

Pact Group Holdings Ltd / Flight Plastics Ltd
Cross-submission by Pact Group Holdings Ltd on submissions received on the Statement of
Preliminary Issues
5 October 2020

Introduction

1. On 15 and 17 September 2020 the Commerce Commission ("**Commission**") published two submissions that it received in response to the Commission's Statement of Preliminary Issues ("**SOPI**") (one from Bonson Industrial Company Ltd ("**Bonson**"), and one anonymous) in relation to the proposed Pact Group Holdings Ltd's ("**Pact**") / Flight Plastics Ltd ("**Flight**") transaction (the "**Acquisition**").
2. It is apparent that those submissions misunderstand the nature of competition in the NZ industry and the nature of Pact's capabilities in NZ. Accordingly, Pact is providing this cross-submission to identify those inaccuracies for the Commission.

Pact does not have a wash plant in New Zealand

3. The main issue of apparent concern raised in both submissions is that the Acquisition would result in the aggregation of two competing post-consumer PET wash plants in NZ.
4. That concern is based on the incorrect understanding that Pact either already has installed, or is in the process of installing, such a wash plant in NZ. That incorrect understanding in turn appears to be based on confusion between a wash plant (which is necessary to produce RPET) and a decontamination line (which is used to decontaminate RPET for food-grade applications). That distinction was described in Pact's clearance application.
5. The only post-consumer PET wash plant in NZ is Flight's wash plant. While Pact is in the process of installing a decontamination line, Pact does not have a PET wash plant in NZ []
6. []
7. []
 - (a) []; and
 - (b) []
8. []
 - (a) [];
 - (b) []
9. []
10. Accordingly, the Acquisition does not result in any loss of [] competition between NZ PET wash plants or in the supply of NZ RPET including because [] [].
11. [] [] and [] []. Furthermore, Pact would []

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12. The parties also note that imported RPET inputs are readily available alternatives to domestic RPET flakes or roll stock. Indeed, this is how Pact primarily operates its current RPET range, and it is understood numerous other competitors do the same (for example, [redacted]), and numerous other competitors offer RPET products using imported packaging or materials (for example, Bonson).¹
13. As a result, any statements in the submissions that the Acquisition would result in a "monopoly in post consumer PET recycling" in NZ are incorrect (the Acquisition will not result in any loss of competition in NZ-based wash plant or RPET production capacity).

There are numerous E&T and other packaging competitors in New Zealand

14. The statement in the Bonson submission that there are only three competitors in the supply of E&T packaging in NZ (Pact, Flight, and Custom-Pak) is incorrect. As outlined in Pact's application for clearance, there are numerous other E&T suppliers in New Zealand, including two competitors that Bonson's submission specifically, and incorrectly, excludes:
- (a) Bonson itself, which has its own range of RPET E&T containers [redacted];² and
 - (b) Huhtamaki, which continues to compete in NZ through [redacted] and imported E&T containers.³ While Huhtamaki recently closed its Henderson manufacturing plant, it has remained an active and vigorous competitor in the local packaging market [redacted]. Huhtamaki's presence in NZ is a good example of the wide range of alternative business models that are available to competitors in NZ, from domestic manufacturing to competing using imports where that is considered more cost-effective (or a combination of both).
15. In addition, there are a significant number of other competitors in NZ that compete using a range of business models – both local manufacture, importation, or a combination of both – including Linpac, Formrite, Aztec, Progressive Plastics, Berica, Jenkins Freshpac Systems, Oppenheimer, LeesPac, Benxon, Multisteps Pty Ltd, and many others.
16. Moreover, the apparent concern about "all PET extrusion in NZ" being controlled by one entity is also misplaced. As the number of competitors listed above demonstrate, investment in an extrusion machine is not critical for a NZ-based manufacturer to compete in NZ. Rather, investment in an extrusion machine is simply a decision based on a manufacturer's view of the most efficient way to compete – whether to extrude itself (through capital expenditure in that equipment), or to purchase extruded roll-stock from a third party. While Flight has decided to invest in its own PET extrusion machines, many other PET packaging suppliers have saved that capital cost and chosen instead to procure extruded rolls from Asian suppliers. As noted, that is simply a decision between incurring upfront capital expenditure combined with ongoing variable costs in production, or instead shifting those costs all into ongoing variable expenditure in purchasing from overseas suppliers [redacted]. For example, Progressive Plastics markets it as an advantage that it sources roll-stock from third parties:⁴

Our non-barrier trays are made from Polyethylene Terephthalate (PET) and Low-Density Polyethylene (LDPE) plastics that are manufactured from plastic sheet sourced from our supply partners in New Zealand and overseas. The use

¹ <https://www.bonson-savpac.co.nz/our-products/replay/>

² <https://www.bonson-savpac.co.nz/our-products/replay/>

³ https://www.huhtamaki.com/globalassets/foodservice-eao/products/huh_catalogue_2020-v2_r.pdf

⁴ <http://www.progressiveplastics.co.nz/thermoforming.html>

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of independent external film suppliers allows us to ensure our products are made from the best quality materials and with technical structures most suited to the application.

17. Any manufacturer of E&T packaging could choose to purchase and install extruders if they considered that was the more efficient way to compete (indeed, Custom-Pak is understood to have recently announced its intention to develop its own NZ-based extrusion capability):⁵
- (a) Extrusion machines are highly automated and readily available from numerous offshore suppliers;
 - (b) It does not require significant investment to purchase an extruder – costs for an extruder can range from [] for a new extruder.
18. Accordingly, it is simply a business decision for a NZ manufacturer to choose whether to have its own extruder or not. There are no material barriers involved, and the parties do not consider investment in NZ-based extrusion to represent any limiting factor on the extent of competition in NZ (as demonstrated by the numerous business models competitors can, and do, use to compete in NZ - from engaging in extrusion and thermoforming in NZ, only thermoforming in NZ, or an import-only model).

Concluding comments

19. We trust this cross-submission demonstrates the incorrect bases on which the two submissions were premised, in particular;
- (a) it is incorrect to state that the Acquisition will result in any loss of competition in NZ-based wash plant or RPET production capacity;
 - (b) it is incorrect to state that there is only three E&T competitors in NZ, when in reality there are numerous E&T competitors in NZ using a variety of different business models (not to mention the numerous other competitors that compete by offering packaging made of alternative substrates).
20. Pact remains available to discussion these issues and this cross-submission with the Commission.

⁵ <https://www.ellenmacarthurfoundation.org/assets/downloads/Global-Commitment-2019-Progress-Report.pdf>