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29 July 2019

Dear Interested Party

**Re: Request for submissions: Proposed acquisition of the Jewel Fine Foods business and assets by B&J City Kitchen Pty Ltd**

The Australian Competition and Consumer Commission (**ACCC**) is seeking your views on the proposed acquisition by B&J City Kitchen Pty Ltd (**B&J**) of the Jewel Fine Foods business and assets from the Jewel Fine Foods seller entities listed in the attached schedule (**Jewel**) (the **proposed acquisition**).

B&J manufactures a range of branded and private-label chilled fresh, chilled post-pack pasteurised (Long Life) and frozen ready meals, from its facility located in Arndell Park, New South Wales. B&J is 77 per cent owned by Beak & Johnston Holdings Pty Ltd (**B&J Holdings**) and 23 per cent owned by Woolworths Group Ltd (**Woolworths**). B&J Holdings, including B&J, supplies nationally to grocery retailers including Woolworths, Coles, Metcash and Harris Farm, and to independent grocers, petrol and convenience store operators, food manufacturers (such as General Mills) and food service operators (such as airlines).

Jewel also manufactures a range of branded and private-label chilled, frozen and ambient ready meals, soups, breads and fried snacking, from its facilities in Banksmeadow and Mascot in New South Wales. It supplies nationally to grocery retailers including Coles, Woolworths, Aldi, Costco, and Metcash, and to independent grocers, export, food manufacturers (such as Kraft Heinz) and food service operators. Jewel entered voluntary administration on 26 April 2019.

Further details about the proposed acquisition can be found at **Attachment A**.

The ACCC's investigation is focused on the impact on competition. In particular, we are seeking your views on:

- the extent of competition between B&J and Jewel and the degree to which other companies compete with B&K and Jewel
- the extent to which consumers consider chilled and frozen ready meals to be substitutable

- the extent to which ready meals are substitutable with other prepared meals from grocery retailers (such as pizzas, quiches and soups) or with other options (such as ready meals offered online, takeaway meals, home delivered meals and meal kits)
- as Woolworths owns 23 per cent of B&J, the extent to which the proposed acquisition may limit the supply of ready meals to other grocery retailers or other customers and therefore impact on competition in the supply of ready meals to consumers.

Further issues you may wish to address are set out in **Attachment B**.

This matter is public and you can forward this letter to anybody who may be interested.

The legal test which the ACCC applies in considering the proposed acquisition is in section 50 of the *Competition and Consumer Act 2010*. Section 50 prohibits acquisitions that are likely to have the effect of substantially lessening competition in a market.

Please provide your response by no later than **5pm on 5 August 2019**. Responses may be emailed to [mergers@acc.gov.au](mailto:mergers@acc.gov.au) with the title: **Submission re: B&J/Jewel – attention Fei Wu / Nigel Vise**. If you would like to arrange a time to discuss the matter with ACCC officers, or have any questions about this letter, please contact Fei Wu on (03) 9290 1987 or Nigel Vise on (03) 9290 1468.

Updates regarding the ACCC's investigation will be available on the ACCC's Public Mergers Register at ([ACCC Mergers Register](#)).

#### **Confidentiality of submissions**

The ACCC will not publish submissions regarding the proposed acquisition. We will not disclose submissions to third parties (except our advisors/consultants) unless compelled by law (for example, under freedom of information legislation or during court proceedings) or in accordance with s155AAA of the *Competition and Consumer Act 2010* (Cth). Where the ACCC is required to disclose confidential information, the ACCC will notify you in advance where possible so that you may have an opportunity to be heard. Therefore, if the information provided to the ACCC is of a confidential nature, please indicate as such. Our [Informal Merger Review Process Guidelines](#) contain more information on confidentiality.

Yours sincerely



Tom Leuner  
General Manager  
Merger Investigations

## **Attachment A**

### **B&J City Kitchen**

B&J operates a facility in Arndell Park, NSW. It is 77 per cent owned by Beak & Johnston Holdings Pty Ltd (**B&J Holdings**) and 23 per cent owned by Woolworths Group Ltd.

B&J Holdings, including B&J, manufactures a range of branded and private label chilled fresh, chilled fresh, chilled post-pack pasteurised (or long life) and frozen ready meals. B&J Holdings also supplies a range of chilled soups & sauces, raw meat products, slow cooked dishes, lasagne & pasta, and pastry products through its other subsidiaries.

B&J Holdings, including B&J, supplies nationally to grocery retailers including Woolworths, Coles, Metcash and Harris Farm, and to independent grocers, petrol & convenience store operators, food producers and food service operators (such as airlines).

### **Jewel**

Jewel manufactures and supplies a range of branded and private label chilled, frozen and ambient ready meals, soups, breads and fried snacking, from its facilities located in Mascot and Banksmeadow in New South Wales.

Jewel supplies nationally to grocery retailers including Coles, Woolworths, Aldi, Costco, and Metcash and to independent grocers, export, food producers and food service operators. Jewel also has corporate partnerships, including with Qantas and Virgin.

Jewel entered into voluntary administration on 26 April 2019.

### **The transaction**

B&J proposes to acquire the Jewel Fine Foods business and assets from the Jewel Fine Foods seller entities listed in the attached Schedule.

## **Attachment B**

1. Please provide a brief description of your business or organisation.
2. Please outline the reasons for your interest in the proposed acquisition, including any products you buy from or supply to B&J, B&J Holdings, or Jewel, or any commercial relationships you have with B&J, B&J Holdings, or Jewel.

### **Closeness of competition in the supply of chilled ready meals**

3. How closely do B&J and Jewel compete with each other in the supply of chilled ready meals in Australia? In particular, please note any key similarities and differences in the branded or private-label chilled ready meals provided by B&J or Jewel, including price, quality, variety, service levels, manufacturing process or any ancillary services provided by B&J or Jewel.
4. Please identify and describe the competing suppliers of chilled ready meals in Australia, including the extent to which they compete with B&J and Jewel and their relative size and product offerings compared with B&J and Jewel.
5. *If you are a retailer or food service operator who acquires chilled ready meals*, please identify which suppliers have competed for your business and the price, variety, service levels, or any other differentiations in the chilled ready meals that they supply.

### **Closeness of competition in the supply of frozen ready meals**

6. How closely do B&J and Jewel compete with each other in the supply of frozen ready meals in Australia? In particular, please note any key similarities and differences in the branded or private-label frozen ready meals provided by B&J or Jewel, including price, quality, variety, service levels, manufacturing process or any ancillary services provided by B&J or Jewel.
7. Please identify and describe the competing suppliers of frozen ready meals in Australia, including the extent to which they compete with B&J and Jewel and their relative size and product offerings compared with B&J and Jewel.
8. *If you are a retailer or food service operator who acquires of frozen ready meals*, please identify which suppliers have competed for your business and the price, variety, service levels, or any other differentiations in the chilled ready meals that they supply.

### **Requirements of retailers and food service operators**

9. Please identify and describe the main customers of chilled or frozen ready meals in Australia, including the types and sizes of customer to whom B&J or Jewel typically supplies, in the
  - a. grocery retail segment, and
  - b. food service operator segment.
10. How do customers typically acquire chilled or frozen ready meals? You may wish to comment on the typical process for customers to source chilled or frozen ready meals from a new supplier and typical contract lengths.
11. Are there any differences in how customers acquire private label and branded ready meals or how customers acquire chilled, frozen or ambient ready meals?

12. Do customers typically contract with multiple suppliers of chilled or frozen ready meals? Does this differ between grocery retail customers and food service customers?
13. What are the main customer segments for chilled or frozen ready meals? Do retail customers and food service customers have different requirements for chilled or frozen ready meals?
14. What are the impediments to customers switching between suppliers of chilled ready meals or switching between suppliers of frozen ready meals? How frequently do customers switch suppliers in practice?

#### **Substitutability of chilled and frozen ready meals**

15. Do consumers regard chilled and frozen ready meals to be substitutes?
16. Do consumers regard ready meals to be substitutable with other types of prepared meals (for example, meal solutions supplied through grocery retailers such as rotisserie chickens, quiches, pies, pizzas, fresh pasta or meals purchased online and takeaway meals)?
17. How readily can suppliers switch from manufacturing chilled ready meals to manufacturing frozen ready meals and vice versa? Are there any recent examples of suppliers switching between manufacturing chilled and frozen ready meals?

#### **Competitive constraint from new entry or expansion**

18. What are the barriers to entry or expansion for suppliers of chilled or frozen ready meals in Australia? You may wish to comment on:
  - a. set-up costs for a new entrant or expansion costs for an existing competitor
  - b. whether new entrants need to secure customers before entry and, if so, the minimum scale required for new entry
  - c. timeframes for new entry or expansion, and
  - d. any regulatory requirements or barriers for new entry or expansion.
19. Are there any recent examples of entry or exit in the market for the supply of chilled or frozen ready meals in Australia? Are there any potential new suppliers of chilled or frozen ready meals in Australia?
20. Please comment on the extent to which customers may be able to supply their own chilled or frozen ready meals, including:
  - a. any examples of supermarkets or grocery stores supplying their own chilled or frozen ready meals
  - b. any examples of food service customers such as hotels, airlines, or hospitals supplying their own chilled or frozen ready meals, and
  - c. the expense and time required to commence self-supplying chilled or frozen ready meals.
21. Please comment on the extent of any actual or potential direct competition from imported chilled or frozen ready meals.

### **Impact of vertical integration**

22. As B&J is partially owned by Woolworths, please comment on whether the proposed acquisition may give Woolworths the ability or incentive to limit the supply of chilled or frozen ready meals to competitors and the likely impact of such conduct on competition in the supply of ready meals to consumers.

### **Other information or competition issues**

23. Please provide any additional information or comments, or identify other competition issues, that you consider relevant to the ACCC's consideration of the proposed acquisition under section 50 of the *Competition and Consumer Act 2010* (Cth).

## Schedule

### Jewel Fine Foods business and assets acquisition – list of sellers

Name	ACN
Jewel of India Holdings Pty Ltd (Administrators Appointed)	141 963 813
Jewel of India Enterprises Pty Limited (Administrators Appointed)	081 063 774
Jewel International Foods Pty Ltd (Administrators Appointed) as trustee for Jewel International Foods Unit Trust	616 403 886
Jewel Fine Foods Pty Ltd (Administrators Appointed)	160 567 528
Jewel of India Admin Pty Ltd (Administrators Appointed)	141 964 516
Jewel Equipment Pty Ltd (Administrators Appointed)	141 964 927
Jewel Properties (Aust) Pty Ltd (Administrators Appointed) as trustee for Matta Family Trust	112 228 663
Jewel of India Retail Pty Ltd (Administrators Appointed)	141 964 865
Gardeners Nominees Pty Ltd (Administrators Appointed)	160 155 608