**PUBLIC VERSION**

# COMMERCE ACT 1986: BUSINESS ACQUISITION

## SECTION 66: NOTICE SEEKING CLEARANCE

Date: 16 February 2016

The Registrar
Mergers and Acquisitions
Commerce Commission
PO Box 2351
Wellington

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

## Part 1: Overview

1.1 This is an Application for clearance pursuant to section 66(1) of the Commerce Act 1986 made by H.B. Fuller Company Australia Pty Limited (**H.B. Fuller** or **the Applicant**) to acquire the business and assets of Advanced Adhesives (New Zealand) Limited (**Advanced Adhesives**) (altogether the **Proposed Acquisition**). H.B. Fuller and Advanced Adhesives together are termed the **Parties**.

1.2 The Proposed Acquisition will result in some aggregation in the national markets for supply of hot melt adhesive products for case/carton sealing, paper converting and bookbinding. However, the Applicant considers that the proposal will not result in a substantial lessening of competition in those markets.

1.3 There will remain strong competitors in those markets, both importers and New Zealand manufacturers. All suppliers either supply or are able to supply the same or very similar products. There are no barriers to customers switching suppliers and price competition is strong between suppliers. The suppliers in the market, particularly those who import from overseas but also including local suppliers, are able to increase supply to match customer demand or in response to any competitors' attempts to increase price.

1.4 The Proposed Acquisition will also result in a small aggregation of market share in the national markets for water-based adhesives for bookbinding and woodworking. As with the hot melt product markets, there are no barriers to customers switching suppliers and price competition is strong.

1.5 The water-based adhesive markets are characterised by supply from New Zealand manufacturers, which includes Advanced Adhesives. As H.B. Fuller does not have any New Zealand manufacturing capacity, the Proposed Acquisition will not lead to any aggregation of New Zealand manufacturing capacity. Post-merger there will continue to be three large New Zealand manufacturers, in addition to the Advanced Adhesives plant. H.B. Fuller understands that all the New Zealand manufacturers have spare capacity.

1.6 The Applicant considers that the Proposed Acquisition will not result in a substantial lessening of competition in any of the water-based markets.

1.7 The Applicant therefore submits that clearance should be granted.

## Part 2: Applicant Details

**2 The Applicant**

2.1 **H.B. Fuller:** This notice is given by H.B. Fuller Company Australia Pty Limited.

2.2 **Contact:** The contact details for H.B. Fuller are as follows:

H.B. Fuller Company Australia Pty Ltd
16-22 Redgum Drive
Dandenong
South Victoria 3175
Australia Telephone:+61 3 9797 6222

Website: www.hbfuller.com/asia-pacific

Contact Person: Carl Pimentel, Managing Director
Telephone: +61 3 9797 6240
Mobile: +61 609 480 703
Email: carl.pimentel@hbfuller.com

2.3 **Correspondence:** The Applicant requests that all correspondence is directed in the first instance to:

Nick Crang
Partner, Duncan Cotterill
Level 2, Tower Building
50 Customhouse Quay
Wellington 6011
Telephone: 04 471 9440
Fax: 04 499 3280
Email: nick.crang@duncancotterill.com

**3 Other party to the acquisition:**

3.1 **Advanced Adhesives:** The other party to the acquisition is Advanced Adhesives (New Zealand) Limited.

3.2 **Contact:** The contact details for Advanced Adhesives are as follows:

Registered office/physical address: 49-51 Grayson Avenue, Papatoetoe, Auckland

Address for service: Lay Dodd Partners, 3 Owens Road, Epsom, Auckland

Telephone: 09 277 9116
Fax: 09 277 9115
Contact person: Roger Lloyd Williams
Telephone: 09 277 9116
Mobile: 021 682 071
Email: rwilliams@advancedadhesives.co.nz

## 4 Structure of the Parties

4.1 H.B. Fuller is a registered company in Australia (ABN 37 003 638 435). H.B. Fuller is the Australian and New Zealand arm of H.B. Fuller Company, which was incorporated in 1915 in Minnesota, USA. The company extract of H.B Fuller is set out in Appendix 1.

4.2 Advanced Adhesives is a New Zealand incorporated company, with company number 292576. The shares of the company are held by Roger Lloyd Williams (5%), Deborah Carol Williams (5%), and by Roger Lloyd Williams, Deborah Carol Williams, and Knight Coldicutt Trustees Limited (90%).

4.3 Advanced Adhesives also has a counterpart Australian company, Advanced Adhesives Pty Ltd, which is 50% owned by Roger Lloyd Williams. Advanced Adhesives Pty Ltd provides raw materials to Advanced Adhesives. While the companies describe each other as their partner there is no formal partnership or joint venture agreement between them. Advanced Adhesives Pty Ltd does not have any assets in New Zealand and operations or customers in New Zealand, apart from the supply of raw materials to Advanced Adhesives. [ ].

## 5 Overview of the Parties

*H.B. Fuller*

5.1 The H.B. Fuller group of companies (**H.B. Fuller Group**) is a leading global formulator, manufacturer and marketer of adhesives, sealants and other specialty chemical products. H.B. Fuller Group's sales operations span across 40 countries in North America, Europe, Latin America, the Asia Pacific region, India, the Middle East and Africa.

5.2 Industrial adhesives represents H.B. Fuller Group's core product offering. Leading customers include manufacturers of food and beverages, hygiene products, clothing, major appliances, electronics, automobiles, filters, construction materials, wood flooring, furniture, cabinetry, windows, doors, tissue and towel, corrugation, tube winding, packaging, labels and tapes who use adhesive products in the manufacture of such products. The H.B. Fuller Group also has a variety of product offerings for residential construction markets, such as tile-setting adhesives, grout, sealants and related products (these products are sold primarily in the construction products operating segments).

5.3 In 2014, H.B. Fuller Group's net revenue was $2.1 billion, with 44% of revenue coming from adhesives in America, 33% from Europe, India, the Middle East and Africa, 13% from Asia Pacific, and 9% from construction products. Its New Zealand revenue for 2013/14 was NZ$5,35M.

5.4 Currently, H.B. Fuller predominantly sells hot melt adhesives in New Zealand for the industrial packaging, paper converting, wood working, bookbinding and hygiene markets. It sells a [ ] volume of solvent-based adhesives into the construction and DIY sectors (through retail channels) and imports [ ] volumes of hot melt product from Australia for product assembly in the manufacturing sector. It also imports small amounts of water-based product for some smaller industrial users. [ ]

5.5 [ ]

5.6 [ ]

*Advanced Adhesives*

5.7 Advanced Adhesives is a manufacturer of a range of hot melt, water-based (including SBR latex adhesives) for supply into industrial applications including packaging, paper converting and product assembly. [ ] The products are packed and sold to customers who either use the products in their manufacturing operations or on-sell Advanced Adhesive's product to the end user. [ ]

5.8 [ ]

5.9 [ ]

5.10 [ ]

**6 Competition agencies in other jurisdictions**

6.1 [ ]

## Part 3: Transaction Details

**7 Proposed transaction**

7.1 The Proposed Acquisition would involve the acquisition by H.B. Fuller of the assets of Advanced Adhesives.

**8 Commercial rationale for the proposed merger**

8.1 The commercial rationale for the Proposed Acquisition is that it will:

8.1.1 allow H.B. Fuller access to New Zealand based water-based manufacturing capability to allow it to offer a wider range of product and volume to the New Zealand market; and

8.1.2 give H.B. Fuller greater scale in New Zealand and, through some consolidation of costs post-merger, provide H.B Fuller with higher leverage in the combined business.

**9 Copies of most recent versions of documents bringing about the proposed merger**

9.1 A copy of the draft Agreement for Sale and Purchase of both Advanced Adhesives Pty Ltd and Advanced Adhesives (NZ) Limited is included at Appendix 4.

## Part 4: The Industry

**10 Description of the industry**

10.1 The industrial adhesives industry comprises three key technologies, water-based, hot melt and solvents.

10.2 **Hot melt adhesives**

10.2.1 Hot melt adhesives are solid at room temperature and activated when they are applied, by heating to above their softening point. They form strong bonds and are used where quick-bonding solutions are needed. They can also be used to bond non-porous substances, unlike most water-based adhesives.

10.2.2 Hot melt adhesives are most often applied using hot melt guns, but can also be rolled or sprayed.

10.2.3 Hot melt adhesives are made by heating the ingredients together and then cooling them. The key ingredient is a thermoplastic polymer or polymers.

10.2.4 Hot melt adhesives are both manufactured in New Zealand and imported. As almost 80% of the raw materials for locally manufactured product have to be imported anyway, imported product is generally price-competitive with locally-produced product.

10.2.5 The manufacture of hot melt adhesives requires a tank with a mixer, the application of heat (e.g. generated by oil or gas), a line to extrude hot melt, a cooling system, and a packing system. The cost of equipment is usually between NZ$3-5m to enable manufacture at reasonable scale.

10.2.6 Although hot melt adhesives are used for a variety of purposes and in different industries, the areas of overlapping products between H.B. Fuller and Advanced Adhesives are:

(a) **Hot melt adhesive products for case/carton sealing**: Hot melt adhesives sold by the parties are used for all aspects of case, carton and package-sealing applications;

(b) **Hot melt adhesive products for paper converting:** (sometimes called packaging manufacture or carton making). Hot melt adhesives sold by the parties are used for cardboard box manufacture, bag and sack making, and self-adhesive labels

(c) **Hot melt adhesive products for bookbinding**: Hot melt adhesives sold by the parties are used for bindery operations including spine gluing of hard cover books, paperbacks, magazines, telephone directories and catalogues.

10.2.7 Both H.B Fuller and Advanced Adhesives also sell hot melt adhesives into the manufacturing sector for product assembly purposes. However, H.B. Fuller's sales into this sector are so small ([ ]) The products supplied by H.B. Fuller and the products supplied by Advanced Adhesives in this sector also serve different purposes, such that there is no overlap in relation to the manufacturing sector.

## 10.3 Water-based adhesives

10.3.1 Water-based adhesives are made by compounding polymers (either natural or synthetic) and various additives in water, and applying the solution in aqueous form to the substrate or substrates that are to be adhered. The water is the carrier of the adhesive.

10.3.2 Water-based adhesives are used largely on porous substrates and large scale laminations. They are used in situations where high speed bonding is not required, as it takes time for the water to evaporate or be absorbed by the substrate.

10.3.3 Water-based adhesives are used in woodworking (e.g. for joinery, furniture and doors). They are also used for paper-converting, which describes such things as making toilet tissues, paper towels, cardboard tubes, paper bags, envelopes, and laminating cardboard to make corrugated cardboard (e.g. for cardboard boxes).

10.3.4 Almost all industrial water-based adhesives that are sold in New Zealand are manufactured in New Zealand (although some additives are imported). The reason most water-based products are manufactured in New Zealand, and not imported in made-up form, is that they have a high water content, such that it is not usually economic to import the made-up product into New Zealand, compared to the cost of sourcing raw materials and then manufacturing the product in New Zealand.

10.3.5 The New Zealand manufacturers of water-based adhesives are Henkel, Bostik, Advanced Adhesives and G & A Adhesives.

10.3.6 Water-based adhesives are made by mixing raw materials with water in a mixing vessel. Some products are heated (e.g. using a boiler or steam generator) to facilitate mixing. The product is then cooled and transferred to containers for customers in various sizes. The manufacturing equipment typically costs NZ$1-2m to set up at reasonable scale.

10.3.7 The water-based adhesives sold by Advanced Adhesives are used in the paper-converting sector for lamination (eg to make corrugated cardboard), side seam gluing, tubewinding, bag bottom paste and paper tissue/towel making. Advanced Adhesives also sells water-based adhesives to the woodworking sector for hot/cold press lamination, edge panel gluing, dowelling, and general furniture joinery.

10.3.8 H.B Fuller supplies [ ] water-based adhesives in New Zealand [ ] These products are sold for the purposes of bench top lamination, wood joinery, film self-seal, and envelope gum into the paper-converting, woodworking and joiner sectors. All of those water-based products are imported, as H.B Fuller does not have a New Zealand water-based manufacturing plant. [ ]

10.3.9 [ ]

10.3.10 [ ]

10.3.11 The areas of overlap between H.B. Fuller's water-based adhesives and Advanced Adhesives' water-based adhesives arguably are in:

(a) **Water-based adhesive products for woodworking:** The water-based adhesives sold by the parties that overlap are used for lamination and general joinery**.** [ ] there is arguably still some product overlap.

(b) **Water-based adhesive products for bookbinding**: The water-based adhesives sold by the parties in this market serve the same purposes, [ ]

(c) **Water-based adhesives for paper-converting:** While H.B. Fuller's supply is [ ] there is arguably still some product overlap.

10.4 **Solvent based adhesives**

10.4.1 Solvent based adhesives consist of a mixture of polymers and sometimes other ingredients dissolved in a solvent, which is usually flammable. The adhesive hardens as the solvent evaporates, which occurs relatively quickly. Solvent based adhesives are used for a variety of uses.

10.4.2 H.B. Fuller sells only a very limited volume of solvent based adhesives in New Zealand and Australia, as it does not have manufacturing plant for such products in either country. [ ] All of the solvent-based adhesives supplied by H.B. Fuller in New Zealand are imported from outside the Australasia region. They are used in the construction and DIY sectors (through retail channels)

10.4.3 H.B. Fuller understands that Advanced Adhesives imports solvent-based adhesives from its Australian partner, which has a manufacturing base in Australia. H.B. Fuller also understands that the products are sold for flooring adhesives. H.B. Fuller intends to continue to offer Advanced Adhesives solvent based adhesives in New Zealand post-merger.

10.4.4 H.B Fuller's solvent based adhesives and Advanced Adhesives sold in New Zealand are quite different and have different uses, such that there are no overlapping products in relation to solvent based technologies.

## 11 Main competitors

11.1 The industry is characterised by a number of large international suppliers, most of whom sell product into the New Zealand market. This includes H.B. Fuller. There are also a number of smaller local providers, such as Advanced Adhesives, who may be part of an overseas group or stand-alone

11.2 Suppliers either manufacture or import product, or do both, and supply product to customers. All suppliers utilise some kind of sales team to secure customers and maintain customer relationships. Product is stored either in supplier-owned warehouses or third-party warehouses prior to delivery. Some suppliers have their own delivery systems while others use third parties.

11.3 The main competitors to the Parties in New Zealand (in the products that overlap) are:

11.3.1 Henkel:

Henkel New Zealand Limited
Address: 2 Allens Road, East Tamaki, Auckland
Phone: 09 272 6710
Fax: 09 272 6735
Website: www.henkel.co.nz

11.3.2 G & A Adhesives

G & A Adhesives Limited
Address: 21 Stonedon Drive, East Tamaki, Auckland
Postal: PO Box 58 761, Botany, Auckland
Phone: 09 274 8440
Fax: 09 274 8450
Website: www.adhesivesnz.com

11.3.3 Bostik

Bostik New Zealand Limited
19 Easter Hutt Road, Lower Hutt, Wellington
Phone: 04 567 5119
Fax: 04 577 3776
Website: www.bostik.co.nz

11.3.4 Johns Adhesives

Johns Adhesives Pty Limited
Address: 15/23 Susan Street, Eltham, Victoria, Australia
Phone: +61 3 9431 3511
Fax: +61 3 9431 3580
Website: www.johnsadhesive.com.au

11.3.5 Jowat

Jowat Universal Adhesives Australia Pty Ltd
Address: Unit 2, 22 Kerr Road, Sydney
Phone: +61 2 9605 3477
Website: www.jowat.com

11.4 Most of the competitors above distribute product to their customers themselves (although some or all may use third party transport providers). Jowat uses a third party logistics provider. Suppliers either utilise contracted or general carriers, or their own trucks, to deliver product. Most customers expect delivery within a couple of days, with only some customers storing product to cover longer periods.

11.5 The New Zealand operations of the key competitors are:

11.5.1 **Henkel**: Henkel manufactures both hot melt and water-based products in New Zealand, has a New Zealand sales force and customers throughout New Zealand.

11.5.2 **G & A Adhesives**: G & A Adhesives manufactures water-based product in New Zealand and imports hot melt products. It is a recent new entrant into the market. It has a New Zealand sales force, and customers throughout New Zealand.

11.5.3 **Bostik**: Bostik manufactures both hot melt and water-based product in New Zealand and imports both kinds of products. It has a New Zealand sales force, and customers throughout New Zealand.

11.5.4 **Johns Adhesives**: Johns Adhesives imports hot melt and water based products. It has an Australian-based sales force that also covers New Zealand.

11.5.5 **Jowat**: Jowat imports hot melt products into New Zealand from its global manufacturing network. It is serviced mainly from Australia with some local New Zealand distributors.

11.6 The products supplied by the Parties and each of the key competitors are set out in Appendix 5.

11.7 Most of these products are sold directly to users of the products, who are large and medium sized industrial users. Products are also sold to distributors, who service smaller users of the product.

## 12 Customers

12.1 Customers range from large to small industrial users and include stand-alone distributors (which usually sell to smaller users) and retail buyers.

12.2 In the areas of overlapping products, there are a range of customers for each product:

12.2.1 **Case/carton sealing:** Customers in this market range from large industrial manufacturers, such as D B Breweries, HJ Heinz, Nestle, Coca Cola, and Fonterra, to smaller companies who also use the products in case/carton sealing and the making of packaging. There are also some distributors who buy product from adhesive suppliers and their competitors and distribute it to smaller users. In the case/carton sealing sector, only hot melt technologies are used.

12.2.2 **Paper converting:** In the paper converting sector, adhesives products are used by companies that supply packaging (e.g. Orora Packaging Australia Pty Ltd and Carter Holt Harvey). The largest manufacturer of cardboard packaging in New Zealand is Orora, which is part of the worldwide Orora group; and was previously part of Amcor Limited. In the paper-converting sector, most customers use both water-based and hot melt products, albeit for different functions.

12.2.3 **Bookbinding:** There are a limited number of printing companies in this segment as it is relatively small and concentrated. The key printing companies include Webstar and Huber Group. There are a number of smaller printing companies that also use adhesives, many of which are serviced by distributors given volumes are small.

12.2.4 **Woodworking:** Customers range from large wood processing companies such as Juken New Zealand, Carter Holt Harvey and Nelson Pine to smaller specialty companies making doors, cabinets, bench tops and general joinery. Given adhesive consumption can be relatively small, many customers are serviced by distributors in this segment. [ ]

12.3 Customers typically own the equipment they use to apply adhesive products. The cost of customer equipment is reasonably low, especially in comparison to most of a customer's other equipment costs. The costs are usually in the range of NZ$10,000 to NZ$20,000 ranging up to NZ$50,000 (with water-based adhesive equipment generally cheaper than hot melt adhesives). There are some instances where a supplier will provide or fund the customer's equipment as part of a special deal, with possibly a rental-type charge or a hire purchase type arrangement renting the equipment or charging a fee for the equipment.

12.4 No suppliers have their own proprietary customer equipment. There are a number of suppliers of customer equipment who are independent from the suppliers of adhesive products.

12.5 The customers for most suppliers are spread throughout New Zealand, but are concentrated in the North Island where most manufacturing capacity is sited.

## Part 5: Competition Analysis

### 13 Counterfactual

13.1 H.B. Fuller submits that, without the Proposed Acquisition, Advanced Adhesives would be sold to another buyer either as an asset or share sale. Advanced Adhesives has been offered on the market for sale by its owners as part of a group with its Australian partner, Advanced Adhesives Pty Ltd. H.B. Fuller submits that the likely buyer would be another supplier of industrial adhesives, as Advanced Adhesives would have most appeal to such parties, who are more likely to realise value from the acquisition of Advanced Adhesives than other parties. [ ] H.B. Fuller submits that this is the relevant counterfactual.

### 14 Relevant markets

14.1 H.B. Fuller submits that the relevant markets are the:

14.1.1 National market for supply of hot melt adhesive products for case/carton sealing;

14.1.2 National market for supply of hot melt adhesive products for paper converting;

14.1.3 National market for supply of hot melt adhesive products for bookbinding;

14.1.4 National market for water-based adhesive products for bookbinding; and

14.1.5 National market for water-based adhesive products for woodworking.

14.2 These markets correspond to the overlapping product areas discussed in paragraphs 10.2.6 and 10.3.11(a) and (b) above.

14.3 H.B Fuller does not consider that there is any need to analyse markets involving the supply of water-based adhesives for paper-converting. As noted above, H.B. Fuller's supply into this market is small [ ] However, if that market were to be considered by the Commission, H.B. Fuller submits that the same points that apply to the two other water-based markets referred to in paragraph 14.1 apply.

14.4 Within each market application, the products are similar, with the same or similar base formulations and suppliers are able to make minor changes to the formulations to optimise product for use on customer's equipment or to achieve features such as improved clean-up and stronger bond strength. These differing formulations can often be matched by competitors if given a reasonable period of time. A competitor may match a formulation to win new customers or retain existing customers by optimising the product for the customer's specific equipment or needs. Pricing amongst competitors' products is generally similar

14.5 **Products in each market are differentiated from products in other markets**

14.5.1 While the base formulations of hot melt products in all the markets are similar, the products sold in each hot melt market are different and serve different purposes (as discussed above) from the hot melt products sold in each of the other hot melt markets. They also sometimes require differences in equipment design. The customers in each market are also quite different, with different needs.

14.5.2 Hot-melt products are also either the only or the best products for the identified uses within each market.

14.5.3 The same principles apply in respect of water-based adhesives

14.5.4 In the case/carton sealing sector, hot melt products are the most effective products to use and water-based adhesives are not used.

14.5.5 In the paper converting and woodworking sectors, water-based adhesives are also used in addition to hot melt products and there is also some limited use of water-based products in the book-binding sector. Indeed, the industry commonly describes hot melt and water-based products as being in the same market segment within these sectors. However, the two technologies are used for different purposes and usually at different stages of the manufacturing process:

(a) In the paper converting sector for example, hot melt adhesives are used for bag heat sealing and fruit tray manufacture. Water-based adhesives are used for board lamination, side seam carton gluing, tubewinding, bag bottom paste, envelope manufacture and paper tissue/towel making.

(b) In the woodworking sector for example, hot melt adhesives are used for edge banding, profile wrapping, and scarfing. Water-based adhesives are used for hot/cold press lamination, edge panel gluing, dowelling, and general furniture joinery.

(c) Water-based and hot melt adhesives are also used for different purposes in the book-binding sector.

(d) These different uses have become well-defined in each industry over time. Customers' equipment is usually designed specifically for, or optimised, for a particular technology. It is not practical for customers to interchange hot melt and water-based adhesives since efficiency would be lost or cost increased in the customer's end manufacturing process, with one or the other being the best suited for a particular use.

(e) In particular, the different drying and curing requirements of hot melt versus water-based adhesives, and the different kinds of substrates they adhere to is important. For example, hot melt adhesives set significantly faster than water-based adhesives, and for this reason are often used at time-critical steps in a manufacturing process.

(f) In addition, there is a considerable price difference between water-based and hot melt adhesives. Hot melt adhesives are approximately 2.5 to 4 times more expensive per kilogram than water-based adhesives. Hot melt adhesives are used in a more concentrated form than water-based adhesives, but that accounts for only a small amount of the price difference. The ingredients for hot melt adhesives are more expensive, the manufacturing equipment is more expensive and the manufacturing process is also more expensive than for water-based adhesives.

(g) Customers commonly obtain hot melt adhesives and water-based adhesives from different suppliers, even where those suppliers are able to supply both technologies.

14.5.6 While the applicant would be happy for the Proposed Acquisition to be assessed on the basis of markets that include both hot melt and water-based adhesives, it acknowledges that within each sector the different adhesive products serve different purposes.

14.5.7 If, however, the Commission were to consider that water-based adhesives and hot melt adhesives are supplied in the same market, then H.B. Fuller submits that the conclusions below would also apply in such a market. A market for hot melt adhesives is a smaller market than a market for water-based adhesives and hot melt adhesives. If, as H.B. Fuller submits below, the Proposed Acquisition would not substantially reduce competition in the smaller market, the same conclusion must apply to the wider market.

14.6 **No separate import or manufacturing markets**

14.6.1 H.B. Fuller submits that the manufacture and import of hot melt product should not be considered as being in separate markets from each other and from supply. Some suppliers operate plant and manufacture product in New Zealand, while others import product (or do both). The manufacture of hot melt products in New Zealand and the import of hot melt products are substitutes for each other, with all importers/manufacturers competing in the market for supply.

14.6.2 While the costs of importing water-based adhesives generally outweighs the costs of manufacturing in New Zealand, the volumes of imported product are also so small that it is not worthwhile considered separate import or manufacturing markets.

14.7 **Markets are national markets**

14.7.1 H.B Fuller submits that the relevant markets are national markets. Most suppliers supply or could supply product throughout New Zealand. Where a supplier utilises their own trucks, they may only deliver in a reasonably small radius around their manufacturing site, but compete with other suppliers who provide product nationally and could supply outside the small radius by using third-party delivery.

## 15 Existing competitors

15.1 **Estimated market shares**

15.1.1 H.B. Fuller has estimated market shares for each of the markets described in paragraph 14.1 above, in Appendix 6.

15.1.2 H.B. Fuller has estimated these market shares from its own knowledge of the markets, which includes its general awareness of customers whom its competitors supply to and the likely volume of those customers' business. There is no industry-level information on market shares. In addition, as H.B Fuller's share of the water-based markets is relatively small [ ], its knowledge of those markets is limited. The market shares are the Applicant's best guess and could reasonably vary by up to 5% plus or minus.

15.1.3 The Applicant submits that post-merger there will be intense competition in all the markets referred to in paragraph 14.1.

15.2 **All suppliers able to supply similar products**

15.2.1 As noted above, all suppliers of both hot melt and water-based products currently in the market either supply or are capable of supplying the similar products and at similar price points with each market. The products are based on the same base formulations. Where products have different features, these are achieved through small changes in formulation or additives with special features. Sometimes these features are aimed at customers' individual needs, which could be driven by their own product needs or their equipment. Generally these features can be replicated by other suppliers, which they will do if there is sufficient customer demand.

15.3 **Price competition**

15.3.1 There are many suppliers in the markets for both hot-melt and water based products, which leads to a relatively high churn rate and a lot of competition between suppliers. while pricing is generally similar for similar products, suppliers can offer different formulations of the adhesives to better suit a customer's needs at either a higher or lower price point, depending on the circumstances, which can lead to some differentiation in price between competing suppliers. At times, prices can differ, by up to 10-20%. Suppliers will also look to discount for larger and high-volume customers, to encourage customers to enter into supply arrangements of a longer duration or with some degree of exclusivity, or to take advantage in a drop in the cost of the raw materials. In terms of the strategy behind discounts on products within the market, suppliers may do so in order to build market share or win new customers.

15.4 **Customer churn**

15.4.1 It is relatively easy for customers to switch suppliers for both hot-melt and water-based adhesives, as most equipment is able to work with products from different suppliers as their formulations are very similar. Suppliers are also able to vary formulations to suit customers, and the form of products (in the case of hot melt adhesives) and delivery containers to suit customers. If anything, only minor changes to equipment use needed to accommodate product from new suppliers.

15.4.2 In H.B. Fuller's view, the main reasons customers change suppliers are:

(a) problems in the supply chain for existing provider, although those kinds of problems are generally short-lived;

(b) more competitive price, [ ] and

(c) specialist products being offered, although they are generally matched in time by other competitors if appealing to a wide enough set of customers.

15.4.3 [ ]

15.4.4 Customers are won either through tender processes or by ongoing engagement with potential customers who then place orders.

15.4.5 Tenders are less common and usually undertaken by only the larger users. Typically at least three suppliers will tender, with customers making decisions on a variety of factors. Customers may seek tenders from any supplier, usually on the basis of who has previously been in touch with them or supplied to them. The contracts of tender usually last for two to three years and could be non-exclusive or exclusive. [ ]

15.4.6 The most common way to win new customers is through ongoing engagement and individual negotiation. This may result in one-off orders or ongoing orders. Again, larger customers usually spread supply-chain risk and create competitive tension by maintaining ongoing supply relationships with two or more suppliers.

15.4.7 Obtaining new customers does involve an investment of time and money in marketing effort with the customer. The main question facing suppliers, when looking at approaching a potential new customer, is whether the potential income from the customer is sufficient to offset that investment. [ ]

15.4.8 In the industry, sales force staff of each supplier often visit and keep in touch with the customers of other suppliers.

15.4.9 In any case, some customers obtain product from different suppliers, albeit usually in different product lines. [ ]

15.4.10 The Applicant is not aware of any patent or other intellectual property rights in adhesive technologies that could limit competition.

15.4.11 As noted above, suppliers will sometimes purchase equipment for customers, and either retain ownership and rent the equipment to the customer, or have the customer repay the supplier for the capital cost over time, in a hire-purchase type arrangement. [ ] In any case, those kinds of arrangements are rare.

15.5 **Spare capacity**

15.5.1 In terms of manufacturing capacities for hot melt products, H.B. Fuller understands:

(a) [ ]

(b) Henkel has a fairly large manufacturing capacity, and is using only around half that capacity; and

(c) Bostik also have spare capacity, based on the fact that it continues to pitch for new customers.

15.5.2 H.B. Fuller expects that all suppliers who import product from overseas would be readily able to access more product to meet demand. All would have access to overseas manufacturing and supply chains against which New Zealand quantities are relatively small, such that it would be easy to meet any increase in New Zealand demand.

15.5.3 For water-based products, H.B. Fuller understands that all the New Zealand manufacturers (Henkel, Bostik, Advanced Adhesives and G & A Adhesives) have spare capacity.

15.6 **H.B. Fuller only minor presence in water-based markets**

15.6.1 As noted above, H.B. Fuller supplies only relatively small volumes of water-based product in the book-binding or woodworking sectors and only to [ ]. In that sector, access to manufacturing capacity in New Zealand is crucial to being able to compete on any meaningful scale,

15.6.2 If H.B. Fuller did not acquire Advanced Adhesives it would [ ]

15.6.3 Further, post-acquisition, Henkel, Bostik and G&A Adhesives, would remain as New Zealand manufacturers, in addition to the merged entity.

15.6.4 The Proposed Acquisition would not therefore lead to any substantial lessening of competition in relation to water-based adhesive markets.

15.7 **Cross-selling of water-based adhesives**

15.7.1 As noted above, a reason for the Proposed Acquisition is for H.B. Fuller to acquire Advanced Adhesives' water-based adhesive manufacturing plant. [ ].

15.7.2 The Applicant submits, however, that the acquisition of Advanced Adhesives water-based adhesive manufacturing plant should not be considered as resulting in any substantial lessening of competition in the markets for hot melt or water-based adhesives. The reasons are:

(a) other suppliers (Henkel and Bostik and G & A Adhesives) will still supply both hot melt and water-based adhesives;

(b) as discussed above, customers commonly purchase hot melt and water-based adhesives from different suppliers; and

(c) there will remain, as discussed above, strong competition among suppliers of hot melt products.

15.8 **Overall constraint from competitors**

15.8.1 This situation would not substantially change if the Proposed Acquisition goes ahead. The competitors will all remain in the market and they will have the capacity to increase supply in response to any attempt by H.B. Fuller post-acquisition to increase prices. The merged entity will be constrained in its actions by the existing competitors to such a degree that the Proposed Acquisition will not substantially reduce competition, especially as the counterfactual is one where another party already in the market acquires the assets or shares of Advanced Adhesives.

## 16 Potential competitors

16.1 The requirements for new entry in the relevant markets are:

16.1.1 secure import source, import own product or build manufacturing plant;

16.1.2 establish sales staff; and

16.1.3 establish logistics arrangements, depending on whether an importation or manufacturing plant model is chosen.

16.2 In terms of potential new imports for hot melt products, there are a number of large international adhesives manufacturers and suppliers whose product is not present in New Zealand. Of those, Beardow Adams, Wisdom Adhesives and Kleiberit are already present in the Asia/Pacific region. H.B. Fuller submits that entry of any of those suppliers into New Zealand either in in its own right or by a New Zealand distributor would not be expensive.

16.3 It is also possible that other smaller suppliers could look to enter the New Zealand market by sourcing product from overseas. For example, recently employees of Henkel have left and started a new supplier venture importing product from Taiwan.

16.4 Entry is also possible through building new plant both in hot melt and water-based markets. The cost of building plant for hot-melt products would be in the range of NZ$3-5m, while the cost of building plant for water-based products is in the range of $NZ1-2m [ ] Existing manufacturers in one market are also able to manufacture product for other markets. This may require changes to some plant and procedures, and the sourcing of some different raw materials, but is cheaper than building entirely new plant.

16.5 The Applicant considers that new entry into the relevant markets is possible and would likely be at a scale that provides a meaningful level of competition. Such new entry could occur within a reasonable time frame.

16.6 The Applicant therefore considers that potential entry into the relevant markets by new competitors will constrain the merged entity.

### 17 Countervailing power of buyers

17.1 The Applicant considers that a significant portion of the buyers for the overlapping products will have strong countervailing power in the market. The remainder of the buyers will have a reasonable level of countervailing power.

17.2 This power will have the effect of constraining the merged entity's ability to increase prices or otherwise provide less value for consumers post-transaction.

17.3 The largest customers in each market have a strong ability to negotiate favourable terms with suppliers due to their size both as a customer in the market and in relation to their overall operation. This means that they have a stronger countervailing power than other customers in the supply market. Customers who purchase multiple products or who also purchase both hot-melt and water-based adhesives are also able to switch suppliers on both products, in response to a price increase for one product.

17.4 Another advantage the larger buyers may have is that should supply costs rise, they are better-positioned to either vertically integrate, approach potential new suppliers or even import the base materials and produce the necessary products themselves.

## Part 6: Further Information and Supporting Documentation

### 18 Copies of the most recent audited financial statements for each of the merger parties

18.1 Copies of the most recent audited financial statements of each of the Parties are appended to this application as confidential Appendices 7 and 8 respectively. In the case of H.B. Fuller, these are New Zealand branch accounts.

## Part 7: Confidentiality

### 19 Confidentiality for specific information contained in or attached to the notice

19.1 Confidentiality is sought in respect of the information in this application that is highlighted in **bold** and contained in square brackets and Appendices 2, 3, 4, 6, 7 and 8. Confidentiality is sought for the purposes of section 9(2)(b) of the Official Information Act 1982 on the grounds that:

(a) the information is commercially sensitive and contains valuable information which is confidential to the Applicant (and/or the Vendors); and

(b) disclosure would be likely unreasonably to prejudice the commercial position of the Applicant (and/or the Vendors), as the parties providing the information.

19.2 The Applicant also requests it is notified of any request made to the Commerce Commission under the Official Information Act 1982 for the confidential information, and that the Commission seeks the Applicant's views as to whether the information remains confidential and commercially sensitive at the time those requests are being considered.

The foregoing applies equally in respect of any additional information provided to the Commission that is expressed to be confidential.

**DECLARATION**

THIS NOTICE is given by **H.B. Fuller Company Australia Pty Limited (H.B. Fuller)**.

H.B. Fuller hereby confirms that:

- all information specified by the Commission has been supplied;
- if information has not been supplied by H.B. Fuller, reasons have been included as to why the information has not been supplied;
- all information known to H.B. Fuller which is relevant to the consideration of this application/notice has been supplied; and
- all information supplied by H.B. Fuller is correct as at the date of this application/notice.

H.B. Fuller undertakes to advise the Commission immediately of any material change in circumstances relating to the application/notice.

Dated this sixteenth day of February 2016.

Carl Pimentel

I am the Managing Director of the company and am duly authorised to make this Application/Notice.

## Appendix 1: Company Extract - H.B. Fuller Company Australia Pty Limited

**Appendix 2: Top 20 H.B. Fuller New Zealand customers**

**[CONFIDENTIAL]**

[ ]

**Appendix 3: [ ]**

**[CONFIDENTIAL]**

## Appendix 4: Draft Agreement for Sale and Purchase

[**CONFIDENTIAL**]

**Appendix 5: Products supplied by the Parties and competitors**

1 Hot melt adhesive products for case/carton sealing.

1.1 H.B.Fuller – Advantra and Clean Melt range

1.2 Advanced Adhesives (no specific information available)

1.3 Henkel – Technomelt range

1.4 G & A Adhesives

1.5 Bostik – Bostik 6303 Hot Melt

1.6 Johns Adhesives (Australia) – BAMFutura

1.7 Jowat – Jowatherm range

2 Hot melt adhesive products for paper converting.

2.1 H.B.Fuller – Lunamelt and Flextra range.

2.2 Advanced Adhesives (no specific information available)

2.3 Henkel – Technomelt range

2.4 G & A Adhesives – GA 456M, GA 425, GA 416, GA 422

2.5 Bostik – Thermogrip range

2.6 Johns Adhesives (Australia) (no specific information available)

2.7 Jowat – Jowatherm, Jowatherm-Reaktant and Jowacoll range

3 Hot melt adhesive products for woodworking.

3.1 H.B.Fuller – Rakoll, Durabond, and Rapidex range.

3.2 Henkel – Technomelt range

3.3 G & A Adhesives - GA456M-CTN

3.4 Bostik - (no specific information available)

3.5 Johns Adhesives (Australia) - (no specific information available)

3.6 Jowat - Jowatherm, Jowatherm, Jowat-Toptherm and Jowatherm Reaktant range

4 Hot melt adhesive products for bookbinding.

4.1 H.B.Fuller – Durabond range

4.2 Advanced Adhesives (no specific information available)

4.3 Henkel – Technomelt and Sellotape range

4.4 G & A Adhesives – GA470W-CTN

4.5 Bostik - (no specific information available)

4.6 Johns Adhesives (Australia) (no specific information available)

4.7 Jowat – Jowacoll series

**Appendix 6: Estimated market shares**

**[CONFIDENTIAL]**

| **Hot melt markets** | **Estimated market size** | **Henkel** | **H.B. Fuller** | **Advanced Adhesives** | **Bostik** | **G&A Adhesives** | **Jowat** | **Johns Adhesives** | **Other** |
|---|---|---|---|---|---|---|---|---|---|
| Case/carton sealing | [ ] | [ ] | [ ] | [ ] | [ ] | [ ] | [ ] | [ ] | [ ] |
| Paper converting | [ ] | [ ] | [ ] | [ ] | [ ] | [ ] | [ ] | [ ] | [ ] |
| Bookbinding | [ ] | [ ] | [ ] | [ ] | [ ] | [ ] | [ ] | [ ] | [ ] |

| **Water based markets** | **Estimated market size** | **Henkel** | **H.B. Fuller** | **Advanced Adhesives** | **Bostik** | **G&A Adhesives** | **Johns Adhesives** |
|---|---|---|---|---|---|---|---|
| Wood working | [ ] | [ ] | [ ] | [ ] | [ ] | [ ] | [ ] |
| Bookbinding | [ ] | [ ] | [ ] | [ ] | [ ] | [ ] | [ ] |

**Appendix 7: H.B. Fuller 2013/14 Annual Report**

[**CONFIDENTIAL**]

**Appendix 8: Advanced Adhesives 2014/15 Annual Report**

[**CONFIDENTIAL**]