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BUSINESS REVIEW

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ROAD TEST

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MANDATORY DISCLOSURE NEEDED

Mergers process broken: ACCC

DAVID ROSS

Cass-Gottlieb

The competition regulator says the nation's current mergers and takeovers notification scheme is broken, with two of the three proposed reforms unlikely to improve the business landscape for consumers.

In a submission to a Treasury review into the nation's takeovers system, the Australian Competition & Consumer Commission said a mandatory disclosures regime was the best plan.

Treasury opened its mergers reform consultation last month, focusing on whether the current rules and processes were "effective, enabling beneficial mergers while addressing those that could be anticompetitive", and looking at how the system could be improved.

The ACCC said its submission to Treasury's review was aimed at showing that, without reform, business and consumers would "pay higher prices and have less choice".

ACCC chair Gina Cass-Gottlieb said Australia was an outlier among its OECD peers for its current mergers and acquisitions system that did not require disclosure of proposed deals.

"Evidence shows that Australia's economy is being impacted by weakened competition in many sectors, risking higher prices for consumers and businesses," Ms Cass-Gottlieb said.

"The ACCC does not have the tools it needs to see and prevent all anticompetitive mergers, and it means that harmful mergers may be taking place under the radar."

The ACCC proposed that Australia adopt the third of the three options presented by Treasury in its discussion papers.

This would see all mergers go to the ACCC for approval, with the regulator required to be satisfied deals were "not likely" to substantially lessen competition.

In its submission, the ACCC notes that close attention needed to be given to the incentives any reform option created for merger parties, given "commercial parties act rationally to put themselves in the best position to get their deals through".

The ACCC said the third option was "designed to take into account these incentives, address the current concerns about the effectiveness of Australia's merger control regime, and achieve the policy considerations that Treasury has identified are relevant to merger control."

However, the ACCC said it recognised "the vast majority of merger transactions do not harm competition", noting it expected 90 per cent of all transactions would be dealt with by a notification waver from the regulator.

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Bonett banks on high-end retail precincts

NIC WALKER

Shaun Bonett says demand for flagship boutiques is 'being fuelled by workers returning to CBDs and a resumption of international tourism'

EXCLUSIVE

JOHN STENSHOLT

Billionaire property magnate Shaun Bonett has doubled down on the revamp of his retail assets in Adelaide and Brisbane, betting on luxury brands to meet pent-up demand from cashed-up locals and visitors.

His Precision Group has secured two key new luxury brands, one in Adelaide, where The Hour Glass specialty watch group is opening at its Adelaide Central Plaza, and the other Australian business Paspaley at MacArthur Central Shopping Centre in Brisbane.

Bonett said the South Australian and Queensland capital cities were increasingly attractive to luxury brands due to an increase in flights from overseas and relatively buoyant foot traffic given both centres suffered fewer lockdowns during the pandemic than other states on the east coast.

"The demand for flagship boutiques is being fuelled by workers returning to CBDs and a resumption of international tourism, as retailers tap into the continued demand for experience-based, physical stores," Bonett said.

"And what you're finding with these big international brands is a lot of the larger countries that have fuelled their growth over the last decade, like China or Russia, are no longer doing as well. So they're needing to find new places, and are doubling down on jurisdictions they consider offer the greatest level of stability. Like Australia."

Bonett – who is 71st in this year's The List: Australia's Richest 250, with total wealth of $1.97bn – is spending about $125m over three years to develop Adelaide's first luxury retail precinct in

THE LIST
AUSTRALIA'S RICHEST
250

Rundle Mall that has included French fashion house Louis Vuitton opening up what has been a successful temporary pop-up store.

Initial plans had the Louis Vuitton store operating until just after Christmas, a period Bonett would like parent company LVMH to extend.

In the meantime, he has struck a deal with The Hour Glass to join the likes of luxury retailers Tiffany & Co and TAG Heuer at Adelaide Central Plaza.

"Luxury brands look to position themselves as close to their peer brands as possible. It's all about location. That is the fundamental piece of the puzzle and is ... what we are trying to deliver," Bonett said.

Other global brands near Adelaide Central Plaza include Apple and Sephora. Breitling Oceania has also just opened its first Breitling Boutique in Adelaide's King William St.

Adelaide Central Plaza will be the first outlet in South Australia for The Hour Glass, and is slated to open in May next year. The 209sq m boutique will face Rundle Mall and showcase multiple luxury watch brands.

In Brisbane, Paspaley will open a flagship store at Precision Group's MacArthur Central Shopping Centre in March.

At the Queen St entrance to MacArthur Central, the 229 sq m, Paspaley Boutique is being constructed from Italian stone and will be three times the size of the group's previous Brisbane location at Queens Plaza.

"I don't think we appreciate the fact enough that Adelaide, Brisbane and Perth basically avoided much of the pandemic," Bonett said.

"So the culture there is pretty healthy and it has been preserved well and there's an appeal to go to the CBD for their own residents, as well as attracting a higher number of tourists.

"And that is the thing about the luxury sector. International tourist numbers are increasing to these places because they are considered hidden jewels, and when they travel they tend to spend more (on luxury goods).

"And you've got people here who may not have mortgages now and have previously been saving for the future.

"Well, the future has come and suddenly they are buying these luxury items."

State in peace deal with Grocon

DAVID ROSS

The gruelling court fight between the NSW government and former property developer Grocon is drawing to a conclusion, but any payout to creditors looks a way off as continued legal troubles hang over a final resolution.

Sources have told The Australian Grocon's $270m claim against Infrastructure NSW will be put to bed in a confidential court settlement expected to fall well short of the original figure.

The deal comes after several weeks of back and forth between Grocon's lawyers, creditors and iNSW and its lawyers as a court fight between the two sides next year approached.

NSW Supreme Court judge Andrew Bell moved to pull the trial on December 1 after iNSW indicated it was close to reaching a settlement with Grocon.

The payout, set to be formalised after the matter is concluded in the NSW Supreme Court, sets the stage for the final payout of Grocon's creditors under a deed of company arrangement signed in May 2021.

The DOCA, hashed out by King and Wood Mallesons, saw

Grollo

Grocon boss Daniel Grollo propose to tip millions of dollars of his own funds to supplement a return to creditors and former Grocon employees.

Creditors had taken aim at Grocon, claiming they were owed at least $104m.

The deal proposed by Mr Grollo resulted in Grocon paying out a number of employee entitlements and small creditors with claims below $10,000.

The tax office was also handed an upfront $6m payment to cover an overall $13.7m tax bill Grocon had run up.

Mr Grollo also stumped up $13.32m in cash for the deal, after creditors turned their noses up at an original $10m personal cash contribution made by the Grocon scion.

However, large creditors and bond providers were offered just 2.5c-2.9c in the dollar on claims made against Grocon, with the offer of a cut of any future return from the construction company's litigation against the NSW government and the sale of several assets.

KordaMentha administrators have since sold a number of Mr Grollo and Grocon assets, including a penthouse apartment in Melbourne's Eureka Tower.

Large creditors reported almost $31m in claims against Grocon, while bond providers reported $17.1m in funds they claimed from the administration of the construction group.

Details of the payout from iNSW will be revealed in time, as funds flow to creditors, but sources close to both sides were tight-

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Behind regulator's call for bigger say in deals

ERIC JOHNSTON

The way Gina Cass-Gottlieb sees it, the competition watchdog needs to be part of the merger process from the start, and not be forced into a position where it is deciding on critical mergers after it's too late.

That's the thinking behind the ACCC's push to have Australia operate under a mandatory regime of reviewing mergers. Indeed, this should be an uncontroversial move and is one that would benefit the broader economy by preventing anti-competitive outcomes before they happen, she tells The Australian.

A frenzy of merger deals in recent weeks, including a $5bn-day of announced transactions earlier this week, means Cass-Gottlieb will have a shortened summer break with a pile of M&A to consider in the new year.

But she is urging the Albanese government to adopt a system of mandatory reporting of mergers to bring Australia in line with most other advanced economies. This will also stop deals emerging before its too late, she says.

The comments form part of the ACCC's feedback on options Treasury is considering as part of a broader review of merger rules under its once-in-a-decade review of competition policy.

Under the current informal merger regime, companies are not required to inform the ACCC of a transaction – although the regulator says it is best practice for them to do so. And most ASX

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Super's next step: turn savings system into a spending system

GLENDA KORPORAAL

THE AUSTRALIAN
CEO
SURVEY 2024

Superannuation funds will come under increasing pressure next year to develop policies to cater for the millions of people moving into retirement, industry leaders say.

But the next 12 months offer a unique opportunity to shape the future of the superannuation system for retirees, according to the chief executive of the $300bn AustralianSuper, Paul Schroder.

"In superannuation, we have a world-class savings system – we now need to complete the other piece of the puzzle with a world-class spending system," Mr Schroder told The Australian's 2024 CEO Survey.

"There is lots to be done here to make the system work better for those who are approaching and in retirement."

The chair of the $6.5bn TWUSUPER, former federal superannuation minister Nick Sherry, said superannuation funds' big focus next year would be on the requirements of the retirement income covenant, which came into force last year requiring funds to develop strategies to help their members in their retirement phase. "This includes delivering increased investment advice – and delivering a package in retirement is a very strong focus for all funds," he said.

While the covenant came into force last year, the federal government has been calling on the sector to lift its game when catering for members moving into retirement, making it clear it expects more detailed retirement policies from individual funds.

Mercer's senior partner and superannuation specialist, David Knox, said Australia had a world-class system when it came to the savings side of superannuation, but it ranked much lower than others when it came to the retirement side of the system,

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COMMENTARY P21

'Rainbow serpent at risk' from Santos plan

MATT BELL

Santos' planned $5.3bn Barossa gas development in the Timor Sea is putting the culture of the traditional owners of the Tiwi Islands at risk, the Federal Court has been told in a legal dispute costing the energy giant millions of dollars a day and threatening future gas supplies.

Lawyers for Tiwi Islands traditional owner Simon Munkura told the court in closing remarks that there would be deep spiritual concern to the local Indigenous community if the journey of rainbow serpent Ampiji were disturbed by the pipeline off the coast of the Northern Territory.

Earlier this week the oil and gas producer received a green light from federal offshore regulator the National Offshore Petroleum Safety and Environmental Management Authority to proceed with a revised plan for drilling at the Barossa project.

Last month the Federal Court ruled Santos could not fully lay undersea pipes for the project at least until January following Mr Munkura's legal challenge.

Work on the project has been suspended since last year after the Federal Court found the oil giant failed to consult local Indigenous people adequately on the development.

Santos had hoped that by installing the pipelines it could mitigate the threat of delays that chief executive Kevin Gallagher said was costing the company millions as it had to pay for a drilling vessel that remained idle.

Santos has earmarked the

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