



23 April 2011

Dr Mark Berry  
Chairman  
Commerce Commission  
PO Box 2351  
Wellington

Dear Dr Berry

**CAVALIER WOOL HOLDINGS LIMITED AND NEW ZEALAND WOOL SERVICES  
INTERNATIONAL LIMITED**

- 1 I am the Chairman of the Board of Directors of New Zealand Wool Services International Limited (WSI). I am writing direct to you because I am very concerned about the timeframes fixed by the Commission for responding to its draft determination on the application by Cavalier Wool Holdings Limited for authorisation to acquire an interest in WSI, and for holding a conference on this application.
- 2 The Commission released its Draft Determination on 13 April 2011, and advised that written submissions on the Draft Determination are to be provided on or before 27 April 2011, and that it proposes to hold a two day public conference in Wellington on 4 and 5 May 2011.
- 3 The Board of WSI (the Board) has now had time to review the Commission's Draft Determination, and in the light of that review it has serious concerns about the very tight timeframes that have been proposed by the Commission. In particular, the period of 2 weeks including the Easter weekend allowed to review and respond to the many factual, economic and legal issues discussed in the draft determination is so short that the opportunity to make submissions is not realistic.
- 4 The Board considers that there are a number of significant matters that are discussed in the Draft Determination where the information currently available to the Commission is incomplete, or incorrect. WSI remains committed to assisting the Commission to reach a robust decision on the basis of accurate and complete information. But it is simply not possible to do this in the proposed timeframes, especially given the disruption that WSI and its advisers have experienced, and continue to experience, operating in Christchurch in the post-earthquake environment.

**NEW ZEALAND WOOL SERVICES INTERNATIONAL LIMITED.**

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- 5 To give one example, WSI has retained an independent accountant to review the accuracy of assumptions made by CWH about WSI's current costs, and to cross-check these against WSI's actual costs. This is obviously an important element in calculating the estimated efficiencies from the rationalisation of facilities proposed by Cavalier: it is impossible to complete this review by 27 April.
- 6 Having reviewed the draft determination, WSI is also confident that it would be able to make a valuable contribution at the two day public conference, provided it has the opportunity to prepare properly and to be represented by counsel and the experts it has retained, including its economic expert Dr Brent Layton and its industry expert Dr Garth Carnaby. However, both WSI's experts and its senior counsel David Goddard QC are unavailable on the Commission's proposed dates of 4-5 May.
- 7 The Board of WSI, and I personally as Chairman, are concerned that this important decision for the New Zealand wool industry should not be made on the basis of inadequate information. A prompt decision is of course desirable, but not at the expense of meaningful participation for interested parties and adequate information on which to base the Commission's decision.
- 8 In these circumstances, WSI asks that the Commission:
- 8.1 defer the date for submissions in response to the draft determination for 3 weeks, to 18 May;
- 8.2 defer the public conference to a date in May which provides adequate time to prepare and enables the experts retained by WSI to attend. Dr Layton and Dr Carnaby would be available for a conference on 23-25 May. It would still be necessary to instruct new senior counsel: WSI accepts that the need for the Commission to make a prompt decision means this is inevitable, given its counsel's other commitments. WSI has not yet been able to instruct a new senior counsel and confirm their availability: it will do so as soon as possible (although this is not a simple matter, as I understand that many senior barristers with competition expertise are engaged in proceedings brought by the Commission in the High Court in Auckland, during much of May).
- 9 In conclusion, WSI strongly believes the proposed deferral of dates is necessary to achieve a fair process and an informed decision, and urges the Commission to review its proposed dates to enable these outcomes to be achieved.

Yours sincerely



Derek Kirke (Chairman)

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