



COMMERCE COMMISSION

## Statement of Preliminary Issues

Sonoco / TTL Pacific

3 December 2010

11.4/12568

### INTRODUCTION

1. On 23 November 2010, the Commerce Commission received an application from Sonoco New Zealand Limited seeking clearance to acquire T.T.L Pacific Limited. The public version of the application can be accessed on the Commission's website at:

<http://www.comcom.govt.nz/assets/Uploads/Sonoco-TTL-Pacific-clearance-application-22-November-2010.PDF>

2. This Statement of Preliminary Issues outlines the key competition issues the Commission currently considers will be important in deciding whether or not to grant clearance. The issues highlighted in this statement are based on the information available at the time of publication, and may change as the Commission's assessment of the application for clearance progresses. Therefore, the issues highlighted in this Statement of Preliminary Issues are not binding on the Commission.
3. The Commission invites interested parties to make comment on the likely competitive effects of the proposed merger.

### RELEVANT PARTIES

#### **The Acquirer – Sonoco New Zealand Limited**

4. Sonoco New Zealand Limited (Sonoco) is the New Zealand subsidiary of Sonoco Products Limited, which is listed on the New York Stock Exchange. In New Zealand, Sonoco manufactures and supplies glued paper-based cores, tubes and packaging for:
  - cores around which products such as cling film, tapes, carpets, paper and newsprint are wound;
  - cylindrical packages for consumer products; and
  - construction formers for the manufacture of concrete pillars or ducts and other cavities in solid concrete.
5. Sonoco has three manufacturing plants in New Zealand, which are located in Auckland, Kawerau and Christchurch.

### **The Target – T.T.L Pacific Limited**

6. T.T.L Pacific Limited (TTL Pacific) is a privately owned company. It supplies a smaller range (to Sonoco) of glued paper cores and tubes. Its sole manufacturing plant is in Auckland.

### **ANALYTICAL FRAMEWORK**

7. In the context of an application for clearance, the Commission must consider whether or not an acquisition substantially lessens competition. The first step of the Commission's analytical framework<sup>1</sup> is to determine the relevant market or markets. To do this, the Commission identifies the areas of overlap between the acquirer and the target where aggregation of market share may arise from the proposed acquisition. The Commission then considers the relevant products and geographic regions that constitute close substitutes from both a customer's and a supplier's point of view.
8. The Commission uses a forward-looking type of analysis to assess the degree of any potential lessening of competition in the relevant market or markets arising from a proposed acquisition. Therefore, the next step is to establish the two hypothetical future scenarios:
- with the acquisition in question (the factual); and
  - in the absence of the acquisition (the counterfactual).

The impact of the acquisition on competition is then viewed as the prospective difference between those two scenarios.

9. The Commission analyses the extent of competition in each relevant market for both the factual and counterfactual scenarios, in terms of:
- existing competition - the degree to which existing competitors compete and their ability to expand production in the event that the combined entity raises prices;
  - potential competition – the ability of businesses to readily enter the market and thereafter expand, given an inducement to do so;
  - the countervailing market power of buyers - the potential for a business to be sufficiently constrained by purchasers' ability to exert an influence on price, quality and/or terms of supply; and
  - coordinated behaviour – whether the acquisition would enhance the ability of market participants to collude either tacitly or explicitly.
10. A comparison of the extent of competition in the relevant markets both with and without the acquisition enables the Commission to assess the degree by which the proposed acquisition may lessen competition. If the lessening is substantial the Commission may not give clearance to the proposed acquisition.

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<sup>1</sup> Commerce Commission, *Mergers and Acquisitions Guidelines*, January 2004.

## PRELIMINARY ISSUES

11. Of the factors outlined in the previous section, the Commission currently considers its focus will be on the following areas:

### Areas of Overlap – Market Definition

12. A key issue for the Commission to consider is whether glued paperboard tubes and cores are substitutable for plastic and/or metal tubes and cores such that all three types of tubes and cores might form part of the same relevant market.
13. Tubes and cores appear relatively expensive to transport. At present, TTL Pacific only supplies customers in the North Island and the majority of its customers appear to be based in Auckland. Also, Sonoco's Kawerau plant only supplies the large paper mills in the Bay of Plenty which are located in close proximity to this plant.
14. To this extent, the Commission will assess whether the market is national in geographic scope, whether there are discrete North and South Island markets and also whether there is a separate regional market in respect of supply from Sonoco's Kawerau plant.
15. Further, Sonoco submits that large customers are in a separate market due to their different purchasing habits and purchasing power. The Commission will consider whether separate customer dimensions exist for large and small customers.

### Existing Competition

16. At present, there are several small paperboard tube and core suppliers. Sonoco considers that these suppliers will continue to provide competitive constraint if the merger proceeds. However, Sonoco also considers that scale is critical to being price competitive in this industry. The Commission will consider the level of competitive constraint offered by these suppliers and the importance of scale.

### Potential Competition

17. Entry requirements such as acquiring the necessary equipment to manufacture paperboard tubes and cores do not appear particularly onerous. However, the Commission will consider whether small scale entry would be sufficient to constrain the merged entity, given that economies of scale seem to be important in this industry.

### Countervailing Power

18. The Commission will also assess whether customers would have any countervailing power post acquisition, either through the ability to self supply or through sponsoring a new entrant.

## NEXT STEPS

19. In line with the Commission's Merger and Acquisitions Clearance Process Guidelines (available on the Commission's website at [www.comcom.govt.nz](http://www.comcom.govt.nz)), the Commission has established a draft timeframe for consideration of these issues. An extension of time was agreed to by the Applicant such that the Commission should make its final decision by **24 December 2010**. However, also in line with the Merger and Acquisitions Clearance Process Guidelines, this timeframe could change. To keep abreast of possible changes in

relation to timing and to find relevant documents, visit the Clearance Public Register on the Commission's website at:

<http://www.comcom.govt.nz/clearances-register/>

20. As part of its investigation, the Commission will identify the parties it believes will provide the best information to help it assess the preliminary issues identified above. The Commission will be contacting those parties over the next few weeks.
21. The Commission also invites submissions from any other parties who consider they have information relevant to the Commission's consideration of this matter. If you wish to make a submission, please send it to the Registrar, at [registrar@comcom.govt.nz](mailto:registrar@comcom.govt.nz) with the reference Sonoco / TTL Pacific in the subject line of your email, or The Registrar, PO Box 2351, Wellington 6140 by **5pm on 10 December 2010**. Please clearly identify any confidential information contained in the submission and provide contact details.