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Our ref: IM-70066  
Contact officer: Stella Leung / Zac Sotidis  
Contact phone: 03 9658 6444 / 03 9658 6487

17 May 2019

Dear Interested Party

**Request for submissions: Bis Industries Holdings Limited's proposed acquisition of Cougar Mining Group**

The Australian Competition and Consumer Commission (**ACCC**) is seeking your views on the proposed acquisition of Cougar Mining Group Pty Ltd (**Cougar**) by Bis Industries Holdings Limited (**Bis**) (the **proposed acquisition**).

Bis and Cougar both provide support services to the coal mining industry, including the hiring out of underground longwall relocation equipment and other specialised mining equipment. Further details regarding the 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 impact of the proposed acquisition on prices for the hiring of longwall relocation equipment and other coal mining equipment;
- alternatives to Bis and Cougar;
- the prospect of new entry or expansion of existing suppliers of mining equipment hire into providing longwall relocation equipment hire; and
- the impact of the proposed acquisition on the supply of outsourced activities relating to longwall relocation and run of mine.

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 31 May 2019**. Responses may be

emailed to [mergers@acc.gov.au](mailto:mergers@acc.gov.au) with the title: *Submission re: Bis / Cougar - attention Stella Leung and Zac Sotidis*. If you would like to arrange a time to discuss the matter with ACCC officers, or have any questions about this letter, please contact Stella Leung on 03 9658 6444 or Zac Sotidis on 03 9658 6487.

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*. 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**

### **Bis Industries Holdings Limited**

Bis is a mining services, haulage and resource logistics company operating in Australia. It primarily services companies within the iron ore, coal, bauxite, nickel and gold mining industries.

The services that Bis provides to the coal mining industry include the hiring out of mining equipment, including longwall relocation equipment and run of mine equipment, and mining services, including longwall relocation services, workshop repairs, field maintenance services, tyre sales and spare parts sales.

### **Cougar Mining Group Pty Ltd**

Cougar is a privately owned company based in New South Wales. It operates facilities in Newcastle (New South Wales) and Emerald (Queensland). The services Cougar provides to the mining industry include equipment hire, workshop repairs, field maintenance services and spare parts.

The equipment that Cougar hires out to its customers in the coal mining industry includes longwall relocation equipment, loaders, drift runners, and underground auxiliary fans and attachments.

### **The proposed transaction**

Bis proposes to acquire 100 per cent of the shares in Cougar.

Bis will not acquire Cougar's affiliated Industrea Mining Equipment (**IME**) business. The IME business manufactures and supplies mining equipment, including longwall relocation equipment.

### **Longwall mining**

The parties overlap in support services for underground coal mining, especially in the hiring out of longwall relocation equipment.

Longwall coal mining is a method of underground coal mining that occurs in New South Wales and Queensland. It involves a mechanical cutter shearer that continually shaves slices of coal from a coalface (or longwall face). The coal is extracted and collected on a conveyer that runs parallel to the coalface, which then transports the coal for processing. Hydraulic roof supports are used to support and protect the roof of the mine. The hydraulic roof supports move forward as the coalface is mined. As the supports move forward, the roof of the mine collapses behind it. The size of the longwall face can vary, however they generally are three kilometres in length with a width of 250-400 metres.

Once all the coal has been mined from the longwall block, a new longwall needs to be established, with the mining equipment moved to a new location in the mine and set up. This is a specialised task involving specialised equipment. Once the equipment is relocated, it stays in place (on average, for about 9 to 16 months).

## 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 commercial relationship/s with either of Bis or Cougar.

### Underground coal mining equipment hire

3. Please describe the types of longwall relocation equipment and other underground coal mining equipment that your organisation:
  - a. owns;
  - b. hires out; or
  - c. leases.

Please provide information on the value of each type of the equipment and, if relevant, the frequency, duration and the prices for hiring out or leasing the equipment.

4. Please address the closeness of competition between Bis and Cougar for the hiring out of longwall relocation equipment and other underground coal mining equipment. Relevant factors may include the range of equipment provided, whether the parties respond to each other's pricing activity, and whether customers often switch between the two. Please provide specific examples where possible.
5. Please describe alternative suppliers of the hiring of longwall relocation equipment and other underground coal mining equipment, and the extent to which they compete with Bis and Cougar. Relevant factors may include product ranges, geographic areas of supply, scale, and service standards. Please also consider in your response cross-hiring between mine operators.
6. Please address the ability of either new entry or existing suppliers of mining equipment hire expanding into the supply of longwall relocation equipment hire, in response to a combined Bis/Cougar attempting to increase prices. Please discuss:
  - a. costs of entry or expansion, and the extent to which these costs would or would not be recoverable on market exit;
  - b. timeframe for entry or expansion;
  - c. any regulatory barriers, such as technical approvals required, environmental regulations;
  - d. long-term customer contracts with existing suppliers;
  - e. access to key inputs or distribution channels;
  - f. examples of recent market entry and exit.
7. Please address the extent to which there are significant customers with the ability to source longwall relocation equipment and other underground coal mining

equipment for internal supply, or to sponsor new suppliers of equipment hire. If known, please provide any examples of this happening in the past.

### **Outsourced underground coal mining activities**

8. Please describe the types of underground coal mining activities your organisation outsources that relate to longwall relocation and run of mine. Please provide the volume/value of your organisation's outsourced activities.
9. Please address the closeness of competition between Bis and Cougar for the supply of underground coal mining services. Relevant factors may include the range of services provided, prices and service standards.
10. Please describe alternative suppliers of underground coal mining services and the extent to which they compete with Bis and/or Cougar. Relevant factors may include the range of services provided, prices and service standards.

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

11. 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 Act.