

# IT'S PUBLIC

KWM M&A INSIGHTS | 2025



# THE THREADS OF LDC'S SUCCESS IN THE BATTLE FOR NAMOI COTTON

Why price isn't everything in determining a superior offer.

Louis Dreyfus Company and Olam Agri's bidding war for control of Australia's largest cotton ginning company, Namoi Cotton, was an enthralling tale of contested M&A. The deal offers a fascinating insight into what does – and does not – amount to a superior offer, as well as the critical role shareholder sentiment can play. This article explores how the battle unfolded, the eventual outcome, and the lessons it offers for dealmakers navigating similar situations.

## The strategic review, and opening bids

**29 June 2023**  
Namoi Cotton announces a strategic review.

**28 November 2023**  
Louis Dreyfus Company (LDC) submits a non-binding indicative offer (NBIO) valued at \$0.51 per share. LDC already held a 17% stake in Namoi. Namoi's shares are trading at approximately \$0.35.

**19 Jan 2024**  
LDC and Namoi sign a Scheme Implementation Agreement.

## KEY TAKEAWAYS FOR DEALMAKERS

- 1 Price Alone Doesn't Always Win:** The final outcome was not solely based on the highest bid. The conditionality of the bids played a crucial role.
- 2 Regulatory Timing Matters:** The sequence and timing of regulatory approvals can significantly impact the viability of competing bids.
- 3 Limits to Independent Expert Opinions:** Expert reports on what constitutes 'fair' value are important factors for target boards' decision making. However, the board has ultimate responsibility for determining which proposal is 'superior' for shareholders.

### 29 April 2024

Before an implementation agreement is due to be signed with Olam, LDC announces that it is making a takeover bid for Namoi at \$0.60 per share.

### 20 March 2024

Just two days before the first court hearing for LDC's scheme, Olam Agri (Olam) enters the fray.

Olam makes a dual proposal, offering \$0.59 per share for a scheme and \$0.57 per share for a takeover. This created a competitive environment, prompting Namoi's independent directors to assess both offers.

Both proposals required FIRB and ACCC approvals and were otherwise subject to minimal conditions, including a 50.1% minimum acceptance condition.

### May 2024

Olam abandons its dual scheme / takeover approach. Announces a takeover bid at \$0.66 per share, increasing to \$0.70 per share if it obtains voting power in 90% of Namoi's shares. Samuel Terry Asset Management (STAM) states it would accept the Olam offer, subject to the usual qualifications around higher bids and the expert's report.

LDC announces that the \$0.70 was illusory because it (as a 17% shareholder) would never accept Olam's offer. LDC subsequently increases its own offer to \$0.67 per share.

Olam shortly afterwards drops its 90% minimum acceptance offer and increases its offer to \$0.70 per share.

The independent expert values Namoi shares in the range of \$0.42 to \$0.78, concluding both offers represent 'fair' consideration. However, the expert concludes that the LDC offer could not be 'fair' as there was a superior offer.

The Namoi independent directors at this point recommended rejection of the LDC offer and acceptance of the Olam offer.

## REGULATORY RISK – THE ACCC / FIRB PROCESS

- Both bids faced an extended ACCC review; with competition concerns raised that were common to both bidders (such as ownership of cotton classing entities) and others that were bidder specific (such as concentration of ginning services in various regions).
- LDC had an approximately 8-week advantage given it lodged its ACCC application earlier (and had the advantage of diligence in preparing its application). Olam had a slower path through the ACCC, and limitations on access to information, which would prove to be a key hindrance.
- LDC cleared the ACCC on 1 August 2024, having promptly agreed to divestment and other undertakings to address the ACCC's concerns. By early September, LDC also obtained FIRB approval and went unconditional but did not increase its bid.
- Olam's bid faced more challenges to progress through the ACCC, as it faced difficulty in preparing a remedy proposal package that was considered sufficient to address competition concerns. The ongoing delay put Olam at a significant disadvantage.

## AUGUST

### LDC OFFER \$0.67 – UNCONDITIONAL

- Shareholders had an unconditional cash bid from LDC with certainty of payment at \$0.67 per share.

### OLAM OFFER - \$0.70 – CONDITIONAL

- Shareholders had a conditional offer from Olam at \$0.70 per share, albeit with no certainty that it would become unconditional.

## TENSIONS RISE

As the battle heats up, the independent directors face a looming dilemma. LDC's offer, although several cents lower, was now unconditional, while Olam's higher offer remained conditional on ACCC (and FIRB) approval. The independent directors, having initially recommended Olam's higher \$0.70 proposal began leaning towards the LDC offer, reasoning that Olam's \$0.03 higher offer was not sufficient to compensate shareholders for the time value of money and the risk of the Olam offer not receiving ACCC approval.

## FAIR VS SUPERIOR - THE EXPERT'S RECOMMENDATION IN QUESTION

The independent directors asked the expert to confirm its opinion. The expert concluded that the LDC offer was superior due to the lack of conditionality and the risks of the Olam offer not proceeding.

Surprisingly, the independent expert opined that the Olam offer was neither fair nor reasonable. According to the expert, the Olam offer was not fair as the LDC offer was superior, and it was not reasonable because of the uncertainty.

The independent directors issued supplementary target's statements recommending shareholders accept the LDC offer and reject the Olam offer.

## ASIC WEIGHS IN

ASIC's view was that given both offer prices were within the expert's valuation range, then by definition (and in accordance with their regulatory guide) they were both fair. It was for the independent directors, not the expert, to determine which offer was superior. The expert was required to reissue its supplementary reports stating both offers to be fair and reasonable.

## SEPTEMBER – SHAREHOLDER DYNAMIC SHIFTS

Olam increases its offer to \$0.75 in September and enters into share sale agreements with major shareholders STAM and Harvest Lane to acquire 9.9% of Namoi's shares. Having advised shareholders to reject Olam's bid when it was at \$0.70, the independent directors' recommendation shifted again to support it.

Olam also make progress with the ACCC who set a revised decision date. STAM confirms its intention to accept the Olam offer for the balance of its shares.

## TAKEOVERS PANEL CRESCENDO

LDC takes Olam, STAM and Harvest Lane to the Takeovers Panel alleging that the sales were unacceptable. In the course of hearings, the Panel extracts an undertaking to unwind those arrangements.

LDC further increases its offer to \$0.77 per share.

STAM ultimately accepted LDC's offer, giving LDC a commanding stake of 47.66% in Namoi. The independent directors pivot back to recommending LDC's offer at \$0.77 per share, sealing Olam's fate.

## KEY TAKEAWAYS



### Price Isn't Everything:

While a higher bid can attract attention, the conditions attached to that bid can make an important difference for shareholders weighing risk and reward. Olam's conditional offer, despite being higher, ultimately proved less attractive to shareholders concerned about certainty and timing.



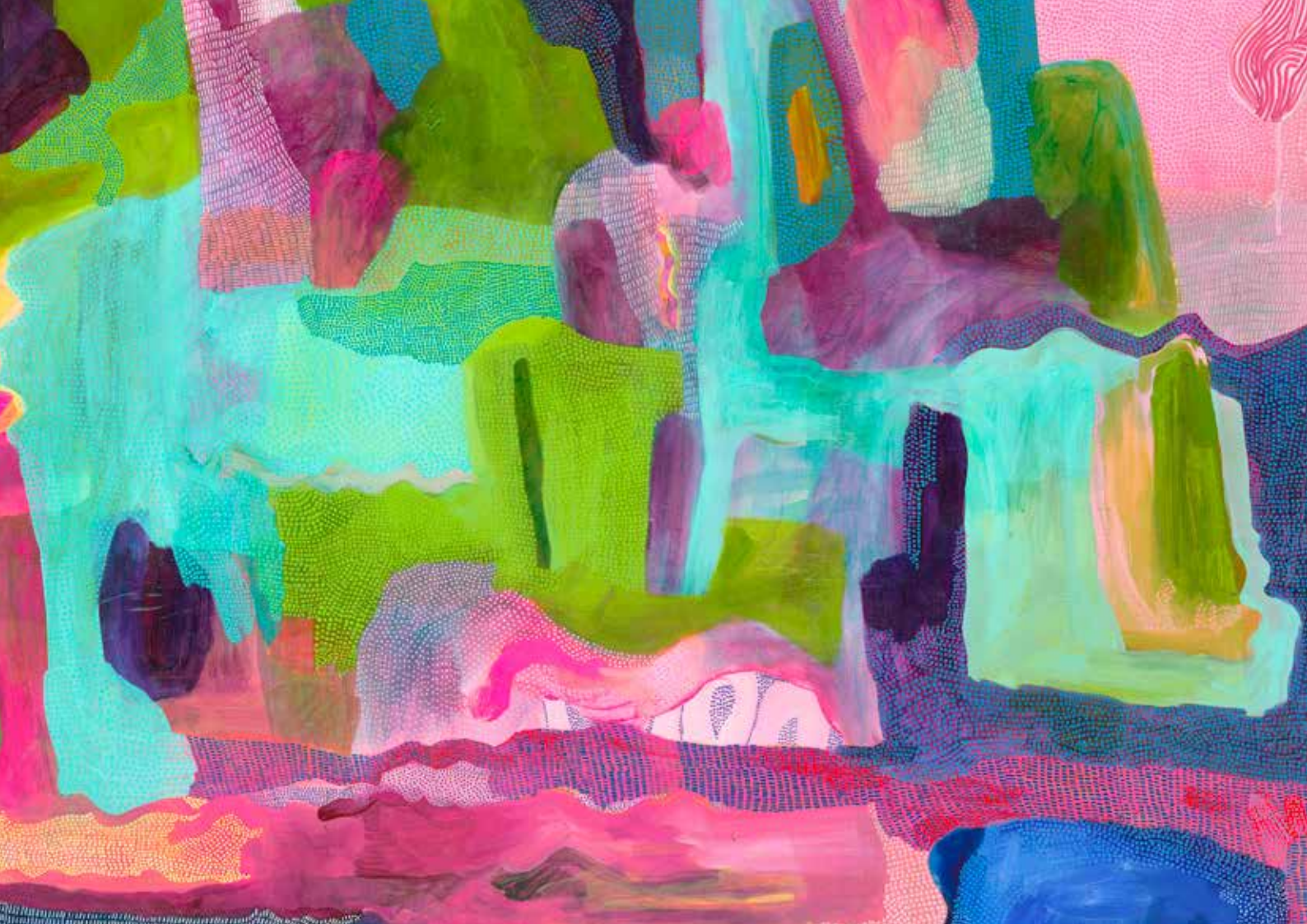
### Timing is Crucial:

The sequence and timing of regulatory approvals can significantly impact the outcome of a bid. LDC's ability to offer a remedy package which was comprehensive enough to address the ACCC's concerns gave it a critical timing advantage over Olam, which faced delays while negotiating with the ACCC over an appropriate suite of remedies for its own bid.



### Expert Opinions Matter:

Independent expert assessments inform board recommendations and shareholder sentiment. However, these opinions will attract regulatory scrutiny if they stray beyond the question of value, and into judgement.



# ABOUT KING & WOOD MALLESONS

A firm born in Asia, underpinned by world class capability. With over 3000 lawyers in 29 global locations, we draw from our Western and Eastern perspectives to deliver incisive counsel.

We help our clients manage their risk and enable their growth. Our full-service offering combines un-matched top tier local capability complemented with an international platform. We work with our clients to cut through the cultural, regulatory and technical barriers and get deals done in new markets.

#### Disclaimer

This publication provides information on and material containing matters of interest produced by King & Wood Mallesons. The material in this publication is provided only for your information and does not constitute legal or other advice on any specific matter. Readers should seek specific legal advice from KWM legal professionals before acting on the information contained in this publication.

#### Asia Pacific | North America

King & Wood Mallesons refers to the network of firms which are members of the King & Wood Mallesons network. See [kwm.com](http://kwm.com) for more information.

[www.kwm.com](http://www.kwm.com)

© 2025 King & Wood Mallesons

#### JOIN THE CONVERSATION



SUBSCRIBE TO OUR WECHAT COMMUNITY.  
SEARCH: KWM\_CHINA