



Public Competition Assessment

16 March 2007

George Weston Foods Limited – proposed acquisition of Rabkal Pty Ltd trading as Good Stuff Bakery

Introduction

1. On 13 March 2007, the Australian Competition and Consumer Commission (ACCC) announced that it does not propose to intervene in the proposed acquisition of Good Stuff Bakery (**GSB**) by George Weston Foods Limited (**GWF**) (**Proposed Acquisition**) pursuant to section 50 of the *Trade Practices Act 1974*. The ACCC was of the view that the Proposed Acquisition would be unlikely to have the effect of substantially lessening competition in the wholesale market for the manufacture and distribution of bread in southern Queensland (ranging as far north as Rockhampton) and northern New South Wales (ranging as far south as Ballina).
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 decision 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 the Proposed Acquisition is considered to raise issues of interest to the public. In particular, the ACCC noted information from market participants suggesting that the

Proposed Acquisition would remove a maverick supplier of “price fighting” bread.

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: George Weston Foods Limited

8. GWF manufactures and distributes nationally a range of consumer food products and ingredients.
9. GWF's baking business manufactures and distributes various bread products and other baked goods (including 'Tip Top' branded bread products, bread rolls and buns, crumpets, crispbreads, muffins, bagels, packaged cakes and specialty breads, breadcrumbs and stuffing mixes), 'Tip Top' branded packaged flour and 'Kitchen Collection' bread mixes. These products are supplied to retailers and the food service industry. GWF also manufactures a quantity of generic-label bread products for supermarkets. In addition, GWF manufactures packaged cakes in Brisbane under the 'Top Taste' brand, which are distributed nationally.
10. Another of GWF's businesses, Weston Cereal Industries, trading as Weston Milling, supplies a range of baking ingredients such as flour, bread and cake pre-mixes, filling mixes and non-flour bakery ingredients to the food services, industrial and commercial sectors.

The target: Good Stuff Bakery

11. GSB is a family-owned business that was established on the Gold Coast in 1988. GSB manufactures and distributes assorted bread products, including sandwich and Turkish breads, rye loaves, rolls and lamingtons.
12. GSB markets its bread products under its own 'Good Stuff' brand and also manufactures a quantity of generic-label bread products for supermarkets, route trade retailers and food service customers.

Other industry participants

13. Goodman Fielder manufactures and distributes nationally a range of consumer food products and ingredients. Its bread division, Baking Australia, manufactures and distributes a wide range of bread products under brand names such as 'Buttercup', 'Helga's', 'Sunicrust' and 'Wonder White'. In southern Queensland Goodman Fielder manufactures bread products at a facility in the Brisbane area (Carina) and a facility at Burleigh Heads (on the Gold Coast). It also has bakeries at Rockhampton, Townsville and Cairns.
14. Gold Coast Bakeries is a plant baking business at Ernest Junction on the Gold Coast. It manufactures and distributes bread under brands such as 'Gold Coast' and 'Golden Hearth'. These brands are distributed widely in southern Queensland and northern New South Wales (from Ballina to Bribie Island and as far inland as Moree).
15. Homestyle Bakeries is a plant baking business based in Toowoomba. It manufactures and distributes bread products as well as bakery snacks and cakes. Homestyle Bakeries services an area reaching Maryborough in the north, Tenterfield in the south and as far inland as Quilpie.
16. The ACCC also noted the presence of a significant number of hot bread shops, franchise bakeries and supermarket in-store bakeries.

The Proposed Transaction

17. On 20 November 2006, GWF publicly announced the Proposed Acquisition.

Timing

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

Date	Event
21-Nov-2006	ACCC commenced review under the Merger Review Process Guidelines. Market inquiries commenced.
05-Dec-2006	Closing date for submissions from interested parties.
22-Dec-2006	ACCC requested information from George Weston Foods in relation to issues arising from the ACCC's market inquiries. ACCC's indicative timeline suspended pending receipt of response from George Weston Foods.

30-Jan-2007	George Weston Foods provided final response to the ACCC's information request. ACCC indicative timeline recommenced.
01-Feb-2007	ACCC staff met with George Weston Foods and requested further information. ACCC's indicative timeline suspended pending receipt of response from George Weston Foods.
13-Feb-2007	George Weston Foods provided response to the ACCC's information request of 1 February 2007. ACCC indicative timeline recommenced.
15-Feb-2007	ACCC publishes Statement of Issues.
22-Feb-2007	Former proposed date for announcement of ACCC's findings - amended to allow for consultation on Statement of Issues.
01-Mar-2007	Closing date for submissions on Statement of Issues.
13-Mar-2007	ACCC announced it would not oppose the proposed acquisition.

Market Inquiries

19. The ACCC conducted market inquiries with a range of industry participants, including competitors, potential competitors, customers and other interested parties.

Statement of Issues

20. The ACCC published its Statement of Issues on 15 February 2007, in which it identified two aspects of the Proposed Acquisition as potentially leading to competition concerns. These were:
- the acquisition of GSB may remove a vigorous and effective competitor to the other bread manufacturers supplying bread products to retailers in southern Queensland and northern New South Wales; and
 - the ability and incentive for tacit price coordination between the remaining plant bakers may be increased by the removal of GSB.
21. The Statement of Issues invited further information from interested parties regarding:
- whether the acquisition would result in the removal of a vigorous and effective competitor offering wholesale supply of bread products to retailers in southern Queensland and northern New South Wales;
 - the importance of the wholesale prices offered by GSB to wholesale prices set more broadly by GSB's competitors;
 - the ability of customers of GSB (in particular, "independent" supermarkets, the route trade and the food services industry) to avoid an attempted price rise by the merged firm by sourcing supply from the merged firm's competitors;
 - whether, and if so, how, hot bread shops, franchise bakeries and supermarket in-store bakeries provide a constraint upon the prices charged by wholesale bread manufacturers;
 - the height of barriers to entry and expansion to wholesale bread manufacturing and distribution; and

- the likely effect of the acquisition on price and non-price competition.

Market Definition

22. The relevant market was considered to be the wholesale market for the manufacture and distribution of bread in southern Queensland (ranging as far north as Rockhampton) and northern New South Wales (ranging as far south as Ballina) (**Relevant Bread Market**).

Product dimension

23. The relevant product dimension was considered to include sliced bread and bread rolls.
24. The ACCC noted information from market participants indicating that GSB focuses on the supply of “price-fighting” bread (ie. plain white, wholemeal and multigrain bread products that are sold under brands that receive little or no marketing).

Geographic dimension

25. Based on the distribution of the merger parties and their competitors, the ACCC considered the geographic dimension of the relevant market to encompass southern Queensland and northern New South Wales with the boundaries of the market reaching as far north as Rockhampton and as far south as Ballina.

Functional dimension

26. The ACCC considered the relevant functional dimension to be for the wholesale supply by plant bakers, which excluded retail supply by hot bread shops, franchise bakeries and supermarket in-store bakeries.
27. In this regard, market inquiries suggested that wholesale plant bakeries do not face a sufficiently strong price constraint from supply of bread products to final consumers by hot bread shops, franchise bakeries and supermarket in-store bakeries. This reflected the significant pricing differential between plant-baked bread and these other retail bread products, in addition to significant differentiation between their respective products.

Competition Analysis

Market concentration

28. Market inquiries indicated that the merged firm would account for approximately half of total sales in the Relevant Bread Market.

Barriers to entry

29. The ACCC considered the issue of barriers to entry in the context of examining both the height of structural barriers and the actual likelihood of entry.

30. Structural barriers to entry were considered to be relatively low in order for an entrant to provide an effective competitive constraint in the “price-fighting” segment of the Relevant Bread Market in which GSB primarily competed. A factor informing this view was that brand loyalty does not appear to be a significant barrier in the “price-fighting” segment of the Relevant Bread Market.
31. Notwithstanding the above, the ACCC’s market inquiries indicated that the actual likelihood of new entry was low, which reflected the likely level of competition that would be imposed by three remaining independent plant bakers and significant excess capacity.
32. Accordingly, the ACCC considered that new entry would be unlikely to provide an effective competitive constraint on the merged firm within the foreseeable future.

Countervailing power

33. Large supermarkets chains were considered likely to possess significant countervailing power in the Relevant Bread Market. These chains purchase significant volumes of bread and have a credible threat to sponsor new entry. This countervailing power is likely to limit the merged firm’s ability to exercise any market power post-acquisition.
34. Other bread retailers, particularly route trade retailers and food service customers, were considered unlikely to possess significant countervailing power due to their fragmented nature and significantly lower volumes purchased.

Removal of vigorous and effective competitor

35. On the basis of submissions by market participants, the ACCC considered that GSB is a vigorous and effective competitor in the Relevant Bread Market. Factors informing this view included that:
 - of all the competitors in the Relevant Bread Market, GSB has the strongest focus on the supply of “price-fighting” bread. In this regard, the ACCC noted that the majority of GSB’s sales are to “independent” supermarkets, route trade stores and the food services industry;
 - on average, GSB supplies bread at prices significantly below those offered by its competitors; and
 - it appears that GSB has been able to profitably supply customers with low price “price-fighting” bread because, until its recent plant expansion, it had lower costs of production than its competitors.
36. The ACCC received some market feedback which suggested that GSB’s current prices may not be sustainable due to a variety of factors. On the evidence available, the ACCC did not form a conclusive view on whether the current prices offered by GSB were likely to have been sustainable for the foreseeable future.

Availability of substitutes

37. The ACCC’s inquiries indicated that remaining competitors possess significant excess capacity with which to expand output in the event of significantly increased prices or reduced output by the merged firm.

38. In particular, the ACCC noted information from market participants that there has been significant recent investment in bread manufacturing capabilities by a competitor in the Relevant Bread Market. Further, the ACCC noted that this particular competitor has expressed an intention to expand and to capture further market share.
39. Accordingly, the ACCC was of the view that, post-acquisition, the remaining competitors would be likely to provide a credible competitive constraint on the merged firm.

Likely effect of Proposed Acquisition in other segments of the Relevant Bread Market

40. The ACCC considered that Proposed Acquisition was unlikely to substantially lessen competition in the “branded” segment of the Relevant Bread Market. The ACCC’s market inquiries indicated that the constraint offered by GSB in the “price-fighting” segment does not materially affect the prices offered by plant bakers for their other bread products such as heavily branded and marketed products.
41. Accordingly, the ACCC found that any reduced competition in the supply of “price-fighting” bread that could be reasonably attributable to the Proposed Acquisition, was unlikely to constitute a substantial lessening of competition across the Relevant Bread Market.

Conclusion

42. On the basis of the above the ACCC formed the view that the Proposed Acquisition would be unlikely to have the effect of substantially lessening competition in the Relevant Bread Market.