# Statement of Issues

**19 December 2019**

## iNova Pharmaceuticals (Australia) Pty Ltd – proposed acquisition of Juno PC Holdings Pty Ltd

## Purpose

1. iNova Pharmaceuticals (Australia) Pty Ltd (**iNova**) proposes to acquire all the shares in Juno PC Holdings Pty Ltd (**Juno PC**) (the **proposed acquisition**).

2. This Statement of Issues:

   - gives the preliminary views of the Australian Competition and Consumer Commission (**ACCC**) on competition issues arising from the proposed acquisition
   - identifies areas of further inquiry, and
   - invites interested parties to submit comments and information to assist our assessment of the issues.

3. Statements of Issues do not refer to confidential information provided by the parties or other market participants and therefore may not necessarily represent a full articulation of the ACCC's preliminary position.

## Overview of ACCC's preliminary views

4. The legal test which the ACCC applies in considering the proposed acquisition is set out in section 50 of the *Competition and Consumer Act 2010*. In general terms, section 50 prohibits acquisitions that would have the effect, or be likely to have the effect, of substantially lessening competition in any market.

5. The ACCC divides its preliminary views into three categories, 'issues of concern', 'issues that may raise concerns' and 'issues unlikely to raise concerns'. In this Statement of Issues there is one 'issue of concern'.

**Issue of concern**

6. The ACCC's preliminary view is that the proposed acquisition is likely to substantially lessen competition in the supply of phentermine-based weight-loss medications and weight-loss medications more broadly. The ACCC is concerned that the proposed acquisition would remove potential and likely competition from Juno PC.

7. iNova is currently the only supplier of Therapeutic Goods Administration (**TGA**) approved phentermine-based weight-loss medication in Australia. Its phentermine products have a share of approximately 70 per cent by revenue in the supply of prescription and over-the-counter (**OTC**) weight-loss medication. Juno PC's product in development is also phentermine-based. In the absence of the proposed acquisition, Juno PC's product would likely compete directly and strongly with iNova and put downward pressure on prices for phentermine-based weight-loss medications.

8. The competitive constraint that Juno PC's product would place on iNova in the absence of the proposed acquisition is likely to be greater than the constraints placed by existing prescription and OTC weight-loss medications and by any potential new entry of generic phentermine-based weight-loss medications.

## Making a submission

9. The ACCC is seeking submissions from interested parties, particularly on the following key issues:

    - the degree to which iNova's phentermine-based weight-loss products Duromine and Metermine compete with other prescription and OTC weight-loss medications

    - the extent to which iNova's phentermine-based weight-loss products could be constrained by new generic entry in the short to medium term, and

    - the extent to which Juno PC's phentermine-based weight-loss tablet is likely to be a competitive constraint that is distinct and greater than generic equivalents of iNova's Duromine capsule.

10. Detailed discussion of these and other issues, along with specific questions, is contained in this Statement of Issues.

11. Interested parties should provide submissions by no later than 5pm on 7 February 2020. Responses may be emailed to mergers@accc.gov.au with the title: Submission re: iNova / Juno PC - attention Adam Phillimore/Adrian Hughes. 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 Adam Phillimore on (02) 6243 1049 or Adrian Hughes on (03) 9658 6545.

12. The ACCC anticipates making a final decision on 9 April 2020, 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/publicregisters/mergers-registers/public-informal-merger-reviews.

**Confidentiality of submissions**

13. 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'

14. 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.

15. 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 |
|---|---|
| **30 August 2019** | ACCC commenced review of the proposed acquisition |
| **19 December 2019** | ACCC publication of Statement of Issues |
| **7 February 2020** | Deadline for submissions from interested parties in response to this Statement of Issues |
| **9 April 2020** | Anticipated date for ACCC final decision |

## The parties

16. iNova is a pharmaceutical company that develops and sells a range of prescription and non-prescription pharmaceutical products. It is the Australian subsidiary of a Singaporean holding company. iNova and its affiliated companies sell pharmacy products in over 20 countries across Asia, Australasia, and Africa.

17. iNova supplies products primarily in the areas of:

- weight management
- pain management

- dermatology
- cardiology
- respiratory health, and
- allergy.

18. iNova currently supplies three pharmacotherapy products for weight loss:

    - Duromine – a branded, prescription-only, phentermine-based extended-release medication in the form of a capsule. It is prescribed for weight loss and management, and works by suppressing hunger and stimulating energy expenditure by directly affecting the area of the brain that controls appetite. Duromine is not reimbursed under the Pharmaceutical Benefits Scheme (**PBS**), and patients bear the full cost of the medication.
    - Metermine – a generic version of Duromine.
    - Contrave – a prescription-only naltrexone hydrochloride and bupropion hydrochloride medication. It works by suppressing appetite and reducing food cravings. Contrave is not reimbursed under the PBS.

19. Juno PC is a special purpose joint venture vehicle seeking to develop, register, licence and supply a patent-protected, branded phentermine hydrochloride weight-loss product in the form of a tablet.

20. Juno PC is 56 per cent owned by Juno Pharmaceuticals Pty Ltd (**Juno Pharma**), which specialises in hospital and speciality post-patent pharmaceuticals. Juno Pharma is part-owned by Juno Pharmaceuticals Luxembourg.

21. The patent of Juno PC's product is owned by Alpex Pharma SA, a Swiss-based pharmaceutical company. Alpex Pharma also manufactures the product. Juno PC has a licence to sell the product in Australia.

22. Juno PC's product is also an extended-release medication. According to the patent application, the invention resolves some of the drawbacks of iNova's Duromine, and ensures more consistent release of phentermine for optimal efficacy.

23. Juno PC's product is in the process of review by the TGA.

# Industry background

### Phentermine-based medication

24. The patent for phentermine was first registered in Australia in 1969 and expired in 1991. Phentermine is an amphetamine used to treat obesity, which means it is classified within the A08A class of therapeutic drugs (Anti-obesity preparations,

excluding dietetics).[1] iNova is the only pharmaceutical company that supplies TGA approved phentermine-based medication in Australia.

25. Compounding pharmacies (e.g. Amcal, Priceline and Terry White Chemists) provide another source of supply of phentermine-based medications in Australia. They purchase phentermine from importers and prepare medicines specifically for individual patients by performing a manual process in response to a prescription.

26. However, the Pharmacy Board of Australia's 'Guidelines on Compounding of Medicines'[2] (**the Guidelines**) state that a compound medicine should be prepared only in circumstances where:

- an appropriate commercial product is unavailable
- a commercial product is unsuitable, or
- when undertaking sanctioned research.

27. The Guidelines also state that pharmacies should not compound a medicine (prescribed or not) that is a close formulation to an available and suitable commercial product and is not likely to produce a different therapeutic outcome to the commercial product.

28. Non-compliance with the Guidelines may result in disciplinary proceedings by the responsible authorities.

**Alternative prescription / OTC weight-loss medication**

29. Alternative prescription and OTC weight-loss medications in Australia include the following.

- Prescription:
    - Saxenda (supplied by Novo Nordisk): an injectable (once daily) product which contains the active ingredient liraglutide and acts to supress appetite, lowering feelings of hunger. Saxenda is generally about three to four times the price of Duromine.
- OTC:
    - Xenical (supplied by Roche Australia): a capsule (taken 3 times daily) containing the active ingredient orlistat. It is a lipase inhibitor which reduces the absorption of dietary fat. It is not an appetite suppressant.

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[1] A08A is a classification under the Anatomical Therapeutic Chemical Classification System (see https://www.who.int/classifications/atcddd/en/), which is controlled by the World Health Organisation.

[2] Pharmacy Board of Australia 'Guidelines on Compounding of Medicines' March 2015 (updated August 2017).

- Prolistat (supplied by Boucher & Muir): a generic version of Xenical.
- Contrave (supplied by iNova): a tablet (dosage builds from 1 to 4 tablets daily) containing two active ingredients: Bupropion HCI and Naltrexone HCI. Contrave works on both hunger and craving pathways.

**Other weight-loss products / services**

30. There are also a number of other treatments for weight loss including:

- very low calorie/energy diets (also referred to as VLCDs or VLEDs) such as Optifast, Optislim and Proslim
- weight-loss services such as Weight Watchers, Jenny Craig and Lite 'n' Easy
- herbal remedies available in pharmacies such as Healthy Care's forskolin and guarana products, and
- low calorie meal replacements such as FatBlaster and Tony Ferguson.

## Future with and without the acquisition

31. 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 state of competition if the acquisition proceeds (the "with" position) to the likely future state of competition 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.

32. The parties submit that Juno PC is an investment vehicle that does not have the infrastructure, funds or personnel to market its product itself. They also submit that Juno PC's majority shareholder, Juno Pharma, is focused on hospital pharmaceuticals and has no experience or infrastructure in the retail pharmaceutical sector.

33. On the basis of the information currently available, the ACCC considers that if the proposed acquisition does not proceed, Juno PC is likely to sell its business to an alternative purchaser, or it is likely to market its product with Juno Pharma's support and in partnership with a third party with expertise in marketing retail pharmaceutical products through pharmacies.

34. iNova submits that Juno PC is not an attractive investment target for an alternative purchaser. It submits that no other company has launched a phentermine-based product in the decades since iNova's patent expired and an alternative purchaser of Juno PC would need to make a significant investment in marketing to grow the sales of Juno PC's product.

35. The ACCC understands that the development of phentermine-based extended-release weight-loss medication involves significant development risks as the

product is challenging to manufacture. Juno PC's product has already obtained patent protection for its claimed better features and the TGA is in the process of reviewing its product. By acquiring Juno PC, an alternative purchaser could overcome some of the risks associated with the development of phentermine medication. Also, the ACCC understands the total sales of phentermine-based medication at the wholesale level in Australia is around $70 million per annum, which is significant for a single molecule. Therefore, based on the information available, the ACCC considers that another pharmaceutical company is likely to view an acquisition of Juno PC or a partnership with Juno PC as an attractive opportunity.

36. In addition, the ACCC considers that shareholders of Juno PC would have been unlikely to make the commercial decision to invest in the company if iNova was the only viable purchaser.

37. Based on the information available, the ACCC's preliminary view is that the likely future without the proposed acquisition is Juno PC being acquired by an alternative purchaser or entering into a partnership with a third party, in direct competition with iNova.

## Market definition

38. The ACCC's starting point for defining relevant markets to assess the competitive effects of the proposed acquisition involves identifying the products actually or potentially supplied by the merger parties. The ACCC then considers what other products constitute sufficiently close substitutes to provide a significant source of constraint on the merged entity. The supply or potential supply of phentermine-based prescription medication is the area of overlap between the parties and therefore the starting point for the ACCC's analysis.

39. The ACCC's preliminary view is that the relevant market is likely to be a national market for the supply of:

- phentermine-based prescription weight-loss medications
- prescription weight-loss medications, including phentermine-based medications and medications of other formulations, or
- weight-loss medications generally, including all prescription and OTC medications.

40. The product market is discussed in more detail below. However, the ACCC's preliminary concerns in relation to the proposed acquisition arise regardless of which of the possible market definitions is adopted. The ACCC's investigation to date has identified that iNova's phentermine products have a dominant position in prescription weight-loss medications and in weight-loss medications generally, and that in the absence of the proposed acquisition, Juno PC's product would likely be a major competitive constraint.

<u>Weight-loss medications distinct from other weight-loss solutions</u>

41. There are a number of weight-loss solutions available in Australia. These options range from behaviour modifications, diet formulations and herbal remedies, through to surgical procedures. The ACCC considers that these other weight-loss solutions are not close substitutes for weight-loss medications.

42. The ACCC understands that weight-loss medications are usually chosen where patients have tried exercise or diet products and services but have not achieved the desired results. For those patients, exercise and diet products and services are unlikely to be a substitute for weight-loss medications. Also, when patients take weight-loss medications, they are still advised by doctors to exercise and control their diet where possible. Therefore, the ACCC considers these other options are complimentary to, rather than close substitutes for, weight-loss medications.

43. The ACCC has also considered whether weight-loss medications are substitutable with surgical procedures, such as lap band, gastric bypass and gastric sleeve surgery. The ACCC's market inquiries indicate that patients and medical professionals generally do not view weight-loss medications and surgical procedures as substitutes. The ACCC considers the price of weight-loss medications could increase substantially without impacting doctors' recommendations or patients' decisions to undertake surgical procedures as an alternative weight-loss treatment.

Substitution between weight-loss medications

44. The ACCC is still considering the extent to which consumers substitute between phentermine-based medications, prescription weight-loss medications of other formulations, and OTC weight-loss medications, and whether these different products are sufficiently strong constraints on one another to be part of the same market.

45. On substitution between phentermine-based medications and other weight-loss medications, market inquiries and information provided by the parties suggest that the entry of another supplier of phentermine-based weight-loss medication would substantially reduce the price level of the product. Applying the hypothetical monopolist test framework,[3] a monopolist supplier of phentermine-based prescription medication could profitably impose a price that is substantially higher than the price level that would prevail if there were other suppliers. In addition, as discussed in paragraphs 57 to 59 below, market feedback indicates that other weight-loss medications differ significantly from phentermine-based medication in terms of efficacy, modes of administrations or price. These factors may indicate that phentermine-based medications and other weight-loss medications are not close substitutes.

46. On substitution between prescription and OTC medications, the ACCC understands that some patients could switch between prescription and OTC weight-loss medications, depending on their individual circumstances. However, the ACCC has received market feedback that OTC weight-loss medications generally have weaker effects than prescription medications and may be less effective for some patients. The ACCC has also received feedback that some patients try OTC weight-loss products first, and afterwards progress to prescription weight-loss medication if OTC medication is unsuccessful.

[3] To define the relevant markets, the ACCC draws on the conceptual framework provided by the hypothetical monopolist test, which involves examination of the effect of the imposition of a small but significant and non-transitory increase in price, e.g. 5-10 per cent (SSNIP). Our *Merger Guidelines* contain more information on this conceptual framework.

Therefore, for a group of patients, prescription and OTC weight-loss medication may not be substitutes.

47. As noted above, we are continuing to investigate these issues.

The ACCC invites comments from market participants on its preliminary views about the definition of the relevant market. In particular, market participants may wish to comment on:

- The factors that lead a consumer or a prescribing doctor to consider weight-loss medication, and the extent price factors into this decision.
- The extent to which a doctor recommends non-pharmaceutical solutions for weight-loss before prescribing medication.
- Whether it is typical for doctors to recommend OTC products before prescribing weight-loss medication.
- Whether the typical consumer of OTC weight-loss medication seeks advice from a medical professional before using the medication.
- How common it would be for consumers of an orally administered weight-loss product to consider a product that is administered via injection and whether there is a segment of customers that would not consider injections.
- The extent to which pricing of phentermine-based medications is constrained by the pricing and availability of other weight-loss medications.
- The extent to which pricing of prescription weight-loss medications is constrained by the pricing and availability of OTC weight-loss medications.

## Issue of concern: removal of iNova's likely closest future competitor in the supply of weight-loss medication

48. The ACCC's preliminary view is that the proposed acquisition is likely to substantially lessen competition in the supply of weight-loss medication.

49. The proposed acquisition would remove Juno PC as a likely direct and close future competitor of iNova. The competitive constraint that Juno PC's product would place on iNova in the absence of the proposed acquisition is likely to be greater than the constraints placed by existing prescription and OTC weight-loss medications and potential new entry of generic versions of phentermine-based weight-loss medications.

### Juno PC's product likely to be iNova's closest competitor

50. iNova is currently the only producer of TGA approved phentermine-based weight-loss medication in Australia. iNova's phentermine-based Duromine and Metermine products have a share of approximately 70 per cent by revenue in the supply of prescription and OTC weight-loss medications.

51. Juno PC's product also has phentermine as its active ingredient. This is different to existing weight-loss medication from other suppliers, which utilise different

active ingredients (with the exception of compounding phentermine medication available from certain pharmacies, discussed further below). The ACCC considers that in the absence of the proposed acquisition, Juno PC's product would be the closest competitor to iNova's Duromine and Metermine and likely put downward pressure on prices of phentermine products.

52. In the absence of the proposed acquisition, competition between Juno PC's product and iNova's Duromine and Metermine would be likely to occur at both the prescriber level and the pharmacy level.

53. Juno PC's product would likely be marketed to doctors as a branded product based on its patent-protected novelty. Juno PC's product is claimed to have a more consistent extended-release profile, and would likely be marketed based on these features. Also, the ACCC understands that in addition to efficacy and safety, doctors take price into account when prescribing medications. The ACCC considers that in the absence of the proposed acquisition, Juno's product would likely compete for doctors' prescriptions on price as well as quality.

54. At the pharmacy level, if the TGA approves Juno PC's product as bioequivalent to iNova's Duromine, a pharmacist will be able switch between iNova's Duromine and Juno PC's product. This would create a point of direct competition. The ACCC understands that generic wholesalers and manufacturers commonly compete at the pharmacy level by offering volume discounts and loyalty programs to pharmacies that stock their products.

55. iNova submits that increased competition between phentermine products is unlikely to have a significant effect on competition in the broader supply of weight-loss solutions. It submits that if the proposed acquisition does not proceed, increased competition between phentermine products could decrease iNova's incentive to continue investment in marketing and promotion, especially in direct-to-consumer advertising where the promotion of a particular brand is prohibited. iNova submits that if the proposed acquisition goes ahead, iNova would invest heavily in marketing Juno PC's product and this would increase competition in the overall market by making phentermine a more vigorous and effective competitor to other weight-loss solutions.

56. The ACCC considers that iNova has a dominant position in the supply of weight-loss medications. The ACCC considers that compared to the future with the proposed acquisition, competition from Juno PC's product would likely increase, rather than decrease, competition for the supply of weight-loss medications.

**Alternative weight-loss medications provide a lesser competitive constraint**

57. The ACCC's preliminary view is that other weight-loss medications provide a lesser constraint on iNova's phentermine-based products than Juno PC's product would likely provide in the absence of the proposed acquisition. The ACCC has received market feedback that manufacturers of other products are not in close competition with iNova's phentermine-based products.

58. Saxenda, manufactured by Novo Nordisk, is the second most widely-used weight-loss medication in Australia. It is significantly differentiated from Duromine, in that:

- it has a much higher price (it is generally sold for around $400/month, or around three to four times the price of Duromine)

- it is injected (rather than administered orally), and
- it may be more efficacious but may have some acute side effects.

Saxenda has a significantly lower market share than iNova's phentermine-based products.

59. The ACCC's market feedback indicates that OTC weight-loss medications, such as Roche's Xenical and Boucher & Muir's Prolistat, do not compete strongly with iNova's phentermine based products. This is due to the following factors:

- differences in effectiveness: weight-loss data indicates that on average patients lose more weight on prescription weight-loss products, such as phentermine and liraglutide, than OTC medications.
- mechanism by which they work: orlistat (the active ingredient of Xenical and Prolistat) reduces the absorption of dietary fat by inhibiting pancreatic and gastric lipases. It does not work primarily by suppressing appetite (e.g. phentermine, liraglutide).
- unpleasant effects of certain OTC medications: these side effects include oily spotting, flatulence with discharge and faecal incontinence.

**Constraints imposed by compounding pharmacies are limited**

60. The ACCC is also considering the extent to which compounding pharmacies place a competitive constraint on iNova's phentermine products. Compounding occurs when a pharmacist specifically prepares medication for an individual patient in response to a prescription. It is typically recommended in cases where a patient has sensitivity to an excipient in the commercial product or requires a different dose to the commercial product.

61. There are rules that prevent pharmacies from compounding products that are readily available from other sources, as is the case for Duromine. The ACCC understands that the prevalence of compounding phentermine is relatively minor and has decreased in recent years. The ACCC also understands that compounding phentermine does not have the same extended-release feature as provided by iNova's Duromine and Metermine and Juno PC's product.

62. The ACCC's preliminary view is that compounding pharmacies provide limited competitive constraints on iNova.

**Possible new entry into the market**

<u>Possible new entry of generic phentermine-based products</u>

63. The ACCC is considering the impact of new entry of generic versions of Duromine on future competition in the market. The ACCC's preliminary view is that even with the possibility of new entry by generic phentermine products, in the absence of the proposed acquisition, Juno PC's product is still likely to provide a significant additional competitive constraint on iNova.

64. The ACCC considers it is possible that third parties may enter the market with generic versions of Duromine in the short to medium term. However, even with

the possibility of entry by generic products, the proposed acquisition would still reduce the number of likely significant suppliers in the market. The ACCC also considers that compared to other possible generic phentermine products, Juno PC is likely to be in a better position to compete effectively with iNova. Juno PC's patent-protected product is claimed to have a more consistent extended-release profile than Duromine. It could compete with Duromine on both quality and price at the point of prescription as well as the point of purchase at a pharmacy.

65. In contrast, any possible future generic phentermine-based products would likely compete only on price at the point of purchase at a pharmacy, and only if the prescribing doctor has not excluded generic substitution. The ACCC's investigations in previous pharmaceutical mergers have identified that, in general, there is a class of customer that is reluctant or unwilling to switch to a generic version of a branded product, due to a perception that generic versions are inferior in quality. The potential for Juno PC's product to be promoted to doctors gives it an advantage over other generic products.

66. In addition, if the proposed acquisition proceeds, iNova may promote Juno PC's product to doctors as a superior option to Duromine and ask doctors to prescribe Juno PC's product and tick the "no generic substitution" tick-box. This would significantly limit other generic products' ability to compete with iNova at the pharmacy level.

Entry by other weight-loss medication

67. The ACCC is also considering the extent to which there may be new entry by other weight-loss medications into Australia that would constrain iNova.

68. There are several other types of weight-loss medications approved overseas which are not available in Australia, such as lorcaserin, an altrexone/bupropion combination, and the product Plenity. It is possible that companies manufacturing these products could enter the Australian market, by seeking the TGA's approval and setting up a distribution network. The ACCC considers that TGA approval is likely to be a significant barrier to entry for many of these manufacturers.

69. Even if they were to enter, it is not clear that these alternative medications would be strong competitors of iNova's phentermine-based medication. The ACCC's preliminary view is that the threat of new entry by other weight-loss medication is unlikely to provide any meaningful constraint on iNova in the medium term.

**ACCC's preliminary views**

70. Based on the information before it, the ACCC's preliminary view is that:

- the proposed acquisition would remove Juno PC's product as a likely direct and close future competitor of iNova
- the competitive constraints on iNova currently provided by alternative prescription and OTC weight-loss medications are lower than the constraint that Juno PC's product would likely provide in the absence of the proposed acquisition
- compounding pharmacies do not provide meaningful competitive constraints on iNova, and

- even with the possibility of future competition from the new entry of generic versions of Duromine, in the absence of the proposed acquisition, Juno PC's product would still be likely to provide a significant additional competitive constraint on iNova.

71. For these reasons, the ACCC's preliminary view is that the proposed acquisition is likely to substantially lessen competition in the supply of phentermine-based weight-loss medications and the supply of weight-loss medications more broadly.

The ACCC invites comments from market participants on its preliminary views about the competitive effects of the proposed acquisition. In particular, market participants may wish to comment on:

- The extent to which iNova's phentermine products are priced in response to the pricing of other prescription or OTC weight-loss medication, and whether the price or marketing of iNova's phentermine products has changed in response to the entry of other medication, or changes in price of other medication.
- The extent to which generic versions compete with a branded product. You may wish to comment on factors including:
    - The extent to which generic versions of branded products typically put pressure on the price of branded products.
    - Whether there are limits to market penetration that is commonly achieved by generic versions of a branded product and the reasons for this.
    - Whether it is common for the manufacturers of branded products to successfully promote to doctors that prescriptions should preclude pharmacists from switching to generic alternatives.

## ACCC's future steps

72. 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 7 February 2020 and should be emailed to mergers@accc.gov.au.

73. The ACCC will finalise its view on this matter after it considers submissions invited by this Statement of Issues.

74. The ACCC intends to publicly announce its final view by 9 April 2020. 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.