

COMMERCE ACT 1986: BUSINESS ACQUISITION
SECTION 66: NOTICE SEEKING CLEARANCE

21 May 2008

The Registrar
Business Acquisitions and Authorisations
Commerce Commission
PO Box 2351
Wellington

Pursuant to section 66(1) of the Commerce Act 1986 notice is hereby given by Tegel Foods Limited seeking clearance of a proposed business acquisition of the chicken business assets of 'Brinks' (assets from a group of companies: P H Van den Brink Limited, VDB Industries Limited, Brinks South Island Limited, Southland VDB Limited and BAT Promotions Limited).

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Glossary of industry terms used in this Application

BPA	Refers to birds processed per annum, based on 254 processing days per year.
Breeder Stock	Used in this document to mean any of Great Grandparents, Grandparents or Parents, as opposed to Broiler Chickens.
Broiler Chicken	A male or female chicken grown for meat production and less than 8 weeks old.
DOC	Day Old Chicken, used in this document to mean day old birds to be grown as Broiler Chickens.
EOL	End of Lay birds. Layer Hens that have reached the end of their laying potential and are sent for killing and processing. These birds may be processed for meat.
Further Processing	Processing of chicken using specialised automatised facilities to produce higher value products that cannot be produced by hand. Requires high technology batch or in-line processing equipment. Includes the production of fully cooked, formed, coated, or flash fried products. Products include chicken nuggets or fully cooked fillets.
Grandparents	Used to breed Parent chickens.
Great Grandparents	Initial pure breeding line, used to breed Grandparent chickens.
Growers	Farmers who are contracted to grow Broiler Chickens from DOCs to an age at which they are viable for primary processing.
Hatchery	A facility for hatching fertile eggs into either Parents or DOCs.
Layer Hen	Chicken reared for the production of table eggs. A different breed of chicken from Broiler Chickens.
Parent	Used to breed DOCs to be used for meat consumption.
Primary Processing	The process of killing, plucking and eviscerating a chicken to its bare carcass known as a dressed whole bird.
Secondary Processing	The process of packing a whole bird for distribution or cutting, de-boning and packing a dressed whole bird into specific smaller cuts of meat (for example, breasts or drums). Also includes simple hand processing such as marinating and crumbing and kebabing. All products that can be produced in the home.
Smallgoods	Generic term for chilled, ready to eat processed boutique products. Smallgoods products are not exclusively chicken based and also include ham, bacon, salami and pastrami. Chicken smallgoods products include smoked chicken, sliceable roasts, chicken luncheon, sausages and bacon.
QSR	Quick Service Restaurants, meaning large multinational (often franchised) fast food chains who require a combination of large volumes, very specific product specifications and have high service levels of performance. These requirements distinguish them from other more general take away food outlets. (QSRs are: KFC, McDonalds, Burger King, Hell Pizza, Wendys, Subway and Red Rooster)

1 The business acquisition for which clearance is sought

- 1.1 The business acquisition for which clearance is sought is the purchase by Tegel Foods Limited ("*Tegel*") of the assets and undertaking of the poultry business of P H Van den Brink Limited, VDB Industries Limited, Brinks South Island Limited, Southland VDB Limited and BAT Promotions Limited (together "*Brinks*").
- 1.2 The poultry business assets to be acquired comprise primarily brands and intellectual property, sales and marketing data, livestock, feed, finished goods inventories, raw materials and packaging, vehicles, plant and equipment.
- 1.3 The Brinks business involves growing broiler chickens for processing into chicken meat products from three main plants around the country (at Karaka, Tuakau and Christchurch) and a small smoke-house (smallgoods) facility (in Mangere, Auckland). The chicken meat products are sold and distributed to various customers under the 'Brinks' brand name and other brands such as 'Cuisine Supreme', 'Tau Tau' and 'Best Bird'. In this document, the proposed acquisition is referred to as the "*Transaction*", and Tegel Foods Limited and the entities which make up Brinks are together referred to in this document as "*the Parties*".

2 The person giving this notice

- 2.1 This notice is given by:
- Tegel Foods Limited
Level 5, Tower B
100 Carlton Gore Road
PO Box 99927
Newmarket
Auckland
Telephone: (09) 977 9000 *Attention: Andrew Stevens, Chief Operating Officer*
Facsimile: (09) 977 9225 *Email: andrew.stevens@tegel.co.nz*
- 2.2 The Commission is requested to address all correspondence and enquiries in the first instance to:
- Chapman Tripp Sheffield Young
Level 38, ANZ Tower
23-29 Albert Street
Auckland
Telephone: (09) 357 9074 *Attention: Lindsey Jones/Gary Hughes*
Facsimile: (09) 357 9099 *Email: gary.hughes@chapmantripp.com / lindsey.jones@chapmantripp.com*

3 Request for confidentiality

- 3.1 Confidentiality is sought for the fact of the proposed acquisition from the time of filing this clearance application, until 9am on Friday 23 May 2008.
- 3.2 Confidentiality is sought for specific information contained in or attached to the notice, details of which are [in square brackets and shaded] in this document, and have been removed from the Public Version of this notice.
- 3.3 Confidentiality is sought indefinitely or until Tegel advises the Commission that it can make public disclosure of those details. Confidentiality is sought under section 9(2)(b) of the Official Information Act on the grounds that:
- the information is commercially sensitive and valuable information which is confidential to the Parties; and
 - disclosure of the information is likely to give unfair advantage to competitors of the Parties and unreasonably prejudice the commercial position of the Parties.

4 Details of the Parties involved in the Transaction

- 4.1 **The Acquirer** is Tegel Foods Limited
Level 5, Tower B
100 Carlton Gore Road
PO Box 99927
Newmarket
Auckland
Telephone: (09) 977 9000 *Attention: Andrew Stevens, Chief Operating Officer*
Facsimile: (09) 977 9225 *Email: andrew.stevens@tegel.co.nz*
- 4.2 The Commission is requested to address all enquiries in the first instance to Chapman Tripp (attention: Lindsey Jones/Gary Hughes).
- 4.3 **The Vendor** is a group of companies holding the Brinks chicken business assets: P H Van den Brink Limited, VDB Industries Limited, Brinks South Island Limited, Southland VDB Limited and BAT Promotions Limited.
652 Great South Road
Manukau City
Auckland South
Telephone: (09) 262 0903 *Attention: Karl Van den Brink*
Facsimile: (09) 262 0910 *Email: Karl@brinks.co.nz*

5 Persons interconnected to or associated with the Parties

- 5.1 Tegel Foods Limited is a company registered in New Zealand and a wholly-owned subsidiary of NZ Poultry Holdings Limited. NZ Poultry Holdings Limited is owned by NZ Poultry Finance Limited, which is owned by NZ Poultry Enterprises Limited. The ultimate owners of NZ Poultry Enterprises Limited are a number of institutional investors (the largest of which is Pacific Equity Partners with 43.6%) and Tegel management, as set out in the ownership structure chart attached as Schedule 1.
- 5.2 The vendor is a group of companies (P H Van den Brink Limited, VDB Industries Limited, Brinks South Island Limited, Southland VDB Limited and BAT Promotions Limited) which together own the various assets of the Brinks chicken business. Each of the vendor companies is owned 50% by VDB Capital Limited with the remaining 50% owned jointly by Thomas Christopher Howe Fleming, Paul Kenneth Foster, Anthony Andrew Peter Van den Brink and Karl Joseph Van den Brink (50%). An ownership structure chart for the relevant Brinks companies is attached as Schedule 2.

6 Beneficial interests/entitlements between participants

- 6.1 Tegel is not aware of any participant, or any interconnected body corporate thereof, that has a beneficial interest in, or is beneficially entitled to, any shares or other pecuniary interest in another participant.

7 Links between the Parties (formal or informal)

- 7.1 The Parties have signed a sale and purchase agreement for the Transaction, which is conditional upon Commerce Commission approval being granted. This sale and purchase agreement includes a [] restraint of trade upon []. The Parties have separately signed a [].
- 7.2 Tegel and BAT Promotions Limited have also entered into an agreement for [].
- 7.3 There is an operational [].

- 7.4 Tegel is lending [] of its contracted broiler growing space to [.]
- 7.5 Brinks sometimes purchases whole dressed birds from Tegel (or Inghams) when Brinks is unable to meet fluctuations in its own customer demands. These sales occur on an ad hoc, short notice basis, and are usually placed over the phone. Inghams also purchases whole dressed birds from Tegel, sporadically on the same basis.
- 7.6 In the recent past, due to a fire at Tegel's Christchurch plant, the Parties had an informal arrangement in 2007 allowing Tegel to use Brinks' Christchurch plant for some two-three months on an "after-hours shift, emergency" basis. That arrangement is no longer on foot.
- 7.7 The varying degrees of vertical integration in the poultry industry mean that there are supply and purchase arrangements between various industry participants. In addition, primary processors supply whole dressed birds to secondary and further processors and smallgoods manufacturers who compete with the primary processors for supply to customers. These arrangements are described in further detail in Section 4: Market Participants.
- 7.8 Informal links include that the Parties are each members of the trade association, the Poultry Industry Association of New Zealand (PIANZ).

8 Other relevant directorships held by directors of the Acquirer

- 8.1 None of the directors of Tegel Foods Limited or its interconnected bodies corporate holds directorships in any other companies which are involved in the market in which the target business operates.¹ Tegel Foods Limited does not have any subsidiary companies.

9 The business activities of each participant (and interconnected or associated parties)

- 9.1 **Tegel** is a vertically integrated poultry growing and processing company with its own breeding stock, hatcheries, feedmills, processing, distribution and marketing facilities throughout New Zealand. For further detail, see Section 4: Market Participants.

¹ Andrew Stevens is not a Director, but is Chief Operating Officer of Tegel Foods Limited.
[

- 9.2 Tegel supplies fresh and frozen chicken meat and processed chicken meat products to supermarkets and other retail stores, Quick Service Restaurant (QSR) outlets, cafes, restaurants and foodservice businesses on a national basis. Tegel also supplies whole birds to secondary processors and distributors or preparers.
- 9.3 Some chicken products carry the *Tegel* brand, and free range grown birds are separately branded *Rangitikei Corn Fed Free Range*, while a significant amount of fresh chicken products are sold unbranded and the name of the supplier may be largely invisible or indistinguishable to consumers.
- 9.4 **Brinks'** core business is also growing broiler chickens and processing and selling chicken meat products – but it is not vertically integrated through as many of the stages of the chicken production process as Tegel or Inghams. In particular Brinks does not have breeding or hatchery operations or feedmills and, being a much smaller operation, supplies to a more limited customer group than Tegel.
- 9.5 Brinks products carry brands such as *Brinks*, *Best Bird*, or *Tau Tau*, and it also sells a small range of smoked products under the *Cuisine Supreme* label. In the past, it used the *Chubby* brand, but that was phased out several years ago.
- 9.6 Brinks concentrates on core product line sales to the foodservice segment and retailers. It does not operate in the QSR customer segment and has very little further processing or preparing operations, instead operating mainly at the primary and secondary processing levels. For further detail see Section 4: Market Participants.
- 9.7 Brinks has three primary processing facilities² located in:
- (a) Karaka (South Auckland);
 - (b) Tuakau;
 - (c) Christchurch;
- 9.8 Brinks also has a modest smoke-house (smallgoods) facility in Mangere (South Auckland).

² Brinks previously had a processing facility in Invercargill. This facility was closed and is now being used by another supplier, Heuvels. For further discussion see Section 4: Market Participants.

10 The reasons for the proposed Transaction and the intentions in respect of the merged business

10.1 The proposed acquisition will enable Tegel to achieve substantial livestock, feed and operating efficiencies through increased plant utilisation involving minimal additional fixed costs. The anticipated effect will be to lower Tegel's [.]

10.2 It is vital that Tegel achieve the most efficient structure to enable it to continue to compete effectively with its larger Australian-based competitor, Inghams.

10.3 Further, there has been a significant cost shift recently in the industry around grain and animal feed costs. This has made chicken more expensive compared to other meat proteins and has led to the current decline in New Zealand chicken consumption after several decades of growth. (For further discussion, refer Section 3: Industry Trends). [

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10.5 The proposed acquisition will enable Tegel to close to that gap and improve Tegel's ability to compete with its main rival at a time when the industry faces a combination of rising costs, increased competition from substitutable meat products and heightened consumer sensitivity to food prices.

10.6 Brinks has been going through a period of change and restructuring, with a number of its South Auckland contracted chicken growers choosing to set up their own new entrant chicken meat company Country Pride Chicken Limited (CPL). This has led Brinks to re-assess its optimal supply and structural arrangements for its operations going forward. In 2007, as part of that re-assessment, [

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PART II: IDENTIFICATION OF MARKETS AFFECTED**11 Horizontal Aggregation**

11.1 Please refer to discussion in Sections 2-5.

12 & 13 Differentiated Product Markets

12.1 Please refer to discussion in Section 5: Market Definition.

14 Vertical Integration**No new vertical integration**

14.1 The acquisition of Brinks will add no new level of vertical integration to Tegel. Tegel is already present at all the relevant production stages (fully integrated) – as are Inghams and new entrant CPL. Brinks is only semi-integrated, and at all of those functional levels Tegel already operates. Hence there is no vertical integration that is not already present in the counterfactual.

14.2 Any issues arising from the proposed transaction can therefore be adequately examined under the horizontal aggregation market analysis.

15 Previous notifications to the Commission or acquisitions

15.1 In the last 3 years there have been no acquisitions by Tegel, Brinks or any of their interconnected bodies corporate that were notified to the Commission.

15.2 Neither Tegel nor any of its interconnected bodies corporate have made any acquisition of assets of a business or shares in the last 3 years. Tegel does not believe that the relevant Brinks companies that hold the assets being acquired have made any acquisition affecting poultry markets within the last 3 years, but it cannot be sure of any acquisitions made by interconnected companies within the wider PH Van den Brink group.

**PARTS III, IV & V: CONSTRAINTS ON MARKET POWER BY
EXISTING COMPETITION, POTENTIAL COMPETITION &
OTHER POTENTIAL CONSTRAINTS**

Please refer to discussion in Sections 6 - 8.

This application is made by Tegel Foods Limited:

I, Andrew Hollis Stevens of Auckland, Chief Operating Officer am authorised to make this application on behalf of Tegel Foods Limited.

I hereby confirm that:

- All information specified by the Commission has been supplied;
- All information known to the Applicant which is relevant to the consideration and determination of this application has been supplied; and
- All information supplied is correct as at the date of this application.

I undertake to immediately advise the Commission of any material change in circumstances to the application.

Dated: May 2008

Andrew Hollis Stevens (Chief Operating Officer) on behalf of the Applicant

1 Executive Summary

- 1.1 This is an application by Tegel Foods Limited to acquire the business and selected assets of the 'Brinks' chicken business.
- 1.2 Tegel was part of the Goodman Fielder Wattie food conglomerate, and then owned by Heinz-Wattie's until 2006, when it was acquired by private equity and institutional investors. Brinks is a family owned company that has grown from origins as an egg-farming business.

The Acquirer

- 1.3 Tegel is a vertically integrated poultry growing and processing company with its own breeding stock, hatcheries, feedmills, processing, distribution and marketing functions.
- 1.4 A pictorial explanation of the feed, breeding, hatching, growing and various processing facilities and examples of primary and secondary processed, further processed and smallgoods products is set out in Schedule 4.

The Target

- 1.5 Brinks is a processor and distributor of chicken and chicken meat products, operating predominantly in primary and secondary processing. Brinks processes the fully-grown chickens at its Auckland processing facility at Karaka (South Auckland), and at two small facilities in Tuakau (South Auckland) and Christchurch.
- 1.6 Brinks does not have feedmills, breeding operations, hatcheries or further processing facilities - but does produce a limited range of smallgoods (smoked chicken only) at a smoke-house in Mangere (South Auckland).

Reasons for acquisition

- 1.7 The acquisition and subsequent integration of the Brinks 'partial-service' chicken business into the Tegel 'full-service' chicken business will improve Tegel's ability to compete with its main competitor in New Zealand, Inghams.

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- 1.9 Currently, in the New Zealand market, only Inghams and Tegel are full service chicken producers. There are now, and have been in the past, many businesses that successfully do some of the activities of these major two players, [

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- 1.10 This two "full-service player" market has produced a very competitive pricing environment ever since Inghams entered the New Zealand market through the acquisition of the Harvey Farms business (in receivership at the time) around 1990.
- 1.11 Over this period significant capital investment from both Inghams and Tegel have led to reduced production costs that have been passed onto consumers as real price declines which have in turn driven huge growth in chicken consumption at the expense of mainly beef and lamb.
- 1.12 Tegel and Inghams have invested heavily in highly mechanised "further processing" facilities that produce a range of formed, crumbed, battered and cooked chicken products. This capital investment accompanied by innovative product development and high levels of consumer marketing has also been critical in growing consumer preference for chicken over other meats.
- 1.13 This trend in consumption away from red meat towards chicken has resulted in chicken consumption peaking in New Zealand at 40 kgs per head per annum in 2005. This is extremely high by world standards and future growth is likely to be at a much reduced level. Changes in the long term costs of grain in world markets are also likely to further increase chicken costs and reduce competitiveness with other mainly grass fed meats.

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Areas of aggregation

- 1.16 There are several levels to the processing of chicken meat products: primary processing, secondary processing, further processing and smallgoods manufacture. In addition, there are three major customer groups: supermarket/large retail, Quick Service Restaurants, and foodservice/small retail. Tegel operates at all levels and supplies into all customer groups (as does Inghams). Brinks does not.
- 1.17 Brinks' primary focus is on the sale of primary and secondary processed generic unbranded core product lines to the foodservice segment and small retailers. It

is a relatively small supplier into the supermarket sectors supplying mainly unbranded chicken.

- 1.18 Accordingly, the only areas of aggregation between Tegel and Brinks are:
- (a) primary and secondary processing (including the contract growing of broiler chickens);
 - (b) a minimal degree of aggregation within smallgoods (limited to smoked chicken only); and
 - (c) the distribution and sale of these products to foodservice and small retail customers and, to some degree, to supermarkets.
- 1.19 Tegel processes around [] birds per annum (BPA) at the primary processing level.³ Brinks processes around [].

Why the Transaction will not substantially lessen competition

- 1.20 With both Tegel and Inghams having plenty of surplus capacity analysis shows that post-acquisition the New Zealand chicken market will continue to be characterised by aggressive competition for both share of chicken sales and share of overall meat sales.
- 1.21 Far from reducing competition within the New Zealand chicken market this transaction will support more aggressive competition. Tegel does however recognise that within certain commodity unbranded market segments, Brinks is currently a significant supplier and an effective competitor. But, close analysis of the affected sector demonstrates that effective competition will not only be maintained by Tegel and Inghams but that other existing operators and a new market entrant will further support strong competition into the future. Purchasers in this sector have a number of alternative supplier options.
- 1.22 It should also be noted that no market segment acts as an independent market, and that pricing will naturally equalise over all the segments as the major industry players can move in and out of sectors easily and quickly compete away any short-term pricing anomalies.
- 1.23 The competition effect of the acquisition will be that:
- (a) the existing market structure of two “full service players” will be maintained, each operating different business models but with the merged entity having a more competitive cost structure;

³ Based on 12 months rolling MAT, for December 2007.

- (b) there will be an overall reduction in the price of chicken (all other things being equal), as it will reduce overall production costs while maintaining the critical factors driving competition;
 - (c) those price reductions will maintain competitiveness of chicken meat consumption in relation to red meat and other proteins. This competition with other meats will continue to be a real constraint on pricing of chicken.
- 1.24 The combined entity will continue to face a combination of significant constraints from existing and potential competitors, as well as from customers with countervailing power. In particular:
- (a) Inghams, will continue to represent a substantial constraint in all sectors of the market. Inghams has considerable spare poultry processing capacity.
 - (b) Tegel does not believe that Brinks has any material impact on Tegel's pricing.
 - (c) Brinks competes only for foodservice/small retail customers and to a lesser degree for large retail customers. It does not operate in the QSR segment.
 - (d) There are other smaller primary processors that also operate at other processing levels (secondary processing, further processing and smallgoods) who compete in the same customer markets as Brinks. There are no barriers to their expansion. These processors currently have spare plant capacity.
 - (e) There are a large number of secondary processors and producers of smallgoods (and some further processors) who buy whole dressed chickens from the primary processors, and then compete with the primary processors to supply foodservice/small retail customers, and supermarkets.
 - (f) Supermarkets, QSR chains, butchery chains, and other large customers (e.g. Creans and some secondary or further processors and producers of smallgoods) have significant countervailing buyer power and will switch away from any supplier who is not offering competitive prices. Market shares can change quickly by virtue of winning one significant contract or customer.
 - (g) Tegel considers that the pricing and dynamics in one customer market will naturally affect and constrain all customer markets. All industry players will seek out (temporarily) higher-margin sectors and quickly compete away those anomalies.

- (h) While Tegel recognises that new entry on the scale of Inghams and Tegel, serving all customer groups, including the specialised QSR segment, [] the potential for new entry in the markets served by Brinks is demonstrated by the recent arrival of Country Pride Chicken Limited (*CPL*). *CPL* is a new fully vertically integrated operation established by a group of growers that have broken away from Brinks. Tegel understands that *CPL*'s first imported breeding flocks are being grown in *CPL*'s new quarantine facility; its new hatchery is operational; grower contracts are in place and construction of the processing factory is nearing completion. *CPL* is expected to be supplying chicken meat into the market by the second half of 2008 under the "Spring Chicken" brand.
- (i) Chicken meat pricing is constrained by relativities with other meat and protein sources, as end consumers will switch to other meats if chicken prices rise. Regardless of whether the Commission treats other meat products as within a market definition for competition assessment purposes, or just outside the market as defined, the constraint from other meats should not be ignored.

1.25 Tegel believes that, at the primary processing level of the market, a realistic assessment of Tegel's post merger market share will be around [] on a BPA (*whole birds processed per annum*) basis. On a snapshot of current market shares, the Transaction would initially increase Tegel's primary processing market share from [] but there are several reasons why a static snapshot is not an accurate view of market dynamics:

- (a) Tegel expects that in both the factual and the counterfactual, Brinks will [] when *CPL*'s new *Spring Chicken* product range is introduced. Tegel estimates that in the counterfactual a snapshot of market shares by the end of 2008 would see []. Hence the market share of the merged entity would be [] not [] as suggested by currently available BPA (birds per annum) figures.
- (b) Tegel also expects that the Transaction will result in an immediate further loss of market share of around [] based on customer reactions as they look to preserve alternative arrangements.
- (c) Tegel believes that, in the counterfactual, Brinks will need to [] and (b) the fixed costs of processing facilities increasing as regulatory compliance requirements are extended. []

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Approach to Market Definition

- 1.26 The products supplied by the various chicken processors can be broken down into the following categories: primary processed whole dressed chickens; secondary processed products; further processed products; and smallgoods.
- 1.27 However, the purchasing patterns of the customer groups are also relevant and the market could be assessed by reference to demand side behaviour. Further, it is very difficult to get any reliable data for the individual categories of product segmentation. The table below sets out the possible product and customer markets and identifies the areas of aggregation between Tegel and Brinks. Each of the markets is national in scope.

	QSR	Foodservice/ small retail	Supermarket/ large retail
Primary Processed	NA	Tegel Brinks	Tegel Brinks
Secondary Processed	Tegel	Tegel Brinks	Tegel Brinks
Further Processed	Tegel	Tegel	Tegel
Small goods	NA (QSR customers do not buy chicken smallgoods)	Tegel Brinks (smoked chicken only)	Tegel Brinks (smoked chicken only)

Overview of the New Zealand chicken meat industry

- 1.28 The chicken industry in New Zealand is characterised by:
 - (a) two large vertically integrated companies, Inghams and Tegel, which supply in all customer markets and which operate at all functional levels, from upstream breeding of broiler chickens, to hatching, growing, feedmill production *and* all major processing levels (primary, secondary, and further processing⁴); and
 - (b) a number of smaller operators which operate at one or more levels of the market and service one or more customer segments.
- 1.29 Brinks is the largest of these smaller operators.
- 1.30 Inghams is Australasia’s largest chicken company. Unlike Tegel, it has operations in both Australia and New Zealand, with over 7000 employees across

⁴ Inghams does not produce smallgoods in New Zealand.

all states of Australia, and in New Zealand. Inghams enjoys significant cost and strategic advantages over Tegel. In particular:

- (a) Inghams has a more efficient, single modern plant infrastructure in New Zealand, and resources to make capital investments on a scale no other New Zealand processor can match (e.g. NZ\$120 million locally in recent years; A\$130m in South Australia in 2007); and
- (b) Inghams' New Zealand operations can leverage off its Australian operations generating considerable savings in overhead costs. Inghams does not have any of its administration functions (accounting, procurement, debt collection, accounts payable, new product development (NPD), marketing, animal nutrition etc) in New Zealand but instead utilises its parent company structure in Sydney, Australia.
- (c) Inghams is able to leverage its Australasian scale to gain procurement advantages in key raw materials/ingredients; marketing and advertising; labelling and packaging, delivering further cost savings.

- 1.31 Tegel believes these combined scale advantages deliver Inghams a lower total cost advantage of up to [] per kilogram (approximately []) advantage over Tegel.
- 1.32 Tegel on the other hand has operations only in New Zealand. Inghams' business overall across Australasia is more than four times the size of Tegel in revenue/turnover terms. The acquisition of Brinks will deliver Tegel some of the scale benefits that Inghams enjoys.
- 1.33 Tegel estimates that since Inghams entered New Zealand in 1990 through the acquisition of the Harvey Farms, Inghams bird numbers have increased approximately six-fold from [] BPA to around [] BPA.
- 1.34 Significant capital investment and dynamic innovations from both Inghams and Tegel has led to increased range and quality of consumer products, at reduced production costs that have been passed onto consumers as real price declines. This decline, and changing customer preferences, has driven huge growth in chicken consumption at the expense of mainly beef and lamb meat. However, recent increases in grain prices have flowed through to the cost of chicken production with consequent price rises. Chicken consumption peaked in New Zealand at 40 kgs per head per annum in 2005. It is now reportedly an average of 36kg per person per year.⁵ This remains extremely high by world standards but future growth is likely to be at a much reduced level as changes

⁵ "Rival chain aims to knock KFC off its perch" *New Zealand Herald* 11 March 2008. See copy in Schedule 5.

in the long term costs of grain on world markets continue to further increase chicken costs and reduce competitiveness with other mainly grass fed meats.

1.35 With this growth in overall chicken volumes up to 2005,⁶ Tegel has been able to increase its sales but has suffered [].

1.36 Tegel and Inghams have invested heavily in highly mechanised "Further Processing" facilities that produce a range of formed, coated and cooked chicken products (eg. nuggets), in some cases on very specialised terms demanded by customers. This capital investment accompanied by innovative product development and high levels of consumer marketing has also been critical in nurturing consumer preference for chicken over other meats. This growth has been driven by Tegel and Inghams.

1.37 While Inghams is a significant competitive constraint and the only other 'full-service' company, there are many other chicken industry players, including:

- *Primary/secondary processors:* Brinks, Turks, Heuvels and the new entrant CPL.
- *Secondary processors:* Foodmore, Santa Rosa, Sam's Fukuyama Food Services, Poultry Distributors, Just Chicken, Randwick Meats, Raewards Fresh, South Island Gourmet etc.
- *Further processors:* Leader Foods and Top Hat.
- *Smallgoods:* Santa Rosa, Asado, Turks, Leonards, Hellers, Huttons and NZ Deli – companies who supply a range of meat products, not just chicken.
- *Wholesalers and intermediaries:* Creans, Gilmours, other Foodstuffs wholesalers (Toops, Trents), ARFD, Countrywide, and others.

Ability to expand and access upstream inputs

1.38 Although Tegel believes the availability of key industry inputs (animal feed, contract growers, and broiler DOCs) will be unaffected by the Transaction, it recognises that the Commission will want to test the effects, if any on other industry participants. All other primary processors (apart from Brinks) have existing spare capacity in their plants and existing supply relationships for these key inputs.

1.39 Tegel has analysed the supply of key upstream inputs (parent breeding DOCs stock, animal feed and contract grower facilities) in the context of how existing

⁶ Volume is down more recently due to well-documented input cost rises in grain and animal feed (emphasising customers' ability to switch to meat sources).

competitors may expand or potential competitors may enter. In Tegel's view, no competition concerns arise at those upstream levels.

Conclusion

- 1.40 The acquisition of Brinks will enable Tegel to reduce its production costs by improving plant utilisation, leading to lower per bird or per kilogram costs. This will maintain the critical factors driving competition (economies of scale, overhead cost minimisation, new product development and innovation) - with the result that other things being equal, the price of chicken will reduce and market share lost to beef, lamb, pork and other meat sources will be regained.
- 1.41 With both Tegel and Inghams and other producers having surplus capacity the New Zealand chicken market will continue to be characterised by aggressive competition for both share of chicken sales and share of meat/protein sales.
- 1.42 In view of all the factors outlined above, particularly at paragraph 1.24, Tegel believes that the proposed acquisition will not be likely to result in a substantial lessening of competition in any of the relevant markets or increase any degree of market power. Those constraining factors are detailed further in the following Sections.

2 Structure of the New Zealand chicken industry

Overview of poultry industry

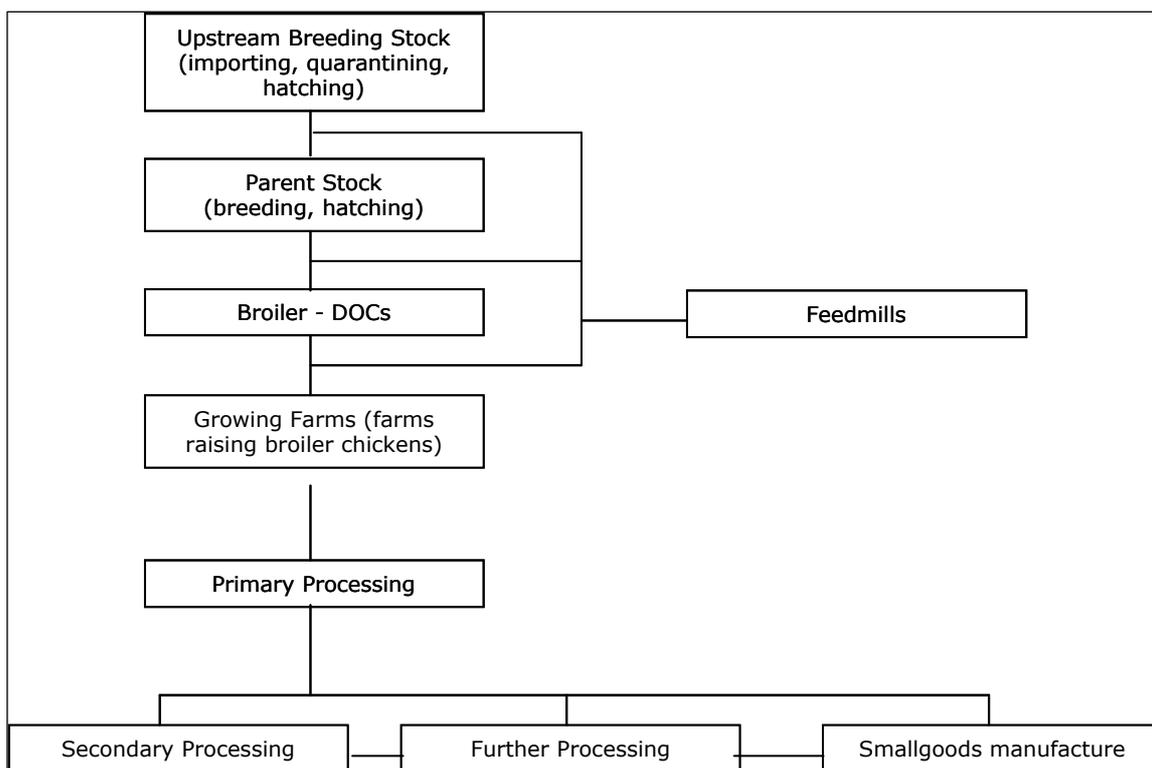
- 2.1 The poultry industry generally comprises two broad parts:
- meat production which is typically described as 'broiler chicken' production; and
 - chickens grown for commercial egg production which is typically described as 'layer hen' or 'table egg' production.
- 2.2 The two parts are largely distinct and each uses specific chicken breeds that are best suited to either egg or meat production. Neither Tegel nor Brinks has egg production operations.
- 2.3 There are also turkey, duck and other game bird operations that are again largely separate. While Tegel also has turkey meat production facilities, Brinks does not.
- 2.4 Since layer hen/table egg markets and other poultry bird markets are not affected by the Transaction, these aspects of the poultry industry are not considered in any detail.
- 2.5 Accordingly, the only parts of the wider poultry industry that are affected by the Transaction are the markets for broiler chickens and ultimately for chicken meat.

Chicken industry supply chains

- 2.6 There are three main stages of production in the broiler chicken industry:
- upstream breeding stock;
 - growing broiler chickens; and
 - processing into chicken meat.

Each of these stages is illustrated in the industry structure diagram on the next page, and is discussed in more detail below.

Stages of Poultry Production



Upstream Breeding: Parent stock breeding and hatching

- 2.7 Strict quarantine regulations protect the quality and health of the New Zealand poultry flock, and include prohibitions on imports of live birds, fresh and frozen poultry and table eggs.
- 2.8 Fertile breeding eggs, described as the “great-grandparent generation”, are imported for hatching every year from major international breeding companies. They are sent by airfreight in sealed containers to New Zealand.
- 2.9 Broiler chickens are carefully bred from lines that have been selected for feed conversion and meat yield potential. Chicken meat production in New Zealand has been historically based on two quality stock imports in the form of fertile hatching eggs:
- the Ross bird from Scotland; and
 - the Cobb bird from England.
- 2.10 This situation is changing, as CPL has recently introduced a new breed into New Zealand, the Hubbard bird from the United States.

- 2.11 Fertile eggs are then transported directly to quarantine farms and hatcheries under Ministry of Agriculture and Forestry (MAF) supervision. These farms and hatcheries follow careful management programmes for great-grandparent birds, as recommended by the overseas breed suppliers.
- 2.12 After about 3 weeks in specifically designed incubators the chicks hatch. Following MAF clearance the birds are transferred to great-grandparent farms. These breeders produce grandparent and, in turn, parent birds.
- 2.13 The parent birds are hatched in purpose-built hatcheries and reared on breeding farms. A breeding farm often contains two or three custom designed poultry sheds and may control 12,000 to 18,000 birds. On average a parent breeding flock will be kept for about 60 weeks and produce approximately 140 hatching eggs per female bird.
- 2.14 This parent generation of birds produces the eggs which become broiler chicken flocks grown for meat consumption.
- 2.15 In New Zealand the upstream importing and initial quarantine hatching and the rearing of parent generation birds is carried out by different firms:
- upstream importing and initial quarantine hatching is carried out by three firms: Bromley Park (Cobb), Aviagen New Zealand (Ross) and CPL (Hubbard); and
 - rearing of parent generation birds is carried out by each of Bromley Park, Inghams, Tegel and CPL who own or lease/contract their own breeding farms.

Growing: raising broiler flocks from day-old-chicks for processing

- 2.16 The offspring of the parent generation are supplied, typically as day-old-chicks after hatching, to the poultry processing companies. The chicks are sent to broiler farms, which are usually owned and operated by third parties who 'contract grow' (usually on an exclusive basis) for the poultry processing company.
- 2.17 A single growing shed or barn can contain up to 45,000 broiler chicks, depending on its size. Around 99% of broiler chickens grown in New Zealand are barn raised; the other 1% are free range chickens. During the growing stage, 2–3% of birds are lost through natural causes or culling.
- 2.18 Once broiler chickens have reached between 1.6 kgs and 3.6 kgs (usually between the age of 27 to 48 days) they are ready for processing and are sent to primary processing plants.

2.19 The hatching time (3 weeks) and growing phase (4-6 weeks) means that processing volumes and supply logistics in the poultry industry need to operate on at least an 8-9 week forward-planning lead time (and often longer).

2.20 In New Zealand, all the main primary chicken processing companies (Tegel, Inghams, Brinks, Turks, CPL and Heuvels) have their own growing farms (contracted or directly owned), regardless of whether they have their own in-house supply of broiler day-old-chicks or rely on a third party for that.

Processing: Primary, secondary and further processing

2.21 The processing of broiler chickens may involve up to four stages: primary, secondary, further processing and smallgoods manufacture.

- *Primary processing* involves the killing and 'dressing' of a chicken to the bare carcass as a whole bird.
- *Secondary processing* then takes place where the chicken is either packaged whole for distribution, or deboned and cut up into specific portions (e.g. wings, breasts, legs) before packaging. Secondary processing may include some simple value add steps (all done by hand) including marinating, crumbing and kebabing. These products are then either distributed to customers nationwide via standard supply and distribution chain mechanisms, or may undergo one of the two additional processing stages (further or smallgoods processing).
- *Further processing* encompasses a wide variety of value add stages using fully automated facilities to produce specialised chicken meat products (eg. nuggets, formed and coated chicken patties) as well as an increasing range of ready-to-eat products such as chicken kiev or ready to eat meals. Additional steps include forming, coating, flash frying of the chicken meat.
- *Smallgoods manufacture* includes the production of processed, chilled, ready to eat products such as smoked chicken, sliceable roasts, sausages and bacon.

2.22 Industry leaders Tegel and Inghams have invested in automated processes for carrying out secondary and further processing on a large scale. Further processing can only efficiently be done by automated or mechanised lines, but the basic steps of secondary processing (i.e. cutting, flavouring and some cooking) can be carried out on a smaller scale by hand or with much less automation.

2.23 Photographic illustration of the various functional levels and products produced at the various processing stages is set out in Schedule 4.

Imported chicken meat products

- 2.24 The government maintains the 'disease free' status of the New Zealand poultry stock, by a number of industry regulations and prohibitions on imports. The importation of fresh and frozen uncooked chicken meat is prohibited and there are strict quarantine rules surrounding the import of fertile eggs as breeding stock. See Section 8: Competition Analysis for further discussion.
- 2.25 Imported chicken meat is not banned absolutely. It is possible to import fully cooked chicken meat provided it meets specific time and temperature requirements and is found to be Avian Influenza and Newcastle Disease free. Cooked chicken meat could be cheaply imported from countries like Brazil and Thailand but demand is not currently sufficient to warrant this. There are also examples of canned chicken meat products being imported and, although currently such imports are at a low level, they appear to be growing.⁷

⁷ For example *Chop Chop!*, a canned chicken product which has recently started being sold through major supermarkets nationwide, www.chop-chop.co.nz.

3 Industry Trends**Production and consumption trends**

- 3.1 Total per capita meat consumption (including chicken) has remained relatively static in New Zealand since 1975. By contrast, chicken consumption increased, at the expense of other meats, from approximately 6kg per capita in 1975 to a peak of 40kg per capita in 2005.⁸
- 3.2 Over the last ten years, for instance, the number of birds processed per annum has increased by over 20 million birds. Primary production data collected quarterly by Statistics New Zealand shows that in the calendar year 1996, 60,713,000 birds were processed. By 2006, that number had increased to 84,273,000 birds.⁹ This is an increase of 39%.
- 3.3 The increase in chicken consumption has been driven by a combination of the introduction of innovative new products, shifting consumer preferences away from red meat towards lean white meat sources and by the improving price relativities of chicken compared to other meats (e.g. lamb, beef, pork) and protein foods (e.g. fish).
- 3.4 During the period from around 1989 to until 2007, nominal chicken prices have remained relatively constant (i.e. falling in real terms). The report from NERA Economics Consulting notes that the stable price of chicken in recent years relative to other meats which have experienced steady price rises, supports the proposition that consumers substitute between poultry and other meat products.¹⁰
- 3.5 Market growth and the issue of price relativities/elasticities with other meats remain important concerns for the chicken industry. Since peaking in 2005, chicken meat consumption has declined slightly as the price of chicken has risen. This was a direct consumer reaction to rising chicken prices, as households switched to other meats such as pork, lamb, beef, that have become relatively less expensive. While chicken continues to hold the biggest share of the meat protein market, this is under threat.
- 3.6 Within a short time period, this drop in chicken consumption has been followed by a drop in supply: birds processed in 2006 was down slightly relative to 2005, which reversed the trend of many years. This is demonstrated below on a 12-month rolling Moving Annual Total (MAT) basis for December in each year:¹¹

⁸ Refer the NERA report.

⁹ Refer Statistics New Zealand Data in Schedule 3. Statistics for the last two quarters of 2007 are not publicly available.

¹⁰ Refer the NERA report

¹¹ Refer the NERA report and also Birds Processed MAT Data in Schedule 3.

	2004	2005	2006	2007
Birds processed (000's):	87,570	88,766	83,214	[]

- 3.7 Chicken consumption in New Zealand is now reportedly an average of 36kg per person per year¹² compared with 40kg in 2005.¹³ At the same time, beef and veal consumption has increased.¹⁴ Over that corresponding period the price of chicken products has increased – reportedly, by up to 28% in 2007 alone.¹⁵
- 3.8 This data, and Tegel's own experience, indicates that other meat protein products provide a real constraint on the behaviour of chicken meat producers. A clear substitution pattern can be seen. Primary processors have had to respond to the changed cost/consumption patterns by reducing the number of birds grown and processed to bring the market back to equilibrium. This has exacerbated issues of excess plant capacity in the industry.
- 3.9 Increases in the price of chicken will lead consumers to shift to another meat/protein option that becomes relatively more affordable. Although some consumers will no doubt continue buying chicken meat products, there is a sufficient proportion of consumers who appear to be price sensitive to cause a contraction of overall chicken meat consumption. This suggests that chicken producers are unlikely to see increased profitability resulting from any price increases.
- 3.10 Regardless of whether the Commission treats other meat products as within a market definition for competition assessment purposes, or just outside the market as defined, the constraint from other meats should not be ignored.

Price increases

- 3.11 International grain cost movements and the resulting increase in the price of chicken have been well documented. Rising international grain costs in the last 12 months have had a marked effect on the price of chicken, and food prices generally in New Zealand.¹⁶ All local chicken processors are affected.
- 3.12 Grain prices have increased internationally as a result of drought in key provider countries such as Australia, combined with increased consumption in

¹² "Rival chain aims to knock KFC off its perch" *New Zealand Herald* 11 March 2008. See copy in Schedule 5.

¹³ Refer the NERA report.

¹⁴ Refer the NERA report at Fig 2.1.

¹⁵ Refer "Shopping Shock", *The Press*, 16 February 2008, see copy in Schedule 5.

¹⁶ The increasing price of food generally is illustrated in the fact that in 2007 food inflation was 5.4%, higher than the general rate of inflation (3.2%) - "Shopping Shock", *The Press*, 16 February 2008, see copy in Schedule 5.

India and China, and an increased demand for grain to use in biofuel production.

- 3.13 These price increases have had a more dramatic effect on the price of chicken compared to other meats where the animals can be fed on grass or other products. Grain-feed accounts for around 60-70% of the cost of a live weight chicken to the point of entry to the processing plant.
- 3.14 The cost of various types of feed is estimated to have increased by 30-50% in the last 12 months.¹⁷ This has led to chicken prices rising, in some estimates by as much as 28% in the past year.
- 3.15 Supply-side shocks (feed costs) and consequent chicken meat price increases and consumer reaction are a key concern for all industry participants. There is no sign of these trends reversing in the short term, and this is part of the reason why many poultry industry participants are re-examining their infrastructure and business models, leading to likely industry re-organisation at a number of levels.

¹⁷ "Shopping Shock", *The Press*, 16 February 2008. See copy in Schedule 5

4 Market Participants: Suppliers and acquirers**Introduction**

4.1 The section describes various market participants and their operations. In summary:

- (a) the supply side of the chicken industry in New Zealand is characterised by:
 - two large vertically integrated companies, Inghams and Tegel, which operate at all levels of the market with a full range of products; and
 - a number of smaller operators which operate at one or more product levels and service one or more customer segments;
- (b) acquirers of chicken meat products fall into three groups defined by reference to their buyer behaviour:
 - large retail (supermarkets and large butchery chains);
 - Quick Service Restaurants (QSR); and
 - foodservice and small retail.

4.2 Tables showing the levels at which key suppliers operate and major customers within each of the above categories are set out on pages 46 and 51.

The two major vertically integrated operators.**Tegel**

- 4.3 Tegel is a vertically integrated poultry growing and processing company with its own breeding stock, hatcheries, feedmills, processing, distribution and marketing facilities throughout New Zealand. It has several divisions:
- *Feed:* Manufactures poultry feed for its own use, and other animal feeds for sale to external customers, under the *NRM* brand.
 - *Breeding:* Breeds and hatches chickens for its own use as meat broilers and for sale to external customers in the table egg and meat broiler industries, under the *Golden Coast Commercial* brand.
 - *Poultry Processing:*
 - *Primary/Secondary Processing:* Rears (via contract growers) and slaughters chickens for processing and packaging into chicken meat products (including some marinating and hand preparing) at 3 primary/secondary processing plants situated at Auckland, New Plymouth and Christchurch.
 - *Further Processing:* Uses automated facilities to produce a range of coated and formed frozen products (e.g. nuggets, burger patties etc), at a processing facility situated in Auckland.
 - *Smallgoods:* Produces chilled ready to eat products, eg smoked chicken, sliceable roasts, sausages, bacon etc at a processing facility situated in Christchurch.
- 4.4 Tegel until recently operated another division known as Ross Poultry which managed the importation of fertile eggs, quarantine arrangements and initial breeding stock of the Ross bird. These operations were sold in 2007 to Aviagen New Zealand Limited. Aviagen is the international organisation that holds the rights to the Ross breeding birds and Aviagen New Zealand Limited has now set up in New Zealand as a supplier of the Ross bird in its own right. Previously, Aviagen offered exclusive supply to Tegel from abroad.
- 4.5 Tegel supplies unbranded and branded fresh and frozen chicken meat and processed chicken products and smallgoods products to supermarkets and other retail stores, restaurants and foodservice businesses on a national basis.
- 4.6 Tegel also supplies unbranded whole birds to independent secondary processors, producers of smallgoods and distributors to end-users.

- 4.7 Some chicken products carry the *Tegel* brand, and free range grown birds are separately branded *Rangitikei Corn Fed Free Range*, while a significant amount of fresh chicken products are sold unbranded.
- 4.8 Tegel has annual net revenues for the year May 2006 to April 2007 of \$390m including NRM Feeds.

Inghams

- 4.9 Inghams Enterprises (NZ) Pty Limited is the New Zealand division of a large Australian company, Inghams Enterprises Pty Limited. Inghams employs over 7,000 people and operates in all States in Australia and New Zealand. Its core business is poultry production. It is the largest producer of meat chickens and turkeys in Australia. Across Australasia, Inghams business encompasses a fully integrated farming, primary and further processing poultry business (operating ten feedmills, ten primary plants and six further processing plants) a diversified stockfeed business, ingredients for petfood and stockfeed, a piggery operation and an extensive bloodstock breeding and racing division.¹⁸
- 4.10 Inghams has annual gross revenues of A\$1,600m across Australasia in 2007¹⁹ or NZ\$240m in New Zealand.²⁰
- 4.11 In New Zealand, Inghams operates at the same levels of the poultry industry as Tegel. It has the following operations:

- *Feed:* Inghams manufactures poultry feed for its own use, and other animal feeds for sale to external customers, under the *Harvey Farms* brand. Inghams own three feed manufacturing mills in New Zealand located in Hamilton, Mt Maunganui and Wanganui. Inghams supplies Brinks with some of its feed requirements.
- *Breeding:* Breeds and hatches chickens for its own use as meat broilers. (Tegel understands that Inghams does not breed and hatch chickens, layer or broiler, for sale to external customers).
- *Poultry Processing:*
 - *Primary/Secondary Processing:* Rears (via contract growers) and slaughters chickens for processing and packaging into chicken meat products (including some marinating and hand preparing), at its

¹⁸ <http://www.inghams.co.nz/enterprisesnz/sitedocument.aspx?docID=699> .

¹⁹ <http://www.inghams.co.nz/consumernz/aboutus.aspx?docID=358> .

²⁰ The annual report as at 30 June 2007 for Inghams Enterprises (NZ) Pty Limited is a consolidated annual report, therefore revenue from Harvey Farms (Inghams' feed operation) is not separated from the total revenue of Inghams' New Zealand operation.

Waitoa processing plant. This large, modern plant processes approximately 100,000 birds per day²¹.

- *Further Processing:* Uses automated facilities to produce a range of coated and formed frozen products (nuggets, burgers etc) at its sophisticated further processing plant in Cambridge.

- 4.12 Inghams contracts with approximately 38 rearers in the Waikato region. On average, these farms produce 50,000 birds per harvest. The contract farmers are supplied with birds from Inghams hatchery operations and feed from the Harvey Farm facilities.²²
- 4.13 Inghams became operational in the New Zealand poultry market in about 1990, when it acquired Harvey Farms. This acquisition established Inghams as a fully integrated operator in the New Zealand market, and it quickly became the second largest player in the chicken meat industry. Tegel estimates that:
- when Inghams entered the market it had approximately [] market share and this has since more than doubled to approximately [];
 - Inghams' primary processed bird numbers have increased approximately six-fold from [].
- 4.14 In recent years Inghams has invested in plant upgrades and capital expenditure on a scale not previously seen by any New Zealand poultry company (estimated to be \$120 million).
- 4.15 Inghams is a significant supplier to New Zealand retailers (including both supermarket chains), accounts for approximately half of the further processed chicken product sales, and leads the important QSR customer market.
- 4.16 For further information about the range of products and services provided by Inghams in New Zealand, refer <http://www.inghams.co.nz/enterprisesnz/sitedocument.aspx?docID=699>

²¹ "Waikato Roost for Inghams" Waikato Times, 14 August 2007, p.6. See copy in Schedule 5.

²² "Industry hit by rising feed bills", Waikato Times, 14 August 2007, p.8. See copy in Schedule 5.

Other smaller or partially integrated suppliers

- 4.17 Other partially vertically integrated primary processors include Brinks, Turks and Heuvels. These companies have chosen not to have their own upstream breeding and hatching operations.
- 4.18 CPL is challenging the model that small companies cannot be fully vertically integrated, by managing all stages of production itself, including importing and quarantine of fertile eggs - which Tegel and Inghams do not do.

Brinks

- 4.19 After Inghams and Tegel, Brinks is the next largest market participant – but considerably smaller, less sophisticated and less integrated than Inghams or Tegel.²³
- 4.20 Brinks' core business is growing broiler chickens (using contract growers) and processing and selling chicken meat products. Brinks processes the fully-grown chickens primarily at its Auckland processing facility at Karaka (South Auckland), and at smaller facilities in Tuakau (South Auckland) and Christchurch.²⁴ Brinks then distributes the processed chicken meat throughout the country largely using its own vehicles.
- 4.21 Unlike Tegel or Inghams, Brinks:
- (a) does not have breeding operations or hatcheries - it purchases day old broiler chicks from a third party supplier, Bromley Park. The DOCs are then grown by external contract growers on Brinks' behalf before processing; and
 - (b) does not have feedmills or produce its own feed - it purchases broiler feed from FeedCo, PCL and Inghams to provide to its contract growers.
- 4.22 Brinks' primary focus is on core product line sales to the foodservice segment and retailers. Unlike Tegel or Inghams, Brinks:

²³ The Commission may see third party commentary to the effect that there are three larger vertically integrated companies. This overstates Brinks size – although Tegel acknowledges that Brinks is larger than the other smaller players.

²⁴ Brinks used to have a plant at Invercargill, but that was closed and is being used by another supplier, Heuvels
[

- (a) does not supply into the QSR segment;
- (b) supplies only relatively small volumes of mainly unbranded chicken, and a restricted range of basic secondary processed commodity products into the supermarket sector; and
- (c) has no further processing facilities.

4.23 Brinks has only a limited smoke-house (smallgoods) facility (in Mangere, South Auckland) that produces smoked chicken only. Brinks smallgoods/smoked manufacture accounts for only [] of its sales.

Turks Poultry Limited

- 4.24 Turks is also a partially vertically integrated poultry company. Like Brinks, Turks grows broiler chickens and processes and sells primarily whole chickens and basic secondary processed chicken meat products. Unlike Brinks, Turks has its own feedmill operations and also rears its own chickens (in combination with the use of some contract growers). Turks operations are based in Foxton.
- 4.25 Turks is a family owned business which began as an egg producer with its own feedmill operations, and expanded into broiler meat processing. Turks continues to supply eggs and has important customer contracts such as supplying the Foodstuffs Wellington *Pams Farm Fresh* brand.
- 4.26 Turks has always processed its own EOL birds and sold the meat. It expanded its operation in 1999 by taking on some of Tegel's growers when Tegel closed its Te Horo plant. Turks has continued growing in size ever since.
- 4.27 Turks is a strong force in the lower North Island in particular, but Tegel understands it is expanding into the rest of the North Island and to some extent southwards as well. Turks is believed to have considerable capacity to expand production from its existing facility without significant investment. Turks' plant location in the lower North Island makes supply to the South Island relatively easy.
- 4.28 Like Brinks, Turks' primary focus is on core product line sales to the foodservice segment and retail sector:
- (a) Turks is a strong player in the foodservice and small retail sector, and supplies large independent secondary processors and smallgoods producers.
 - (b) Turks has traditionally had a strong relationship with Foodstuffs Wellington and its presence is now also being felt in other Foodstuffs supermarkets throughout Auckland.

4.29 Turks:

- (a) does not supply into the QSR segment at all; but
 - (b) has a smallgoods operation that produces a range of smoked chicken products: nibbles, drumsticks, breast and whole birds.
- 4.30 Turks also has a large table egg business and has the contract to supply Foodstuffs Wellington's Pams brand of eggs. []].
- 4.31 Tegel estimates that Turks currently processes around [] BPA and appears []].

Country Pride Chicken Limited

- 4.32 Country Pride Chicken Limited (*CPL*) is a new entrant, currently in the process of setting up a fully integrated poultry operation at the former Nestle plant in Waiuku, South Auckland. Other related group companies include Spring Chicken Limited, Spring Processing Limited and Spring Breeding Limited.
- 4.33 CPL has been formed by a number of contract growers who previously grew for Brinks in the South Auckland region. []]
- 4.34 CPL is expected to be supplying chicken meat into the market by the second half of 2008 (under the brand "Spring Chicken").
- 4.35 CPL is now importing a new breed of grandparent stock, the Hubbard, not previously seen in the New Zealand market. CPL has invested in modern quarantine and production facilities.
- 4.36 CPL is well underway already:
- (a) Its first imported breeding flocks are being grown in their new quarantine/breeding facility in South Auckland.
 - (b) Its new hatchery is operational.
 - (c) Grower contracts are in place, believed by Tegel to be with around [] of shed space initially and likely to increase with other new growing sheds planned. This shed space will be used by CPL for housing both their parent and broiler stock. Tegel estimates that CPL will have the growing and processing capabilities to produce perhaps [] BPA.
 - (d) Construction of the processing factory is nearing completion.
- 4.37 In less than 2 years CPL has established a fully integrated business operating through all the same vertical upstream stages of production as Tegel and

Inghams (while not attempting to be 'full-service' in its processing), and also one more upstream stage (importing/quarantine breeding stock) – i.e. CPL is now vertically integrated through more stages than Tegel and Inghams.

4.38 It is Tegel's expectation that initially CPL will focus on [

].

4.39 Whilst only in the early stages of operations given the level of planning and investment it can be expected that CPL will be looking to develop a significant presence in the industry.

Heuvels

4.40 Heuvels is a free range/organic chicken supplier that is exploiting growing New Zealand consumer interest and popularity of free range chicken products.

4.41 Heuvels began as a small business in 1999, and has since expanded to process several thousand birds a week. Heuvels' product range, which is distributed nationwide to customers including butcheries, foodservice and supermarkets, includes whole chickens (fresh and frozen), chicken patties and chicken pieces.

4.42 Initially based in Gisborne, Heuvels has recently expanded by shifting its operations to Invercargill on the site of the former Brinks' plant,²⁵ and has made clear its intention to provide more products into the foodservice market.²⁶

²⁵ See "New manager appointed for Brinks Plant" *Southland Times*, 11 August 2007, and "Half of Brinks staff may lose jobs" *Southland Times*, 22 August 2007. See copies in Schedule 5.

²⁶ See Heuvels website, <http://www.heuvelschicken.co.nz/about.asp>.

Secondary processors, further processors, and producers of smallgoods

4.43 In addition to the vertically integrated suppliers referred to above, there are a large number of other suppliers who do not themselves have primary processing facilities, but still compete with the primary processors to supply value-added or cut-up chicken meat products to foodservice and retail customers.

Secondary Processors

4.44 The largest group of these other suppliers is the secondary processors who purchase whole dressed birds from one of the 6 primary processors, and then perform various other preparation, cutting, flavouring or value-add steps, before resupplying those chicken meat products to customers in the foodservice/small retail and supermarkets/large retail markets.

4.45 Some of the larger competing secondary processors and smallgoods manufacturers include:

Santa Rosa

(a) Santa Rosa is the largest independent secondary processor, and also a large supplier of smoked products (smallgoods). It purchases [] fresh whole birds per week from [] for processing at its Christchurch based processing facility and Tegel believes that it also purchases from [] for processing at its Bulls' based processing facility. It is the market leader in smoked chicken products, and also offers a range of other products including boneless chicken roasts and chicken kebabs. Santa Rosa is a key supplier to supermarkets. (Refer www.santarosa.co.nz).

Asado

(b) Asado is a related company of Santa Rosa (believed to have common ownership) based in Tauranga. Tegel believes it purchases approximately [] fresh whole birds per week from [] and produces a range of smallgoods products including chicken and other meats. (Refer www.asadofoods.co.nz).

Foodmore

(c) Foodmore is an Auckland based division of the Progressive Enterprises supermarket group. Foodmore purchases fresh whole birds from [] for secondary processing and sale through Progressive Enterprises' supermarkets.

Poultry Distributors

- (d) Poultry Distributors is an Auckland based company. Tegel believes it processes approximately [] birds per week and supplies poultry to caterers, the hospitality industry and restaurants;

Sam's Fukuyama Food Services

- (e) Sam's Fukuyama Food Services (*Sam's*) is a leading Auckland wholesaler and retailer of fresh and frozen meats. Tegel believes it purchases approximately [] fresh whole birds per week mainly from [] which it processes into a range of cuts. It supplies mostly in urban areas (often in Inghams branded trucks) to supermarkets, butchers, cafes and restaurants. Sam's also sells whole fresh and frozen chickens. (Refer <http://www.fukuyama.co.nz>);

Randwick Meats

- (f) Randwick Meats is a Wellington based processor. Tegel believes it processes approximately [] birds per week, supplying the hospitality industry (i.e. cafes, restaurants and hotels);

Public Fresh

- (g) Public Fresh is a Wellington based processor. Tegel believes it processes approximately [] birds per week, supplying the hospitality industry;

Millennium Foods

- (h) Millennium Foods is an Auckland based processor. Tegel believes it processes approximately [] birds per week, supplying the hospitality industry;

Grafton Gourmet

- (i) Grafton Gourmet is an Auckland based processor. Tegel believes it processes approximately [] birds per week, supplying the hospitality industry. (Refer <http://www.graftongourmet.co.nz>);

Just Chicken

- (j) Based in Alexandra. Tegel believes it processes approximately [] birds per week, supplying the hospitality industry;

Khans

- (k) Based in Dunedin, Khans purchases approximately [] tonne of fresh and frozen chicken per week;

Raeward Fresh

- (l) Raeward Fresh is located in Christchurch and Nelson and is a leading wholesaler and retailer of fresh fruit, vegetables and meats. Tegel believes it purchases [] of whole birds per week

which it processes into boneless chicken breast.²⁷ (Refer <http://www.raewardfresh.co.nz>);

Farms Chicken

- (m) Christchurch processor buying approximately [] birds per week, in various cuts, and then resupplying to the hospitality industry;

South Island Gourmet

- (n) A Christchurch processor buying around [] birds per week, both whole birds and cut up meat.

4.46 This is not an exhaustive list of the secondary processors - there is a also range of other secondary processors in different regions or supplying specific niche customer groups.

Further Processors

4.47 Another group of chicken meat product suppliers is the Further Processors. 'Further processing' as described in this Application, refers to specialised, automated processing into products such as nuggets and burger patties of specific shapes and sizes. Tegel and Inghams are the only major chicken processing companies who produce these items (Brinks does no further processing). However, other companies such as Leader Foods and Top Hat produce these types of processed goods from a variety of meat, fish and other basic ingredients. They therefore compete with Tegel and Inghams, although they are not poultry companies as such:

Leader

- (a) Produces a range of further processed products such as crumbed chicken cordon bleu, and beef nuggets, stocked in Foodtown and Woolworths supermarkets. (Refer http://www.foodtown.co.nz/nuggets_beef_leader_brand_384545.htm and <http://www.foodtown.co.nz/HomeShopping/Shop.aspx>);

Top Hat

- (b) A Goodman Fielder Foodservices brand producing ready made meals and finger foods for supply to third party distributors and wholesalers. Products include further processed products such as chicken nuggets, chicken kiev's and chicken patties (Refer <http://www.gffoodservice.co.nz/products/top-hat/23/brand.aspx>);

²⁷ Raeward Fresh already co-owns two abattoirs in the South Island which it uses to carry out the primary processing of its beef products, and this sort of vertical integration into processing facilities could be potentially also applied in future to broiler chickens.

Smallgoods

4.48 Various meat companies operate as smallgoods manufacturers. Chicken smallgoods products make up part of the overall smallgoods market, and include smoked chicken products, chicken bacon, sliceable roasts, chicken luncheon, and sausages. These products are produced by primary processors such as Tegel and by many other smaller companies, for example Santa Rosa, Asado, Top Hat, Leader Foods (as described above), and others such as:

Leonards

- (a) Based in Auckland and produces a range of sausages and luncheon meat products, including a ham and chicken flavoured luncheon meat (Refer <http://www.leonards.co.nz>);

Hellers

- (b) Based in Christchurch and produces up to 240 tonnes of sausages a week. Hellers also produce bacon, ham and other service deli small goods. Products include fresh chicken sausages, shaved chicken meat and ham and chicken flavoured luncheon sausage (Refer <http://www.hellers.co.nz>);

Huttons

- (c) A brand of Goodman Fielder products which is sold in supermarkets and convenience stores nationwide. Products include ham and chicken flavoured luncheon sausage. (Refer <http://www.goodmanfielder.com.au/ourbrands/smallgoods/huttons.aspx>);

NZ Deli

- (d) A deli manufacturer and wholesaler based in Auckland. Produces a wide range of chicken products (including roast chicken meat, smoked chicken and chicken pastrami) as well as ham, bacon, sausages and other smallgoods. (Refer <http://nzdeli.co.nz>).

4.49 Within this category, Brinks and Turks supply only smoked chicken.

Distributors

4.50 Another group is the Distributors, intermediaries who tend not to do actual processing or perform value-add steps on the meat, but are an important distribution arm. Creans and Gilmours, are the largest, but several others, operate in different regions to serve the delivery/distribution/re-supply needs of small cafes and food outlets:

Creans

- (a) "Crean is the largest specialist foodservice distributor in New Zealand. Crean is a wholly-owned subsidiary of Bidvest Plc, a leading foodservice products distributor in the United Kingdom, Australia, South Africa and New Zealand. Crean services the foodservice, hospitality and leisure channels with a comprehensive range of

products covering all three major food categories frozen, dry and chilled goods. It operates nationwide, purchasing or importing goods for sale to over 10,000 customers”,²⁸

Gilmour’s

- (b) Distributor of food and liquor products with more than 14,000 product lines. Gilmour’s services the upper North Island, Toops services the lower North Island, and Trents services the South Island. (Refer <http://www.gilmours.co.nz>);

Starfoods

- (c) A Hawkes Bay based distribution company, supplied with a broad range of chicken products from Turks, Inghams and Asado. (Refer http://www.starfoods.co.nz/products/chicken_products/) .

²⁸ Information from Commerce Commission Decision 574, Fonterra Co-Operative Group Limited and Kapiti Fine Foods and United Milk Limited (2006, paragraphs 55 & 56)

Upstream suppliers

Hatcheries

- 4.51 Bromley Park is an independent hatching and breeding company. It has no other broiler chicken industry interests.²⁹ Bromley Park sells:
- (a) day old breeder parents to Inghams (Cobb stock) for use in Inghams own breeder farms to produce fertile broiler eggs. Inghams then hatches the eggs in its own hatchery to produce broilers for its grower farms;
 - (b) day old broiler chicks to Turks, Brinks and Heuvels; and
 - (c) day old layer chicks to table egg producers throughout the country.
- 4.52 Tegel and Inghams have their own hatcheries, as does CPL. Tegel's 3 hatcheries supply:
- (a) day old broiler chicks for rearing by Tegel's own contract growers;
 - (b) day old broiler chicks for rearing by third party chicken producers [];
 - (c) day old layer chicks to table egg producers.
- 4.53 Due to its own commercial needs, Tegel has traditionally not been able to offer guaranteed external supplies from its hatcheries to others in the market. It has occasionally been able to do so when market conditions permit, but since the emergence of Aviagen New Zealand as an independent upstream supplier, Tegel is now recommencing broiler DOC supply to other firms should they request it.
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- 4.54 Both Bromley Park and Tegel (under the brand *Golden Coast Commercial*) also sell broiler and layer eggs and chicks overseas to export buyers.
- 4.55 Inghams uses its hatchery only for its own requirements. Tegel believes that
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²⁹ Mainland Poultry Limited (via two wholly owned subsidiary companies), owns 26% of Bromley Park and is a well established table egg producer with approximately 50% of the New Zealand table egg market.

Upstream parent stock

- 4.56 Each New Zealand hatchery is associated with an international specialist breeding business which sell its breeds around the world:
- (a) Aviagen supplies Tegel with the Ross bird for broiler production and the Hyline bird for table egg DOC sales, and British United Turkey for turkey meat production. Aviagen and Tegel have recently entered a new supply and distribution contract which anticipates that Aviagen will supply the Ross bird to the wider New Zealand market [].
 - (b) Tyson Foods supplies Bromley Park with the Cobb bird for broiler and breeder DOCs and Shaver supplies Bromley Park with the Shaver egg breeder for table egg DOC sales.
 - (c) Hubbard supplies CPL with the Hubbard broiler breeder bird.
 - (d) There are also other small turkey producers (Crozier) who have their own breed within New Zealand and a number of duck producers who do likewise.
- 4.57 There are other breeds of birds available internationally which are not yet established in New Zealand – including the Hybro bird, from the Netherlands. This bird could be introduced into New Zealand in the same way CPL has introduced the Hubbard bird.³⁰

Feed suppliers

- 4.58 There are a large number of animal feed suppliers around the country. Current suppliers of broiler chicken feed, as opposed to feed for layer hens or for other animals, are Tegel (via its NRM division), Inghams (via Harvey Farms) and independents such as FeedCo, Mainland (PCL) and Takanini Racing and Stock Feeds.
- 4.59 Many other mills that at present are not supplying broiler feed, but are capable of producing pelletised feed, can also produce chicken feed. These include: Independent Mill, Sharpes, Westons and Welch.

SUMMARY

- 4.60 An overview of the major suppliers at various levels of the poultry industry is set out in the table on the following page.

³⁰ Tegel understands that Hendrix, which has the Hybro bird, and Cobb have signed a Memorandum of Understanding for a Joint Venture Agreement to strengthen Cobb's leading position in broiler business, by acquiring the Hybro division.

Overview of major industry participants

	Tegel	Brinks	Inghams	Turks	CPL	Heuvels	Aviagen	Bromley Park	Many secondary processors, further processors, smallgoods manufacturers
Import fertile hatching Eggs through Quarantine Farm					Yes		Yes	Yes	
Great GP and Grandparent breeding Operations					Yes		Yes	Yes	
Parent Breeding Operation <i>(producing DOCs)</i>	Yes		Yes		Yes			Yes	
Hatcheries Supplying Broiler DOCs	Yes		Yes		Yes			Yes	
Broiler Growing <i>(using contract growers)</i>	Yes	Yes	Yes	Yes (Also own farms)	Yes	Yes			
Primary Processing	Yes	Yes	Yes	Yes	Yes	Yes			
Secondary Processing <i>(cutting, deboning, cooking, forming)</i>	Yes	Yes	Yes	Yes	Yes	Yes			Yes
Further Processing <i>(specialised processing/ coating into nuggets etc)</i>	Yes	No	Yes	No	No	No			Yes
Smallgoods <i>(includes smoked)</i>	Yes	Smoked products only	No	Smoked products only	No	No			Yes

Customer groups

4.61 Acquirers of chicken meat products fall into three customer groups: supermarkets/large retail, Quick Service Restaurant, and foodservice/small retail.

Supermarkets/Large retail

4.62 Customers in this category include:

- (a) supermarket chain Progressive Enterprises with its banner chains Foodtown, Woolworths and Countdown (and Fresh Choice and Super Value – mainly in the South Island);
- (b) supermarket group Foodstuffs with its banners Pak'n'Save, New World and Four Square;
- (c) the fledgling Warehouse Extra brand (3 stores); and
- (d) the largest butchery chain: The Mad Butcher (with 34 stores nationwide) operates by buying in bulk, via centralised purchasing arrangements, like the supermarkets.

4.63 Products supplied to these customers include branded and unbranded chicken products:

- (a) bulk whole dressed chickens sold directly to a supermarket butchery department either for 'butchery' counter sale (fresh and unbranded) or for secondary-processing carried out in-house (e.g. Foodmore);
- (b) packaged whole birds and the full range of cut pieces: fresh, frozen or cooked for retail sale;
- (c) further-processed branded consumer meals and various branded products (fresh, frozen, cooked or 'value added' products) and smallgoods products displayed on butchery shelves or freezers for retailing.

4.64 Progressive Enterprises in particular has a very sophisticated secondary processing arm (Foodmore) that takes whole dressed chickens and carries out additional value-add steps itself before retail sale through its supermarket butcheries.

4.65 Tegel and Inghams are the major suppliers into this customer group. Brinks, Turks, Santa Rosa, Heuvels and other smaller suppliers also supply to these customers, but in smaller volumes.

4.66 The supply of products for house brands plays a significant role for this customer group. At present, Tegel is the [] those

products, but these contracts are routinely put up for competitive tender every 12-18 months by the supermarkets.

QSR

- 4.67 QSR customers are large multinational fast food restaurant chains, distinguished from other more general takeaway food outlets by their large international, often franchise-based, chains, and strict product specifications and service level requirements. They tend to buy a particular type of further processed product often to a very precise shape, size or cut. Their demanding product requirements typically relate to the need to ensure uniformity and standardisation of product throughout the global franchising chain.
- 4.68 Suppliers under QSR contracts are required to meet very high service level standards, plant safety audits (usually every 6 months) and other customer-imposed quality and delivery regimes.
- 4.69 QSR customers of chicken meat comprise: KFC and Pizza Hutt (both owned by Restaurant Brands Ltd), McDonalds, Subway, Burger King (including in New Zealand its ownership of Hell Pizza), Wendys and Red Rooster. The QSR market is estimated to have grown 35% in the last 4 years.³¹
- 4.70 Some other fast food or takeaway outlets are branded chains, such as Burger Fuel, Dominos Pizza, Nandos, but for the purpose of this Application they are not included in the QSR customer group. Their demand-side behaviour positions them within the foodservice sector.
- 4.71 Inghams and Tegel are the only suppliers into this customer group in New Zealand.
- 4.72 KFC makes up a large portion of the QSR market, but other players such as McDonalds are recognising the need to introduce more chicken products onto their menus in order to compete.³²
- 4.73 Inghams currently dominates the QSR market, after succeeding in winning the two most important supply contracts: McDonalds, and KFC. The KFC contract comprises the exclusive right to supply [] KFC company-owned stores nationwide. Tegel continues to supply [] separately franchised stores.³³
- 4.74 Other leading QSR customers include:
- Burger King (which Tegel believes is supplied by Inghams []);

³¹ 'Fast Food Heats Up' *Sunday Star Times*, 9 March 2008. See copy in Schedule 5.

³² 'Rival chain aims to knock KFC of its perch', *New Zealand Herald*, 11 March 2008, See copy in Schedule 5.

³³ These franchise stores account for approximately [] of supply.

- Wendys (which Tegel believes is supplied by Inghams [])
- Subway (which Tegel believes is supplied by []);
- Red Rooster (which Tegel believes is supplied by []);
- Pizza Hutt (which Tegel believes is supplied by []) and
- Hell Pizza (which Tegel believes is supplied by []).

4.75 QSR customers hold considerable bargaining power. The KFC account, which Inghams won from Tegel in 2004/5 is the single largest QSR customer account in the poultry industry, accounting for what Tegel believes to be around [] of overall chicken production on its own. Together, supply to McDonalds, Burger King & KFC makes up, in Tegel's estimate [] of the QSR segment, and these market leaders appear to be growing: in terms of chicken sales.³⁴

4.76 Brinks has no presence in the QSR segment and (as far as Tegel is aware) does not typically bid for QSR contracts. Many of the required products, such as nuggets and patties are produced to specific sizes and cuts and, require automated facilities that Brinks does not have. Turks and the other chicken processors also do not have facilities to supply this specialist QSR customer group. Accordingly, there will be no change in the QSR market between the factual and counterfactual.

Foodservice customers and small retail

4.77 The foodservice sector comprises a diverse group of customers, including:

- (a) Independent secondary processors such as Sam's, in-house supermarket secondary processors (Foodmore) and smallgoods producers such as Santa Rosa who purchase fresh whole dressed birds in bulk from the primary processors to carry out processing into value added products.³⁵ These customers then resell into the small retail and foodservice channels, in competition with the larger companies.
- (b) Distributors of a wide range of food products, including chicken, such as Gilmours and Creans.
- (c) Catering firms, institutions, and the hospitality industry (hotels, cafes, restaurants) and other organisations that provide meals to end-consumers.

³⁴ 'Rival chain aims to knock KFC of its perch', *New Zealand Herald*, 11 March 2008. See copy in Schedule 5.

³⁵ Tegel operates its own separately branded further preparer company, *Coq au Vin*, in the Wellington region which acts as a distributor and competes with Tegel's customers to some extent in this segment.

- 4.78 Depending on the particular customer, purchases may include secondary processed products, smallgoods products or whole dressed birds. Many of these customers (e.g. restaurants) do the value-add steps themselves, so for that group only unbranded, whole bird or commodity products are usually needed. Indeed, branding and marketing plays a very limited role in much of the foodservice market sales.

- 4.79 Small independent butcheries, who are on the face of it retail outlets, have similar demand characteristics and buying behaviour to foodservice customers. They take largely unbranded, commodity chicken and do not have volume purchasing needs or stringent service specification requirements. There has been growth in this part of the market from a revival of so called 'High Street' butchers and independent or speciality delicatessen stores.³⁶

- 4.80 A growing niche customer type with similar demand characteristics to foodservice and small butcheries is specialist Asian food stores and supermarkets (which Tegel expects []).

- 4.81 This foodservice and small retail end-customer group is served by a large number of suppliers, including the primary processors (Tegel, Inghams, Brinks, Turks and Heuvels) and Santa Rosa, Asado, Sam's and a myriad of other smaller secondary processors and smallgoods firms. Significant volume sales are also made by intermediaries and distributors such as Creans who deliver chicken products in bulk nationwide, along with a range of other delivered food products.

Summary

- 4.82 The table on the following page lists the major customers in each of the three customer groups.

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Major purchasers of chicken meat products

Supermarket and Large Retail: est. []%	QSR est. []%	Foodservice/Small Retail est. []%		
		Small Retail	Foodservice	Secondary processors/ smallgoods manufacturers
<ul style="list-style-type: none"> Progressive Enterprises (Foodtown, Woolworths, Countdown, Fresh Choice, Super Value) Foodstuffs Auckland (New World, Pak'n'Save, Four Square) Foodstuffs Wellington (New World, Pak'n'Save, Four Square) Foodstuffs South Island (New World, Pak'n'Save, Four Square) Mad Butcher (34 Stores) 	<ul style="list-style-type: none"> Restaurant Brands (KFC and Pizza Hutt) McDonalds Subway Burger King including Hell Pizza Wendy's Red Rooster 	<p>Secondary Processors and smallgoods manufacturers – e.g. :</p> <ul style="list-style-type: none"> Foodmore Sam's Fukuyama Food Service Country Cuisine Cheapies Chicken (6 stores) Santa Rosa Poultry Distributors Fresh Chicken Company Ex-quiz-eat Grafton Gourmet Coastal Cuisine Asado Foods Randwick Meats Public Fresh Farms Chicken (Christchurch) Just Chicken (Alexandra) Top Hat Leonards Superior Small Goods Khans (Dunedin) Raeward Fresh (Christchurch and Nelson) Unitek <p>Small Retail</p> <ul style="list-style-type: none"> Export Meat Warehouse (25 stores) 'High Street'/Independent Butchers Aussie Butcher (7 stores) Tai Ping Trading (7 stores) <p>Foodservice Distributors:</p> <ul style="list-style-type: none"> Gilmours/Trents/Toops Creans Night N'Day Countrywide Euro Pacific Foods Star Food Service (Hawkes Bay) <p>Caterers:</p> <ul style="list-style-type: none"> Spotless Catering – North Island (includes catering to Mt Smart Stadium, hospitals and rest homes) Spotless Catering – South Island (includes catering to Jade Stadium) Eurest Catering BBQ Bill Catering Institutions (includes prisons and hospitals) <p>Other: St Pierres Sushi; BB's Cafes; Crisco; Restaurants/Cafes; Hotels/Bars</p> <p>Other Fast Food Takeaways (that are not considered QSR): e.g. Burger Fuel, Burger Wisconsin, Dominos Pizza, Nandos</p>		

5 Market definition

Summary

- 5.1 The products supplied by the various chicken processors can be broken down into the following categories: primary processed whole dressed chickens; secondary processed products; further processed products; and smallgoods products.
- 5.2 For the purposes of this Application the competition implications of the Transaction could be assessed against these four product categories as markets. Those product categories are addressed in the section below.
- 5.3 However the purchasing patterns of the customer groups are also relevant and the market could be assessed by reference to demand-side behaviour in the three groups: supermarket/large retail, QSR, and foodservice/small retail. Further, it is very difficult to get any reliable data for the individual product categories but less difficult by customer group.
- 5.4 The table below sets out the possible product and customer markets with areas of aggregation shaded. Tegel believes each of these markets are national in scope.

	QSR	Foodservice/ small retail	Supermarket/ large retail
Primary Processed	NA	Tegel Brinks	Tegel Brinks
Secondary Processed	Tegel	Tegel Brinks	Tegel Brinks
Further Processed	Tegel	Tegel	Tegel
Small goods	NA (QSR customers do not buy chicken smallgoods)	Tegel Brinks (smoked chicken only)	Tegel Brinks (smoked chicken only)

Product markets

- 5.5 Chicken meat sales need to be seen in the context of the overall meat market. Chicken and poultry products are only one option for consumers who purchase meat products. There is a significant degree of substitutability between beef, lamb, poultry, pork, fish and other protein meal alternatives. It is clear that price movements in one meat product will influence consumer behaviour and demand trends in other meat products.
- 5.6 The evidence in Section 3: Industry Trends and the NERA report illustrates the substitutability of protein sources and the switching between chicken and other meats. It suggests there may well be an overall meat market, and that other meat sales pose

a real constraint on chicken meat pricing. The Commission has recognised some degree of substitution in previous decisions,³⁷ and in Tegel's view this is an important driver of recent consumer and industry changes. Even if the Commission wishes to analyse the effects of the Transaction against a narrower product market relating to consumption of chicken meat only, the substitution of other meat protein sources as an important competitive constraint should not be ignored (even if treated as 'just outside the market').

- 5.7 Tegel proceeds (for the purposes of this Application only) on the basis of a narrower, more conservative market definition for chicken meat products.
- 5.8 Chicken meat includes a wide range of product lines: whole dressed chickens, whole bagged chickens, chicken pieces or cut portions, further-processed chicken (value-add products), and smallgoods lines. They may be supplied fresh, frozen, or cooked and ready-to-eat. The products sold vary depending on what type and degree of processing is carried out on the chicken.
- (a) Primary processing – this is simply the killing and dressing of the bird, and the output is whole dressed birds, sold in bulk to secondary processors and producers of smallgoods.
 - (b) Secondary processing – essentially packaging a whole chicken, or cutting it up into portions and de-boning, which then produces a variety of chicken portions or cuts (e.g. wings, fillets) which are then packaged and sold to retail and foodservice customers. It may also include some simple value-add steps (all done by hand processing) including marinating, crumbing and kebabing.
 - (c) Further processing – a wide variety of value-add stages using automated facilities to produce specialised chicken meat products (e.g. nuggets, formed and coated chicken patties), as well as an increasing range of ready-to-eat pre-cooked products such as chicken kiev or ready to eat meals that are sold at retail (and to some degree foodservice). In addition, a specialist form of further processing produces tailor-made products designed and ordered by QSR customers.
 - (d) Smallgoods – additional processing to create chilled, ready to eat products, such as smoked chicken, sliceable roasts, sausages and bacon.
- 5.9 The best way to assess any impact of the Transaction by product is at the primary processing level (the market for the wholesale supply of whole dressed chickens) and the secondary processing level. Brinks is mainly a primary/secondary processor (it has no further processing facilities and very little smallgoods operations). However, at the secondary, further and smallgoods parts of the processing function, the various

³⁷ See for instance *GFW Agri-Products/Table Talk*, decision 23 July 1992, discussed below.

products can be seen as a chain of substitutable, or in some cases differentiated, products. Different types of customers buy some or all of the various product lines and for market definition purposes it is not easy to draw clear product market boundaries. It may assist analysis to instead examine the demand-side characteristics of supply to relevant customer groups rather than product categories (discussed in Section 4: Market Participants and below).

Smallgoods

- 5.10 In light of the large number of competing smallgoods suppliers, and the Commission's previously expressed views,³⁸ Tegel considers any impact of the Transaction on the smallgoods market to be barely discernable and *de minimis*. The smallgoods market is not addressed further in this Application except where noted occasionally in relation to particular customer markets.
- 5.11 The market for smallgoods has been previously considered by the Commission, in a decision that described *smallgoods* as the "generic term which is used to cover a range of processed meat products, including ham, bacon, sausages, luncheon sausage, salami and other boutique products (e.g. pastrami)".³⁹ The relevant market was the "manufacture and wholesale distribution in New Zealand of ham, bacon and other smallgoods".⁴⁰ In that decision the Commission noted there were at least 80 manufacturers of smallgoods in New Zealand⁴¹ and staff considered entry to the market on a small scale was possible.⁴²
- 5.12 Chicken smallgoods products make up part of the overall smallgoods market, and include smoked chicken products, chicken bacon, sliceable roasts, chicken luncheon, and sausages.
- 5.13 Smallgoods products are then sold to a range of customers in the foodservice and large supermarket retail industries. In terms of customer purchasing behaviour and foodservice/retail sales behaviour, this is an area where competition from other meat sources is the most obvious and apparent. For instance, a typical customer purchasing sausages has a wide choice of beef, pork, venison, chicken and other flavoured sausages, and usually finds them displayed side by side.
- 5.14 As a matter of commercial common sense, there is no separate identifiable market for 'chicken smallgoods' and Tegel adopts the definition of smallgoods meat products in general from the Commission's Decision 308.

³⁸ *Food Solutions Limited/Huttons NZ Limited/Best Corporation Limited* (1997, Decision number 308, AUT/BA H11/1 M2351)

³⁹ Decision 308, paragraph 8

⁴⁰ Decision 308, paragraph 12

⁴¹ Decision 308, paragraph 18

⁴² Decision 308, paragraph 42

Fresh and frozen are substitutes

5.15 There has in the past been a sales distinction between fresh and frozen chicken products (Statistics NZ data, for instance, has long been compiled that way). However, the Commission has noted in the past that this distinction is largely irrelevant to considering the competition issues (see below) because the two forms of chicken meat were substitutable in functional terms, were closely linked since frozen chicken was a by-product of fresh chicken, and there was no evidence to support discrete market definitions. That is even more clearly the case today, as demonstrated by:

- (a) On the supply side, all the main players supply both fresh and frozen chicken, with no difference in processing methods, and regularly transport a large proportion of both fresh and frozen products via the same delivery chains from the North Island to South Island outlets.
- (b) On the demand side, fresh chicken sales now significantly outstrip frozen, and fresh ready-to-eat and niche value added products are especially fast-growing in consumer sales.⁴³
- (c) Pricing differentials vary across product lines, but there is typically only [] differential⁴⁴ (frozen is generally slightly cheaper to reflect its commodity status).
- (d) Ubiquity of freezer and microwave oven technology in households means the modern consumer is indifferent between buying fresh or frozen.

Previous Commission views

5.16 The Commerce Commission has not reviewed the poultry industry for a number of years, although its earlier views tend to confirm the preferred market definition is one for chicken meat products. The most recent consideration appears to be in a staff investigation carried out in 1996 concerning Tegel's acquisition of the assets of Pacifica Poultry (Pacifica), a processor in Canterbury. Those assets included Pacifica's poultry processing plant, certain growers' contracts and the 'Country Carve' brand name used by Pacifica.⁴⁵ The Commission found that:

- (a) the primary relevant market was for the processing and wholesale distribution of chicken meat products (both fresh and frozen) throughout New Zealand; and it also examined any impact on markets for sourcing day old chicks and broiler feed;

⁴³ Statistics NZ primary production data for the last calendar quarter of 2006 showed overall fresh chicken production was 29,335 tonnes (81%) as against 7,030 tonnes for frozen.

⁴⁴ For instance, Tegel's ordinary list price on a size 13 whole bird []

⁴⁵ Commission Staff Termination Report: *Tegel Foods Ltd/Pacifica Poultry Ltd*, 8 July 1996.

- (b) while there was some aggregation in the chicken meat markets, there was effective constraint from two other national processors and smaller fringe suppliers, there was no impediment to the other players expanding, and there was considerable countervailing power of the major supermarkets;
- (c) the acquisition caused potential vertical issues in the DOC and broiler feed markets - however, these did not raise entry barriers and were not significant, in the face of other remaining constraints.
- 5.17 Previously, the Commission considered a proposal in 1992 for GFW Agri-Products Ltd (GFWAP) to increase its shareholding in Table Talk Chicken Ltd to 100%, by acquiring the remaining 50% owned by Poultrymen's Cooperative Ltd (PCL).⁴⁶ The Commission there identified three relevant markets:
- production and supply of day-old-chicks for chicken meat production;
 - production and supply of broiler feed; and
 - production, processing and wholesale supply of chicken meat.
- 5.18 In relation to that third market (chicken meat) the Commission acknowledged that there was some substitutability between poultry and other types of meat, but adopted a narrower 'chicken' market definition. The Commission was satisfied the acquisition largely formalised GFWAP's existing influence over the operations of Table Talk, and effective competition would continue to be provided by other firms.⁴⁷
- 5.19 In even older decisions, the Commission examined (and eventually cleared with divestments) the proposals of Goodman Fielder entities to acquire all the issued share capital in Wattie Industries Limited.⁴⁸ Since it focussed on a conglomerate merger and technical divestment requirements, and involved significantly different market conditions at the time (some 21 years ago), in Tegel's view those decisions have very little relevance to present-day market considerations.

Functional markets

- 5.20 The various functional levels or stages of production in the chicken meat industry have been set out above, and also explained in diagram form in Section 2: Structure of the Chicken Industry.

⁴⁶ Commission determination: *GFW Agri-Products Ltd/Table Talk Chicken Ltd*, 23 July 1992, www.comcom.govt.nz/PublicRegisters/ContentFiles/Documents/GFW%20Agri%20Products%20Table%20Talk.pdf.

⁴⁷ Even though those parties held [

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⁴⁸ Decisions 201A and 212A: *Goodman Fielder Limited and Wattie Industries Limited*, 1987.

5.21 Tegel is proposing to purchase Brinks' processing and supply assets, and to take its contract broiler chicken grower arrangements. The relevant functional levels of the market largely correlate to the product groups, and are as follows:

- (a) Processing and wholesale supply of chicken products: including a further functional split into primary processed whole birds, secondary processed products, further processed and smallgoods products;
- (b) The acquisition of 'grower' contracting services: the rearing of broiler chicks to adulthood, as one key upstream input to processing/supply of chicken meat where the Transaction brings about a small degree of aggregation.

Geographic markets

Whole dressed broiler chickens and chicken meat products

5.22 Tegel believes a national market is appropriate for the processing and supply of whole dressed broiler chickens and chicken meat products. The products are supplied and sold on a national basis and all the leading industry players actively sell their products in both the North and South Islands (although Turks is mainly North Island focussed).

5.23 Since 1996 the Commission has recognised that transport industry developments had improved to the point where there was a nationwide market for supply of chicken meat: *"technological developments have made it possible to transport fresh chicken between the North and South Islands" and that "imports of fresh chicken into the North Island from the South Island, provide some potential constraint on Tegel."*⁴⁹

5.24 Any geographic distinction would be even less plausible today: the shelf life of fresh chicken meat is now between 8 and 10 days depending on the cut of the chicken, and chicken can be transported to the South Island within 24 hours. There is nothing preventing the transportation of fresh chicken between the North and South Islands. Tegel, Inghams and Brinks routinely transport products to the South Island on a daily basis, especially Inghams which only has a North Island processing facility.

5.25 Fresh chicken products are also exported from New Zealand to Pacific Island nations. This further demonstrates the ease of transport logistics.

Freight Rates for chicken meat transport

5.26 Airfreight, road transport and shipping options are now more commonplace, with advanced logistics firms, technologically feasible refrigeration and less expensive rates than in previous years. The cost of freight is small compared with the cost of chicken itself: freight costs to the South Island make up approximately [] of the net selling price of chicken. Tegel believes that the following table represents a

⁴⁹ Commission Staff Termination Report, as per footnote 45 supra, page 6-7. In older decisions, the Commission previously believed there were two geographically distinct markets for the production and processing of chicken meat: North Island and South Island.

typical break down of freight rates to the South Island out of both its Auckland and New Plymouth processing facilities.

Freight Rates

	Cost per container or truck	Number of pallets	Cost per pallet	Cost per kg	Type
Ex Auckland					
Frozen by Sea 20 ft	[\$]	10	[\$]	[\$]	Container Rate
Frozen by Sea 40 ft	[\$]	20	[\$]	[\$]	Container Rate
Fresh - per pallet by road			[\$]	[\$]	Pallet rate
Fresh or Frozen by road	[\$]	28	[\$]	[\$]	Per truck double stacked
Ex New Plymouth					
Fresh - per pallet by road			[\$]	[\$]	Pallet rate
Frozen by refrigerated rail container	[\$]	29	[\$]	[\$]	Container Rate
Fresh or Frozen by road	[\$]	30	[\$]	[\$]	Per truck double stacked (Max 20 MT)
Assumptions: Average pallet weight - []; Normal weight for fresh or frozen whole birds is between [] kg per pallet; Normal weight for portions and boneless is between [] kg per pallet; Effective cost per kg for Container from Auckland can be even less if pallets double stacked.					

5.27 Deregulation and technology improvements in the transport industry have resulted in increased competition amongst freight forwarders and lower costs, especially for transport across the Cook Strait. The table shows that Tegel’s freight costs range from [] per kilogram depending on the product and transport mode.

5.28 Tegel believes that the cost of shipping to the South Island is []. Tegel’s freight costs are [] per kilogram compared with Tegel’s estimate of [] per kilogram of fixed costs in operating a separate processing plant in the South Island. []

5.29 In New Zealand distribution of fresh chicken between the North and South Island can be carried out within 24 hours. Overseas, supply chains can typically be longer, such as in Thailand where fresh chicken is supplied to Singapore, and the United States where the south-eastern States are considered the “net exporter” of fresh chicken to the rest of the country. These supply chains can be up to 36 hours or more, and the 8 - 10 day shelf life of a fresh chicken makes these lengthier supply distances/times feasible and increases the size of any potential geographic market for fresh chicken.

Supplier behaviour

- 5.30 Tegel, Inghams, Brinks (and, Tegel believes, to a small extent Turks) transport chicken products to customers in the South Island from their North Island processing facilities.
- 5.31 Heuvels, a free range/organic chicken processor has distributed products nationwide from its Gisborne facilities. Having recently relocated to Invercargill, Heuvels will service those national customers from the foot of the South Island.
- 5.32 Some of Tegel’s further processed products are distributed nationally from the South Island, and Brinks has occasionally sent South Island production to the North Island.
- 5.33 Inghams supplies Foodstuffs and Progressive Enterprises nationwide from its national distribution centre in Cambridge. Inghams has stated that it can readily supply KFC in Invercargill from its processing facilities in Waitoa in the North Island.⁵⁰ There is no barrier for Inghams to expand into or increase its presence in the South Island as it has an effective logistics chain operating. Tegel identifies Inghams as its biggest competitive threat in the South Island market regardless of where Inghams processes and distributes from (whether North or South Island based is largely immaterial).
- 5.34 If an existing plant is located in a particular region, it is of course able to supply the surrounding region at slightly less cost. However, that does not mean plants further afield cannot supply economically as well. Tegel’s Hornby secondary processing plant was destroyed by fire in January 2007 and did not re-open until November 2007. In that whole period, Tegel was able to reorganise supply arrangements to seamlessly continue to meet about [] of its South Island production from its Auckland and New Plymouth processing facilities.⁵¹ Although there were incremental freight costs associated with the need to transport to the South Island, as noted above this cost is relatively small and did not affect pricing.

⁵⁰ “Waikato Roost for Inghams” *Waikato Times*, 14 August 2007. See copy in Schedule 5.

⁵¹ In Christchurch Tegel continued to produce [] birds per day and Tegel’s Auckland and New Plymouth plants each produced an extra [] birds per day. See also: “Why Chicken prices have grown wings” *NBR*, 27 April 2007. See copy in Schedule 5.

- 5.35 Although Tegel, Brinks and Heuvels are the only primary processors with facilities located in the South Island,⁵² Tegel continues to face competitive constraints on its behaviour in the South Island because of the ease of transporting both fresh and frozen chicken between the North and South Island and the efficiencies that result from a centralised processing facility like Inghams.
- 5.36 In addition, national and large customers tend to purchase on an national basis – especially the likes of Progressive, Mad Butcher, Subway, KFC and McDonalds and there is no differentiation in pricing for their stores in different locations. For Foodstuffs, pricing is driven nationally by the 3 co-operatives, even if individual stores are free to place orders.
- 5.37 Please also refer to the NERA report for further comment on geographic market definition.

Live DOCs

- 5.38 There are existing hatcheries for DOCs in the South Island, Tegel and Bromley Park (known as “Southern Chicks” in the South Island) both have hatcheries located in the South Island (Canterbury). A new hatchery is also in the process of being set up in the South Island.⁵³
- 5.39 However, transport industry economies are such that, not just chicken meat products, but live DOC parent breeding and broiler stock can be carried around the country cheaply and with little fuss.
- 5.40 In addition Tegel and others easily transport both DOC parent and broiler stocks between islands where required. Tegel flew tens of thousands of DOCs from its Christchurch hatchery to contract growers in New Plymouth and Auckland while the Hornby plant was being repaired following the fire in 2007. Tegel also transports Hyline DOCs (for layer hen farming) grown in New Plymouth to customers nationally, and Aviagen regularly transports breeder DOCs to Tegel farms in the South Island.
- 5.41 Other processors also transport DOCs by air. For example, Heuvels when based in Gisborne flew in DOCs on a twice weekly basis.⁵⁴ The costs of transporting DOCs in this way are relatively small. Currently, to transport DOCs to the South Island by air, Tegel pays [] for deliveries of up to [] DOCs.

⁵² Brinks’ has now exited its Invercargill production facility and it is leased to Nelson Lindsey for use by Heuvels. In Brinks’ hands it processed around [] birds per annum, with a total production capacity of approximately [] birds per annum. Brinks’ Christchurch facility continues to produce around []

⁵³ Heselips’ Hatcheries will be providing another South Island based hatchery to the market – see “Hatchery turns to free range chicks”, *Timaru Herald*, 6 November 2007. See copy in Schedule 5.

⁵⁴ Heuvels Chicken website, www.heuvelschicken.co.nz/about.esp.

- 5.42 Tegel could alternatively transport large quantities of DOCs by road if it chose to. For large loads (approximately [] DOCs), it would cost between [] per DOC, and the road trip between New Plymouth and Christchurch would take approximately 15 hours.
- 5.43 This suggests that, to the extent the market for acquisition of DOC's is relevant, it should be considered a national market.

Broiler growers and feed

- 5.44 The acquisition of broiler growing services is conducted over a wide geographic region, but Tegel accepts that it is unlikely to be a national market. In contrast to the transportation of DOCs, animal welfare concerns mean live fully-grown birds cannot be transported for long periods. For convenience, most contract broiler growers tend to be located within approximately 2 hours drive of the primary processing plant, but it is possible for birds to be transported to the place of slaughter (by road) for up to 4-6 hours or longer.
- 5.45 Access to contract grower farms and services is relevant to the Transaction to the extent that Brinks have a small number of contract growers, [] are being assigned by Brinks to Tegel in the Transaction. Issues around access generally, and two regional markets around the greater Auckland and greater Canterbury regions are discussed in Section 8: Competition Analysis, under the heading "Access to Key Inputs".
- 5.46 Similarly, to the extent the input market for acquisition of animal feed for chickens is relevant, it is likely to be in the context of regionally based markets, given the weight and bulk of feed transport – which means it is not economic to transport it over long distances on a nationwide basis.
- 5.47 However, the overall relevance of geographic markets for feed is minimal as all the main existing primary processor competitors (apart from Brinks) have access to their own in-house feed mills and locate them wherever is economically efficient in relation to their growing operations.

Temporal dimension

- 5.48 There are no particular seasonal peaks in the market or issues requiring analysis of a separate temporal dimension.

Customer dimension

- 5.49 Sales of whole dressed birds and chicken meat products in New Zealand can be broken down into four segments by customer type. One of those segments is export sales, primarily to Pacific Island destinations, where Tegel, Brinks, Inghams and others are all active to varying degrees. For the purposes of this Application the export segment does not affect markets in New Zealand - but it can be important for a new entrant or firm looking to grow its business as another customer option or outlet.

5.50 The three domestic segments are described in Section 4: Market Participants. These are outlined below along with Tegel management's estimate of the size of each segment⁵⁵ within overall chicken meat sales:⁵⁶

- *Supermarkets/large retail customers* – including Progressive Enterprises, Foodstuffs and New Zealand's largest butchery chain The Mad Butcher: Tegel estimates total industry sales to this group of approximately [] kg of meat p.a. or [] of overall sales;
- *Foodservice and small retail* – a wide range of secondary processors, smallgoods preparers, catering firms, institutions, cafes, restaurants and eateries, and small butcheries, as well as large intermediaries (e.g. Creans, Gilmours) who service them as wholesale distributors: approximately [] p.a. or [] of overall sales;
- *Quick service restaurants ('QSR')* – a fast-expanding sector comprising large multinational fast food restaurants with large volume and specific product/service level specifications: about [] p.a. or [] of overall (and growing).

5.51 As noted in Section 4: each type of customer tends to buy a different, though overlapping, set of chicken products.

5.52 Given that the demand-side buyer behaviour differs between these customer groups, the competitive dynamics in each segment may vary, and the poultry companies tend to view them as separate groups for marketing and account management purposes, Tegel considers it appropriate to consider these 3 groups separately as different markets.

5.53 Please also refer to the NERA report for further comment on customer segmentation.

Other potentially affected markets

5.54 The main areas of aggregation between the operations of Tegel and Brinks are in chicken processing and chicken meat supply markets. No new vertical integration will result from the Transaction. However, Tegel acknowledges that other markets may be relevant to the extent that chicken market participants and new entrants require access to input supplies: contract grower services, animal feed and broiler stock or breeding stock. These are addressed in Section 8: Competition Analysis, under the heading "Access to Key Inputs".

⁵⁵ Estimated export sales of approximately [] kg p.a. are not included. For Tegel, these sales are approximately [] of its total production, and predicted to grow over time.

⁵⁶ Includes whole dressed birds and chicken meat products.

5.55 The smallgoods market is also potentially relevant, due to some small aggregation in smoked chicken products between Tegel and Brinks, but these effects are virtually *de minimis* and have been addressed broadly above.

Differentiated products

- 5.56 In considering the functional levels of the chicken meat supply chain, primary and secondary processed products are largely undifferentiated. They are whole birds, packaged and ready to cook, and a range of fairly standard cut portions (meat from the breast, thigh, leg, wings etc).
- 5.57 There is some degree of product differentiation amongst secondary processed and smallgoods product lines (e.g. smoked chicken slices, marinated chicken satays etc). Overall, however, all this amounts to is that an increasing range of value-add products are being created that take some additional food preparation step that the wholesale customer often applies itself, and that ultimately the end consumer could do him or herself when preparing a meal. Supply side processes are the same and the small secondary processing companies (who are customers of Tegel and Brinks) have equal ability to deliver different cuts, flavours and product differentiation or roll out new innovations as well as the larger chicken companies.⁵⁷
- 5.58 Two other factors suggest differentiation is not a critical market definition issue:
- (a) A large volume of product is not branded or differentiated at all when sold fresh or loose in store, or used in a foodservice or small retail business. The consumer has no knowledge of (and often little interest in knowing) who supplied it or who applied the value-add steps to the meal.
 - (b) Although further processed products are differentiated amongst the suppliers, this area is largely unaffected by the Transaction as Brinks has no supply capacity here. Primary processing is the main area of interest for competition analysis purposes, and it is not differentiated in any substantive economic, sales or marketing sense. One firm's dressed wholebirds are much the same as another's when supplied in bulk.

⁵⁷ Examples of innovations include: Tegel's sealed plastic leak proof bag into retailers, sealable plastic bags for branded hot cooked deli chickens; Inghams' range of further processed 'red box' products in the freezers.

6	Market Shares
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Supply of whole dressed chicken

- 6.1 The data collected quarterly by Statistics New Zealand (and also by PIANZ) collates each processor's overall broiler 'birds killed' data. This volume is measured by 'Birds Per Annum' (BPA) units or by kilograms, of 'whole dressed chickens' – meaning newly-processed birds once plucked and eviscerated.
- 6.2 BPA is not a precise measure of meat production or actual sales to New Zealand end consumers at any point in time. First, it may not reflect actual supply to customers at any given time, because some birds processed may be held as frozen inventory stock, depending on demand conditions at the time. Second, about [] of birds processed are exported overseas (and therefore not supplied into the New Zealand market at all).
- 6.3 The weight in kilograms measure is even less precise because the actual amount of meat supplied to customers will always be slightly less than the weight of 'birds killed' data, as not all of the chicken can be used for meat and there are other losses along the supply chain.
- 6.4 Tegel has access only to total industry figures (publicly available from Statistics New Zealand), its own figures, and Brinks figures.⁵⁸ Tegel has attempted to estimate the share of Inghams and Turks/Others on a total BPA basis for 2006 and 2007.

	Birds per annum		Share (%)	
	2006	2007	2006	2007
Tegel ⁵⁹	[]	[]	[]	[]
Brinks	[]	[]	[]	[]
Inghams	[]	[]	[]	[]
Turks/Other	[]	[]	[]	[]
Total	[]	[]	100	100

⁵⁸ Data recently requested from Brinks under a confidentiality protocol, specifically for this clearance application.

⁵⁹ Includes sales of Rangitikei Free Range Chicken products (brand owned by Tegel).

- 6.5 The above figures are based entirely on bird per annum numbers, and convey nothing about the quality (and hence value) of the birds processed. No data on industry sales values is available to Tegel.
- 6.6 When it enters the market in the second half of 2008, CPL is expected to take approximately [] of the market based on current grower capacity.
- 6.7 Based on the above figures, immediately post-merger, the combined entity might be expected to have a market share of around []). This is approximately the same as Tegel had after the GFWAP/Table Talk acquisition in the mid-1990s. That market share was subsequently competed away over time, largely to Inghams. Tegel expects to lose a further [] of the merged market share almost overnight, as there will be some customers who will react to the merger by seeking to preserve alternative supply arrangements. Tegel management estimate the post-merger market share will in fact end up around [] on a BPA basis.

Customer segments

- 6.8 As discussed in Section 4: Market Participants, Tegel believes that the market is best seen in 3 key customer segments. Tegel has used a combination of supermarket scan data, market intelligence and management estimates to try to determine the likely size (based on estimated sales volumes in kilograms) of each segment⁶⁰ and the shares held by each of the primary processors. Supermarket scan data in this area has severe limitations, and sufficient data on category product sales (secondary, further and smallgoods production) is not available to enable Tegel to estimate market shares at those levels.
- 6.9 Tegel's estimate of the proportion of overall sales into the three customer segments is set out in the following pie chart.

⁶⁰ Tegel emphasizes that these market shares are managements best 'guess' as no real data is available. Supermarket scan data covers only a small portion of actual sales through supermarkets, let alone other retail outlets.

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6.10 Tegel’s estimate of the shares of the major primary processors into each of the customer groups is set out in the table below.

Market Segments by Major Supplier

	Supermarket /Large Retail	QSR	Foodservice/ Small Retail
Tegel	[]	[]	[]
Brinks	[]	[]	[]
Inghams	[]	[]	[]
Turks/Other	[]	[]	[]
Santa Rosa*	[]	[]	[]

* Santa Rosa is a large independent ‘secondary processor and smallgoods manufacturer’, although there may be others who have relevant market share, particularly for foodservice/small retail customers. It is [].

6.11 The following sections provide further breakdown and estimates within each of the three customer segments.

Supermarket/Large retail

6.12 Tegel is a significant player in this segment, as is Inghams, with Brinks and Turks as other smaller suppliers (and CPL from the second half of 2008). This market is kept inherently competitive and transparent by the power of the large buyers and their

promotional policies. Small players can gain a footing, especially through the decentralised nature of Foodstuffs (independently owned) stores which allows them to gain orders to supply individual Foodstuffs supermarkets on modest volumes. For instance, Turks’ products have historically been strong in Foodstuffs’ Central/Wellington region stores, but now regularly appear also in Auckland stores (e.g. New World in Remuera).

- 6.13 The sale of house brand products plays a significant role in this market. In the table below, they have been listed separately, as the contracts to supply them are fully contestable. Since prices are largely driven by the buyer, and the customer views the brand as the supermarket’s own, they have an independent market presence.
- 6.14 Although Tegel holds the contracts to [] with most of their products at present, these contracts are put to tender frequently and could easily shift to Inghams. The other independent processors (including Brinks) are generally not included by supermarkets in these tender processes as they lack the scale and product range required by these customers.
- 6.15 It should also be noted that Santa Rosa and other smaller secondary processors and small goods manufacturers also supply the supermarket segment.
- 6.16 Please refer to Section 8: Competition Analysis for further discussion of these points above.
- 6.17 Tegel’s estimates for this market are below:

Chicken meat supply to supermarket/large retail customers⁶¹

Estimated market shares

	Total (kg)⁶²	Current %
Tegel ⁶³	[]	[]
Brinks	[]	[]
Inghams	[]	[]
House brands	[]	[]
Turks	[]	[]
Santa Rosa	[]	[]

⁶¹ Including supermarket and Mad Butcher sales.

⁶² Based on Aztec/Nielsen scan data and Tegel management is estimate.

⁶³ Includes sales of Rangitikei Free Range Chicken products (brand owned by Tegel).

	Total (kg) ⁶²	Current %
Other	[]	[]
Total 2007	[]	100%

Source of estimates: Tegel management based on supermarket scan data and management estimates of non-scanned sales

QSR customers⁶⁴

- 6.18 Brinks does not supply these customers, and Tegel also has a [] share of this market, with only []%.
- 6.19 This Transaction will not change the structure of this market, as Inghams will remain the clear leader.

Chicken meat supply to QSR customers

Estimated market shares

	Total (kg)	Current (%)
Inghams	[]	[]
Tegel	[]	[]
Brinks	[]	[]
Total 2007	[]	100%

Source of estimates: Tegel management based on current and historical sales data and supply discussion held with these customers.

Foodservice/Small retail customers

- 6.20 Foodservice end users are a variety of outlets providing ready to eat food such as cafes, lunch bars, restaurants, takeaway outlets, caterers, hospitals, prisons etc but also includes small retail butchers, Asian supermarkets and speciality stores.
- 6.21 This market segment is also serviced by:
- large intermediaries/distributors who both on-sell products produced by the primary poultry processors and other secondary, further processors or smallgoods manufacturers (e.g. Creans and Gilmours); and also
 - businesses that purchase mainly fresh whole dressed chickens which they process into specialised cuts (eg. Sam's) and then supply to the end user customers.

⁶⁴ Note that the QSR in this context refers to the large, multinational (often franchised) sophisticated customers who require large volumes, high product specifications and high service levels of performance (as defined in the glossary). Other smaller takeaway chains, e.g. Burger Fuel and Nandos, are included within Foodservice.

- 6.22 These intermediaries compete with the primary processors for the supply of products to the end users.
- 6.23 The primary processors (Tegel, Inghams, Turks, and Brinks) to a lesser degree also supply some end users directly. Historically the smaller primary processors have been more active in servicing these end users directly than the larger processors. It is in this foodservice segment Tegel expects that CPL will be most active and gain its initial market volumes and is also likely to service end users directly.
- 6.24 The intermediaries (both distributors and independent secondary processors) are large chicken purchasers in their own right, and often include more than one operation in multiple locations (e.g. Santa Rosa, Creans and Gilmours). These intermediaries often purchase their chicken from multiple suppliers and use their buying power to secure the best possible pricing. This buying strategy and their own value-add operations allows them to compete very effectively with the primary processors in supplying the end users directly. The intermediaries generally supply more than just chicken products to the end-users, which provides them with a further cost advantage in delivery and distribution logistics.
- 6.25 Therefore, a foodservice end-customer has a wide range of options and a large number of suppliers to choose from.
- 6.26 The fragmented nature of the market does, however, make accurate market share data hard to come by. The graph below shows Tegel's approximate sales split to the various participants who make up this foodservice/small retail market. Only about [] of Tegel's sales are made direct to end users with the balance supplied by intermediaries and competing secondary processors.

[

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6.27 Given that Tegel estimates its overall share of sales into the foodservice/small retail market to be around [], this suggests only [] of end users currently purchase from Tegel directly.

7 The Counterfactual

- 7.1 The appropriate counterfactual to examine the effects of the Transaction against is unlikely to be the poultry industry status quo. This is due to a number of market forces driving current changes and industry restructuring, including issues of increased feed costs, reduced chicken consumption and industry spare capacity (refer to Section 3: Industry Trends).
- 7.2 Three of the more important changes or developments to consider in the counterfactual include:
- (a) the breakaway of CPL growers from Brinks, and emergence of CPL as a new fully-integrated processor;
 - (b) the arrival of Aviagen New Zealand as an independent upstream breeding stock supplier; and
 - (c) the position of [].
- 7.3 Although Brinks is currently a significant producer of chickens, its cost structure, limited product capability and constrained capacity mean that it is highly unlikely to become a more significant industry competitor. Far more likely, Brinks' recent loss of grower contract supplies means its outlook should encompass a reduction in market share.
- 7.4 Brinks is the largest of the 'partial-service' industry players, having acquired several other "failing" businesses over the last 5 years. But, Brinks does not operate a "further processing" facility to any large degree, so does not supply those product segments. It is not a 'full service' chicken business.
- 7.5 Nor is Brinks a fully integrated chicken producer. It does not own or operate feedmills, breeding farms or hatcheries. This means that Brinks cannot match the "least cost" business structures of Tegel and Inghams.
- 7.6 Brinks currently operates 3 primary processing facilities. This is mainly due to them being constrained to [] at their main plant in Karaka.
- 7.7 If this Transaction does not proceed, Tegel expects that Brinks will need to consider [] to deliver a cost effective growth option. The capital required for this is estimated at by Tegel [] and may still not deliver the required efficiency gains to maintain a significant market share position. Further investment in both "further

processing” facilities and integration into breeding/hatching is also likely to be required.

7.8 Alternatively Brinks could continue to operate their “limited competitor” model at its present constrained volume.

7.9 The Brinks business has recently had to deal with [] and joining together to set up a new chicken supplier. Like Brinks, they have so far only invested in the primary processing and basic cutting facility but unlike Brinks they have chosen to integrate the “back end” of their business and have built breeding and hatchery facilities and invested in a feedmilling operation.

7.10 This new entrant Country Pride Limited (*CPL*) is expected to be supplying the “further preparer” customers with whole birds and basic cuts shortly and be slaughtering approximately [] BPA within a year.

7.11 It should be noted that Tegel believes that the business it is looking to acquire from Brinks is that net of this loss to CPL.

7.12 In Tegel’s view, the counterfactual for the purpose of analysing the Transaction is either:

(a) Brinks would remain as an independent [

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[] increased fixed costs of processing facilities as regulatory compliance requirements are being tightened;

- Brinks has an absolute limit on production capacity of 38,000 birds per day at its Karaka plant (and also limits on hours of operation) due to Resource

Management Act conditions of consent that have applied since 2000.⁶⁵ This is a result of Environment Court/Franklin District Council conditions imposed upon Brinks' Karaka site, and in particular, an undertaking required of Brinks at the time in order to get the consent amendments it was seeking. As a condition of obtaining the consent, Brinks expressly undertook (on behalf of itself and its successors) that it would not make any further resource consent applications (or initiate any other action or procedure having a similar effect) to increase the processing rate and throughput of the plant above 38,000 birds per day. As a result, Brinks is heavily constrained in its ability to expand in the future at this, its most efficient of the 3 plants.

- (b) Alternatively, the Commission could assume a hypothetical sale of Brinks to another owner where that acquisition would not give rise to any aggregation. Tegel does not believe [

]. In any event under that hypothetical scenario, the changes to Brinks business outlined in the paragraphs above still apply going forward.

7.13 In both the factual and counterfactual, it is clear that:

- (a) CPL will emerge as a new competitor with a different business model and breed of broiler chicken marketed under the 'Spring Chicken' brand. It is likely to have the resources and enthusiasm to expand quickly, potentially to [] BPA based on the capacity of available contract growers. Over time, it is likely to grow further to rival Turks or Brinks.
- (b) Tegel will be supplying broiler DOCs to other parties, due to changed arrangements with Aviagen NZ and supply capacity now allowing it to hatch birds for other parties beyond what is needed for its own internal production.

⁶⁵ On 7 November 2000 the Franklin District Council granted consent to Brinks to amend the existing conditions and add new conditions to those outlined in the consent granted by the Environment Court. One of the conditions of this consent is that no more than 190,000 birds per week will be processed at the site in any one week (Monday to Friday), or an average of 38,000 birds per day. The consent also includes restrictions/conditions relating to the operating hours of the plant, the hours and number of truck movements to and from the plant per day, maximum noise levels, odour emissions, the number of night shift employees, disposal of inorganic waste and the disposal of feathers and skin. The consent also requires the formation, by Brinks, of a community liaison committee which is to meet with the community at least once every six months.

(c) [

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8 Competition Analysis: markets for whole dressed chickens and chicken meat products

Summary

- 8.1 Tegel believes the Transaction will not have the effect or likely effect of substantially lessening competition in the market for whole dressed chickens or in any of the other relevant markets. In the factual, the combined entity will continue to face a combination of significant constraints from existing and potential competitors, as well as from customers with countervailing power. In particular:
- (a) Inghams will continue to represent a substantial constraint in the market for the supply of whole dressed chickens and in each of the customer markets: QSR, foodservice/small retail and supermarket/large retail.
 - (b) Brinks competes only for foodservice/small retail customers and to a lesser degree for supermarket/large retail customers. It does not operate in the QSR segment.⁶⁶
 - (c) Tegel does not believe that Brinks has any material impact on its pricing of either whole dressed chickens or chicken meat products. The market price leaders are typically Tegel and Inghams.
 - (d) There are no barriers to the expansion of the existing smaller primary processors, Turks and CPL (and also Heuvels). Like Brinks, they compete primarily for foodservice and small retail customers and to a lesser extent for supermarket/large retail customers. These processors currently have spare plant capacity and easy access to key inputs.
 - (e) There are a large number of secondary processors, further processors (and smallgoods manufacturers) who, while they buy whole dressed chickens from the primary processors, also compete very effectively with the primary processors for supply to foodservice and retail customers.
 - (f) Supermarkets, QSR chains and other large customers within the foodservice market (e.g. Creans, butchery chains and secondary processors) have significant countervailing buyer power and will switch away from any supplier who is not offering a competitive price. Market shares can change quickly by virtue of winning one significant contract or customer. These customers can sponsor expansion by smaller players.

⁶⁶ [] QSR-style of customer is [], a relatively small fast food outlet with [] branches around New Zealand. The product supplied to [] is basic cut up chicken pieces without any further processing by []. To that extent, [] is more accurately classified as a 'foodservice' customer.

- (g) Although general foodservice and smaller retail customers may not themselves enjoy the same level of countervailing power, distributors such as Creans, Countrywide or Gilmours have significant countervailing power because they are able to aggregate the purchases of their customer base. Further, Tegel believes that it is especially in relation to these small customers that smaller suppliers (Turks, CPL, Heuvels in primary processing; numerous small, nimble competitors in secondary/further processing) can easily grow and service the needs of those customers. Hence they do have real options outside the two large poultry companies.
- (h) Supermarket, foodservice and other retail customers tend to buy on the basis of daily or weekly orders, with no fixed contracts and little loyalty to brands. This 'phone-ordering' system makes price-checking easy for the buyer, and switching behaviour can be immediate.
- (i) The potential for new entry, as recently demonstrated by CPL, acts as an additional constraint.
- (j) Chicken meat pricing is constrained by relativities with other meat and protein sources, as end consumers will switch and substitute to other meats if chicken prices rise.

8.2 The following sections discuss in more detail:

- (a) the significant competitive constraint from Inghams;
- (b) constraint from other existing primary processors;
- (c) expansion by the other primary processors, and the availability of key inputs to do so;
- (d) competition from independent secondary processors, further processors, manufacturers of smallgoods and intermediaries;
- (e) customers who have countervailing power;
- (f) the potential for new entry;
- (g) constraint from substitution between other meat and protein sources;
- (h) any potential for co-ordination effects.

Constraint by existing competition from Inghams**Overview**

8.3 Inghams is the largest competitive constraint on Tegel in the market for whole dressed birds and in each of the customer group markets for supply of chicken meat products.⁶⁷

8.4 In relation to the two fastest growing customer or product areas (QSR and further processed products), Inghams dominates the QSR market, and Tegel believes that Inghams is very strongly positioned to grow in further processing generally.

8.5 [

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8.6 In addition, as Australasia's largest poultry company, Inghams holds strategic advantages over Tegel in the following critical areas:

- (a) it has more efficient plant/factory processing infrastructure;
- (b) it can treat New Zealand as part of a wider Australasian market and leverage overhead and variable costs from Australia;
- (c) it is well placed with key large Australasian customers;
- (d) it has spare capacity and expansion potential.

Inghams' efficient plant and operational structure in New Zealand

8.7 As detailed in Section 4: Market Participants, Tegel and Inghams are vertically integrated through all the same key supply chain stages, and both target the volume end of the markets and a 'full service' product range.

8.8 However, Tegel believes that Inghams' New Zealand operations are more efficient than Tegel's and that this, together with Inghams' overall ability to utilise its

⁶⁷ While Inghams do not currently produce smallgoods, they have the resource and facilities to move into those products relatively easily should they elect to do so.

Australian based resources, makes it a highly competitive force in the New Zealand market.

- 8.9 Inghams' sole primary processing plant is based in Waitoa and processes approximately 100,000 birds per day,⁶⁸ compared to Tegel's production of approximately [] birds per day at each of its 3 facilities. In addition, Inghams' uses latest technology laser-guided water cutters for further processing at its Cambridge based further processing factory. In contrast, Tegel uses Marel cutting equipment (which does not have laser guided technology, and may involve higher day to day running costs).
- 8.10 Inghams' New Zealand model is to run a single, efficient and high-specification plant rather than several geographically dispersed plants. In recent years Inghams has spent approximately \$120 million upgrading its operations "from hatchery to freezer". Around half of that investment is believed to be in the single Waikato plant that now has the same capacity as Tegel's [], and is far more efficient than three geographically dispersed plants (which is the model that has developed historically for Tegel).
- 8.11 Such capital investment levels (\$120 million) are without parallel in the history of the New Zealand poultry industry. Tegel's largest capital expenditure projects in the past have been in the vicinity of [].
- 8.12 Inghams' model of a single large, modern plant enables it to efficiently supply customers throughout the country. For example:
- (a) Inghams has contracts to supply almost all McDonalds, KFC, Burger King, Wendy's and Burger Wisconsin franchises in New Zealand. These contracts make up a large proportion of the Inghams' business.⁶⁹
 - (b) In 2004, Inghams successfully won from Tegel a 7 year exclusive contract to supply KFC with all of its chicken meat. This contract is understood to be worth tens of millions of dollars of revenue per year to Inghams.⁷⁰
 - (c) Inghams is supplying an increasing number of South Island customers on a daily basis from its Waikato plant:
 - Notably, it has to supply large volumes daily direct to KFC stores in the South Island down to Invercargill.

⁶⁸ These details and many of those in this section are from an article "Waikato Roost for Inghams", Waikato Times, 14 August 2007. See copy in Schedule 5.

⁶⁹ Information from article "Waikato Roost for Inghams", Waikato Times, 14 August 2007. See copy in Schedule 5.

⁷⁰ Information in this paragraph is taken from "Inghams crowing over chicken deals" Dominion Post, 31 May 2006. See copy in Schedule 5.

- Inghams is increasing its presence in the South Island in the supermarket/large retail customer market. Supermarket scan data shows that Inghams is supplying product into a large number of South Island supermarkets.
- Tegel understands that Inghams is also increasing its presence in the foodservice/small retail market in the South Island – for instance, Creans Foodservice in the South Island sources its fresh chicken from Inghams, as do significant secondary processors such as Khans.

8.13 [

] A large single plant can efficiently serve the whole country. The effect of Inghams' more efficient New Zealand structure is illustrated in the cost comparison set out in the NERA report. This concludes that Inghams' single plant model delivers costs advantages to Inghams.

Leveraging operations as part of an Australasian market

- 8.14 Inghams employs approximately 1000 people throughout its New Zealand based operations.⁷¹ The wider Australasian operation employs over 7000 people across all states of Australia and in New Zealand. In operational terms, it is able to compete on the basis that the New Zealand market is another average-sized state.
- 8.15 Inghams New Zealand's high level of integration with Inghams in Australia provides important efficiencies in production that cannot be matched by Tegel's current operations, and allows Inghams to operate here with lower fixed costs.
- 8.16 Inghams' administrative functions, research and development, marketing, technical support and raw material procurement are run out of Australia. The costs are spread across both the Australian and New Zealand operations. Tegel spends approximately [] on these functions, which Inghams in New Zealand is able to avoid by leveraging across the much larger Australian business. Examples of such leveraging occurs in the following areas:
- (a) *New product development and technical knowhow:* Inghams NZ is able to benefit from a product development facility in Sydney and Australasian experts in nutrition and food technology.⁷²
 - (b) *Purchasing of animal feed and other raw materials:* Inghams can use its combined NZ/Australia purchasing power to gain procurement advantages and better terms in key areas such as labelling/packaging and key raw materials like feed. For example, Tegel understands that Inghams' total annual

⁷¹ From article "Waikato Roost for Inghams", Waikato Times, 14 August 2007. See copy in Schedule 5.

⁷² Inghams website, <http://www.inghams.co.nz/foodservice/sitedocument.aspx?docId=601>.

Australasian purchases of soybean meal are [], compared with Tegel's []. Similar economies of scale apply to most feed ingredients. This allows Inghams to achieve marked cost efficiencies as "60% of the cost of chicken meat [is] made up of feed costs".⁷³

- (c) *Shipping/international freight costs:* Combined purchasing of raw materials can also give rise to significant freight cost savings. For example, Tegel understands that Inghams' soy requirements for Australia and New Zealand are shipped in the same vessel.
 - (d) *Product labelling and packaging:* Inghams are able to negotiate a higher level of discount on a variety of packaging, for which New Zealand standards are uniform with Australian ones, based on higher volume levels.
 - (e) *Access to capital for investment or purchasing of new plant and machinery:* for example, the \$120 million upgrade carried out by Inghams and discussed in paragraph 8.10 above. Inghams have higher levels of ongoing capital expenditure and a larger number of sites to share equipment across.
 - (f) *Marketing and advertising campaign costs:* For example by rolling out the same TV commercial to viewers on both sides of the Tasman.
- 8.17 The effect of Inghams' ability to leverage its Australasian operations is illustrated in the cost comparison set out in the NERA report which concludes that Inghams incurs average fixed costs in New Zealand of []. This appears to be reflected in Inghams' pricing on key contracts such as the KFC supply, and by Inghams' long term share gain from Tegel.

Key Australasian customer relationships

- 8.18 A number of key New Zealand customers are in fact Australian owned or regionally managed (such as Progressive Enterprises/Woolworths, McDonalds, Red Rooster and Subway). These customers could run their pricing and procurement strategies on a trans-Tasman basis as a means to streamline operations and create efficiencies.
- 8.19 Tegel understands that trans-Tasman supermarket group Woolworths has already moved toward trans-Tasman procurement in a number of other food categories. Tegel believes that []
- 8.20 Inghams is the only poultry supplier with the ability to do trans-Tasman deals. Inghams has relationship advantages with those customers since their familiarity

⁷³ "Industry hit by rising feed bills", Waikato Times, 14 August 2007. See copy in Schedule 5.

dealing with the largest Australian player spills over into New Zealand purchasing habits as well.

Inghams' growth and capacity to expand further

- 8.21 Inghams has recently spent a large amount expanding its New Zealand plant (NZ\$120million) and is in the process of expanding its Australian operations. It clearly has growth objectives.
- 8.22 In New Zealand, Inghams has experienced steady growth since entering the market in about 1990 through the purchase of Harvey Farms. At the time it was purchased by Inghams, Tegel estimates that Harvey Farms had around [] share of the chicken meat market. At that time, its production would have been about [] BPA.
- 8.23 Inghams has grown strongly ever since. Tegel estimates Inghams' current overall size at just under [] (based on number of BPA) although in a recent media article Inghams itself suggests it has one-third of the market.⁷⁴ Inghams⁷⁵ has about 50% of the "total further processed" products market. Tegel estimates that Inghams' BPA today is about [] birds, approximately a six fold increase.
- 8.24 Tegel believes that []
-].
- 8.25 In Australia, Inghams is carrying out a great deal of expansion.⁷⁶ A large new food processing facility was built in South Australia in 2007. Inghams is also expanding its existing plant at Bolivar, South Australia, and opening a new hatchery, distribution centre, breeder facilities and broiler operations. Further expansion is planned for 2009, and up to 5 production lines may be considered in the future. Approximately \$130 million was spent on the new Bolivar plant, to increase weekly production from its present volume (about 500,000 birds per week) to 1.2 million birds a week over the next several years.
- 8.26 Inghams has shown a desire to invest heavily in infrastructure, both in New Zealand and Australia. Previous New Zealand capital investment now leaves it very well positioned to grow here without the need for further plant or equipment investment. Recent large-scale capital projects in Australia demonstrate that, as a group, Inghams remains prepared to invest heavily when required. The New Zealand operations have

⁷⁴ "Waikato Roost for Inghams", Waikato Times, 14 August 2007. See copy in Schedule 5.

⁷⁵ "Firms figures not so paltry", Waikato Times, 27 May 2006. See copy in Schedule 5.

⁷⁶ Information in this paragraph is taken from "Chicken processor sees huge growth 200 jobs at new plant" Advertiser (Australia), 27 March 2007, and "Focus - food industry pluck a job as poultry processor" Advertiser (Australia), 21 April 2007. See copies in Schedule 5.

the ability to access funds from the Inghams Enterprises Group and that group's Australian capital raising capabilities.

Comparison of Inghams and Tegel

- 8.27 Tegel sees Inghams as its key competitor in New Zealand in all customer groups.

- 8.28 The savings that Inghams can derive from its more efficient New Zealand cost structure, and leveraging its Australian operations, provides a significant pricing advantage over Tegel and other New Zealand based suppliers. That allows it the ability to offer a lower cost to customers.

Constraint from other existing primary processor competitors**Overview**

- 8.29 There are three other primary processors, Turks, CPL and Heuvels,⁷⁷ who already provide competitive constraint in the sectors in which Brinks operates: foodservice/small retail and some commodity products supplied to supermarkets/large retail. In addition, all of them have spare capacity and can easily expand.
- 8.30 While the smaller players do not operate in the QSR market (which is dominated by Inghams), in the foodservice/small retail market these firms provide significant competition and are a real alternative to customers. This is due to:
- (a) their ability to be flexible and meet the demands of smaller customers such as independent butchers;
 - (b) their supply of commodity unbranded chicken meat to end-users who do not require the full marketing, service or product innovation package that Tegel or Inghams provide.
- 8.31 These smaller firms also provide competition in supplying independently owned supermarkets under the Foodstuffs banner which sometimes wish to support small players. Turks has shown that entry into the supermarket/large retail market is possible from small beginnings, in its case by investing in its relationship with Foodstuffs Wellington. (As noted in Section 4: Market Participants, Turks has traditionally had a strong relationship with Foodstuffs Wellington and its presence is now also being felt in other Foodstuffs supermarkets in Auckland).
- 8.32 Tegel believes that CPL will [
-]
- 8.33 In any event, current market share levels represent merely a static snapshot of competition in these markets. Small competitors can potentially pick up [
-] market share just by winning a couple of key accounts of secondary processors (such as Sam's) in the foodservice/small retail segment. With spare plant capacity they have every incentive to price keenly to do so.
- 8.34 Within that environment, it is important to recognise that all other competitors, large and small, have the capacity to easily and quickly expand their volume if demand-side conditions make expansion attractive. As outlined in Section 7: Counterfactual the

⁷⁷ The growing popularity of organic/free range products could allow Heuvels to increase its market influence. Heuvels has recently expanded by shifting its operations to Invercargill and has made clear its intention to provide more products into the foodservice market.

processor least able to expand, because it is constrained in its Karaka site and other important respects, is Brinks.

8.35 Smaller players can easily expand supply without having to extend or invest in their existing primary processing plants. Key factors allowing ease of expansion include the two discussed below:

- (a) extent of spare production and plant capacity;
- (b) access to key inputs: breeding stock and hatchery/rearing services, feed and broiler grower services.

Spare capacity and ability to expand

8.36 There is significant potential for all existing competitors to expand their primary production of whole dressed chickens (as demand allows), since each has existing spare capacity at processing plants, with the exception of Brinks' Karaka plant.

8.37 Tegel is presently running bird processing volumes a little under [] of potential "BPA" capacity, Tegel estimates that Inghams and Turks would be roughly the same (Turks may be at even lower levels). CPL will initially have spare capacity in its new plant that it will be eager to fill.

8.38 This gives all the other competitors incentive to chase new customers and contracts to fill the spare capacity. Market share can be gained rapidly without any need for plant and machinery upgrades or investment.

8.39 Tegel acknowledges that to become a 'full-service' firm like itself and Inghams would require significant investment. For that reason Turks, CPL, or Brinks could not easily expand into the QSR market or further processed product lines. However, within the field that the smaller players presently operate in (foodservice/small retail and supermarket/large retail) there is nothing at all stopping them from taking market share and expanding the volumes processed through their plants. As shown in Section 6: Market Shares, at paragraph 6.9, Tegel estimates that those two customer groups make up [] of overall chicken sales, while QSR proportionately is much smaller. Therefore, the available 'field' in which to expand is still considerable.

Access to key inputs (expansion of existing competitors)**Access to upstream breeding stock**

- 8.40 With the emergence of Aviagen New Zealand as a breeding supplier located in the country, and the arrival of CPL and the Hubbard bird, access to breeding stock (at both parent breeder level or broiler DOC level) appears easier and more widespread now than it often has in the past.
- 8.41 In addition, other international breeds of bird not currently used in New Zealand could be imported as fertilised eggs under quarantine restrictions – as CPL has done with the Hubbard breed.
- 8.42 Further detail about the providers of breeding stock is given in Section 4: Market Participants.

Access to hatchery services – supply of broiler Day Old Chicks

- 8.43 The two major companies currently supplying DOCs to third party producers are:
- (a) Tegel (which supplies the Ross bird); and
 - (b) Bromley Park (which supplies the Cobb bird).

For further detail see Section 4: Market Participants.

- 8.44 Inghams also has hatchery facilities, but at present does not offer DOCs for third party supply.
- 8.45 Of the other smaller primary producers (Turks, CPL, Heuvels and Brinks), only CPL has its own hatchery. Tegel expects that []
- 8.46 As illustrated by CPL, another option for producers currently without their own hatcheries (such as Turks) to obtain DOC supply is to vertically integrate upwards and establish an in-house hatchery. Tegel has estimated the cost of a new large hatchery capable of producing approximately 4million BPA to be in the region of []. However, hatchery facilities could be established on a smaller scale for less cost.

8.47 It has also been announced recently that a new hatchery, Heslip's Hatchery is setting up in Fairlie supplying free range DOCs and layer hens. While it is not clear whether it intends supplying broiler DOCs at first, this facility could.⁷⁸

8.48 Currently Brinks purchases its DOCs from Bromley Park. To the extent the Commission is concerned about [] (something that has been expressed in Commission decisions over 20 years ago) any such concern already exists in the counterfactual and is not changed by the Transaction. [

] and Aviagen New Zealand has set up locally to supply breeding stock. It is very likely that in the counterfactual [

].

8.49 In any event, Bromley Park has a very successful commercial egg hatchery business and has hatchery facilities, export supply contracts and international breeder relationships. If there is revenue to be earned from supplying broiler chicks, Bromley Park is likely to continue supplying them. [] it would still be supplying layer hen DOCs and would have the expertise and capacity to easily re-enter should demand conditions move back in its favour at a later date.

Access to animal feed

8.50 As noted earlier, the cost of animal feed (grains etc) is by far the largest supply cost issue for chicken meat producers. The underlying ingredients for feed come mainly from offshore and have been subject to unprecedented cost increases. Locally, two major feedmill suppliers of broiler chicken feed are Tegel and Inghams, but there are other smaller suppliers as well (for example FeedCo and Mainland/PCL).

8.51 Within the poultry industry, Brinks is the only one of the main primary processors without a vertically integrated feedmill, purchasing animal feed mainly from Inghams, FeedCo and PCL.

(a) Tegel and Inghams operate mills to supply their own broiler operations as well as third party purchasers of chicken feed (and indeed other customers for feed for other animals).

⁷⁸ "Hatchery Turns to Free-Range Chicks", *Timaru Herald*, 6 November 2007. See copy in Schedule 5.

- (b) Turks operates its own mill for its own supply, but presumably could supply third parties as well.
 - (c) Tegel understands that CPL is entering into a joint venture with Takanini Racing and Stock Feeds to build a feedmill and could also offer supply to other chicken meat producers.
- 8.52 Feed for broiler chickens is typically processed into pellets and distributed in bulk directly to farms. There is little that is unique about broiler feed – other than the need for it to be in pellet form. Any feedmill supplying pig feed, or other non-ruminant animal feed in pelletised form, could expand into broiler chicken feed.
- 8.53 Turks, CPL and Inghams, could expand their feed production to supply broiler feed to new entrants. In addition, there are many other feed suppliers which could supply broiler feed to a new entrant.
- (a) Mainland is a table egg producer who also owns feedmills and sells feed under the PCL brand. It is well known as a large supplier of feed for commercial layer hens. Mainland has recently announced a joint venture agreement with large Australian firm ABB Grain to build a A\$30 million feed production facility in South Auckland. ABB will also invest a further A\$10 million in purpose built storage facilities in the ports of Tauranga and Taranaki which will significantly increase Mainland’s feed production capacity.⁷⁹
 - (b) Other smaller feed suppliers, both in New Zealand and internationally, who currently may not produce broiler feed could have the capability to expand or alter their production to produce broiler feed. Companies such as, Independent Mill, Sharpes, Westons and Welch, could all produce broiler feed. A recent boom in dairy industry has led some firms to focus on dairy cow feed at present, but they could easily switch if sufficient demand existed to do so.

Access to contract grower services

- 8.54 In relation to the market for acquisition of contract grower farm services, there is a minimal degree of aggregation as a result of the Transaction, since Tegel will take assignment of approximately [] grower contracts from Brinks.⁸⁰ Of those growers []

- 8.55 The market for the acquisition of contract grower services is likely to be considered to be regional, as grower farms tend to be located within approximately 2-3 hours travel

⁷⁹ “ABB expands into NZ with feed mill and storage”, ABB media release, 26 November 2007, <http://abb.com.au/NewsInformation/MediaReleases/tabid/188/newsid539/305/Default.aspx>. See copy in Schedule 5.

⁸⁰ The SPA for the Transaction lists []

time (by road) of a processing plant. However there is nothing to prevent a grower farm being 4-6 hours drive of a processing plant. Any further distance can lead to animal welfare difficulties potentially arising with the transport of live fully grown broiler chickens.

- 8.56 The assignment of Brinks' growers to Tegel aggregates a few extra growers in the Auckland and Canterbury regions, but will not lead to any significant change in the access and availability of contract grower services, for the following reasons:
- (a) Historically, there has never been any shortage of growers for the poultry industry, and Tegel estimates there is currently significant excess capacity in this market. Tegel and Inghams at present 'lend' their own excess grower capacity to other processors, [].
 - (b) Existing growers are able to expand their current operations easily, by increasing their existing shed size or by building new sheds. Although a grower will typically fund this investment itself, a processor seeking more grower capacity could easily sponsor this sort of expansion if required. If a grower already has land and resource consent, Tegel estimates that the construction of a shed can be carried out within 6 months.
 - (c) Existing grower farms can often expand production without having to build any more sheds, simply by shortening the length of the break in run time between one flock being grown and the next lot of DOCs arriving. Typically, Tegel leaves around [] weeks when sheds are vacant for cleaning between flocks, but the cleaning and de-contamination process can be much less than that, leading to expanded overall production during the course of a year.
 - (d) New farms and sheds are also relatively easy to develop or procure, within about 6 months unless there are resource consent complications. When returns are high enough there is no shortage of land owners willing to invest in the basic infrastructure required to operate a chicken growing facility.
 - (e) Processors can build and run their own in-house growing sheds, rather than contract them out, and have done so in the past. Turks uses a combination of its own growing sheds, and contract growers.
 - (f) Although growers are exclusively contracted to a particular processor this is only for the period of the contract and they can terminate the contract (by mutual agreement or by giving reasonable notice) and are then free to grow for other processors. This is demonstrated by Brinks' growers who left to form CPL.

- (g) At present, the growers being assigned are under exclusive contract to Brinks anyway, and all the same terms (including termination periods) will apply. So their situation of being 'tied' for a period of time is not changed, and is the same in the counterfactual.
- (h) None of the other primary processors will be affected by the assignment of []: Inghams and Turks locate their plants in different regions altogether and have no need for Auckland or South Island growers; while CPL has been formed by its own breakaway grower group, and more growers may choose to join it [].
- (i) Much of the operational risk is taken, and support offered, by the processing company not the grower. Tegel owns the birds kept on its contracted grower farms, supplies the feed and takes some of the NZFSA regulatory responsibility. This means the processors are heavily involved in the growing businesses and are able to sponsor or assist new grower entry.

8.57 Tegel considers that ample competitive constraint will continue to apply post-Transaction. With over 100 growers remaining nationally, and the ease of set-up/entry or expansion of current growing facilities, access to grower services will not be an issue for new entrant chicken processors, or current competitors looking to expand.

Conclusion

8.58 In summary, Tegel considers that there are no barriers to expansion of the existing smaller primary processors, since there is:

- (i) existing spare production and plant capacity;
- (ii) the ability to offer a genuinely competitive alternative supply to foodservice/small retail customers and (to a degree) supermarket/large retailers; and
- (iii) ready availability of all key inputs (upstream breeding stock, broiler DOCs, animal feed and grower farms).

Constraints from secondary processors, further processors smallgoods manufacturers and intermediaries**Overview**

- 8.59 There are many independent secondary processors and smallgoods manufacturers who, while they buy whole dressed birds from the primary processors, also compete with the primary processors for supply of chicken meat products to foodservice and retail customers. Refer Section 4: Market Participants for more detail on these parties.
- 8.60 Foodservice/small retail customers have the option to purchase their specific requirements directly from Tegel, Inghams, Brinks, Turks, CPL, Heuvelds, or one of the many secondary processors such as Sam's, or distributors such as Gilmours or Creans, or for smallgoods, from a range of smallgoods manufacturers. (For further examples see the list in Section 4: Market Participants).⁸¹
- 8.61 Supermarkets and large retail customers also regularly buy from some of these secondary processors and smallgoods manufacturers (e.g. Santa Rosa, Asado, Leonards Meats and Huttons Sausages).
- 8.62 These other producers do not supply to QSR customers, who instead are supplied with specialised further processed chicken products by Inghams and Tegel. As previously outlined, Brinks does not supply to QSR.

Foodservice/small retail market

- 8.63 Foodservice end users are a variety of outlets providing ready-to-eat food such as cafes, lunch bars, restaurants, takeaway outlets, caterers, hospitals, prisons and other institutions, but also include small retail butchers, Asian supermarkets and speciality stores. Some of these end users buy direct from the large chicken processors, but the majority buy through intermediaries who can aggregate orders from smaller purchasers. Quite a number also buy from the lowest cost supermarkets (typically, Pak'n'Save) and take advantage of the supermarkets' buying power.
- 8.64 These intermediaries include distributors such as Creans and Gilmours, secondary processors such as Sam's, Raeward Fresh and Randwick meats, and smallgoods manufacturers such as Santa Rosa and Huttons. For this customer market group, the intermediaries often have servicing and geographic location advantages over the primary poultry processors.
- 8.65 Intermediaries play a very important role in the foodservice/small retail market in particular.

⁸¹ Brinks has limited smallgoods production (limited to smoked chicken) and this only makes up a very small percentage of production [].

- (a) While the end users in this market may not have the large countervailing power of the supermarkets, large butchery chains and QSR, they can rely on an intermediary such as Creans or Gilmours as an effective 'buying agent' for the small end users by leveraging their purchasing power and consolidating volumes. This means the intermediaries are able to offer competitive prices.
 - (b) The intermediaries are also able to offer a more flexible, personalised service tailored to meet the needs of local cafes and restaurants which may need deliveries every day, but only in small quantities. Creans, for example, has carved itself an important role in the distribution of fresh, chilled and frozen foods to customers to whom the larger companies may not be able to make such regular small scale deliveries. Creans nationwide delivery, even in smaller towns, of a full range of food products has earned them strong customer loyalty from end users as an attractive 'one stop shop'.
 - (c) The intermediaries tend to position and differentiate themselves on the basis of this service and ability to meet tailored requirements including as to portion size control: e.g. a local café may insist on only ever getting delivery of size 18 drumsticks in a particular flavour.
- 8.66 Some smallgoods manufacturers such as Santa Rosa and Leonards have been at the forefront of developing new value-add product variants, with smoked offerings and innovative new flavours. This has enabled them to get a strong following among supermarkets as well as having a foodservice customer base. They provide direct price and marketing competition to the vertically integrated suppliers.

Constraints on market power by the conduct of acquirers**Overview**

- 8.67 The Commission will be well aware that large supermarket retailers hold extensive countervailing power across most food categories that they stock, and they use that negotiating power to drive down suppliers' prices. In the case of chicken meat products, this buying power is even stronger, due to:
- (a) the manner in which verbal, spot-market type supply orders are made and re-made daily or weekly by supermarket buyers;
 - (b) a propensity to fiercely play off one supplier against another for weekly specials, end-of-aisle displays and/or category promotions;
 - (c) the large quantities of unbranded and undifferentiated product, or house branded product, which dominates the fresh chicken categories; and
 - (d) control of in-house processing and house brand items and the packaging, promotion and pricing points of those products.
- 8.68 For the same reasons, large retail butcheries such as the Mad Butcher, which operate at more or less the same scale in the meat industry as the supermarkets, have similar countervailing power.
- 8.69 QSR customers share with the supermarkets/large butcheries the ability to apply significant countervailing power, as the large players buy in volume and are prepared to switch suppliers if the level of service and quality of product drops, or prices are significantly out of competitive alignment.

Conduct of supermarket buyers

- 8.70 The different types of branded and unbranded products purchased by the supermarket chains are described in Section 4: Market Participants.
- 8.71 Orders are typically placed with sales representatives of each supplier on a regular basis by supermarket procurement staff who are very well-informed about market prices and their options. They ring around the market regularly, and typically quote and price-check Tegel's sales staff by reference to competitors' prices and the suggested price point that Tegel needs to reach to win an order.
- 8.72 In addition, promotional specials in supermarkets and larger butchery chains make up a large volume of weekly sales and tend to drive consumer spending heavily towards the promoted item. Buyers at Progressive Enterprises tend to rotate the main chicken meat suppliers week and week about on frozen products. What this means is that

Tegel's share of supermarket sales is volatile, and can change very quickly if Tegel's price is not absolutely competitive to ensure it is included in promotions.

8.73 Much of the chicken that is sold fresh, through supermarket deli counters and butchery display cabinets, is not branded or differentiated in any way. Most consumers are indifferent as to the supplier, and buying behaviour tends to be driven largely on price (and appearance of the meat) in comparison with other meats displayed alongside. This again tends to diminish the importance of the supplier and its brand, and accentuate the supermarket's role and power.

8.74 Both supermarket chains heavily promote their own house brands, and they have captured significant market share. The supplier is determined based on a combination of price, quality and capability through a competitive tender. The sales volume and certainty of orders makes up a significant portion of the market, so the right to be the house brand supplier is important to drive volume through plants, and is well promoted. These contracts are sought after by the chicken suppliers, especially Tegel and Inghams, and the supermarkets get very competitive bids.⁸²

8.75 While [

], and in reality []
Progressive Enterprises tends to run formal tenders on an []
], with contractual rights around pricing and termination. There are no written contracts with Foodstuffs for its house brand supply, and it tests the market regularly and will re-tender the supply whenever it feels it is necessary.

8.76 The Australasian supermarket chain (Woolworths/Progressive Enterprises) is likely at some point to move to more streamlined procurement arrangements generally, which could include Australasian supply agreements. If so, [

].

8.77 Supermarkets drive development within the industry by imposing specific service and performance requirements, which if not met can see a supplier quickly lose its butchery arrangements with that supermarket. An example of this is Foodstuffs Wellington which is demanding new specific tray-packing requirements which forces suppliers to invest in new packing machinery. Supermarkets have the strongest

⁸² For example Progressive Enterprises purchase approximately [] birds per week, equating to [] of the overall market.

countervailing power, but large retailers such as The Mad Butcher also know that their volumes and importance in the consumer sales chain acts as a powerful constraint on the chicken suppliers.

QSR customers

- 8.78 QSR customers are similar in their very precise specifications and need for highly responsive cooked product suppliers. Those suppliers are subject to rigorous audit checks and are required to assist with new product development and specials.
- 8.79 These QSR customers share with the supermarkets the ability to apply significant countervailing power, as the large players are prepared to switch suppliers if the level of service and quality of product drops, or prices are significantly out of competitive alignment. The KFC contract won by Inghams is the leading example of this switching taking place.
- 8.80 If a QSR customer was unhappy with the price/service/quality package it was receiving from either of Tegel or Inghams, these large companies could choose to support a smaller supplier in the industry and assist in their investment in specialised processing lines to serve the QSR company. Given the manner in which these customers tend to play Tegel and Inghams off against one another on pricing, that is unlikely to be necessary, but would be possible.
- 8.81 The countervailing power of the QSR sector []]. This would put increased pressure on New Zealand based suppliers to compete with Australasian firms like Inghams.

Foodservice customers

- 8.82 Although, the general foodservice/small retail customers will not individually have the same level of countervailing power, they can purchase through large intermediary distributors such as Creans or Gilmours, which helps to aggregate some level of buying power (as discussed in the section above on constraint from secondary processors). This is particularly so since much of the foodservice trade product is completely unbranded when purchased, and end-consumers in a café or restaurant usually have no knowledge of who supplied the chicken they are eating. Here, Tegel's well-known brand counts for little.

Potential competition**Overview**

- 8.83 Tegel believes that entry to the market on a small to medium (but sustainable) basis is relatively straightforward. The arrival of CPL is a clear demonstration that new entry is feasible and can be achieved even on a fully vertically integrated level within a two year time frame.
- 8.84 However, to set up a fully vertically integrated operation that could compete on the same scale as full-service firms such as Tegel and Inghams to supply all customer groups (including QSR using specialised further processing lines) would be more difficult.
- 8.85 Tegel estimates that new entry on a full-service scale would require an investment of many millions of dollars and Tegel does not consider new entry on such scale as likely within the Commission's two year time frame.
- 8.86 Short of that large-scale entry, however, the cost to establish a smaller operation that competes for the same customers as Brinks (i.e. not including QSR or specialised further processing equipment) is not prohibitive. Tegel estimates that []
- 8.87 While Tegel is not presently aware of any other likely new entry within this time frame, CPL can be treated either as an imminent near entrant or already as an existing competitive force. Moreover, there is no reason why others could not enter if demand conditions are favourable.

Ways in which new entry might occur

- 8.88 There are several ways in which new entry might occur:

Off-shore chicken companies

- 8.89 An overseas supplier may enter by acquiring an existing plant or operation, as Inghams did in about 1990 when it acquired Harvey Farms. Alternatively, it could establish a greenfields operation.
- 8.90 For example, Inghams Enterprises is only one of three large fully integrated businesses in Australia. The presence of two other large Australian producers, which each operate in at least three states, suggests that a shift into the New Zealand market cannot be discounted in future. The other two companies are Bartter Enterprises⁸³ and Baiada⁸⁴, each of considerable size and resource. CPL's recent entry

⁸³ See website – www.bartter.com.au.

⁸⁴ See website – www.baiada.com.au.

demonstrates how entry can be easily achieved, and Inghams' success in New Zealand would alert these players to how the advantages of Australian-wide cost structures and scale can be utilised and leveraged in New Zealand.

Contract growers

- 8.91 Contract growers may choose to establish new processing operations of their own, as former Brinks growers did via CPL in 2007.

Table egg producers

- 8.92 A table egg company that is not presently involved in broiler meat production could easily enter the meat side of the industry from an established egg production base. Indeed, both Brinks and Turks historically became semi-integrated broiler processors by starting out as table egg producers who then wished to have a facility to process their own EOL hens for chicken meat.
- 8.93 Mainland/PCL is New Zealand's largest table egg supplier, selling nationwide under the 'Farmer Brown' brand. It is a part-owner of Bromley Park,⁸⁵ and could look to expand into broiler meat production. At present, Tegel understands that Mainland does not have a processing capability for its own EOL birds, but that could change to facilitate market entry initially in that manner and then as a springboard further into mainstream broiler processing.
- 8.94 Mainland's Auckland operation has internal feedmill supply from the PCL company, and Mainland South Island has its own feedmill and could easily get a foothold in the chicken market by using its established connections and industry relationships. [
-]. The experience of both Turks and Brinks show this type of transaction can be carried out successfully.
- 8.95 As New Zealand's largest table egg producer, with approximately 50% of that market, Mainland is well set up to use its affiliated company Bromley Park (New Zealand's largest independent breeding and hatchery operation), since this group already has its own:

- Feedmills (PCL)
- Quarantine Farm (Bromley)
- Breeding stock supply (from Tyson)
- Broiler hatcheries (Bromley)

⁸⁵ Mainland Poultry Limited (via two wholly-owned subsidiaries) owns approximately 26% of Bromley Park with what are believed to be family trusts owning the remainder.

- Livestock and nutrition services
- Relationships with major New Zealand customers for egg supply, in particular QSR (McDonalds), supermarkets/large retail and foodservice/small retail intermediaries.

8.96 To commence supply Mainland would only need to invest in a primary processing plant and to convert some of its upstream breeder-rearing farms to broiler grower farms and it could commence supply. As discussed in the section below, Tegel is aware [

Secondary processors, further processors and smallgoods manufacturers

8.97 A large number of other secondary processors, further processors and smallgoods manufacturers are effective competitors already, especially in foodservice/small retail. New entry at this level is easy and frequent. New suppliers pop up at this level regularly, and with excess capacity prevailing amongst primary processors at present there is plenty of enthusiasm to supply new secondary processors with whole dressed chickens.

8.98 If these independent secondary processors ever became dissatisfied with the price or quality/service package of whole dressed chicken supply, they could expand up the chain into primary processing. Secondary processing is a growth part of the market and conceivably some of the larger secondary processors could invest in a primary processing facility in the future.

Other poultry producers

8.99 Fringe competitors elsewhere in the poultry industry, such as duck, turkey or other game bird processors, could move into chicken meat processing. Companies such as Crozier's Turkeys or Canter Valley Farms, which presently do primary processing for other poultry birds, are well placed with knowledge of the NZFSA and technology requirements such that a move into chicken meat production would be far from a radical step.

8.100 Tegel considers that new entrants [

] Most of this trade is, again, unbranded so marketing and branding costs are low. Once established and growing in the foodservice/small retail market, a move into the supermarket/large retail customer market would be achievable.

Conditions influencing new entry

- 8.101 If demand continues to grow and market conditions warrant it, there are no material barriers that would impede the ability of new firms to enter the market. At present there is significant unused capacity amongst many processing plants (most processing plants are only operating on one shift where they could do two), but CPL for example appears undeterred by this excess capacity and has built a new facility.
- 8.102 The factors addressed above in relation to expansion of existing competitors are relevant to some extent to new entry as well, especially the availability of access to breeding stock and hatchery/growing services, and to animal feed. The comments in that section above demonstrate the availability of those inputs to new entrants as well as existing small suppliers looking to expand.
- 8.103 In addition, new entrants will also need to be mindful of the regulatory requirements relevant to the chicken industry, discussed below.

Food safety/regulatory conditions

- 8.104 Like all aspects of the food sector, additional regulatory standards apply to the chicken meat industry, such as biosecurity standards, Animal Welfare standards and Food Safety standards. Regulatory compliance inevitably imposes a layer of cost on any new entrant to the processing market. However, this is not materially different for existing players, and can be easily overcome by firms in particular with skills and experience in other food industry fields.
- 8.105 The Animal Welfare (Broiler Chickens, Fully Housed) Code of Welfare 2003 outlines a number of minimum standards to be met by all persons responsible for broiler chickens. Failure to meet a minimum standard may be evidence to support a prosecution under the Animal Welfare Act 1999. These standards cover the management of broiler chickens, (including rearing, housing and feed) and the catching, loading and transportation of broiler chickens. Contract growers, who are responsible for the growth of the broilers are the primary parties required to keep these minimum standards. The processor, who owns the broilers, has some responsibility for the welfare of the birds, and most grower contracts allow provision to terminate the grower's contract if animal welfare standards are not met.
- 8.106 Education about regulations, and compliance cost issues are helped by the existence of industry associations that disseminate knowledge and best practice. For instance, a Biosecurity Standards Manual has been put together by PIANZ to cover "all elements of on-farm biosecurity as it impacts on food safety, suitability and animal health, including areas of responsibility of the growers, the processor, the catcher, the cleaner and other associated personnel". The Manual sets out helpful guidance on a number of specific pieces of legislation and means of protecting flocks, and is available to industry players and new entrants alike.
- 8.107 A draft Code of Practice for processing poultry has been developed by the New Zealand Food Safety Authority (again in consultation with PIANZ to help spread the

compliance burden) to assist primary processors of poultry to meet the requirements of the Animals Products Act 1999, and produce meat that is safe and fit for human consumption.

8.108 Compliance with Resource Management Act requirements is another consideration, but again this is not materially different for many sectors of the economy seeking to invest in new manufacturing or other factory endeavours. An operator of a primary processing plant naturally has to implement strict waste management practices and consider the impact of the facility on the surrounding environment and neighbours from odours, noise, and the disposal of waste. Nevertheless, if situated in the right zone or area, it is not necessarily difficult to obtain resource consent. Sometimes, fairly strict conditions may be imposed on the consent as to things like waste/water discharge and working hours for the operation of the plant but those same issues can be managed and in any event affect existing industry players in equal measure.

Import restrictions

8.109 New Zealand has a reputation of having a disease-free chicken population. For this reason, imports of fertile breeding eggs, live chickens, and fresh poultry meat are usually restricted, as these items would be considered 'risk goods'. The Biosecurity Act 1993 governs these imports, and only goods covered by an Import Health Standard, issued under the Biosecurity Act may be imported into New Zealand.

8.110 Tegel believes the Biosecurity regulations have not changed in the past 2-3 years in relation to chicken, however Tegel also believes that these regulations are constantly under review and challenged by other countries and foreign companies who want to have the ability to import these products into New Zealand.

8.111 To date the only Import Health Standard relating to chicken meat covers the importation of canned/retorted animal products which have reached certain temperature requirements.

8.112 Various other Import Health Standards also exist in relation to the importation of fertile chickens eggs (and poultry meat samples from Australia).

Other industrial/business considerations

8.113 Although there are inevitably sunk costs associated with establishing a fully vertically integrated business (e.g. setting up upstream compliant facilities, setting up processing plants, and if desired building infrastructure for raw materials supply), these costs could be avoided by a new entrant who initially only becomes active at the processing level of the market. For instance, it is not necessary to commence business with upstream breeding farms or with feedmills, even if over the long term it may become more efficient for a company to seek to acquire them as it grows in size.

8.114 Such a new entrant could:

- (a) take its birds (breeders or broilers) from Tegel, Inghams, Aviagen New Zealand, Bromley Park or CPL;
- (b) avoid other operational costs (e.g. those associated with setting up quarantine facilities, hatcheries and grower farms) by accessing inputs from independent suppliers.

8.115 Processing equipment could be sourced either new or second hand from suppliers such as Stork, Meyn and Linco, and various other machinery suppliers worldwide.

8.116 Tegel estimate that CPL has commenced new entry on a fully vertically integrated scale potentially processing [] birds per day, by spending less than [] setting up its processing operation. CPL is understood to have leased premises and purchased a second hand processing plant (which could be purchased from Australia or elsewhere for around []).

8.117 Full vertical integration in the manner that CPL has embarked upon is not essential to achieve a reasonable level of entry. Other primary, secondary or further processors could start up on smaller scale and budget. New entrants into the market have the ability to select the optimum scale and structure of their plant and operations, so as to enter the market in the most efficient and 'right-sized' way.

8.118 The lack of influence of branding (especially in the foodservice market) is an important consideration that assists expansion and entry for smaller players in the poultry industry. Chicken meat is sold in much of the industry as a commodity product, where there is no evidence of branding to the end consumer. Newcomers can develop a viable business with virtually no investment in brand or advertising profile, but rather concentrate on price/service and building relationships with customers. A smaller supplier could easily gain traction by, for instance, winning orders to supply individual Pak'n'Save stores where fresh chicken products are often not branded. Branding can be more important in the value-added parts of the further processed market, where it is possible to lead the development of products a retailer cannot make themselves, but this does not prevent viable entry initially in the more mainstream or commodity product lines.

8.119 Tegel management are aware of [

] There may well be others.

Entry requirements are surmountable

8.120 While there are significant costs involved in setting up a fully vertically integrated facility, CPL has done just that, and entry does not need to be on that scale in any event. The cost for any potential new entrant is no more than many small to medium

sized businesses would expect in terms of financial backing or capitalisation requirements to get established in other industries.

- 8.121 While existing market participants may arguably be less affected by regulatory barriers than new entrants to the market, this is not necessarily the case: food safety regulations are ever-present for all suppliers (old and new) and both may face resource consent issues. Further, other poultry companies, or other food sector and particularly meat processing businesses, would be well equipped to overcome these hurdles given similarities with their own markets.
- 8.122 Companies who process other types of poultry (e.g. turkey or other game birds) could convert their existing processing facilities to process chickens with relative ease, and it is likely that these existing processing facilities would already be compliant with most regulatory standards noted above. A participant in overseas chicken businesses or in local New Zealand egg or other poultry-related activities would be equally well placed to overcome entry conditions easily, and other manufacturing companies in the wider food sector have experience in dealing with comparable resource management and food safety regulatory hurdles.

Likelihood, Timing and Extent of new entry

- 8.123 Given the present demand/supply capacity issues and historical low profitability, it may not have seemed particularly likely that there would be a brand new entrant at this stage of the market cycle – but with CPL choosing to enter the market that proposition has been shown to be false, and so it cannot be ruled out that another new entrant will not emerge in the industry.⁸⁶
- 8.124 The overall chicken meat market has been growing until recently as customer preferences continue to shift towards lean meat protein options. While present cost issues mean that customers are switching to some extent to other meats (the constraint discussed in the next section below), that trend may change at some stage and allow the likelihood of entry being considered profitable in the future.
- 8.125 Expansion by an existing partially vertically integrated firm into some upstream or downstream production stages would seem more likely than de novo new entry, but the latter cannot be ruled out. The trend towards Australasian wide buying arrangements []].
- 8.126 In terms of timing, CPL is on track to set up a fully integrated poultry company in less than 2 years and is set to launch in the market by the second half of 2008. Smaller

⁸⁶ In any event, a lack of readily identifiable imminent new entrants at present (apart from CPL recently) is not in itself any indication that there is not sufficient constraint on the parties operating in the market. The lack of new entry could be evidence that the market is in fact highly competitive and therefore entry by a new player would not be profitable at present: *Commerce Commission v Southern Cross Medical Care Society*, (2001) 10 TCLR 269, at 296.

scale producers who do not aim to be fully-integrated at first could begin operations in even less time. CPL has demonstrated that it is not difficult for a completely new entrant to contact a breeding company and obtain overseas breeding stock.

8.127 The extent of entry needed to build a viable business and be a competitive presence is not great, at least initially. CPL demonstrates it is possible to enter without a lot of sunk cost in marketing or building a brand. Much of the foodservice sales of fresh chicken are unbranded and Tegel believes it is easy for []].

8.128 It is acknowledged that brand new entrants are unlikely to aim to operate in some of the more high volume or specialised customer segments right away. For instance, the QSR market has quite costly, demanding product size requirements and portion control sizing.⁸⁷ Processors engaged in the QSR market are also subject to more stringent review and audit procedures by each customer. Similarly, some of the house brand supply contracts with supermarkets presume a reasonable volume of supply requirements, which may take a new entrant some time to attain.

8.129 However, even if not immediately launching into the QSR or house brand lines, Tegel believes []]

8.130 This option of targeting any number of independent stores will support both entry and expansion as demonstrated already by Turks with Foodstuffs Wellington stores and Tegel believes [] Orders are often placed on a weekly, routine basis and it is easy for stores to switch to new suppliers. Indeed they would be likely to seek out and sponsor new entry if for any reason dissatisfied with the present choice of suppliers.

⁸⁷ Some QSR contracts require each piece of meat to be within a 120g size range.

Constraint on market power from consumers' substitution between other meat or protein food options

- 8.131 The ability to freely substitute chicken for other meat/protein options provides a further constraint on any potential to exercise market power within the relevant markets.
- 8.132 Chicken forms part of the wider meat/protein market and data shows there are relative cross-price elasticities between chicken and other protein sources such as red meat (beef and lamb), pork and fish products. Recent increases in chicken prices over the last 18 months have seen a corresponding pronounced decrease in chicken consumption. Refer to the NERA report and Section 3: "Industry Trends" for details.
- 8.133 This constraint on poultry industry pricing is real and helps prevent the exercise of market power by any competitor in the chicken markets. Although some customers will no doubt continue buying chicken meat at the same volumes, a sufficiently large proportion of customers appear to be price sensitive, leading to a contraction of overall poultry industry consumption and resulting spare capacity that would make any price increase as a whole unlikely to result in an increased profitability outcome for the chicken processor.
- 8.134 Regardless of whether the Commission treats other meat products as within a narrow market definition, or just outside the market as defined, it should not ignore the constraint.

Coordination effects

8.135 It is not likely that this industry will be susceptible to the prospect of coordinated behaviour. This is for a variety of reasons including the following:

- (a) Prices are not transparent to suppliers: while national list prices may be discoverable in certain circumstances, there are a wide range of discounts, rebates and other support given to retailers such that it is difficult to identify any competitor's 'net net' or real price.
- (b) Buyers can readily detect any pricing co-ordination: in the supermarket housebrand and QSR sector open tender processes are carried out to determine who will supply a particular customer. For the day-to-day supplies of fresh chicken to supermarkets and large retailers, those buyers have countervailing power and have the ability to 'shop around' to find the best price being offered by a particular supplier on any given day. For smaller foodservice customers, intermediaries such as Creans effectively do the shopping around for them. In this way, the market can and is tested frequently on pricing.
- (c) The large buyers are well placed to detect and punish tacit collusion. Loss of a supermarket or QSR support would hurt suppliers greatly.
- (d) There is substantial sales volume uplift from gaining a retailer 'promotional slot' meaning the incentives to 'cheat' on any tacit agreement in terms of pricing or promotional slots would be high.
- (e) There are substantial economies of scale and spare capacity in the market, meaning there is a real incentive to price aggressively to secure incremental volume.
- (f) The many differentiated products and types of supplier in secondary processing or in smallgoods would make effective co-ordination virtually impossible at those levels of the market.
- (g) The rising, and volatile input costs (especially the costs for grain-fed animals) make coordination difficult, as there is a need for any arrangements to be reached and revised more often, and expectations about future costs/prices will be more uncertain and diffuse among industry competitors.
- (h) The competitors each tend to have quite different scale and plant operating models, and hence cost/efficiency structures are varied and asymmetric. That makes any co-ordination more difficult and unlikely. While in the QSR and further processed product markets there are, and have been, only Tegel and

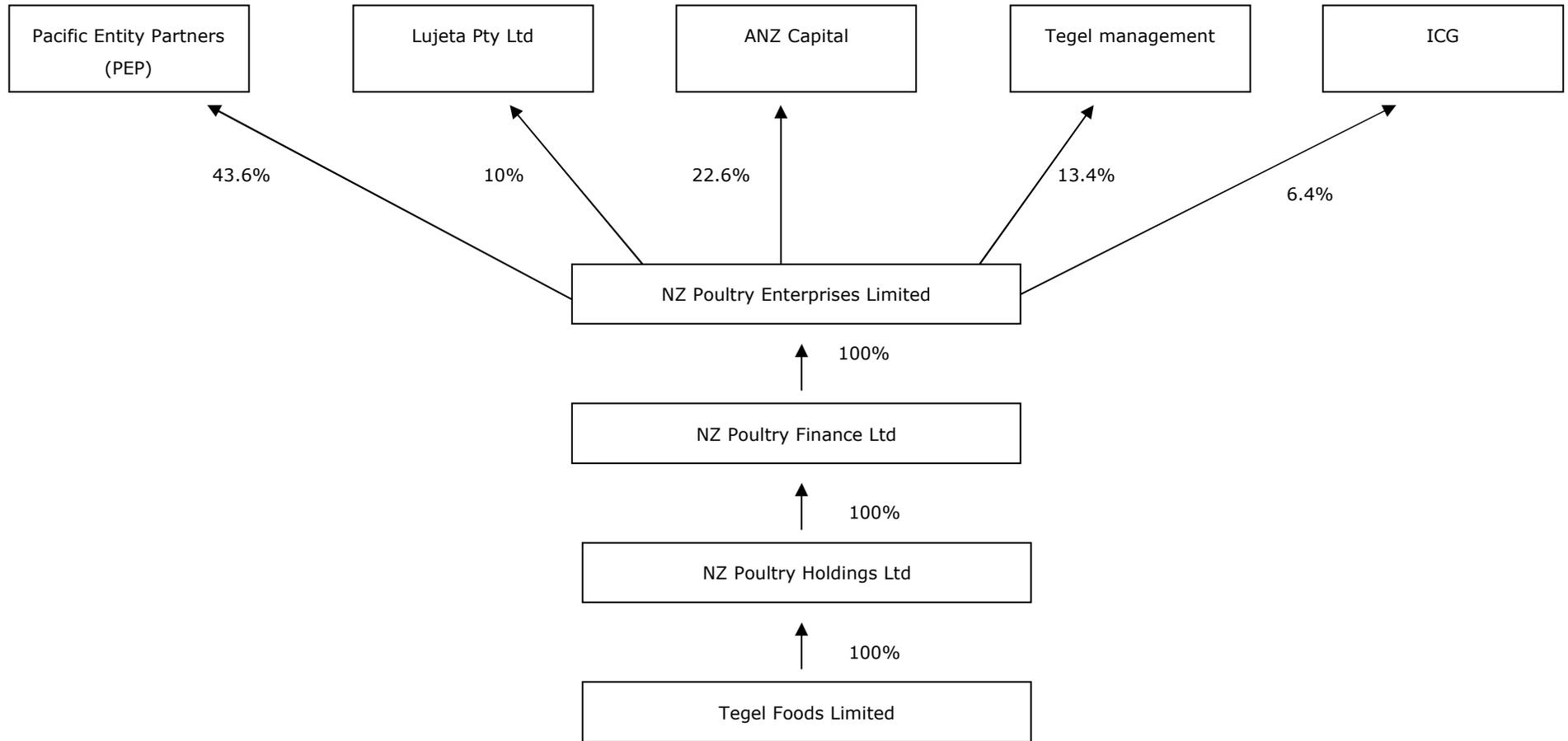
Inghams, competition between them is asymmetrical given their cost structures, spread of plant infrastructure, productive capacity and international leveraging.

8.136 This Transaction will not change any of the material factors relevant to co-ordination effects or increase any possibility of coordinated behaviours. While it will initially increase overall primary processor market concentration by one, Tegel believes [] will restore any competitive tensions that may be lost as a result of the Transaction (although Tegel does not believe the Transaction will in fact give rise to any loss of price tension) and there will be effectively the same number of primary processors (5) remaining as in the past.

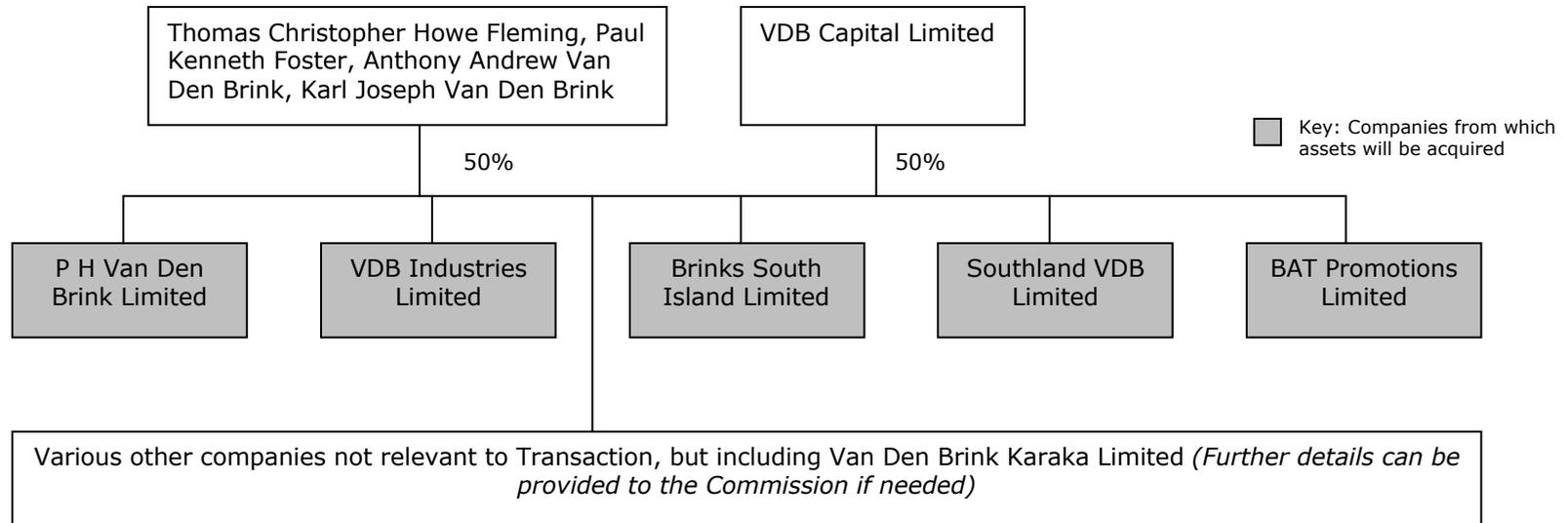
Conclusion

Having regard to the factors set out in Section 8, the Commerce Commission should be satisfied that Tegel will not be in a position to exercise unilateral market power, or coordinated market power.

SCHEDULE 1 - GROUP STRUCTURE DIAGRAM FOR TEGEL



SCHEDULE 2 - GROUP STRUCTURE DIAGRAM FOR BRINKS



SCHEDULE 3 – PRIMARY PROCESSING BPA DATA

Statistics NZ Primary Production Data: Chicken Meat Processed

Year/Quarter (Mar, Jun, Sep, Dec)	Fresh Number (000)	Frozen Number (000)	Total Number (000)
1980.09	1,771.00 F ⁸⁸	5,626.00 F	7,397.00 F
1980.12	2,753.00 F	4,457.00 F	7,210.00 F
1981.03	2,548.00 F	4,121.00 F	6,669.00 F
1981.06	3,392.00 F	3,840.00 F	7,232.00 F
1981.09	2,729.00 F	4,571.00 F	7,300.00 F
1981.12	2,354.00 F	4,981.00 F	7,334.00 F
1982.03	1,987.00 F	4,583.00 F	6,570.00 F
1982.06	2,608.00 F	4,969.00 F	7,577.00 F
1982.09	2,554.00 F	4,902.00 F	7,455.00 F
1982.12	2,763.00 F	4,378.00 F	7,141.00 F
1983.03	2,532.00 F	3,110.00 F	5,642.00 F
1983.06	2,756.00 F	3,578.00 F	6,334.00 F
1983.09	3,225.00 F	3,973.00 F	7,198.00 F
1983.12	3,331.00 F	3,971.00 F	7,301.00 F
1984.03	3,545.00 F	4,416.00 F	7,961.00 F
1984.06	3,108.00 F	5,264.00 F	8,372.00 F
1984.09	4,125.00 F	5,584.00 F	9,709.00 F
1984.12	4,167.00 F	5,443.00 F	9,610.00 F
1985.03	3,780.00 F	5,130.00 F	8,910.00 F
1985.06	4,506.00 F	5,300.00 F	9,806.00 F
1985.09	4,328.00 F	5,507.00 F	9,835.00 F
1985.12	4,067.00 F	5,340.00 F	9,407.00 F
1986.03	4,150.00 F	4,587.00 F	8,736.00 F
1986.06	4,349.00 F	4,950.00 F	9,299.00 F
1986.09	4,581.00 F	5,066.00 F	9,647.00 F
1986.12	4,836.00 F	5,191.00 F	10,027.00 F
1987.03	4,501.00 F	4,496.00 F	8,996.00 F
1987.06	4,782.00 F	4,869.00 F	9,651.00 F
1987.09	5,048.00 F	5,014.00 F	10,062.00 F
1987.12	5,292.00 F	4,923.00 F	10,215.00 F

⁸⁸ Refers to finalised data

Year/Quarter (Mar, Jun, Sep, Dec)	Fresh Number (000)	Frozen Number (000)	Total Number (000)
1988.03	4,968.00 F	4,678.00 F	9,646.00 F
1988.06	5,480.00 F	5,258.00 F	10,738.00 F
1988.09	5,196.00 F	5,587.00 F	10,783.00 F
1988.12	5,792.00 F	5,187.00 F	10,979.00 F
1989.03	5,619.00 F	5,166.00 F	10,785.00 F
1989.06	5,764.00 F	5,795.00 F	11,559.00 F
1989.09	5,921.00 F	5,663.00 F	11,584.00 F
1989.12	6,447.00 F	5,208.00 F	11,655.00 F
1990.03	5,777.00 F	4,647.00 F	10,424.00 F
1990.06	5,953.00 F	4,659.00 F	10,612.00 F
1990.09	6,367.00 F	4,779.00 F	11,146.00 F
1990.12	6,826.00 F	4,461.00 F	11,287.00 F
1991.03	6,294.00 F	4,237.00 F	10,532.00 F
1991.06	6,167.00 F	5,525.00 F	11,692.00 F
1991.09	6,205.00 F	5,753.00 F	11,957.00 F
1991.12	6,522.00 F	5,188.00 F	11,710.00 F
1992.03	6,505.00 F	4,644.00 F	11,149.00 F
1992.06	6,813.00 F	4,868.00 F	11,682.00 F
1992.09	6,568.00 F	5,817.00 F	12,385.00 F
1992.12	6,910.00 F	6,061.00 F	12,971.00 F
1993.03	6,685.00 F	5,721.00 F	12,406.00 F
1993.06	6,552.00 F	6,412.00 F	12,963.00 F
1993.09	6,440.00 F	5,878.00 F	12,318.00 F
1993.12	7,202.00 F	6,117.00 F	13,319.00 F
1994.03	7,371.00 F	4,934.00 F	12,305.00 F
1994.06	7,737.00 F	5,751.00 F	13,489.00 F
1994.09	8,820.00 F	5,932.00 F	14,752.00 F
1994.12	9,013.00 F	6,287.00 F	15,300.00 F
1995.03	8,626.00 F	6,596.00 F	15,222.00 F
1995.06	9,747.00 F	7,098.00 F	16,844.00 F
1995.09	9,986.00 F	6,636.00 F	16,623.00 F
1995.12	10,067.00 F	5,000.00 F	15,067.00 F
1996.03	10,228.00 F	5,339.00 F	15,566.00 F
1996.06	9,608.00 F	5,446.00 F	15,054.00 F
1996.09	9,395.00 F	5,703.00 F	15,098.00 F
1996.12	10,155.00 F	4,840.00 F	14,995.00 F

Year/Quarter (Mar, Jun, Sep, Dec)	Fresh Number (000)	Frozen Number (000)	Total Number (000)
1997.03	9,632.00 F	4,420.00 F	14,052.00 F
1997.06	9,868.00 F	5,029.00 F	14,898.00 F
1997.09	10,180.00 F	5,369.00 F	15,549.00 F
1997.12	10,480.00 F	5,770.00 F	16,250.00 F
1998.03	10,166.00 F	5,401.00 F	15,566.00 F
1998.06	10,642.00 F	5,318.00 F	15,959.00 F
1998.09	10,173.00 F	6,565.00 F	16,739.00 F
1998.12	10,742.00 F	5,746.00 F	16,488.00 F
1999.03	10,895.00 F	4,659.00 F	15,554.00 F
1999.06	11,126.00 F	4,595.00 F	15,721.00 F
1999.09	11,189.00 F	4,668.00 F	15,856.00 F
1999.12	11,985.00 F	4,829.00 F	16,814.00 F
2000.03	11,497.00 F	4,466.00 F	15,964.00 F
2000.06	12,191.00 F	4,505.00 F	16,696.00 F
2000.09	11,666.00 F	5,027.00 F	16,694.00 F
2000.12	12,289.00 F	5,425.00 F	17,713.00 F
2001.03	12,145.00 F	4,253.00 F	16,397.00 F
2001.06	12,712.00 F	4,306.00 F	17,018.00 F
2001.09	12,668.00 F	4,911.00 F	17,579.00 F
2001.12	13,531.00 F	4,836.00 F	18,367.00 F
2002.03	13,461.00 F	4,066.00 F	17,528.00 F
2002.06	13,865.00 F	5,462.00 F	19,328.00 F
2002.09	14,628.00 F	5,624.00 F	20,252.00 F
2002.12	14,909.00 F	5,339.00 F	20,249.00 F
2003.03	14,346.00 F	4,827.00 F	19,173.00 F
2003.06	14,758.00 F	5,024.00 F	19,782.00 F
2003.09	15,576.00 F	4,884.00 F	20,460.00 F
2003.12	16,241.00 F	5,072.00 F	21,313.00 F
2004.03	15,472.00 F	4,744.00 F	20,216.00 F
2004.06	16,476.00 F	5,182.00 F	21,658.00 F
2004.09	16,865.00 F	4,982.00 F	21,847.00 F
2004.12	18,678.00 F	5,171.00 F	23,849.00 F
2005.03	17,061.00 F	5,102.00 F	22,163.00 F
2005.06	17,187.00 F	4,606.00 F	21,793.00 F
2005.09	17,507.00 F	4,522.00 F	22,030.00 F
2005.12	19,579.00 F	3,201.00 F	22,780.00 F

Year/Quarter (Mar, Jun, Sep, Dec)	Fresh Number (000)	Frozen Number (000)	Total Number (000)
2006.03	15,436.00 F	5,081.00 F	20,517.00 F
2006.06	16,448.00 F	4,809.00 F	21,258.00 F
2006.09	16,599.00 F	4,414.00 F	21,013.00 F
2006.12	17,230.00 F	4,256.00 F	21,485.00 F
2007.03	16,752.00 F	4,122.00 F	20,874.00 F
2007.06	C ⁸⁹	C	20,567.00 F
2007.09	15,422.00 F	C	C
2007.12	16,229.00 F	C	C

Source: Statistics New Zealand, Primary Production Data, supplied 6 March 2008

Primary Processed statistics (rolling 12 month Moving Annual Total)

Year/Quarter (Mar, Jun, Sep, Dec)	Tegel (000)	Brinks (000)	Other (Inghams and Turks) (000)	Total (000)
2004.06	[]	[]	[]	83,647
2004.09	[]	[]	[]	85,034
2004.12	[]	[]	[]	87,570
2005.03	[]	[]	[]	89,517
2005.06	[]	[]	[]	89,652
2005.09	[]	[]	[]	89,835
2005.12	[]	[]	[]	88,766
2006.03	[]	[]	[]	87,120
2006.06	[]	[]	[]	85,796
2006.09	[]	[]	[]	84,509
2006.12	[]	[]	[]	83,214
2007.03	[]	[]	[]	83,571

⁸⁹ Refers to confidential data that has not been publicly released.

Year/Quarter (Mar, Jun, Sep, Dec)	Tegel (000)	Brinks (000)	Other (Inghams and Turks) (000)	Total (000)
2007.06	[]	[]	[]	83,669
2007.09	[]	[]	[]	[]
2007.12	[]	[]	[]	[]

Source: Tegel management, based on Statistics New Zealand and PIANZ statistics