COMMERCE COMMISSION
NEW ZEALAND
Te Komihana Tauhokohoko

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Glenninburg Holdings Limited and WG GP Limited

Glenninburg Holdings Limited / North Island animal rendering assets of WG GP Limited – investigation closure report

Date: 22 March 2022

Purpose

1. This report summarises the reasons for the Commission's decision to close the investigation under section 47 of the Commerce Act 1986 (the Act) into the acquisition of the North Island rendering assets of WG GP Limited (WGLP) by interests associated with Glenninburg Holdings Limited (GHL) (the Acquisition). Section 47 of the Commerce Act prohibits acquisitions that are likely to substantially lessen competition.

Relevant parties

2. GHL is a holding company that owns interests in companies in the rendering industry. GHL owns 49.9% of the shares in Tuakau Proteins Limited (TPL). The balance of the shares in TPL are held by Graeme Lowe Protein Limited (Lowe). At the time of the Acquisition in May 2020, TPL operated a rendering plant in Tuakau, Waikato (the Tuakau Plant). The Tuakau Plant ceased rendering operations in March 2021 following a fire which caused substantial damage to the plant.

3. GHL is majority owned by Taranaki By-Products Limited (TBP), which operates a rendering plant in Taranaki. The directors of GHL are Mr Stephen Dahlenburg and Mr Glenn Smith. Both are also directors of TPL. Mr Dahlenburg is also a director of Kakariki Proteins Limited (KPL) which operates a rendering plant in the Manawatu, and Mr Smith is a director of TBP (GHL's parent company).

4. WGLP was the vendor of the rendering plant at Waitoa (the Waitoa Plant). WGLP was established in 2016 as the combination of several rendering businesses that owned facilities in the North and South Islands.[1]

5. As a result of the Acquisition, the Waitoa Plant is now owned by Wallace Proteins Limited (WPL), which is wholly owned by GHL and has Mr Smith and Mr Dahlenburg as its directors.

Background

6. Rendering refers to processing animal by-product material such as bone, feathers, offcuts, and blood into usable outputs. The outputs include dry meals and oils. These are used for applications such as animal feed, pet food, fertilizers, cosmetics, pharmaceuticals, and food production. The main sources of animal by-product include meat processors, farmers (from stock that have died), and tanneries (which generate waste material when stripping the hides).

7. Some meat processors do their own rendering onsite or send material to sites they own (which we refer to as "in-house" rendering), while others send their material to a plant owned by a company that only does rendering (which we refer to as "independent" renderers). The material is costly to transport (relative to its value)

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[1] This merger was the subject of a clearance application. *The Wallace Group Limited Partnership / Wallace Corporation Limited / Farm Brands Limited and Keep It Clean Limited* [2016] NZCC 21.

and degrades quickly. For these reasons, a meat processor will normally try to send their material to a nearby rendering plant.

8. The North Island rendering industry has gone through a period of consolidation as overall volumes of renderable material have declined, largely because meat processors have been able to use a greater percentage of animal carcasses for higher value purposes. As part of this consolidation, the parties involved in the Acquisition previously have been involved in mergers and acquisitions that have been through the Commission's clearance process.[2]

The investigation

9. The parties did not seek clearance for the Acquisition. After receiving a complaint and conducting initial enquiries, we opened an investigation under section 47 of the Commerce Act on 26 August 2020.

10. The primary focus of our investigation was on the impact of the Acquisition in the market for poultry rendering in the upper North Island. Prior to the Acquisition, the Waitoa Plant was the last independent rendering operation in the North Island that was not owned by interests associated with GHL and/or its directors. Our concerns in relation to the Acquisition arose because:

    10.1 due to the Acquisition, GHL has ownership interests in both the Tuakau Plant (via TPL) and Waitoa Plant (via WPL). The two plants were located near one another and in previous years competed against one another to render material from poultry processors;

    10.2 there are no other poultry rendering plants nearby. The nearest alternative plant is in Taranaki, which is owned by GHL's parent company, TBP; and,

    10.3 there appear to be high barriers to entry to build a rendering plant, including the need to find a suitable location, obtaining a resource consent and achieving sufficient scale to ensure the fixed costs involved in operating the plant are covered.

11. We therefore considered the extent to which the Acquisition would affect or would likely affect pre-existing and potential competition in poultry rendering in the upper North Island. Competition could be harmed if, for example, GHL's interests in the Tuakau Plant and the Waitoa Plant meant they did not compete for poultry rendering, or competed less effectively than they otherwise would have.

12. We consider that competition may have been lessened due to the Acquisition. However, it was not evident that any lessening of competition was substantial. It was not clear that the Tuakau Plant would have competed for poultry rendering had the Acquisition not occurred. The Tuakau Plant had previously breached its resource consent due to excessive discharges while rendering both bovine and poultry

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[2] *Tuakau Proteins Limited and Graeme Lowe Protein Limited* [2014] NZCC 26 and *Wallace Group Limited Partnership, Wallace Corporation Limited, Farm Brands Limited and Keep It Clean Limited* [2016] NZCC 21.

products. As a result, the Tuakau Plant was not processing poultry at the time of the Acquisition and was instead only rendering bovine products. It was unclear whether it would return to rendering poultry products if the Acquisition did not go ahead. Also, during our investigation, the Tuakau Plant burnt down, and it will not be re-built, leaving just the Waitoa Plant in operation for poultry rendering in the upper North Island.

13. In addition, it was not clear that GHL could (or would) prevent TPL from competing effectively against the Waitoa Plant for poultry rendering. The evidence was mixed on whether GHL's joint owner of the Tuakau Plant would act to ensure TPL would remain a competitive constraint. The actions of GHL's joint owner of the Tuakau plant following the Acquisition led the Commission to consider that, if required, it was likely to take action to constrain GHL's ability to coordinate the operation of the Tuakau and Waitoa plants.

Outcome

14. The Commission has concluded that the evidence gathered through our investigation is insufficient to show that the Acquisition caused a substantial lessening of competition in breach of section 47 of the Act.

15. Accordingly, the Commission has decided to close its investigation. However, given the potential issues raised by the Acquisition, and the familiarity of GHL, its directors and WGLP with the Commission's merger processes, it has engaged with these parties to illustrate the potential competition issues arising in circumstances such as these and of their obligations to avoid business acquisitions that have the effect, or likely effect, of substantially lessening competition.

Anna Rawlings
Chairperson