



HD Joint Asciano bid hits regulatory hurdle

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LP "The latest proposal put forth by two private consortia to acquire the Australian port operator falls short of appeasing ACCC's competition concerns.

Australia's competition commission is still concerned that the **acquisition** by two private consortia of Asciano, one of the largest rail and port logistics companies in the country, could hurt competition, potentially blocking a deal that has been in the works for nearly a year.

TD "The ACCC has received a very large number of submissions from industry stakeholders expressing a broad range of concerns about the proposed **acquisition**," Rod Sims, chairman of the Australian Competition & Consumer Commission, said in a statement on Thursday.

Competition concerns have been an obstacle since a consortium led by Toronto-based fund manager Brookfield Infrastructure [<https://www.infrastructureinvestor.com/Profile/?partner=5903>] announced last July its plans to acquire Asciano [[https://www.infrastructureinvestor.com/news/asia-pacific/2015-07-01/brookfield-in-a\\_9bn-asciano-bid/](https://www.infrastructureinvestor.com/news/asia-pacific/2015-07-01/brookfield-in-a_9bn-asciano-bid/)]. Brookfield and its partners, which initially included the British Columbia Investment Management Corporation [<https://www.infrastructureinvestor.com/Profile/?partner=72>] (bcIMC) and Singapore's sovereign wealth fund GIC [<https://www.infrastructureinvestor.com/Profile/?partner=1376>] - the Qatar Investment Authority [<https://www.infrastructureinvestor.com/Profile/?partner=2944>] joined only recently - had to revise their proposal twice, promising last December to divest part of Asciano [<https://www.infrastructureinvestor.com/news/global/2015-12-22/brookfield-promises-to-divest-part-of-asciano/>] post-**acquisition**.

A month later [<https://www.infrastructureinvestor.com/news/global/2016-01-29/asciano-bid-heats-up-with-binding-offer-from-gip/>], another consortium, led by Australian logistics firm Qube Holdings and its partners - Global Infrastructure Partners [<https://www.infrastructureinvestor.com/Profile/?partner=8415>], the Canada Pension Plan Investment Board [<https://www.infrastructureinvestor.com/Profile/?partner=87>] and China's CIC Capital [<https://www.infrastructureinvestor.com/Profile/?partner=3656>] - submitted its own binding offer for Asciano. The group, which had acquired a 19.99 percent **stake** in the target **company** last October, touted its proposal as facing less of a regulatory hurdle.

In March, however, the two consortia teamed up [<https://www.infrastructureinvestor.com/news/global/2015-12-22/brookfield-promises-to-divest-part-of-asciano/>], putting forth an all-cash bid of A\$9.05 **billion** (\$6.5 **billion**; €5.8 **billion**).

Under the terms of the joint proposal, the Brookfield and Qube consortia would acquire Patrick Terminals, Asciano's container terminal **operations**, on a 50/50 basis for A\$3.84 **billion**. Brookfield and its partners would acquire 100 percent of Asciano's Bulk & Automotive Port Services (BAPS) business and 50 percent of Australian Amalgamated Terminals (AAT) for A\$925 **million**.

Qube would have the right to subsequently acquire the 50 percent interest in AAT out of the BAPS business for A\$150 **million**, subject to regulatory approval, or to nominate a third-party buyer.

Asciano's rail business would be split between the two investor groups with some of Qube's partners - but excluding Qube - acquiring 76 percent of the business. Certain members of the Brookfield consortium - with the exception of Brookfield - would acquire the remaining 24 percent. This term appears to have satisfied the

Australian regulator, which had initially flagged it as a concern last October when the Brookfield group's proposal was the only one on the table.

Under the terms of the original proposal, the Canadian **firm** would own Asciano's Pacific National above-rail business, which operates on Brookfield's rail network in Western Australia. Pacific National also transports coal to Brookfield's Dalrymple Bay Coal Terminal. As a result, the ACCC was concerned that Brookfield's acquisition of Asciano would lead to a substantial lessening of competition [https://www.infrastructureinvestor.com/news/global/2015-11-26/regulator-deals-blow-to-brookfield%E2%80%99s-asciano-bid/] in markets for the supply of above-rail haulage services in Western Australia and Queensland.

The ACCC's latest concerns relate to Asciano's ports business.

"Market participants have expressed concerns about the vertical integration of Patrick container terminals with the two largest landside import-export container logistics providers in Australia, Qube and ACFS," ACCC's chairman said. ACFS (Australian Container Freight Services) and Asciano's Patrick container terminals formed a 50/50 joint venture in April 2015.

Under the terms of the joint bid for Asciano, the Brookfield consortium would acquire Asciano's 50 percent ownership interest in ACFS, not Qube.

"The ACCC is concerned that Patrick container terminals may provide preferential access to Qube and ACFS vehicles, and Qube regional export trains running into Port Botany and raise rivals' costs," Sims said. "Qube and Brookfield will each own 50 percent of Patrick container terminals, and may have parallel incentives to favour their landside logistics operations."

The Australian regulator will continue to accept market feedback on the proposed merger until 10 June. It expects to announce a final decision on July 21.

It is unclear whether the two consortia will revise their offer to address the latest issues raised. In a statement, Qube said it "continues to work closely with the Commission and is confident that the issues raised can be addressed. As a result of the new decision timetable, the completion of the transaction to acquire the Patrick terminals is expected to be delayed".

Brookfield and GIP declined to comment.

CO bcimco : British Columbia Investment Management Corporation | brknfr : Brookfield Infrastructure Partners L.P. | ascian : Asciano Ltd.

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