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Contact Officer: Chelsea Gorr
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Australian
Competition &
Consumer
Commission

18 April 2007

Michael Corrigan
Partner
Clayton Utz
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By email: mcorrigan@claytonutz.com
cc: ncodevelle@claytonutz.com

Dear Mr Corrigan,

Toll Holdings Undertakings – 5th Variation

I refer to Toll Holding Limited's request for a fifth variation to the undertakings originally offered by Toll Holdings Limited on 11 March 2006 (**Variation**).

If the Variation is consented to by the Commission in the form proposed by Toll on 12 April 2007, the Commission and Toll agree that the Variation be understood to operate in a way such that:

1. Peter George, Saul Cannon and Jonathon Mayson, each of whom prior to the Restructure Date as a director of Asciano Limited, and/or as a director of one of the entities to be transferred to the Asciano group after the Restructure as identified in Annexure F of the Toll Undertakings ("Annexure F Entities"), will not fail to satisfy the requirements of the definition of "Independent Asciano Person" in the Variation by reason only of the fact that he was an employee, officer or director of Asciano Limited or an Annexure F Entity prior to the Restructure Date;
2. directors of Toll Holdings Limited or one of its related bodies corporate (excluding Asciano Limited and the Annexure F Entities) will not be regarded as failing to meet the requirements of the definition of "Independent Toll Person" in the Variation by reason only of the fact that that person was an employee, officer or director of Asciano Limited or an Annexure F Entity prior to the Restructure Date; and
3. having regard to the need to interpret the Variation adopting a purposive approach, it is not intended by either Toll or the Commission that:
 - a. any person who, prior to the Restructure Date, is a director of Asciano or an Annexure F Entity be required to offer the Toll Director Undertaking as set out in Annexure H of the Variation; and



- b. any person who, prior to the Restructure Date, is a director of Toll or a Toll related body corporate (other than Asciano or an Annexure F Entity) be required to offer the Asciano Director Undertaking as set out in Annexure G-1 of the Variation,

by reason of the fact that Asciano and the Annexure F Entities were related bodies corporate of Toll prior to the Restructure Date.

Except where otherwise indicated, the words and phrases in this letter have the same meaning as words and phrases defined in the undertakings given by Toll, as varied, under section 87B of the Trade Practices Act and accepted by the Commission on 11 March 2006.

Please sign below and return to me to confirm your client's understanding and acceptance of the approach outlined above.

Yours sincerely



Tim Holland
Acting General Manager
Mergers and Asset Sales

I confirm Toll Holdings Limited's understanding and acceptance of the approach outlined above



Signed by: Ron Smucker

Date: 18/4/07.