



Australian
Competition &
Consumer
Commission

2 February 2010

Statement of Issues — Link Market Services Ltd's proposed acquisition of Newreg Pty Ltd

1. Outlined below is the Statement of Issues released by the Australian Competition and Consumer Commission (ACCC) in relation to the proposed acquisition of Newreg Pty Limited (including Registries Limited) by Link Market Services 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 arising in the ACCC's investigation of the proposed acquisition. The ACCC anticipates completing further market inquiries by **19 February 2010** and anticipates making a final decision by **12 March 2010**. 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 22 December 2009, the ACCC commenced its review of the proposed acquisition.

The parties

The acquirer – Link Market Services Limited

6. Link Market Services Limited (**Link Market Services**) is a member of the Link Group, which provides superannuation administration and assists companies with investor relations, employee share plans and company secretarial services. Link Group is owned indirectly by a private equity investment fund managed by Pacific Equity Partners Pty Limited and Intermediate Capital Group.
7. Link Market Services provides companies and trusts with a complete range of registry services such as:
 - registry management (including payment of dividends, annual general meeting services, reporting and shareholder enquiry management);
 - capital raisings and other corporate actions (such as buy-backs, share sale facilities, rights issues, share purchase plans, demergers, demutualisations and takeover offers);
 - employee share and option plan services; and
 - specialist services (such as unlisted unit registry management and quantitative analysis).
8. Link Market Services provides registry services to clients and their shareholders across Australia and internationally in New Zealand, South Africa, India and Papua New Guinea.

The target – Newreg Pty Limited

9. Newreg Pty Limited (**Newreg**) is a company owned by four separate shareholders: ADBO Group Pty Limited (33.33%), Boardroom Limited (33.33%), Austock Limited (16.67%) and Solanum Pte Ltd (16.67%).
10. Newreg was incorporated in April 2007 for the sole purpose of acquiring a 100% interest in Registries Limited. Registries Limited claims on its website to be the fastest growing share registry provider in Australia.
11. Registries Limited provides a wide range of services to listed and unlisted companies. These services include share register analytics, proxy solicitation services (scheme meetings, mergers and acquisitions, capital raisings), management of employee option and share plans, and managing investor relations, communications and intelligence. Registries Limited also provides a range of online solutions designed to meet the corporate voting and reporting requirements of its clients.

Other industry participants

Computershare

12. Computershare Limited (**Computershare**) was originally founded in Melbourne in 1978. In 1994, Computershare was listed on the ASX as a small technology company. In its early stages, Computershare developed a securities registration

information technology (**IT**) system, known as SCRIP, which was used by three of the four major accounting firms in Australia – KPMG, Ernst & Young, and PricewaterhouseCoopers.

13. Computershare has since grown through several acquisitions to become the world's largest global player in the provision of securities registry services. The company vertically integrated in late 1997 by acquiring the KPMG and Ernst & Young registry businesses (i.e. Computershare went from providing the IT system to the accounting firms to providing registry services itself) and also acquired BT Registries in 2001.
14. Computershare provides clients with a range of different services, including registry and stakeholder servicing (such as registry management and stakeholder relationship management), corporate actions, meeting services, employee plan solutions, fund services and communication services.

Security Transfer

15. Security Transfer Registrars Pty Limited (**Security Transfer**) is a Perth-based company established in 1983. It delivers professional share registry services to listed and unlisted entities both in Australia and overseas. It maintains security registers for publicly listed and unlisted companies, and provides services including transferring ownership of securities, issuing holder statements, allotting securities, and handling shareholder enquiry services.

Advanced Share

16. Advanced Share Registry Services (**Advanced Share**) is a Perth-based business established in 1996. It provides registry services to listed and unlisted clients. The business positions itself as a cost effective service provider, especially for smaller companies.

Proposed acquisition

17. Link Market Services proposes to acquire Newreg, including a 100 per cent interest in Registries Limited.

Market inquiries

18. On 22 December 2009, the ACCC commenced its market inquiries regarding the proposed acquisition. A range of interested parties provided responses, including registry service providers, clients of the merger parties and companies which had switched registry service providers in the past.

Industry background

19. The users of registry services in Australia are publicly listed companies and entities with similar requirements. All publicly listed companies in Australia are required to maintain share and other registers under their constitutions, the Corporations Law, the listing rules of the ASX and the securities clearing house

rules of the Australian Securities and Transfer Corporation Limited. The same or similar requirements apply to other entities, for example listed trusts. The need for registry services is thus directly related to the growth of listed companies and entities. The reliable and cost-effective provision of registry services makes an important contribution to the efficient operation of securities markets, while also benefiting shareholders and other owners of securities.

20. In Australia the securities registration business has transformed since the late 1990s. The major participants were principally accounting firms – KPMG, PricewaterhouseCoopers, Ernst & Young and Deloitte/Greenwood Challoner. In addition many large listed entities chose to run their own in-house registries.
21. Since that time, the number of participants involved in securities registry services has declined in all countries. This trend to aggregation has been caused by the increasing sophistication and cost of information systems which are the basis for much of the competition among registry service providers. Substantial IT systems and resources are required to support and manage complex large-scale transactions such as calculation and/or payment of dividends. This is an important element of competition between registry service providers.
22. In the late 1990s Computershare would go on to acquire the registry businesses of the major accounting firms, where it previously had a part in the development of the IT systems used for registry services. Pacific Equity Partners similarly acquired ASX Perpetual, thereafter being known as Link Market Services.

Areas of overlap and market definition

23. The ACCC's preliminary view is that the relevant market for consideration of the proposed acquisition is the national market for the provision of securities registration and related services to publicly listed companies and entities with similar registration requirements. This is the area of overlap between Link Market Services and Registries Limited.
24. Based on its inquiries to date, the ACCC formed the view that the securities registration market includes registration and related services in respect of:
 - Listed equity securities
 - Listed debt securities
 - Listed hybrid securities
 - Unlisted equity securities
 - Unlisted debt securities
 - Managed funds
 - Warrants
25. Related services provided in this market include maintenance of shareholder records, payment of dividends, processing corporate actions, running annual general meetings and administering employee share plans.
26. It is noted that some companies provide registry services on an in-house basis. However, the ACCC understands that there is a trend towards outsourcing rather

than operating the service internally. Market inquiries suggested that once a company has made the switch from in-house provision to outsourcing, it is unlikely to switch back due to the substantial investment and IT requirements.

27. In terms of the geographic scope of the market, since at least the 1980s the laws and rules in relation to the maintenance of share and other registers by publicly listed companies have been uniform or substantially uniform throughout Australia. As a consequence, registry services have been provided throughout Australia without geographical restriction. Registry service providers serve clients across the country. Some clients may also require registry services beyond Australia due to foreign shareholders or listings on overseas stock exchanges.

Statement of issues

28. For the purposes of a Statement of Issues, the ACCC may identify three categories of issues: 'issues of concern', 'issues that may raise concerns requiring further analysis' and 'issues unlikely to raise competition concerns'. In this matter, two issues raised below are categorised as an issue of concern.
29. There are currently five players in the market for the provision of securities registration and related services to publicly listed companies and entities with similar registration requirements:
- Computershare;
 - Link Market Services;
 - Registries Limited;
 - Security Transfer; and
 - Advance Share.
30. From market inquiries to date, the ACCC understands that Link Market Services and Computershare are the two largest providers of securities registration and related services to publicly listed companies and entities with similar registration requirements in Australia. Link Market Services and Computershare together accounts for a very substantial share of the national market for the provision of securities registration services.
31. The ACCC's concerns arise because market inquiries indicate that Registries Limited is the only other provider of securities registration and related services in Australia, other than Link Market Services and Computershare, able to service large cap clients or those with complex corporate needs. While its current focus is predominantly on the mid to small cap clients (ASX 101-300, ASX 301+ and their equivalents in other national stock exchanges), Registries Limited does have a few significant large cap clients. The proposed acquisition would therefore result in a reduction in the number of competitors from three to two for this class of customer. Inquiries indicate that the current operations and capabilities of Security Transfer and Advanced Share are limited in the foreseeable future to service smaller cap clients with relatively basic needs by comparison with large cap clients.

32. The ACCC understands that Computershare, Link Market Services and Registries Limited offer a similar range of registry services. The transaction would however reduce the current differentiation between the market participants. The merged firm and Computershare would be more alike in terms of market shares, customer profile and capacity to serve the whole (or particular segments) of the market.
33. In-house registry services appear to not be cost effective due to the need to invest in technology, even among the larger companies. A number of companies recently outsourced registry services due to the cost benefit of outsourcing rather than operating the service internally.
34. Domestic regulatory requirements may make entry into the Australian registry services market from overseas problematic. Substantial modifications to existing IT systems may be required in order to interface with the CHES system and comply with domestic regulatory rules, including ASX rules.
35. The ACCC's preliminary view is that barriers to entry and/or expansion are relatively high due to the need for ongoing investment in necessary IT systems and the importance of scale economies in the supply of share registry services. Costs in designing, developing, testing and implementing a suitable IT system are in the order of tens of millions of dollars. Extensive and ongoing investment in the order of millions of dollars is required to achieve efficiencies and maintain service levels. The cost to a client of failing to provide accurate high quality registry services can be significant. Given the high volume of transactions and respective risk, registry service providers need appropriate IT systems to ensure total accuracy and audit capacity. By improving their IT systems, registry service providers are also able to attract larger clients and acquire scale in order to remain competitive. Indeed a failure to develop and continuously improve IT systems appears to have been a factor in the exit of previous market participants such as BT Registries.
36. Market inquiries have also suggested that customer switching is limited and generally results from client dissatisfaction with the services provided or a requirement for a service offering different from that which the client is currently receiving. There are costs for switching based on the client's number of shareholders which may restrict some companies from moving. Inquiries have suggested that clients may test the market by going out to tender for long term contracts, however clients which have done so generally remain with their current provider.

Issues of concern

Potential for coordination between Link Market Services and Computershare

37. The ACCC's preliminary view is that the proposed acquisition is likely to have the effect of substantially lessening competition in the market for the provision of securities registration and related services to publicly listed companies and entities with similar registration requirements by increasing the ability and incentive for Link Market Services and Computershare to coordinate their conduct.

38. The proposed acquisition would remove a significant third player that has the potential to disrupt coordinated behaviour, and leave two major firms in the market, each with substantial market shares. The proposed acquisition would also reduce the differentiation between Link Market Services and Computershare in terms of market shares, customer profile and the capacity to service the market. The competitive threat from the remaining small firms will likely be weak and there is limited prospect of new entry.
39. Such a market structure is conducive to coordinated conduct, for example through customer allocation. Link Market Services and Computershare would each have little to gain from aggressively pursuing market share. While one of these firms may be able to win some customers, it would be mindful of the reaction of its competitor in targeting its own customers. Without a credible competitive threat from a third firm (Registries Limited), competition in the market for the provision of securities registration services would be significantly weakened.

Enhanced ability to unilaterally exercise market power

40. The ACCC's preliminary view is that the proposed acquisition is likely to enhance the merged firm's ability to unilaterally exercise market power in the provision of securities registration and related services, particularly to large cap (ASX 100) clients. The proposed acquisition would remove the only other provider of securities registration and related services able to service most, if not, all segments of the market. As discussed above, barriers to entry and/or expansion appear to be high.
41. The ACCC is concerned that the proposed acquisition, by removing Registries Limited from the market, would reduce the incentive for Link Market Services and Computershare to keep investing in their IT systems' capabilities and ensure continued high quality service to their clients. The proposed acquisition may also remove the prospect that Registries Limited will develop services superior to Link Market Services and Computershare in order to grow.
42. Whether the merged firm would have the ability to exercise unilateral market power post-merger also depends on factors such as the extent of any service differentiation between the merged firm and Computershare, the significance of switching costs for customers and the capacity of each firm to supply services to each other's customers.

The ACCC invites industry participants to comment and provide information in relation to:

- the nature and extent of competition between Registries Limited and Link Market Services in relation to the provision of securities registration and related services to publicly listed companies and entities with similar registration requirements in Australia, including:
 - large cap (ASX 100) listed companies;
 - mid cap (ASX 101-300) listed companies;
 - small cap (ASX 300+) listed companies;
 - companies listed on other national stock exchanges, including the NSX and APX; and
 - any other entities with similar registration requirements;
- the extent to which other registry service providers, including Computershare, Security Transfer and Advance Share, would have the incentive and ability to exercise an effective competitive constraint on the merged firm in response to a price increase by the merged firm either across the whole market or in relation to the following client classes:
 - large cap (ASX 100) listed companies;
 - mid cap (ASX 101-300) listed companies;
 - small cap (ASX 300+) listed companies;
 - companies listed on other national stock exchanges; and
 - any other entities with similar registration requirements;
- the extent to which Registries Limited drives competition in the market for the provision of securities registration and related services, in particular, in terms of its pricing, service levels, technology and/or innovation;
- the extent to which Registries Limited is effective as a competitor in the provision of securities registration and related services to clients having varying market capitalisations and degrees of corporate activity, including:
 - large cap (ASX 100) listed companies with complex registry service needs;
 - large cap (ASX 100) listed companies with simple registry service needs;

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- mid cap (ASX 101-300) listed companies;
 - small cap (ASX 300+) listed companies;
 - companies listed on other national stock exchanges; and
 - any other entities with similar registration requirements;
- the extent to which Registries Limited is growing, and its ability to provide a stronger source of competition to Link Market Services and Computershare in future (absent the proposed acquisition);
- the extent to which, and how Link Market Services and Computershare compete for customers, including:
 - how Link Market Services and Computershare differentiate their offers (price, reliability, technology, timeliness of services etc); and
 - examples of client switching between Link Market Services and Computershare and the reasons for such switching;
- the likely effect of the proposed acquisition on the current competitive dynamic between Link Market Services and Computershare, including:
 - whether clients currently use the prospect of switching to Registries Limited in negotiating a better deal from Link Market Services or Computershare; and
 - would the additional scale provided by the proposed acquisition provide Link Market Services with the ability and incentive to compete more aggressively with Computershare;
- the extent to which Computershare, Link Market Services and the merged firm would each have the capacity to serve the entire market;
- any obstacles to clients switching between providers, including information on the risk and costs associated with switching providers, and the terms and duration of client contracts;
- whether the domestic regulatory regime is a barrier to entry for overseas registry service providers; and
- whether there are any likely candidates for entry or expansion to the provision of securities registration and related services in Australia.

ACCC's future steps

43. The ACCC will finalise its view on this matter after it considers market responses invited by this Statement of Issues.
44. The ACCC now seeks submissions from industry 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.
45. Submissions are to be received by the ACCC no later than **19 February 2010**. 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 in light of the issues raised above.
46. The ACCC intends to publicly announce its final view by **12 March 2010**. 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 may be published following the ACCC's public announcement.