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Project no. 11.08/0043542

David Ferrier / NZWD / CWH: investigation closure report

Date: 16 May 2019

Purpose

1. This report explains the reasons for the Commission's decision to close the section 47 of the Commerce Act 1986 (the Act) investigation into David Ferrier's acquisition, through Woolscour Holdings Limited, of 70% of the only wool scouring service provider in New Zealand, Cavalier Wool Holdings.

Background

Industry background¹

2. Wool merchants purchase greasy wool from farmers and sell it to domestic customers or export it. Wool merchants sell only clean wool domestically, while wool that is exported can be either clean or greasy. To sell clean wool, wool merchants need to scour the greasy wool they purchase from farmers.²
3. Wool that is exported greasy can be exported either dumped or packed.
 - 3.1 Dumping wool involves the use of hydraulic rams to compress the wool bales merchants purchase from farmers. Wool bales are dumped to get more wool into a shipping container thereby reducing shipping costs.
 - 3.2 By contrast, packing is exporting the original sized wool bales that the wool merchant purchased from the farmer.

Parties

4. New Zealand Wool Dumping Limited (NZWD) is the only wool dumping service provider in New Zealand. It is also the only provider of packing services to wool merchants. Prior to the acquisition it was 100% owned by David Ferrier.
5. Cavalier Wool Holdings (CWH) is the only wool scouring service provider in New Zealand and owns two wool scours, one in Hawke's Bay and another in Timaru.

The acquisition

6. On 28 September 2018, David Ferrier, advised us that, through Woolscour Holdings Limited, he had purchased 70% of CWH (the acquisition). Mr Ferrier also informed the Commission of his intention to sell down his interest in NZWD and its associated entities, T P Bands Limited and 50% of Southern Woolpacks Limited (together the New Zealand Wool Dumping Group or NZWDG).

The investigation

7. Following initial enquiries, on 17 October 2018 we opened an investigation under section 47 of the Act.

¹ For more information please refer to the Commission's Decision 725 *Cavalier Wool Holdings Limited and New Zealand Wool Services International Limited* (2011).

² Scouring involves cleaning the wool with chemicals and water to remove greasy, dirt and other substance from the wool and then drying it. Scouring is a service provided by the scourer, ownership of the wool remains with the wool merchant throughout the scouring process.

8. The focus of the investigation was to establish whether David Ferrier would have the ability and incentive to increase the price of the wool dumping services. While we considered that wool dumping and wool scouring are likely to be in discrete markets, we were mindful that for the majority of customers wool dumping and wool scouring services are the best alternative methods for exporting wool.
9. As the sole supplier of wool dumping services, David Ferrier likely already had the ability to raise the wool dumping price. However, the acquisition may have also given him the incentive to raise the wool dumping price. David Ferrier may have had the incentive to raise the price of wool dumping if:
 - 9.1 customers would switch to scouring wool rather than wool packing with an increase in the price of wool dumping; and
 - 9.2 the wool scouring margin is higher than wool dumping margin.
10. For many customers wool packing does not pose a constraint on dumping prices, so customers would be more likely switch to scouring with an increase in the price of wool dumping. As CWH is the sole supplier of scouring services, it would recapture all the dumping sales diverted to the scour. Therefore, David Ferrier may have had the incentive to increase the wool dumping price as he would recapture most of the lost wool dumping sales through wool scouring.³
11. We considered that there may be a substantial lessening of competition resulting from David Ferrier's acquisition of 70% of CWH. However, we did not fully assess David Ferrier's incentive to increase the price of dumping, as David Ferrier offered a divestment. The divestment would reduce David Ferrier's interest in NZWDG to a level where he no longer had a substantial degree of influence in the company.
12. On 29 April 2019, David Ferrier sold his majority interest in NZWDG. We consider that this divestment removed David Ferrier's ability and incentive to raise the price of wool dumping services and therefore resolves our competition concerns.

Outcome

13. We consider that the acquisition may have been a breach of section 47 of the Act. However, we consider there has unlikely to have been any harm caused by the acquisition, and we consider that the divestment has resolved our competition concerns. Accordingly, the Commission has decided to close its investigation and take no further action.

Dr Mark Berry

Chair

³ David Ferrier only owns 70% of CWH.