

NZ Post / PBT

NZ Post's submission in response to third party submissions on the Statement of Issues

1. NZ Post makes this submission in response to the three submissions the Commission has recently received: Habilis' submission on the Statement of Issues, and the two submissions made by PBT courier contractors.
2. NZ Post's primary focus in this cross submission is the concern expressed about the acquisition's impact on PBT's courier contractors. However, NZ Post has also addressed some additional points raised by Habilis in its submission.

The acquisition will not lessen competition in the market in which courier contractors' services are supplied and acquired

3. NZ Post acknowledges that PBT courier contractors – like all people faced with changes to their business and in their workplaces – face a difficult and uncertain time as they seek out new opportunities, whether in the courier industry (including any NZ Post opportunities that become available) or outside.
4. While change of this nature can be unsettling, it is not a reason for the Commerce Commission to decline clearance. The Commission's task is to decide whether it is satisfied that the acquisition would not substantially lessen competition in a market.
5. NZ Post submits that the Commission can be satisfied that the acquisition would not substantially lessen competition in the market in which courier contractors' services are supplied and acquired.
6. Before explaining why, it is important to record that NZ Post strongly disagrees with Habilis' assertions that NZ Post's delivery partners are subject to contractually abusive behaviours that amount to flagrant breaches of the Commerce Act and are subsisting on revenue that is less than the minimum wage. Habilis' assertions are wrong and without foundation.
7. NZ Post is focussed on being a good partner to the delivery partners it contracts with. NZ Post wants to see – and benefit from – its delivery partners succeeding. As part of being a good partner, NZ Post regularly reviews and seeks to improve its contractual arrangements with its delivery partners (including runs, revenue, and contract models) as well as its communications with and to its delivery partners.
8. NZ Post's delivery partner revenue structure is designed to incentivise productivity and profitability on the one hand, and to help cover costs and protect NZ Post's delivery partners from earning below an acceptable level on the other. Indeed, [NZ Post Confidential].
9. Putting aside Habilis' unfounded (and inflammatory) comments, NZ Post submits that the Commission can be satisfied that the acquisition would not lessen competition – substantially or otherwise – in the market in which NZ Post (and other courier companies) acquire courier contractor services and individuals and businesses supply those services. Simply put, there is no specialist "courier contractor" market. As Habilis themselves acknowledge, there are low barriers to entry into courier contracting.
10. The commercial reality is that NZ Post – and other courier companies – are competing for contractors in the broader New Zealand labour market. That market is a highly competitive one, both amongst sellers of labour/small business operators, and the vast number of New

Zealand businesses that are seeking labour. It is very difficult to see how the acquisition will make any difference to competitive conditions in that market and certainly not in a way that suggests a lessening of competition (let alone a substantial one).

Other comments on the Habilis submission

11. NZ Post makes two other comments in response to the Habilis submission.
12. First, NZ Post agrees with Habilis that the logistics and linehaul “market” is competitive. However, NZ Post disagrees that the acquisition could harm competition in this market. The principal reason is that PBT will remain a participant in this market post-acquisition. It is therefore difficult to see how the acquisition could harm competition in that “market”.
13. Second, Habilis make several other assertions about NZ Post’s pricing practices and incentives. NZ Post has already explained to the Commission why the acquisition is likely to lead to lower prices to customers than would otherwise be the case (and, in any event, that the acquisition would not substantially lessen competition). While NZ Post does not repeat those submissions here, it suffices to say that NZ Post disagrees with Habilis’ view that the careful analysis and facts that NZ Post has provided the Commission to date amount to “magical thinking”.
14. Other than those specific points, NZ Post believes its previous submissions address the points Habilis has made. If the Commission believes that a point has been raised that NZ Post has not addressed, NZ Post is happy to provide any further information the Commission may need.