



MEDIA RELEASE

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ACCC will not oppose Woolworths acquiring 65% share of PFD

The ACCC will not oppose Woolworths' (ASX: WOW) acquisition of 65 per cent of the shares in wholesale food distributor PFD Food Services, following a detailed investigation that found the transaction is not likely to substantially lessen competition.

"We conducted extensive market inquiries across the industry, and undertook detailed analysis of supplier and competitor data, and internal documents of key interested parties. Ultimately the evidence before us did not indicate the transaction would be likely to substantially lessen competition," ACCC Chair Rod Sims said.

PFD is a wholesale food distributor, purchasing a wide range of food products from suppliers and distributing them to businesses such as restaurants, cafes, hotels and clubs, petrol and convenience stores and institutions such as hospitals. PFD has about 15 per cent of the wholesale food distribution segment.

Although Woolworths and PFD both supply food products, they do not compete to a significant extent for customers. PFD primarily sells and distributes food products that are not suitable for direct retail sale. Woolworths only supplies businesses to a limited extent, distributing products suitable for direct retail sale through Woolworths at Work and Australian Grocery Wholesalers (which primarily supplies Ampol service stations).

"Our investigation focussed on the potential impact of the transaction on suppliers of food and grocery products. Market feedback suggested that some suppliers see the wholesale food distribution channel as a competitive alternative to supermarkets in distributing their products," Mr Sims said.

"While there were concerns expressed by some suppliers, many suppliers did not raise competition concerns. PFD makes up about two per cent of the overall demand from food suppliers, which was a key factor in the lack of concern from some suppliers."

The ACCC closely investigated potential flow-on effects across the wholesale food sector and looked at specific segments of the market where supply through PFD and other wholesalers is a greater proportion of demand.

"There are very few suppliers for whom both PFD and Woolworths make up a significant proportion of their channels to market. The entire wholesale channel generally purchases less than either of the major supermarket chains," Mr Sims said.

"We consulted with suppliers of all sizes and found that many suppliers also have additional alternative channels, such as supply to manufacturing, direct supply or negotiation with institutional and restaurant chain customers, and exports."

Many of PFD's competitors expressed very strong concerns to the ACCC about the potential effects of the acquisition. The strongest concerns related to the potential for Woolworths to aggressively expand in food distribution and leverage its buyer power in supermarkets into food distribution, including through selling private-label products through PFD.

Market feedback indicated that Woolworths will likely be a strong competitor in food distribution. It may try to expand PFD's share of the wholesale segment by bringing down prices for restaurants, cafes and other businesses.

"The ACCC acknowledges that the acquisition will likely lead to changes in the way the wholesale food distribution industry operates," Mr Sims said.

"Despite these potential changes, we concluded that there are several competitors in the wholesale segment with similar market share to PFD and non-price aspects of competition, such as range, quality and service levels are likely to remain an important part of the competitive dynamics. Consequently there is not likely to be a substantial lessening of competition."

Behavioural undertaking

During the course of the ACCC's merger review, Woolworths offered a behavioural undertaking with temporary measures which it said were designed to preserve the current market dynamics and enable market participants, such as independent suppliers, to continue to do business with Woolworths and PFD independently.

The ACCC consulted with market participants on the proposed undertaking, and the overall feedback received was that the undertaking would not be effective.

When an undertaking is offered to the ACCC in a merger context, the ACCC will consider whether the undertaking is necessary to address competition concerns raised by the proposed acquisition. In this case, the ACCC concluded that the proposed acquisition was not likely to substantially lessen competition, so ultimately it was not necessary to decide whether to accept the undertaking.

To the extent that the undertaking sought to bolster elements of the [Food and Grocery Code](#), the ACCC considers that this should be dealt with through improvements to the code regime, rather than imposing additional obligations on one participant in the industry.

Although it had determined that the undertaking was not necessary, the ACCC also considered that an undertaking of the type proposed raised considerable compliance risks that would likely have made it unacceptable.

Concerns about Food and Grocery Code

During the course of its investigation, the ACCC heard many concerns about the effectiveness of the Food and Grocery Code. This included that suppliers are afraid to take action under the code because of their perceived risk of retaliation.

Many suppliers consider that the code needs to be strengthened, including through the inclusion of civil penalty provisions.

"We consistently received feedback that while the supermarkets' conduct has improved since the introduction of the code, poor behaviour continues, and the significant imbalance in the bargaining position of suppliers and the supermarkets remains," Mr Sims said.

A number of suppliers also suggested that the code should include sanctions for non-compliance.

“The ACCC agrees that the code should be made mandatory and should include civil penalty provisions,” Mr Sims said.

Background

Woolworths is a large food retailer and also operates the online business Woolworths at Work, which supplies to commercial customers and Australian Grocery Wholesalers which provides wholesale food distribution to a petrol and convenience chain.

PFD is a privately owned wholesale food distributor supplying food products and distribution services. PFD operates a national network of warehouses and a fleet of delivery vehicles. PFD distributes to food service businesses such as restaurants and cafés, franchised quick service restaurants, hotels and clubs and other businesses.

PFD also stores and distributes products to fast food franchises and other major customers in circumstances where the customer has negotiated the price of the products directly with the supplier.

Woolworths and PFD share approximately 350–400 common suppliers, although they generally purchase products of different sizes and in some cases different recipes. Woolworths generally purchases products suitable for retail sale to consumers while PFD generally purchases larger-format products for use by businesses.

Woolworths also has a limited wholesale business supplying petrol and convenience stores, and commercial customers such as offices and childcare centres through its Woolworths at Work and Australian Grocery Wholesalers businesses. However, the types of products Woolworths supplies are generally those suitable for retail sale to consumers.

The acquisition will result in Woolworths owning 65 per cent of PFD, with the remaining 35 per cent being held by the Smith family. The acquisition also gives Woolworths the right to acquire the remaining 35 per cent.

Undertaking

Details of the undertaking offered by Woolworths and PFD are available [here](#).

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