

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

Date: 11 June 2004

The Registrar
Business Acquisitions and Authorisations
Commerce Commission
P O Box 2351
WELLINGTON

Pursuant to s 66(1) of the Commerce Act 1986 notice is hereby given seeking **clearance** of a proposed business acquisition.

PART I: TRANSACTION DETAILS

1. The business acquisition for which clearance is sought:

- 1.1 The business acquisition for which clearance is sought by VisyPET (NZ) Limited ("**VisyPak**") is the acquisition by VisyPak of some or all of the two-stage PET manufacturing assets and related business contracts of Visy Industrial Plastics (NZ) Limited ("**VIP**") from VIP.
- 1.2 VisyPak has not yet entered into any agreement or understanding with VIP relating to the proposed acquisition.
- 1.3 On 23 March 2004 VIP lodged a clearance application in relation to the acquisition of certain assets from ACI Operations NZ Limited ("**VIP Application**"). VisyPak understands that the Commission granted a clearance on 26 May 2004 ("**Decision 524**") on the basis that the Commission considered that:
- (a) VIP and VisyPak were associated; and
 - (b) the on-sale of the assets being acquired in that acquisition from VIP to VisyPak formed part of the factual.
- 1.4 However, as at the date of this application, Decision 524 has not yet been released.

THE PERSON GIVING NOTICE

2. Who is the person giving this notice?

2.1 This notice is given by VisyPET (NZ) Limited:

c/- Visy Industries Australia Pty Ltd
533 Little Lonsdale Street, Level 2
Melbourne
Victoria, 3000
AUSTRALIA

Attention: Robert Kaye
Telephone: +61 3 9247 4726
Facsimile: +61 3 9247 4727
Email: robert.kaye@visy.com.au

2.2 All correspondence and notices in respect of this application should directed in the first instance to:

Russell McVeagh
Level 24
Mobil on the Park
157 Lambton Quay
WELLINGTON

Attention: Nicola Purvis
Telephone: 04 495 7750
Facsimile: 04 495 7579
Email: nicola.purvis@russellmcveagh.com

CONFIDENTIALITY

3. Do you wish to request a confidentiality order for:

3.1 **The fact of the proposed acquisition?**

No.

3.2 **Specific information contained in or attached to the notice?**

No.

DETAILS OF THE PARTICIPANTS

4. Who are the participants (ie the parties involved)?

The Acquirer

- 4.1 VisyPET (NZ) Limited
c/- Visy Industries Australia Pty Ltd
533 Little Lonsdale Street, Level 2
Melbourne
Victoria, 3000
AUSTRALIA

Attention: Robert Kaye
Telephone: +61 3 9247 4726
Facsimile: +61 3 9247 4727
Email: robert.kaye@visy.com.au

The Owner of the Business

- 4.2 Visy Industrial Plastics (NZ) Limited
c/- Visy Industrial Packaging Holdings Pty Limited
Corporate Head Office
Level 17, 644 Chapel St
South Yarra
Victoria
AUSTRALIA 3141

Attention: Brian Cridland, Chief Executive Officer
Telephone: +61 3 9815 8400
Facsimile: +61 3 9815 8388
Email: brian.cridland@visy.com.au

- 4.3 All correspondence and notices in respect of this application should be directed in the first instance to:

Russell McVeagh
Level 24
Mobil on the Park
157 Lambton Quay
WELLINGTON

Attention: Nicola Purvis
Telephone: 04 495 7750
Facsimile: 04 495 7579
Email: nicola.purvis@russellmcveagh.com

5. Who is interconnected to or associated with each participant?

Acquirer

- 5.1 VisyPET (NZ) Limited is a New Zealand registered company, wholly owned by Visy Rigid Holdings (NZ) Limited.

- 5.2 Visy Rigid Holdings (NZ) Limited is also the sole owner of Visy Rigid Packaging (NZ) Limited. VisyPET (NZ) Limited and Visy Rigid Packaging (NZ) Limited both trade as "VisyPak".
- 5.3 Visy Rigid Holdings (NZ) Limited is a member of a group of companies which are ultimately owned by Pratt Holdings Pty Ltd ("**Visy Group**").
- 5.4 Relevant companies in the Visy Group are set out in Appendix C of the VIP Application.

Owner of the Business

- 5.5 VIP is a New Zealand registered company, wholly owned by Visy Industrial Holdings (NZ) Limited.
- 5.6 Visy Industrial Holdings (NZ) Limited is also the sole owner of Visy Industrial Products (NZ) Limited.
- 5.7 Visy Industrial Holdings (NZ) Limited is a New Zealand registered company, wholly owned by an Australian registered company, Visy Industrial Packaging Holdings Pty Ltd.
- 5.8 Visy Industrial Packaging Holdings Pty Ltd is owned by Salvage Pty Ltd.
- 5.9 Relevant companies interconnected with VIP ("**VIP Group**") are set out in Appendix C of the VIP Application.

Associated Persons

- 5.10 VisyPak understands that in Decision 524 the Commission concluded that VIP and VisyPak were associated persons.

<p>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?</p>

- 6.1 Neither participant, nor any interconnected body thereof, has a beneficial interest in, or is beneficially entitled to, any shares or other pecuniary interest in any other participant, other than as set out above and in the VIP Application.

- 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.**
- 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? Please provide details of:**
- Directors' names;
 - The other companies;
 - The markets involved
- 9. What are the business activities of each participant?**
- Please include a summary of all the business activities of each participant including all interconnected bodies corporate thereof and any other business identified in question 5. (note the comments on relevancy in paragraph 5 above. It is sufficient to refer in general terms to activities in which there will be no aggregation.)**

- 9.1 The links between the participants, the overlapping directorships that exist, and the business activities of each participant are set out in paragraphs 5.5 to 5.11 of the VIP Application, and in the subsequent correspondence between the participants and the Commission, in relation to that application.

- 10. What are the reasons for the proposal and the intentions in respect of the acquired or merged business?**

- 10.1 VisyPak wishes to explore the acquisition in order to grow its business.

PARTS II, III, IV, V

For the reasons given in paragraphs 1.3, and on the basis of Decision 524, VisyPak does not consider it necessary to answer the questions in Parts II to V.

THIS NOTICE is given by VisyPET (NZ) Limited ("**VisyPak**").

I, Robert Kaye, of Visy Industries Australia Pty Ltd, am authorised to make this application on VisyPak's behalf.

VisyPak hereby confirms that:

- (a) all information specified by the Commission has been supplied;
- (b) all information known to the applicant which is relevant to the consideration of this application has been supplied;
- (c) all information supplied is correct as at the date of this application.

VisyPak undertakes to advise the Commission immediately of any material change in circumstances to the application.

Dated 11 June 2004

Signed by **VisyPak**:

Robert Kaye
General Counsel
Visy Industries Australia Pty Ltd