



Australian
Competition &
Consumer
Commission

5 September 2007

Statement of Issues - Woolworths Limited - proposed acquisition of Officeworks and either Kmart or Target

1. Outlined below is the Statement of Issues released by the Australian Competition and Consumer Commission (ACCC) in relation to the proposed acquisition of Officeworks BusinessDirect Pty Ltd and Officeworks Superstores Pty Ltd (**Officeworks**) and either Kmart Australia Ltd (**Kmart**) or Target Australia Pty Ltd (**Target**) by Woolworths Limited (**proposed acquisition**).
2. A Statement of Issues published by the ACCC is not a final decision about a proposed acquisition, but provides the ACCC's preliminary views, drawing attention to particular issues of varying degrees of competition concern, as well as identifying the lines of further inquiry that the ACCC wishes to undertake.
3. In line with the ACCC's *Merger Review Process Guidelines* (available on the ACCC's website at www.accc.gov.au) the ACCC has established a secondary timeline for further consideration of the issues. The ACCC anticipates completing further market inquiries by 19 September 2007 and anticipates making a final decision on 3 October 2007. However, the anticipated timeline can change in line with the *Merger Review Process Guidelines*. To keep abreast of possible changes in relation to timing and to find relevant documents, market participants should visit the Mergers Register on the ACCC's website at www.accc.gov.au/mergersregister.
4. A Statement of Issues provides an opportunity for all interested parties (including customers, competitors, shareholders and other stakeholders) to ascertain and consider the primary issues identified by the ACCC. It is also intended to provide the merger parties and other interested parties with the basis for making further submissions should they consider it necessary.

Background

5. On 15 June 2007, the ACCC commenced its review under the *Merger Review Process Guidelines*. The ACCC's review in this case is unusual as the proposed acquisition consists of one of two possible transactions, that is, the acquisition of Officeworks and either Kmart or Target.

6. The ACCC will separately assess both proposed acquisitions (Officeworks and Kmart or Officeworks and Target), to determine whether either would be likely to lead to a substantial lessening of competition.
7. On 30 June 2007, Woolworths Limited (**Woolworths**) lodged a bid to acquire Officeworks and either Kmart or Target from Coles Group Limited (**Coles**).
8. However, on 2 July 2007, the Coles board announced it would put a recommended offer to Coles shareholders for Wesfarmers to acquire 100% of Coles under a scheme of arrangement. Coles shareholders are to vote on the scheme on 25 October 2007. The ACCC announced on 22 August 2007 that it will not oppose Wesfarmers' proposal.
9. Despite the Coles board's recommendation of the Wesfarmers offer, Woolworths has publicly stated that it continues to be interested in acquiring certain Coles assets. As the Wesfarmers offer has not yet been put to Coles shareholders, the ACCC intends to continue its assessment of Woolworths' proposal.

The parties

Woolworths Limited

10. Woolworths is an ASX listed retailing company. Its businesses most relevant to this transaction include:
 - Big W – a chain of 141 discount department stores operating across Australia. Big W retails general merchandise, including clothing, footwear and accessories; homewares; toys and other leisure products; gardening, hardware and tools; everyday needs products including toiletries and cosmetics; home appliances and entertainment products; and stationery and office products. Most of the product categories where Big W is active overlap with Kmart and Target's product categories. Big W and Officeworks' product categories also overlap in the retail of office products.
 - Dick Smith Electronics, Dick Smith Electronics Powerhouse and Tandy – retailers of household and small office computers, electronic and electrical components and kits, household and small office communications products, and entertainment products. Woolworths operates 190 Dick Smith Electronics stores, 19 Powerhouse stores and 119 Tandy stores across Australia. Some of the product categories where Dick Smith and Tandy are active, such as office computers, technology and communication products, overlap with Officeworks, Kmart and Target's product categories.
11. Woolworths also owns a chain of supermarkets, liquor stores and service stations.

Coles Group Limited - Officeworks, Kmart and Target

12. Coles is an ASX listed retailing company. The Coles assets of most relevance to the ACCC's assessment are:

- Officeworks - retailer of office and technology products for offices, students and businesses. Officeworks has approximately 100 outlets, and an online operation.
 - Kmart - one of Australia's largest discount department store retailers, with a chain of 168 stores operating throughout Australia (and a further 14 in New Zealand). Kmart retails general merchandise, including clothing, footwear and accessories; homewares; toys and other leisure products; gardening, hardware and tools; everyday needs including toiletries and cosmetics; home appliances and entertainment products; and stationery and office products. Kmart also runs Kmart Tyre and Auto Service centres. Woolworths does not intend to acquire the Kmart Tyre and Auto business.
 - Target - a chain of 260 department stores operating throughout Australia. Target trades under the brands Target, Target Country and Baby Target. Target retails general merchandise including clothing, footwear and accessories; homewares, toys and other leisure products; toiletries and cosmetics; and technology products, including audio-visual products, cameras, telephones and computers.
13. Coles also has interests in supermarkets, liquor stores and service stations. Woolworths does not propose to acquire any of those assets as part of the proposed acquisition.

Market inquiries

14. On 15 June 2007, the ACCC commenced market inquiries regarding the proposed acquisition. A range of interested parties provided responses, including other retailers, suppliers of the relevant Coles and Woolworths businesses, shopping centre landlords and industry associations.
15. As a result of Wesfarmers' proposal being recommended by the Coles board, a number of market participants chose not to make submissions during market inquiries. **All interested parties are now advised that they should make a submission before 19 September** if they have information which they believe should be taken into account in the ACCC's review of the proposed acquisition.

Industry background

Different store formats

16. General merchandise is sold by a large number of retailers operating in different formats. Key formats tend to be comprised of national chains. They include:
- **Discount Department Stores (DDS)** – sell a broad range of merchandise. They generally focus on attracting price conscious customers, with an emphasis on low prices and good value. Customers are usually expected to self-serve in store, and transactions take place via a large bank of checkouts at the front of the store. E.g. Big W, Kmart, Target.
 - **Traditional Department Stores** – sell products across a relatively broad range of product categories. They generally focus on attracting medium

to higher income customers, with an emphasis on fashion and on well-known national and international brands. These stores market themselves as offering a higher degree of customer service, and cashiers are located throughout the store. E.g. David Jones, Myer.

- **Large specialty retailers** – sometimes referred to as ‘mini-majors’, specialise in a particular category (or a small number of categories) of general merchandise, sold in a relatively large format and with an extensive product range. E.g. Bunnings (hardware, gardening), Supercheap Auto (automotive), Rebel Sport (sporting goods).
17. General merchandise is also sold in **discount variety stores**, which sell lower priced and generally non-branded merchandise across a range of categories (e.g. The Reject Shop, Crazy Clarks) and **smaller specialty retailers**, which specialise in a particular category or type of merchandise, and are often chain stores.
 18. **Supermarkets** also complement their primary food and grocery product range with a small to medium range of general merchandise goods, most of which fall into the category of everyday needs.

Industry structure and competition

19. The three major chains of DDS are Target, Kmart and Big W. Coles owns two DDS chains, Target and Kmart, while Woolworths owns one, Big W.
20. While there are a range of different store formats selling various categories of general merchandise, the customer experience differs depending on the format. Retailers compete not only by broad product category, but also on price, quality, range, convenience and service.
21. That is, the extent to which one firm competitively constrains another depends on all of these factors, not simply on its share of sales in a particular product category. A firm which has a similar offering in terms of these factors is a much closer constraint than a firm which, despite selling items in the same product category, operates at a very different price point and with different levels of service and quality.
22. Market inquiries indicated that, in general, Kmart and Target operate as strong constraints on Big W, and the reverse is also true. Overall, Kmart is likely to provide a stronger competitive constraint on Big W than is provided by Target, due to the fact that Kmart and Big W are most similar in terms of factors such as price, range, service levels and store format.
23. In terms of product range, market inquiries suggested that consumers value the multi-product offering of the DDS chains.
24. Inquiries to date also indicate that the DDS chains determine the vast majority of prices on a national basis, rather than store by store. Accordingly, the ACCC’s preliminary view is that the competitive constraint Big W places on Kmart (and to a lesser degree on Target) is most likely to manifest itself at the national level. If the removal of the pricing constraint Big W imposes on Kmart (and vice versa) results in an increase in prices, this would more likely occur across all stores nationally – rather than just at the local store level. To the

extent the number of DDS outlets in Australia diminishes, the competitive constraint the DDS chains impose on each other may also be lessened.

25. The ACCC encourages comments on how the proposed acquisitions will affect the competitive constraints imposed on Big W.

Statement of issues

26. For the purposes of this Statement of Issues, the issues in this matter are divided into two categories, 'issues that may raise concerns' and 'issues unlikely to pose concerns'.
27. This section provides an overview of the ACCC's preliminary views on the transaction. The remainder of the Statement of Issues is divided into sections relating specifically to the acquisition of each of Kmart, Target and Officeworks.
28. A fourth section discusses concerns raised in relation to the increased size of Woolworths' retail operations, specifically regarding the likelihood that, post merger, Woolworths will be able to negotiate improved lease terms and whether this raises competitive issues.

With and without test

29. The proposed acquisition will only breach s 50 of the *Trade Practices Act 1974* (the Act) if the situation **with the Woolworths acquisition** constitutes a substantial lessening of competition compared to the situation **without the Woolworths acquisition**.
30. Without the proposed acquisition by Woolworths, it appears likely that Kmart and Target will continue to be owned by a single company, whether that owner is Coles or Wesfarmers. That is, without the Woolworths acquisition, the most likely scenario is essentially a continuation of the current industry structure.
31. If Woolworths' proposed acquisition proceeds, the ownership of DDS chains would change from Coles owning 2 DDS chains and Woolworths owning 1 DDS chain to the reverse of this (see table 1 below).

Table 1: Ownership of DDS chains with and without the Woolworths acquisition

	Without the Woolworths acquisition	With the Woolworths acquisition
Coles (or another owner)	2 DDS (Kmart and Target) + Officeworks	1 DDS (Kmart or Target)
Woolworths	1 DDS (Big W)	2 DDS (Big W plus Kmart or Target) + Officeworks

32. Although post-merger the overall number of major DDS chains which operate independently may not change, the ACCC considers that it is necessary to

consider whether a lessening of competition may occur due to the change in the particular chains which would be jointly owned. This may occur if, for instance, Kmart and Big W are each other's closest competitors in certain product categories, and other retailers (including Target) are sufficiently different from Kmart and Big W such that a combined Kmart/Big W would be able to increase prices while losing little or no market share to competitors.

Preliminary views and areas where the ACCC seeks further information

33. Based on the information currently before it, the ACCC's preliminary view is that there are some product categories where such a lessening of competition may occur, due to the characteristics of Big W, Kmart and Target. The ACCC is seeking further information from market participants in order to confirm or reject this proposition.
34. For example, Big W and Kmart both have a strong focus on low prices and basic everyday items across a wide range of goods. Target, on the other hand, has a greater focus on soft goods, e.g. clothing and manchester, and providing 'value for money' rather than the lowest prices. There are therefore a number of areas in which Big W and Kmart are active, but Target is not considered to be as close a competitor. In other areas, Big W and Target are both quite strong but Kmart is relatively weak.
35. The ACCC notes that DDS chains can change their competitive positioning (in terms of price, range, service levels, store layout etc) over time. However, any significant change in a store's positioning is a difficult exercise which takes time and investment to plan, implement and advertise convincingly to consumers. The ACCC therefore considers that the current position of each DDS is highly relevant to this assessment.
36. Another potential source of a lessening of future competition may arise if, in the absence of the acquisition, Woolworths would have been likely to expand its Big W chain considerably, and/or open up a large specialty office products retailer of its own (in direct competition with Officeworks), but with the acquisition it would not do so.

Proposed acquisition of Kmart

Issues that may raise concerns

37. Market participants expressed strong concerns about Big W's proposed acquisition of Kmart given the similarity between the two businesses. It was suggested that, without Kmart as a competitive constraint, Big W may be able to profitably raise its prices for certain products or categories of products.
38. In addition, some market participants noted that Big W and Kmart, despite being active in the same segments, sometimes carry different products. In the event that all Kmart stores are converted to Big W stores, there may be a reduction in consumer choice in those segments where Big W and Kmart are currently each other's strongest competitor. Consumers in areas where there is currently both a Kmart and a Big W are particularly likely to experience a reduction in the range of products available to them.

39. Market participants were also concerned about an increase in Woolworths' bargaining power in relation to suppliers of general merchandise. However, the ACCC has not received evidence to substantiate a claim that an increase in Woolworths' bargaining power will substantially lessen competition compared to the situation absent the acquisition (in which Kmart and Target are owned by a single entity).
40. While entry on a small scale appears to be possible, market inquiries indicated that a firm would need to operate on a large scale to constrain chains such as Big W, in part to achieve similar volume discounts. Market participants submitted that large scale entry is difficult due to the need for a network of convenient and appropriately sized retail sites, which is difficult to obtain.

Questions

For each of the following questions, the ACCC seeks the views of market participants, supported by an explanation of the basis on which the view was formed. Please provide evidence wherever possible.

41. The ACCC has identified the following as categories in which Kmart may be Big W's closest competitor, and in respect of which Woolworths' proposal to acquire Kmart may raise competition concerns:
 - basic menswear
 - basic womenswear
 - childrenswear
 - footwear
 - toys
 - CDs and DVDs
 - books.
42. Please identify any other product categories in which Big W and Kmart are each other's closest competitors and are not strongly constrained by competition from other retailers. Alternatively if you do not agree that they are each other's competitors in any of these categories, or if you believe other firms are likely to constrain a combined Big W / Kmart in these categories, please outline your views and the basis for them.
43. **For each of the segments identified above**, the ACCC seeks further information on the following:
 - (a) Is Kmart Big W's closest competitor?
 - (b) Is either Big W or Kmart currently considered the lowest price retailer in the category?
 - (c) Are there other competitors in the category who are strongly price competitive and position themselves as low price or 'value for money' retailers? If so, please list them.

- (d) Could Big W profitably increase prices after acquiring Kmart, or would it be unprofitable to do so due to the loss of significant volumes of sales to other retailers you listed under the previous question?
 - (e) In the event the merged entity raises prices above competitive levels or reduces its range, could other retailers re-position their businesses to compete more closely with the merged entity? What would be the time and costs involved and how strongly would these retailers be able to constrain the merged entity?
 - (f) Which products currently available from Kmart may not be supplied if Kmart was acquired by Big W, and Kmart stores were rebranded as Big W stores, and why do you believe this would be the case? Are these products available, or would they become available, from other retailers? Why or why not?
 - (g) Do you consider prices are likely to be higher if Big W and Kmart were combined than they are at present (with Target and Kmart combined)? If so, why?
 - (h) Post-acquisition, would Woolworths be more able to exert pressure upon suppliers, for example, by requiring improved trading terms, than the current combination of Kmart and Target? If so, why and what effect would this have on the price, range and quality of the product available for retail? Could suppliers sell their products through other channels?
 - (i) Please provide copies of any surveys relating to customer perceptions of Big W, Kmart and others in the relevant categories.
 - (j) Please provide any information relating to the market or sales shares of Big W, Kmart and others in the relevant categories.
44. To form a concluded view on the likely competition effects of Big W's proposal to acquire Kmart, the ACCC also seeks further information specific to each category discussed below.

Basic menswear

45. Big W and Kmart both sell menswear, with a particular focus on basic items at low prices, and a reliance on selection by the customer.
46. The ACCC is interested in whether Big W (if it acquired Kmart) could profitably increase the prices, or reduce the range, of basic items of men's clothing. Alternatively, would it be constrained from doing so by Target or any other new or existing retailer of menswear?

Questions

47. The ACCC invites further comments on the extent to which specialty retailers constrain Big W and Kmart in the sale of menswear. Specifically, the ACCC invites comments on the following:
- (a) Is there any effect on sales figures at these specialty retailers when Big W or Kmart have a sale on men's apparel? If so, to what degree are sales figures at specialty retailers affected and which apparel lines are affected most?

- (b) Is the reverse true (i.e. do specialty retailers take business from Big W or Kmart when they hold sales or clearances of basic menswear)? If so, to what degree are sales figures at Big W and Kmart affected and what apparel lines are affected most?
- (c) Do certain specialty menswear retailers set their prices using Big W, Kmart or Target prices as benchmarks? If so, please identify these retailers and outline how this works in practice. Which of the three DDS is more important in setting any such benchmarks?
- (d) Post-acquisition, by how much could Big W increase its prices on basic menswear before a significant number of consumers would turn to specialty stores, Target, or traditional department stores (Myer or David Jones) for these basic items?
- (e) Please also address the questions listed in paragraph 43 above.

Basic womenswear

- 48. Big W and Kmart both sell womenswear, with a particular focus on basic items at low prices, and a reliance on selection by the customer.
- 49. The ACCC is interested in whether Big W (if it acquired Kmart) could profitably increase the prices, or reduce the range, of basic items of women's clothing. Alternatively, would it be constrained from doing so by Target or any other new or existing retailer of womenswear?

Questions

- 50. The ACCC invites further comments on the extent to which specialty retailers constrain Big W and Kmart in the sale of womenswear. Specifically:
 - (a) Is there any effect on sales figures at specialty retailers when Big W or Kmart have a sale on women's apparel? If so, to what degree are sales figures at specialty retailers affected and what apparel lines are affected most?
 - (b) Is the reverse true (i.e. do specialty retailers take business from Big W or Kmart when they hold sales or clearances of basic womenswear)? If so, to what degree are sales figures at Big W and Kmart affected and what apparel lines are affected most?
 - (c) Do certain specialty womenswear retailers set their prices using Big W, Kmart or Target prices as benchmarks? If so, please identify these retailers and outline how this works in practice. Which of the three DDS is more important in setting any such benchmarks?
 - (d) Post-acquisition, by how much could Big W increase its prices on basic womenswear before a significant number of consumers turned to specialty stores, Target, or traditional department stores for basic womenswear?
 - (e) Please also address the questions listed in paragraph 43 above.

Basic childrenswear (including baby clothing)

- 51. Big W and Kmart both sell childrenswear, with a particular focus on basic items at low prices, and a reliance on selection by the customer.

52. The ACCC is interested in whether Big W (if it acquired Kmart) could profitably increase the prices, or reduce the range, of basic items of children's clothing. Alternatively, would it be constrained from doing so by Target, Best & Less, or any other new or existing retailer of childrenswear?

Questions

53. The ACCC invites further comments on the extent to which specialty retailers constrain DDS in the sale of childrenswear. Specifically, the ACCC invites comments on the following:
- (a) Is there any effect on sales figures at specialty retailers when Big W or Kmart have a sale on children's apparel? If so, by how much and what apparel lines are affected most?
 - (b) Is the reverse true (i.e. do specialty retailers take business from Big W or Kmart when they hold sales or clearances of basic childrenswear)?
 - (c) Do certain specialty childrenswear retailers set their prices using Big W, Kmart or Target prices as benchmarks? If so, please identify these retailers and outline how this works in practice. Which of the three DDS is more important in setting any such benchmarks?
 - (d) Post-acquisition, by how much could Big W increase its prices on basic childrenswear before consumers turned to specialty stores, Target, or department stores for basic childrenswear?
 - (e) Please also address the questions listed in paragraph 43 above.

Basic footwear

54. Big W and Kmart both sell basic footwear for men, women and children, including dress fashion, boots, dress shoes, sports shoes, casual shoes, thongs, scuffs and slippers. Market inquiries to this point indicate that, unlike most shoe retailers, both Big W and Kmart rely largely on customer self-service, and they focus on footwear for under or around \$20, other than during the 'back to school' period each year when they compete more directly with a range of other footwear retailers.
55. While there are a number of other footwear retailers, it is unclear whether the scale and pricing will allow any of these retailers to effectively compete with Big W and Kmart in the sale of footwear for under or around \$20.
56. The ACCC is interested in whether Big W (if it acquired Kmart) would be able to raise prices, or reduce the quality of its footwear, without losing significant market share as a result.

Questions

57. The ACCC invites further comments on the extent to which specialty retailers constrain DDS chains in the sale of footwear. Specifically:
- (a) Whether Big W's range of footwear is more similar to Kmart's or to Target's in terms of (i) quality, and (ii) price?
 - (b) Would a combined Big W / Kmart be constrained by other shoe retailers such as Payless or Spendless Shoes? Could specialist retailers reposition

themselves to compete more closely against Kmart and Big W's in terms of price, quality and service, and what barrier would they face in attempting to do so?

- (c) Post-acquisition, by how much could Big W increase its prices on basic footwear before consumers turned to specialty stores, Target, or department stores for basic footwear?
- (d) Do other shoe retailers such as Payless or Spendless Shoes set their prices using Big W, Kmart or Target prices as benchmarks? If so how does this work in practice? Which of the three DDS is more important in setting any such benchmarks?
- (e) Please also address the questions listed in paragraph 43 above.

Toys (other than electronic games)

- 58. Big W and Kmart are both price competitive toy retailers, although market inquiries indicated that Kmart provides a wider range of items. Market inquiries indicated that Target is also price competitive in relation to toys, but appears to be stronger in its range of nursery items than toys for older children. Information provided to the ACCC so far suggests that specialty toy retailers, such as Toys R Us, Toy World and Toy Kingdom do not exert a strong price constraint on Big W or Kmart.
- 59. The ACCC is interested in whether, post-acquisition, a combined Big W and Kmart could profitably increase the prices of toys. Alternatively, would it be constrained from doing so by Target, Toys R Us, or any other new or existing retailer of toys?
- 60. The ACCC is also interested in whether the range of toys currently stocked by Kmart would remain available to consumers through other outlets if Kmart stores were converted to Big W.

Questions

- 61. The ACCC invites further comments on the extent to which specialty retailers constrain DDS chains in the sale of toys. Specifically, the ACCC invites comments on the following:
 - (a) Is Kmart's range of toys more similar to Target's or to Big W's?
 - (b) Why do you consider that Kmart's 'Toys for Kids' store exited the market, and are there any other examples of attempted large-scale new entry in toy retailing in the last 5 years? If so, what were the results?
 - (c) Will toy suppliers reduce the range of toys that they supply in Australia if Kmart's range becomes more similar to Big W's? If so, why?
 - (d) Do specialty toy retailers set their prices using Big W, Kmart or Target prices as benchmarks? If so how does this work in practice? Which of the three DDS chains is more important in setting any such benchmarks?
 - (e) Please also address the questions listed in paragraph 43 above.

CDs and DVDs

- 62. Big W and Kmart concentrate on selling a selection of the most popular CDs and DVDs at low prices, and a selection of highly discounted CDs or DVDs.

The ACCC's inquiries so far indicate that they are generally not considered to be particularly strong in providing a wide range of CDs and DVDs.

63. Target has reduced its CD and DVD offering over the last five to six years. Market inquiries to date indicate that other major participants provide a wide range of products, but generally at higher prices than those products sold by the DDS chains.
64. The ACCC is interested in whether Big W (if it acquired Kmart) could profitably increase the prices of popular (e.g. top 20) and discounted CDs and DVDs. Alternatively, would it be constrained from doing so by Target, JB Hi-Fi, Sanity, or any other new or existing retailer of CDs and DVDs, including online stores and downloads?
65. The ACCC is also interested in any competitive impact the transaction may have on the wholesale supply of CDs and DVDs.

Questions

66. The ACCC invites further comments on the extent of competition between Kmart and Big W in the sale of CDs and DVDs, and the likely effects of the acquisition. Specifically, the ACCC invites comments on:
 - (a) What range and volume of popular CDs and DVDs do other retailers sell and what is the wholesale cost of those CDs and DVDs to those retailers?
 - (b) Are the sales figures of retailers of CDs and DVDs affected when there is a sale on DVDs/CDs at Big W or Kmart? If so, by how much? Are any effects experienced only on sales of the most popular CDs and DVDs or are there other types of CDs/DVDs which are affected?
 - (c) Do prices of DVDs and CDs at DDS influence pricing of popular or new release titles by specialty CD or DVD retailers? If so, please provide details of how prices are set in comparison to prices being charged by DDS such as Big W.
 - (d) How do retailers of CDs and DVDs set their sale prices? Are popular or new release titles priced lower than DDS in order to attract customers? Please provide details of how sale prices of popular or new release titles compare with those offered by DDS.
 - (e) Please also address the questions listed in paragraph 43 above.

Books

67. Information provided to the ACCC so far suggests that Big W and Kmart each provide a limited range of low priced, popular books and do not attempt to compete with specialist bookstores on the basis of range. Market inquiries indicate that Target is not a strong competitor in the retail of books. Other major participants in the retail of books include Borders and Angus & Robertson.
68. The ACCC is interested in whether, post-acquisition, Big W (if it acquired Kmart) could profitably increase the prices of books. Alternatively, would it be constrained from doing so by Target, Borders, or any other new or existing retailer of books?

69. The ACCC is also interested in the effects of Woolworths' increased bargaining power relative to publishers and other suppliers of books post-acquisition.

Questions

70. The ACCC invites further comments on the extent of competition between Kmart and Big W in the sale of books, and the strength of the constraint provided by other retailers. Specifically, the ACCC invites comments on:
- (a) Are the sales figures of book retailers affected when there is a sale on books at Big W or Kmart? If so, by how much? Are any effects experienced only on sales of the most popular books and new release titles or are there other types of books which are affected?
 - (b) Do prices of books at DDS chains influence pricing of popular or new release titles by specialty book retailers? If so, please provide details of how prices are set in comparison to prices being charged by DDS chains such as Big W.
 - (c) How do retailers of books set their sale prices? Please provide details of how sale prices of popular or new release titles compare with those offered by DDS.
 - (d) Please also address the questions listed in paragraph 43 above.

Issues unlikely to pose concerns

71. The ACCC's preliminary view is that Woolworths' proposal to acquire Kmart does not appear to raise competition concerns in the following areas:
- Markets for the wholesale supply of clothing
 - Accessories
 - Garden, hardware and tools
 - Home appliances and entertainment
 - Children's nursery
 - Manchester
 - Soft furnishings
 - Home furnishings
 - Electronic games
 - Sporting goods
 - Travel goods
 - Everyday needs
 - Pet food and accessories
 - Computers and related accessories
 - Office furniture.
72. In some of these categories, Big W and Kmart do not appear to be each other's closest competitors, while in others, the combined entity appears likely to be constrained by competitors (e.g. Bunnings in garden, hardware, and tools).

73. Notwithstanding its preliminary view, the ACCC will consider any further submissions providing evidence to show that the proposed acquisition would be likely to substantially lessen competition in relation to any of these categories.

Proposed acquisition of Target

Issues that may raise concerns

74. While the ACCC notes that in most categories, Target appears to be a less significant constraint on Big W than Kmart is, in some categories of 'soft goods', Target is considered by market participants to be Big W's closest competitor.

Questions

For each of the following questions, the ACCC seeks the views of market participants, supported by an explanation of the basis on which the view was formed. Please provide evidence wherever possible.

75. The ACCC has identified the following as categories in which Target may be Big W's closest competitor, and in respect of which Woolworths' proposal to acquire Target may raise competition concerns:
- childrenswear
 - toys
 - nursery.

Please identify any other segments in which Big W and Target are each other's closest competitor, or if you do not agree that they are each other's competitors in any of these categories, please explain why.

76. **For each of the segments identified above**, the ACCC seeks further information on the following:
- (a) Do you consider that Target is Big W's closest competitor?
 - (b) Please list any other competitors which are strongly price competitive and position themselves as 'low price' or 'good value' retailers, and indicate whether they are close enough competitors to Big W and Target to prevent a price rise if Woolworths acquires Target.
 - (c) Do you consider that competition in the category will be substantially lessened as a result of Woolworths acquiring Target? If so, how is this likely to occur?
 - (d) In the event the merged entity raises prices above competitive levels or reduces its range, please comment on whether other retailers could reposition their businesses to compete more closely with the merged entity. What would be the time and costs involved and how strongly would these retailers constrain the merged entity?
 - (e) Please provide copies of any surveys relating to customer perceptions of Big W, Target and others in the relevant categories, and any information relating to the market or sales shares of Big W, Target and others in the relevant categories.

77. To form a concluded view on the likely competition effects of Big W's proposal to acquire Target, the ACCC also seeks further information specific to each category discussed below.

Childrenswear

78. The ACCC understands that Target is a vigorous and effective competitor in children's apparel, strongly focused on quality. Although Target does not compete primarily on the basis of lowest prices with Kmart and Big W, it appears that it is still significantly lower priced than traditional department stores and many specialty stores.
79. Big W has lines of comparable childrenswear at similar prices to Target. The ACCC is concerned that a combined Big W / Target may be able to reduce quality or increase prices, due to the lack of other competitors with a similar product offering (in terms of quality and price). It is unclear whether Kmart or other retailers impose a strong constraint on Big W and Kmart in childrenswear, and the ACCC seeks further information on this question.

Questions

80. The ACCC invites further comments on whether there are likely to be competition concerns in the retail supply of childrenswear post-acquisition of Target. Specifically, the ACCC invites comments on:
- (a) The extent to which Big W's childrenswear is comparable to, and competes with, Target's lines in terms of style, quality and price.
 - (b) Whether Best & Less or Kmart's range (or any other retailer's range) of childrenswear is sufficiently competitive with Target and Big W in terms of quality, appearance and price that it would prevent them from increasing prices post-acquisition.
 - (c) Please also provide details of any other constraints you consider might limit the ability of the merged entity to raise prices or reduce its range.
 - (d) Please also address the questions listed in paragraph 76 above.

Toys

81. As discussed in relation to Big W's proposal to acquire Kmart, all three DDS chains retail toys. Competition concerns from the acquisition of Target may arise if the constraint Kmart could impose on a combined Big W and Target post-acquisition would be weaker than the constraint that Big W is currently able to impose on Kmart and Target.
82. Market participants provided mixed feedback on whether this is in fact the case. The ACCC therefore seeks further views and evidence on the competitive constraint provided by each of Target and Kmart on Big W.

Questions

83. The ACCC invites further comments on whether there are likely to be competition concerns in relation to toys if Woolworths acquires Target. Specifically, the ACCC invites comments on the following questions:

- (a) Is Target a closer competitor to Big W than it is to Kmart? Please provide reasons.
- (b) Will toy suppliers reduce the range of toys that they supply in Australia if Target's range becomes more similar to Big W's? Why or why not?
- (c) Please also address the questions listed in paragraph 76 above.

Nursery

- 84. Market participants indicated that Target (including Baby Target) is the leader in nursery products, including: baby toys, prams, cots, baby gates and car seats. Big W and Kmart also have a range of nursery products, which are competitively priced. Other competitors include Toys R Us and regional baby specialty stores such as Babies Galore, Babyco, Baby Bunting or Baby on a Budget.
- 85. The ACCC is interested whether the acquisition of Target would enable the merged entity to raise prices or reduce the range of nursery products it supplies.

Questions

- 86. The ACCC seeks information on the following questions:
 - (a) Do you consider that Target is the strongest competitor in nursery items?
 - (b) To what degree do other nursery retailers (such as Baby Bunting) offer a similar range at similar prices to Target and Big W?
 - (c) Is there any effect on sales figures at specialist retailers when Target and Big W have sales on nursery products? If so, by how much and what lines are affected most?
 - (d) Is the reverse true (i.e. do specialty retailers take business from Big W or Target when they hold sales or clearances of nursery products)? If so, to what degree are sales figures at Big W and Target affected and what nursery product lines are affected most?
 - (e) Do specialist nursery retailers set their prices using Big W, Kmart or Target prices as benchmarks? If so, how does this work in practice? Which of the three DDS is more important in setting any such benchmarks?
 - (f) Post-acquisition, by how much could Big W increase its prices on nursery products before consumers turned to specialty retailers, Kmart, or department stores?
 - (g) Please also address the questions listed in paragraph 76 above.

Issues unlikely to pose concerns

- 87. Based on the information before it, the ACCC considers it unlikely that the acquisition of Target would significantly increase Big W's bargaining power in relation to suppliers. In many cases, Target's suppliers are different from those used by Big W and Kmart. In the cases where Target and Big W do use the same suppliers, it is frequently the case that the combined purchases of Big W and Target are no greater than the current combined purchases of Kmart and Target.

88. The ACCC's preliminary view is that Woolworths' proposal to acquire Target does not appear to raise competition concerns in respect of the following categories:

- Accessories
- Garden, hardware and tools
- Home appliances and entertainment
- Menswear
- Womenswear
- Children's nursery
- Footwear
- Manchester
- Soft furnishings
- Home furnishings
- Electronic games
- Sporting goods
- Travel goods
- Everyday needs
- Pet food and accessories
- Computers and related accessories
- Office furniture
- Books
- CDs and DVDs.

89. In some of these categories, Big W and Target do not appear to be each other's closest competitors, while in others, the combined entity appears likely to be constrained by competitors (e.g. Bunnings in garden, hardware, and tools).

90. Notwithstanding its preliminary view, the ACCC will consider any further submissions providing evidence to show that the proposed acquisition would be likely to substantially lessen competition in relation to any of these categories.

Proposed acquisition of Officeworks (and Kmart)

91. The range of products sold by Officeworks includes stationery, office furniture, technology products such as computers, as well as print services such as photocopying, laminating and binding. The ACCC understands Officeworks primarily sells products to home users and small businesses, via three routes:

- Officeworks retail stores.
- Officeworks BusinessDirect - which sells to small to medium sized businesses including via online sales.

- Harris Technology - a reseller of technology to small and medium business, including computers, storage printing, accessories, servers and software.
92. Kmart and Big W stock a more limited range of stationery and home office products, generally targeted at home users.
93. There are a number of areas of overlap between Officeworks and the existing operations of Woolworths:
- Computers and accessories are sold through Dick Smith stores and Tandy. Selected accessories (e.g. printers, keyboards, speakers, flash drives, CD-RW's) are also sold through Big W.
 - Office furniture is sold through Big W.
 - Stationery is sold through Big W and Woolworths supermarket outlets.

Issues that may raise concerns: office stationery to home and small business users

94. Given that Officeworks, Kmart and Target primarily focus on sales to home users and the small business sector, the ACCC has focussed its inquiries most heavily on this sector. Market participants expressed concerns that if Woolworths acquired both Kmart and Officeworks, it would face little competition in sales to home and small business users and may be able to raise prices above competitive levels, because Kmart, Big W and Officeworks are the main competitors for these segments.
95. Market participants considered that suppliers of office stationery to medium to large sized businesses could not easily re-orient their operations to service home and small business users, particularly given the need for a network of retail outlets.
96. While consistent estimates of sales shares have been difficult to obtain, the ACCC understands that Officeworks is the largest retailer of office products to home and small business users. Big W and Kmart also appear to be significant retailers to these consumers, and Officeworks' closest competitors in this regard.
97. The ACCC's inquiries indicated that there are a number of other retailers, but they are unlikely to constrain the merged entity. Other retailers include Office National and Office Choice, who generally sell to medium sized businesses, and may also retail to smaller firms. While supermarkets are primary competitors throughout the high volume 'back to school' period, their limited range means they are not strong competitors throughout the year. Newsagents have limited floor space devoted to stationery supplies. As a result, the merged entity may be able to raise prices above competitive levels or reduce its range.
98. Based on the ACCC's market inquiries, it appears that, if Woolworths acquired both Officeworks and Kmart, it would then own the three largest retailers of office stationery supplies (including Big W) to these categories of consumers.
99. The ACCC is interested in whether, in the event Woolworths acquires Officeworks and Kmart, it could profitably increase the prices of office stationery products to home users and small businesses, or whether other competitors would be able to constrain the merged entity.

Questions

100. The ACCC invites further comments on the extent of competition in this area, and the strength of the constraint provided by other retailers. Specifically, the ACCC invites comments on:
- (a) The ease with which other retailers could commence retailing to home users and small businesses on a scale sufficient to constrain the merged entity.
 - (i) Please comment on the ability of retailers of office stationery to medium sized businesses to establish a network of outlets needed to service home users and small businesses. What would be the costs involved and how quickly could such a network be established on a national or regional basis?
 - (ii) If you are a retailer of office stationery to medium sized businesses, have you considered such an expansion before? If so, please outline why you did or did not proceed.
 - (b) The extent to which home users would be likely to 'shop around', including outside their local shopping centre, in the event the merged entity raised prices above competitive levels.
 - (c) The competitive constraint provided by other retailers of office stationery such as supermarkets and discount variety stores (for example, the Reject Shop, the Warehouse and Go-Lo) in the supply of stationery supplies to home users.
 - (d) The significance of sales to small business in comparison with overall office stationery sales by Officeworks, Kmart and Big W.
 - (e) Please comment on the ability of small business customers to secure supply from other specialty retailers such as Office National and Office Choice.
 - (f) The sales shares of the different retailers to home users and small business.

Issues unlikely to pose concerns

101. The ACCC understands that a range of substantial competitors would continue to retail other products sold by Officeworks (computers and computer accessories, office furniture and print services). These include Harvey Norman in computers and computer accessories and specialty furniture retailers.
102. While Officeworks also targets medium sized businesses via its Officeworks BusinessDirect operation, no concerns were raised in relation to this. The ACCC considers that, based on information received to date, firms such as Office National and Office Choice, who generally sell to medium to large businesses, are likely to constrain the merged entity post-acquisition in these segments.

Proposed acquisition of Officeworks (and Target)

Issues unlikely to pose concerns

103. Given Target's weaker position in office stationery supplies, the ACCC's preliminary view is that the proposed acquisition of Officeworks would be likely to cause fewer competition concerns if it were acquired in conjunction with Target rather than Kmart, since Kmart would remain as a competitor playing a role comparable to Big W's current role.
104. Notwithstanding its preliminary view, the ACCC will consider any further submissions providing evidence to show that the proposed acquisition would be likely to substantially lessen competition.

Landlords

Issues unlikely to pose concerns

105. During market inquiries several market participants expressed concern about the likely impact of the transaction in relation to leases of retail sites, including in shopping centres. It was suggested that Woolworths' increased bargaining power may enable it to extract better terms in its leases, which in turn could be harmful to other retailers.
106. The ACCC has considered these concerns, but its preliminary view is that the acquisition is not likely to substantially lessen competition in relation to retail sites. While the ACCC agrees Woolworths will likely have increased bargaining power in relation to landlords post-acquisition, the ACCC notes the acquisition does not materially change the industry structure so far as site rentals are concerned: Coles currently has two DDS and a large chain of supermarkets, while Woolworths has one DDS and a large chain of supermarkets. Post-acquisition, this would simply be reversed.
107. Notwithstanding its preliminary view, the ACCC will consider any further submissions providing evidence to show that the proposed acquisition would be likely to substantially lessen competition.

ACCC's future steps

108. The ACCC will finalise its view on this matter after it considers market responses invited by this Statement of Issues.
109. The ACCC now seeks submissions from market participants on each of the issues identified in this Statement of Issues and on any other issue that may be relevant to the ACCC's assessment of this matter.
110. Submissions are to be received by the ACCC no later than 19 September 2007. The ACCC will consider the submissions received from the market and the merger parties in light of the issues identified above and will, in conjunction with information and submissions already provided by the parties, come to a final view as to the appropriate course of action to take to resolve any competition concerns that remain.

111. The ACCC intends to publicly announce its final view by 3 October 2007. However the anticipated timeline may change in line with the *Merger Review Process Guidelines*. A Public Competition Assessment for the purpose of explaining the ACCC's final view will be published following the ACCC's public announcement.