



Our ref: IM-72662

20 September 2024

Land of the Gadigal people of the Eora Nation
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Dear Interested Party

Re: ACCC seeking your views: Sanitarium's proposed acquisition of Nestlé's Vita Brits brand and intellectual property assets

The Australian Competition and Consumer Commission (**ACCC**) is seeking your views on the proposed acquisition of Société des Produits Nestlé S.A. and Nestlé Australia Ltd (together, **Nestlé**)'s brand and intellectual property assets necessary for the supply of Vita Brits by Australian Health & Nutrition Association Limited, trading as Sanitarium (**Sanitarium**) (the **Proposed Acquisition**).

Sanitarium manufactures and supplies Weet-Bix, a wheat biscuit breakfast cereal product. Nestlé (under the Uncle Tobys brand) supplies Vita Brits, a competing wheat biscuit cereal product. The Proposed Acquisition involves Vita Brits branding, intellectual property and goodwill.

Further details are provided at **Attachment A**.

The ACCC's investigation is focused on the impact that the Proposed Acquisition would have on competition. In particular, we are seeking your views on:

- how closely Weet-Bix and Vita Brits compete in the supply of breakfast cereals, and
- the likely impact on prices and product quality post-acquisition.

Further issues you may wish to address are set out in **Attachment B**. This matter is public and you can forward this letter to anybody who may be interested.

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 are likely to have the effect of substantially lessening competition in a market.

Please provide your response by **5pm AEST on Friday 4 October 2024** via email to mergers@acc.gov.au with the title: *Submission re: Sanitarium / Vita Brits*. If you require more time to respond, please let us know.

If you would like to arrange a time to discuss the matter with ACCC officers, or have any questions about this letter, please contact mergers@acc.gov.au. Updates regarding the ACCC's investigation will be available on the ACCC's Public Mergers Register at [ACCC mergers register](http://www.accc.gov.au/public-mergers-register).

Confidentiality of submissions

The ACCC treats sensitive information it receives during a merger review as confidential, and will not publish your submission. 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, we will notify you in advance where possible so that you have an opportunity to be heard. Therefore please clearly indicate if any information you provide is confidential. [Our Informal Merger Review Process Guidelines](#) contain more information on confidentiality.

Yours sincerely



Aggie Marek
General Manager (a/g)
Merger Investigations

Attachment A – Overview of the merger parties and the Proposed Acquisition

Acquirer

Australian Health & Nutrition Association Limited, trading as Sanitarium (**Sanitarium**) is an Australian registered not-for-profit organisation wholly owned by the Seventh-day Adventist Church.

Weet-Bix is the leading wheat biscuit brand in Australia, made from 97% wholegrain wheat. The Weet-Bix range includes product and flavour varieties including Weet-Bix, Weet-Bix Bites, Weet-Bix Gluten Free, Weet-Bix Added Benefits in sizes from 375 grams to 1.2kgs.

Figure 1: Sanitarium's Weet-Bix product range



Target

Nestlé Australia Limited is a wholly owned subsidiary of the Swiss-based, global food and beverages company, Nestlé S.A. Vita Brits is part of Nestlé's Uncle Tobys brand and is a physically similar, rectangular wheat biscuit product to Weet-Bix, made from 99% wholegrain wheat. Sanitarium currently manufactures Vita Brits for Nestlé pursuant to a toll manufacturing agreement.

There is a single Vita Brits product (with no flavour alternatives) and is available in two sizes: 375g and 1kg.

Figure 2: Nestlé's Uncle Tobys Vita Brits breakfast cereal product



Areas of overlap

The parties overlap in the national wholesale supply of wheat biscuit cereal products.

The Proposed Acquisition

The Proposed Acquisition involves Vita Brits branding, intellectual property and goodwill. It does not include the Uncle Tobys branding or any manufacturing assets.

Attachment B – List of questions

1. Please describe your business or organisation and explain your interest in the proposed acquisition, including any commercial relationship(s) with Sanitarium or Nestlé.

If you are a customer of either of the parties, please provide details of your commercial arrangements, including the value of the products purchased and the terms of the arrangements (e.g., the duration and expiry of any contract).

Questions for customers

2. Describe how closely Weet-Bix and Vita Brits compete on factors such as price, quality, branding, and product characteristics (such as shape, size, texture, taste, ingredients, nutrition).
3. Explain the extent to which you consider the following to be an alternative to Weet-Bix and/or Vita Brits:
 - a) private labelled wheat biscuit cereals,
 - b) ready-to-eat breakfast cereals, and
 - c) other breakfast cereals (including oats, muesli and granola).

Questions for competitors

4. Comment on the likelihood of new entry or expansion in the supply of wheat biscuit cereal, having regard to factors, including:
 - (a) set up costs and capital requirements,
 - (b) access to retail shelf space,
 - (c) the scale necessary to supply at competitive prices,
 - (d) timeframe for new entry, and
 - (e) existing brand loyalty and recognition.
5. Describe the ability for manufacturers of breakfast cereals to switch their manufacturing arrangements to wheat biscuit cereal.

Other questions

6. Please provide any additional information or comments, or identify other competition issues, that you consider relevant to the ACCC's consideration of the Proposed Acquisition.