

COMPETITION AND CONSUMER ACT 2010

CONSENT TO WITHDRAWAL OF SECTION 87B UNDERTAKING

BACKGROUND

1. On 11 November 2009 the Australian Competition and Consumer Commission (**ACCC**) accepted an undertaking pursuant to section 87B of the *Competition and Consumer Act 2010* (the **Act**) (the **Woolworths undertaking**) given by Woolworths Limited (**Woolworths**) and Carboxy Pty Limited (**Carboxy**) in relation to the acquisition of Danks Holding Limited (**Danks**) by Carboxy, a joint venture between Woolworths and Lowe's Companies Inc. On 12 January 2015 Carboxy changed its name to Hydrox Brands Pty Ltd (**Hydrox**).
2. Danks is a wholesale distributor of hardware products to hardware retailers, including to stores affiliated with Danks and to independent hardware retailers. The Woolworths undertaking placed obligations upon Woolworths and Hydrox to not restrict the ability of hardware retailers to purchase goods from other suppliers and to not discriminate against hardware retailers it supplies which are located near a hardware store owned by Woolworths and Hydrox.
3. On 20 July 2016 the ACCC decided not to oppose a proposed acquisition by Metcash of the Home Timber and Hardware Group (**HTHG**) by way of the acquisition of 100% of the shares in Danks (the **Metcash acquisition**), and the ACCC accepted an undertaking from Metcash in relation to the acquisition (the **Metcash undertaking**).
4. The Metcash undertaking imposes upon Metcash, as the new owner of Danks, obligations that are similar to those of the Woolworths undertaking: namely, Metcash must not restrict the ability of hardware retailers to purchase goods from other suppliers and must not discriminate against any hardware stores that are located near stores that Metcash has an ownership interest in.
5. On 1 November 2016 Woolworths and Hydrox requested that the ACCC consent to the withdrawal of the Woolworths undertaking due to the Metcash acquisition.

WITHDRAWAL

6. In accordance with section 87B(2) of the Act, the ACCC gave consent to the withdrawal of the Woolworths undertaking in its entirety, with effect from 20 December 2016.
7. The basis on which consent was provided includes the following:
 - a. on 2 October 2016 Metcash acquired 100% of the shares in Danks
 - b. Woolworths and Hydrox no longer have any interest in Danks
 - c. the Danks business continues to trade under the ownership of Metcash (which is bound by the Metcash undertaking).