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BY EMAIL

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cc: Sophie Mitchell (sophie.mitchell@accc.gov.au) and Lily Xiao
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Dear Mr Jones

AA1000599 – Cardtronics – Further Submission

We act for Cardtronics Australia Pty Ltd (**Cardtronics**). We refer to the submissions dated 28 January 2022 and 10 February 2022 submitted by the Armaguard Group (**Armaguard**) in relation to Cardtronics' application for interim authorisation of the Allpoint Network Conduct (as defined on the ACCC's [authorisations register](#)).

We understand that the ACCC granted interim authorisation on 24 February 2022 but is giving further consideration to the issues raised by Armaguard in its substantive assessment of the application for authorisation.¹

Cardtronics considers that the issues raised by Armaguard are unrelated to the proposed conduct. Cardtronics' offering of the Allpoint / Allpoint+ ATM networks has no bearing on NCR's dealings with Armaguard. There is simply no evidence, or credible basis to suggest, that NCR's willingness to supply Armaguard is diminished as a consequence of the proposed conduct, or NCR's ownership of Cardtronics. Cardtronics submits that Armaguard's concerns do not go to the public benefits and detriments of the proposed conduct, and ought not impact the ACCC's authorisation determination.

Nonetheless, Cardtronics has addressed Armaguard's concerns below, with the benefit of further information from NCR.

1. ISSUE RAISED BY ARMAGUARD AND CARDTRONICS' RESPONSE

In summary, the issue raised by Armaguard is that, because a significant proportion of atm's ATM fleet consists of NCR ATMs, it would be "seriously impacted" if NCR chose to withhold hardware components or software support (specifically for the "XFS layer"). This is because Armaguard claims that:

- (a) hardware components are "provider specific and cannot be used in another manufacturer's ATM"; and

¹ Cardtronics Australasia Pty Ltd – Application for authorisation AA1000599 – Interim authorisation decision, 24 February 2022, paragraphs 26 and 30.

- (b) the XFS layer (including associated servicing, updates and patches) is required for Armaguard's NCR ATMs to remain operational.

For the reasons explained in further detail below, Cardtronics considers that Armaguard's concerns are unfounded because:

- (a) Armaguard does not currently obtain NCR hardware components directly from NCR and has not done so for a significant period; and
- (b) NCR's ability or incentive to withhold XFS layer software support from Armaguard will not change as a result of the proposed conduct. NCR will continue to have the incentive to provide XFS layer software support in respect of NCR ATMs, regardless of their owner.

2. **HARDWARE COMPONENTS**

Cardtronics understands that Armaguard does not currently have an agreement with NCR for the supply of NCR hardware components. Cardtronics also understands that Armaguard has not acquired hardware components directly from NCR during the previous 15 years.

Instead, Cardtronics understands that Armaguard's well established practice has been to obtain components from third party sales channels for the purpose of providing maintenance services to other ATM owners via its dedicated ATM maintenance division, ITS, and for its own ATMs which it has more recently acquired from ANZ and Cuscal. These sales channels are independent and do not act under NCR's direction or control. Cardtronics understands that it is also a common practice for ATM fleet operators, including Armaguard, to utilise retired ATMs as a source of spare parts to replace damaged or malfunctioning parts in operating ATMs from the same manufacturer.

The concern raised by Armaguard in relation to its ability to continue to obtain ATM components for NCR ATMs therefore has no foundation in circumstances where:

- (a) Armaguard does not currently obtain those components from NCR;
- (b) Armaguard's longstanding practice is to obtain those components from third party sales channels;
- (c) NCR has no control over the activities of third party sellers and is unable to prevent or hinder Armaguard from obtaining NCR components from these sources; and
- (d) NCR and Armaguard, by virtue of its ATM maintenance division, ITS, have been long standing competitors in relation to ATM maintenance services, and the potential presence of Allpoint has no bearing or impact on that relationship.

Additionally, Cardtronics understands that NCR has a global partner program for maintenance of NCR ATMs for parties who wish to participate and partner with NCR, and NCR remains open to discussions with parties like Armaguard about joining that program.

3. **XFS LAYER SOFTWARE SUPPORT**

Cardtronics accepts the proposition that, in respect of the "XFS layer" of software which enables an ATM to operate, it is important to continue to obtain software support, upgrades

and patches from the ATM manufacturer. However, Cardtronics considers the concern that NCR may refuse to provide this support in respect of NCR ATMs to be groundless.

Cardtronics understands that XFS layer software support services (including patches):

- (a) are provided by manufacturers in respect of their own brand of ATMs;
- (b) can only be obtained from the manufacturer of the relevant ATM (and, accordingly, while ATM owners "mix and match" hardware and software, this does not apply to the XFS layer); and
- (c) are necessary for the reasonable ongoing operation of the relevant ATM.²

Cardtronics nevertheless considers Armaguard's concerns in respect of the XFS layer to be without foundation because the proposed conduct has no effect on NCR's incentive or ability to supply these services to Armaguard:

- (a) NCR currently provides software support services to Armaguard [REDACTED]

(i)

[REDACTED]

[REDACTED]

(ii)

[REDACTED]

- (b) Cardtronics and Armaguard are existing competitors in markets for ATM deployment services and ATM managed services and, notwithstanding this, NCR continues to supply Armaguard with XFS layer software support services on the same basis as prior to the acquisition of Cardtronics. The proposed conduct does not alter this dynamic or change NCR's incentives.

² In theory, an ATM can continue to operate indefinitely using its current XFS layer software without additional support services, patches or upgrades. In practice, compatibility upgrades to the XFS layer software will be necessary in order to enable upgrades to ATM hardware or other software above the XFS layer. Patches to XFS layer software may also be periodically necessary for compliance purposes or to address security exploits.

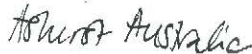
³

[REDACTED]

- (c) NCR supplies ATMs and software to other competitors of Cardtronics (and of Armaguard), including (for example) Prosegur and Banktech.
- (d) It is simply not credible to suggest that it would be rational for NCR to cease to offer its core products and services to parties that account for a significant proportion of the demand for those products and services in Australia in the hope that doing so enables Cardtronics to obtain a competitive advantage in respect of a nascent offering. That advantage would be temporary, as ATM demand would shift to NCR's competitors,⁴ with the long-term result that NCR's core business would be permanently damaged while Cardtronics would continue to face competition. In other words, NCR is not in a position to engage in an effective foreclosure strategy.
- (e) Refusing to supply XFS layer software support services to any individual owner of an NCR ATM would be likely to seriously impact NCR's reputation and business in Australia and globally. If a potential purchaser had concerns about NCR's willingness to continue to support NCR ATM hardware – for example, because NCR had previously refused to supply these services to Armaguard – that purchaser may avoid that risk simply by purchasing an ATM from one of NCR's competitors. Clearly, as an ATM manufacturer, NCR does not want to give a potential purchaser any reason to consider avoiding purchasing an NCR ATM.

Please let us know if you require further information on the above issues for the purpose of the Commission's consideration of the Application.

Yours faithfully



Ashurst Australia

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Details of NCR's competitors are contained in section 2 of Cardtronics' previous submission dated 2 February 2022.