

MEDIA RELEASE



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ACCC WILL NOT TAKE ACTION IN RELATION TO QUBE MCS DEAL

The ACCC has announced that it will not take any further action in relation to Qube Holdings Limited's (ASX:QUB) completed acquisition of Maritime Container Services Pty Ltd (MCS).

The ACCC's investigation focused on the supply chain for containerised freight through Port Botany, particularly the role of empty container parks in this chain. MCS controls Cooks River, a significant container park with rail sidings that is used by some of Qube's rivals, often for regional containerised rail freight.

"It is important for regional exporters and rail operators to have access to empty container parks with rail facilities" ACCC Chairman Rod Sims said.

"While there are a limited number of these types of empty container parks in Sydney, there appear to be sufficient choices for Qube's rivals in rail, stevedoring and logistics," Mr Sims said.

The ACCC considered whether the vertical integration of an empty container park with Qube's existing rail assets, intermodal terminals and 50 per cent interest in Patrick stevedores could result in preferential treatment for Qube or discrimination against Qube's competitors. A key consideration was whether the acquisition could reduce competition in the market for rail container transport services between regional NSW and Port Botany.

The ACCC identified alternative empty container parks operated by DP World Logistics, and soon by Linx, that could act to constrain Qube's incentive to discriminate against rivals.

"The alternative empty container parks with rail access will provide exporters in regional NSW and rail operators the option of moving to other facilities if they consider they are receiving less favourable treatment from Qube."

"Some large regional exporters have already moved to alternative container parks. The threat of continued switching by customers limits the impact of discriminatory behaviour by Qube, and may also act to constrain Qube from engaging in such behaviour in the first place," Mr Sims said.

The ACCC considered that it would be unlikely that Qube could leverage the operation of MCS to preference Patrick, because of the availability of alternative empty container parks and the role of shipping lines in choosing stevedores.

Qube and MCS completed the acquisition in late December 2017, just days after Qube notified the ACCC of its intention to do so. At the request of the ACCC, prior to completion Qube gave the ACCC a court-enforceable undertaking to hold the MCS business separate from Qube until at least 14 March 2018.

By choosing not to seek informal ACCC clearance before completing the transaction, Qube and MCS were exposed to potential legal action seeking divestiture and penalty orders had

the ACCC formed the view that the acquisition was likely to have the effect of substantially lessening competition, in breach of section 50 of the Competition and Consumer Act 2010.

Background

Empty container parks form an integral part of the containerised export/import supply chain. They are used by shipping lines as sites for importers to return and exporters to collect empty containers. They are also used by shipping lines to store excess containers.

Regional exporters tend to use rail to transport their export containers to Port Botany and collect empty containers. Once a train has offloaded full containers, it collects empty containers for the return trip to the exporter's facility.

In 2009 the ACCC opposed the acquisition of MCS by POTA, a predecessor to Qube. At that time POTA operated an empty container park with rail access that competed with MCS. Qube no longer operates that empty container park. It is now operated by a competitor of Qube's and is available to constrain Qube in its operation of MCS.

Further information is available at www.accc.gov.au

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