



Statement of Issues

13 June 2019

Nutrien Ltd – proposed acquisition of Ruralco Holdings Limited

Purpose

1. Nutrien Ltd (**Nutrien**) proposes to acquire Ruralco Holdings Limited (**Ruralco**). Nutrien currently operates in Australia via its wholly-owned subsidiary Landmark Operations Limited (**Landmark**) under the Landmark brand.
2. This Statement of Issues:
 - gives the preliminary views of the Australian Competition and Consumer Commission (**ACCC**) on competition issues arising from the proposed acquisition
 - identifies areas of further inquiry, and
 - invites interested parties to submit comments and information to assist our assessment of the issues.
3. Statements of Issues give preliminary views and do not refer to confidential information provided by the parties or other market participants, therefore they may not be a full articulation of the ACCC's preliminary position.

Overview of ACCC's preliminary views

4. The legal test which the ACCC applies in considering the proposed acquisition is in section 50 of the *Competition and Consumer Act 2010*. Section 50 prohibits acquisitions that would have the effect, or be likely to have the effect, of substantially lessening competition in any market.
5. The ACCC divides its preliminary views in this Statement of Issues into two categories, 'issues that may raise concerns' and 'issues unlikely to raise concerns'.

Issues that may raise concerns

6. The ACCC is concerned that the proposed acquisition may substantially lessen competition in the supply of rural merchandise by:
 - combining two of the three largest retail chains with a national presence (national retail chains),
 - removing one of few competitors to Landmark in certain local areas where the parties' stores overlap,
 - increasing concentration at the wholesale level and reducing the number of supply options for independent retailers, and
 - increasing the ability and incentive of Landmark to discriminate against independent stores it supplies in areas where they compete with Landmark's corporate stores.

Issues unlikely to raise concerns

7. At this stage, the ACCC does not consider it likely that the proposed acquisition will raise significant competition issues in respect of vertical integration between product manufacturing and distribution in the supply of rural merchandise.
8. The ACCC also does not consider that the proposed acquisition is likely to substantially lessen competition in the supply of wool broking, livestock agency, live export services, real estate agency, agricultural insurance broking or water broking services.

Making a submission

9. The ACCC is seeking submissions from interested parties, particularly on the following key issues:
 - the importance of national retailers in driving competition in the supply of rural merchandise, for example in terms of price, product range, service or other aspects (such as innovation or finance offerings),
 - the factors that influence farmers/producers in their choice of local rural merchandise retailer, such as location, price, product service and brand, and
 - whether the remaining options for wholesale supply of rural merchandise to independent retailers (including direct from manufacturer, if applicable), will be sufficient to constrain Landmark post-acquisition.
10. Interested parties should provide submissions by no later than 5pm on **27 June 2019**. Responses may be emailed to mergers@acc.gov.au with the title: Submission re: Landmark Ruralco. If you would like to discuss the matter with ACCC officers over the telephone or in person, or have any questions about this Statement of Issues, please contact Matthew Thomas on 03 9658 6490 or Tanya Jarvis on 03 9910 9440.

11. The ACCC anticipates making a final decision on **15 August 2019**, however, this timeline can change. To keep abreast of possible changes in relation to timing and to find relevant documents, interested parties should visit the Mergers Register on the ACCC's website at www.accc.gov.au/mergersregister.

Confidentiality of submissions

12. The ACCC will not publish submissions regarding the proposed acquisition. We will not disclose submissions to third parties (except our advisors/consultants) unless compelled by law (for example, under freedom of information legislation or during court proceedings) or in accordance with s155AAA of the *Competition and Consumer Act 2010*. Where the ACCC is required to disclose confidential information, the ACCC will notify you in advance where possible so that you may have an opportunity to be heard. Therefore, if the information provided to the ACCC is of a confidential nature, please indicate as such. Our [Informal Merger Review Process Guidelines](#) contain more information on confidentiality.

About ACCC 'Statements of Issues'

13. 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.
14. 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 parties and other interested parties with the basis for making further submissions should they consider it necessary.

Timeline

Date	Event
22 March 2019	ACCC commenced informal review of the proposed acquisition
13 June 2019	ACCC publication of Statement of Issues
27 June 2019	Deadline for submissions from interested parties in response to this Statement of Issues
15 August 2019	Anticipated date for ACCC final decision

The parties

Nutrien

15. Nutrien is a company incorporated in Canada, and was formed by the merger of Agrium Inc. and Potash Corporation of Saskatchewan Inc. It is a global supplier

of crop nutrients, inputs and services, and sells over 27 million tonnes of potash, nitrogen and phosphate annually to agricultural, industrial and feed customers worldwide. In 2018, Nutrien's sales were approximately US\$19.6 billion.

Landmark

16. Nutrien currently operates in Australia via its wholly-owned subsidiary Landmark, under the Landmark brand. The Landmark brand has existed in Australia for more than 150 years.
17. Landmark operates in the following areas:
 - **Rural merchandise.** Landmark wholesales and retails farming supplies and merchandise in Australia including fertiliser, agricultural chemicals, seed, animal health products and fencing equipment. It also offers agronomy services through some of its retail stores. Landmark operates 225 rural merchandise branch stores and through its wholesale business also supplies approximately an additional 77 independent rural merchandise retailers, both branded members and unbranded.
 - **Wool broking.** Landmark is a national wool broker, offering wool broking services throughout Australia with the exception of Tasmania. It provides a range of wool broking services including auctions, online sales through the Wooltrade platform, contracts with forward pricing through the Mercari platform, private buying and direct to mill arrangements.
 - **Livestock agency and live export.** Landmark has agents who provide livestock agency services to farmers in Australia and it is also a livestock exporter to international markets.
 - **Other services.** Landmark also provides real estate agency and agricultural insurance broking to farmers from its retail stores. It also has one water broker operating in the Goulburn Valley region.

Ruralco

18. Ruralco is an Australian ASX listed company (ASX: RHL) with a reported annual revenue of over \$1 billion. Ruralco was formed in 2006 when Combined Rural Traders (CRT) and Roberts Limited merged. Ruralco has been operating in Australia (through predecessor organisations) for over 150 years and employs approximately 2,000 staff.
19. Ruralco operates in the following areas:
 - **Rural supplies and merchandise.** Ruralco sells farming supplies and merchandise in Australia including fertiliser, agricultural chemicals, seed, animal health products and fencing equipment through its retail stores. It also provides agronomy services through its 106 retail stores.¹ Ruralco is also a wholesaler through its CRT wholesale business, currently supplying

¹ Ruralco currently has 73 wholly-owned retail stores plus a further 33 retail stores that it owns in joint venture arrangements with third parties.

246 rural merchandise retailers. These retailers may be either CRT or Town & Country (**T&C**) members.

- **Wool broking.** Ruralco provides wool broking services throughout Australia.
- **Livestock agency and live export.** Ruralco provides livestock agency services, including providing advice on buying and selling livestock. Ruralco also has a live export business, operated by the joint venture Frontier International, involving short-haul live export of feeder and slaughter cattle to South-East Asia.
- **Other services.** Ruralco also provides real estate agency, agricultural insurance broking, financial services and water broking services to farmers.

The proposed transaction

20. On 27 February 2019, Nutrien and Ruralco entered into a Scheme Implementation Deed which provides for the acquisition by Nutrien (or a wholly-owned subsidiary of Nutrien) of 100% of the issued shares in Ruralco for cash consideration of \$469 million pursuant to a scheme of arrangement under the *Corporations Act 2001* (Cth) (the **proposed acquisition**).

Areas of overlap

21. The proposed acquisition would combine two of only three large national chain retailers of rural merchandise in Australia, with both Landmark and Ruralco engaging in retailing and wholesaling rural merchandise, and also offering a range of services including wool broking, livestock agency, live export, and other services. Post-acquisition, Landmark would be the largest national chain retailer and wholesaler of rural merchandise in Australia.
22. Landmark and Ruralco, along with Elders, jointly own the online livestock sales platform AuctionsPlus.

Rural merchandise

Industry background

23. Rural merchandise is an umbrella term for the various agricultural products purchased by farmers for use in operating a farm. Rural merchandise is sold to farmers through many retail outlets throughout Australia.
24. The types of rural merchandise products typically sold by wholesalers and retailers include:
 - fertilisers
 - agricultural chemicals, including insecticides, herbicides and fungicides
 - seed, including for broad-acre crops, pasture and/or vegetables

- fencing equipment, such as wire, mesh, posts and gates
- animal health, management and handling equipment, including fodder, vaccines, hormones and accessories
- other miscellaneous merchandise, which varies depending on the nature of the retail outlet and the customer base in the area, and
- agronomic advice, either on a standalone basis or in conjunction with the supply of farm inputs such as fertilisers and crop protection. While farmers can seek independent advice through a consultant, this is likely to come at greater cost.

Other industry participants

25. Elders is an Australian ASX listed company with a large network of 217 branches across Australia supplying rural merchandise and related services (agronomy services, livestock agency, wool broking, real estate agency, agricultural insurance, financial and water broking services). Elders employs 2,000 staff across Australia, China and Indonesia. In the year ended 30 September 2018, Elders' sales were \$1.61 billion. Elders is only a retailer of rural merchandise and is not a wholesaler, that is it only supplies rural merchandise to its own retail stores and does not supply independent retailers.
26. There are a number of mid-sized rural merchandise retail chains, including:
 - AGnVET, a retail chain with 60 stores in Queensland, NSW and Victoria,
 - E.E. Muir & Sons, a retail chain with 32 stores in all states and the Northern Territory, and
 - Delta Ag, a retail chain with 28 stores in NSW.
27. There are also a large number of independent small retail chains and individual stores.
28. There are three major national buying groups for independent retailers: AgLink, AIRR and NRI. Members of these buying groups may be individual retailers or a chain of retail stores.

Wholesale

29. Manufacturers of rural merchandise will generally supply retailers through three main avenues:
 - **Conventional wholesalers** – Landmark and Ruralco (through CRT) sell or facilitate the supply of rural merchandise on a wholesale basis to non-corporate 'member' stores.
 - **Buying groups** – Retail stores may affiliate themselves with buying groups to collectively engage with manufacturers and negotiate better terms and access. The major buying groups are AIRR, NRI and AgLink.

- **Direct to retailer** – Some retailers deal directly with manufacturers without the assistance of a wholesaler or buying group, either for all or a portion of the rural merchandise products they acquire.
30. The ACCC understands that typically wholesalers and buying groups negotiate prices with manufacturers on behalf of retailers, and that retailers then liaise directly with manufacturers for purchases and delivery. However, a retailer may purchase products directly from a wholesaler when it requires volumes that are too small to buy directly from the manufacturer.
31. Some rural merchandise suppliers (e.g. 4Farmers and David Grays) operate on an agency model where a farmer in a particular region acts as an agent or dealer for the supplier's rural merchandise products. There are also online brokerage platforms (like Farmsave), which allow farmers to compare prices across a number of resellers.

Retail

32. Retailers generally supply a range of rural merchandise, including those products set out earlier in this paper. Some retail outlets may focus on particular product lines depending on their location and the types of agriculture undertaken in that area (e.g. broad acre, pastoral, horticulture).
33. Categories of retail stores include:
- **Corporate stores** – those owned and operated by a retail chain, such as Landmark, Ruralco or Elders.
 - **Independent stores** – independently owned stores which may or may not be affiliated with a wholesaler (such as CRT) or buying group (such as AIRR).
34. Rural merchandise is also sold by online stores, but market feedback to date suggests that it is not a popular option with most farmers.

Farmers/producers

35. Rural merchandise is then sold by the retailer to the farmer. Farmers will either come into the store to acquire products and advice on the spot, or place orders over the phone or by email for delivery. Farmers who manage large farms may issue tenders to wholesalers and manufacturers for the supply of their rural merchandise needs.

Table 1 – Retail chains and wholesalers – number of stores (national)

Retail chains	
Landmark	225
Ruralco	106
Merged entity	331
Elders	217
AGnVet	60
E.E. Muir	32
Norco Rural	30
Delta Ag	28
Murray Goulburn Trading	25
North West Ag	14
Cotton Growers Services	12
Western AG	7
Further retail stores grouped by wholesaler/buying group	
Ruralco/CRT member stores	246
Landmark member stores	77
Merged entity	323
AIRR	197
NRI	100
David Grays AgLink	40

36. Table 1 has been compiled from publicly available information and the figures provided are estimates only. Table 1 should not be considered an exhaustive list of the total number of rural merchandise retailers in Australia.

Market definition

37. The ACCC's starting point for defining relevant markets to assess the competitive effects of the proposed acquisition involves identifying the products and geographic regions actually or potentially supplied by the parties to the transaction. The ACCC then focuses on areas of activity where competitive harm could occur as a result of the proposed acquisition.

Functional

38. The ACCC considers that retailing and wholesaling of rural merchandise may be separate functional markets because:
- Although some players are vertically integrated there are also a number of independent retailers and wholesale-only suppliers.
 - While some retailers purchase some rural merchandise products directly from manufacturers, the ACCC's review indicates that many retailers need a wholesaler for at least some types of products. Further, purchasing

directly from manufacturers without the assistance of a wholesaler or buying group may result in higher prices being paid by independent retailers.

Product

39. Multi-category rural merchandise retailers offer a suite of goods and services targeted and relevant for agriculture. The ACCC understands that customers value multi-category rural merchandise retailers because they reduce the travel and search costs.
40. However, customers may also use rural merchandise retailers when they only wish to acquire a single product – for example a farmer may telephone a rural merchandise store to place an order for bulk fertiliser.
41. In some local areas, speciality stores (such as a general hardware store) may be a substitute for multi-category rural merchandise stores – at least for some goods. Market inquiries have indicated that there is significant value for some farmers in having access to the range of goods and services they need under one roof. The ACCC is seeking further information about the proportion of purchases which involve single versus multiple product categories, and the proportion of customers who buy products across more than one category. While speciality stores may provide a competitive constraint within narrower product categories, they may not be a close substitute for the broader offering of rural merchandise retailers.
42. The product element of the market is therefore likely to be the supply of a range of rural merchandise to consumers, including related services such as agronomic advice and delivery of goods (where applicable). However, the ACCC recognises that rural merchandise retailers also face some constraint from specialised retailers which only sell one category of product.

Geographic – retail supply

43. On the demand side, most farmers shop at rural merchandise stores located in their local areas.
44. On the supply side, the ACCC understands that chains such as Landmark and Ruralco alter their prices between regions in response to the competition they face in each of those regions, and stock decisions often reflect the types of farming undertaken in that geographic region. Market feedback has also indicated that good relationships with local farmers, something which can be achieved by large chains and smaller independent stores alike, is one of the key ingredients to success in rural merchandise retailing.
45. Nevertheless, Landmark and Ruralco are both large-scale, multi-category chain retailers which operate nationally with sophisticated integrated operations. The ACCC considers that this contributes to their effectiveness as a competitor in every local area where they operate. In our competitive assessment, it is important to take into account how the acquisition might affect the competitive process at both the national and local levels.
46. Competitors in local areas tend to be a mix of national chains and independent retailers (which may or may not be wholesale customers of national chain operators). The ACCC understands that retail chains regularly open or acquire

new stores, but not without significant investment in establishing a retail store in the new locality.

47. The ACCC's review indicates that distances travelled by customers to buy rural merchandise vary from region to region. In most areas, the majority of customers have said they would travel around 50km for rural merchandise in their local area. However, customers may also travel further where they have a good relationship with a particular retailer or require a retailer who specialises in a particular line of products. In remote areas, particularly Western Australia and the Northern Territory, farms are often located much further than 50km from the nearest rural merchandise store. In these areas, a significant proportion of sales are likely to occur over the phone (i.e. without the customer visiting a store). For example, in the case of Broome and Alice Springs, the ACCC has heard that customers may order rural merchandise from retailers located in Perth or Adelaide respectively, and take advantage of discounted freight rates on trucks travelling on the return leg of delivery routes. Nevertheless, the customer may value the relationship with their local retailer and the advice they provide about local conditions.

Geographic – Wholesale supply

48. The ACCC is considering either national or state/regional-based markets for the wholesale supply of rural merchandise to retailers.

The ACCC invites comments from market participants on its preliminary views about the definition of the relevant market(s). In particular, market participants may wish to comment on the following:

- Do consumers of rural merchandise value being able to buy a range of different products (e.g. fertiliser, pesticides and fencing) from the one retailer? Or do you primarily visit rural merchandise stores in order to buy a single type of product? For retailers, how strong is the competition you face from speciality retailers (e.g. stores that only supply irrigation products, fencing or fertilisers), compared to general rural merchandise retailers?
- In your experience, how far do consumers typically travel to purchase rural merchandise (or, if they make purchases over the phone, within what distance from their property do they make those purchases)? Please identify the particular geographic areas you are familiar with and any specific factors that may affect geographic market definition in that area.
- To what extent is retail pricing for rural merchandise localised? For example, if you visit multiple Landmark corporate stores, do you find that prices vary significantly for the same product? If you are a retailer, how widely do you monitor the activities of competitors (e.g. do you only monitor competitors in your town, or across a wider geographic area (please specify)?
- Is the level of competition between rural merchandise wholesalers/buying groups similar across the country, or are there differences between the states and territories? For example, is a wholesaler/buying group more competitive in a particular state/territory if it has a warehouse located there?
- For retailers, if you operate stores in more than one region, do you consider using different wholesalers in each region? Why or why not?

Issues that may raise concern: retail supply of rural merchandise

49. The ACCC is considering the following issues which may raise concern in the supply of rural merchandise:
- the potential impact of the proposed acquisition due to the combination of two of the three largest national retail chains,
 - the potential increased concentration at a wholesale level and reduction of the number of supply options for independent retailers, and
 - the potential for Landmark to increase prices and decrease service levels in certain local areas where the parties' stores overlap and few competitors will remain.

National effects

50. As indicated above in the section *Geographic – retail supply*, the ACCC considers it important to have regard to how the proposed acquisition might affect the competitive process at the national level (by virtue of a combined Landmark/Ruralco's national size and geographic breadth) as well as at the local level.
51. The parties are both large national retailers and wholesalers, and a combined Landmark/Ruralco would supply around 650 rural merchandise stores nationally (including both corporate and member stores), which the ACCC understands is approximately 45% of all rural merchandise stores nationally.
52. The proposed acquisition would also reduce the number of such chains from three to two. Elders, the other large national chain, has around two thirds the number of corporate (branch) stores that Landmark/Ruralco would have. There are also a number of smaller retail chains, the largest of which has less than a third of the number of stores that Elders has. The ACCC is considering a number of potential impacts from this consolidation at the national level.
53. First, the ACCC is considering the extent to which the major retailers currently compete with each other at the national level, and the impact of the loss of competition from Ruralco at this level.
54. The ACCC understands that, compared to certain other retail industries where national chains exist (e.g. supermarkets and hardware), typical measures of retail competition such as pricing, service levels, product range and promotional activities are more local in this industry. Nevertheless, nearly all retail chains coordinate their activities at the national level to some extent. For example, they may:
- issue guidance to stores about preferred product lines (which may take into account rebates payable to head office), or
 - set target prices for their stores which influence the prices those stores charge (even if they do not determine them).
55. The ACCC is still considering the effect of corporate ownership on the pricing and range decisions of corporate stores.

56. Other aspects of competition that occur at the national level and may be affected by a reduction in the number of major national chains from three to two may include:
- developing or bringing to market innovations that may benefit farmers. For example, the ACCC understands that Landmark is currently investing in new regional capacity for blending and storage of fertiliser products that will enable it to produce more customised fertiliser products for farmers,²
 - competition to develop and distribute private label products, and
 - competition to deliver competitive finance terms to customers (such as longer deferred payment terms, lower interest rates on loans or higher interest rates on pre-payments).
57. The ACCC is still considering how significant these aspects of competition are in this industry.
58. Second, the ACCC is considering whether the proposed acquisition would provide Landmark with significantly greater bargaining power with its suppliers, compared to its competitors, and the impact this may have on competition between rural merchandise retailers. In addition to their significant share of retail stores, Landmark and Ruralco also negotiate terms on behalf of the independent retailers they supply.
59. Market participants have expressed concerns that the proposed acquisition may significantly alter the balance of bargaining power between Landmark and manufacturers/suppliers of rural merchandise products, who may not be able to bypass Landmark post-acquisition given the significant proportion of domestic supply it represents through its retail networks.
60. The ACCC notes that having scale is not necessarily anti-competitive and it can in fact enable a retail chain to achieve efficiencies which may, depending on the level of competition in the downstream market, be passed on to consumers in the form of lower prices.
61. The ACCC understands that the concern of some market participants is that Landmark will have significant buyer power when acquiring wholesale goods which could give rise to a number of effects including:
- The ability to demand discounts on goods or services due to Landmark's size and status as a 'must have' distribution channel
 - Relatedly, the ability for Landmark to use the savings from lower input prices on some goods and services to compete on price for other products or in other geographic locations
 - The ability to provide for certain goods or services to be exclusively supplied to Landmark

² <https://www.farmonline.com.au/story/6042879/new-name-planned-for-new-landmark-after-ruralco-merger/>

- The ability to demand that goods or services be supplied to Landmark on terms equal to or better than any competitor (for example, via ‘most favoured nation clauses’), and/or
 - The ability to pass discounts through to end customers on a selective basis, with a focus on acquiring or retaining larger and more profitable customers.
62. Many of the factors listed above may be pro-competitive, particularly where lower prices or better service are passed on to the end consumers. However the ACCC is conscious that if Landmark is able to obtain supply on preferable terms, including in the ways outlined above, there are circumstances where this may lead to a reduction in competition and ultimately increased prices or a reduction in other benefits of competition for customers. In particular, the proposed acquisition will remove the second largest national retailer/wholesaler, who may have been best placed to obtain comparable deals from suppliers. This may have the effect of lessening competition at the national level and/or in local markets. The ACCC is continuing to consider the potential for a significant increase in scale to lead to a substantial lessening of competition.

The ACCC invites comments from market participants on its concerns in relation to the issues identified above. In particular, market participants may wish to comment on the following:

- To what extent does the offering of a national rural merchandise chain such as Landmark or Ruralco vary from store to store? Do you prefer to acquire products from a national chain such as Landmark or Ruralco (rather than an independent store)? Why or why not?
- Any advantages that may be negotiated by larger scale retailers when purchasing rural merchandise (such as reduced prices, access to exclusive products, marketing support, transport or distribution benefits, finance terms, staff training, or any other advantages).
- Any advantages that may flow from being a large scale buyer, in terms of using the savings from exclusive discounts to compete on price across a broader product range or geographic location.
- How important are the finance terms offered when deciding where to purchase rural merchandise from? Is there a difference in the finance terms offered by the national chains and the independents? Please provide your reasoning and examples if possible.
- Is there anything that a national chain is able to provide to customers that an independent store cannot? (e.g. greater product range, better distribution or delivery options, exclusive brands, better advice, better promotions, ability to service more than one geographic area, access to better technology)? Please explain why this is important.
- Is brand or price more important to you in choosing farm inputs such as fertiliser or agricultural chemicals?

Local markets

63. The ACCC understands that there are approximately 74 local markets where Landmark and Ruralco's corporate stores overlap, based on a radius of 50km around each Ruralco corporate store.³ These are listed in **Attachment A**. In the majority of these areas there appear to be a number of competitors. However, there are certain areas where it appears there will be significant concentration post-acquisition.
64. The ACCC is concerned that by removing a close local competitor, the proposed acquisition may lead to higher prices or lower service levels in the supply of rural merchandise in that local area. Whether this is likely to be the case will depend on, among other factors:
- the closeness of competition between neighbouring Landmark and Ruralco stores,
 - the presence and proximity of other competing retailers in the local area, and
 - the height of barriers to entry by new rural merchandise stores, or expansion by existing stores (e.g. a specialist retailer expanding into general rural merchandise).
65. The ACCC has identified the following preliminary list of local areas where Landmark corporate stores overlap with Ruralco corporate stores and the number of remaining competitors is limited:
- Broome, WA
 - Alice Springs, NT
 - Katherine, NT
 - Darwin, NT
 - Cooma, NSW
 - Hughenden, QLD, and
 - Rockhampton, QLD.
66. In these areas, the ACCC considers that the removal of Ruralco could potentially result in a substantial lessening of competition. This would be because few (and in the case of Broome and Alice Springs, only one) multi-category rural merchandise store would remain post-acquisition.
67. In some of these local markets, there are specialist retailers (for example, retailers who specialise in supplying irrigation products, horticulture products or stock feed). While specialist retailers may impose a degree of constraint on

³ The 50km radius is used as a starting point only. The actual geographic boundaries of each local market will vary based on local factors.

Landmark post-acquisition, they are not likely to impose as strong a constraint on Landmark as Ruralco currently does, given they supply a narrower range of products.

68. The ACCC is also analysing local markets where there is currently either:
- a Landmark corporate store and a CRT member store, or
 - a Ruralco corporate store and a Landmark member store.
69. The ACCC understands that independent member stores supplied by the parties are generally responsible for their own decisions in relation to pricing, products and service levels. Nevertheless, the ACCC considers that a wholesaler has a degree of influence over the business of an independent store that it supplies, for example in relation to its product range. Post-acquisition, a Landmark-supplied independent store may not compete as strongly with a Landmark corporate store as, for example, an AIRR-supplied independent. Alternatively, a Landmark corporate store may have less of an incentive to compete strongly in a local area where it also earns revenue via the wholesale purchases of a member store located there.
70. The ACCC has identified the following preliminary list of local areas where a Landmark corporate store overlaps with a CRT store, or a Ruralco corporate store overlaps with a Landmark member store, and the number of remaining competitors is limited:
- Maryborough and surrounding area, including Hervey Bay (QLD)
 - Broughton and surrounding area, including Charters Towers (QLD)
 - Charleville and surrounding area, including Roma (QLD), and
 - Kangaroo Island (SA).
71. The ACCC understands that, compared to some other retail industries, obtaining a suitable site for a new rural merchandise store is not likely to be especially difficult. Nevertheless, market feedback to date has suggested that barriers to establishing a rural merchandise store are not insignificant and could include:
- high capital costs in securing premises and inventory
 - engaging a suitably qualified agronomist to provide advice to customers
 - successfully developing relationships within the local community, and
 - establishing competitive supply terms with manufacturers.

The ACCC invites comments from market participants on its concerns in relation to local markets. In particular, market participants may wish to comment on the following:

- Your views on potential competition effects in any of the local markets identified above or in Attachment A, or any other local areas of overlap that you are aware

of, including:

- How closely do Landmark and Ruralco (including their member stores) compete in this area (for example, do they price match each other)?
 - How strong are other rural merchandise retailers in this local area, in terms of the competitiveness of their pricing, product range, service offering or other aspects?
 - Are there any specialist stores (e.g. irrigation supplies, fertiliser or fencing) that compete particularly strongly with Landmark/Ruralco in this area?
 - How far afield do farmers/producers in this area look to acquire rural merchandise (including placing orders over the phone)?
- To what extent do member stores (such as those belonging to CRT) compete with their wholesaler's corporate stores in a local market?

Wholesale supply of rural merchandise (horizontal and vertical effects)

72. The ACCC is considering the impact of the proposed acquisition on the wholesale supply of rural merchandise, and whether the proposed acquisition may substantially lessen competition by removing a significant competitor to Landmark in the supply of rural merchandise to independent retailers, leading to increased prices or decreased service levels in rural merchandise wholesaling.
73. The ACCC understands that the proposed acquisition would reduce the number of major wholesale suppliers (including buying groups) from 5 to 4. Should the acquisition proceed, the ACCC understands that Landmark would be the wholesaler to approximately a third of independent stores nationally.
74. Ruralco (through CRT) is a major rural merchandise wholesaler to independents and the CRT brand has strong recognition. By contrast, Landmark has historically focussed more on its retail business. Market feedback and other information available to the ACCC has not indicated that Landmark and CRT are especially close competitors at the wholesale level.
75. The ACCC is also considering potential vertical issues from the proposed acquisition. Some market participants have suggested that, following the proposed acquisition, Landmark may have less of an incentive to provide wholesale supply of rural merchandise on competitive terms to member stores. In particular, some owners of CRT member stores have expressed concern that because they are located in local areas where there is also a Landmark corporate store, Landmark may have the incentive to increase prices or otherwise discriminate against them in favour of its corporate stores. The same concern could apply to Landmark member stores in areas where there is currently a Ruralco corporate store.
76. Whether it would be profitable for Landmark to engage in such a strategy post-acquisition would depend on factors such as:
- the closeness of competition between the Landmark corporate store and the independent store in the relevant area (i.e. whether Landmark could

expect to gain any customers lost by the CRT member store, or whether they would be more likely to switch to a different competitor), and

- the ease with which independent retailers can switch wholesalers (i.e. whether there are factors such as brand recognition that may impede switching) and the suitability of other wholesale options.
77. The major competing wholesalers/buying groups post-acquisition would be AIRR, NRI and AgLink. Market inquiries indicate that at least two of these would provide a suitable alternative to Landmark's and Ruralco's wholesale businesses for most independent retailers. AIRR is already a major wholesaler with a significant market share. However, there appear to be some differences between wholesalers' business models, which may affect the suitability of some wholesalers for certain retailers. For example, AgLink appears to primarily supply smaller retail chains rather than standalone stores, and the ACCC understands that NRI does not purchase products on behalf of its members, who need to maintain direct accounts with each supplier.
78. The ACCC is also considering the height of barriers to entry for new rural merchandise wholesalers or buying groups. The ACCC is aware that AIRR was founded in 2006 and is now a significant wholesaler.
79. The ACCC also understands that it may not be essential for wholesalers/buying groups to have a distribution network as it is common in the industry for manufacturers/suppliers to deliver direct to stores.

The ACCC invites comments from market participants on its concerns in relation to rural merchandise wholesaling. In particular, market participants may wish to comment on the following:

- If you are currently a wholesale customer of Landmark or Ruralco, which wholesaler is your next best option and why? Are AIRR, NRI and AgLink all good alternatives to Landmark/Ruralco? Why or why not?
- For retailers, what is important to you in selecting a wholesaler? For example, do you look at price, buying power, brand of the wholesaler, brand of products they can supply to you, their distribution capabilities, member benefits or other services? Are there any factors that limit your choice of wholesaler?
- How readily can independent stores switch wholesalers/buying groups, or reduce reliance on their existing wholesaler by purchasing more products elsewhere?
- To what extent is purchasing rural merchandise direct from manufacturers/suppliers an option, if an independent retailer is dissatisfied with the wholesale/buying group options available?

Issue unlikely to raise concern: Integration of product manufacturing and distribution

80. The ACCC understands that Landmark and Ruralco supply private label, or branded generic, products including agricultural chemicals, seeds and animal health products. Landmark's parent company Nutrien is also a major global fertiliser producer.

81. A number of concerns have been raised about the vertical integration between Nutrien and a significantly larger Landmark retail business post-acquisition, primarily in relation to the supply of agricultural chemicals and seeds. There is a concern that the merged entity may replace products currently acquired from Australian agricultural chemical and seed manufacturers with Nutrien/Landmark's products.
82. Some market participants have raised concerns that the loss of such volumes may cause smaller manufacturers to exit Australia. This could adversely affect other wholesalers/buying groups, and farmers, who would have fewer supply options remaining.
83. The ACCC notes that Nutrien is a very large international company and that this relationship may give Landmark significant competitive advantages. However, this relationship is an existing feature of the market. Landmark may also seek to increase sales of its private label products at the expense of third party proprietary products, but it is not clear that the proposed acquisition significantly increases its ability to do so. The ACCC's preliminary view is that the proposed acquisition is not likely to significantly increase Nutrien's ability to distribute its products in Australia at the expense of competing manufacturers.

The ACCC invites comments from market participants on its preliminary views about vertical integration between product manufacturing and distribution.

Wool broking

84. Based upon its inquiries to date, the ACCC's preliminary view is that the proposed acquisition is unlikely to substantially lessen competition in the supply of wool broking services.

Industry background

85. The Australian wool industry involves several different channels in the sale and movement of wool from the wool grower to the end consumer. A grower may sell wool through an auction (physically or online), direct to a private buyer (domestic or international), to a wool buying business or other intermediaries, or by forward contract. A large majority of these sales are facilitated by a wool broker.
86. Physical auctions account for around 85% to 95% of sales, the large majority of which are conducted in three wool selling centres located in Sydney, Fremantle and Melbourne. These centres are regulated by the Australian Wool Exchange (**AWEX**) and owned by Australian Wool Handlers (**AWH**).
87. A wool broker acts as an agent representing the wool grower, either at auction (most commonly) or in a private sale. Wool broking services may include on-farm advice, appraising wool, storage of wool pending sale, marketing wool and quoting an expected sale price for a producer's clip. Wool brokers may also offer "shearing advances", an advance of money from broker to grower pending sale. Post-sale wool handling services include preparing wool for export and delivery of wool to domestic and international buyers.
88. Generally, wool brokers charge for their services in one of two ways: larger brokers use a combined commission system and flat warehouse fee structure, whereas smaller brokers tend to charge a flat rate per bale/kilogram.

89. Landmark uses AWH for the handling and storage of wool. Landmark has a 50% interest in AWH, with DP World Australia also holding a 50% interest. AWH handles over 54% of the national clip.⁴
90. Ruralco primarily organises its own handling and storage of wool.

Market definition

Product dimension

91. Market participants indicate a strong preference for using the services of a wool broker, regardless of sale method. Accordingly the ACCC considers that selling wool directly is generally not a sufficiently close substitute for using the services of a wool broker.

Geographic dimension

92. The ACCC understands that the wool industry has three administrative regions:
- Western wool growing region (wool grown primarily in Western Australia and sold in Fremantle)
 - Southern wool growing region (wool grown primarily in Victoria, South Australia, Tasmania and parts of New South Wales and sold in Melbourne)
 - Northern wool growing region (wool grown primarily in Queensland and parts of New South Wales and sold in Sydney)
93. The geographic scope of wool markets is influenced by the distance to one of the three national wool auction centres in Melbourne (Brooklyn), Sydney (Yennora) and Fremantle (Bibra Lake).
94. Some wool brokers are present across an entire wool growing region, whereas some have smaller local presences. Wool growers have indicated that local relationships are important when choosing a wool broker.

Areas of overlap

95. Landmark and Ruralco overlap in the provision of wool broking services in the Western and Southern regions. The parties have very limited wool broking operations in the Northern region.

Issue unlikely to raise concern – wool broking

96. The ACCC understands that, based on 2018 data, the six largest wool brokers in the Western region are:
- Landmark (~23% market share)
 - Ruralco (~23% market share)
 - Elders (~18% market share)
 - Dyson Jones (~14% market share)

⁴ <https://www.awh.com.au/wool-services/wool-services>.

- West Coast Wool (~12% market share)
 - Wool Agency (~9% market share)
97. Together, these six wool brokers hold approximately 98% market share of wool sold by auction. There were very low volumes sold by other wool brokers at auction in WA in 2018.
98. The six largest wool brokers in the Southern region are:
- Elders (~24% market share)
 - Landmark (~19% market share)
 - Ruralco (~12% market share)
 - Quality Wool (~12% market share)
 - Australian Wool Network (~11% market share)
 - Fox & Lillie Rural (~10% market share)
99. Together, these six wool brokers hold approximately 88% market share of wool sold by auction. The remaining 12% market share is held by 13 wool brokers. These small brokers individually hold no more than 2% market share.
100. Notwithstanding the parties' high market shares, particularly in the Western region, the ACCC considers that other wool brokers are likely to continue to place competitive pressure on combined Landmark-Ruralco wool broking operations in the Western and Southern regions. Wool producers generally indicated that there were a number of wool brokers available to them in their region.
101. Market inquiries indicate that the six wool brokers listed for each of the Western and Southern regions above provide comparable levels of service at comparable rates.
102. Market participants also indicate that the smaller wool brokers (those with 2% market share or less) are generally able to compete effectively with larger ones. Market inquiries indicate that small wool broking operations are viable without owning their own storage facilities, logistics infrastructure or invoicing systems. Smaller wool brokers are able to provide the essential services of a wool broker such as quoting an expected price, marketing and selling wool at auction, whilst paying to use the back end infrastructure of larger wool brokers or specialist wool handlers such as AWH. These smaller wool brokers pass on the storage and handling costs to the producer.
103. Some wool producers indicate a preference for larger brokers who have established relationships with primarily international buyers. However, producers generally consider that there are large brokers other than the parties, or that smaller brokers were a suitable alternative in their area.

Likelihood of entry or expansion

104. The ACCC considers that barriers to initial entry for wool brokers may not be especially high. Market inquiries to date indicate that:
- Personal relationships are an important factor for wool producers in choosing their broker. Producers will often follow a wool broker to a different company.
 - Large capital outlays in storage facilities and logistics networks are not necessary to initially enter the market as these services are available from third parties.
 - Although large capital outlays are not necessary to enter the wool broking market, barriers are higher for wool brokers seeking to expand into offering wool storage and handling as part of their services.
105. Market feedback indicates that there are generally low barriers for wool producers to switch between wool brokers as wool brokers are engaged on a seasonal basis as wool is prepared to be sold.

Vertical integration

106. As discussed above, Landmark has a 50% interest in AWH, which undertakes all of Landmark's wool handling and storage. Ruralco primarily organises its own handling and storage of wool.
107. The ACCC has considered the vertical integration of wool broking and handling services in a combined Landmark-Ruralco business, given Landmark currently holds a 50% interest in AWH (the other 50% is owned by DP World Australia). In particular, the ACCC has considered the ability of the post-merger entity to foreclose competing wool brokers by preventing access to the wool handling services of AWH at a competitive price.
108. Market inquiries have indicated that AWH provides wool handling and logistics services for competitor wool brokers. Some of the larger wool brokers currently have their own wool handling capabilities including wool storage sheds for their own use.
109. Market participants have not raised concerns in relation to the ownership of AWH. Market participants have indicated that if AWH wool handling prices were to be raised, other wool brokers would be able to expand into providing their wool handling services to wool brokers.
110. The ACCC considers it unlikely that the proposed acquisition will increase Landmark's ability or incentive to foreclose competitors, for example by raising the price of access of AWH wool handling services.
111. The ACCC has also considered competition in relation to post-sale charges paid to wool brokers. Market participants have indicated that post-sale charge rates are comparable amongst Landmark, Ruralco and their competitors.

The ACCC invites comments from market participants on its preliminary views about wool broking competition.

ACCC's preliminary views

112. In summary, the ACCC does not consider that the proposed acquisition is likely to lead to a substantial lessening of competition in the provision of wool broking services in any geographic area.

Livestock agency and live export

113. Based upon its inquiries to date, the ACCC's preliminary view is that the proposed acquisition is unlikely to substantially lessen competition in the provision of livestock agency services or live export.

Industry background

114. The parties provide livestock agency services across Australia, with the parties' agents often being based at a local rural merchandise branch.
115. The primary role of a livestock agent is to arrange the sale of livestock, commonly at saleyard auctions, through private (paddock) sales or "over the hooks" sales (where the producer organises for livestock delivery direct to meat processors and an agent may be involved in the negotiations of terms of sale). Livestock agents typically charge producers a commission for their services ranging from 2.5% to 5% of the sale price.
116. Market inquiries suggest that a close working relationship with farmers and having expert knowledge of local conditions is an important aspect of being a livestock agent.
117. A farmer's choice of sale method may be determined by proximity to saleyards or abattoirs, stock type and size and other factors. For example smaller-scale farmers with fewer head of livestock are more likely to sell through a saleyard as they can sell in small lot sizes.
118. Buyers of livestock are usually meat processors, livestock exporters and other livestock producers.
119. Live exporters are in the business of purchasing livestock for export to overseas markets. Live exporters may purchase livestock direct from producers or via a livestock agent representing the vendor. Landmark is a live exporter through its Landmark International business. Ruralco is also a live exporter through a joint venture called Frontier International. The parties' live export operations overlap in the live export of cattle only.

Market definition

120. Producers have multiple sales methods available including saleyard auctions, paddock to paddock (private sales), online sales via AuctionsPlus or direct to processor via "over the hooks" sales. These sales methods can be undertaken without the services of a livestock agent, however market inquiries have indicated a preference to undertake sales with the assistance of a livestock agent. Market inquiries also indicate that preferences for particular sale methods may vary by region. Some larger-scale livestock producers have indicated they are able to directly negotiate sales to processors without the use of livestock agents.

121. In the case of sales through Auctions Plus and for some private sales, the ACCC understands that buyers will generally require an objective assessment of the livestock prior to sale. Whilst assessors can offer their services independent of a livestock agent, producers typically engage the services of an assessor through their livestock agent.
122. The ACCC considers that the appropriate geographic dimension of the livestock agency market is likely to be regional. The distances that livestock travel from producer to purchaser vary depending on multiple factors including remoteness of the producing region and fluctuations in livestock conditions across different regions.
123. Livestock producers have indicated their choice of agent is typically made based on their relationships with the individual agents servicing their region. The distances that livestock agents cover vary from region to region, ranging up to 600km and 1,000km in the most remote parts of Australia.
124. The geographic dimension of the live export market for cattle is also likely to be regional. The ACCC understands that live exporters primarily source cattle through paddock sales, aggregating purchases in yards located close to ports for a pre-shipment quarantine period.

Issue unlikely to raise concern – livestock agency

Competition from other livestock agents

125. Landmark, Ruralco, Elders and Ray White Rural and Livestock provide livestock agency services across all states and territories. In addition, there are large livestock agencies that have a significant presence at the state or regional level including Forbes Livestock & Agency Co (NSW), Delta Agribusiness (NSW), HF Richardson (Victoria), S&C Livestock (WA) and Westcoast Livestock (WA).
126. The ACCC understands that Landmark's share of livestock sales post-acquisition would be modest.
127. Market inquiries indicate that there are suitable alternatives in the provision of livestock agency services to the parties in each region where they overlap.
128. Market inquiries indicate that in certain remote areas, including Broome and Alice Springs, the choice of livestock agents with a local presence would be limited after the proposed acquisition. However, market feedback indicates that livestock agents will travel to service clients in remote areas where they don't have a permanent presence if there is sufficient demand (for example, a livestock agent servicing northern Queensland also services cattle producers across the Northern Territory and agents located close to Perth have clients in the Broome region).
129. Some livestock producers indicate a preference for using larger agent companies which have established relationships with buyers. However, producers generally consider that smaller or independent agents are a suitable alternative. Further, it is not necessary for an agent to have an established logistics business as producers typically use the logistics networks of third parties. Agents may assist producers in organising logistics via a third party.
130. The ACCC also considers that the threat of entry or expansion may impose some competitive constraint on Landmark post-acquisition as the largest barrier

to entry for livestock agents is establishing relationships with livestock producers. The ACCC understands agents may switch from one company to another or to commence their own operations with minimal outlay of capital. Producers tend to follow their livestock agent and are willing to use the services of independent livestock agents or smaller livestock agent companies.

131. In some areas, saleyards are privately owned by one or a combination of livestock agency businesses, such as Landmark or Ruralco. The ACCC understands that these saleyards generally do not allow access to livestock agents not affiliated with the businesses that own the saleyards. However, this appears to be an existing feature of the market. In most regions, there are saleyards owned by councils or independent third party operators, which are accessible to all agents by payment of a fee.
132. Some market participants have also raised concerns about consolidation in the ownership of Auctions Plus. The ACCC does not consider that the removal of Ruralco as a third shareholder and increase in Landmark's shareholding raises significant competition issues.

Issue unlikely to raise concern – live export

133. The ACCC notes that there is a large number of competitors in live export, including Australian Rural Exports, Livestock Shipping Services, North Australian Cattle Company, International Livestock Export, South East Asian Livestock Services and Halleen Australasian Livestock Traders. These major competitors to the parties account for around three quarters of live export volumes in cattle (based on 2017 figures). The ACCC understands that the parties' combined live export volumes for cattle were modest and that the parties do not overlap in the live export of sheep.
134. The ACCC considers that there is likely to be sufficient constraint from remaining competitors in the live export market.

The ACCC invites comments from market participants on its preliminary views about livestock agent and live export competition.

Other services

135. Landmark and Ruralco overlap in the supply of a number of other services, namely, real estate agency, insurance broking, and water broking.

Issues unlikely to raise concerns

136. The ACCC's preliminary view is that the proposed acquisition is unlikely to substantially lessen competition in the supply of insurance broking, real estate agency or water broking services.
137. In relation to water broking and trading services, the ACCC understands that there is extremely limited overlap between the parties, because Landmark only has a single water broker who operates in the Goulburn Valley, Victoria.
138. In relation to the supply of real estate agency and insurance broking services, Landmark will have a modest market share post-acquisition and there appears to

be a range of remaining competitors including large national agents/brokers and independent agents or brokers to constrain Landmark post-acquisition.

ACCC's future steps

139. As noted above, 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. Submissions are to be received by the ACCC no later than **27 June 2019** and should be emailed to mergers@acc.gov.au.
140. The ACCC will finalise its view on this matter after it considers submissions invited by this Statement of Issues.
141. The ACCC intends to publicly announce its final view by **15 August 2019**. However the anticipated timeline may change in line with the *Informal 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 to explain its final view.

Attachment A – Areas where there is a Landmark corporate store within 50kms of a Ruralco corporate store

Alexandra	Fraser Coast	Northam
Alice Springs	Geraldton	Oakwood
Ayr	Gnowangerup	Ooralea
Balaklava	Griffith	Parkes
Barham	Hillston	Peak Hill
Bathurst	Home Hill	Port Pirie
Bellevue	Horsham	Quairading
Bibra Lake	Hughenden	Renmark
Bomaderry	Humpty Doo	Robertson
Boort	Hume	Rockhampton
Broome	Hyden	Shellharbour
Bundaberg	Kaniva	Shoalhaven
Childers	Katanning	Strathalbyn
Clare	Katherine	Swan Hill
Cobram	Kilmore	Toogoolawah
Coleambally	Kimba	Traralgon
Cooma	Kondinin	Virginia
Coorow	Lake Grace	Wakefield
Corrigin	Loxton	Wongan Hills
Crystal Brook	Mallala	York
Culcairn	Mansfield	
Dalwallinu	Maryborough	
Darwin	Meningie	
Deniliquin	Merredin	
Dimboola	Mildura	
East Bendigo	Moe	
Echuca	Moora	
Emerald	Mt Barker	
Esperance	Murray Bridge	
Forbes	Nhill	