monitoring Trustee to monitor J&J's compliance with the EC Commitments. As set below, pursuant to the J&J Undertaking, J&J is also required to obtain approval from the ACCC, and to direct the Monitoring Trustee to report to the ACCC

Clause 34 to 44 – Divestment to Approved Purchaser Only

46. This clause prevents J&J selling, or authorising the Divestiture Trustee under the EC Commitments to sell, the ALZA supply business to a purchaser that has not first been approved by the ACCC pursuant to the process/mechanism set out in clauses 35 to 44.

47. To ensure that the ACCC has an opportunity to approve any purchaser proposed under the EC Commitments, and importantly prior to the EC's decision being made on the same issue, clauses 38, 39 and 40 seek to ensure the ACCC receives relevant information relating to a prospective purchaser as soon as possible.[10]

48. Clause 41 provides that the ACCC has 18 business days in which to object to a prospective purchaser of the ALZA supply business of NRT products.

Clauses 66 to 69 – Monitoring Trustee

49. Clauses 66 to 69 seek to ensure that the ACCC is informed in a timely manner as to whether J&J is complying with the EC Commitments, providing that all information the Monitoring Trustee receives or provides under the EC Commitments is also provided to the ACCC.

---

[9] Press release dated 11 December 2006, see: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/06/1726&format=HTML&aged=0&language=EN&guiLanguage=en

[10] The EC Commitments do not specify a time period within which the EC must approve a purchaser proposed by J&J or the Divestiture Trustee.

Conclusion – nicotine replacement therapy products

50. The ACCC considered that J&J's divestiture proposal, by seeking to appropriately incorporate the EC commitments, would be likely to be sufficient to address the ACCC's competition concerns in relation to the supply of NRT products in Australia.

51. In forming this view the ACCC had regard to the scope of the assets forming part of J&J's EC Commitments. The ACCC considered the assets proposed under the EC Commitments to be extensive and noted that the EC had taken account of feedback received from market participants in accepting the EC Commitments. In addition, the ACCC considered that J&J's obligation to seek ACCC approval in relation to a proposed purchaser offered protection against the risk that a proposed purchaser under the EC Commitments raises competition issues in Australia that do not arise in Europe.

Procedural aspects of the J&J Undertaking

Approved purchaser/s

52. The J&J Undertaking provides that J&J will identify the prospective purchaser/s and the ACCC will then assess the prospective purchaser/s having regard to the factors listed in clauses 35 to 44 of the J&J Undertaking. In particular, the ACCC may reject the prospective purchaser/s if it forms the view on reasonable grounds that the:

- prospective purchaser/s is not independent of J&J;
- prospective purchaser/s is not of good financial standing or does not have the intention to maintain the divested assets; or
- sale to the prospective purchaser/s is not likely to address the competition concerns identified by the ACCC in its Statement of Issues.[11]

Auditor commitments

53. The J&J Undertaking provides for the upfront appointment of an independent auditor to monitor J&J's compliance with the brand maintenance provisions of the J&J Undertaking (set out at clause 33) relating to the *Vermox*, *Lomotil* and *Lofenoxal* brands.

Sales agent commitments

54. The J&J Undertaking requires that if the *Vermox*, *Lomotil* and *Lofenoxal* brands and associated assets have not been sold by a deadline accepted by the ACCC (which is confidential) J&J must identify for the ACCC's approval an independent sales agent. J&J must procure and/or grant the approved agent with all necessary power and authority to implement the sale of the *Vermox*, *Lomotil* and *Lofenoxal* brands and associated assets, by way of execution and provision of an unconditional and irrevocable power of attorney in favour of the approved agent.

[11] Clause 42 of the J&J Undertaking.

Issues that did not raise concerns

Anti-allergics, conglomerate effects & other areas of overlap

55. In the Statement of Issues, in addition to the 'issues of concern' identified by the ACCC (which are discussed above) the ACCC also indicated its preliminary view that 'issues that may raise concerns' included the proposed acquisition's effect on the supply of ocular antihistamines (an anti-allergic medication). It also indicated that conglomerate effects may arise from the proposed acquisition as the merged firm may have the ability and incentive to leverage any market strength in one or more products to increase sales of a complementary product/s with the effect of significantly foreclosing rivals' access to shelf space, thereby raising their costs to the detriment of competition. The J&J Undertaking does not address the abovementioned areas.

56. Following market inquiries the ACCC formed the view that there was unlikely to be a substantial lessening in competition arising in relation to the supply of anti-allergics or from conglomerate effects, as a result of the proposed acquisition.

57. Feedback from market participants generally indicated that the merged firm would continue to face competitive constraints from alternative suppliers of anti-allergics. In addition, there did not appear to be any significant barriers for existing, or otential, suppliers of anti-allergics to expand supply in Australia.

58. With respect to the issue of conglomerate effects, the ACCC noted that while it appeared common for larger drug wholesalers to offer the retail sector a bundle of products, wholesale supply tended to be very fragmented and the proposed acquisition would not empower the merged firm such that it could significantly foreclose rivals' access to shelf space to the detriment of competition. In particular, retailers would still have access to alternative suppliers that could offer alternative bundles of products.

59. Finally, feedback from market inquiries also confirmed the ACCC's view, set out in the Statement of Issues, that the proposed acquisition was unlikely to raise concerns in relation to the remaining areas of overlap between the merger parties, that is, the supply of nappy rash treatments, codeine phosphate products, thrush treatments, cold and flu treatments and analgesics.

Conclusion

60. On the basis of the above, including taking account of the J&J Undertaking and Pfizer Undertaking, the ACCC formed the view that the proposed acquisition of Pfizer would not be likely to result in a substantial lessening of competition in any of the areas of product overlap in Australia, in particular with respect to the supply of worm treatments, anti-diarrhoeals and NRT products, in contravention of section 50 of the Act.