



## Public Competition Assessment

14 July 2014

### Gallagher Group – proposed acquisition of Country Electronics Pty Ltd (trading as Thunderbird)

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#### Introduction

1. On 19 December 2013, the Australian Competition and Consumer Commission (**ACCC**) announced its decision not to oppose the proposed acquisition of Country Electronics Pty Ltd by Gallagher Group (**proposed acquisition**), subject to section 87B undertakings accepted by the ACCC on 19 December 2013. The ACCC decided that the proposed acquisition, in conjunction with the undertakings, would be unlikely to have the effect of substantially lessening competition in either the national market for the wholesale supply of animal management electric fence energisers or the national market for the wholesale supply of animal management weigh scales in Australia in contravention of section 50 of the *Competition and Consumer Act 2010* (**the Act**).
2. The ACCC made its decision on the basis of the information provided by the merger parties and information arising from its market inquiries. This Public Competition Assessment outlines the basis on which the ACCC has reached its decision on the proposed acquisition, subject to confidentiality considerations.

#### Public Competition Assessment

3. To provide an enhanced level of transparency and procedural fairness in its decision making process, the ACCC issues a Public Competition Assessment for all transaction proposals where:
  - a merger is opposed;
  - a merger is subject to enforceable undertakings;
  - the merger parties seek such disclosure; or
  - a merger is not opposed but raises important issues that the ACCC considers should be made public.
4. This Public Competition Assessment has been issued because Gallagher Group's proposed acquisition of Country Electronics Pty Ltd is subject to a court enforceable undertaking.

5. By issuing Public Competition Assessments, the ACCC aims to provide the public with a better understanding of the ACCC's analysis of various markets and the associated merger and competition issues. It also alerts the public to circumstances where the ACCC's assessment of the competition conditions in particular markets is changing, or likely to change.
6. Each Public Competition Assessment is specific to the particular transaction under review by the ACCC. While some transaction proposals may involve the same or related markets, it should not be assumed that the analysis and decision outlined in one Public Competition Assessment will be conclusive of the ACCC's view in respect of other transaction proposals, as each matter will be considered on its own merits.
7. Public Competition Assessments outline the ACCC's principal reasons for forming views on a proposed acquisition at the time the decision was made. As such Public Competition Assessments may not definitively identify and explain all issues that the ACCC considers arise from a proposed acquisition. Further, the ACCC's decisions generally involve consideration of both non-confidential and confidential information provided by the merger parties and market participants. In order to maintain the confidentiality of particular information, Public Competition Assessments do not contain any confidential information or its sources.

## **The parties**

### **The acquirer: Gallagher Group**

8. The Gallagher Group is a privately owned New Zealand company which designs, manufactures, and markets a range of animal management, security and fuel systems products in New Zealand. These products are exported to various countries including Australia.
9. Gallagher Australia operates as a sales and distribution company for the Gallagher Group's animal management products in Australia. Gallagher's animal management products are manufactured by the Gallagher Group in New Zealand, and include electric fencing energisers and accessories, weigh scales, electronic identification readers, electric cattle prodders, animal handling equipment and farm gate fittings.
10. For the purposes of this Public Competition Assessment, the acquirer will be referred to as "Gallagher".

### **The target: Country Electronics Pty Ltd**

11. Country Electronics is a privately owned manufacturer and supplier of electric fencing energisers and accessories, weigh scales, and other animal management products in Australia.
12. Country Electronics commenced operations in 1983 and sells its products under the trading name of Thunderbird.
13. Country Electronics' headquarters and manufacturing premises are located in Mudgee, New South Wales. It has three warehouses, located in New South Wales, Queensland and Victoria.

14. For the purposes of this Public Competition Assessment, the target, Country Electronics, will be referred to as “Thunderbird”.

## Other industry participants

### Tru-Test

15. Tru-Test Corporation Limited (**Tru-Test**) is a New Zealand based manufacturer of electric fence, weigh scale and animal management products. It exports these products to a number of continents including Australia, North America and Europe, and is a major supplier of these products in New Zealand.
16. In Australia, Tru-Test supplies a number of premium electric fence products under its three premium brands, which are Stafix, Speedrite and PEL. Tru-Test has also recently commenced supplying electric fence energisers in Australia under its budget brand, Patriot. Tru-Test also supplies weigh scale indicators and accessories.
17. At the time of the ACCC’s decision, the Gallagher Group owned 11.86 per cent of the issued shares in Tru-Test.

### Daken

18. Daken is an Australian company which supplies a range of agricultural products in Australia including electric fence energisers and associated products. It also manufactures and supplies tractor implements and hay making equipment. Daken is a wholly owned subsidiary of Clark Equipment Pty Ltd, a privately owned Australian company.

### Pakton

19. Pakton is an Australian Original Equipment Manufacturer (OEM) of electronics for electric fence products for animal management and security. Pakton supplies these products to other third party wholesale suppliers in Australia including Daken and JVA, as well as to overseas wholesalers.

### JVA

20. JVA is an Australian supplier of electric fencing products. Its electric fence energiser products are manufactured by Pakton and distributed by a small number of rural resellers located in Queensland and Western Australia, as well as online.<sup>1</sup>

### Rural resellers

21. Most electric fencing products and animal weigh scale products are sold to end users through rural and agricultural retail stores (**rural resellers**). Market inquiries suggest that this is because most end-users seek advice about the features of the products before making a purchase.
22. Most rural resellers in Australia are part of, or members of, a larger corporate or cooperative entity, franchise or buying group. Examples of rural reseller brands in

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<sup>1</sup> <http://www.jva-fence.com.au/contact.php>

Australia include Landmark, Elders, Ruralco/CRT and Australian Independent Rural Retailers (**AIRR**). There are also some resellers who offer an online store where end-users can purchase products directly, however, the ACCC understands that sales volumes through this distribution method are currently small.

23. Market inquiries indicated that the reseller channel is integral for the successful distribution of these products. The manufacturers compete to have their products stocked by the resellers by offering volume-based rebates on wholesale product purchases along with non-price offers, such as support with merchandising and after-sales service and advice.

## The proposed transaction

24. Gallagher proposed to acquire the assets, including the manufacturing plant, equipment and inventory, of Thunderbird.

## Areas of overlap

25. The ACCC considers that the following areas of overlap exist between the parties to the proposed acquisition:

- i. Electric fence products, namely electric fence energisers and accessories, which together control livestock by delivering an electric pulse through insulated fence wires. Electric fencing has the following basic components:
  - A wire or filament that carries an electric charge along the fence-line.
  - An energiser, which can be powered by either solar, battery or mains (or sometimes more than one of these options), pushes power through the fence in a series of pulses.
  - A ground system, usually a series of metal rods sunk into the ground and connected to the energiser via a ground wire, waits dormant until the fence is touched by an animal that is also in contact with the ground. The ground system attracts the charge through the animal which completes the circuit and returns the current to the energiser.
  - Other parts, including posts, tape, insulators, reels and accessories.
- ii. Animal weigh scale systems, which comprise an electronic weigh indicator which powers and interprets the weigh signal from load bars, and displays and stores the weight of an animal.

26. For the purposes of this Public Competition Assessment, animal management electric fencing products will be referred to as '**energisers**', as these are the critical component of the electric fencing products sold by the merger parties and are commonly purchased separately from other types of electric fencing products. Animal weigh scale systems will be referred to as '**animal weigh scales**'.

## Review timeline

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

Date	Event
25-Oct-2012	ACCC commenced review under the Merger Review Process Guidelines.
15-Nov-2012	Closing date for submissions from interested parties.
13-Dec-2012	ACCC requested further information from the merger parties. ACCC timeline suspended. Former proposed decision date of 20 December 2012 delayed pending receipt of information from the parties.
20-Dec-2012	ACCC received further information from the merger parties. ACCC timeline recommenced.
31-Jan-2013	ACCC published a Statement of Issues outlining preliminary competition concerns.
15-Feb-2013	Closing date for submissions relating to Statement of Issues.
04-Mar-2013	Former proposed decision date of 15 March 2013 delayed to allow provision of information requested from Gallagher.
11-Mar-2013	ACCC received further information from Gallagher. ACCC timeline recommenced.
21-Mar-2013	Former proposed decision date of 21 March 2013 delayed to allow Gallagher to make further submissions.
27-Mar-2013	Timeline suspended at Gallagher's request to allow it to make further submissions.
13-Dec-2013	ACCC received further information from Gallagher.
19-Dec-2013	ACCC announced it would not oppose the proposed acquisition, subject to a section 87B undertaking accepted by ACCC.

## Market inquiries

28. The ACCC conducted extensive market inquiries in relation to the proposed acquisition with a range of industry participants, including competitors, potential competitors, customers (the major rural reseller chains, rural buying groups, independent rural resellers and online retailers), agricultural industry bodies and other interested parties.

## Statement of Issues

29. The ACCC published its Statement of Issues on 31 January 2013 identifying a number of competition issues. The ACCC stated its preliminary view that the proposed acquisition would be likely to raise competition concerns in the supply of

energisers in Australia, and that the proposed acquisition may raise competition concerns in the supply of animal weigh systems in Australia.

30. In the Statement of Issues, the ACCC expressed preliminary concerns that the proposed acquisition would be likely to give rise to one or both of the following theories of harm to competition, particularly relating to the supply of energisers.

- *Unilateral effects* – post-acquisition the merged firm would have an increased ability and incentive to unilaterally raise prices and reduce the quality of its service offering. Gallagher could internalise substitution between its products and Thunderbird’s products, and through its shareholding in Tru-Test, receive a share of profits from sales won by Tru-Test from the merged Gallagher-Thunderbird.
- *Coordinated effects* - post-acquisition, the highly concentrated market structure, together with the common ownership between Gallagher and Tru-Test, would increase the likelihood of coordination between Gallagher and Tru-Test with respect to their product, price and service offerings. In particular, the ACCC was concerned that the likely effect of the proposed acquisition would be an increase in prices for the various products supplied by Gallagher and Tru-Test.

31. The Statement of Issues is available on the ACCC website ([www.accc.gov.au](http://www.accc.gov.au)) at the mergers register.

## **Future with and without the proposed acquisition**

32. Section 50 of the Act prohibits mergers or acquisitions that would have the effect or be likely to have the effect of substantially lessening competition in a market. In assessing a proposed acquisition pursuant to section 50 of the Act, the ACCC considers the effects of the acquisition by comparing the likely future competitive environment post-acquisition if the acquisition proceeds (the “with” position), to the likely future competitive environment if the acquisition does not proceed (the “without” position), to determine whether the proposed acquisition is likely to substantially lessen competition in any relevant market.

33. In the absence of the proposed acquisition, the ACCC considered that the likely future competitive environment would be the status quo, that is, Thunderbird would continue to operate as an independent competitor in the wholesale supply of energisers and animal weigh scales in Australia.

## **Market definition**

34. The ACCC considered that the following two markets were most relevant to the assessment of the competitive impact of the proposed acquisition:

- the national market for the wholesale supply of energisers; and
- the national market for the wholesale supply of animal weigh scales.

## *Product dimension*

### **Energisers**

35. Electric fences are typically used on rural properties in order to contain and manage livestock. The two main types of fencing on farms are electric fencing and conventional permanent wire fencing (**conventional fencing**), or a combination of both.
36. The ACCC considered that there was unlikely to be a sufficient level of substitutability between conventional fencing and electric fencing to constitute a single market for the purposes of this merger review. In reaching this view, the ACCC took into account the following information from market inquiries:
- While conventional fencing requires less maintenance and lower ongoing costs than electric fencing, setting up conventional fencing costs significantly more than electric fencing because it requires more wire and posts to make fences durable.
  - In contrast to conventional fencing, electric fencing is easier and quicker to construct and more versatile in use and effective for containing most types of farm animals. For instance, an electric fence can be moved around a farm according to a farmer's preferences for containing animals, such as to have them graze in a particular paddock at a given time.
37. Market inquiries also revealed a degree of product differentiation between the energisers supplied by the merger parties and their competitors. Market participants informed the ACCC that the energiser market is segmented into two groups – the *premium* brands are Gallagher, and Tru-Test's Stafix, Speedrite and PEL brands. The *budget* brands are Thunderbird, Daken and Patriot. Patriot is the budget brand supplied by Tru-Test. Market inquiries indicated that the budget brands are particularly suited to the needs of the growing hobby/lifestyle farm customer segment.
38. The ACCC considered that for the vast majority of energiser products the functionality of premium and budget energisers was substantially similar. Information provided to the ACCC also indicated a significant degree of substitution between the budget and premium brands by end-users. Therefore, the ACCC considered that the supply of energisers comprises a single product market, which includes premium and budget brands of energisers.

### **Animal weigh scales**

39. Animal weigh scales are used by farmers, stockyards, abattoirs and other agricultural businesses to measure, record and analyse an animal's weight.
40. While all animal weigh scales perform the same principal function of weighing animals, the levels of ancillary functionality vary significantly between various models of weigh scales in the market. Basic models have the sole functionality of weighing animals, while sophisticated animal weighing systems which have integrated software that can store and analyse a range of statistical data about livestock.

41. In the Statement of Issues, the ACCC noted that it considered that industrial and animal weigh scales were functionally similar and invited comments from market participants regarding whether industrial weigh scales were substitutable for animal weigh scales. Market inquiries with industrial weigh scale manufacturers in the period following the Statement of Issues indicated that industrial weigh scale manufacturers were able to manufacture and supply basic animal weigh scales at a competitive price, however, they were not able to manufacture high-end animal weigh scales that have electronic identification capabilities (similar to some of the products of the merger parties) without significant time, investment, and research and development.
42. On the basis of its market inquiries, the ACCC formed the view that supply-side substitution from industrial weigh scale manufacturers is only likely for basic animal weigh scales, and therefore considered it appropriate to analyse the likely effect of the proposed acquisition in a market for animal weigh scales only. However, in its competition analysis, the ACCC took the constraint on the merged entity from industrial weigh scale manufacturers in relation to basic animal weigh scales into consideration.

#### *Geographic dimension*

43. The ACCC considered that the appropriate geographic dimension of both the market for the wholesale supply of energisers and of the market for the wholesale supply of animal weigh scales is national, because energisers and animal weigh scales are durable products which can be and are efficiently transported over long distances. During its review, the ACCC found that the energisers and animal weigh scales of all suppliers in the market are distributed throughout Australia. In addition, the ACCC understands that the vast majority of energisers and animal weigh scales supplied in Australia are manufactured at offshore manufacturing plants in accordance with regulatory requirements such that they can be sold in Australia.

## **Competition analysis**

### **Energisers**

#### *Wholesale supply of energisers – supply channel*

44. The ACCC's market inquiries indicated that the rural resellers provide an important avenue for suppliers of energisers to reach a large number of end-users.
45. The matters taken into account by rural resellers when negotiating the wholesale supply of energisers were an important factor in the ACCC's competition analysis, as explained below.
46. The wholesale suppliers of energisers utilise the rural reseller channel in different ways. Some supply energisers directly to independent rural retail stores. Other suppliers market and distribute their energisers more centrally through the corporate/cooperative entities to which independent rural resellers belong, or through buying groups. Market inquiries indicated that where corporate/cooperative entities or buying groups choose to support a given energiser brand, this tends to enhance the energiser supplier's promotional activity and provides for wider distribution of its energisers through the reseller's network of stores.



47. As noted above, electric fence energisers are manufactured and supplied in a range of technical specifications. Market inquiries indicated that the rural resellers typically seek to stock products supplied by more than one supplier and negotiate with a number of independent suppliers to purchase products which allow the resellers to offer a mix of basic and premium energisers. The resellers and wholesale suppliers negotiate on the basis of product range, wholesale prices and rebates.

#### *Competition among existing suppliers*

48. The ACCC found that the proposed acquisition would increase concentration in the market for the wholesale supply of energisers, which was already concentrated.<sup>2</sup> Gallagher and Tru-Test already held the vast majority of market share based on sales of energisers. Thunderbird was the next largest competitor in terms of market share, followed by smaller suppliers Daken and JVA, who, at the time of the ACCC's investigation, had a combined share of less than 5 per cent of the market.

49. Gallagher and Tru-Test are the two most significant suppliers of energisers in Australia. Market participants stated that the Gallagher and Tru-Test brands are highly regarded by market participants for their reliable energisers and after-sales service. Market inquiries indicated that Gallagher and Tru-Test are the closest competitors of each other.

50. Market inquiries indicated Thunderbird to be a successful competitor in the market, having won market share from Gallagher and Tru-Test and developed products across a range of specifications. While Daken's market share was considerably smaller than Thunderbird's, its brand was recognised, particularly as it supplies a range of other products in the agricultural retail sector. The ACCC found that Daken's energiser products were stocked by a number of rural resellers.

51. As noted above, rural resellers typically seek to offer their customers a range of energisers comprising a mix of basic and premium products. In this regard, market inquiries indicated that Gallagher and Tru-Test's brands were highly recognisable and at least one of these was likely to be selected by resellers to form the premium part of their product range offering. Meanwhile, Thunderbird's products were often adopted by resellers to fulfil their preferences to offer a lower-priced 'budget' energiser to their customers. That said, market inquiries revealed that all existing suppliers manufacture and supply 'budget' energisers and that Gallagher's premium products competed with all of these.

52. While other wholesale suppliers in the market, such as Daken and JVA, had a small market share in aggregate, market inquiries indicated that these suppliers' products were viable alternatives for rural resellers and end-users. In this regard, the ACCC found that these and other manufacturers of energiser products do not face capacity constraints on their ability to expand their wholesale output. Market inquiries also indicated that there was scope for resellers to substitute Thunderbird with another supplier of budget energisers if post-acquisition, Gallagher sought to raise wholesale prices or reduce rebates offered to resellers, or reduce product development and service offerings. In addition, market inquiries revealed that the market share of any supplier can change considerably based on a reseller's selection of suppliers of a mix of premium and budget energisers.

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<sup>2</sup> The ACCC was unable to obtain publicly available sources of information regarding market shares to include in this Public Competition Assessment.

### *Likelihood of competitive constraint from new entrants*

53. The ACCC assessed the likelihood of new entry in the market for the wholesale supply of energisers and whether any such entry would act as a sufficient constraint to alleviate the ACCC's competition concerns in relation to the proposed acquisition.
54. The ACCC's market inquiries indicated that barriers to the expansion of manufacturing output for energisers were unlikely to be substantial due to the availability of third party electronic manufacturers (such as Pakton). However, market inquiries indicated that rural resellers had limited shelf space for selling energisers. For this reason, the resellers typically negotiate with a small number of suppliers of energisers whose brands are recognised by customers. These factors appeared to have the potential to limit the opportunities for new suppliers to enter the market, or for small existing suppliers to expand their presence on a large scale, unless a reseller altered its mix of suppliers as noted in paragraph 52.

### *Imports*

55. Gallagher and Tru-Test import their products from New Zealand. Market inquiries showed that Gallagher and Tru-Test have been successful in Australia because they have both established domestic distribution networks, brand recognition and representatives based in Australia to provide after-sales support, advice and training to rural resellers and end users.
56. Other than the products imported by Gallagher and Tru-Test, energisers are not currently imported in significant volumes, either directly by end users or by rural resellers. Market participants indicated that prices would have to increase substantially before independent imports of energisers would be considered to be viable substitutes for the energisers supplied by the merger parties' and Tru-Test. As such, the ACCC did not consider that independent imports would be likely to provide an effective constraint on the merged firm.

### *Conclusions*

57. After taking the above factors into account, the ACCC was concerned that post-acquisition, Gallagher would own a full and partial shareholding in its two closest competitors for the wholesale supply of energisers – Thunderbird and Tru-Test. The ACCC considered that while there was potential for resellers to support the growth of other existing suppliers such as Daken, their ability to leverage competition between suppliers was limited in circumstances where three of these were not competing independently of each other.
58. The ACCC was concerned that in these circumstances, Gallagher would have an increased ability and incentive to unilaterally raise prices, reduce product development and decrease the quality of its service offerings.
59. The ACCC was also concerned that the removal of an independent competitor from the market (Thunderbird), together with Gallagher's shareholding in Tru-Test, would increase the likelihood of coordination between Gallagher and Tru-Test with respect to their product, price and service offerings in the market.

## Animal Weigh Scales

60. Market inquiries indicated that Gallagher and Tru-Test are the key suppliers of animal weigh scales in Australia. Thunderbird had a small presence in this market and the ACCC found that this was unlikely to increase in the foreseeable future. There are no other suppliers of animal weigh scales in Australia.
61. As described in paragraph 40, animal weigh scales range from basic models which have the sole functionality of weighing animals, to sophisticated animal management systems, where weighing is one of a number of functions provided by the equipment. Sophisticated animal weighing systems are compatible with a larger category of products such as electronic identification readers (**EID**) and animal handling products. While these products can be purchased and used separately, collectively they add value for the end user for electronically tagged cattle.<sup>3</sup>
62. The ACCC found that while Thunderbird was capable of supplying a complete animal weighing system, including weigh scales with EID-compatible indicators, EID and animal handling products, these were significantly less advanced than those which were supplied by Gallagher and Tru-Test and that demand for premium weighing systems from end-users was increasing significantly.
63. The ACCC also considered that industrial weigh scales manufacturers were likely to competitively constrain the merged firm and Tru-Test in relation to the basic range of weigh scales.
64. On the basis of the above, the ACCC considered that Thunderbird did not appear likely to exert a strong competitive constraint in the market at the time of the proposed acquisition and would be unlikely to do so in the foreseeable future. Therefore, the ACCC concluded that the proposed acquisition would not be likely to substantially lessen competition in the market for the supply of animal weigh scales.

## Undertakings

65. As noted in paragraph 17, Gallagher owned 11.86 per cent of shares in Tru-Test. Like Gallagher, Tru-Test is a wholesale supplier of energisers and animal weigh scales in Australia. The ACCC's merger review found that Tru-Test was Gallagher's closest competitor in both the relevant markets. The ACCC considered that the merged entity's 11.86 per cent interest in Tru-Test, together with the proposed acquisition, would significantly weaken the degree of competitive constraint on Gallagher post acquisition. The ACCC was particularly concerned that this shareholding may allow the merged entity to unilaterally raise prices in the relevant markets since the merged entity would be able to recoup part of any lost profit from any customer lost to Tru-Test through the earnings the merged entity would receive as a shareholder.

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<sup>3</sup> The ACCC understands that electronic tagging of cattle became mandatory in Australia in 1999 as part of the National Livestock Identification System (NLIS). The NLIS is livestock identification and tracking system which uses devices to identify and track livestock and keeps a central electronic database of an animal's residency and animals it has interacted with for the purpose of improving food safety and access to export markets, and assists with disease management.

66. The ACCC was also concerned that the proposed acquisition, absent the undertaking, may result in the merged entity having the ability to influence or gain insight into the operations of Tru-Test, such as by using the shareholding to obtain board representation. Given the importance of the constraint from competitors, particularly Tru-Test, to the ACCC's competition assessment, such a shareholding raised concerns.
67. The ACCC was also concerned that the proposed acquisition may increase likelihood of coordination between Tru-Test and Gallagher with respect to their product, price and service offerings in the market. In relation to this theory of harm, a key factor considered by the ACCC was that the common ownership between the two companies may align their interests and remove their incentives to compete vigorously with each other, in the absence of strong competition from other competitors in the market, including Thunderbird.
68. In response to these concerns, Gallagher offered and the ACCC accepted a court enforceable undertaking pursuant to section 87B of the Act (the **Undertaking**). The Undertaking requires Gallagher to:
- i. divest the 11.86 per cent interest in Tru-Test (either to Tru-Test or otherwise to another purchaser approved by the ACCC) within a defined timeframe;
  - ii. maintain the independence of Tru-Test and Gallagher while Gallagher remains a shareholder by ensuring that Gallagher does not exercise any influence over Tru-Test, and vice versa; and
  - iii. providing for the effective oversight of Gallagher's compliance with this undertaking.
69. The ACCC considered that if the s87B undertaking were accepted, Gallagher would no longer hold an ownership interest in one of its key competitors, and resellers would have the ability to negotiate wholesale purchases of energisers with at least as many independent suppliers as before the acquisition.
70. Therefore, taking into account the factors outlined above in the section titled Competition Analysis, the ACCC considered that with the undertaking, competition in the energiser market in the future would not be substantially lessened compared to competition in the future without the proposed acquisition.
71. Accordingly, the ACCC accepted the Undertaking and approved Tru-Test as the proposed purchaser of Gallagher's 11.86 per cent shareholding. The ACCC granted this approval on the basis that the transfer would meet the objectives of the Undertaking and not raise any competition concerns.

## Conclusion

72. On the basis of the above, including taking into account the proposed undertakings, the ACCC formed the view that the proposed acquisition of Thunderbird by Gallagher Group would not be likely to result in a substantial lessening of competition in either the national market for the wholesale supply of energisers or the national market for the wholesale supply of animal weigh scales in contravention of section 50 of the Act.