

## Statement of Preliminary Issues

### Zoetis / Neogen

13 May 2026

### Introduction

1. On 13 May 2026, the Commerce Commission registered an application (the Application) from Zoetis Holdings LLC (Zoetis) seeking clearance to acquire, either directly or via a wholly-owned subsidiary, the global animal genomic testing business (Neogen Genomics Business) of Neogen Corporation (Neogen) (the proposed acquisition).<sup>1</sup>
2. As required by the Commerce Act 1986 (the Act), we assess mergers and acquisitions using the substantial lessening of competition test, which we describe further below.
3. The Commission will only give clearance if it is satisfied that the proposed acquisition will not have, or would not be likely to have, the effect of substantially lessening competition in a market in New Zealand.
4. This statement of preliminary issues sets out the competition issues that we have identified to date and will consider during our assessment, and that we currently consider to be important in deciding whether to grant clearance.<sup>2</sup> Our assessment into the proposed acquisition is at an early stage and this statement of preliminary issues is based primarily on the material provided by the parties in connection with the Application. Other issues may become apparent as we progress our assessment.
5. Through publishing this statement of preliminary issues, we aim to:<sup>3</sup>
  - 5.1 increase the transparency of our process;
  - 5.2 provide interested parties with an opportunity to identify any further competition issues which they consider we should assess and also to consider and submit on the matters identified; and
  - 5.3 gather further information which might assist our assessment.
6. We invite interested parties to provide comments on the likely competitive effects of the proposed acquisition. We request that parties who wish to make a submission do

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<sup>1</sup> A public version of the Application is available on the [case register](#) on our website.

<sup>2</sup> The issues set out in this statement are based on the information available when it was published and may change as our assessment progresses. The issues in this statement are not binding on us.

<sup>3</sup> Commerce Commission, *Mergers and Acquisitions Guidelines* (May 2022) at [6.105]. Available on our website at [www.comcom.govt.nz](http://www.comcom.govt.nz).

so by **27 May 2026**. Attachment A to this statement sets out the particular information that we are interested in the views of interested parties on.

7. If you would like to make a submission but face difficulties in doing so within the timeframe, please ensure that you register your interest with the Commission at [registrar@comcom.govt.nz](mailto:registrar@comcom.govt.nz) so that we can work with you to accommodate your needs where possible.

## The parties

### Zoetis

8. Zoetis is a US-based animal health company that supplies genomic testing services worldwide through its 'Precision Animal Health' division.<sup>4</sup> Zoetis does not have a laboratory in New Zealand and so its genomic testing services are provided from its laboratory in Kalamazoo, Michigan, United States.<sup>5</sup> Zoetis supplies genomic testing services for sheep, beef cattle, and dairy cattle.<sup>6</sup>
9. In addition to genomic testing services, Zoetis develops, manufactures and commercialises parasiticides, vaccines, dermatology, anti-infectives, animal health diagnostics, medicated feed additives and other pharmaceutical products and technologies to customers in over 100 countries.<sup>7</sup>

### Neogen

10. The Neogen Genomics Business forms part of US-based Neogen's wider animal health and agricultural solutions portfolio. The Neogen Genomics Business is active in over 120 countries with genomic testing undertaken from 6 laboratories.<sup>8</sup> Neogen does not have any employees or testing services in New Zealand and so its genomic testing services are provided from its laboratory in Brisbane, Australia. All its sales are undertaken through a partnership with Performance Beef Breeders (PBB).<sup>9</sup> Neogen only supplies genomic testing for beef cattle.<sup>10</sup>

### The proposed acquisition

11. For purposes of the proposed acquisition, Neogen has established a US-registered wholly-owned subsidiary, US Genomics Headco LLC (SaleCo), and will transfer 100% of the shares in Geneseek Australia Pty Limited (Australia NewCo) to SaleCo.<sup>11</sup> The proposed acquisition will then involve Zoetis (or a wholly-owned subsidiary) acquiring 100% of the shares in SaleCo from Neogen, and certain non-Australian assets of the Neogen Genomics Business.<sup>12</sup> In essence, the Neogen entities that

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<sup>4</sup> The Application at [2.4].

<sup>5</sup> The Application at [2.8].

<sup>6</sup> The Application at [10.2].

<sup>7</sup> The Application at [2.6].

<sup>8</sup> The Application at [3.3].

<sup>9</sup> The Application at [3.5]. We understand that PBB has one employee dedicated to Neogen sales.

<sup>10</sup> The Application at [10.7].

<sup>11</sup> The Application at [4.2].

<sup>12</sup> The Application at [4.3(a)]. These non-Australian assets include laboratories located in Brazil and China, and assets related to its international sales offices in those countries.

operate the Neogen Genomics Business will become wholly-owned subsidiaries of Zoetis.

## Industry background

12. As noted above, Zoetis and Neogen both supply genomic testing services to customers in New Zealand as part of their broader animal health portfolios.
13. Genomic testing falls within the broader animal genetics industry, which comprises a range of services, practices and technologies the farmers can use. In the Application, Zoetis lists the services that form part of the broader animal genetics industry as the sale of elite stud animals to commercial producers, various reproductive tools (such as semen collection and distribution, artificial insemination and embryo transfer), visual assessment, data recording, pedigree analysis, DNA testing (single trait analysis such as Horn/Polled testing) and, more recently, genomic testing technologies. We understand from the Application that all these services are designed to increase herd/flock genetic merit and overall performance, and that farmers can use a range of the above practices to support these objectives.<sup>13</sup>
14. Genomic testing involves farmers taking a tissue sample from an animal for analysis at a genomic testing provider's laboratory. As part of the analysis, the animal's DNA is analysed using single nucleotide polymorphism (SNP) genotyping or advanced sequencing, and evaluated alongside other pedigree and performance data that is typically held by breed societies or other industry organisations.<sup>14</sup> The results of the genomic testing can then assist farmers to identify livestock that are likely to perform well, make better decisions about which animals to keep, sell, purchase, or breed from, and accelerate genetic improvements in the herd for important traits.<sup>15</sup>

## Our framework

15. Our approach to analysing the competition effects of the proposed acquisition is based on the principles set out in our Mergers and Acquisitions Guidelines.<sup>16</sup> As required by the Commerce Act 1986, we assess mergers and acquisitions using the substantial lessening of competition test.
16. We determine whether an acquisition is likely to substantially lessen competition in a market by comparing the likely state of competition if the acquisition proceeds (the scenario with the acquisition, often referred to as the factual), with the likely state of competition if the acquisition does not proceed (the scenario without the acquisition, often referred to as the counterfactual).<sup>17</sup> This allows us to assess the degree by which the proposed acquisition might lessen competition.

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<sup>13</sup> The Application at [7.1-7.3].

<sup>14</sup> The Application at Figure 1.

<sup>15</sup> The Application at [7.5].

<sup>16</sup> Commerce Commission, *Mergers and Acquisitions Guidelines* (May 2022). Available on our website at [www.comcom.govt.nz](http://www.comcom.govt.nz)

<sup>17</sup> *Commerce Commission v Woolworths Limited* (2008) 12 TCLR 194 (CA) at [63].

17. If the lessening of competition as a result of the proposed acquisition is likely to be substantial, we will not give clearance. When making that assessment, we consider, among other matters:
- 17.1 constraint from existing competitors – the extent to which current competitors compete and the degree to which they would expand their sales if prices increased;
  - 17.2 constraint from potential new entry – the extent to which new competitors would enter the market and compete if prices increased; and
  - 17.3 the countervailing market power of buyers – the potential constraint on a business from the purchaser’s ability to exert substantial influence on negotiations.

### Market definition

18. We define markets in the way that we consider best isolates the key competition issues that arise from the proposed acquisition. In many cases this may not require us to precisely define the boundaries of a market. A relevant market is ultimately determined, in the words of the Commerce Act, as a matter of fact and commercial common sense.<sup>18</sup>
19. In the Application, Zoetis submits that the relevant market encompasses at least the supply of genomic testing services in respect of livestock in Australia and New Zealand.<sup>19</sup>
- 19.1 For the relevant product market, Zoetis submits that the starting point for analysis would be the wider market for the supply of services to farmers to enhance trait predictions for breeding livestock. In Zoetis’s view, this is because farmers use a range of methods to seek to enhance the accuracy of trait predictions for breeding purposes, with genomics testing a relatively new service in New Zealand that falls within the broader industry aimed at improving the available genetic stock of animal populations.<sup>20</sup>
  - 19.2 However, Zoetis also submits that if the Commission were to focus its analysis on the supply of genomic testing services, that would be the narrowest plausible product market definition. In Zoetis’s view, this is because the technology, equipment and laboratory resources used to supply genomic testing services are largely the same, regardless of the species or breed of animal, and reference panels, technology and other equipment are readily available such that there is a high degree of supply-side substitutability between different species and breeds.<sup>21</sup>

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<sup>18</sup> Section 3(1A). See also *Brambles v Commerce Commission* (2003) 10 TCLR 868 at [81].

<sup>19</sup> The Application at [11.1].

<sup>20</sup> The Application at [11.2-11.4].

<sup>21</sup> The Application at [11.5].

- 19.3 For the relevant geographic market, Zoetis submits that most genomic testing suppliers operate globally and it is also very common for animal samples collected in one country to be tested in laboratories located in other countries.<sup>22</sup> As a result, Zoetis submits that, from a supply-side perspective, the relevant market is global.<sup>23</sup>
20. We will consider whether the market submitted by Zoetis is the appropriate market for assessing the competition effects of the proposed acquisition, or whether it might be appropriate to define additional, narrower or broader market(s) on the basis of product, geography, and/or customer type. We set out in Attachment A what we are particularly interested in the views of third parties on to assist our assessment of the relevant market(s).

### **Without the acquisition**

21. We will consider what the parties would do if the proposed acquisition did not go ahead. We will consider the evidence on whether the without-the-acquisition scenario is best characterised by the status quo, or whether the parties would seek alternative options, for example, finding a different buyer for the Neogen Genomics Business.

### **Preliminary issues**

22. We will assess whether the proposed acquisition would be likely to substantially lessen competition in the relevant market (or markets) by assessing whether horizontal unilateral, coordinated and/or conglomerate effects might result from the proposed acquisition. The questions that we will be focusing on are:
- 22.1 unilateral effects: would the loss of competition between the parties enable the merged entity to profitably raise prices or reduce quality or innovation by itself?<sup>24</sup>
- 22.2 coordinated effects: would the proposed acquisition change the conditions in the relevant market/s so that coordination is more likely, more complete or more sustainable?
- 22.3 conglomerate effects: would the proposed acquisition increase the merged entity's ability and/or incentive to foreclose rivals?

### **Unilateral effects: would the merged entity be able to profitably raise prices by itself?**

23. Unilateral effects arise when a firm merges with a competitor that would otherwise provide a significant competitive constraint (particularly relative to remaining competitors) such that the merged firm can profitably increase price above the level

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<sup>22</sup> The Application at [11.10].

<sup>23</sup> The Application at [11.11].

<sup>24</sup> For ease of reference, we only refer to the ability of the merged entity to "raise prices" from this point on. This should be taken to include the possibility that the merged entity could reduce quality or innovation, or worsen an element of service or any other element of competition, ie, it could increase quality-adjusted prices.

that would prevail without the merger without the profitability of that increase being thwarted by rival firms' competitive responses. A merger could also reduce competition if one of the merging firms was a potential or emerging competitor. In such a case, the merger may preserve the market power of the incumbent firm.

24. The parties overlap in the supply of genomic testing services (specifically for beef cattle).
25. In the Application, Zoetis submits that the proposed acquisition would not be likely to substantially lessen competition in the relevant market due to unilateral effects because:<sup>25</sup>
  - 25.1 Zoetis currently faces constraint from existing suppliers of genomic testing services in Australia and New Zealand, and, significantly, from the need to win customers to using genomic testing services in the first place, and the proposed acquisition will not lessen those competitive pressures;
  - 25.2 there are a large number of suppliers globally who could readily expand into New Zealand;
  - 25.3 there are no barriers to customer switching;
  - 25.4 large breed societies have a pivotal influence in providing a route to market and can and do sponsor new entry;
  - 25.5 barriers to entry or expansion are low, with no need for a laboratory or significant 'on the ground' investment in New Zealand, and significant supply-side substitutability between species given the standardised nature of genomic testing services; and
  - 25.6 the proposed acquisition will not (and could not) raise barriers to entry in any market, including because neither Zoetis nor Neogen own any key inputs required for successful entry and operation at scale.
26. We will consider:
  - 26.1 closeness of competition: the degree of constraint that Zoetis and Neogen impose upon one another. To the extent that any constraint is material, we will assess whether the lost competition between the merging parties could be replaced by rival competitors;
  - 26.2 remaining competitive constraints: the degree of constraint that existing competitors would impose on the merged entity;
  - 26.3 entry and expansion: how easily rivals could enter and/or expand;

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<sup>25</sup> The Application at [12.1] and discussed in further detail from [12.3-12.38].

- 26.4 countervailing power: whether customers have special characteristics that would enable them to resist a price increase by the merged entity.
27. We set out in Attachment A what we are particularly interested in the views of third parties on to assist our assessment of unilateral effects.

**Coordinated effects: would the proposed acquisition make coordination more likely?**

28. An acquisition can substantially lessen competition if it increases the potential for the merged entity and all or some of its remaining competitors to coordinate their behaviour and collectively exercise market power or divide up the market such that output reduces and/or prices increase. Unlike a substantial lessening of competition which can arise from the merged entity acting on its own, coordinated effects require some or all of the firms in the market to be acting in a coordinated way.<sup>26</sup>
29. In the Application, Zoetis submits that the proposed acquisition would not be likely to substantially lessen competition in any relevant market due to coordinated effects because the market for genomic testing services does not have features conducive to coordinated effects and this will not change as a result of the proposed acquisition.<sup>27</sup>
30. We will assess whether any relevant market/s are vulnerable to coordination, and whether the proposed acquisition would change the conditions in the relevant market/s so that coordination is more likely, more complete or more sustainable.
31. Some of the factors we will consider are:
- 31.1 the vulnerability of the relevant market to coordination; and
  - 31.2 whether the relevant market includes any particularly vigorous or aggressive suppliers (including Zoetis, Neogen, and/or any rival suppliers);
  - 31.3 how the proposed acquisition would change conditions in the relevant market; and
  - 31.4 whether the proposed acquisition would make coordination more likely, more complete, or more sustainable.
32. We set out in Attachment A what we are particularly interested in the views of third parties on to assist our assessment of coordinated effects.

**Conglomerate effects: would the merged entity be able to foreclose rivals?**

33. A merger between suppliers (or buyers) who are not competitors but who operate in related markets can result in a substantial lessening of competition due to vertical or conglomerate effects. This can occur where a merger gives the merged entity a greater ability or incentive to engage in conduct that prevents or hinders rivals from competing effectively.

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<sup>26</sup> Mergers and Acquisitions Guidelines above n16 at [3.84].

<sup>27</sup> The Application at [13.5].

34. In the Application, Zoetis submits that the proposed acquisition would not be likely to substantially lessen competition in any relevant market due to conglomerate effects. This is because, in Zoetis's view, while it supplies other animal health products, all the relevant markets are competitive.<sup>28</sup>
35. We will consider whether the proposed acquisition would give rise to conglomerate effects. That is, for example, whether the merged entity would gain the ability and incentive to bundle (ie, provide products or services together at a discount) or tie (ie, only provide one product or service with another) complementary products.
36. Some of the factors we will consider are:
  - 36.1 whether the merged entity would have the ability and incentive to bundle and/or tie its genomic testing services with any of Zoetis's other animal health offerings; and
  - 36.2 whether any such bundled discounts or tying may mean that competitors that cannot sell the same range of products as the merged firm may be foreclosed.
37. We set out in Attachment A what we are particularly interested in the views of third parties on to assist our assessment of conglomerate effects.

### **Next steps in our assessment**

38. The Commission is currently scheduled to make a decision on whether to give clearance to the proposed acquisition by **9 July 2026**. However, this date may be extended with the agreement of the applicant if the material before the Commission at that time does not allow it to be satisfied that the proposed acquisition will not have, or would not be likely to have, the effect of substantially lessening competition in a market in New Zealand.<sup>29</sup> In particular, if we need to test and consider the issues identified above further, the decision date is likely to extend.
39. As part of our assessment, we will be identifying and contacting parties that we consider will be able to help us assess the preliminary issues identified above.

### **Making a submission**

40. If you wish to make a submission, please send it to us at [registrar@comcom.govt.nz](mailto:registrar@comcom.govt.nz) with the reference "Zoetis/Neogen" in the subject line of your email, or by mail to The Registrar, PO Box 2351, Wellington 6140. Please do so by close of business on **27 May 2026**.
41. If you would like to make a submission but face difficulties in doing so within the timeframe, please ensure that you register your interest with the Commission at

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<sup>28</sup> The Application at [13.4].

<sup>29</sup> The Commission maintains a [case register](#) on our website where we update any changes to our deadlines and provide relevant documents.

[registrar@comcom.govt.nz](mailto:registrar@comcom.govt.nz) so that we can work with you to accommodate your needs where possible.

42. Please clearly identify any confidential information contained in your submission and provide both a confidential and a public version. We will be publishing the public versions of all submissions on the Commission's website. If you make a submission and we do not acknowledge receipt of that submission within two working days, you should resubmit your submission.
43. All information we receive is subject to the Official Information Act 1982 (OIA), under which there is a principle of availability. We recognise, however, that there may be good reason to withhold certain information contained in a submission under the OIA, for example in circumstances where disclosure would unreasonably prejudice the supplier or subject of the information.

**Attachment A: Matters which we are interested in receiving information on**

- A1. We set out below the information which we are particularly interested in receiving feedback on. However, this is not an exhaustive list, and we are interested in receiving any information which interested parties consider is likely to be relevant to our assessment.
- A2. From farmers, we are particularly interested in hearing about:
- A2.1. the circumstances/scenarios where you use, or may use, genomic testing services;
  - A2.2. how you view competition between Zoetis and Neogen for the supply of genomic testing services (including the extent to which you have observed them competitively reacting to each other, and the extent to which you can play them off against each other to get a better price or service);
  - A2.3. what alternative genomic testing service providers you could use, and how these alternative providers' services compare (in terms of factors such as price, quality, and their ability to meet your needs);
  - A2.4. how your genomic testing requirements/needs for beef cattle compare to your testing requirements/needs for other types of livestock;
  - A2.5. whether you would be willing to switch from using genomic testing services to using alternative genetic improvement methods (such as those listed at paragraph 13 above), and if so, what steps what would be required for you to switch;
  - A2.6. whether there are any scenarios where you would only use, or would require, genomic testing services;
  - A2.7. whether you would be willing to acquire genomic testing services from a supplier with no physical presence in New Zealand (including no sales/administrative staff); and
  - A2.8. whether you consider that any of Zoetis's animal health services/products are 'must-have' for the operation of your farm.
- A3. From other suppliers of genomic testing services, we are particularly interested in hearing about:
- A3.1. how you view competition between Zoetis and Neogen for the supply of genomic testing services (including the extent to which you have observed them competitively reacting to each other);
  - A3.2. the extent to which you see yourself competing closely with Zoetis and/or Neogen, and if so, why/how;

- A3.3. who you consider are the key competitors to Zoetis and Neogen for the supply of genomic testing services in New Zealand, and how these competitors' services compare (in terms of factors such as price, quality, and the ability to meet different customers' needs);
  - A3.4. whether, as a genomic testing services provider, you consider you are competing closely with suppliers of alternative genetic improvement methods (such as those listed at paragraph 13 above) to win customers;
  - A3.5. if you do not currently offer your genomic testing services in New Zealand, what would be required for you to start offering your genomic testing services in New Zealand; and
  - A3.6. if you do not currently offer your genomic testing services for beef cattle in New Zealand, what would be required for you to start offering your genomic testing services for beef cattle in New Zealand.
- A4. From breed societies, we are particularly interested in hearing about:
- A4.1. what role you see yourself playing in the supply and purchase of genomic testing services in New Zealand;
  - A4.2. how you view competition between Zoetis and Neogen for the supply of genomic testing services (including the extent to which you have observed them competitively reacting to each other);
  - A4.3. who you consider are the key competitors to Zoetis and Neogen for the supply of genomic testing services in New Zealand, and how these competitors' services compare (in terms of factors such as price, quality, and the ability to meet different customers' needs); and
  - A4.4. the extent to which you consider you could sponsor new entry (eg, support a small or new provider of genomic testing services to enter/expand into New Zealand).