

Q & A: Healthe proposed acquisition of Pulse

The ACCC's invites submissions on the review of Healthe's proposed acquisition of Pulse, including the Forster Private Hospital.

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What is Healthe proposing to buy?

Healthe is proposing to buy the private hospitals currently owned by Pulse. Pulse currently owns 12 facilities, five of which are in NSW, four in Queensland and three in Victoria.

The ACCC is particularly interested in whether the proposed acquisition would affect competition in and around the Forster/Great Lakes and Taree/Manning areas of NSW, as Healthe currently owns the Mayo Private Hospital in Taree.

If the proposed acquisition went ahead, then Healthe would own both the Forster Private Hospital and the Mayo Private Hospital which are the only two private hospitals in the area. The next closest private hospital is in Port Macquarie, which is over an hour's drive away.

Can the ACCC stop the acquisition and what powers does it have?

Healthe and Pulse have requested the ACCC's view on whether the acquisition would substantially lessen competition.

If we form the view that Healthe acquiring Pulse is likely to substantially lessen competition, we can decide to 'oppose' it. Following this decision, Healthe may decide not to proceed with the proposed acquisition.

If we decide to oppose the acquisition and Healthe and Pulse do not agree to modify or abandon the acquisition, we can apply to the Federal Court for orders which may include an injunction, divestiture or penalties.

We cannot stop the parties from completing the acquisition – only a court has the power to do that.

When will the ACCC make a decision?

The ACCC's proposed decision date is currently 16 March 2017. We will publish our decision on the [public register](#).

This decision may be a decision not to oppose the acquisition or to publish a Statement of Issues that sets out our preliminary views about the acquisition, and seeks comments on those views.

However, this decision date may change for a number of reasons. For example, if we have requested information and are awaiting a response to this information request.

When does an acquisition substantially lessen competition?

The legal test we apply in considering acquisitions is section 50 of the *Competition and Consumer Act 2010*. Section 50 prohibits acquisitions that substantially lessen competition in a market, or are likely to do so. The lessening of competition must be **substantial**.

Whether an acquisition leads to a substantial lessening of competition depends on a range of factors. These include:

- the degree to which there is strong competition between the acquirer and the business being acquired
- whether any other business will effectively compete

Specifically, the ACCC will consider the extent to which the acquisition would allow the acquirer to increase prices and/or decrease service levels.

See also: [The ACCC's approach to merger reviews](#)

How can I make a submission?

Responses may be emailed to ForsterHospitalacquisition@acc.gov.au. If you have any questions about the ACCC's review or making a submission, please send an email to the above address and an ACCC officer will respond to your inquiry.

You can also make a submission by post to:

ACCC Mergers Investigations Branch
Att: Elizabeth Elias/Fiona Sam
GPO Box 3131
Canberra ACT 2601

Are submissions confidential?

We do not publish submissions made to ACCC merger reviews. We also 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 the *Competition and Consumer Act 2010* (for example, the ACCC may provide information to government Ministers and government Departments).

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. Our *Informal Merger Review Process Guidelines* contain more information on confidentiality.

Where can I find information on the status of the ACCC's review?

We list all public merger reviews on our public register. We will update this public register page throughout the merger review:

[Health – proposed acquisition of Pulse](#)

However, as information provided to us as part of a merger review is confidential, we cannot provide detailed information on the investigation.