

DAVID JONES

31 January 2019

Mr Gavin Jones
Director, Adjudication
Australian Competition & Consumer Commission
23 Marcus Clarke Street
CANBERRA ACT 2601

By email: gavin.jones@acc.gov.au
miriam.kolacz@accc.gov.au

Dear Mr Jones

Authorisation Application AA1000434 – David Jones Pty Limited

I refer to your letter dated 21 January 2019 seeking further information from David Jones about our application for authorisation (and interim authorisation) dated 2 January 2019.

David Jones responds to the Commission's information request below.

- 1. The extent to which David Jones inviting concession stores to participate in its promotions acts as a conduit for concessions stores to match David Jones' promotions, as opposed to making independent decisions about promotions, in their David Jones concessions stores and standalone stores.**

In our view, the proposed conduct will not stop, reduce or otherwise limit concessions stores from making independent decisions about promotions in their David Jones concessions stores or their standalone stores. This is because:

- involvement in promotions proposed by David Jones by concessions is entirely voluntary. There is no obligation to participate in any promotion run by David Jones and concessions remain free to offer any other price or non-price promotion as they consider appropriate;
- concession stores are large, independent businesses some of which operate nationally or globally. These businesses compete with a range of independent clothing and other retailers for sales and make independent decisions about their own promotions based on their own market analysis, competitor activity, stock levels, new product lines, the age and popularity of stock and sales targets in order to stay competitive;
- the markets in which concessions and David Jones compete are highly competitive and global in scope. In this context and for the reasons above, concessions do not rely upon David Jones to determine their promotional activity; and
- consistent with the Commission's previous findings when authorising the proposed conduct, there is no evidence to suggest that the proposed conduct will result in a reduction in the number of independent promotions undertaken by concessions.

For the reasons above, concessions will continue to make independent decisions about their own promotions in their David Jones concessions stores and their standalone stores **in addition** to any promotions that are offered by David Jones pursuant to the proposed conduct and have the ability to offer greater promotional discounts than what David Jones may be offering (with or without the proposed conduct).

The logo for David Jones, featuring the words "DAVID JONES" in a stylized, serif font. The letters are bold and closely spaced, with a classic, elegant appearance.

DAVID JONES

2. **Noting that concessions stores will often seek consistency between their various outlets, the extent to which David Jones promotions could act as a conduit for competing department stores that host the same concession stores to match David Jones' promotions, as opposed to making independent decisions about promotions.**

For the reasons described above and in the same way concessions will continue to make independent decisions about their own promotions, competing department stores will also make independent decisions about their promotional activity.

Where David Jones runs a promotion, we anticipate that competing department stores will make their own assessment as to the nature and extent of their competitive response package which may well include matching or bettering other promotions in the market.

Accordingly, David Jones promotions are likely to result in **increased promotional activity** from all competitors including other department stores.

3. **The extent to which concession stores matching David Jones promotions rather than making independent decisions about promotions may impact competition for the retail supply of goods and services sold by department stores and/or relevant concession stores (which may include supply by online retailers in particular circumstances, including where there is a sufficient degree of substitutability). For example, competition may be impacted through reducing the incentives for concession stores to differentiate their promotional offers, such as through offering different, including potentially higher, levels of discounts and/or other benefits than David Jones.**

For the reasons described above, concessions make independent decisions about their promotional activity including whether to disregard, match or better David Jones promotions.

As David Jones promotions will be **in addition** to promotions that concessions may otherwise offer, the proposed conduct is pro-competitive.

This conclusion is consistent with the Commission's findings and determinations in authorising the proposed conduct for a continuous period of 15 years. As the relevant markets are more competitive than ever before, there is unlikely to be any competitive detriment as a result of the proposed conduct. Indeed, there has been no evidence of such detriment over the last 15 years.

I confirm that this letter can be placed on the public register as it does not contain any material that is confidential or commercially sensitive to David Jones.

Please do not hesitate to contact me if you wish to discuss this response.

Yours sincerely



Matthew FitzGerald
General Counsel and Head of Governance, Risk and Compliance
David Jones Pty Ltd
(03) 8509 3805 | mfitzgerald@davidjones.com.au

