



COMMERCE COMMISSION

Statement of Preliminary Issues

PMP Print / APN Print

16 November 2010

11.4/12535

INTRODUCTION

1. On 5 November 2010, the Commerce Commission received an application from PMP Print Limited (PMP) seeking clearance to acquire the heat set printing assets (and related spare parts) of APN Print NZ Limited (APN Print) located at 587 Great South Road, Manukau City. The public version of the application can be accessed on the Commission's website at:

<http://www.comcom.govt.nz/assets/Uploads/PMP-Print-APN-Print-NZ-clearance-application-5-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.
3. The Statement of Preliminary Issues provides an opportunity for all interested parties to consider the issues identified by the Commission and is intended to facilitate the submission of further information by the merger parties and other interested parties, that might assist the Commission's assessment of the application.

RELEVANT PARTIES

The Acquirer – PMP Print

4. PMP is a wholly-owned subsidiary of PMP Limited, an Australasian commercial printing group. In New Zealand, PMP Print produces a range of printed products including catalogues, magazines, books, directories and newspapers.
5. PMP operates heatset printing presses in both the North Island (Auckland and Warkworth) and South Island (Christchurch).

The Target – APN Print's Manukau Heatset Assets

6. APN Print is a wholly-owned subsidiary of APN News & Media Limited. It also produces a range of printed products. APN Print operates heatset printing presses in the North Island only (Auckland and Tauranga).

ANALYTICAL FRAMEWORK

7. The Commission uses an analytical framework¹ for assessing a substantial lessening of competition in the context of an acquisition. The first step is to determine the relevant market or markets. To do this, the Commission identifies the areas of overlap between the acquirer and the target, and then considers what, if any, products and geographic regions, constitute relevant 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 whether a lessening of competition is likely, so, 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).

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.

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 enter the market and thereafter expand, given an inducement to do so;
 - other competition factors, such as the countervailing market power of buyers - the combined entity may be constrained if purchasers were able to exert a substantial influence on the price, quality or terms of supply of a good or service;
 - 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 in both the factual and counterfactual scenarios enables the Commission to assess the probable extent of the lessening of competition under the proposed acquisition, and whether that contemplated lessening is likely to be substantial.

PRELIMINARY ISSUES

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

Is APN Print's Manukau heatset business a 'failing firm'?

12. The applicant has submitted that APN Print intends to close its Manukau heatset printing operation and contract out its printing needs. This decision has been made due to:

¹ Commerce Commission, *Mergers and Acquisitions Guidelines*, January 2004.

- a period of sustained losses; and
 - the loss of a significant customer in ACP Media Limited, a leading publisher of well known magazines such as Women's Day and North & South.
13. In essence, the applicant submits that APN Print's Manukau heatset business is a failing firm. The Commission will test this submission as, if correct, the counterfactual would be very similar to the factual in competition terms, removing the potential for there to be a substantial lessening of competition.
14. Further guidance on the Commission approach to assessing failing firm applications can be accessed on the Commission's website at:

<http://www.comcom.govt.nz/assets/Imported-from-old-site/BusinessCompetition/MergersAcquisitions/ContentFiles/Documents/comcom-mergersandacquisitionssupplementaryguidelinesonfailingfirms.pdf>

The appropriate counterfactual

15. The Commission's initial analysis will be focused on the viability and profitability of APN Print's Manukau heatset business. The outcome of this analysis will then determine the extent to which the Commission carries out a full competition analysis of the likely effects of the proposed acquisition.
16. The Commission's preliminary view is that the identification of the counterfactual will be a key issue.
17. In determining the counterfactual, the Commission will consider:
- the likelihood that APN Print's heatset printing business will close and the associated assets will be decommissioned and exit the market; and
 - whether there are any alternative purchasers for APN Print's heatset assets. The applicant has submitted that there is only one other credible potential acquirer of the assets, Webstar (a business unit of Blue Star Group Limited).
18. The Commission needs to be satisfied that there are no less anti-competitive alternatives to the proposed acquisition. There may be alternative buyers whose acquisition of the APN Print heatset business or its assets would produce a better outcome for competition than an acquisition by PMP. The Commission plans to examine the efforts of APN Print to find an alternative purchaser.
19. If the Commission considers that if there is any counterfactual other than APN Print closing, and the assets exiting the market, it will be necessary for the Commission to determine whether the acquisition is in fact likely to result in a substantial lessening of competition.

NEXT STEPS

20. In line with the Commission's Merger and Acquisitions Clearance Process Guidelines (available on the Commission's website at www.comcom.govt.nz), the Commission has established a draft timeframe for consideration of the issues and PMP's application for clearance. The initial 10 day statutory period for the Commission's consideration of the application expires on 19 November 2010. An extension of time has been agreed to by the

Applicant such that the Commission should make its final decision by working day 30 which is 17 December 2010. However, this timeframe could change. To keep abreast of possible changes in relation to timing and to find relevant documents, interested parties should visit the Clearance Public Register on the Commission's website at:

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

21. 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 in the near future.
22. The Commission also invites submissions from interested 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 with the reference PMP / APN in the subject line of your email or to PO Box 2351, Wellington by 5pm on Monday 22 November 2010. Please clearly identify any confidential information contained in the submission.