

## **Notification of reconvening of conference**

### **Cavalier Wool Holdings Limited's application for authorisation**

**Tuesday 1 September 2015**

The purpose of this notification is to confirm that the Commission is reconvening the conference held on 10 June 2015 to consider specific issues relating to the land and building valuations for the properties at Clive, Whakatu, and Kaputone (property valuations). The property valuations form part of Cavalier Wool Holdings Limited's (Cavalier) application for authorisation.

The conference to be held on Tuesday 1 September will be closed to the public, as the property valuations are entirely confidential.

#### **Background**

On 23 October 2014, the Commerce Commission registered an application from Cavalier seeking authorisation to acquire New Zealand Wool Services International Limited's wool scouring business.

The Commission received a number of submissions relating to Cavalier's application and, on 26 March 2015, the Commission released its Draft Determination on the matter.<sup>1</sup>

Section 69B of the Commerce Act 1986 provides that the Commission may determine to hold a conference prior to making a final determination. The Commission considered that it was appropriate to hold a conference with interested parties on this matter and the conference was held on 10 June 2015. At the time of that conference, the Commission was awaiting independent valuations so the conference did not include a session on property valuations. However, parties were notified that they would have the opportunity to submit on property valuations at a later date.

In the interim, the Commission has received a number of submissions relating to the property valuations and it considers it appropriate to reconvene the conference to discuss this specific issue.

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<sup>1</sup> The Draft Determination and all submissions relating to Cavalier's application can be found at <http://www.comcom.govt.nz/business-competition/mergers-and-acquisitions/authorisations/merger-authorisation-register/cavalier-and-new-zealand-wool/>

**Date, time and place of conference**

The conference will be held at **the Commission's Wellington offices, Level 6 – 44 The Terrace, Wellington** on **Tuesday 1 September 2015**.

The conference will start at **1:00pm** with a break for afternoon tea.

**Purpose of the conference**

The purpose of the conference is to assist the Commission in making a final determination on the application. The Conference will allow the Commission to test the submissions and cross-submissions of counsel and experts on the property valuations.

**Conference procedure**

During the conference, each topic will be introduced by the Commission.

Members of the Commission and Commission staff will question counsel and experts.

Counsel and experts may only ask questions of the Commission for the purpose of clarifying a question. No party will have the right to cross-examine the Commission or any other party during the proceedings.

**Attendance of experts at the conference**

The Commission expects that all experts that have been advising parties will be available at the conference to respond to the Commission's questions and that experts attending the conference appear as experts in their fields rather than as an advocate for any particular party.

The Commission expects experts to follow the guidance provided in the Code of Conduct for expert witnesses contained in the High Court Rules. A copy of the Code of Conduct is attached as Attachment A. Experts are requested to confirm in writing before the conference that they are appearing as experts and agree to follow the guidance in the Code.

**Confidentiality**

Attendance at this closed confidential session will be strictly limited. Other than Commission members and staff, attendance will be restricted to the party presenting the confidential information and their counsel and/or experts. Each of the counsel and experts must have provided the Commission with undertakings not to reveal the confidential information to any other party, including the persons instructing them.

### **Other administrative matters**

The conference will be recorded and a stenographer will also provide a transcript of the conference. A transcript of the day's discussion will be provided to relevant parties pursuant to confidentiality undertakings as soon as reasonable practical.

Please contact [registrar@comcom.govt.nz](mailto:registrar@comcom.govt.nz) by Friday 28 August 2015 if you have any questions regarding attendance at the conference.

### **Commission contact**

Please contact Mya Nguyen at the Commission if you have any questions or comments regarding the conference:

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**24 August 2015**  
**Competition Branch**  
**Commerce Commission**

## **Attachment A: Code of Conduct for expert witness**

### **High Court Rules Schedule 4 Code of conduct for expert witnesses**

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#### **Duty to the court**

1. An expert witness has an overriding duty to assist the court impartially on relevant matters within the expert's area of expertise.
2. An expert witness is not an advocate for the party who engages the witness.

#### **Evidence of expert witness**

3. In any evidence given by an expert witness, the expert witness must—
  - (a) acknowledge that the expert witness has read this code of conduct and agrees to comply with it:
  - (b) state the expert witness' qualifications as an expert:
  - (c) state the issues the evidence of the expert witness addresses and that the evidence is within the expert's area of expertise:
  - (d) state the facts and assumptions on which the opinions of the expert witness are based:
  - (e) state the reasons for the opinions given by the expert witness:
  - (f) specify any literature or other material used or relied on in support of the opinions expressed by the expert witness:
  - (g) describe any examinations, tests, or other investigations on which the expert witness has relied and identify, and give details of the qualifications of, any person who carried them out.
4. If an expert witness believes that his or her evidence or any part of it may be incomplete or inaccurate without some qualification, that qualification must be stated in his or her evidence.
5. If an expert witness believes that his or her opinion is not a concluded opinion because of insufficient research or data or for any other reason, this must be stated in his or her evidence.

#### **Duty to confer**

6. An expert witness must comply with any direction of the court to—
  - (a) confer with another expert witness:
  - (b) try to reach agreement with the other expert witness on matters within the field of expertise of the expert witnesses:
  - (c) prepare and sign a joint witness statement stating the matters on which the expert witnesses agree and the matters on which they do not agree, including the reasons for their disagreement.
7. In conferring with another expert witness, the expert witness must exercise independent and professional judgment, and must not act on the instructions or directions of any person to withhold or avoid agreement.