

Competition and Consumer (Notification of Acquisitions) Determination 2025

[Exposure draft published 28 March 2025]

Division 3—Notification of proposed acquisition: long form

Note: See section @6-1.

Australian Government

Australian Competition and Consumer Commission

Notification of proposed acquisition: long form

Note 1: A notifying party must give the Commission enough information to determine that the acquisition may be put into effect or must not be put into effect. In making a determination, the Commission must have regard to the object of the *Competition and Consumer Act 2010* and all relevant matters, including the interests of consumers.

Note 2: A notifying party should consider consulting with the Commission before making a notification to discuss the scope and range of information and documents needed in the context of the particular proposed acquisition to which the notification relates and for guidance about whether the short form or long form is appropriate for the notification of the acquisition.

Note 3: Guidance material is available at <https://www.accc.gov.au/>.

Parties to the acquisition

1. Provide the information in the table below for each party to the acquisition:

	Party	Legal representative (if any)
Name	Party name (including business or trading name, if different): Identifying number, if applicable (e.g. ACN, ABN or international equivalent):	Law firm name:
Contact details	Contact person: Phone: Email: Address for service of documents?* [Y/N]	Contact person: Phone: Email: Address for service of documents?* [Y/N]
Role in the acquisition	[Principal party / Target / Other]	N/A
Notifying party	[Y/N]	N/A

* A party may tick 'yes' in response to either the party's or the legal representative's email address. By doing this, the party is agreeing to accept service of documents from the Commission in relation to this matter at the email address specified. If the response is 'no' to both options, the party must provide the Commission with an alternative email or other address for service.

Details of acquisition

2. Provide a non-confidential plain language summary of the acquisition (up to 500 words), including the following:

- (a) a description of the parties, (including their legal and, if different, their business or trading names);
- (b) a brief description of the products or services (including relevant brands) supplied by the parties, focussing on the products and services most relevant to the acquisition;
- (c) a description of what will be acquired and the process or transaction structure by which it will occur.

Example: A full or partial acquisition of particular shares, or acquisition of particular assets, by way of scheme of arrangement, market or off-market takeover bid.

Note: The non-confidential summary may be published on the acquisitions register.

3. Provide the following details in relation to the acquisition:

- (a) any further information needed to respond to question 2 that could not be provided due to the word limit, or due to the information being confidential;
- (b) the commercial rationale for the acquisition;
- (c) the consideration payable in Australian dollars (A\$), including its form and amount;
- (d) if applicable, the transaction value calculated for the purposes of the transaction value test;
- (e) if the acquisition has, or will have, related filings in other foreign countries, details of each country, the related filings and the date notified (if applicable).

Note: For paragraph (e)—if you consent to give a confidentiality waiver in relation to those other countries, upload signed confidentiality waiver document(s).

4. Describe any existing or proposed commercial relationships between the parties to the acquisition (and the connected entities of those parties).

5. Provide in relation to the acquisition:

- (a) details of the sales process undertaken in relation to the target (for example, a competitive bid process or an unsolicited offer); and
- (b) details of any alternative proposals in the 12 months prior to the date this notification is made to sell all or part of the target to a different acquirer, including from any competitive bidding process, and the reasons for not proceeding with those proposals.

6. For each party to the acquisition (including connected entities of each party (if, and where, relevant)), complete for each of the 3 12-month periods before the day this notification is made (in A\$), detailing the months covered for each 12 month period:

Entity (including relationship to a party)	12-month period (including months and years covered)	GST turnover

Note 1: If the acquisition is of an asset, state the turnover attributable to the asset.

Note 2: Monetary figures must be stated in A\$. If figures are also provided in other currencies, those currencies must be clearly identified.

Past relevant acquisitions

7. List any acquisitions put into effect by the parties during the 3 12-month periods prior to the date this notification is made. Exclude transactions under A\$2 million:

Party	Entity acquired	Shares or assets acquired	Date acquisition was put into effect	GST turnover

Note 1: For a period before 1 July 2025, include any transaction that would be an acquisition to which the acquisitions provisions of the Act would apply under section 51ABB of the Act if the Act were in force at that time.

Note 2: Monetary figures must be stated in A\$. If figures are also provided in other currencies, those currencies must be clearly identified.

Note 3: If the acquisition is of an asset, state the turnover attributable to the asset.

Competitive effects of acquisition

8. For each relevant product or service supplied or potentially supplied by the parties to the acquisition:

- (a) describe the product or service and the geographic areas in Australia where it is supplied; and
- (b) identify other key suppliers in Australia; and
- (c) provide the class code and title for the party, by reference to the Australian and New Zealand Standard Industrial Classification; and
- (d) provide a relevant market definition or definitions, in which the parties carry on business, together with a statement of the parties' reasons for identifying those definitions; and
- (e) identify whether any of the parties have non-controlling shareholdings or cross directorships in companies that supply the same or similar products or services as other parties to the acquisition (e.g. the acquirer has a minority shareholding or common directors in a company that is active in an area that another party to the transaction supplies).

Note 1: A product or service is a relevant product or service in relation to an acquisition if the parties to the acquisition supply, or potentially supply, similar products or services in the same or a similar geographic area, have a supply relationship, or where the products or services are related in some other way.

Note 2: In determining the relevant market definition or definitions, parties should choose the definition or definitions that are most appropriate for the product or service having regard to the definition or definitions where the acquisition is likely to result in the largest market share or largest increment in market share based on the turnover, volume or capacities of the parties as well as customer, product, geographic and functional dimensions.

Note 3: If the acquisition is an acquisition of vacant land, the relevant market definitions should have regard to the acquirer's potential use of the land.

9. For each relevant market definition, provide estimated market shares for each of the parties (including connected entities of the parties) and other key suppliers (calculated by reference to turnover, volume and if available, capacity) for each of the 3 12-month periods prior to the date this notification is made. Provide details on how those estimates were made (including how turnover, volume and capacity were calculated), including any assumptions made. Provide a machine-readable file containing the underlying data used in the calculations.

Market definition	Year	Supplier	Turnover (A\$)	Turnover (%)	Volume	Market share (by volume) (%)	Capacity	Market share (by capacity) (%)

Note 1: Monetary figures must be stated in A\$. If figures are also provided in other currencies, those currencies must be clearly identified.

Note 2: **Capacity**, for working out the market share of a producing unit or entity, means the maximum potential production of an output or group of outputs by the unit or entity.

Barrier to entry

10. Identify entry into the market for the supply of the goods or services to which the acquisition relates by the notifying parties or competitors that has occurred in the 3 12-month periods prior to the date this notification is made or any expected future entry in relation to the relevant products or services.
11. Identify suppliers who have ceased supply of the relevant products or services during the 3 12-month periods prior to the date this notification is made.
12. Describe factors influencing entry into the market for the supply of the relevant products or services, including the following:
 - (a) estimated total costs of entry, including:
 - (i) the costs of establishing infrastructure required to supply the relevant products or services; and
 - (ii) the time required to put these in place;

Example: The cost of, and time required for, building or obtaining access to key production or supply assets, important technologies or distribution channels.
 - (b) for the costs identified for paragraph (a), provide an estimate of the portion that would not be recoverable if the party ceased supplying within 3 years after entry;
 - (c) any barriers that may impact the costs or timeliness of entry, including:
 - (i) access to inputs, including patents and intellectual property rights; and
 - (ii) legal or regulatory requirements;
 - (d) estimated expected revenues, including revenues necessary to gain minimum viable scale and the corresponding market share (for example, 5%) and the expected time required to reach minimum viable scale;
 - (e) barriers that may impact expected revenues, including customer switching costs, or supply characterised by long term supply contracts;
 - (f) the importance of economies of scale and scope and of network effects for production or distribution.

Data

13. Identify any third-party datasets or reports used by the parties to the acquisition to estimate or analyse its own and competitors' market shares in the supply of the relevant products or services, such as materials produced by industry bodies, research organisations, government or non-government organisations (public or otherwise). Explain how the parties use the data sets identified.

Competitor and customer contacts

14. Provide contact details for the following competitors and customers for each relevant product or service supplied:

- (a) the top 5 closest competitors based on estimated market shares;
- (b) the top 5 largest customers based on spend in the last financial year;
- (c) the 5 customers closest to the median spend of customers in the last financial year.

Details for each competitor or customer must include, to the extent possible, a specific contact person and full contact details including direct email address (for example, john.smith@xyz.com, not info@xyz.com) and direct telephone number (not a general contact number).

Additional information

15. Provide the following information (as applicable):

- (a) Does the acquisition meet the criteria in paragraph 51ABX(1)(d) of the Act? **[Y/N]**
- (b) Does the contract, pursuant to which the acquisition is to take place, contain any goodwill protection provisions? **[Y/N]**
If yes, identify and provide details of the goodwill protection provisions, and describe why they are necessary for the protection of the purchaser in respect of the goodwill of the business.
- (c) Do you intend to make a request under paragraph 51ABZZL(1)(d) of the Act for the Commission to apply section 51ABZZL of the Act (surprise hostile takeovers) to the notification, for a confidential review? **[Y/N]**
If yes, provide the details of the statements to be made under subsection 51ABZZL(2) of the Act.
- (d) Is the acquisition, or part of the acquisition, a voluntary transfer of business (within the meaning of the *Financial Sector (Transfer and Restructure) Act 1999*)? **[Y/N]**
If yes, provide a copy of the certificate of transfer.

16. Provide any other information or documents that would reasonably be considered by an objective third party to be relevant to the Commission's assessment of the acquisition.

Note: *Document* means any record of information and includes (among other things) anything on which there is writing and anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them—see section 2B of the Acts Interpretation Act 1901.

Documents required

- 17. Provide final or most recent versions of all transaction documents, such as the sale and purchase agreement, heads of agreement, offer documents, and any other agreements between the parties related to the acquisition.**
- 18. For each party to the acquisition, provide the most recent audited financial reports and income statements that relate to the supply of the relevant products or services.**
- 19. Provide an organisation chart or diagram that shows the structure of ownership and control of the parties to the acquisition and related bodies corporate involved in the supply of the relevant products or services. Include the full names and any applicable ACN/ABN/equivalent identifiers, director names, and identify the nature of the ownership or control arrangements (for example, 51% or 100% ownership of share capital).**
- 20. Provide documents in the possession, power or control of each of the parties that were prepared by or for, or received by, any member of the Board or Board Committee (or equivalent body) or the shareholders' meeting of the party within the 3 years prior to the date this notification is made (whether prepared**

internally or by an external consultant) that:

- (a) describe the rationale for the acquisition (including but not limited to the benefits of, or investment case for, the acquisition) for the purposes of assessing or making a decision in relation to the acquisition, and any minutes or record of the decision made; or
- (b) assess or analyse the acquisition; or
- (c) assess or analyse the valuation of the target for the purposes of the acquisition.

This includes, but is not limited to, any post-acquisition business plans or strategy (including integration plans and financial forecasts) and Information Memoranda prepared by or for the parties that specifically relate to the sale of the target. If no such Information Memoranda exist, explain what information or document(s) given to any of the parties is meant to serve the function of an Information Memorandum.

21. Provide documents (including, but not limited to, reports, presentations, studies, internal analyses, industry/market reports or analysis, including customer research and pricing studies) in the possession, power or control of each of the parties that were prepared, received or published within the 3 years prior to the date this notification is made which:

- (a) have been prepared by or for, or received by, any member of the Board or Board Committee of a party (whether prepared internally or by external consultants); and
- (b) describe or analyse the competitive conditions, market conditions, market shares, competitors, or the business plans of a party in relation to the relevant products or services.

22. Identify the documents provided in questions 17 to 21 that the parties consider, or a reasonable objective third party would consider, to most comprehensively support the responses given in this notification.

Appendices

23. If the acquisition is a horizontal acquisition, answer the additional questions at [Appendix A](#).

Note: An acquisition is a **horizontal acquisition** if the parties to the acquisition are suppliers or buyers, or potential suppliers or buyers, of the same or similar products or services in a market.

24. If the acquisition is a vertical acquisition, answer the additional questions at [Appendix B](#).

Note: An acquisition is a **vertical acquisition** if the parties to the acquisition engage, or potentially engage, in activities in relation to products or services at different functional levels (upstream or downstream) of the same vertical supply chain in a market. For example, a manufacturer of a product, such as a processor of raw milk, and a retail or wholesale distributor of the processed product operate on the same vertical supply chain for that product. An electricity generator and an electricity retailer operate on the same vertical supply chain for electricity.

25. If the acquisition is a conglomerate acquisition, answer the additional questions at [Appendix C](#).

Note 1: An acquisition is a **conglomerate acquisition** if the parties to the acquisition are suppliers or buyers, or potential suppliers or buyers, of adjacent products or services.

Note 2: A product or service is an **adjacent product or service** in relation to another product or service if the products or services are not in the same market or in the same supply chain, but are related in another way. For example, products targeting similar customers or that may be purchased or supplied together.

Declaration

26. An authorised person of the notifying party must complete the following declaration. If there is more than one notifying party, a separate declaration must be completed for each notifying party.

I declare that, to the best of my knowledge and belief, the information and documents given in response to questions in this form are true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are the best estimates based on the underlying facts, and that all opinions expressed are genuinely held. I am aware that giving false or misleading information to the Commission is a serious offence and criminal penalties apply.

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Signature of authorised person

Appendix A: Horizontal acquisitions

Note: This information must be provided if the acquisition is a horizontal acquisition.

A1. Describe how competition works for each relevant product or service where the parties overlap or potentially overlap, including the following information:

- (a) the nature of competition, including whether the relevant entities compete on price, quality, innovation, or any other element of competition, as well as the form of that competition, such as whether sales are made on an arm's length basis, negotiation or by tender processes;
- (b) the closeness of competition between the parties and other key competitors. Include the extent to which the remaining competitors supply products or services that are substitutable, including with reference to factors such as geographic location and the needs and/or preferences of customers and groups of customers;
- (c) if the relevant products or services are differentiated—an explanation of the extent to which they are differentiated, such as in terms of unique product features and functions, customer loyalty, geographic presence, and any other quality or product characteristics;
- (d) an explanation of how the parties price the products or services, including with reference to the factors considered, whether uniform pricing is offered or there is discretionary pricing for particular customers and/or types of customers, and how often prices are reviewed;
- (e) the cost and time it takes for customers to switch suppliers, including with reference to any features that may prevent or hinder switching, such as exclusive long term contracts or termination fees;
- (f) if applicable, data regarding customers won and lost by all parties for the 2 12-month periods prior to the date this notification is made. Include in your response customer names, locations, types, volumes and revenue the customer accounts for, date of gain/loss and reason for gain/loss, and contract dates (other than data that is personal information within the meaning of the *Privacy Act 1988*);
- (g) if applicable, the following information in respect of all requests for tender responded to by the parties and bidding processes participated in during the 3 12-month periods prior to the date this notification is made:
 - (i) details of the bids made by each party;
 - (ii) the outcomes of those processes.

Example: Whether the bids were won or lost by each party, the identity of the winning bidder (if different and known to the parties), and the reasons for the outcome (if known).

Appendix B: Vertical acquisitions

Note: This information must be provided if the acquisition is a vertical acquisition.

B1. Provide information and evidence on whether the merged entity would have the ability and incentive to engage in input and/or customer foreclosure, including the following:

- (a) a description of the input's role in the vertical supply chain and its importance to any downstream product or service;
- (b) for each input identified in response to paragraph (a):
 - (i) other key suppliers of that input available to competitors post acquisition; and
 - (ii) total revenue earned by the parties of that input; and
 - (iii) an estimated proportion of competitors' cost that the input accounts for;
- (c) where a downstream customer of a product or service is being acquired, a description of:

- (i) the importance of the party being acquired as a customer of the upstream product or service (for example, to the scale of the merger parties' business); and
- (ii) alternative sales opportunities for competing suppliers.

B2. For the supply of relevant products or services where the merger parties have a vertical relationship, provide details of:

- (a) components of gross profit margins, including related details on revenues and each of the components of costs; and
- (b) whether the costs identified in response to paragraph (a) are fixed or variable; and
- (c) average upstream and average downstream prices for a relevant fiscal period; and
- (d) current or future exclusivity agreements that either of the parties to the acquisition is a party to and that relate to the products and services.

Appendix C: Conglomerate acquisitions

Note: This information must be provided if the acquisition is a conglomerate acquisition.

C1. Provide information and evidence on whether the merged entity would be in a position post-acquisition to foreclose competitors including the following:

- (a) an explanation of current commercial and/or technical links between the relevant products or services;
- (b) an explanation of the role of each of the adjacent products or services, including whether they are important for competitors or customers;
- (c) identification of customers that purchase (or prefer to purchase) the products or services together as a bundle or from the same supplier;
- (d) identification of any suppliers that provide the products or services together;
- (e) the components of costs used in the production of products or services in which the potentially foreclosed competitors participate;
- (f) whether the costs identified in response to paragraph (e) are fixed or variable;
- (g) an explanation of the degree of economies of scale, direct and indirect network effects in the market or markets in which the potentially foreclosed competitors participate;
- (h) an explanation of whether the acquisition would provide the merged entity with increased cross-selling within an ecosystem of products or services, or would enable that to occur.

Ashurst