

Ex-post merger review report

2025/2026

30 June 2026

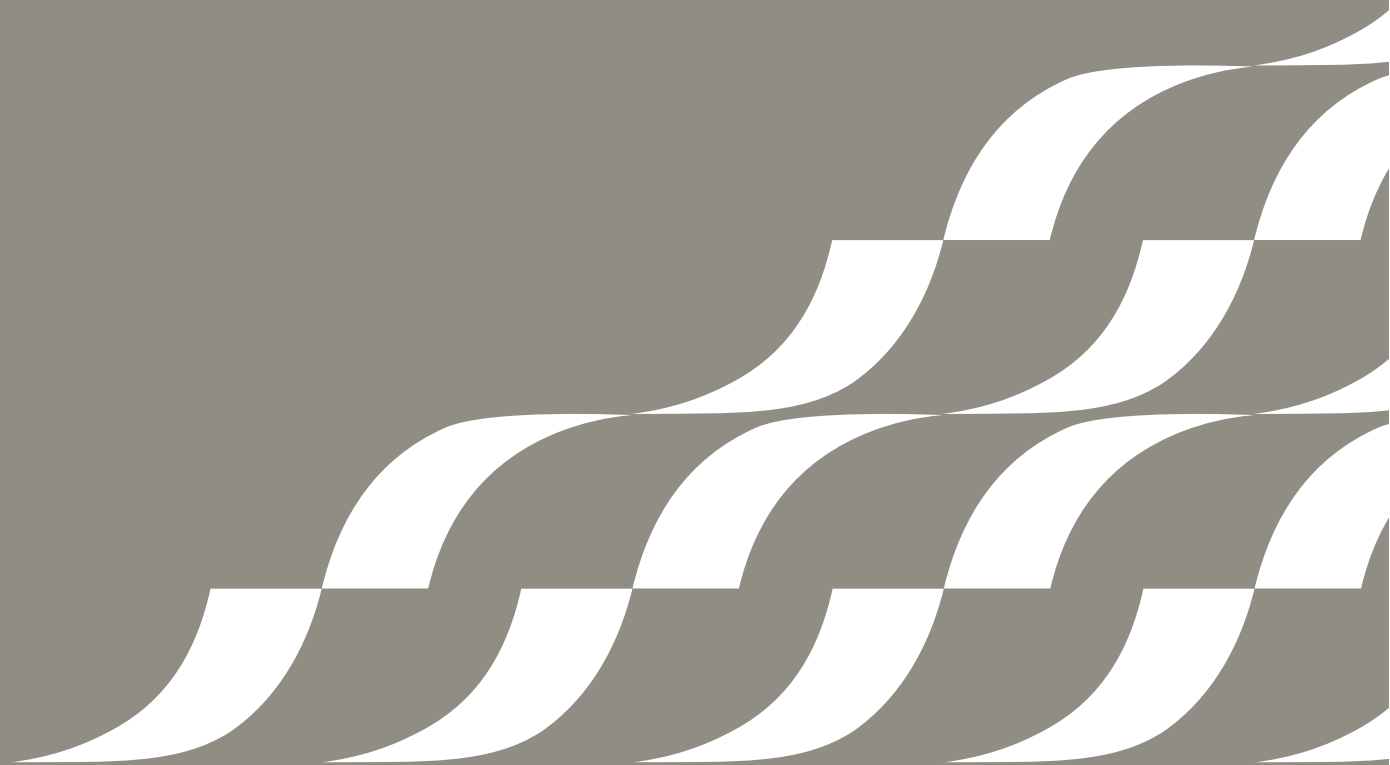


Table of contents

Executive summary	3
<hr/>	
The cases we reviewed and findings	3
Introduction to the report	5
Summary of approach taken to ex-post merger reviews	6
<hr/>	
Case selection	7
Approach to conducting ex-post reviews	7
Confidentiality	7
Limitations	8
Divestment undertakings in merger clearance assessments	8
Key lessons	9
<hr/>	
Key lesson 1: Full divestment is most likely to be effective	10
Key lesson 2: Scale and competitive position of the purchaser are important considerations	11
Key lesson 3: Specific regard should be given where the divestment taker is not active in the relevant market	12
Attachment: Summaries of ex-post merger reviews	14
<hr/>	
THL and Apollo	14
Zoetis and Betrola (Jurox)	19
Pacific Bidco and Pulse Health	22

Executive summary

- X1. The Commerce Commission (the Commission) is responsible for preventing anti-competitive mergers which may harm consumers and New Zealand markets. A key indicator in the Commission’s Statement of Intent: 2023-2027 is that harmful concentration of market power is prevented through merger control.¹ Effective merger control contributes towards New Zealanders receiving the benefits of competition, including greater value, innovation, productivity and choice.
- X2. The Commission undertakes ex-post reviews of its merger decisions approximately every two years, and publishes any lessons learned from that exercise.² It is not the purpose of this project to determine whether the original decision of the Commission was ‘correct’. Instead, the report evaluates key factors of a decision and assesses whether the Commission’s predictions have eventuated as expected. Our aim is to identify lessons that can be applied to future merger investigations, thereby contributing to the continual improvement of the merger regime.³

The cases we reviewed and findings

- X3. This year we reviewed three merger clearance decisions made between 2021 and 2022. Two of the decisions involved significant divestment undertakings and the third involved the surrender of distribution rights by one of the merging parties.
- X4. These cases provide an opportunity for our ex-post merger review program to have a particular focus on divestments for the first time. We consider such a focus to be useful given that the Commission has an ongoing need to be able to appropriately consider merger remedy proposals.⁴
- X5. Each time we conduct an ex-post merger review, we look back at cases decided approximately three to five years earlier. This timeframe allows enough distance for meaningful market developments to emerge, while remaining recent enough to seek to understand the factors that likely drove those changes.
- X6. The cases covered in this review were decided either during or immediately following the COVID-19 pandemic. The unprecedented economic shock associated with the pandemic presented competition authorities (including the Commission) with

¹ Commerce Commission “Statement of Intent: 2023-27”, p. 36. Available at: https://www.comcom.govt.nz/_data/assets/pdf_file/0016/321721/Statement-of-Intent-2023-2027.pdf.

² The Commission first undertook an ex-post review of past merger decisions in 2015, focussing on cases between 2011 and 2013. A similar exercise was undertaken in 2016, looking at merger decisions made in 2013 and 2014. The Commission renewed the practice in 2019 with a review of six merger decisions made between 2014 and 2016, and in 2023 the Commission repeated this exercise looking at merger decisions made between 2017 and 2019.

³ In our ex-post merger review report for 2023/24, we identified three key insights: (i) the likelihood and extent of potential entry and expansion is commonly overstated by market participants; (ii) market participants tend to overestimate the ability and likelihood of third parties to exercise countervailing power; and (iii) dynamic markets may require alternative analytical frameworks for defining markets and assessing likely competitive effects. We continue to draw on these insights (as well as other useful lessons from our previous reviews) in our current mergers work. Our 2023/24 report is available at: https://www.comcom.govt.nz/assets/pdf_file/0022/344830/Ex-post-merger-review-report-29-February-2024.pdf.

⁴ This approach is consistent with international best practice and may inform future assessment of divestment proposals in merger reviews. See OECD “Ex-post assessment of merger remedies” (October 2023), pp. 13–14. Available at: <https://doi.org/10.1787/84c232b6-en>.

additional challenges in undertaking merger control. One important example of these challenges is the increased level of uncertainty about how markets will evolve, making the forward-looking exercise of a merger clearance assessment particularly difficult.

- X7. The additional uncertainty did not alter the fundamental criteria by which the Commission assessed merger clearance applications, as these remain essential to protect the long-term interests of New Zealand consumers. Instead, our standard frameworks and procedures accounted for the additional complexity of uncertain factual circumstances, including uncertainty around the extent to which markets and sectors may be affected by the pandemic and the timeline over which recovery may occur.
- X8. As part of this review, we conducted interviews with relevant market participants and supplemented this with desktop research. We are grateful to all the parties that provided us with assistance during our review.
- X9. We expect the lessons learned in this review to provide practical guidance for future assessments of potential divestment remedies and complement our existing divestment framework and guidelines.⁵
- X10. The key lessons that we can take from our review of these cases are:
- X10.1 **Remedies that eliminate the competitive overlap through the full divestment of a stand-alone business are most likely to be effective** in addressing any potential substantial lessening of competition concern. By contrast, partial divestments (or “carve-outs”) may likewise address the concern, but tend to carry a higher risk profile than those involving the divestment of stand-alone businesses. The Commission will need to carefully assess these risks when determining whether such remedies are likely to be effective.
- X10.2 **The scale and competitive position of the purchaser are important considerations in determining the ongoing competitive constraint of the divestment (particularly in dynamic markets or industries characterised by economies of scale or scope).** Such considerations may evolve over time, particularly where the divestment itself creates future growth opportunities. In industries characterised by economies of scale, both the potential loss of scale resulting from a carve-out divestment and the potential scale gains achieved by a smaller existing competitor are highly relevant to a dynamic assessment of remedy effectiveness, that is, whether the divestment is likely to result in an effective long-term competitor.
- X10.3 **While some transitional challenges are inevitable, the Commission should give specific regard to the potential for transitional challenges where the divestment taker is not active in the relevant market.** Although none of the divestment takers in the cases covered by our review encountered insurmountable operational challenges, and the remedies proved effective, we observed that a divestment purchaser’s existing involvement in the relevant market has a bearing on the nature and extent of transitional challenges described to the Commission.

⁵ Commerce Commission “Mergers and Acquisitions Guidelines” (May 2022) at Attachment F.

Introduction to the report

1. The purpose of the Commerce Act 1986 (the Commerce Act) is to promote competition in markets for the long-term benefit of consumers within New Zealand.⁶ One of the ways it does this is by prohibiting any person from acquiring a firm's assets or shares if that acquisition would be likely to substantially lessen competition in a New Zealand market.⁷
2. Under the Commerce Act merging firms can apply to the Commission for clearance⁸ or authorisation⁹ of a proposed merger. A clearance or authorisation decision by the Commission provides a statutory immunity, so that the applicant can complete the proposed merger without being challenged under section 47 of the Act by the Commission or others.
3. When making decisions under section 66 or section 67 of the Commerce Act, the Commission must make a forward-looking assessment of whether a merger is likely, or may be likely, to result in a substantial lessening of competition.
4. Ex-post merger reviews observe what has happened in the market following a decision. Understanding how the forward-looking assessments made in a decision played out in relation to how markets actually evolved and the strength of constraints on the merged entity can provide useful insights that enable us to amend our methods or continue good practice.
5. It is not the purpose of this project to determine whether the original decisions of the Commission were 'correct'. Instead, for each case study we looked back at the divestment remedy and asked:
 - 5.1 Has the remedy been effective in addressing the competition concerns?
 - 5.2 What risks were associated with the divestment package, and have they crystallised?
 - 5.3 To the extent that any informal commitments were made to support the divestment package, were these effective?
6. We then looked across the three case studies to identify useful lessons or reflections that can be applied to future merger investigations involving the assessment of proposed divestment remedies.
7. There were three cases selected for this project, as set out in the table overleaf.

⁶ Commerce Act 1986, s 1A.

⁷ Commerce Act 1986, s 47.

⁸ Commerce Act 1986, s 66.

⁹ Commerce Act 1986, s 67.

Table 1 **Decisions reviewed**

Merger	Year	Industry	Decision
THL / Apollo ¹⁰	2022	Tourism	Cleared
Zoetis / Jurox ¹¹	2022	Manufacturing	Cleared
Pacific BidCo / Pulse Health ¹²	2021	Health care and social assistance	Cleared

8. The purpose of this review is not to evaluate the Commission’s overall performance in merger clearance decisions or to revisit the merits of individual determinations. Rather, it draws on stakeholder perspectives we gathered while testing how effective the Commission’s decision to grant conditional clearance in the three case studies were in addressing competition concerns. In this context, none of the market participants we spoke to raised concerns about negative effects on the nature or level of competition in the relevant market(s) following the Commission’s decision(s).

Summary of approach taken to ex-post merger reviews

9. The Commission’s focus when undertaking ex-post reviews is to determine whether specific factors in a decision, for example in this report, the effectiveness of the divestment remedy, have eventuated as expected. Our approach has been informed by the experiences of overseas competition agencies, as well as best practice guidelines issued by the OECD.¹³
10. The evaluations do not seek to determine whether the Commission’s original decision was ‘correct’. We acknowledge that it is impossible to perfectly predict what might happen in the factual or counterfactual to the decision. Further, isolating and measuring the impact of a merger (and divestment) against all other factors that may have affected a market is not straightforward.
11. In determining whether a transaction is likely to have the effect of substantially lessening competition in any market, the Commission is required to take a forward-looking, dynamic approach, asking whether there is a real and substantial risk, or a “real chance” that a substantial lessening of competition will occur as a result of the transaction.
- 11.1 To be “likely”, a substantial lessening must be more than a mere possibility, but it need not be more likely than not to occur.
- 11.2 Should an effect that the Commission considered to be likely to occur, fail to occur (or fail to occur in the manner or within the timeframe predicted by the Commission), this does not necessarily suggest that the Commission was incorrect to have considered (at the point it reached its decision) that that effect had a real chance of occurring.

¹⁰ THL Group (Australia) Pty Limited and Apollo Tourism & Leisure Ltd [2022] NZCC 32.

¹¹ Zoetis Inc. and Betrola Pty Limited (which owns the Jurox Group of companies) [2022] NZCC 31.

¹² Pacific 2021 Bidco NZ Limited and Pulse Health NZ Limited [2021] NZCC 23.

¹³ OECD “Reference guide on ex-post evaluation of competition agencies’ enforcement decisions” (April 2016). Available at: <https://www.oecd.org/daf/competition/Ref-guide-expost-evaluation-2016web.pdf>.

12. The reviews in this report were conducted internally by staff that were not involved in the original merger processes. While there are potentially benefits to conducting ex-post merger reviews using an external team, the internal approach minimises confidentiality constraints and facilitates meaningful discussion with the original case teams, while also ensuring the review team has a strong understanding of the Commission's merger review process.

Case selection

13. In selecting cases to review, we chose those that we considered most likely to provide meaningful insights. Given our focus on divestments in this review, this meant selecting the cases over the relevant period that involved a divestment remedy.
14. In addition, we gave consideration to:
 - 14.1 how easy it would be to verify how the Commission's assessment of the divestment has borne out with hindsight;
 - 14.2 the level of uncertainty around how the divestment (or firm that purchased the divestment package) would likely evolve at the time of the decision; and
 - 14.3 whether it would be particularly valuable to verify the effectiveness of the Commission's approach to assessing the divestment package.

Approach to conducting ex-post reviews

15. For each case under review, our key focus questions are:
 - 15.1 Has the remedy been effective in addressing the competition concerns?
 - 15.2 What risks were associated with the divestment package, and have they crystallised?
 - 15.3 To the extent that any informal commitments were made to support the divestment package, were these effective?
16. We sought to answer these questions by requesting information and interviews with relevant parties in each market and supplemented our review with desktop research. Our goal was to answer our specific set of questions on the divestment remedies, while taking note of other developments in the relevant markets.
17. Due to time constraints and our desire to ensure our requests of participating third parties were as minimally burdensome as reasonably possible, we largely sought and relied on qualitative evidence.
18. Our findings are summarised in this report. We provide an overview of what has happened since each decision and answer our key questions for each case.

Confidentiality

19. Ex-post reviews rely on information provided by market participants on a voluntary basis (as well as information collected in the original merger process and additional desktop research).

20. As much of this information is commercially sensitive to the interested parties, it is unable to be included in this report. This report provides a summary of the high-level findings and key lessons from our 2025/26 review.

Limitations

21. There are several practical and methodological challenges when undertaking ex-post merger reviews. The key limitations we have identified during our reviews include:
- 21.1 Markets are influenced by many factors, many of them unrelated to the merger, and it is not possible to accurately account for all of these.
- 21.2 We have not been able to interview or collect information from every relevant party in each market as participation in this review is voluntary. We have also often needed to rely on qualitative anecdotal information about changes in price and other parameters of competition (such as quality and innovation).
- 21.3 The COVID-19 pandemic affected all markets to some extent. As such, the effects of the mergers on competition may be distorted compared to what may have otherwise been expected. We have sought to account for this to the extent possible.
22. We take these limitations into account during the review process and nevertheless consider that our ex-post merger review program continues to provide useful insights that inform our merger work.

Divestment undertakings in merger clearance assessments

23. In light of the focus of this report, this section briefly summarises how we assess whether a divestment undertaking may remedy the competition concerns arising from a merger. Our approach to divestments is set out in more detail in our Mergers and Acquisition Guidelines.¹⁴
24. Divestments are generally one-off remedies that seek to reverse the changes to the structure of the market brought about by the merger under investigation, with the aim of re-establishing or maintaining the process of competitive rivalry which would be expected in the absence of the merger.
- 24.1 Where a merger raises competition concerns, an applicant may offer an undertaking to divest certain assets or shares as a condition of clearance in order to remedy those concerns.¹⁵ The Commission can accept undertakings only in relation to the divestment of assets¹⁶ or shares,¹⁷ and it is for the applicant to decide whether to offer such an undertaking.

¹⁴ See Mergers and Acquisitions Guidelines above n5 at Attachment F for more details on how we assess whether divestment undertakings may remedy competition concerns.

¹⁵ Commerce Act 1986, s 69A.

¹⁶ Section 2(1) of the Commerce Act 1986 states that assets include intangible assets.

¹⁷ Under section 2(1) of the Commerce Act 1986, share means “a share in the share capital of a company or other body corporate, whether or not it carries the right to vote at general meetings; and includes:

(a) A beneficial interest in any such share;

(b) A power to exercise, or control the exercise of, a right to vote attaching to any such share that carries the right to vote at meetings of the company;

- 24.2 An applicant may propose a divestment undertaking either when making its application for clearance, or at any stage during the Commission’s investigation. If the Commission accepts the undertaking, it is treated as forming part of the clearance granted.
25. Divestment remedies can vary considerably in scope and may involve the sale of a stand-alone business, part of a business or a collection of assets.
26. For a divestment undertaking to remedy competition concerns in the relevant market(s), the Commission must be satisfied that the divestment will result in sufficient additional competitive constraint on the merged firm so that a substantial lessening of competition is no longer likely.
27. In making this assessment, the Commission considers all relevant risks associated with divestment proposals. These risks arise because the effects of a divestment undertaking will occur in the future, meaning there is inevitably some uncertainty as to its likely impact on the relevant market. As a result, there is also some uncertainty as to whether a divestment will in fact remedy the competition concerns arising from the merger.
28. To assess these divestment risks, the Commission compares the situations with and without the divestment undertaking, while also considering the evidence that the applicant must provide to address those risks. This allows for an assessment of whether the divestment would, of itself or in combination with other market conditions, be likely to remedy the competition concerns that have been identified.
29. The Commission assesses three kinds of risks associated with divestment undertakings, which are all interrelated and are therefore assessed on a case-by-case basis.¹⁸
- 29.1 Composition risk – the risk that the scope of a divestment undertaking may be too constrained, or not appropriately configured, to attract a suitable purchaser.
- 29.2 Asset risk – the risk that the competitive effectiveness of a divestment package will deteriorate prior to completion of the divestment.
- 29.3 Purchaser risk – the risk that there may not be a purchaser acceptable to the Commission available and/or the risk that the applicant has an incentive to sell to a weak competitor.

Key lessons

30. The Commission’s review of past merger decisions has provided useful insights for case teams and decision makers. The key lessons are described below.

(c) A power to acquire or dispose of, or control the acquisition or disposition of, any such share;
(d) A perpetual debenture and perpetual debenture stock.”

¹⁸ See Mergers and Acquisitions Guidelines above n5 at [F12] to [F46] for further information on the analysis of divestment undertakings, the relevant considerations, as well as detailed explanations of the associated risks.

Key lesson 1: Full divestment is most likely to be effective

31. Remedies that eliminate the competitive overlap through the full divestment of a stand-alone business are most likely to be effective.
32. Two important (and somewhat overlapping) considerations in evaluating divestments include:
 - 32.1 **the scope of the divestment** – in particular, whether the divestment eliminates the competitive overlap between the parties in full, or only partially; and
 - 32.2 **the nature of the divested assets** – a divestment may involve the sale of an entire stand-alone business (a “full” divestment) or collection of assets that reflect something less than a whole business, called a partial divestment or “carve-out” of collected assets.
33. Both full and partial divestments can fully eliminate the competitive overlap between the parties, depending on the circumstances.¹⁹
34. Full divestments that also eliminate the competitive overlap completely tend to provide the most reliable means to restoring competition.
 - 34.1 A full divestment is more likely to give regulators confidence that the pre-merger structural dynamics of the market will be preserved, and as such remove any concerns regarding a substantial lessening of competition.
 - 34.2 Full divestments are also typically easier to implement, simpler for purchasers to integrate into their existing operations or portfolios, and less vulnerable to ongoing coordination with the merging parties.²⁰
35. By contrast, partial divestments (‘carve-outs’) may offer a less costly and intrusive option that is proportionate to the potential competitive harm, while generally having a higher risk profile.²¹
 - 35.1 Partial divestments may involve separating assets from interconnected head-office systems such as IT and HR networks or from staff with the necessary expertise to support those assets. This separation can create operational and transitional challenges, and the costs and complexity involved may be underestimated by the purchaser at the time of the transaction.
 - 35.2 The effectiveness of a partial divestment depends heavily on whether the carved out assets are able to form a competitive stand-alone proposition for the purchaser, and/or whether the purchaser has the necessary additional lines of business, infrastructure, capabilities and scale required to operate the assets

¹⁹ For example, a retail business could divest a small number of retail stores in local markets where the two merging firms overlap, which could amount to a complete elimination of competitive overlap between the parties.

²⁰ OECD “Co-operative antitrust in remedy design” (November 2025), p. 16. Available at: https://www.oecd.org/en/publications/co-operative-antitrust-in-remedy-design_6a94e7cd-en.html.

²¹ The CMA has also observed that the divestment of an existing business which can compete effectively on a stand-alone basis is often more likely to be effective than a ‘carve-out’ remedy, with the latter presenting additional risks. See Competition and Markets Authority, Merger Remedies, 19 December 2025, CMA 87 [6.21].

effectively in order to compete (and if so, over what timeframe the new owner would be able to integrate the assets into their business in order to do so).

- 35.3 Partial divestments may leave residual linkages such as commercial dependencies, shared inputs, or transitional service arrangements, which can undermine competitive independence and typically require more intensive monitoring and more detailed remedy design by the Commission.
- 35.4 Purchasers face greater challenges in conducting due diligence on partial divestment packages, in part because there may be less by way of available data on the performance of the relevant assets when they comprise something less than a stand-alone business unit. This limits the role of due diligence in mitigating composition risk.²²
- 36. In future merger clearance assessments, the Commission will continue to take account of these risks before concluding on whether such a remedy will be effective.
- 37. Our review also underscores that assessing the likely effectiveness of any divestment remedy is highly fact and market-specific, often depending on a range of interacting features. This highlights the importance of drawing on evidence from both upstream and downstream market participants when assessing divestment remedies.

Key lesson 2: Scale and competitive position of the purchaser are important considerations

- 38. The scale and competitive position of the purchaser are important considerations in determining the ongoing competitive constraint of the divestment (particularly in dynamic markets or industries characterised by economies of scale or scope).
- 39. Each of the cases in our review suggests that the scale and competitive position of the purchaser can be important factors when assessing the adequacy of a divestment package. We observed that:
 - 39.1 A divestment package may provide immediate scale to the purchaser and a platform for further expansion in the industry, for example by providing the firm with new distribution partners, or greater brand awareness.
 - 39.2 However, divestment packages may also result in the loss of some economies of scale where the divested assets are separated from a corporate group involved in similar activities, or where a carve-out divestment results in a new competitor with less scale than the merging parties.
 - 39.3 Markets and industries will continue to evolve after the transaction, and the merged entity may be better positioned for further expansion than the purchaser of the divested assets. These forward-looking dynamics, including any potential future constraints on growth, should continue to be considered as part of the divestment assessment.
- 40. In industries characterised by material economies of scale or scope, any potential loss of economies of scale resulting from a carve-out divestment, and/or any gain in scale by

²² Merger Remedies above n21 at [6.23a].

a smaller existing competitor are highly relevant to a dynamic assessment of the divestment's effectiveness. These considerations are central to determining whether the divestment is likely to result in an effective long-term competitor and should therefore be explicitly considered.

41. The CMA recently noted that carve-out divestments may unwind or undermine economies of scale, density or scope, and that such effects can materially increase the risk that a remedy will be ineffective.²³
42. The relevant question is not only whether a divestment creates or preserves a viable business at the point of transfer, but whether it is likely to provide an effective and ongoing competitive constraint following the transaction.
43. As such, the Commission will continue to seek (and the merging parties should seek to provide) robust evidence demonstrating that the divestment package is sufficient to enable the purchaser to compete effectively. This includes:
 - 43.1 assessing the importance of any economies of scale or scope in the relevant market and explaining why the divestment package is sufficient given those market features; and
 - 43.2 taking a dynamic view in addressing any known or foreseeable bottlenecks that may constrain the purchaser's ability to expand or compete effectively over time.

Key lesson 3: Specific regard should be given where the divestment taker is not active in the relevant market

44. While some transitional challenges are inevitable, the Commission should give specific regard to the potential for transitional challenges where the divestment taker is not active in the relevant market.
45. Even where a divestment package contains all the necessary functions, assets and capabilities to compete effectively in the relevant market, it is likely that some operational/transitional challenges will arise. Future decision-making will benefit from continuing to give explicit consideration to these transitional/operational challenges, and the prospect that a purchaser of divested assets will likely face some additional costs in the short term to address these challenges.^{24,25}
46. For example, even where a stand-alone business is transferred, there may be some central functions that take place at a group level. In other cases, there may be a loss of some technical expertise which the new business will need to obtain through investment in training/development of their own staff.

²³ Merger Remedies above n21 at [6.23c].

²⁴ For example, some non-core business functions such as human resources and IT support may be excluded from a divestment package, and it is not likely to be important for the competitive capability of the divested assets. However, the replacement or migration of these functions to new systems will necessarily require additional time and cost for the purchaser.

²⁵ In our limited observation, we also note that these may be underestimated by the purchaser at the time of the transaction.

47. In our case studies, we observed that a divestment purchaser's existing involvement in the relevant market has a bearing on the transitional challenges described to the Commission. The details of these transitional challenges are commercially sensitive and have not been included in this report.
48. Our review suggests that the Commission should expect there to be greater potential for transitional challenges in instances where the divestment taker is less familiar with the assets or business (depending on the purchaser and the facts of the specific divestment under consideration).
49. In future assessment of divestment packages, the Commission should continue to give careful consideration to:²⁶
 - 49.1 the ease with which the purchaser can acquire any specialised knowledge not included in the divestment package, migrate to new back-office systems and/or take other steps to address transitional challenges;
 - 49.2 seeking feedback from employees who are familiar with the relevant assets or who lead the relevant business units to identify any foreseeable transitional issues;
 - 49.3 the nature and extent of operational support associated with key assets in the package, even if the purchaser may be familiar with such assets;
 - 49.4 data on the performance of relevant assets/business units, or of comparable assets; and
 - 49.5 the timeframe and likely extent of any consequences in terms of the ability of the new business to compete effectively.

²⁶ This consideration should be understood in light of the information available at the time and the circumstances of the assessment.

Attachment: Summaries of ex-post merger reviews

1. The results of our reviews of selected cases vary in both depth and practical relevance. These summaries should be read together with the limitations set out earlier in this report and should not be taken to reflect a deep and comprehensive view on the nature of competition in each of the relevant markets.
2. The summaries in this attachment reflect market conditions at the time when each respective review was conducted. They may no longer be accurate in some instances due to the potential for changing market conditions and the time that has elapsed since our reviews and publication of this report.

THL and Apollo

Summary of Commission decision

3. In December 2021, the Commission registered an application from THL Group (Australia) Pty Limited, a subsidiary of Tourism Holdings Limited (THL) seeking clearance to acquire 100% of the shares in Apollo Tourism & Leisure Ltd (Apollo).
4. THL and Apollo are the two largest campervan and motorhome (together, RVs) rental operators in New Zealand. The transaction would have resulted in the removal of THL's largest and closest competitor with regards to both fleet size and composition. In the Statement of Unresolved Issues (SoUI),²⁷ the Commission outlined its competitive concerns which included that there would not be sufficient constraints on the merged entity to prevent it from increasing the prices of RV rentals such that a substantial lessening of competition was unlikely, because:
 - 4.1 other existing RV rental operators had substantially smaller fleets than THL and Apollo and were more limited in their focus; and
 - 4.2 entry or expansion by RV rental operators was unlikely to occur in response to price increases to constrain the merged entity in the short to medium term due to factors such as supply chain shortages.
5. The Commission considered that the parties' key area of overlap was in four to six-berth motorhome rentals in New Zealand, where the merged entity would have a market share significantly larger than that of any other RV rental operator, potentially giving rise to unilateral effects. This was in light of rival operators' substantially smaller fleets and narrower market focus, the limited likelihood of entry or expansion, and the unlikely prospect that wholesalers, online travel agents, peer-to-peer options, or alternative accommodation and transport options would provide a sufficient competitive constraint.

²⁷ THL/Apollo Statement of Unresolved Issues (28 April 2022). Available at: https://www.comcom.govt.nz/assets/pdf_file/0025/282490/THL-and-Apollo-Statement-of-Unresolved-Issues-28-April-2022.pdf.

6. In response, THL and entities within the Apollo group of companies jointly offered a divestment undertaking under which it would divest certain assets to Jucy. The divestment package comprised:²⁸
 - 6.1 72% of Apollo's existing four to six-berth motorhome rental fleet in New Zealand, being its newest motorhomes by age;
 - 6.2 Apollo's premium Star RV motorhome brand;
 - 6.3 Apollo's forward rental bookings in New Zealand for four to six-berth motorhomes, relating to the motorhomes to be divested; and
 - 6.4 the lease to an existing Apollo depot in Auckland.
7. The parties also entered into related arrangements where an Apollo entity could provide certain services to Jucy on a transitional basis, and the merged entity would supply 40 motorhomes in calendar year 2023 with an option for an additional supply or procurement of a further 40 motorhomes in calendar year 2024. These arrangements did not form part of the Divestment Undertaking, but the Commission took them into account in its assessment.
8. The Commission concluded that it was satisfied that the proposed acquisition, together with the proposed divestment, would not be likely to have the effect of substantially lessening competition, and that there was no material purchaser, asset, or composition risk in relation to the divestment, for the following main reasons:²⁹
 - 8.1 The proposed divestment would give Jucy an immediate and sizeable RV rental fleet, including some of the newest four to six-berth motorhomes in Apollo's fleet.
 - 8.2 Jucy would likely be able to expand materially, supported by its commercial agreement with THL and Apollo to supply additional four to six-berth motorhomes, and by the support and capital of Next.
 - 8.3 The market structure would remain broadly similar to the existing position, with little change in the factors that might facilitate coordination, meaning coordinated effects were no more likely to arise.

Ex-post findings

9. Our ex-post review of this case involved interviews with the parties, as well as with competitors and an online travel agency (OTA). We also supplemented our review with desktop research and data on the current market structure from the New Zealand Transport Agency Waka Kotahi (NZTA).

²⁸ THL/Apollo Public divestment proposal (10 June 2022). Available at: https://www.comcom.govt.nz/assets/pdf_file/0024/286710/THL-and-Apollo-Public-divestment-proposal-10-June-2022.pdf.

²⁹ See THL Group (Australia) Pty Limited and Apollo Tourism & Leisure Ltd [2022] NZCC 32. Available at: https://www.comcom.govt.nz/assets/pdf_file/0022/321583/5B20225D-NZCC-32-THL-and-Apollo-Merger-clearance-determination-23-September-2022.pdf.

10. NZTA maintains the national Motor Vehicle Register, which records information about vehicles used on New Zealand roads. NZTA provided the Commission with detailed registration data for all companies active in the RV market, enabling us to track the growth of suppliers over time (including by types of vehicles (campervans/motor caravans/buses) and vehicle seat numbers³⁰) and compare these findings with the Commission's original estimates from the investigation.
11. We have not included our analysis in this report due to the non-public nature of this dataset.
12. Our review focused on the effectiveness of the divestment, while noting other relevant developments. Our findings are set out below.

Has Travvia (Jucy/Star RV) emerged as an effective competitor in the four to six-berth motorhome segment post divestment?

13. Market participants indicated that Travvia (the umbrella brand covering Jucy and Star RV), through Star RV, has emerged as an effective competitor in the four to six-berth motorhome segment following the divestment. The divestment and associated commercial agreement gave Travvia immediate scale, and Travvia maintained and expanded its operational presence across Auckland, Christchurch and Queenstown.
14. Since acquiring the Star RV brand and assets, Travvia has continued to expand its business, including with a two-berth motorhome product (Polaris 2) under the Star RV brand. Available information indicates that Travvia continues to compete actively, including through growth in fleet, brand presence and the OTA channel.
15. Our review also indicates that THL remains the largest supplier in the market. The difference in scale between THL and its small and mid-sized competitors may limit the extent to which other RV operators, including Travvia, are able to continue to compete effectively with THL.
16. On balance, we find that the divestment package has enabled Travvia to exert an ongoing competitive constraint on THL post-merger, although further information from a more comprehensive review would be required to gain a deeper understanding of the extent to which Travvia and other suppliers in the market continue to compete effectively, and more generally, the full set of competitive constraints on the merged entity.

³⁰ We note limitations in the NZTA Motor Vehicle Register data, as set out here: <https://opendata-nzta.opendata.arcgis.com/datasets/NZTA::motor-vehicle-register/about>. These may affect estimated shares in the overall campervan and motorhome rental market and in narrower segments. To allow for comparison with the Commission's original market definition, we use the number of seats in a vehicle as a proxy for the number of berths. Thus, berth size is inferred from seat numbers. Although vehicles must have at least as many seats as berths, some may have more seats than berths. Estimates by berth size should therefore be treated with some caution. However, in our view this data remains sufficient for purposes of this review and provides the best available basis for assessing shares by segment. See: <https://www.nzta.govt.nz/vehicles/choosing-the-right-vehicle/features-that-protect-you/seat-belts/seat-belts-in-motorhomes>.

What risks were associated with the divestment package and have they crystallised?

17. During the original investigation, the Commission outlined its view that:³¹
- 17.1 **there is no purchaser risk** with the proposed divestment, because Jucy is an upfront purchaser that is sufficiently independent and has the necessary expertise, experience and resources to be an effective competitor to the merged entity in the national market for RV rentals;
 - 17.2 **there are limited to low asset risks** given the short period before the divestment would occur, the requirement that the divestment be completed before the merger, and the appointment of an independent monitor to audit and report on the merging parties' compliance with the undertaking; and
 - 17.3 **regarding composition risk**, the Commission was satisfied that the composition of the proposed divestment would enable Jucy to operate a viable RV rental business across a range of RVs, including four to six-berth motorhomes, in competition with the merged entity. It considered that the proposed divestment comprised the assets Jucy required to compete in the supply of four to six-berth motorhome rentals, having regard to the size and assets of Jucy's existing business, including the Star RV brand, forward bookings, and motorhomes.
18. The market feedback from our review suggests that the divestment undertaking was successful and that no material divestment risks have crystallised, although as noted above, the ongoing strength of the competitive constraint from Travvia is somewhat less certain due to the growth in THL's fleet size in the period since the transaction.
19. The divestment package in this case was a partial divestment that did not eliminate in full the competitive overlap between the merging parties. As noted above, divestments of this nature carry a higher risk profile due to:
- 19.1 **risks associated with a partial divestment**, including more significant composition risk, the potential that carving out a collection of assets from within an existing business unwinds or undermines economies of scale, density or scope in a way that makes it hard for the new owner of these assets to compete, and the feasibility of separating these assets from a wider business; and
 - 19.2 **risks associated with the remaining overlap**, ie, that the divestment does not address the potential competitive concern in full.
20. However, overall, the feedback from our review suggests that Travvia (Jucy/Star RV) achieved scale, maintained and expanded its operational presence, and continues to compete actively in the market. This is consistent with the divestment having enabled Jucy/Star RV to continue exerting a competitive constraint on THL following the merger.

³¹ THL Group (Australia) Pty Limited and Apollo Tourism & Leisure Ltd [2022] NZCC 32 at [120]-[120.3].

21. Our review also emphasises the importance of taking the scale of the purchaser into account, including a dynamic view as to whether it is likely to have the ability to continue to build on that scale over time, in order to provide an effective and ongoing competitive constraint following the transaction.

Other findings to note: New entry and countervailing power

New entry

22. In this review, all the market participants we spoke with mentioned the recent, significant new entry in the national market for RV rentals, including by Indie Campers (which entered the New Zealand market in 2023).³²
23. Indie Campers originated in Portugal, operates internationally, and continues to expand. While Indie Campers appears to be a credible and growing new entrant in New Zealand with international operations, it currently has a limited presence in New Zealand.
24. Market participants also identified Roadsurfer, a German-based international RV operator, as a potential entrant. However, although it announced entry into New Zealand from Autumn 2026, with bookings expected to open from October 2025, we have not seen evidence to suggest that this entry has materialised yet.³³

Countervailing power of wholesalers and OTAs

25. In its original investigation, the Commission considered that wholesalers and OTAs had limited countervailing power to constrain the merged entity. Wholesalers indicated that THL and Apollo were often the only operators with sufficient fleet size and range to meet their needs, and some reported that they had been unable to resist price increases. The Commission also considered that, although OTAs were willing to deal with a wider range of operators, they remained reliant on THL and Apollo for a significant share of New Zealand RV rental bookings and did not have sufficient ability to constrain price increases or reductions in service quality.
26. Market participants indicate that OTAs and trade agents continue to play an important role in bookings and may now exert some degree of countervailing power. Available information indicates that some operators have sought to reduce reliance on intermediaries by shifting bookings towards direct channels, while the entry and expansion of other rental operators appear to have strengthened the bargaining position of OTAs, with negotiations described as taking place on a level playing field. Overall, this suggests that wholesalers and OTAs may provide some constraint on price increases or reductions in service quality, although that constraint appears to remain limited.

³² See: <https://indiecampers.com/>.

³³ See: https://www.linkedin.com/posts/roadsurfer-gmbh_roadsurfer-campervanlife-newzealand-activity-7363863063474692099-PcXW.

Zoetis and Betrola (Jurox)

Summary of Commission decision

27. In October 2021, the Commission registered an application from Zoetis seeking clearance to acquire the entirety of Betrola, which includes the Jurox Group of companies. Zoetis and Jurox are both animal healthcare companies supplying a range of products in New Zealand for companion animals and production animals.
28. The Commission considered that the parties competed most closely in pre-anaesthetic products and sedatives for companion animals used to calm animals prior to a procedure and antidotes used to counteract sedatives. The Commission's assessment focused on whether the proposed acquisition would be likely to substantially lessen competition through unilateral, coordinated, or conglomerate effects.
29. In the supply of antidotes used to counteract sedatives for companion animals, the Commission identified potential concerns that the proposed acquisition would remove competition between Zoetis and Jurox, leaving only one other competitor. To address these concerns, Zoetis surrendered its rights to distribute its antidote product, Antisedan, in New Zealand in August 2022, prior to the Commission's final decision. Before this surrender, Zoetis had been supplying Antisedan under a distribution agreement with Orion Pharma Animal Health (Orion), a global pharmaceutical company based in Finland.
30. Following Zoetis' surrender of distribution rights, Orion entered into a distribution arrangement with SVS Veterinary Supplies Limited (SVS), also in August 2022. As a result, Zoetis was no longer supplying an antidote in New Zealand, and the acquisition did not result in any overlap, or any loss of competition in this product area.
31. The Commission therefore focused its substantive assessment on the opioid sedative market and the non-opioid sedative market and concluded that the proposed acquisition would not be likely to substantially lessen competition in either market, for reasons set out in the determination.³⁴

Ex-post findings

32. Our ex-post review of this case involved interviews with the parties, as well as with competitors, wholesalers and a veterinary group. We also supplemented our review with desktop research, including publicly available Agricultural Compound and Veterinary Medicines (ACVM) Register data on new product registrations.
33. Our review focused on the effectiveness of the divestment, while noting other relevant developments. Our findings are set out below.

³⁴ Zoetis Inc. and Betrola Pty Limited (which owns the Jurox Group of companies) [2022] NZCC 31.

Has SVS emerged as an effective competitor in the market for antidotes for companion animals following the divestment of Antisedan?

34. The available evidence indicates that SVS has emerged as an effective competitor in the market through its supply of Antisedan, since taking over the distribution rights.
35. Our review did not identify any disruption or other material changes in the market for antidotes for companion animals. Market participants reported that supply of antidote products has been stable, including in relation to pricing.
36. Market participants also report that there has been no new entry in the supply of antidotes for companion animals, citing the small size of the market in New Zealand and the availability of existing products. We further understand that veterinary customers have a strong preference to continue to use the products that they know and trust.

What risks were associated with the divestment package and have they crystallised?

37. During the course of the merger review, Zoetis submitted a draft divestment undertaking relating to Zoetis' rights to distribute and supply Antisedan in New Zealand.³⁵ Zoetis submitted that the distribution agreement held between Zoetis and Orion would mitigate any risks associated with the divestment undertaking, because:
 - 37.1 **regarding purchaser risk** — Orion has the ability and incentive to select a replacement distributor with the necessary expertise, experience and resources to be a viable and competitive supplier;
 - 37.2 **regarding asset risk** — the distribution agreement includes provisions that addresses what happens on Zoetis' termination, including preventing Zoetis from reducing marketing and sales efforts prior to the replacement distributor being appointed. It is in Orion's ongoing commercial interests to ensure that Zoetis complies with its obligations under the agreement, prior to the replacement distributor being appointed, and similarly it is in Zoetis' ongoing best interests not to weaken the competitive effectiveness of Antisedan in New Zealand or to breach the distribution agreement, because it has a significantly broader relationship with Orion to maintain; and
 - 37.3 **regarding composition risk** — it was implicit that this risk was very low because it eliminated the overlap between the parties in full (as regarding the antidote market) and reflected the full extent of Zoetis' function.
38. At the time of entering into the distribution arrangement with Orion, SVS was a large wholesaler of animal health products to veterinarians and vet clinics in New Zealand, making it well placed to take on the distribution of Antisedan.
39. Market feedback from our review suggests that no risks crystallised. SVS continues to be a large wholesaler of animal health products, and Antisedan is part of their ongoing portfolio.

³⁵ See Zoetis' Letter to the Commerce Commission on Draft Divestment Undertaking (5 July 2022) Available at: https://www.comcom.govt.nz/assets/pdf_file/0034/286927/Zoetis-Letter-to-Commerce-Commission-on-draft-divestment-undertaking-5-July-2022.pdf.

Other findings to note: Competitive constraints, entry and commercial conduct

40. The available evidence indicates that established competitors continue to constrain the merged entity across both opioid and non-opioid sedatives. Interview evidence did not indicate reduced competition following the merger. Wholesalers reported stocking all products, competitive conditions were described as strong, and pricing pressure from veterinarians and clinics remained. Market shares were reported to have remained broadly stable, and there was no post-merger change in pricing strategy for Zoetis and Jurox products because substitutable generics remained available. Current information also indicates that competitors were able to expand supply when some manufacturers experienced temporary manufacturing issues.
41. By contrast, there was no indication that products outside the relevant market provided a meaningful constraint, with interviewees consistently reporting that veterinarians were reluctant to switch products, including between generics with the same active ingredient.
42. There was limited evidence of new entry or expansion. We have not observed any new entry into the opioid sedative market since the merger. In the non-opioid sedative market, one new product was registered in early 2025 for use in dogs only, but the available information did not allow an assessment of the extent of sales in New Zealand. The evidence suggests that entry and expansion remain constrained by regulatory barriers, the small size of the New Zealand market, the sticky preferences of vet clinics and veterinarians, and the time required to recover the investment needed to register and supply new products.
43. The available evidence also does not indicate that the merged entity engaged in tied or bundled deals that impaired competitor effectiveness. While bundling was described as common in the industry and Zoetis' broader portfolio may have made its offers more attractive, no stakeholder identified anti-competitive bundling or tying.

Pacific Bidco and Pulse Health

Summary of Commission decision

44. On 17 September 2021, the Commission registered an application from Pacific 2021 BidCo NZ Limited (Pacific) seeking clearance to acquire all of the shares in Pulse Health NZ Limited (Pulse) from Healthe Care Australia Pty Ltd (Healthe Care). This transaction formed part of a series of related (and separate) transactions being undertaken by Pacific to acquire the hospital assets of Healthe Care.
45. Through their respective corporate structures, Pacific and Healthe Care both operated private surgical hospitals in the Wellington region:
 - 45.1 Pacific owned Evolution Healthcare Group, which wholly owns Bowen Hospital and Wakefield Hospital in Wellington; and
 - 45.2 Healthe Care owned the Boulcott Hospital in Lower Hutt, in the Wellington region.
46. As part of the Application, Pacific offered an undertaking to divest the entirety of Healthe Care's business in New Zealand, including the Boulcott Hospital in Lower Hutt.³⁶ This meant that taking into account the proposed divestment, there would continue to be three independent private surgical hospitals in the Wellington region, with Southern Cross Hospital continuing to be owned and operated by Southern Cross Healthcare in Newtown, Wellington.
47. The Commission was satisfied that the proposed divestment would remove all competitive overlap between the parties and reinstate the competitive dynamic between the hospitals which existed prior to the acquisition. Subject to the proposed remedy, the Commission was therefore satisfied that the transaction will not have, or would not be likely to have, the effect of substantially lessening competition.³⁷
48. On 17 November 2021, the Commission accepted the divestment undertaking under s69A of the Commerce Act 1986. The undertaking required the Commission's approval of the purchaser of the Boulcott Hospital.
49. In 2022 the Commission approved Rangatira Limited (Rangatira) as the purchaser of the Boulcott Hospital divestment business. Rangatira is an investment holding firm with a portfolio of private equity investments in New Zealand and Australia. Rangatira subsequently sold a 31% stake to 24 of the specialists operating from the facility.³⁸

Ex-post findings

50. Our ex-post review of this case involved interviews with the parties, competitors, and public and private purchasers of elective surgeries. We also used desktop research and newly available strategy and publicly available waitlist data from Health New Zealand to assess market developments, including trends in public sector demand that might affect the demand for private elective surgeries.

³⁶ Pacific 2021 Bidco NZ Limited and Pulse Health NZ Limited [2021] NZCC 23 at [22].

³⁷ Pacific 2021 Bidco NZ Limited and Pulse Health NZ Limited [2021] NZCC 23 at [40].

51. Our review focused on the effectiveness of the divestment, while noting other relevant developments. Our findings are set out below.

Has Boulcott Hospital emerged as an effective competitor in the market for private elective surgeries following the divestment?

52. The available evidence indicates that, following divestment, Boulcott Hospital has remained a viable and expanding competitor in the Wellington region.
53. Since acquiring Boulcott Hospital, Rangatira has:
- 53.1 invested significantly into Boulcott Hospital’s core infrastructure, including the development of two additional operating theatres on site, which Rangatira expected would transform the hospital’s capacity;³⁹ and
 - 53.2 sold a 31% stake to 24 of the specialists operating from the facility, aligning incentives of the specialists and the hospital and firming demand expectations.⁴⁰
54. Feedback from industry participants suggests that Boulcott Hospital’s performance has been very stable over the period spanning the merger, including in relation to price, volume of procedures, procedure mix and relationship management, supporting the view that the divestment has not affected Boulcott Hospital’s competitive position.
55. The evidence also indicates that Boulcott Hospital benefits from location advantages because it is adjacent to the public hospital where many surgeons work. We understand that surgeons’ location preferences can be an important factor in determining where elective surgeries are performed. More generally, hospitals compete intensely to attract and retain surgeons, because surgeons influence both case flow and the choice of operating site.
56. Other private hospitals in the region have also expanded capacity, which appears to have intensified competition for surgeons and patient volumes and may make it more difficult to compete for surgeon engagement, increasing the value of Rangatira’s co-ownership model.
57. Overall, the available evidence indicates that, after the divestment, Boulcott Hospital has remained a viable and expanding competitor in a market where capacity expansion and competition for surgeons remain central to competitive constraint.

³⁸ See Rangatira Investments, Annual Report for the financial year ended 31 March 2023, p 11 and note 27(b), p 75, available at <https://assets.rangatira.co.nz/files/2023-jun-29-ar-annual-report-at-31-mar-2023.pdf>.

³⁹ Rangatira Investments, Annual Report for the financial year ended 31 March 2024, p 10, available at <https://assets.rangatira.co.nz/files/2024-jul-04-ar-annual-report-at-31-mar-2024.pdf>.

⁴⁰ Rangatira Investments, Annual Report for the financial year ended 31 March 2023, p11 and note 27(b), p 75, available at <https://assets.rangatira.co.nz/files/2023-jun-29-ar-annual-report-at-31-mar-2023.pdf>.

What risks were associated with the divestment package and have they crystallised?

58. During the original investigation, the Commission outlined its view that:
- 58.1 **there is limited purchaser risk** with the proposed divestment, because Boulcott Hospital was an established and profitable private hospital, had locational advantages from being adjacent to Hutt Valley public hospital and being the only private hospital in Lower Hutt, and was therefore likely to be attractive to potential purchasers. The Commission also expected demand for private hospital services to rise;
 - 58.2 **there are low asset risks**, given the obligations in the undertaking requiring Pacific to preserve the economic viability and marketability of Boulcott Hospital pending divestment, the appointment of an independent divestment manager to operate the business during the divestment period, and the requirement that the business be divested within the specified timeframe; and
 - 58.3 **regarding composition risk**, the Commission was satisfied that the divestment package included the assets and arrangements needed for Boulcott Hospital to continue as a viable and effective independent hospital in competition with both Evolution and Southern Cross hospitals in Wellington. The Commission recognised that Boulcott Hospital had operated for several years as a stand-alone hospital with relatively limited oversight from its parent company, and that its financial, reporting, and information technology links with the wider Health Care group were capable of being severed with limited interruption.
59. The available evidence from our ex-post review suggests that the divestment undertaking was successful and that no material divestment risks have crystallised.
60. Boulcott Hospital has remained independently operated and competitively active following divestment, with expanded theatre capacity, substantial reinvestment in premises and core services, and an ownership structure that includes specialist co-ownership.

Other findings to note: Demand growth and capacity expansion

61. The available evidence indicates that demand for elective private hospital services in the region increased as expected after the merger. This is reflected in expansion of theatre capacity across hospitals, which is consistent with demand exceeding available capacity. While public elective surgery waitlists increased over the period, the share of patients waiting less than 120 days remained relatively stable, suggesting that increased supply may have helped to accommodate higher demand.
62. Competition therefore appears to have been shaped both by investment in additional capacity and by competition for scarce clinical staff and surgeon engagement.