



## Statement of Issues

30 November 2017

### Moly-Cop – proposed acquisition of Donhad

#### Purpose

1. Commonwealth Steel Company Pty Limited (**Moly-Cop**) (100 per cent owned by American Industrial Partners) proposes to acquire Donhad Pty Ltd (**Donhad**) from Valmont Industries, Inc.
2. This Statement of Issues:
  - gives the Australian Competition and Consumer Commission's (**ACCC's**) preliminary views on competition issues arising from the proposed acquisition
  - identifies areas of further inquiry
  - invites interested parties to submit comments and information to assist our assessment of the issues.

#### Overview of ACCC's preliminary views

3. 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.
4. The ACCC divides its preliminary views into three categories, 'issues of concern', 'issues that may raise concerns' and 'issues unlikely to raise concerns'.

#### Issues that may raise concerns

5. The ACCC is assessing whether the proposed acquisition would be likely to substantially lessen competition for the supply of steel grinding media in Australia, by providing Moly-Cop with the ability and incentive to raise prices and/or lower service quality for the following reasons:

- the proposed acquisition would remove Moly-Cop's only domestic competitor, resulting in only one domestic supplier of steel grinding media in Australia
- potential new entry into the manufacture of steel grinding media in Australia may be inhibited by high barriers to entry, and
- while imports account for 35-45 per cent of the grinding media supplied in Australia, there are concerns regarding whether imported steel grinding media are able to provide a sufficient constraint post-merger.

## Making a submission

6. The ACCC is seeking submissions from interested parties, particularly on the following key issues:
  - how closely Moly-Cop and Donhad compete in terms of their price, quality and service offering
  - how closely overseas manufacturers compete with Moly-Cop and Donhad to supply grinding media to customers in Australia, including whether there are obstacles to customers switching to using imported grinding media, or increasing their use of imported steel grinding media, and
  - the extent of barriers to entry into the manufacture of steel grinding media in Australia.
7. Detailed discussion of these and other issues, along with specific questions, is contained in this Statement of Issues.
8. Interested parties should provide submissions by no later than 5pm on 21 December 2017. Responses may be emailed to [mergers@acc.gov.au](mailto:mergers@acc.gov.au) with the title: *Submission re: Moly-Cop Donhad attention Serena Wong / Bettina Forde*. 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 Serena Wong on 02 9230 9188 or Bettina Forde on 02 9230 9134.
9. The ACCC anticipates making a final decision on 1 March 2018, 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](http://www.accc.gov.au/mergersregister).

## Confidentiality of submissions

10. 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’

11. 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.
12. A Statement of Issues provides an opportunity for all interested parties (including customers, competitors, shareholders and other stakeholders) to ascertain and consider the primary issues identified by the ACCC. It is also intended to provide the merger parties and other interested parties with the basis for making further submissions should they consider it necessary.

## Timeline

Date	Event
15 September 2017	ACCC commenced informal review of the proposed acquisition under the Merger Process Guidelines
30 November 2017	ACCC publication of Statement of Issues
21 December 2017	Deadline for submissions from interested parties in response to this Statement of Issues
1 March 2018	Anticipated date for ACCC final decision

## The parties

### Moly-Cop

13. Moly-Cop is the world’s largest manufacturer of steel grinding media, which are used in the processing of minerals including copper, gold and iron ore. Moly-Cop has manufacturing facilities in Australia, Canada, Chile, Indonesia, Mexico, Peru, and the United States.
14. Moly-Cop has one manufacturing facility, Waratah, in Australia, which is located in Newcastle, NSW. Moly-Cop manufactures forged steel grinding media at this facility. Moly-Cop also manufactures steel and rail consumables, including railway wheels, at its Waratah site.
15. On 3 January 2017, Moly-Cop was sold to American Industrial Partners by Arrium Limited Australia.

### Donhad

16. Donhad is a manufacturer of steel grinding media and specialty forged fasteners primarily used in the mining and mineral processing industry. Donhad is 100 per cent owned by Valmont Industries Inc., a public company based in the United States.

17. In Australia, Donhad has three steel grinding media manufacturing sites, located in Newcastle, Townsville and Perth. Donhad manufactures forged steel grinding media at these sites. Donhad does not have any manufacturing facilities outside of Australia.
18. The only product supplied in Australia by both Moly-Cop and Donhad is forged steel grinding media.

## **Other industry participants**

19. There are no other manufacturers of steel grinding media in Australia. A number of overseas manufacturers supply steel grinding media in Australia.

### **ME Elecmetal**

20. Compañía Electro Metalúrgica S.A. Elecmetal S.A. (**ME Elecmetal**) supplies wear components and solutions for the mining and construction industry.
21. ME Elecmetal supplies steel grinding media to customers in Australia from its joint venture manufacturing facility in China with Changshu Long Teng Special Steel Co., Ltd (**Long Teng**).
22. ME Elecmetal is the largest supplier of imported steel grinding media in Australia, and the third largest supplier of grinding media in Australia after the merger parties.

### **Long Teng**

23. Long Teng is based in Changshu, China, and owns steel making and rolling operations via subsidiaries. In addition to its joint venture with ME Elecmetal, Long Teng independently supplies steel grinding media, which are sold primarily through traders and is almost exclusively exported.

### **Sigdo Koppers S.A (Magotteaux)**

24. Sigdo Koppers S.A is a Chilean conglomerate, and the parent company of Magotteaux. Magotteaux, based in Liège, Belgium, produces high and low chrome grinding balls at various locations around the world including in Belgium, Brazil, USA, Canada and Thailand.

### **Vega**

25. Vega Industries Limited (**Vega**), a subsidiary of AIA Engineering Ltd., produces high chrome grinding balls, with manufacturing plants in India.

### **Metso**

26. Metso supplies forged steel and high chrome grinding media from its facilities in Bilbao and Seville, Spain.

### **Other Chinese suppliers and importers**

27. There are a number of other Chinese manufacturers of steel grinding media, each of which has substantial global manufacturing capacity, but relatively

limited current presence in Australia. These manufacturers include: Shandong Huamin, Hebei Goldpro, Changshu Feifan Metalwork Co., Ltd, Xingcheng Special Steel (a subsidiary of CITIC Limited), and Sino Grinding (which operates in Australia through its agent Boliver International).

## Industry background

### Overview

28. Grinding media are primarily used in Australia by the mining industry; in particular, in mining for copper, gold, and iron ore. Grinding media, which are typically steel balls or rods, are the consumable component used in a grinding mill to crush or grind mineral ore. The grinding reduces the ore material down to a fine size to enable the liberation of the desired mineral element from the waste (rock) material. Grinding media are also used in other industries, including coal pulverizing for electricity production and grinding plaster and cement in the construction industry.

### Forged steel and high chrome grinding media

29. Moly-Cop and Donhad both manufacture forged steel grinding media. The ACCC's review is therefore focussed on steel grinding media, which can broadly be separated into forged steel grinding media and high chrome grinding media.
30. Forged steel grinding media are made from alloy steel, typically produced in sizes from 25mm to 150mm. Suppliers of forged steel grinding media include Moly-Cop, Donhad, ME Elecmetal, Long Teng and various Chinese suppliers and importers.
31. High chrome grinding media typically has a higher 'wear' resistance than forged steel grinding media, but may be more susceptible to breaking. They are typically used in smaller sizes than forged steel grinding media (under 100mm). They are also more expensive than forged steel grinding media because the levels of chromium in the product increase the manufacturing cost. High chrome grinding media are not manufactured in Australia. Overseas manufacturers who import to Australia include Magotteaux and Vega.
32. The type of steel grinding media used by customers depends on their milling circuit, the volume of ore processed, the characteristics of the ore (such as its abrasiveness) and the final particle size required.
33. There are different types of grinding mills, which are used for different purposes. The two main types of mills that use forged steel grinding media manufactured by Moly-Cop and Donhad are:
  - semi-autogenous grinding (**SAG**) mills, which are used for coarse grinding. SAG mills primarily use forged steel grinding media. As they are used for coarse grinding, SAG mills typically use grinding media in larger sizes (eg. 100mm in diameter and above).
  - ball mills are similar to SAG mills in that they also use a tumbling motion. Compared to SAG mills, ball mills generally utilise smaller sized grinding balls to grind the ore into a fine powder or smaller particles, and may be used after SAG mills to further grind the relevant ore. Ball mills are less reliant on impact

than SAG mills, and more reliant on abrasion to break down the ore. Ball mills may use either forged steel or high chrome grinding media.

### Import duties

34. In November 2015, Moly-Cop and Donhad applied for the imposition of a dumping duty notice and a countervailing duty notice in respect of grinding balls exported to Australia from China. Moly-Cop and Donhad alleged that the Australian industry had suffered material injury as a result of grinding balls exported to Australia from China at dumped and subsidised prices.
35. The Anti-Dumping Commission (**ADC**) published its conclusions in respect of the application in June 2016.<sup>1</sup> The ADC determined that the grinding balls exported to Australia from China during the relevant investigation were at dumped and subsidised prices. The dumping margins found by the ADC differ by supplier and are set out below.

**Table 1: Dumping margins for Chinese grinding ball imports into Australia<sup>2</sup>**

Exporter/manufacturer	Dumping margin
Changshu Longte Grinding Ball Co., Ltd (parent company of Long Teng) and ME Elecmetal	3.0%
CITIC	20.6%
Jiangsu Yute Grinding International Co., Ltd	43.3%
Hebei Goldpro	51.5%
Exporters that did not cooperate with the ADC's investigation and all other exporters	95.4%

36. As a result of the ADC's findings, fixed and variable duties are applied to all grinding media exported to Australia from China, in accordance with the dumping margins shown in **Table 1**. The duties will remain in force for five years, unless they are successfully appealed or subsequently reviewed. Longte has applied to the Federal Court for judicial review of the Ministerial decision to impose the duties. The outcome of its appeal is yet to be determined.
37. An affected party may also apply for a review or a revocation of a dumping duty notice 12 months after publication of the original notice. Alternatively, the Minister may request that the Commissioner initiate a review at any time.<sup>3</sup>
38. However, even if the duties remain in force, ME Elecmetal and Long Teng, who are the largest suppliers of Chinese forged steel grinding media to Australia, were found to have the lowest dumping margins of any Chinese suppliers. Accordingly, the duties may have only limited impact on the total quantity of grinding media that are imported into Australia. The ACCC welcomes any feedback on this point.

<sup>1</sup> Anti-Dumping Commission – Customers Act 1901 – Part XV B – Report No. 316 “Alleged dumping and subsidisation of grinding balls exported from the People’s Republic of China”, 6 June 2016 (<http://www.adcommission.gov.au/cases/EPR%20301%20%20350/EPR%20316%20-%20archived%209%20December%202016/054%20-%20Final%20Report%20316.pdf>)

<sup>2</sup> Ibid, page 9. A dumping margin is the difference between the price at which a good is imported into Australia, and the normal value of the good in the exporting country.

<sup>3</sup> Anti-Dumping Commission, *Dumping and Subsidy Manual April 2017*, p 161.

39. The duties described above only apply to grinding balls manufactured in China. This means that grinding balls manufactured in other parts of the world, such as those produced by the largest high chrome suppliers – Vega, Sigdo Koppers S.A (Magotteaux), and Metso – are unaffected by these duties.

## **Market definition**

40. The ACCC's preliminary view is that the relevant market for assessing the likely competitive effects of the proposed acquisition is the national market for the supply of steel grinding media, which includes both forged steel grinding media and high chrome grinding media.

### **Product dimension**

#### *Demand-side substitutability*

41. The ACCC's starting point for delineating the relevant markets in which to assess the competitive effects of the proposed acquisition involves identifying the products actually or potentially supplied by both of the parties. The ACCC then considers what other products constitute sufficiently close substitutes to provide a significant source of constraint on the merged firm.
42. The merger parties both supply forged steel grinding media. The closest substitute for forged steel grinding media from a demand-side perspective is high chrome grinding media. The primary issue for market definition in this case is therefore the closeness of substitution between high chrome grinding media and forged steel grinding media.
43. The ACCC understands that forged steel grinding media and high chrome grinding media serve the same functional purpose. But the extent to which high chrome grinding media would be used in place of forged steel grinding media depends on the type of mill and application, as well as the price difference between the products.
44. In particular, due to the high impact operations of SAG mills, high chrome grinding media are not suited for use in SAG mills. This is because the chemical composition of high chrome grinding media makes it more brittle than forged steel grinding media, and prone to higher rates of breakage than forged steel if used in a SAG mill. As such, high chrome grinding media may not be a close substitute for forged steel grinding media in SAG mills.
45. In contrast, the ACCC understands that high chrome grinding media are generally substitutable for forged steel grinding media in ball mills, which are lower impact than SAG mills (though its suitability will also depend on factors including the characteristics of the ore). In this circumstance, the higher wear resistance of high chrome media can lead to a reduced consumption rate. While high chrome grinding media may have a higher per unit purchase price than forged steel media, the lower consumption rate can mean that the value in using high chrome grinding media (which takes into account the price of the grinding media in addition to its expected consumption rate) may be greater than the value in using forged steel media for some customers.
46. The ACCC has been provided with examples of customers that have switched from using forged steel media to high chrome grinding media in recent years. It

is considering whether those examples are isolated, and driven by the particular circumstances of individual mines, or whether they are demonstrative of broader substitution possibilities between forged steel and high chrome grinding media in Australian ball mills.

*Supply side substitutability*

47. The ACCC's preliminary view is that there appears to be limited supply side substitutability between forged steel grinding media and high chrome grinding media.
48. The ACCC understands that most manufacturers of grinding media tend to focus on the supply of one type of grinding media (forged steel or high chrome grinding media). Due to the different processes involved in manufacturing, it is unlikely that a manufacturer of high chrome grinding media would be able to easily switch to manufacturing forged steel grinding media with their existing facilities in the event of a rise in the price of forged steel grinding media and vice versa. However, we would welcome further market feedback on this point.

*Conclusion on product dimension*

49. For the purpose of this Statement of Issues, the ACCC is considering the proposed acquisition in the context of a market for the supply of all steel grinding media, including both forged steel grinding media and high chrome grinding media.
50. However, the ACCC has not reached a concluded view in this regard. Further, the ACCC notes that the proposed acquisition may have a greater impact on customers that use SAG mills, given the more limited substitution possibilities that are available to those customers. Accordingly, where appropriate, the ACCC's competition analysis focuses on the particular impact of the proposed acquisition on the supply of forged steel grinding media, but otherwise refers to the effect of the proposed acquisition on the supply of steel grinding media.

**Geographic dimension**

51. The ACCC's preliminary view is that the proposed acquisition should be considered in the context of a national market for the supply of steel grinding media.
52. Market feedback indicates that while it is desirable for a supplier to have a manufacturing facility located in the same state as a customer, this is not a necessary requirement of supply. Steel grinding media are frequently transported across states and supplied nationally by importers, and suppliers have established distribution networks, including depots, and warehousing facilities, across Australia.

The ACCC invites comments from market participants regarding the ACCC's preliminary views on relevant markets. In particular, market participants may wish to comment on the following:

**Customers**

- a) Do you consider high chrome grinding media to be substitutable for forged



steel grinding media? Please provide reasons for your answer.

- b) If you have experience using high chrome grinding media and forged steel grinding media, how does the value in use/consumption rate of both types of media compare?
- c) Have you, or would you, switch your purchases of forged steel grinding media to high chrome grinding media, in response to changes in price, service levels, quality of product or any other reason (and vice versa)? Why/why not?

#### **Suppliers of grinding media**

- d) For what types of customers, and for what applications, is high chrome grinding media least / most substitutable for forged steel grinding media?
- e) What proportion of total grinding media acquired in Australia is constituted by:
  - i. Existing use of forged steel grinding media?
  - ii. Forged steel grinding media in circumstances where high chrome grinding media are a close substitute?
- f) Would you be able to switch to supplying forged steel grinding media in Australia in addition to, or in place of, high chrome grinding media (and vice versa) in the event of an increase in the price of forged steel grinding media in Australia? Please provide reasons for your answer, including any obstacles, and the likely cost and timeframe for manufacturing other types of grinding media.

### **Issue that may be of concern: supply of steel grinding media**

#### **Overview of potential competitive harms**

53. Based upon its inquiries to date, the ACCC considers the proposed acquisition may substantially lessen competition in the supply of steel grinding media by providing Moly-Cop with the ability and incentive to raise prices and/or lower service quality, for the following reasons:
- the proposed acquisition would remove Moly-Cop's only domestic competitor, resulting in only one domestic supplier of steel grinding media in Australia
  - potential new entry into the manufacture of steel grinding media in Australia may be inhibited by high barriers to entry, and
  - while imports account for 35-45 per cent of the grinding media supplied in Australia, there are concerns regarding whether imported grinding media are able to provide a sufficient constraint post-merger.

### **Competition between the merger parties**

54. The merger parties are the two largest suppliers of steel grinding media to Australian customers in terms of quantities of goods supplied. Together, they would supply approximately 55-65 per cent of total domestic demand for all steel grinding media (including high chrome grinding media and forged steel grinding media), and 65-75 per cent of the total domestic demand for forged steel grinding media.
55. Customers have told the ACCC that Moly-Cop and Donhad compete closely in terms of price, quality of product and service. There is evidence suggesting that customers switch between the two suppliers, and that a number of customers have either switched or threatened to switch between the merger parties to create competitive tension in their tender processes and/or negotiations with either of the parties. Including both companies in a tender process is said to create competitive tension that does not exist to the same extent from overseas manufacturers.
56. In light of the current market shares of the merger parties, their status as the only two domestic suppliers of steel grinding media, and the degree of competition that customers describe as existing between the merger parties, the ACCC is concerned that the proposed acquisition may substantially lessen competition in the supply of steel grinding media.
57. However, there are multiple overseas manufacturers supplying steel grinding media into Australia, and collectively they are a significant and growing presence in the market. The key question for the ACCC's review is the extent to which imported steel grinding media would constrain the merged entity.

### **Imports**

#### *Overview of global grinding media industry*

58. As described earlier in the paper, there are a number of manufacturers of steel grinding media based overseas. These include international forged steel grinding media suppliers, such as ME Elecmetal, Long Teng, and various other Chinese manufacturers. In addition, Sigdo Koppers S.A (Magotteaux), Vega and Metso supply high chrome grinding media internationally.
59. While Moly-Cop is the world's largest supplier of grinding media, Donhad has no manufacturing facilities outside of Australia, and has limited presence on the global market.
60. Further, the ACCC understands that the global steel grinding media manufacturing industry is operating at approximately 50 per cent capacity utilisation – with the spare capacity being many multiples of the size of total Australian demand.

#### *Extent of current imports*

61. In the 2016-17 financial year, total imports represented:
  - 25-35 per cent of the total quantity of forged steel grinding media sold in Australia, and

- 35-45 per cent of the total quantity of steel grinding media (including both forged steel and high chrome grinding media) sold in Australia.
62. These figures represent significant growth that has occurred in the quantity of imported steel grinding media in recent years.
  63. On their face, these figures suggest that imports already occupy a significant position in the market, and that they would be expected to continue to do so following the proposed acquisition.
  64. While the level of imports is important, the ACCC is exploring whether they are necessarily representative of the extent of competition they would impose on the merged firm. The ACCC is investigating three issues in this regard.
  65. First, if the volumes of imported forged steel grinding media are primarily the result of contracts won by a single overseas manufacturer – ME Elecmetal – it raises the question of how many overseas manufacturers are strong competitors in Australia. The ACCC understands that ME Elecmetal is the third largest supplier of steel grinding media in Australia. As shown in **Table 1** above, it is subject to an anti-dumping tariff of 3 per cent. However, other suppliers with manufacturing facilities in China (except for Long Teng) face anti-dumping tariffs in excess of 20 per cent. This may influence the competitiveness of these suppliers, relative to ME Elecmetal and the merger parties.
  66. As such, it may be the case that despite the current total level of imports, and the number of international manufacturers of steel grinding media, the proposed acquisition in fact represents a reduction in the number of strong competitors for Australian customers from three (Moly-Cop, Donhad and ME Elecmetal) to two. If this is the case, the ACCC may still hold significant concerns with the proposed acquisition, despite the combined level of imported product.
  67. Second, the ACCC is still considering whether the import volumes are driven by a small number of high volume contracts. That is, the ACCC is exploring whether imports are competitive for all customers, or only a subset of customers such as high-volume customers.
  68. Third, and in distinction to the first two factors, the constraint exerted by imports may be even greater than suggested by the total quantity of imports if the prices for all grinding media supplied by the merger parties are primarily determined by reference to competition from imports (rather than by competition between each other).

*Market feedback on imports*

69. A significant number of steel grinding media customers raised concerns with the proposed acquisition during market inquiries. Customers told the ACCC that imports may not compete strongly with the merged entity.
70. The factors identified during market inquiries as limiting the degree of constraint imposed by imports are outlined below.
71. A key issue for the ACCC in the remainder of its review of the proposed acquisition will be to consider and attempt to reconcile the apparent tension between market feedback suggesting limits to the competitive constraint imposed by imports and the aggregate import figures discussed above which

suggest that significant quantities of steel grinding media are already being imported.

*Price / value in use*

72. The ACCC has received mixed feedback about the extent to which imported grinding media are price competitive with domestic grinding media. A number of market participants have told the ACCC that the landed price of imports (including all applicable duties) is typically not price competitive compared to grinding media produced by the merger parties. For example, one market participant stated that there was a price difference of at least 8% between grinding media produced by the merger parties and imported goods for like products. Some other market participants have noted that the applicable anti-dumping duties make imports of steel grinding media from some Chinese manufacturers cost prohibitive. However, other information obtained by the ACCC suggests that imported goods can be supplied at similar or lower prices than domestically manufactured products.
73. The ACCC is further analysing this information and would welcome any views from market participants on pricing of imports relative to domestic forged grinding media, including the effect of the anti-dumping tariffs on customers' purchases of imported grinding media, relative to domestically manufactured grinding media.
74. High chrome grinding media are generally more expensive on a per-unit basis than forged steel grinding media, although the ACCC has received mixed feedback about the extent of the price differential. However, in appropriate applications, the additional wear-resistance of high chrome grinding media may mean that the total effective cost of using high chrome grinding media is lower than forged steel grinding media.

*Quality of product*

75. Customers consider the quality of the steel grinding media to be a key aspect when choosing their suppliers, because of its impact on a mine's total mineral recovery, its throughput and efficiency of the grinding process. Some market participants have indicated that the quality of imported steel grinding media may not be of the same standard as that supplied by the parties.
76. However, it is difficult to obtain clear information on this. While some market participants have maintained that there is a quality differential, others have suggested that the differences may be predominantly based on perceptions, which may be changing. Also, product quality may differ between importers. For example, ME Elecmetal has been identified by some customers as supplying a higher quality product than other importers. Market feedback also suggests that where a customer has some experience with an overseas supplier (e.g. from operating a mine overseas or purchasing another product from the supplier, such as mill liners), the customer may be more inclined to consider switching to that supplier, subject to the other factors considered.
77. Customers can and do attempt to evaluate the quality of steel grinding media supplied by other parties by trialling a new supplier's product before signing a formal supply agreement. However, trials are not costless. The ACCC understands that trials can sometimes take upwards of six months to complete, and that to ensure the integrity of a test, customers will exclusively use the

trialled grinding media in the relevant mill. Trialling a new product therefore involves the opportunity cost of not using previously tried and tested grinding media in a mill during the trial period.

78. In addition, customers also describe mining as a risk-averse industry in which a supplier's reputation is highly important. The risk of failure, and associated costs of failure of steel grinding media provide incumbent suppliers with significant competitive advantages. The two merger parties are the largest suppliers of steel grinding media in Australia and therefore enjoy significant incumbency advantages.

#### *Security of supply*

79. Security of supply is also a primary consideration for customers of grinding media. Grinding media must be continuously fed into mills, and thus is a critical component in a mine's operations. Customers consider factors including suppliers' lead times, distribution networks, warehousing and transport arrangements in assessing a suppliers' security of supply.
80. A number of customers have told the ACCC that security of supply is a critical factor weighing against importers of steel grinding media. The merger parties are considered to have a supply lead time of 1-2 weeks, while it can take months to obtain supply from importers.
81. However, suppliers of imported product can overcome their lead time disadvantage, to an extent, by establishing local warehouses to stockpile inventory and local distribution networks to support those warehouses. The ACCC understands that some importers have already done so as a result of, or prior to winning contracts from local customers. Further, the ACCC has been told by some market participants that the costs of establishing a warehouse are minimal, and that warehouse and distribution services can be procured from logistics firms such as Toll Logistics.
82. On the other hand, some market participants have indicated that suppliers are reluctant to establish such facilities and networks until it has a contract in place with a customer (thereby justifying these sunk costs) and conversely, customers are reluctant to switch their grinding media purchases to a new supplier until such facilities are in place. The ACCC continues to consider this issue.

#### *Service and technical support*

83. The technical support and service offered by suppliers is also an important consideration for customers. Grinding media are a key input to the mining process and if there are problems or difficulties, customers want to be able to access that support quickly. A supplier's technical support and service offering may include on-site visits, access to metallurgical and technical personnel, use of software and access to laboratory testing. Some customers have highlighted the lack of customer support provided by overseas suppliers.

#### *Threat of anti-dumping duties*

84. As noted above, anti-dumping duties may affect the price competitiveness of imported grinding media. Market feedback also suggests that the threat of anti-dumping applications, or the threat of changes to applicable duties, may influence customers' tender processes by creating uncertainty. It may also affect

suppliers' plans to expand their operations (for example, by establishing distribution centres) in Australia if they think that they will be subject to higher duties in the future. The ACCC would welcome further feedback on this point.

### **Barriers to entry or expansion by existing importers**

85. There are a number of international suppliers of steel grinding media that currently have limited or no presence in Australia despite having significant manufacturing capacity overseas.
86. For the most part, the ACCC considers that there are few economic or legal barriers preventing them from expanding into Australia, or expanding their current limited presence in Australia. However, suppliers of forged steel grinding media manufactured in China would still be subject to the applicable import duties, and all importers are still subject to the other factors identified above that market participants have suggested limit the competitiveness of imported grinding media.

The ACCC invites comments from market participants on this issue. In particular market participants may wish to comment on the following:

#### **Customers**

- a) If you have purchased or currently purchase forged steel grinding media from overseas suppliers:
  - i. who did you previously purchase forged steel grinding media from and why did you switch suppliers?
  - ii. how did you establish a relationship with that supplier?
  - iii. what factors did you consider in selecting your supplier?
  - iv. how would you describe your experience, in terms of price, quality and consistency of supply, lead times and service levels?
- b) Do you think overseas suppliers would be able to competitively constrain the merger parties post-acquisition? If the merged entity increased its prices or lowered the quality of its products or services, to what extent would you be able to switch to imports?
- c) What are the costs and time involved in trialling a new supplier of grinding media?

#### **Suppliers of grinding media**

- a) Do you have any plans to enter or expand your operations in Australia? If so:
  - i. what are the costs of entering or expanding your operations in Australia?
  - ii. what barriers would you face in doing so?
- b) To what extent would the proposed merger affect barriers to entry and expansion?

### **Barriers to establishing new domestic manufacture of grinding media**

87. The ACCC's preliminary view is that barriers to entry into the manufacture of steel grinding media in Australia are likely high due to the high and sunk capital costs associated with establishing manufacturing facilities in Australia. A new entrant, which could include a current importer, would likely need to enter on a large scale to achieve economies of scale, and compete with the merger parties, who have significant manufacturing capacity.
88. The ACCC is not aware of any examples of companies commencing manufacture of steel grinding media in Australia in recent times.

The ACCC invites comments from market participants on its preliminary views about barriers to establishing new domestic manufacture of grinding media, particularly for a current importer with established manufacturing facilities overseas, and the effect, if any, of the proposed acquisition on these barriers.

### **ACCC's future steps**

89. 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 21 December 2017 and should be emailed to [mergers@acc.gov.au](mailto:mergers@acc.gov.au).
90. The ACCC will finalise its view on this matter after it considers submissions invited by this Statement of Issues.
91. The ACCC intends to publicly announce its final view by 1 March 2018. 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.