

## EXECUTIVE SUMMARY

### INTRODUCTION

This is an application by Redeal Limited (**Redeal**) for clearance for it, or any of its interconnected bodies corporate, to acquire 100% of the assets and business of Egley Electrical Co Limited and Egley Electrical Petone Limited (together **Egley**) in Wellington.

The acquisition will result in horizontal aggregation between the electrical products supply businesses of Redeal and Egley only in the Wellington/Wairarapa region.

### AFFECTED MARKETS

The issue of market definition for this industry was dealt with by the Commission in Decision No. 444 dated 6 December 2001 which involved Mico Wakefield Limited and Mastertrade Limited (the **Decision**). The Commission concluded that the appropriate market in that case was "*regional markets for the supply of electrical products*" (para. 58). For present purposes, the Commission found that there was a regional market for "*Wellington/Wairarapa*" (para. 48). In terms of the boundaries of that market, the Commission considered there was a separate market for Manawatu/Taranaki which would be the cut-off.

Redeal is content to adopt the same market definition in the present case. This would mean, taking into account the fact that aggregation issues only arise in Wellington, that the relevant market would be the ***Wellington/Wairarapa regional market for the supply of electrical products***.

### NO SUBSTANTIAL LESSENING OF COMPETITION IN AFFECTED MARKETS

The current leading participants in the Wellington/Wairarapa region in descending order are Advance Electrical with **[CONFIDENTIAL]**% market share, Crane with **[CONFIDENTIAL]**% and Redeal with **[CONFIDENTIAL]**%. Egley has around **[CONFIDENTIAL]**% of the market. Post acquisition the concentration ratio of the three largest players would be **[CONFIDENTIAL]**%, with Advance Electrical having **[CONFIDENTIAL]**%, Crane having **[CONFIDENTIAL]**% and Redeal/Egley having **[CONFIDENTIAL]**%.

Since Redeal/Egley's post-acquisition market share would only be **[CONFIDENTIAL]**%, it would be well within the safe harbours threshold of 40% for acquisitions with a CR3 of less than 70% as is the case here.

In Decision No. 444, the Commission noted that "*Participants at all levels of the electrical products industry advised the Commission that the electrical products market is highly competitive*" (para. 139), and "*All electrical industry participants interviewed consider the electrical products markets to be highly competitive due to the high ratio of suppliers to contractors, and as such, consider the merged entity would have very limited ability to increase prices*" (para. 152). This led the Commission to conclude that "*The merged entity will be constrained by current competition*" (para. 153).

Redeal submits that these factors still remain the case today and apply to the Wellington/Wairarapa market in particular. It notes:

**Existing Competition:**

- It would still face significant competition from two large competitors in the form of Advance Electrical and Crane post-acquisition. Advance Electrical, at **[CONFIDENTIAL]** market share, would have equivalent market share to Redeal/Egley at **[CONFIDENTIAL]**. Crane would still be a substantial third player in the market at **[CONFIDENTIAL]**.
- The volume of sales by wholesalers of electrical products is price sensitive with a large proportion of the market being driven by tender pricing. Should Redeal lift its prices post-acquisition, it believes it would miss out on a very large proportion of the available business. Since the suppliers all supply the same types of products, the customer has a wide choice on which suppliers it purchases from.
- While neither Redeal nor Egley are vertically integrated, both companies face competition from a number of large vertically integrated companies who are not just competitors at the wholesale level but are also in a number of instances major importers/manufacturers and suppliers to the wholesalers. This includes large companies such as Philips and Thorn in lighting, and General Cables and Olex in cables.
- Further evidence of the competitiveness of the market can be seen in **[CONFIDENTIAL]** as is evident in **Appendix III**.

**Low Barriers to Entry:**

- There are no significant barriers to new entry as accepted by the Commission in Decision No. 444 (para. 158). All electrical products of a particular type are supplied in compliance with a common Australasian standard. The products themselves are a world commodity and all are readily available to any existing or potential wholesaler from a number of sources. The cost of establishing a presence in the market is low, with the main costs being renting suitable premises and recruiting staff.
- There are a number of identifiable new entrants which would be likely to enter in a constraining manner within a one year period (more likely within weeks/months) should prices increase above competitive levels. This includes **[CONFIDENTIAL]** Such companies could expand market share quickly.

**Acquirers' Market Power:**

- There is significant countervailing market power held by acquirers. Customers rarely give loyalty to a single wholesaler. Instead they usually maintain accounts with multiple suppliers and will shop for competing quotations. This is particularly the case with medium to large contractors who will typically tender work to multiple wholesalers to secure the best price. It also applies to smaller contractors who do so to continually test the market for the best price. Acquirers can switch suppliers easily and without significant cost.
- Moreover, the size of the merchant chains such as Bunnings, Placemakers and Mitre 10 means they have the ability and resources to import alternative electrical products from overseas (or to source them from New Zealand-based importers/manufacturers) should New Zealand wholesalers of the products endeavour to raise prices unreasonably. They are already doing this.

**COMMERCE ACT 1986: BUSINESS ACQUISITION  
SECTION 66: NOTICE SEEKING CLEARANCE**

Date: 15 May 2008

The Registrar  
Market Structure Group  
Commerce Commission  
PO Box 2351  
WELLINGTON

Pursuant to s66(1) of the Commerce Act 1986 notice is hereby given seeking clearance of a proposed business acquisition.

## PART I: TRANSACTION DETAILS

**1. What is the business acquisition for which clearance is sought?**

- 1.1 The business acquisition for which clearance is sought is the acquisition by Redeal Limited (**Applicant** or **Redeal**), or any of its interconnected bodies corporate, of 100% of the assets and business, of Egley Electrical Co Limited and Egley Electrical Petone Limited (together **Egley**) in Wellington.
- 1.2 Redeal and Egley have executed a Business Purchase Agreement (the **Purchase Agreement**) on 5 May 2008 for the sale of Egley to Redeal. Completion is conditional on Redeal obtaining clearance from the Commerce Commission (clause 4.1(k) of the Purchase Agreement).

**The Person Giving Notice****2. Who is the person giving this notice?**

- 2.1 This notice is given by:
- Redeal Limited  
Level 1, 4 Henderson Place  
Penrose  
AUCKLAND  
Telephone: (09) 622 9500  
Facsimile: (09) 622 9562  
Attention: Benoit Devictor (Managing Director)  
Email: bdevictor@redeal.co.nz
- 2.2 All correspondence and notices in respect of this application should be directed in the first instance to:
- Simpson Grierson  
88 Shortland Street  
Private Bag 92518  
AUCKLAND  
Telephone: (09) 358 2222  
Facsimile: (09) 307 0331  
Attention: Robert McLean/James Craig  
Email: robert.mclean@simpsongrierson.com  
james.craig@simpsongrierson.com

**Confidentiality****3. Do you wish to request a confidentiality order for specific information contained in or attached to the notice? If so, for how long, and why?**

- 3.1 The Applicant has provided two versions of the notice to the Commission:
- 3.1.1 one copy marked "Confidential Version", in which the confidential information the Applicant wishes the Commission to withhold is highlighted in square brackets in italics (ie [xxx]); and
- 3.1.2 one copy marked "Public Version", in which the confidential information has been deleted.

- 3.2** The foregoing request for confidentiality is made not only in relation to this application, but also for all additional information of a similar nature that the parties provide to the Commission.
- 3.3** The Applicant requests that the confidential information identified in the Confidential Version, or any additional information provided, be protected from the Commission by disclosure to third parties under section 9(2)(b)(ii) of the Official Information Act 1982 on the grounds that:
- 3.3.1** the information is commercially sensitive and its disclosure would be likely to unreasonably prejudice the commercial position of the parties;
- 3.3.2** the Applicant believes that there are no other considerations which render it desirable in the public interest to make the information available under the Official Information Act 1982.

#### Details of the Participants

#### 4. Who are the participants?

**4.1** The Acquirer is:

Redeal Limited  
Level 1, 4 Henderson Place  
Penrose  
AUCKLAND  
Telephone: (09) 622 9500  
Facsimile: (09) 622 9562  
Attention: Benoit Devictor (Managing Director)  
Email: bdevictor@redeal.co.nz

**4.2** The Vendor is:

Egley Electrical Co Limited and Egley Electrical Petone Limited  
13-17 Hopper Street  
PO Box 6363 Te Aro  
WELLINGTON  
Telephone: (04) 385 9715  
Facsimile: (04) 384 9693  
Mobile: 0274 549 179  
Attention: Philip Egley  
Email: philip@egleys.co.nz

**5. Who is interconnected to or associated with each participant?****5.1 Acquirer group/associates:**

Please refer to **Appendix I** for the Applicant's corporate structure.

**5.2 Target company group/associates:**

Redeal's understanding is that Egley does not have any subsidiaries. In any event, Redeal is just buying the assets and business of Egley, and not shares in Egley. There is no change in the ownership of Egley as a result of the acquisition, and the company will presumably become a shell with the existing shareholders maintaining their shareholding.

**6. Does any participant, or any interconnected body corporate thereof, already have a beneficial interest in, or is it beneficially entitled to, any shares or other pecuniary interest in another participant?**

- 6.1** The Applicant is not aware of either participant or any interconnected body corporate of either participant holding any beneficial interest in any other relevant market participants.

**7. Identify any links, formal or informal, between any participant/s including interconnected bodies corporate and other persons identified at paragraph 5 and its/their existing competitors in each market.**

- 7.1** As noted below, Egley is a member of the Powerbase Incorporated Society.
- 7.2** The Applicant is not aware of any other links between either participant or any interconnected body corporate of either participant and any other relevant market participants in New Zealand.

**8. Do any directors of the 'acquirer' also hold directorships in any other companies which are involved in the markets in which the target company/business operates?**

- 8.1** The directors of the Applicant are not directors in any other relevant companies that are involved in the markets in which Egley operates.

**9. What are the business activities of each participant?****Redeal**

- 9.1** Redeal Limited is a wholly owned subsidiary of the Rexel Group, a large international distributor of electrical installation products which has its headquarters in France. Rexel and Ideal are the two brand names of Redeal. There is also an importation/distribution business called Impel.

- 9.2** Redeal operates throughout New Zealand. There are currently 78 Redeal branches in New Zealand, with 7 of these being in the Wellington/Wairarapa region.
- 9.3** Redeal is a wholesaler of electrical products. These include cable, cable protection and repair, data and communications/TV and repair, switchgear, lighting, distribution (fuses, timers, meter boxes, transformers etc), industrial and motor control (sensing and detection, motors, capacitors, starters, indicators/lamps etc), hardware (tools, safety and fire fighting products, fasteners, consumables, connectors, leads/power boards etc), cable support systems, power poles/lampposts and ancillary systems, air conditioning, and security systems (the **Electrical Products**).
- 9.4** Redeal also retails some decorative lighting products.

### **Egley**

- 9.5** Established in 1935 by Harold Egley and based in Wellington, Egley is one of New Zealand's longest standing electrical wholesalers.
- 9.6** Egley has two stores, one in Central Wellington and the other in Petone. The Wellington company has been located at 13-17 Hopper Street, Wellington for over 30 years. It has two floors of electrical and electronic products offering goods to tradespersons, home handypersons, business and/or retail customers. The related company in Petone opened its doors in 2001 at 118 Hutt Rd. It has a focus on trade and business customers. Egley does not operate outside Wellington.
- 9.7** Egley is a member of the Powerbase Incorporated Society (**Powerbase**). This is a group of privately owned and operated electrical merchants with outlets located throughout New Zealand. Powerbase was formed in order for group members to take advantage of the increased marketing, product sourcing and purchasing ability that collective action afforded them.  
**[CONFIDENTIAL]**
- 9.8** Like Redeal, Egley is also a wholesaler of Electrical Products.
- 9.9** Egley retails some decorative lighting products. It also retails some small appliances such as Princess jugs and kitchen appliances and Remington irons and hair dryers.

<b>10. What are the reasons for the proposal and the intentions in respect of the acquired or merged business?</b>
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- 10.1** The reasons for the proposal from Redeal's perspective are that historically, the Wellington market has been dominated by the two independents of Egley and Advance Electrical, with Advance being the major player. Redeal, under its Ideal and Rexel banners has had a low share of this marketplace historically, and with the acquisition will increase the branch network from 6 to 8 in the greater Wellington area.
- 10.2** **[CONFIDENTIAL]**

## PART II: IDENTIFICATION OF MARKETS AFFECTED

## Horizontal Aggregation

**11. Are there any markets in which there would be an aggregation of business activities as a result of the proposed acquisition?**

**11.1 Are there any markets in which the acquirer (and/or any interconnected or associated company as identified in question 5.1.1 - 5.1.4), and**

- **the business to which the assets relate, or**
- **the 'target company' (and/or any interconnected or associated company identified in question 5.2.1 and 5.2.2 above)**

**are both engaged?**

**11.1.1** Redeal and Egley are both engaged in the wholesale of Electrical Products, and the retail of some lighting products in Wellington. Although Redeal operates nationally, Egley only operates in Wellington and therefore aggregation issues are only raised in Wellington.

**11.1.2** While Egley retails some small appliances, Redeal does not. As a result, no aggregation issues arise here.

**11.2 Please identify for each market:**

- **the product(s), functional level, geographical area and (where relevant) timeframe;**
- **the specific parties involved;**
- **the relationship of those parties to the acquirer or the target company as the case may be.**

**11.2.1** The issue of market definition for this industry was dealt with by the Commission in Decision No. 444 dated 6 December 2001 which involved Mico Wakefield Limited and Mastertrade Limited (the **Decision**).<sup>1</sup> The Commission concluded that the

<sup>1</sup> While Decision No. 444 is the key Commission decision relating to market definition at the supply level of the market, it is worth noting that two further decisions deal with market definition issues at the manufacturing level of the market. These are:

- Decision No. 509, Schneider Electric SA and Gerard Industries Group dated 7 October 2003. In this decision the Commission defined the relevant markets as being the national market for the wholesale supply of low voltage panel boards for residential buildings, and the national market for the wholesale supply of wiring devices and cabling systems (para. 78). The relevant functional level of each market was that of supply to wholesalers (para. 75).
- Decision No. 463, Reyrolle Pacific Holdings Limited and VA Tech Reyrolle Pacific Limited dated 1 July 2002. The market in this case was the New Zealand market for the supply of 11kV indoor switchgear (para. 58).



appropriate markets in that case were "*regional markets for the supply of electrical products*" (para. 58).

**11.2.2** Key points coming out of the Decision on market definition issues included:

- (a) **Product:** Mico Wakefield submitted that the relevant product market was for "*electrical products*". It submitted this included cable, cable protection and repair, data and communications/TV and repair, switchgear, lighting, distribution (fuses, timers, meter boxes, transformers etc), industrial and motor control (sensing and detection, motors, capacitors, starters, indicators/lamps etc), hot water systems and appliances, and hardware (tools, safety and fire fighting products, fasteners, consumables, connectors, leads/power boards etc) (para. 35). The scope of electrical products generally extended beyond the building itself to the point of electrical supply (para. 36). The Commission adopted this product definition (paras. 38 & 42).
- (b) **Functional Level:** The relevant functional level of the market was blurred. This was because "*Mico and MTL supply ... electrical products to tradespeople at the wholesale level and also to DIY customers at the retail level*" (para. 52). As a result the Commission adopted the functional level of supply generally (para. 55).
- (c) **Geographic Scope:** Mico Wakefield submitted that regional markets were applicable on the basis that the majority of sales were made to tradespeople who, by the nature of their work, cover a number of different localities (para. 48). The Commission agreed with this, having found during its investigation that the market share aggregation in various cities/towns was consistent with the regional figures (para. 49). For present purposes, the Commission found that there was a regional market for "*Wellington/Wairarapa*" (para. 48). In terms of the boundaries of that market, the Commission considered there was a separate market for Manawatu/Taranaki which would be the cut-off.
- (d) **Timeframe:** The Commission found that the time dimension was not relevant to the analysis of the regional markets for the supply of electrical products as "*transactions are frequent and there are few long-term contracts between suppliers and acquirers*" (para. 57).

**11.2.3** Redeal is content to adopt the same market definition in the present case. This would mean, taking into account the fact that

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Since Redeal and Egley do not themselves manufacture electrical products, these market definitions are only of indirect relevance to the present case.

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aggregation issues only arise in Wellington, that the relevant market would be the ***Wellington/Wairarapa regional market for the supply of electrical products***.

**11.2.4** In respect of the relevant product market, Redeal and Egley sell a number of products that were not specifically included in the list of "*electrical products*" proposed by the applicant Mico Wakefield at para. 35 of Decision No. 444. These additional products are:

- (a) power poles/lampposts and ancillary systems;
- (b) air conditioning; and
- (c) security systems.

**11.2.5** Redeal submits that these additional products are still all electrical products. Therefore it remains appropriate for the Commission in this case to adopt a single product market definition of "*electrical products*" as it did in Decision No. 444. Accordingly, Redeal has proceeded on this basis in the remainder of the application.

**11.2.6** Even if the Commission took a different approach and decided to investigate whether there are separate markets for the supply of each of these additional products in the Wellington/Wairarapa region, the combined market share of Redeal and Egley for any of these additional products on their own in this market is extremely low (Redeal believes it would be less than 5%) and hence within the Commission's safe harbours in any event.

**11.2.7** As a result, even if these additional products were treated individually, they do not raise competition issues in themselves.

### Differentiated Product Markets

**12. Please indicate whether the products in each market identified in question 11 are standardised (buyers make their purchases largely on the basis of price) or differentiated (buyers make their purchases largely on the basis of product characteristics as well as price)**

**12.1** The Commission noted in Decision No. 444 that "*Many of the products listed above [ie those products falling within the definition of "electrical products"] are not substitutable from a demand-side perspective, as their form and function are specific for the purpose to which they are put*" (para. 37).

**12.2** However, within each segment of the electrical products market (ie each of cable, lighting, hot water systems etc), the products falling within that segment are standardised due to minimum AS/NZS standards requirements, and buyers make their purchases for these products largely on the basis of price. This is supported by the Commission's analysis in Decision No. 444 where it stated:

"Apart from front of the wall plumbing products [not applicable here], the majority of products supplied by the market are standardised with price being a minimal

differentiator. However, the extent of differentiation is not such as to require close analysis of the extent of substitutability. For the purposes of this application, separate product markets for particular types of ... electrical products will not be defined". (para. 41)

**12.3** This led the Commission to conclude that "*the product range offered by suppliers is not so differentiated as either to cast doubt on there being single, well defined markets as described above, or to require a special analysis with fully differentiated product markets*" (para. 72).

**12.4** Redial submits that this should remain the case in the present application.

**13. For differentiated product markets:**

**13.1 Please indicate the principal characteristics of products that cause them to be differentiated one from another.**

**13.1.1** Not applicable. Refer to the response to question 12.

**13.2 To what extent does product differentiation lead firms to tailor and market their products to particular buyer groups or market niches?**

**13.2.1** Not applicable. Refer to the response to question 12.

**13.3 Of the various products in the market, which are close substitutes for the products of the proposed combined entity? - which are more distant substitutes?**

**13.3.1** Not applicable. Refer to the response to question 12.

**13.4 Given the level of product differentiation, to what extent do you consider that the merged entity would be constrained in its actions by the presence of other suppliers in the market(s) affected?**

**13.4.1** Not applicable. Refer to the response to question 12.

**Vertical Integration**

**14. Will the proposal result in vertical integration between firms involved at different functional levels?**

**14.1 Are the "acquirer" (or any interconnected or associated company identified in questions 5.1.1-5.1.4) and:**

- the business to which the assets relate, or
- the 'target company' (or any interconnected or associated company as identified in question 5.2.1 and 5.2.2)

**engaged at different functional levels of the same product market(s)?**

- 14.1.1** For purposes material to this application, Redeal and Egley are only engaged at the supply functional level of the market.
- 14.1.2** As noted above, Redeal and Egley operate at the retail level of the lighting segment of the electrical products market. Nevertheless, in adopting the functional level of supply generally in Decision No. 444, the Commission has incorporated both elements of wholesale and retail supply (paras. 52 & 55). Therefore this does not necessitate the investigation of an additional functional level of the market.
- 14.1.3** As noted above, Redeal does have an importation/distribution business called Impel, but Egley does not and no aggregation issues arise here. Similarly, Egley also retails some small electrical appliances. However, Redeal does not and therefore no aggregation issues arise here either.

- 14.2** Please identify for each market:
- 14.2.1** products(s), functional level(s), geographic area(s) and (where relevant) time frames;
- 14.2.2** the specific parties involved;
- 14.2.3** the relationship of those persons to the 'acquirer' or 'the target company' as the case may be.

Not applicable.

- 14.3** If so, in all subsequent questions about markets affected by the proposal, please give details of both (or all) the downstream/upstream markets concerned; and details of existing vertical links between the participants (and/or interconnected or associated companies) in each of these markets, eg supply agreements, long-term supply contracts.

Not applicable.

**15. In respect of each market identified in questions 11 and/or 14 identify briefly**

- 15.1** All proposed acquisitions of assets of a business or shares involving either participant (or any interconnected body corporate thereof) notified to the Commission in the last three years and, in each case, the outcome of the notification (eg cleared, authorised, declined, withdrawn) and in each case the outcome of the notification and whether the proposed acquisition has occurred.

- 15.1.1** The Applicant is not aware of any occasion during the previous three years where Redeal or Egley has formally notified the Commission of any proposed acquisition involving the relevant market(s).

- 15.2** Any other acquisition of assets of a business or shares in the last three years which either participant (or any interconnected body corporate) has undertaken in the last three years.

- 15.2.1** The Applicant is not aware of any occasion during the previous three years where Redeal or Egley proceeded with any acquisitions involving the relevant market(s).

**PART III: CONSTRAINTS ON MARKET POWER BY EXISTING COMPETITION**

**Existing Competitors**

**16. In the market or markets, who are the suppliers of competing products, including imports?**

**16.1 Please identify the owners of those suppliers (including ultimate owner/s).**

**16.1.1** The suppliers of competing electrical products are set out in the market share table in **Appendix II**. It is worth noting the following points about these suppliers:

- (a) The bulk of the competing suppliers referred to operate solely at the supply functional level of the market. These include companies such as Redeal itself, Advance Electrical, Crane, Stewarts, Stemco and Egley.
- (b) Out of these competitors at the supply functional level of the market, Stewarts, Advance, Stemco and Egley are all Powerbase members for the Wellington/Wairarapa region. As noted by the Commission in Decision No. 444:

"Powerbase is a group of privately owned and operated electrical merchants with outlets located throughout New Zealand. Powerbase was formed in order for group members to take advantage of the increased marketing, product sourcing and purchasing ability that collective action afforded them." (para. 16)

- (c) There are a number of vertically integrated importers/manufacturers that supply electrical products directly to Redeal's customers in most product segments. The product segments concerned are broken down in the market share table. These importers/manufacturers include Philips, Thorn and Pierlite (for the lighting segment), General Cable, Olex and Prysmian (for the cable segment), and a multitude of companies for the remaining segments. Hence Redeal considers that these importers/manufacturers also operate at the supply functional level of the market in these instances.

**16.1.2** The owners of the main suppliers named in **Appendix II** are as follows:

<b>Company Name</b>	<b>Owner</b>
Advance Electrical Wholesalers Ltd	Allan Bull David

Russell

Foster		Jenny
	Advance Electrical Wholesalers (Lower Hutt)	Nicholas Wallace Allan
Bull		Dean
Coe		
	Advance Electrical Wholesalers (Porirua)	Allan Bull Kenneth
Hill		
	Advance Electrical Wholesalers (Wellington)	Allan Bull Michael
Tolova'a		
	Crane Distribution NZ Ltd	GE Crane NZ Holdings
Ltd		
	Stemco Limited	Cyril
Anderson		
	Stewarts Group NZ Limited	David Stewart Peter
Stewart		Pauline
Stewart		

**16.2 What are their estimated market shares, both in terms of productive capacity and of sales?**

- 16.2.1** The Applicant estimates market shares in the table set out in **Appendix II**.
- 16.2.2** The current leading participants in the Wellington/Wairarapa region in descending order are Advance Electrical with **[CONFIDENTIAL]**%, Crane with **[CONFIDENTIAL]**% and Redeal with **[CONFIDENTIAL]**%. Egley has around **[CONFIDENTIAL]**% of the market.
- 16.2.3** Post acquisition the concentration ratio of the three largest players would be **[CONFIDENTIAL]**% with Advance Electrical having **[CONFIDENTIAL]**%, Crane having **[CONFIDENTIAL]**% and Redeal/Egley having **[CONFIDENTIAL]**%.
- 16.2.4** Since Redeal/Egley's post-acquisition market share would only be **[CONFIDENTIAL]**%, it would be well within the safe harbours threshold of 40% for acquisitions with a CR3 of less than 70% as is the case here.
- 16.2.5** As noted in the response to question 16.1, in estimating the market shares above, Redeal has included data relating not just to "pure" wholesalers (ie those companies which only participate at the supply level of the market), but also vertically integrated importers/manufacturers which participate at both the importation/manufacturing and supply levels of the market).

Redeal considers this is appropriate since such importers/manufacturers compete with it for supply of electrical products to customers. Even if such importers/manufacturers/suppliers were excluded from the market share analysis and only "pure" wholesalers were included (which Redeal does not support), the market share of Redeal/Egley combined in this market would only rise to **[CONFIDENTIAL]** market share. There would still be significant competition to the merged entity in the form of Advance Electrical with **[CONFIDENTIAL]** and Crane with **[CONFIDENTIAL]** under this approach to market share analysis.

**16.3 Please indicate the source of the data provided, and where they are estimates, the likely degree of accuracy.**

**16.3.1** The market share data provided has been sourced from total market volume information, together with Redeal's own information on national sales/head ratios.

**16.3.2** While the data is estimated, to the best of its knowledge Redeal considers it likely to be accurate.

**16.4 Where available, please provide data in the form of the table above for any or each of the past five years, as well as for the most recent year.**

**16.4.1** Historical market share data is not readily available. There is no independent source of market share information as most of Redeal's competitors and suppliers are not required to file details with any independent agency. As a result market share assessment is an internal exercise which has been continually refined and improved with each year but has not historically been done on a comparable basis.

**16.5 Please identify any firms that are not currently producing the product in the market, but could enter the market quickly (using essentially their existing productive capacity) in response to an attempt by suppliers to raise prices or reduce output or quality ('near entrants').**

**16.5.1** Please see the response to question 28 below.

**16.6 Estimate the productive capacity that such near entrants potentially could bring to the market.**

**16.6.1** Please see the response to question 28 below.

**16.7 Please indicate the extent to which imports provide a constraint on domestic suppliers. What costs are incurred by importers that are not incurred by domestic suppliers? How sensitive is the domestic price of imports to changes in the New Zealand dollar exchange rate?**

**16.7.1** Typically most electrical products that are used in New Zealand are imported. However, this impacts at a higher functional level of the market than the supply level at which Redeal and Egley operate.



**16.7.2** As a result, Redeal agrees with the Commission's conclusion in Decision No. 444 that imports are not relevant at the supply level of the market (para. 142).

**16.7.3** An exception to this is in the power utilities and telecommunications segments of the market where some large end users such as **[CONFIDENTIAL]** import their own goods directly (or deal direct with New Zealand-based importers/manufacturers of electrical products), and in some cases even resell them to competitors which purchase on the basis of price.

**16.8 To what extent is the product exported?**

**16.8.1** Redeal does export a limited amount of electrical products to Fiji and the Pacific Islands. However the amount is minimal. Redeal is not aware of Egley exporting electrical products.

**16.9 Please indicate whether the 'target company' could be described as a vigorous and effective competitor, taking into account its pricing behaviour, its record of innovation, its growth rate relative to the market, and its history of independent behaviour.**

**16.9.1 [CONFIDENTIAL]**

**Conditions of Expansion**

**17. The following listing gives different types of market conditions that may affect the ability of existing firms to expand:**

- **Frontier entry conditions**  
eg tariffs, quarantine requirements, international freight costs.
- **Legislative/regulatory conditions**  
eg meat licensing, Resource Management Act requirements, health and safety standards.
- **Industrial/business**  
eg access to raw materials, critical inputs, economies of scale, access to technical knowledge requirements, capital requirements (and capital market's perception of the risk and return), sunk costs (ie irrecoverable or exit costs), influence of branding and sales promotion, technical specifications.
- **Other**  
eg responses to expansion by major firms; lack of additional productive capacity; additional productive capacity has a relatively high cost.

**Which, if any, of the conditions identified above do you consider would be likely to act as a barrier to the expansion of existing competitors, where**

they have the incentive to do so in response to a sustained effort by the combined entity to raise price, or to lower service or product quality?

Please provide evidence, where available, of expansion by existing competitors in the relevant markets during the past five years.

- 17.1 There are a low level of constraints affecting the ability of existing firms to expand. Redeal does not consider that the conditions identified above would be likely to act as a barrier to the expansion of existing competitors.
- 17.2 The following factors are relevant when considering the low barriers to expansion:
- 17.2.1 **Low Regulatory Barriers:** There are no significant regulatory barriers to expansion in the market. All electrical products of a particular type are supplied in compliance with a common Australasian Standard. Electrical products manufactured outside New Zealand typically comply with this standard in any event.
- 17.2.2 **Low Cost of Expansion:** In order for an existing market participant to expand its presence in the market, it is just necessary for them to open a further shop and hire staff. Such expansion is inexpensive. It would require the lease of suitable premises, employment of three or more suitable staff, and investment of around \$250,000-\$400,000 in stock.
- 17.2.3 **Absence of Supply Constraints:** There are numerous importers/manufacturers of electrical products who are able to supply wholesalers, provided those wholesalers satisfy normal credit controls. As a result, supply constraints do not exist.
- 17.3 In support of this point that there are low barriers to expansion for existing market participants, the Applicant refers to the following examples of expansion by market participants since 2000:
- 17.3.1 Advance Electrical Wholesalers opened a new branch in Petone in 2002. It has invested in expanding its Wellington branches in recent years.
- 17.3.2 Egley established a new related company in Petone in 2001.
- 17.4 Apart from these companies, there has also been expansion by participants in the wider New Zealand market. For instance, in Decision No. 444, the Commission noted that at that time JA Russell was the largest member of Powerbase. It only had 21 branches then, all of which were situated in the North Island from Taupo North (para. 15). That company's website ([www.jarussell.co.nz](http://www.jarussell.co.nz)) now records that it has 53 branches (17 of which are in the South Island). As a result, it has clearly expanded significantly since December 2001 when the Commission's Decision was released (Redeal understands much of the South Island growth has taken place through acquisition of fellow Powerbase members).

18. Please name any business which already supplies the market – including overseas firms – which you consider could increase supply of the product concerned in the geographic market by any of the following means:

- diverting production into the market (e.g. from exports)
- increasing utilisation of existing capacity
- expansion of existing capacity.

**Specify in each case which of the above three points applies.**

**18.1** The Applicant refers to its response to question 17 on this issue. It believes that all existing competitors which already supply the Wellington/Wairarapa regional market are capable of increasing supply by expansion of existing capacity.

**18.2** Redeal believes that both Crane and Advance could increase supply to the marketplace relatively quickly as they would have existing capacity to do so. Redeal believes both these companies could achieve increased supply in days/weeks if they could generate the customer demand.

**19. Of the conditions of expansion listed above, which do you consider would influence the business decision in each case to increase supply?**

**19.1** The Applicant refers the Commission to its response to question 17.

**20. How long would you expect it to take for supply to increase in each case?**

**20.1** Redeal believes that expansion could take place rapidly and certainly in less than the one year timeframe referred to in the Commission's Guidelines (more likely days/weeks). For further detail, please refer to the response to question 18.

**21. In your opinion, to what extent would the possible competitive response of existing suppliers constrain the merged entity?**

**21.1** The Applicant refers the Commission to its responses in questions 16 to 20 above and 22 below.

**22. Looked at overall, and bearing in mind the increase in market concentration that would be brought about by the acquisition, to what extent do you consider that the merged entity would be constrained in its actions by the conduct of existing competitors in the markets affected?**

**22.1** In Decision No. 444, the Commission noted that:

**22.1.1** *"Participants at all levels of the electrical products industry advised the Commission that the electrical products market is highly competitive. In addition it was the general view of market participants that New Zealand has an excess of suppliers. By comparison, they noted that Australia has half the ratio of electrical product suppliers to electrical contractors as New Zealand" (para. 139).*

**22.1.2** *"All electrical industry participants interviewed consider the electrical products markets to be highly competitive due to the high ratio of suppliers to contractors, and as such, consider the merged entity would have very limited ability to increase prices"* (para. 152).

**22.2** This led the Commission to conclude that *"The merged entity will be constrained by current competition"* (para. 153).

**22.3** Redeal considers that the merged entity would still be significantly constrained in its actions by the conduct of existing competitors in the Wellington/Wairarapa market for the supply of electrical products. In particular:

**22.3.1** It would still face significant competition from two large competitors in the form of Advance Electrical and Crane. Advance Electrical, at **[CONFIDENTIAL]** market share, would have equivalent market share to Redeal/Egley at **[CONFIDENTIAL]**. Crane would still be a substantial third player in the market at **[CONFIDENTIAL]**.

**22.3.2** Volume of sales by wholesalers is price sensitive with a large proportion of the market being driven by tender pricing. Should Redeal lift its prices post-acquisition, it believes it would miss out on a very large proportion of the available business. Since the suppliers all supply the same types of products, the customer has a wide choice on which suppliers it purchases from.

**22.3.3** Evidence of these points can be seen in the fact that **[CONFIDENTIAL]** in this market as is evident in **Appendix III**.

**22.3.4** It would face constraints from other market participants which, while having smaller market share, remain vertically integrated at the importation/manufacturing level as noted above, and therefore have greater influence in the market than their market share would indicate.

**22.3.5** Existing market participants have the ability to increase capacity. As noted above, there are numerous importers/manufacturers of electrical products who are able to supply wholesalers provided those wholesalers satisfy normal credit controls. As a result, supply constraints do not exist.

**22.3.6** There are low barriers to entry or expansion into the market.

**Coordinated Market Power**

**23. Identify the various characteristics of the market that, post-acquisition, you consider would either facilitate or impede coordination effects.**

**23.1** As noted above, following the proposed acquisition there will be an increase in market concentration. However the Applicant believes that the following market conditions exist which render coordination unlikely:

Factors Conducive to Collusion	Presence of Factors in the Market
--------------------------------	-----------------------------------

High Seller Concentration	No - the 3 firm concentration in the Wellington/Wairarapa region is inside the prescribed safe harbours
Undifferentiated product	Yes – the range of products supplied to the market is largely undifferentiated
New entry slow	No – entry can be effected relatively quickly
Lack of fringe competitors	No – there are a number of fringe competitors with the ability to quickly expand supply given the necessary incentive
Price inelastic demand curve	No – demand for electrical products is reasonably elastic
Industry's poor competition record	Not to date
Presence of excess capacity	Excess capacity is not relevant in this instance
Presence of industry associations/fora	Yes – but with limited influence <sup>2</sup>

**24. Identify the various characteristics of the market that, post-acquisition, you consider would facilitate or impede the monitoring and enforcement of coordinated behaviour by market participants.**

- 24.1** The Applicant considers that, because collusion is unlikely at the supply functional level, it is not strictly necessary to address monitoring and enforcement. However the Applicant would be happy to provide further details on this if required.

**25. Indicate whether the markets identified in paragraph 9 above show any evidence of price co-ordination, price matching or price following by market participation.**

- 25.1** The Applicant is not aware of price co-ordination, price matching or price following by any market participant.

<sup>2</sup> As noted by the Commission in Decision No. 444, there is limited ability to influence the industry through membership of industry bodies (para. 141). Electrical supply industry participants are limited to Associate Member status of the Electrical Contractors Association of New Zealand ("ECANZ"). This means that they do not have any voting rights and can only attend ECANZ meetings and functions.

**26. Please state the reasons why, in your opinion, the transaction will not increase the risk of co-ordinated behaviour in the relevant market(s).**

**26.1** The Applicant refers the Commission to its response to question 23.

**26.2** In Decision No. 444 , the Commission was satisfied that "*the potential for collusion in the electrical products market post-acquisition is minimal*" (para. 154) and "*the scope for the exercise of co-ordinated market power in the electrical products markets would not be enhanced by the acquisition*" (para. 155). Redeal submits that this applies equally to the present application.

## PART IV: CONSTRAINTS ON MARKET POWER BY POTENTIAL COMPETITION

### Conditions of Entry

27. The following listing gives different types of market conditions that may affect the ability of new firms to enter the market:

- **Frontier entry conditions**  
eg tariffs, import licensing, quarantine requirements.
- **Legislative/regulatory conditions**  
eg meat licensing, Resource Management Act requirements, health and safety standards.
- **Industrial/business**  
eg access to raw materials, critical inputs, economies of scale, access to technical knowledge requirements, capital requirements (and capital market's perception of the risk and return), sunk costs ie irrecoverable or exit costs (eg because of plant specificity), influence of branding, technical specifications.
- **Other**  
eg responses to expansion by major firms.

Which, if any, of the conditions identified above do you consider would be likely to act as a barrier to entry of new competitors, where they otherwise would have the incentive to do so in response to a sustained effort by the combined entity to raise price, or to lower service or product quality?

27.1 In Decision No. 444 the Commission noted that:

"A new entrant would face few barriers to entering the electrical products markets. The applicant submits that establishing a physical presence requires minimal expense. The Applicant contends that an outlet stocking electrical products would require \$[ ] to commence operations, and can be staffed with as little as [ ] people. Industry participants interviewed confirmed that entry into the electrical products markets would require minimal outlay. A new entrant might require small commercial premises, however market participants advised the Commission that in the past, some new entrants have commenced operations from their own garage."  
(para. 158)

27.2 Redeal considers this definitely remains the case for the Wellington/Wairarapa market. It does not consider that the conditions identified in the question above would be likely to act as a barrier to the entry of new competitors. As noted above in the response to question 17, the following factors are relevant:

**27.2.1 Low Regulatory Barriers:** There are low regulatory barriers to entry into the market. All electrical products of a particular type are supplied in compliance with a common Australasian Standard. Electrical products manufactured outside New Zealand typically comply with this standard in any event.

**27.2.2 Low Cost of Entry:** If a new entrant has the staff and premises, in order to enter the market it is just necessary for them to open a shop and recruit staff. Such entry is inexpensive. It would require the lease of suitable premises, employment of three or

more suitable staff, and investment of around \$250,000-\$400,000 in stock.

**27.2.3 Absence of Supply Constraints:** There are numerous importers/manufacturers of electrical products who are able to supply new entrant wholesalers provided those wholesalers satisfy normal credit controls. As a result, supply constraints do not exist.

**28. Please name any businesses (including overseas businesses) which do not currently supply the market but which you consider could supply the relevant market(s) by:**

- **investing in new production facilities to produce the product;**
- **overseas companies diverting production to New Zealand;**
- **domestic companies expanding, or changing the utilisation of, existing capacity to produce the relevant products (where this would involve substantial new investment)**

**Specify for each named business which of the above three might apply.**

**28.1** There are a number of companies which do not currently supply the Wellington/Wairarapa market, but which Red Deal considers could do so.

**28.2** [CONFIDENTIAL]

**28.3** [CONFIDENTIAL]

**28.4** [CONFIDENTIAL]

**28.5** [CONFIDENTIAL]

**28.6** [CONFIDENTIAL]

**28.7** [CONFIDENTIAL]

**28.8** [CONFIDENTIAL]

**28.9** Apart from these companies, in Decision No. 444 the Commission noted that current competitors in the electrical products market had advised the Commission that there was a very real threat of new entry to localised areas from electrical tradespeople (para. 162). This has been the case historically and remains the case.

**28.10** In addition, the applicant submitted in Decision No. 444 that hardware stores could quickly secure a significant share of the electrical products market in response to the necessary incentive (para. 163). Again, this has been the case historically and remains the case.



**29. What conditions of entry do you consider would most influence the business decisions to enter in each case?**

- 29.1** The Applicant does not believe there are any significant barriers to entry which would influence the business decision of any new entrant to enter. In the absence of any material conditions of entry, Redeal considers that price would be the ultimate determinant of new entry. Please refer to the response to question 27 for more information.

**Likelihood, Sufficiency and Timeliness of Entry****30. How long would you expect it to take for entry to occur, and for market supply to increase, in respect of each of the potential business entrants named above?**

- 30.1** The Applicant believes new entry could occur well within a one year timeframe. Usually the speed of set-up is limited only by identifying suitable premises and staff. Typically this could be achieved in a matter of weeks or months.

- 30.2** This is supported by the Commission's findings in Decision No. 444. It found there that:

"A new entrant could enter the electrical products market quickly and with relative ease. Supply from New Zealand sources is readily available and there appears to be no exclusive supply arrangements between wholesalers/importers and the distributors of electrical products. Small-scale entry could be effected in fewer than three months with the implementation of a physical store." (para. 166)

**31. Given the assessed entry conditions, and the costs that these might impose upon an entrant, is it likely that a potential entrant would consider entry profitable at pre-acquisition prices?**

- 31.1** As already noted, Redeal believes the existing Wellington/Wairarapa market is highly competitive. Whether a potential entrant would consider entry profitable at pre-acquisition prices would depend on their own cost structure. That said, Redeal does not consider that the present acquisition would impact on the profitability of entry in future.

**32. Would the threat of entry be at a level and spread of sales that it is likely to cause market participants to react in a significant manner?**

- 32.1** The Applicant believes that the threat of new entry, as discussed in the response to question 28, means that it is likely to cause a significant reaction among existing participants.

**33. What conditions of entry do you consider would influence the business decision to enter the market by setting up from scratch, ie de novo entry?**

**33.1** The Applicant refers the Commission to its response at question 27. Price, being an indicator of margin, is likely to be the most important factor in a decision to enter.

**34. How long would you expect it to take for de novo entry to occur?**

**34.1** Please refer to the response to question 30.

**35. In your opinion, to what extent would the possibility of de novo entry constrain the merged entity?**

**35.1** The Applicant considers that the threat of de novo entry raised by the low entry barriers would provide a significant constraint on the ability of the merged entity to price above competitive levels.

**PART V: OTHER POTENTIAL CONSTRAINTS****Constraints on Market Power by the Conduct of Suppliers****36. Who would be the suppliers of goods or services to the merged entity in each market identified in questions 11 and/or 14?**

- 36.1** The current main suppliers of the primary electrical products to Redeal are set out below (there are of course other suppliers, and Redeal would be willing to provide the Commission with their details if that would assist):

**Lighting Suppliers**

Philips  
Thorn  
Pierlite

**Plastics Suppliers**

Schneider  
HPM

**Cable Suppliers**

General Cable  
Prysmian  
Olex

- 36.2** Redeal considers that these suppliers would continue to supply raw materials to the merged entity post-acquisition.

**37. Who owns them?**

All the above suppliers are overseas importers/manufacturers which sell into New Zealand using their own agents.

**38. In your opinion, to what extent would the conduct of suppliers of goods or services to the merged entity constrain the merged entity in each affected market?**

- 38.1** Redeal considers that the suppliers of goods to the merged entity would constrain that entity in the Wellington/Wairarapa market to the extent that such suppliers compete directly with it at the supply level of the market (as noted above).
- 38.2** Apart from this, the suppliers would not exert a significant constraint on the merged entity in terms of pricing in that there are a relatively large number of suppliers available, and it is possible for the wholesalers to switch between suppliers to obtain a competitive price. Equally this would remain true for other wholesalers in the market.

**Constraints on Market Power by the Conduct of Acquirers****39. Who would be the acquirers of goods or services supplied by the merged entity in each market identified in questions 11 and/or 14?**

**39.1** In Decision No. 444, the Commission noted that:

**39.1.1** *"Merchants such as Mico, MTL, and their competitors, typically provide ... electrical products to several types of customers. These include: tradesmen operating small businesses (one to four person operations), large ... electrical contracting firms; large industrials such as Carter Holt Harvey and Norske Skog that require such supplies for plant maintenance; and to a lesser extent, the "do it yourself" (DIY) customer" (para. 17).*

**39.1.2** *"Despite recent deregulation of the electrical installation industry, the supply of electrical products is predominantly to electrical tradesmen and contractors. Industry participants have suggested that this is largely due to an aversion on the part of DIY customers to involve themselves with electrical current" (para. 19).*

**39.2** Redeal submits that this remains the case. Its customers range in size from one man electricians to large customers such as **[CONFIDENTIAL]** and/or **[CONFIDENTIAL]** which have annual turnovers of **[CONFIDENTIAL]** each.

**39.3** Redeal's top 50 customers in the Wellington/Wairarapa region are set out in **Appendix IV** in descending order. Collectively these top 50 customers account for **[CONFIDENTIAL]** of Redeal's revenues from this region.

**39.4** Redeal does not currently have access to Egley's customer details. It would expect their listing to contain some overlap with its own, but also a stronger representation of the small to medium contractor base which is not so obvious in Redeal's own customer mix.

**39.5** Post-acquisition, Redeal would look to continue to supply these customers.

**40. Who owns them (where appropriate)?**

**40.1** Redeal does not consider that ownership issues relating to its customers are relevant for the purposes of this application. However, if the Commission considers it to be necessary, Redeal can provide this information at that stage.

**41. In your opinion to what extent would the conduct of acquirers of goods or services to the merged entity constrain the merged entity in each affected market? How would this happen?**

**41.1** The Applicant believes that acquirers have a significant degree of countervailing power.

- 41.2** The Applicant believes that acquirers provide a significant competitive constraint on market participants since:
- 41.2.1** Customers rarely give loyalty to a single wholesaler. Instead they usually maintain accounts with multiple suppliers and will shop for competing quotations. This is particularly the case with medium to large contractors who will typically tender work to multiple wholesalers to secure the best price ([CONFIDENTIAL]). It also applies to smaller contractors who do so to continually test the market for the best price.
  - 41.2.2** Further evidence of this can be seen in independent market research commissioned by Redeal from Conversa Global in October 2006. While this research related to the Auckland/Waikato supply markets, it concluded that the majority of contractors maintain a relationship with more than one supplier and rarely give all of their spend to one party in order to ensure they obtain the most competitive pricing in the market. This reflects Redeal's experience of market conditions in the Wellington/Wairarapa region as well.
  - 41.2.3** Acquirers can switch suppliers easily and without significant cost.
  - 41.2.4** The size of the merchant chains such as Bunnings, Placemakers and Mitre 10 means they have the ability and resources to import alternative electrical products from overseas should New Zealand wholesalers of the products endeavour to raise prices unreasonably. Alternatively, they can take supply from New Zealand importers/manufacturers, and bypass the wholesalers in this manner. They are already doing this.
  - 41.2.5** Other evidence of customer power includes [CONFIDENTIAL] as is evident in **Appendix III**.

**THIS NOTICE** is given by **REDEAL LIMITED**

Redeal Limited hereby confirms that:

- all information specified by the Commission has been supplied;
- all information known to the Applicant which is relevant to the consideration of this application/notice has been supplied;
- all information supplied is correct as at the date of this application/notice.

Redeal Limited undertakes to advise the Commission immediately of any material change in circumstances relating to the application/notice.

Dated this                                      day of May 2008

Signed by Redeal Limited:

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Benoit Devictor  
Managing Director  
Redeal Limited

I am a director of Redeal Limited and am duly authorised to make this application/notice.

APPENDIX I

Corporate Structure – Redeal Limited

Rexel SA  
100%



Svenska Elgrossit AB Selga  
100%



Redeal Limited

**APPENDIX II**

**Market Shares for the Supply of Electrical Products in the Wellington/Wairarapa  
Region**

**[CONFIDENTIAL]**



APPENDIX III

Real Returns for Redeal

[CONFIDENTIAL]

**APPENDIX IV**

**Redeal's Top 50 Customers in the Wellington/Wairarapa Region**

**[CONFIDENTIAL]**