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Our ref: 63487  
Contact officer: Nigel Vise  
Contact phone: 03 9290 1468

15 January 2018

Dear Interested Party

**Re: Request for submissions: Qube Logistics – acquisition of Maritime Container Services**

The Australian Competition and Consumer Commission (**ACCC**) is seeking your views on the completed acquisition of Maritime Container Services (**MCS**) by Qube Logistics (**Qube**) (the **acquisition**).

MCS operates shipping container import and export handling, empty container storage and road and rail transport services in Sydney. Qube operates shipping container import and export handling and road and rail transport services, and limited empty container storage in Sydney. Further details regarding the acquisition can be found at **Attachment A**.

The ACCC's investigation is focused on the impact on competition. In particular, we are seeking your views on:

- the impact on prices for empty container storage services
- whether MCS and Qube compete closely in the supply of empty container storage services
- whether Qube will restrict supply of empty container storage services to some customers as a result of the acquisition
- whether Qube will restrict supply of road and/or rail transport services to customers of other empty container parks as a result of the acquisition.

Further issues you may wish to address are set out in **Attachment B**.

This matter is public and you can forward this letter to anybody who may be interested.

The legal test which the ACCC applies in considering the acquisition is in section 50 of the *Competition and Consumer Act 2010*. Section 50 prohibits acquisitions that are likely to have the effect of substantially lessening competition in a market.

Please provide your response by no later than **5pm on 1 February 2018**. Responses may be emailed to [mergers@acc.gov.au](mailto:mergers@acc.gov.au) with the title: *Submission re: Qube Logistics – acquisition of Maritime Container Services*. If you would like to arrange a time to discuss the matter with ACCC officers, or have any questions about this letter, please contact Nigel Vise on 03 9290 1468.

While the acquisition has already been completed, Qube has provided the ACCC with an undertaking that it will keep the MCS business separate and independent from the remainder of Qube's existing operations until at least 14 March 2018.

Updates regarding the ACCC's investigation, together with a copy of the undertaking provided by Qube, will be available on the ACCC's Public Mergers Register at ([ACCC mergers register](#)).

***Confidentiality of submissions***

The ACCC will not publish submissions regarding the acquisition. We will not disclose submissions to third parties (except our advisors/consultants) unless compelled by law (for example, under freedom of information legislation or during court proceedings) or in accordance with s155AAA of the *Competition and Consumer Act 2010*. Where the ACCC is required to disclose confidential information, the ACCC will notify you in advance where possible so that you may have an opportunity to be heard. Therefore, if the information provided to the ACCC is of a confidential nature, please indicate as such. Our [Informal Merger Review Process Guidelines](#) contain more information on confidentiality.

Yours sincerely



Tom Leuner  
General Manager  
Merger Investigations

## Attachment A

### Qube Logistics

Qube is an Australian logistics and infrastructure company. It operates facilities with empty container storage and handling capabilities in metropolitan Sydney and provides both road and rail transport services for the movement of containers.

Qube operates two intermodal terminals in the greater Sydney region: Yennora Intermodal Terminal (**Yennora**) in the western suburbs of Sydney and Macarthur Intermodal Shipping Terminal (**MIST**) in Minto, near Campbelltown. These terminals both have rail access, although MIST is only accessible from the passenger rail network.

Yennora and MIST are principally metropolitan orientated import/export facilities, supported by port shuttles to and from Port Botany and road transport services. The logistics tasks supported by these facilities are principally import containers for distribution within metropolitan Sydney and metropolitan-packed export containers.

Both facilities operate limited empty container storage services. Yennora has capacity for approximately 1,500 twenty foot equivalent units (**TEU**). MIST has capacity for approximately 1,000 TEUs.

Qube is also developing the Moorebank Intermodal Terminal, which is currently scheduled to open in early 2019 and will include an import-export terminal with container storage capabilities and rail access to Port Botany via the Southern Sydney Freight Line. When completed, Qube anticipates that the Moorebank Intermodal Terminal will have an empty container storage capacity of 5,000 TEUs.

Qube also offers container transport services by both road and rail. It operates rail shuttle services between Port Botany and each of its Yennora and MIST intermodal terminals. It also operates rail services from Port Botany to regional New South Wales.

### Maritime Container Services

MCS operates a business that specialises in the transport, storage and handling of shipping containers in Sydney. MCS operates across two sites in the Sydney metropolitan region:

- **Cooks River:** The Cooks River site is in St Peters, approximately 10km from Port Botany and is directly connected to the Port Botany Freight Line. The Cooks River site has dedicated empty container storage of up to 10,000 TEUs, and container maintenance, cleaning and repair services. It is accessible by road and rail and is an open access facility available to all rail and road operators for pick-up and delivery of containers. There is a dedicated rail shuttle service between the site and Port Botany.
- **Banksmeadow:** The Banksmeadow site is located approximately 3km from Port Botany. The site is accessible by road only and is primarily operated as an empty container park, providing empty container storage of up to 3,500 TEUs.

MCS also supplies road transport for containers, including import/export shipments to Botany Bay and other ports in NSW as well as empty shipping container repositioning.

## Attachment B

1. Please provide a brief description of your business or organisation.
2. Please outline the reasons for your interest in the acquisition, including any commercial relationship/s with either of MCS or Qube.

### Relevant market(s)

3. The ACCC understands that the merger parties overlap in the supply of empty container storage services. Please describe your organisation's purchase/supply of empty container storage services. The ACCC would appreciate receiving information about:
  - a. how you source these services
  - b. the volumes of containers that you require to be stored and whether this influences your choice of service provider
  - c. whether location is an important factor in your choice of supplier of these services. If so, why?
  - d. is proximity to the port an important consideration in your choice of empty container storage parks? If so, why?
  - e. what other factors are relevant to your choice of supplier of empty container storage services.
4. The ACCC understands that container storage parks are often accessible via both road and rail. The ACCC would appreciate information on:
  - a. whether rail access is an important factor in your choice of supplier of these services. If so, why?
  - b. whether it is important to have rail access via a dedicated freight line or whether access from passenger rail lines is sufficient
  - c. whether the importance of rail access differs with respect to containers for import/export or empty containers for storage
  - d. who are the suppliers of rail transport services delivering to empty container storage parks and intermodal hubs?
  - e. whether the services offered by these suppliers are interchangeable with those offered by Qube.
5. As a result of the acquisition Qube owns dedicated empty container storage parks (including the Moorebank Intermodal Terminal from early 2019) as well as supplying road and rail transport services for the transport of empty containers. The ACCC would appreciate information on:
  - a. whether Qube would have the ability or incentive to refuse supply of transport services to customers of other suppliers of empty container storage services (or supply those customers on disadvantageous terms).
  - b. whether Qube would have the ability or incentive to refuse supply of empty container storage services to customers of other suppliers of road

and rail transport services for the transport of empty containers (or supply those customers on disadvantageous terms).

- c. whether empty container storage services are normally acquired as part of a bundled offering, so that the same supplier will supply the storage services as well as the road or rail transport services of the empty containers.
- d. how customers arrange road and rail transport services for empty containers to be stored in empty container storage facilities.

### **Potential competitive constraints**

6. Please identify and describe other suppliers of empty container storage services in New South Wales (including but not limited to Tyne Container Services in St Peters, DP World's Botany Intermodal facility and the Enfield Intermodal Logistics Centre). To what extent:
  - a. do these suppliers compete with Qube and MCS? Relevant factors may include geographic areas of supply, scale or service standards. Please provide specific examples where possible.
  - b. are the services offered by these suppliers interchangeable with those offered by Qube and/or MCS?
  - c. do these competing suppliers offer dedicated empty container storage services, or are these services combined with import/export distribution services?
7. Are there other operators of import/export intermodal terminals in New South Wales that do not currently offer empty container storage services? If so, what would be required for them to offer these services?
8. Please address the likelihood of customers switching a significant proportion of their demand to competing suppliers of empty container storage services in response to the combined Qube/MCS attempting to increase prices by, for example, 10%. In addressing this point, please consider competing suppliers' excess capacities, ability to reallocate space from other activities to empty container storage and any obstacles to expansion.
9. If you operate a shipping line:
  - a. could you set up your own empty container park?
  - b. if so, in what circumstances would you be likely to do so?
  - c. what would be the main barriers to you setting up your own empty container park?
10. The ACCC understands that both Qube and MCS operate road container transport services. Please identify and describe other suppliers of road container transport services in New South Wales. To what extent:
  - a. do these suppliers compete with Qube and MCS? Relevant factors may include geographic areas of supply, scale or service standards. Please provide specific examples where possible.

- b. are the services offered by these suppliers interchangeable with those offered by Qube and/or MCS?
- c. could you source these services from alternative suppliers if a combined Qube and MCS attempted to increase prices, for example, by 10%.

### **Management of containers**

- 11. How do shipping lines manage the return of empty containers from importers and the delivery of empty containers to exporters?
- 12. Who is responsible for deciding where empty containers are to be stored and when they are to be returned to the shipping line.
- 13. As between the shipping line, importer/exporter and empty container storage park operator:
  - a. who is responsible for the transport and delivery of containers?
  - b. who chooses which transport method and/or supplier to use?
  - c. who engages and pays the transport supplier?

In answering this question, please describe the stages in the logistics chain and who is responsible for organising and providing the services provided at each stage.

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

- 14. Please provide any additional information or comments, or identify other competition issues, that you consider relevant to the ACCC's consideration of the acquisition under section 50 of the Act.