Public Version
ISSN NO: 0114-2720
J6824

COMMERCE COMMISSION

Decision No. 538

Determination pursuant to the Commerce Act 1986 in the matter of an application for clearance of a business acquisition involving:

B&D DOORS NEW ZEALAND LIMITED

and

DOMINATOR INTERNATIONAL LIMITED

The Commission: David Caygill
Donal Curtin
Denese Bates QC

Summary of Application: The acquisition by B&D Doors (New Zealand) Limited of 100% of the shares in Dominator International Limited

Determination: Pursuant to section 66(3)(a) of the Commerce Act 1986, the Commission determines to give clearance to the proposed acquisition.

Date of Determination: 12 November 2004

CONFIDENTIAL MATERIAL IN THIS REPORT IS CONTAINED IN SQUARE BRACKETS

TABLE OF CONTENTS

THE PROPOSAL

1. A notice pursuant to s 66(1) of the Commerce Act 1986 (the Act) was registered on 12 October 2004. The notice sought clearance for the acquisition by B&D Doors (New Zealand) Limited of 100% of the shares in Dominator International Limited.

PROCEDURE

2. Section 66(3) of the Act requires the Commission either to clear or to decline to clear a notice under s 66(1) within 10 working days, unless the Commission and the person who gave notice agree to a longer period. An extension of time was agreed between the Commission and the Applicant. Accordingly, a decision on the Application was required by 12 November 2004.
3. The Applicant sought confidentiality for specific aspects of the Application. A confidentiality order was made in respect of the information for up to 20 working days from the Commission's determination notice. When that order expires, the provisions of the Official Information Act 1982 will apply.
4. The Commission's approach to analysing this proposed acquisition is based on principles set out in the Commission's Merger and Acquisition Guidelines.[1]

STATUTORY FRAMEWORK

5. Under s 66 of the Act, the Commission may grant clearances for acquisitions where it is satisfied that the proposed acquisition would not have, or would not be likely to have, the effect of substantially lessening competition in a market. The standard of proof that the Commission must apply in making its determination is the civil standard of the balance of probabilities.[2]
6. The Commission considers that it is necessary to identify a real lessening of competition that is not minimal.[3] Competition must be lessened in a considerable and sustainable way. For the purposes of its analysis, the Commission is of the view that a lessening of competition and the creation, enhancement or facilitation of the exercise of market power may be taken as being equivalent.
7. When the impact of market power is expected to be predominantly upon price, for the lessening, or likely lessening, of competition to be regarded as substantial, the anticipated price increase relative to what would otherwise have occurred in the market has to be both material, and able to be sustained for a period of at least two years.
8. Similarly, when the impact of market power is felt in terms of the non-price dimensions of competition such as reduced service, quality or innovation, for there to be a substantial lessening, or likely substantial lessening, of competition, these also have to be both material and sustainable for at least two years.

---

[1] Commerce Commission, *Mergers and Acquisition Guidelines*, January 2004.
[2] Foodstuffs (Wellington) Cooperative Society Limited v Commerce Commission (1992) 4 TCLR 713-722.
[3] See Fisher & Paykel Limited v Commerce Commission (1996) 2 NZLR 731, 758 and also Port Nelson Limited v Commerce Commission (1996) 3 NZLR 554.

ANALYTICAL FRAMEWORK

9. The Commission applies a consistent analytical framework to all its clearance decisions. The first step the Commission takes is to determine the relevant market or markets. As acquisitions considered under s 66 are prospective, the Commission uses a forward-looking type of analysis to assess whether a lessening of competition is likely in the defined market(s). Hence, an important subsequent step is to establish the appropriate hypothetical future with and without scenarios, defined as the situations expected:

   - with the acquisition in question (the factual); and
   - in the absence of the acquisition (the counterfactual).

10. The impact of the acquisition on competition is then viewed as the prospective difference in the extent of competition in the market between those two scenarios. The Commission analyses the extent of competition in each relevant market for both the factual and the counterfactual scenarios, in terms of:

    - existing competition;
    - potential competition; and
    - other competition factors, such as the countervailing market power of buyers or suppliers.

THE PARTIES

B&D Doors (New Zealand) Limited (B&D)

11. B&D is a manufacturer and supplier of garage doors under the brand names B&D and Garador and a supplier of garage door openers manufactured by Automatic Technology Australia Pty Ltd (ATA), an Australian company owned by B&D, in New Zealand.

12. B&D sells its sectional and roller garage doors and openers and tilt door fittings to approximately 50 Garador dealers throughout New Zealand. It owns a dealer in Auckland. B&D also sells to merchant and hardware stores.

13. B&D also sells directly to manufacturers of kitset buildings such as Ideal, Versatile and Skyline, to two housing companies in Auckland and to a national builder - Jennian Holdings.

Dominator International Limited (Dominator)

14. Dominator is a manufacturer and supplier of garage doors and garage door openers in New Zealand under the brand name Dominator. Dominator sells both garage doors and garage door openers in every region of New Zealand.

15. Dominator sells to 40 distributors throughout New Zealand which include garage door dealers and manufacturers of kitset garages such as Versatile. It has binding exclusive contracts with all these distributors [ ] Dominator also sells to merchant and hardware stores.

16. Dominator has entered into agreements with national builders whereby it sets the price and other details but the doors and openers are supplied by Dominator dealers.

17. Dominator also exports sectional doors and openers amounting to approximately [ ] of its production to South Africa, the Middle East, Ireland, New Caledonia, Fiji, Sri Lanka and Australia.

Other Relevant Parties

Garage Door and Opener Manufacturers

<u>Windsor Doors (Windsor)</u>

18. Windsor has a manufacturing plant in Auckland and also owns a manufacturing plant in Perth. It manufactures and supplies primarily sectional doors and some tilt doors. It also supplies roller doors which it purchases from Roller Doors Northern (RDN). Windsor imports door openers from Taiwan.

19. Windsor wholesales garage doors and openers to garage door dealers and retails direct to builders and through two dealerships it owns – Door 2000 in Auckland and Hamilton Garage Doors.

20. Windsor had a total turnover of approximately [ ] in the last financial year.

<u>Victor Industries Ltd (Victor)</u>

21. Victor has a manufacturing plant in Pukekohe. It manufactures and supplies light industrial roller doors and tilt door fittings. It has a licence to import and distribute ATA openers.

22. Victor wholesales garage doors and openers primarily to garage door dealers including its own retail outlet, Doorworks in Papakura, as well as retailing roller doors. Doorworks also manufactures cedar sectional doors and tilt doors, using tilt door fittings supplied by its parent company.

<u>Roller Doors Northern (RDN)</u>

23. RDN manufactures roller doors for residential garages and light commercial buildings with the majority of its business being in doors for commercial property such as shop fronts, storage units and farm buildings. It also manufactures shutter doors for heavier industrial units.

24. RDN's annual turnover for roller doors is approximately [ ]. It distributes throughout New Zealand, primarily to garage door dealers with some doors being sold to merchants such as Mitre 10.

<u>JDC Doors Ltd (JDC)</u>

25. JDC manufactures sectional doors for residential garages. It sells to home builders and home owners direct in Auckland. In other parts of the country such as Hamilton, New Plymouth, Tauranga and Rotorua it sells to dealers. [ ]

26. JDC also purchases ATA motors from Victor and sells them as a package with their doors.

<u>Merlin Garage Door Openers Ltd (Merlin)</u>

27. Merlin is a New Zealand company with a manufacturing plant in Malaysia where it manufactures garage door openers. [ ] of the opener components are made in New Zealand and sent to Malaysia for assembly. Merlin exports from Malaysia to New Zealand, Australia and the UK.

28. Merlin supplies independent garage door dealers and merchants such as Mitre 10, Placemakers, Benchmark and Bunnings and supplies a small quantity of openers to Windsor.

29. Merlin owns two garage door dealers – Nightingale Garage Doors in Christchurch which sells Windsor doors, and Castle doors in Auckland which sells Windsor and B&D doors. Merlin had [ ] revenue in its last financial year from the sale of door openers, [ ] of which were garage door openers.

<u>Other Garage Door Manufacturers</u>

30. Ashton Garage Doors Ltd (Ashton) specialises in architectural custom made sectional garage doors including cedar, aluminium, copper and other designs for residential garages. [ ] of its business is retail to builders and developers in Auckland with the other [ ] being wholesale to other garage door companies in Wanaka, Wellington, Hamilton, Coromandel, Northland and New Plymouth.

31. Ashton also supplies roller doors it purchases from B&D ([ ] of its business) and tilt doors it manufactures using tilt hardware from B&D (approximately [ ] of its business). Its annual turnover is approximately [ ]

32. Glideaway Doors Ltd (Glideaway), which is based in Palmerston North, manufactures residential sectional doors which are mostly specialised doors such as corrugated iron and flush panel doors. It also manufactures commercial sectional and shutter doors and heavy duty slat roller doors.

33. Glideaway wholesales to dealers, and sells direct to builders such as Spectrum and Devon Homes and to home owners through its retail outlet in Palmerston North. Its annual turnover is [ ], [ ] of which comes from its residential sectional doors.

34. New Magnum Joinery (Magnum), which is based in Auckland, manufactures timber sectional doors and matching entrance doors and supplies them throughout New Zealand. It also exports to Australia.

Customers

35. The main customers of garage door and garage door opener manufacturers are national building companies such as GJ Gardner Homes (GJ Gardener), Jennian Holdings Ltd (Jennian), Signature Homes Ltd (Signature) and Stonewood Homes Ltd (Stonewood). Other key customers are kitset garage manufacturers, such as Ideal Garages Ltd (Ideal), Versatile Buildings Ltd (Versatile) and Skyline Buildings Ltd (Skyline). Both of these types of customers are supplied direct by the manufacturers.

36. The manufacturers also supply merchants such as Mitre 10, Benchmark, Placemakers and Bunnings and, as explained above, the manufacturers also sell to various garage door dealers throughout New Zealand.

37. Smaller building companies such as Fletcher Homes and Kingsley Homes, Kingdom Residential Housing Ltd (Kingdom), and Coastwood Homes (Lockwood houses) are supplied by garage door dealers.

INDUSTRY BACKGROUND

Garage Doors

38. There are four types of garage door: sectional, roller, tilt and shutter. Sectional and tilt doors are used primarily in residential buildings, shutter doors in industrial buildings, and roller doors are used in both domestic and industrial applications. Approximately 70% of all garage doors manufactured (excluding shutter doors) are sectional doors, 20% are roller doors and 10% are tilt doors.

39. In very general terms, all garage doors are made in a similar way, in that sheets of steel (usually Coloursteel) are pressed or formed into the appropriate shape and are then joined together to make a garage door to fit a garage. While there are some stock standard garage door sizes, the vast majority of doors in New Zealand are custom-built. All garage doors are manufactured to operate manually with garage door openers added according to the customer's requirements.

Tilt Doors

40. Sales of tilt garage doors have declined over the last few years but tilt garage doors continue to be particularly useful where there is limited headroom above the door opening in a garage. Tilt garage doors are usually between 2.25 and 3.0 metres high and up to 5.1 metres wide.

Roller Doors

41. Of the four types of garage doors, roller garage doors require the most headroom above the door opening in a garage but do not require much space down the side of the doors for arms or brackets. Because the door opens vertically, a vehicle can be parked immediately in front of the door without the risk of any outswing damage. Roller garage doors are usually between 2.2 and 3.0 metres high and up to 3.2 metres wide.

Sectional Doors

42. Sectional garage doors are the most secure and strong type of residential garage door available. While sectional garage doors require more headroom than tilt garage doors, they have the advantage of opening vertically (like roller garage doors). Sectional garage doors are usually 2.2 to 2.7 metres high and up to 6.0 metres wide.

43. Some garage door manufacturers also manufacture timber and other specialist sectional garage doors. Some garage door dealers also manufacture tilt doors and specialist sectional doors.

Shutter Doors

44. Shutter doors are heavy duty metal doors used for industrial purposes. Neither B&D nor Dominator manufacture shutter doors.

Garage Door Openers

45. Garage door openers (the machinery that opens and closes garage doors) have a slightly different construction depending on the type of door to which they are fitted, with one type used for sectional and tilt doors and another for roller doors. In spite of this difference in construction, all garage door openers feature the same core components, namely a motor and electronic circuitry. Typically, the different

types of garage door openers are made by the same manufacturers, in the same factory and using the same machinery and presses.

46. The majority of garage doors are sold together with garage door openers. However, some openers are sold separately e.g. for use with manually operated doors which are being automated.

MARKET DEFINITION

47. The Act defines a market as:

"… a market in New Zealand for goods or services as well as other goods or services that as a matter of fact and commercial common sense, are substitutable for them."[4]

48. For competition purposes, a market is defined to include all those suppliers, and all those buyers, between whom there is close competition, and to exclude all other suppliers and buyers. The focus is upon those goods or services that are close substitutes in the eyes of buyers, and upon those suppliers who produce, or could easily switch to produce, those goods or services. Within that broad approach, the Commission defines relevant markets in a way that best assists the analysis of the competitive impact of the acquisition under consideration, bearing in mind the need for a commonsense, pragmatic approach to market definition.[5]

49. For the purpose of competition analysis, the internationally accepted approach is to assume the relevant market is the smallest space within which a hypothetical, profit-maximising, sole supplier of a good or service, not constrained by the threat of entry would be able to impose at least a small yet significant and non-transitory increase in price, assuming all other terms of sale remain constant (the SSNIP test). The smallest space in which such market power may be exercised is defined in terms of the three dimensions of a market discussed below. The Commission generally considers a SSNIP to involve a five to ten percent increase in price that is sustained for a period of one year.

Product Market

50. Initially, markets are defined for each product supplied by two or more of the parties to an acquisition. For each initial market so defined, the Commission considers whether the imposition of a SSNIP would be likely to be profitable for the hypothetical monopolist. If it were, then all of the relevant substitutes must be incorporated in the market.

51. The greater the extent to which one good or service is substitutable for another, on either the demand-side or supply-side, the greater the likelihood that they are bought and supplied in the same market. The degree of demand-side substitutability is influenced by the extent of product differentiation.

52. Close substitute products on the demand-side are those between which at least a significant proportion of buyers would switch when given an incentive to do so by a small change in their relative prices.

---

[4] s 3(1) of the Commerce Act 1986.

[5] Australian Trade Practices Tribunal, *Re Queensland Co-operative Milling Association*, above note 10; *Telecom Corporation of NZ Ltd v Commerce Commission & Ors* (1991) 3 NZBLC 102,340 (reversed on other grounds).

53. Close substitute products on the supply-side are those between which suppliers can easily shift production, using largely unchanged production facilities and little or no additional investment in sunk costs, when they are given a profit incentive to do so by a small change to their relative prices.

54. The Applicant submitted that there are four relevant product markets – sectional garage doors, roller garage doors, tilt garage doors and garage door openers. It advised the Commission that there was a 4th type of garage door – shutter doors used for industrial purposes, but that this was not relevant to the acquisition as neither B&D nor Dominator supplied these doors.

55. The Applicant said that each door had distinct applications, price varied considerably between each type of door, that the manufacturing process varied significantly between each type, and that some types were not viewed by consumers as substitutes for others e.g. sectional doors are more desirable to residential customers than roller doors for aesthetic reasons.

56. The Applicant also noted that although there are two types of opener – one for roller doors and another for tilt and sectional doors, typically both types are made by the same factory using the same machinery.

Supply-side Substitution

57. B&D and Dominator both manufacture and supply sectional, roller and tilt doors and tilt fittings and Victor has done so in the past. Victor still manufactures and supplies roller and tilt doors, Windsor manufactures and supplies both sectional and tilt doors, and RDN manufactures and supplies roller and shutter doors. Glideaway manufactures and supplies specialist sectional doors and commercial sectional and shutter doors. JDC, Ashton, and Magnum manufacture only sectional doors but Ashton also supplies roller doors it purchases from B&D.

58. The Commission was advised that it would cost between $600,000 and $3 million, depending on the sophistication of the machinery and the degree of automation, to add machinery to manufacture sectional doors to an existing plant and approximately $200,000 to add roller door machinery. As discussed below, some companies advised that they would be prepared to make such an investment if the opportunity to enter the market arose.

59. The Commission is of the view that it is feasible for garage door manufacturers to manufacture all types of garage doors. Accordingly, the Commission considers that there is a reasonable degree of supply-side substitutability between all four types of garage doors.

60. Although one of the garage door manufacturers in New Zealand, Dominator, also manufactures garage door openers, all the others either import them or purchase them from Merlin. The Commission has been advised that although it would be possible for the door manufacturers to install the machinery to manufacture openers, it would not be economically feasible to do so because of the availability of cheap imports.

61. The Commission therefore considers that there is limited supply-side substitutability between garage doors and garage door openers.

Demand-side Substitutability

62. The views of industry participants as to whether the different types of garage doors were substitutable from the demand-side varied. National builders advised the Commission that they would only use sectional doors and would not use roller or tilt doors for residential buildings even if the price of sectional doors increased by a SSNIP. They said that sectional doors were superior to roller doors and tilt doors as they were quieter, stronger, more secure, reduced draughts and come in a greater choice of designs and finishes. They also pointed out that it was not practical to use a roller door for a double garage as the larger roller doors were not stable.

63. Kitset garage manufacturers, on the other hand, use tilt, roller and sectional doors for residential purposes. Ideal uses roller doors for [ ] of its garages and sectional doors for [ ]. Versatile uses tilt doors in [ ] of its residential buildings, roller doors in [ ] and sectional doors in [ ]. Skyline uses tilt doors in [ ] of its buildings, roller doors in [ ] and sectional doors in [ ] Skyline advised the Commission that it occasionally installed two roller doors in a double garage.

64. Industry participants advised the Commission that although mainly roller and shutter doors were used for commercial and industrial purposes there was some use of tilt and sectional doors.

65. Although the Applicant submitted that there were significant price differences between roller, tilt and sectional doors, the Commission found that several suppliers and retailers charged very similar, and in some cases identical, prices for roller and sectional doors, with tilt doors in some cases being cheaper and in some cases more expensive.

66. The Commission considers that although there is some differentiation between the different types of doors, there is a reasonable degree of demand-side substitutability between all four types of doors, and in particular between roller, sectional and tilt doors.

67. Garage doors and garage door openers clearly have different functions. Furthermore, although the majority of garage doors are sold as a package with door openers, many openers are also sold individually, particularly by merchants and hardware stores. Accordingly, the Commission considers that there is little demand-side substitutability between garage doors and garage door openers.

Conclusion on Product Markets

68. The Commission concludes that although there is some differentiation between the different types of garage doors, because of the supply-side and demand-side substitutability between the different types of doors, it is appropriate for the purposes of assessing the competition implications of the proposed acquisition, that there be one product market for garage doors.

69. The Commission also concludes that because of the limited supply-side and demand-side substitutability between garage doors and garage door openers, there is a separate product market for garage door openers.

Functional Markets

70. The production, distribution and sale of a product typically occurs through a series of functional levels, conventionally arranged vertically in descending order.

Generally, the Commission identifies separate relevant markets at each functional level affected by an acquisition, and assesses the impact of the acquisition on each.

71. All of the garage door manufacturers in New Zealand supply garage doors and openers to garage door dealers and to merchant and hardware stores.

72. The manufacturers also sell directly to national building companies and manufacturers of kitset garages. Although this supply could technically be considered as the retail supply of garage doors, the industry participants spoken to considered these sales as occurring at the same level as the sales to dealers and generally did not separate them out in the statistical analysis of sales. Furthermore, both types of sales would be affected in the same way post-acquisition and accordingly will be considered as belonging in the same functional market for the purposes of assessing the competition implications of the proposed acquisition.

73. Many manufacturers, including the Applicant, also own their own retail outlets and sell directly to homeowners. Dominator, however, does not own a retail outlet and does not sell directly to homeowners. Accordingly, there will be no aggregation in this market and it will therefore not be considered further.

74. The Commission is of the view that the relevant functional markets are:

- the manufacture and wholesale supply to retailers, and direct supply to national building companies and manufacturers of kitset garages, of garage doors; and
- the wholesale supply to retailers, and direct supply to national building companies and manufacturers of kitset garages, of garage door openers.

Geographic Markets

75. The Commission defines the geographic dimension of a market to include all of the relevant, spatially dispersed sources of supply to which buyers would turn should the prices of local sources of supply be raised.

76. The Applicant submitted that the geographic market for both garage doors and garage door openers is national because the majority of sales are made to dealers, distributors and garage manufacturers that operate on a national basis, manufacturers supply garage doors and openers throughout New Zealand, and the cost of freight is a small percentage of the cost of doors.

77. All industry participants spoken to agreed that the wholesale supply of garage doors to dealers is carried out on a national basis. They also explained that while smaller builders purchase garage doors regionally from garage door dealers, the supply of garage doors to larger builders that build houses throughout New Zealand is on a national basis. The supply to manufacturers of kitset garages is also on a national basis.

78. Although some of the smaller manufacturers concentrate on particular regions, all manufacturers supply doors to some degree throughout New Zealand. The supply of garage door openers is also national.

79. Accordingly the Commission concludes that the relevant markets are national.

Conclusion on Market Definition

80. The Commission concludes that the relevant markets are those for:

- the national manufacture and wholesale supply to retailers, and direct supply to national building companies and manufacturers of kitset garages, of garage doors (the garage door market); and
- the national wholesale supply to retailers, and direct supply to national building companies and manufacturers of kitset garages, of garage door openers (the garage door opener market).

COUNTERFACTUAL AND FACTUAL

81. In reaching a conclusion about whether an acquisition is likely to lead to a substantial lessening of competition, the Commission makes a "with" and "without" comparison rather than a "before" and "after" comparison. The comparison is between two hypothetical future situations, one with the acquisition (the factual) and one without (the counterfactual).[6] The difference in competition between these two scenarios is then able to be attributed to the impact of the acquisition.

Factual

82. The Applicant advised the Commission that after the proposed acquisition it would continue to supply the same products as it and Dominator currently supply. It stated that it expects there to be economies of scale with purchasing raw materials and freight logistics, and possible rationalisation of manufacturing facilities though it has not yet decided whether it will continue with both manufacturing facilities.

Counterfactual

83. Dominator advised the Commission that if the proposed acquisition did not take place, it is most likely that it would be purchased by another company as the owners have developed the company to a point where they are now happy to relinquish it. Dominator said that it had been advised by Price Waterhouse [

]

84. It is not possible to ascertain what company would purchase Dominator should the proposed acquisition not proceed. However, it does not appear that any acquisition would alter the current competitive situation in the affected markets to any great degree. The Commission therefore considers that the appropriate counterfactual is the sale of Dominator to a party that would not give rise to any competition issues.

---

[6] Commerce Commission, *Decision 410: Ruapehu Alpine Lifts/Turoa Ski Resorts Ltd (in receivership), 14 November 2000*, paragraph 240, p 44.

COMPETITION ANALYSIS

The Garage Door Market

Existing Competition

85. Existing competition occurs between those businesses in the market that already supply the product, and those that could readily do so by adjusting their product-mix (near competitors). Supply-side substitution by near competitors arises either from redeployment of existing capacity, or from expansion involving minimal investment, in both cases involving a delay of no more than one year.

86. An examination of concentration in a market can provide a useful indication of the competitive constraints that market participants may place upon each other, providing there is not significant product differentiation. Moreover, the increase in seller concentration caused by a reduction in the number of competitors in a market by an acquisition is an indicator of the extent to which competition in the market may be lessened.

87. The Commission identifies market shares for all significant participants in the relevant market. Market shares can be measured in terms of revenues, volumes of goods sold, production capacities or inputs (such as labour or capital) used.

88. An aggregation that would result in a low concentration level is unlikely to be associated with a substantial lessening of competition in a market. On this basis, indicative safe harbours may be specified.

89. A business acquisition is considered unlikely to substantially lessen competition in a market where, after the proposed acquisition, either of the following situations exists:

    - where the three-firm concentration ratio (with individual firms' market shares including any interconnected or associated persons) in the relevant market is below 70%, the combined entity (including any interconnected or associated persons) has less than in the order of 40% share; or

    - where the three-firm concentration ratio (with individual firms' market shares including any interconnected or associated persons) in the relevant market is above 70%, the market share of the combined entity is less than in the order of 20%.

90. The Commission recognises that concentration is only one of a number of factors to be considered in the assessment of competition in a market. In order to understand the impact of the acquisition on competition, and having identified the level of concentration in a market, the Commission considers the behaviour of the businesses in the market. Specifically, the Commission seeks to understand the dynamics of the competition that would exist between the remaining firms in the market, compared to what would exist in the absence of the merger.

91. The Applicant submitted that there is vigorous competition in the garage door and garage door openers markets with many competing businesses.

92. Estimated market shares are shown in Table 1.

Table: Estimated Market Shares in the Garage Door Market

Manufacturer	**Door Sales**	**Market Share**
B&D	[ ]	[ ]
Dominator	[ ]	[ ]
Combined Entity	**[ ]**	**[ ]**
Windsor	[ ]	[ ]
JDC	[ ]	[ ]
RDN	[ ]	[ ]
Ashton	[ ]	[ ]
Glideaway	[ ]	[ ]
Victor	[ ]	[ ]
Others	[ ]	[ ]
Total	**[ ]**	**100**

93. Table 1 indicates that the merged entity would have a market share of [ ] and the three firm concentration would be [ ]. This is outside the Commission's safe harbour guidelines.

Analysis of Existing Competition

94. The Applicant submitted that any current manufacturer of garage doors could easily expand in response to an attempt by the combined entity to increase prices because there are no significant constraints on productive capacity. The raw materials are easy to acquire, no specialist expertise is required and distribution networks are easy to establish.

95. Dominator said that if the combined entity were to increase prices, the competitors would "jump in" very quickly. It advised that its distributors were constantly being approached by its competitors and that [ ] Dominator said that customers could go to such alternatives as JDC, Windsor and Glideaway or alternatively could look at imports.

96. Virtually all the industry participants spoken to including both competitors and customers were not concerned about the proposed acquisition.

97. Windsor said that it was not concerned about the proposed acquisition because if the combined entity increased prices 5% to 10%, Windsor could sell more doors. It was of the opinion that the combined entity would not increase prices as it would be too concerned about Windsor gaining market share.

98. Ashton stated that if the combined entity increased prices, it would risk losing customers to other suppliers such as Windsor for sectional doors. Ashton buys pressed steel panels from B&D and said that if the price increased, [ ] It imports sectional door hardware from Canada.

99. RDN advised the Commission that the combined entity would be unlikely to attempt to increase prices for roller doors as it would know that RDN and Victor could also supply roller doors and take some of their customers.

100. Some of the competitors such as RDN and Glideaway were more concerned that prices might decrease, particularly as the combined entity might be able to reduce costs as a result of the acquisition.

101. Jennian was of the view that currently the smaller suppliers keep the prices down and that it is likely that this would continue. It said that although there were alternative suppliers such as Windsor and JDC, it was concerned that they might not be able to supply a sufficient volume. It said, therefore, that it might consider [ ]

102. GJ Gardner, which uses only sectional doors, said that there were alternative suppliers such as Windsor and that it would consider switching.

103. Signature, which also uses only sectional doors, advised that if the combined entity increased prices by up to 10%, there were alternative suppliers and that it [ ]

104. Stonewood advised that it tries to be as cost conscious as possible and that if prices increased by up to 10% it would [ ]. It said that it would prefer not to have to do this but if the prices increased, [ ]. Kingdom advised that if prices increased, it would look for an alternative supplier and [ ]

105. Coastwood also advised that it would switch supplier. Fletcher Homes said that the garage door market had always been extremely competitive and it was always getting approaches from other suppliers. It was of the view that this would continue.

106. Ideal was concerned that its marketing was tied in with using Garador doors. However it would consider other suppliers. Versatile was concerned that other suppliers would not be able to supply the volumes of B&D and Dominator and that it would need to have relationships with a number of suppliers as an alternative, which may not be practical. Accordingly, [ ]

107. Skyline advised that if the combined entity increased prices, it would look for alternative suppliers – possibly Victor and RDN for roller doors and Glideaway, Jones and Windsor for sectional doors.

108. Placemakers and Mitre 10 both said that they would look for alternative suppliers.

<u>Conclusion on Existing Competition</u>

109. The Commission notes that the manufacturers of garage doors said that they believed the combined entity would be unlikely to increase prices because of the threat of its competitors. The Commission also notes that the major customers have said that they would look for alternative suppliers, if the combined entity increased prices up to 10%, and that in some cases the customers would consider [ ].

110. The Commission accordingly considers that the existing competitors and the threat of imports would be sufficient constraint to prevent the combined entity from exercising market power.

Conclusion on Garage Door Market

111. The Commission considers that existing competition would be sufficient to constrain the combined entity from exercising market power in the garage door market.

Garage Door Opener Market

Existing Competition

112. The Applicant submitted that there is vigorous competition in the garage door opener market Estimated market shares for the garage door opener market are set out in Table 2.

Table 2: Estimated Market Shares in the Garage Door Opener Market

Supplier	**Sales**	**Market Share %**
B&D (incl.ATA)	[ ]	[ ]
Dominator	[ ]	[ ]
Combined Entity	**[ ]**	**[ ]**
Merlin	[ ]	[ ]
Windsor	[ ]	[ ]
Imports	[ ]	[ ]
Total	**[ ]**	**100**

113. Table 2 indicates that the merged entity would have a market share of [ ] and the three firm concentration would be [ ]**.** This is outside the Commission's safe harbour guidelines.

114. Every industry participant spoken to advised the Commission that the garage door opener market is very competitive and would continue to be so after the proposed acquisition.

115. Merlin is a strong competitor and has a reputable brand. It said that it is very easy for garage door suppliers or their customers to import openers and that Merlin is constantly under threat from imports.

116. Windsor imports openers from [ ] and said that it is also very easy to import from other countries e.g. China and Hong Kong. Victor, which currently has a licence to supply ATA openers, said that it is possible to import openers from many overseas countries. Mitre 10 advised that it has imported openers.

117. The Commission considers that existing competition from Merlin and imports would be sufficiently strong to constrain the combined entity from exercising market power in the garage door openers market.

OVERALL CONCLUSION

118. The Commission has considered the probable nature and extent of competition that would exist, subsequent to the proposed acquisition, in the markets for:

- the national manufacture and wholesale supply to retailers, and direct supply to national building companies and manufacturers of kitset garages, of garage doors (the garage door market); and
- the national wholesale supply to retailers, and direct supply to national building companies and manufacturers of kitset garages, of garage door openers (the garage door opener market).

119. The Commission considers that the appropriate counterfactual is the sale of Dominator to a party that would not give rise to any competition issues.

120. The Commission considers that existing competition would be sufficient to constrain the combined entity from exercising market power in the garage door market.

121. The Commission concludes that existing competition would be sufficiently strong to constrain the combined entity from exercising market power in the garage door openers market.

122. The Commission is therefore satisfied that the proposed acquisition would not have, nor would be likely to have, the effect of substantially lessening of competition in any market.

DETERMINATION ON NOTICE OF CLEARANCE

123. Pursuant to section 66(3) (a) of the Commerce Act 1986, the Commission determines to give clearance for the proposed acquisition by B&D Doors (New Zealand) Limited of 100% of the shares in Dominator International Limited.

Dated this 12th day of November 2004

David Caygill

Division Chair

Commerce Commission