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**Godfrey Hirst/Bremworth – Statement of Issues Cross-submission**

1. We refer to the submissions made by Chapman Tripp (for Mohawk/Godfrey Hirst) and Bremworth on the Commerce Commission's Statement of Issues in relation to the proposed acquisition of Bremworth by Mohawk/Godfrey Hirst.

**Introduction and summary**

2. This submission is made by the Cowes Bay Group (**CBG**). Further information about CBG is set out in our submission on the Statement of Preliminary Issues dated 11 November 2025.

3. CBG remains of the view that the proposed acquisition raises serious competition issues, which will harm direct customers (retailers) and New Zealand consumers through less choice, lower quality, and higher prices.

4. Despite the assertions by Mohawk and Bremworth, there is no basis on which the Commission could be satisfied that the acquisition will not have, or would not be likely to have, the effect of substantially lessening competition in a market.

5. The Mohawk submission tries to paint Bremworth as a failing firm, claiming that Bremworth continuing as a going concern and competing with Godfrey Hirst is "unrealistic". However, it fails to address the core aspects to substantiate a failing firm argument, as set out in the Commerce Commission's failing firm guidance, including that a firm cannot be a failing firm if it is likely that there is a credible third party that will acquire the firm as a going concern. As set out in our previous submissions, the most likely and most competitive counterfactual is the sale or otherwise recapitalisation of Bremworth to another party, which would be immeasurably more competitive than the counterfactual.

6. The Mohawk and Bremworth submissions also unconvincingly push for broadening the definition of the relevant market to include hard flooring (even though Mohawk's economist agrees with the Commission's view that there is single differentiated product market for carpet). At the margin, hard flooring may be substitutable for soft flooring. However, as a matter of fact and commercial common sense, hard flooring is not sufficiently substitutable for soft flooring to be included in the same market. The focus of the merger parties on broadening the relevant market also ignores the

key issues – that the proposed acquisition will give Godfrey Hirst a near monopoly in relation to wool carpet in New Zealand and remove Godfrey Hirst's most significant constraint in that part of the market, and that wool carpet is a must have product for retailers.

7. The submissions also significantly overplay the role of imports. Repeated references to imports having "50%" of the market masks the reality that imports are fragmented across multiple suppliers, none of which individually approaches the scale necessary to constrain a combined Mohawk/Bremworth. The scale and other benefits that domestic manufacturers have over importers mean that imports will not be a sufficient competitive constraint on the merged entity post-acquisition.
8. The Mohawk and Bremworth submissions redact large portions of material, which limits the ability of other parties to fully respond to their assertions. It is therefore vital that the Commission fully tests and investigates all assertions.

#### **Bremworth is not a failing firm**

9. The clearance application put forward various potential counterfactuals, including the status quo, new owner scenario and a redacted scenario. Having not provided credible, fact based evidence to support a view that its acquisition of Bremworth will not have or would not be likely to have the effect of substantially lessening competition in the market, Mohawk's position appears to have pivoted or evolved and it now claims that Bremworth continuing as a going concern and competing with Godfrey Hirst is "unrealistic". The assertion that Bremworth will become a failing firm absent its acquisition by Mohawk lacks credibility and is not supported by the facts.
10. More specifically:
  - (a) The only party asserting that Bremworth is or is likely to become a failing firm, without its acquisition by Mohawk, is Mohawk.
  - (b) The company's most recent annual report released in October 2025 (overseen by the current Board) was titled Reset, Rebuild, Return. Within it, the Chair stated:
    - (i) "Bremworth is more than a company – it is a brand woven into New Zealander's hearts and homes, trusted for generations, and worth restoring to strength. New leadership has taken decisive actions to reset the company...restore yarn production at home, reintroduce synthetic carpets...strengthen sales and rebuild profitability".
    - (ii) "the underlying trajectory in the latter part of FY25 demonstrates that the reset measures are beginning to gain traction and provide a platform for recovery".
  - (c) On 10 February 2026, the Board Chairman stated in an NZX announcement that Bremworth anticipated holding cash reserves of between \$14m and \$21m immediately prior to the date that the Board assumed would be the completion date of the proposed Scheme. To be clear, this is a net cash on hand position, not a gross cash position.
  - (d) Bremworth's submission on the Statement of Issues also focuses on Bremworth's financial performance and position. The submission contrasts starkly with the Board's own very recent past positive commentary on the prospects of the company going forward.

11. CBG does not dispute the public commentary made by various parties regarding the strategies adopted by Bremworth's board(s) over the past decade and the resulting impact on reported profit and loss. The company's financial performance has plainly been very poor.
12. However, it clearly does not reach the threshold for being considered a failing firm. As set out in the Commission's *Mergers and Acquisitions Guidelines* "Situations where firms face declining sales or profits, or where the earnings rate is significantly below the shareholders' expectations, would, in isolation, be unlikely to satisfy us that the firm is failing".
13. Although the submissions of Godfrey Hirst and Bremworth redact a large portion of material, we have not seen any evidence that Bremworth will cease operations imminently or probably, or that address the Commission's guidance on failing firm arguments. Further, and crucially, a firm cannot be a failing firm if it is likely that a credible third party will acquire the firm as a going concern.

*Bremworth is not a failing firm and should not be a failing firm going forward*

14. As demonstrably highly experienced and successful carpet industry practitioners, CBG does not share the alarmist view of Mohawk (and now, apparently, Bremworth) of Bremworth's performance. With the appropriate governance structure, industry experience, and access to financial resources, CBG believes the performance of Bremworth can be readily recovered.
15. CBG understands this view is not unique to it and that it is shared by Bremworth's significant shareholders and other industry participants.
16. To this end, CBG notes the following:
  - (a) Bremworth holds a substantial cash balance, as confirmed by its Board.
  - (b) Bremworth products and brand names are highly regarded in the industry and trusted and valued by consumers, as repeatedly noted by the Board (and also by Mohawk in its NZCC submissions). CBG of course notes the curious and inconsistent statement made by Bremworth in its submission to the NZCC that it believes the value of the Bremworth brand is significantly overstated in practice. That is in direct and stark contrast to previous statements made by the current Board about the Bremworth brand – including in its most recent annual report.
  - (c) Bremworth has valuable manufacturing and distribution capabilities that are readily leverageable by an alternate owner of Bremworth.
  - (d) Bremworth has the clear second largest market share in the wool carpet segment as confirmed by Mohawk and NERA, and retains the capacity to rebuild a significant and meaningful position in the synthetic carpet market, as confirmed and repeatedly stated by the Bremworth Board.

*Sale to another party is most likely counterfactual*

17. Outside the Board's Strategic Review process, CBG (and perhaps other interested parties) has expressed to the Board its strong interest and capability to invest in and deliver an alternative pathway for Bremworth as a domestic manufacturer of wool and synthetic carpets. This included a willingness to make a substantial future financial investment in the business to enable it to prosper,

to support the wider stakeholder group and to continue serving as an important competitive constraint on the already dominant Mohawk.

18. As CBG noted in its previous submission, a decision by one or more parties not to participate at a particular stage of the Board's Strategic Review process does and should not be interpreted as "evidence" of an absence of interest in or capacity to invest in Bremworth and provide an alternative future for the company.
19. The only inferences that can and should be drawn by the Commission and other parties from the announced outcome of the Strategic Review process are:
  - (a) The design and implementation of the Strategic Review process by the current Board, at least for CBG, was not considered a viable method by which to productively engage with the Board.
  - (b) The Bremworth Board chose Mohawk as its preferred buyer of Bremworth.
20. CBG considers the choice of Mohawk will be likely to result in a suboptimal outcome for the Bremworth business and its broader stakeholder group.
21. The Commission is encouraged to give careful and comprehensive consideration to all relevant aspects of that Strategic Review process, and any subsequent Bremworth asset transactions that may be contemplated post-acquisition.
22. As set out in our previous submissions, the sale of Bremworth to another party is the most likely counterfactual, which would be immeasurably more competitive than the factual.

#### **Market definition**

23. On the basis that the Commission may reject Mohawk's assertion that Bremworth is, or is likely to become, a failing firm absent its acquisition by Mohawk, Mohawk alternatively contends that the Commission's market definition should be broadened beyond the soft flooring market.
24. Mohawk's position appears to be that any product capable of being installed on the floor of a residential, commercial or industrial building constitutes part of a single, homogenous and interoperable product set.
25. Such a proposition lacks commercial logic and practical realism. It is analogous to suggesting:
  - (a) That bicycles, motorcycles, cars, utility vehicles, buses, ferries and trains should be treated as a single product market merely because each provides a form of personal transport; or
  - (b) That fresh milk, canned tomatoes and plastic food containers form part of the same competitive product market simply because they are sold through the same retail outlet and/or may be purchased by the same consumer.
26. In each example, the products are not meaningfully substitutable and do not operate as effective constraints on one another's pricing.
27. The same principle applies in the carpet and flooring industry. Individual flooring products are frequently not substitutable and, in many cases, are plainly not substitutable at all. The fact that they may be sold through the same retail channel, or in some instances, by the same manufacturer, does not establish functional interchangeability for competition law purposes.

28. At paragraph 14 of its submission, Mohawk asserts that "there is now proven substitutability between" different types of flooring products. However, no empirical evidence or data is provided in support of that claim. Instead, reliance is placed on anecdotal references to overseas markets or particular commercial applications, such as hotels. That is not a substitute for evidence of substitutability in the relevant New Zealand market. On the contrary, Mohawk refers to an observation that "customers increasingly mix carpet and hard flooring throughout their homes, selecting products strategically for different areas", which indicates that the use cases for hard flooring are different.
29. Neither Mohawk nor NERA has attempted to disaggregate import data in order to demonstrate actual interoperability or switching between specific flooring categories. The implicit argument appears to be that, if the market definition is framed sufficiently broadly, the aggregate volume of imports – covering a wide range of distinct flooring products – must represent a meaningful competitive constraint on wool and synthetic broadloom carpet sold by an aggregated Mohawk/Bremworth.
30. That reasoning does not withstand scrutiny or the application of commercial common sense. For example, it cannot be seriously contended that a specialised vinyl flooring product used in a hospital setting is a practical substitute for a premium wool or synthetic carpet product produced for the residential market. The two products clearly service different functional, aesthetic and consumer purposes, notwithstanding that they might be supplied by the same manufacturer. They clearly do not constrain each other's pricing in any realistic sense.
31. The evident objective of Mohawk and Bremworth's submissions is to divert the Commission's focus away from wool carpet – its importance to retailers, consumers (including government procurement) and the extent of dominance Mohawk would obtain were it permitted to acquire Bremworth.
32. Notably, Mohawk and Bremworth's submissions on the Statement of Issues appear to sidestep this issue. At least in their redacted versions, they do not quantify their prospective post-acquisition market share in wool carpet, nor do they meaningfully address why holding such a dominant share of that market would not give rise to a substantial lessening of competition – both within the wool carpet segment and more broadly across carpet and flooring markets.

#### **Wool carpet is central to the competition assessment and imports will not constrain Mohawk**

33. Regardless of whether wool carpet is treated as a segment of a single differentiated product market for carpet (as proposed in the Statement of Issues) or a separate market, wool carpet is clearly central to the competition assessment.
34. Commercial logic suggests that where a supplier attains dominance, almost monopolistically so, in a relevant market or segment of a market through successive acquisitions - here, the progression from four to two to one significant domestic manufacturers – it acquires the ability to materially lessen competition, with adverse consequences for retailers and consumers.
35. We estimate that the wool carpet segment is approximately 25–30% of the total carpet market. Contrary to the impression conveyed in Mohawk's submissions, numerous industry participants, including Bremworth, have recently expressed the view that demand for wool carpet in New Zealand is increasing. That is, it is becoming a more, not less important component of the overall flooring market.

36. For New Zealand carpet retailers, reliable access to competitively priced wool carpet is not optional, it is essential.
37. It is consistently recognised within the industry that the two principal suppliers of broadloom wool carpet in New Zealand are Godfrey Hirst and Bremworth and that they are each other's closest competitors in that segment.
38. Mohawk (and now apparently Bremworth) disputes that industry view but provide no substantive, fact based data or evidence in support of its position. Assertions that "imports of wool carpet are increasingly making their presence felt" or that "wool carpet importers are at least as competitive with Bremworth as Godfrey Hirst is" are advanced without empirical support. In the absence of data, such claims should be treated as unsubstantiated.

*Importers of wool carpet do not have scale to constrain Mohawk*

39. Mohawk (and Bremworth) list a number of companies said to import wool carpet into New Zealand, presumably to suggest that imports would provide a countervailing competitive constraint. However, no context is provided as to volumes, product type, distribution capability or market reach.
40. In reality, none of the identified importers supplies broadloom wool carpet into New Zealand at volumes remotely comparable to Bremworth or Godfrey Hirst, let alone at a scale capable of constraining a post-acquisition Mohawk. Moreover, none of the identified importers would seem to realistically have the capacity to significantly scale up production and distribution into the NZ market to act as a countervailing effect on an aggregated Mohawk/Bremworth.
41. Indeed, NERA's own data reinforces these seemingly obvious conclusions:
  - (a) NERA states that Bremworth held an approximate 10% market share in 2024 – which by definition is attributable entirely to wool carpet.
  - (b) Bremworth reported FY24 New Zealand wool carpet sales of approximately \$28.1m.
  - (c) The only other specific market shares identified by Mohawk/NERA related to wool carpet is Wools of New Zealand. Even at the upper end of Mohawk/NERA's estimated range, Wools of New Zealand represents approximately 3% market share – and is less than one-third the size of Bremworth.
42. On any rational assessment, those figures do not support the proposition that imports or smaller participants would operate as a meaningful competitive constraint if Mohawk were permitted to acquire Bremworth.
43. NERA (also produced in a similar graph by Bremworth) produced the following graph of total wool carpet import volumes:

**Figure 9: Wool carpet import values (\$NZD)**



Source: Stats NZ

Notes: The graph shows the value of wool imports based on cost plus insurance and freight.

44. What this graph demonstrates is that total aggregated wool carpet imports amount to less than 65% of Bremworth's wool carpet sales and, by inference, an even smaller proportion of Godfrey Hirst's wool carpet sales.
45. The Commission will have precise data regarding Mohawk's wool carpet sales. However, even on a conservative assumption that Godfrey Hirst's wool carpet sales are approximately 15% greater than Bremworth's, the combined Mohawk/Bremworth entity would have wool carpet sales approximately 3.4 times larger than total aggregated wool carpet imports in 2024.
46. Even that comparison of course overstates the competitive significance of imports, because it is based on aggregated import data. Aggregation masks the reality that imports are fragmented across multiple suppliers, none of which individually approaches the scale necessary to constrain a combined Mohawk/Bremworth. Bremworth's submission seeks to rely (at paragraph 36(a) of its submission) on an ACCC statement from 1999 to support its assertions relating to the competitive constraint of imports (relating to not objecting to a merger where comparable and competitive imports have held a sustained market share of 10% or more). It is clearly grasping to rely on guidance that is no longer current and is over 25 years old – and relying on such a market share figure also ignores the key question of whether imports will constrain the price and output decisions of the merged firm.
47. In its response to the Statement of Issues, Mohawk identifies six companies said to import wool carpet into New Zealand. It does not, however, provide specific market share data for those firms – presumably because doing so would illustrate their limited scale. It is reasonable to infer that the listed companies represent those Mohawk considers the most significant importers.
48. In its original submission, Mohawk provided specific information regarding one such importer, Wools of New Zealand (WNZ), and estimated its annual carpet sales at between \$6 million and \$8 million. Presumably, the Commission has access to verified figures. Taking the upper end of Mohawk's own estimate (\$8 million), a combined Mohawk/Bremworth would have wool carpet sales more than 7.5 times greater than its next largest competitor.
49. It is logical to assume, based on Mohawk's submission, that the remaining nominated importers have even smaller sales volumes and market shares.

50. In addition, one of the importers that Mohawk refers to as "of particular interest" and Bremworth refers to as one of the "key import competitors" is Nodi. However, the price data contained in paragraph 96 of the Mohawk submission states that a Nodi wool carpet comparable to a Godfrey Hirst \$68/sqm wool carpet product is \$198/sqm – almost three times the price of the Godfrey Hirst product. Brintons is also relied on by Mohawk as a "significant entrant", but the retail price stated by Mohawk for a comparable product is almost double the retail price of the Godfrey Hirst product (\$128/sqm vs \$68/sqm). This indicates that importers are very unlikely to act as a significant price constraint on Mohawk post-acquisition.

51. Against that backdrop, the proposition that these individual suppliers could exert a meaningful countervailing constraint on a combined Godfrey Hirst/Bremworth is not credible. It is also inconsistent with widely expressed industry views, the allocation of retail display space, and the observed purchasing patterns of retailers.

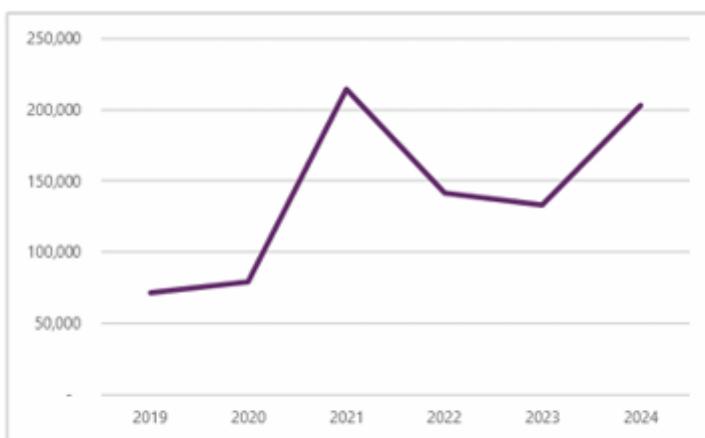
52. Mohawk and NERA further assert that wool carpet import volumes are increasing significantly and, on that basis, are becoming an increasingly effective competitive constraint. In support of that contention, they state:

- (a) "imports of wool carpet are making their presence felt right across the New Zealand market";
- (b) "carpet import values have increased by more than double between 2020 and 2025";
- (c) "another significant reentrant....is Brintons Carpets...." and that "Brinton is actively targeting the NZ market";
- (d) "importing wool carpet involves no particular difficulties".

53. The issue with these assertions is that the data - including Mohawk and NERA's own data - does not substantiate them. In fact, to the contrary.

54. In Mohawk's original NZCC submission, NERA included a graph of wool carpet imports:

**Figure 8: Wool carpet import quantities**



Source: Stats NZ

Notes: The graph shows the quantity of wool imports in broadloom metres. For a further description of the import data, see Appendix A.

55. That graph provides no contextual comparison with Mohawk's or Bremworth's domestically produced volumes. However, it clearly indicates (perhaps inadvertently) that, in broadloom metre terms, wool carpet imports declined over the period from 2021 to 2024.

56. NERA's own Figures 8 and 9 therefore undermine Mohawk's claims that imports are acting as a growing countervailing force or that retailers can readily or are already transitioning to an import-driven supply model. The data is consistent with the prevailing industry view of the role of imports in the wool carpet market.
57. The factual position, as demonstrated by Mohawk and NERA's own material, is that wool carpet imports play a relatively modest role in the New Zealand market. They do not constitute a credible countervailing constraint on a combined Mohawk/Bremworth entity.

#### **Retailers do not have ability to constrain Mohawk**

58. Mohawk asserts that, "with regard to the supply of soft flooring products to wholesale customers" New Zealand wholesale customers have the option of importing directly themselves, and that "the process remains straightforward for any retailer wishing to import directly". This is both an oversimplification and economically unfeasible. The existence of a theoretical option is materially different from the existence of a practical and economically viable alternative.
59. There is a clear commercial rationale underlying Mohawk's acquisition strategies. Mohawk acquired the Godfrey Hirst business for approximately A\$650 million and now seeks to acquire the last remaining meaningful domestic carpet manufacturer for approximately NZ\$70 million.
60. It is logical to infer that Mohawk recognises that local manufacturing provides competitive advantages in supplying New Zealand carpet retailers, compared with a purely import-driven model.
61. If that were not so, one would expect Mohawk – which characterises itself as "the world's largest floor company and so much more" – to service the New Zealand market entirely through imports from its global facilities.
62. In practical and operational terms, New Zealand retailers do not have the capacity to establish and manage comprehensive import sourcing models for the majority of their supply requirements. As noted elsewhere in this and our earlier submission - and not refuted by Mohawk - while some importers supplying into New Zealand are substantial companies internationally, their New Zealand distribution functions are typically relatively limited offering narrower or niche product ranges when compared with Mohawk and, in the case of wool carpet, Bremworth.
63. New Zealand carpet retailers cannot realistically cease purchasing from Godfrey Hirst and Bremworth and continue to operate viable businesses serving domestic soft flooring demand.
64. For NZ retailers, there are numerous structural and operational impediments to large-scale reliance on imports:
  - (a) **Warehousing requirements.** Carpet warehousing requires specialised infrastructure and equipment. It is neither practical nor economic for most retailers, or even large buying groups, to develop and operate such facilities independently in order to support a predominantly import-based supply model.
  - (b) **Just-in-time supply and product breadth:** Retailers must be able to supply customers promptly and offer a broad product range. Access to locally warehoused stock is critical to meeting these requirements. Reliance on distant suppliers with extended lead times and narrower ranges is commercially unviable. Retailers cannot economically pre-stock the full range required to meet diverse consumer demand.

- (c) **Small product runs:** Retailers frequently require limited quantities across a wide range of products. Such small, fragmented orders are typically unattractive to large offshore suppliers. Accordingly, it is not commercially viable for retailers to rely on imports to satisfy the full spectrum of customer demand. Reduced flexibility would ultimately diminish consumer choice.
- (d) **Trade credit terms:** For many retailers, supplier trade credit represents their primary source of working capital. Domestic manufacturers are generally better positioned to provide credit terms aligned with retailers' business cycles. Offshore suppliers, for whom New Zealand is a relatively small market, are less likely to offer equivalent terms.
- (e) **Marketing and product support:** Retailers depend on marketing assistance, product development support and market-specific initiatives from their principal suppliers. Under prior ownership, the development of New Zealand-specific product and marketing support was a core strategic initiative of the Godfrey Hirst business - an attribute expressly recognised by Mohawk. The absence of such locally tailored support would materially weaken retailers' commercial viability.

65. For the vast majority of their broadloom carpet purchases, individual NZ retailers have to deal with the two domestic manufacturers. Imports may supplement supply to a limited extent - as reflected in the figures cited by Mohawk and NERA - but they do not constitute a comprehensive alternative.

66. The existing competitive dynamic between the two largest market participants provides retailers with assurance that carpet can be sourced on reasonably competitive terms, both in price and in the ancillary benefits described above. In practical terms, Godfrey Hirst and Bremworth act as meaningful competitive constraints on each other.

67. If an individual retailer was "forced" to obtain upwards of 70% of their supply from one domestic supplier with no actual countervailing source of competition from another domestic supplier and no realistic option of obtaining sufficient supply from an importer, logically that individual retailer practically becomes beholden to that dominant supplier.

68. It follows, as a matter of commercial commonsense and economic logic, that such dependency would likely result in higher prices and reduced supply options for retailers and, ultimately, for New Zealand consumers.

#### **Acquisition will substantially lessen competition**

69. Despite the submissions of Mohawk and Bremworth, in practical terms, Mohawk's acquisition of Bremworth will result in:

- (a) The removal of Mohawk's largest individual competitor (by a considerable margin) in the NZ wool carpet segment/market.
- (b) The elimination of Bremworth as a source of renewed and meaningful competition in the synthetic carpet segment/market.

CBG notes the stark contrast in the characterisation by the company of its re-entry into the synthetic carpet market in May 2025 with Bremworth's recent NZCC submission of that portion of their business being "de minimis".

In that regard, CBG encourages the Commission to examine Bremworth's planning for re-entry into the synthetic carpet market as well as internally prepared budgets and forecasts to test the recently expressed de minimis comments against the company's internal plans.

- (c) The prevention of any alternative competitor gaining access to Bremworth's valuable manufacturing and distribution capabilities.

70. The Mohawk submission refers to the merger regime leaving no room for "unsubstantiated assertion, unsustainable theories of harm and unsupported speculation". However, the core of its application and related submissions is speculative – including as to the counterfactual and the potential impact of matters such as free trade agreements.

71. The Bremworth submission (at para 35) states that any lessening of competition must be "substantial" in the context of the overall "market", by causing a market price increase of approximately 5% across the whole market. As set out in *Woolworths Ltd v Commerce Commission* [2008] NZCCLR 10 (at [146] and [156]), there is no rigid 4 to 5% threshold to be applied to all markets, and other indicia of rivalry also need to be considered given prices are only one dimension of competition (eg, competition may also be on the basis of range of goods on offer, quality of products, and the service provided to consumers). The Court of Appeal also said "we are not prepared to commit ourselves to equating price increases of a particular level (or other precise metric in relation to other dimensions of competition) with a substantial lessening of competition".<sup>1</sup> However, in any event, the Commission could not reasonably exclude the prospect that the proposed acquisition would cause a price increase of at least 5%, given the lack of constraints as discussed elsewhere in this submission and our previous submission.

72. Further, as set out in the *Dandy Power Equipment Pty Ltd & Anor v Mercury Marine Pty Ltd* (1982) 64 FLR 238 (and cited in the *Port Nelson* case and reflected by the Commission in the Statement of Issues):

*Although the words "substantially lessened in a market" refer generally to a market, it is the degree to which competition has been lessened which is critical, not the proportion of that lessening to the whole of the competition which exists in the total market. Thus a lessening in a significant section of the market, if a substantial lessening of otherwise active competition may, according to circumstances, be a substantial lessening of competition in a market.*

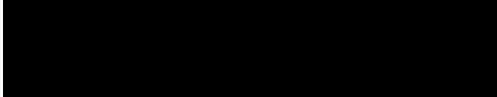
73. There is no basis on which the Commission could be satisfied that the proposed acquisition would not result in a substantial lessening of competition in the NZ wool and broader carpet market, when compared with the highly likely counterfactual, of Bremworth being acquired and recapitalised by a highly capable and effective competitor to Mohawk. Where the Commission cannot exclude a real chance that the acquisition would result in a substantial lessening of competition or if it is doubt, it must decline clearance for the proposed acquisition.

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<sup>1</sup> *Commerce Commission v Woolworths Ltd* [2009] NZCCLR 12. Similarly, the Court in *Brambles New Zealand Ltd v Commerce Commission* (2003) 10 TCLR 868 observed that there is a danger in relying on a static 5% price test.

74. We would be happy to meet with the Commission to discuss this submission and provide any further information that may assist.

Yours sincerely



**Rudyard 'Kim' Kendrick**  
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