

3 May 2010

RIALTO TOWERS 525 COLLINS STREET MELBOURNE  
GPO BOX 769G MELBOURNE VIC 3001 AUSTRALIA  
DX 204 MELBOURNE www.minterellison.com  
TELEPHONE +61 3 8608 2000 FACSIMILE +61 3 8608 1000



**BY HAND**

Dr Richard Chadwick  
General Manager – Adjudication Branch  
Australian Competition & Consumer Commission  
Level 35 - The Tower - Melbourne Central  
360 Elizabeth Street  
MELBOURNE VIC 3000

Dear Sir

**Notification of collective bargaining conduct**

We act on behalf of Hertz Australia Pty Limited (**Hertz**).

We enclose:

- notification under section 93AB of the *Trade Practices Act 1974 (TPA)*;
- signed consent forms for each of the parties to the collective bargaining notification; and
- a cheque in the amount of \$1000 as payment of the required fees.

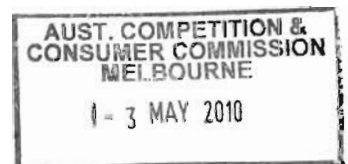
Our client, for itself and on behalf of Kingmill Pty Ltd trading as Thrifty Car Rental, WTH Pty Ltd trading as Avis Australia, Budget Rent a Car Australia Pty Ltd and CLA Trading Pty Ltd trading as Europcar, wishes to notify conduct under section 93AB of the TPA. The conduct is set out in the attached Form GA.

If you have any questions in relation to this notification or require any further information, please do not hesitate to contact Celesti Hodgman of our office.

Yours faithfully  
**MINTER ELLISON**

R D Murphy  
Partner

Contact: Celesti Hodgman Direct phone: +61 3 8608 2474 Direct fax: +61 3 8608 1257  
Email: celesti.hodgman@minterellison.com  
Partner responsible: Richard Murphy Direct phone: +61 3 8608 2075  
Our reference: CH RDM 30-6477567



enclosures

**MINTER ELLISON GROUP AND ASSOCIATED OFFICES**  
SYDNEY MELBOURNE BRISBANE CANBERRA ADELAIDE PERTH GOLD COAST DARWIN  
AUCKLAND WELLINGTON HONG KONG SHANGHAI JAKARTA LONDON

# Form GA

Commonwealth of Australia

*Trade Practices Act 1974 — section 93AB*

## NOTIFICATION OF COLLECTIVE BARGAINING

This form is to be completed by applicants proposing to engage in collective bargaining arrangements.

In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

Protection provided by the notification extends only to the collective bargaining arrangements described in the form.

To the Australian Competition and Consumer Commission:

Notice is hereby given under section 93AB of the *Trade Practices Act 1974* of intention:

- to make, or to propose to make, a contract containing a provision of the kind referred to in subsection 44ZZRD (2) or paragraph 44ZZRD (3) (a) or (b) of that Act.
- to give effect to a provision of a contract where the provision is of the kind referred to in subsection 44ZZRD (2) or paragraph 44ZZRD (3) (a) or (b) of that Act.
- to make, or to propose to make, a contract containing a provision of the kind referred to in paragraph 45 (2) (a) of that Act.
- to give effect to a provision of a contract where the provision is of the kind referred to in paragraph 45 (2) (b) of that Act.  
(Strike out if not applicable)

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

### Section A – general information

#### 1. Applicant

- (a) Name of the applicant:  
(refer to Direction 1)

CB00143 Hertz Australia Pty Ltd (ABN 31 004 407 087) (Hertz)

- (b) Description of business carried on by the applicant:  
(refer to Direction 2)

*Hertz is a car rental company providing rental car services at locations across Australia. Hertz operates a company owned car rental business at Perth Airport.*

- (c) Is the representative of the applicant lodging the notice a trade union, an officer of a trade union or a person acting on the direction of a trade union?  
*(refer to Direction 3)*

*No*

- (d) Address in Australia for service of documents on the applicant:

*C/- Richard Murphy  
Partner  
Minter Ellison Lawyers  
525 Collins Street  
MELBOURNE VIC 3000*

## **2. Lodged on behalf of**

- (a) Provide names and addresses of all persons on whose behalf the notification is lodged and who propose to participate in the collective bargaining arrangements:  
*(refer to Direction 4)*

- *Kingmill Pty Ltd trading as Thrifty Car Rental (**Thrifty**);*
- *WTH Pty Ltd trading as Avis Australia (**Avis**);*
- *Budget Rent a Car Australia Pty Ltd (**Budget**); and*
- *CLA Trading Pty Ltd trading as Europcar (**Europcar**)*

*Please also refer to Annexure 1*

- (b) Provide proof of the consent of each of the persons listed at 2 (a) above agreeing to the lodgement of the notification on their behalf:  
*(refer to Direction 5)*

*Please refer to Annexure 2*

- (c) Provide the following information relating to a notification:

- (i) Does this notification relate to a notification previously lodged with the Australian Competition and Consumer Commission and for which a concessional fee is claimed?

*No*

- (ii) details of the first-mentioned notification, including but not limited to:
- (A) the name of the applicant; and
  - (B) the date the notification was said to be lodged; and
  - (C) if known or applicable — the registration number allocated to that collective bargaining notification.

*Not applicable*

## **Section B – collective bargaining arrangements**

### **3. Proposed collective bargaining arrangements**

- (a) Provide: the name and address of the target; the name, position and telephone contact details of an appropriate contact at the target; and a description of the business carried on by the target:  
*(refer to direction 6)*

***Target*** *Westralia Airports Corporation Pty Ltd (WAC)*

***Description of business carried on by the target*** *WAC is an airport operator. WAC operates an airport in Perth in Western Australia*

***Address*** *PO Box 6  
Cloverdale  
Western Australia  
6985*

***Contact person*** *Rebecca Cook  
Retail Business Development  
Manager*

***Contact number*** *08 9478 8415*

- (b) Provide a description of the goods or services which the participants of the collective bargaining arrangements (listed at 2 (a) above) propose to supply to or acquire from the target:

*The participants propose to acquire airport facility services from WAC. The airport facilities comprise car parks and counter space at the international and domestic terminals of the Perth Airport. These facilities are to be acquired through the participant's respective licence agreements with WAC.*

- (c) Do the participants of the proposed collective bargaining arrangements (see 2 (a) above) reasonably expect to make one or more contracts with the target about the supply to or acquisition from the target of one or more of the goods or services (listed at 3 (b) above)?

*(refer to direction 7)*

*Yes*

- (d) In relation to (c) above, provide details of the basis upon which that expectation is held including details of past contracts with the target:

*Each participant currently operates a car rental business at the Perth Airport.*

- (e) Do the participants of the collective bargaining arrangements (listed at 2 (a) above) reasonably expect that contractual payments between the target and each participant will not exceed \$3 million (or any other amount prescribed by regulation) in any 12 month period, and on what basis?

*(refer to direction 8)*

*Each participant reasonably expects that their contractual payments with WAC will not exceed \$3 million in any 12 month period. The basis for this expectation is the value of their current respective licences with WAC.*

- (f) In relation to (e) above provide an estimation of the contractual payments expected between the target and each participant in relation to the goods and services (listed at 2 (a) above):

*It is proposed that the contractual payments by each party to WAC would be a product of the collective negotiation by the participants to this collective bargaining notification.*

- (g) Provide a description of the collective bargaining arrangements proposed including, but not limited to:
- (i) the process by which participants propose to undertake collective bargaining with the target; and
  - (ii) the type of terms and conditions expected to be negotiated in collective bargaining arrangements (for example: price; non-price conditions of supply such as contract periods etc); and
  - (iii) details of any dispute resolution procedure (if any) proposed between participants throughout the collective bargaining process; and
  - (iv) details of any dispute resolution procedure (if any) proposed between participants and the target throughout the collective bargaining process; and
  - (v) details of any dispute resolution procedure (if any) proposed to deal with disputes throughout the term of contracts entered into with the target; and
  - (vi) details of proposed commencement and duration of contracts to be negotiated with the target:  
*(refer to direction 9)*

*The collective bargaining arrangements that are proposed entail the participants to this notification collectively retaining an independent third party (to be appointed), to negotiate on their behalf the price, term and other conditions at which the rental car companies will acquire airport facility services from WAC.*

*The type of terms and conditions of the licences expected to be negotiated in the collective bargaining arrangement include price, term, minimum annual guarantee payments, type and location of facilities. The licence fees for car parks (known as 'Ready Bays') at the international and domestic terminals of the Perth Airport are of particular importance to the participants in this collective bargaining arrangement, as WAC is proposing to increase these fees significantly (see further discussion in Annexure 3).*

*No dispute resolution process between the parties to this collective bargaining notification is proposed because each participant will be at liberty to withdraw from the collective bargaining process if it considers that its interests are not being served by the process.*

*The dispute resolution process between the parties to this collective bargaining notification and WAC during the collective process is proposed to be mediation followed, if necessary and appropriate, by arbitration or expert determination – this is also a matter to be negotiated with WAC.*

*The dispute resolution process between the parties to this collective bargaining notification and WAC during the term of the contractual arrangements with WAC is also a matter to be negotiated.*

*WAC's proposed commencement date for the contractual arrangements with each party is 1 July 2010. Each participant will enter into a separate licence agreement with WAC. The expected duration of these contracts is 5 years.*

- (h) Identify any parts of the proposed collective arrangements described in 3 (g) which relate to possible price agreements:

*It is proposed that the independent third party representative will negotiate on behalf of the parties the price at which the parties acquire airport facility services from WAC.*

- (i) Identify any parts of the proposed collective arrangements described in 3 (g) which relate to a possible or proposed exclusionary provision(s), including but not limited to:

- (i) the nature of the proposed or possible exclusionary provision(s) (for example an agreement to withhold supply of the relevant goods or services to the target); and
- (ii) the circumstances in which the collective bargaining participants would engage in the exclusionary provision(s), including but not limited to:
- (A) details of the events that would trigger any such activity; and
- (B) details of the process that would be followed in undertaking any such activity; and
- (C) details of any proposed period of notice to be given to the target prior to the commencement of such activity; and
- (D) details of any dispute resolution procedure to be applied or offered to the target prior to the commencement of such activity;

*(refer to direction 10)*

*The participants are not proposing to engage in conduct which relates to a possible exclusionary provision. In the event that an agreement cannot be reached with WAC, each party to the collective bargaining notification will unilaterally determine if it will, or will not, acquire airport facility services from WAC.*

## **Section C – public detriments**

### **4. Market definition**

Provide a description of the market(s) in which the goods or services described at 3 (b) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):

*(refer to direction 11)*

*Please refer to Annexure 3*

### **5. Public detriments**

- (a) What will be the likely effect of the notified conduct on the prices of the goods or services described at 3 (b) above and the prices of goods or services in other affected markets? In answering this question please provide facts and information to support the claims made:

*Please refer to Annexure 3*

- (b) What other detriments may result from the notified conduct? In answering this question please provide facts and information to support the claims made:

*Please refer to Annexure 3*

## **Section D – public benefits**

### **6. Public benefit claims**

- (a) Provide details of the public benefits resulting or likely to result from the proposed arrangement. In answering this question please provide facts and information to support the claims made:

*Please refer to Annexure 3.*

## **Section E - authority**

### **7. Contact details**

- (a) Name, contact telephone number and address of person authorised by the notifying parties to provide additional information in relation to this application:



Name *Richard Murphy*

Address *Minter Ellison Lawyers  
Level 23  
525 Collins Street  
MELBOURNE VIC 3000*

Contact telephone number *03 8608 2075*

*(refer to direction 12)*

Dated *3 May 2010* .....

Signed by/on behalf of the applicant

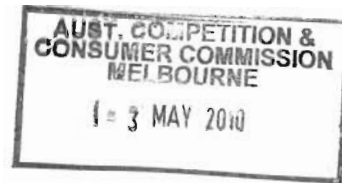
*Richard Murphy* .....

(Signature)

**Richard Murphy**  
(Full Name)

**Minter Ellison Lawyers**  
(Organisation)

**Partner**  
(Position in Organisation)



## DIRECTIONS

1. Where the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the application and the application is to be signed by a person authorised by the corporation to do so.
2. Describe that part of the applicant's business relating to the subject matter of the contract, arrangement or understanding in respect of which notification is given.
3. A collective bargaining notification can not be lodged by a trade union or a trade union representative.
4. Where the applicant will be a participant in the collective bargaining arrangements (rather than a representative of participants) the name of the applicant must also be included. Where those persons are corporations, list the corporation's name and address.
5. The applicant, in lodging a notification on behalf of others, must obtain their consent to do so and provide proof of that consent.
6. Where the target is a corporation, provide the corporate name.
7. The collective bargaining notification process is only available to parties that reasonably expect to make one or more contracts with the target about the supply or acquisition of goods or services the subject of the notification.
8. The value of the contract to be collectively negotiated between the target and each participant is not to exceed \$3 million (or such other amount as is prescribed by the regulations) per participant in any twelve month period.
9. To the extent that the collective bargaining arrangements have been reduced to writing, provide a true copy of the arrangement. To the extent that the collective bargaining arrangements have not been reduced to writing, provide a full and correct description of the key terms that have not been reduced to writing.
10. In simple terms an exclusionary provision exists where the proposed contract, arrangement or understanding is made by businesses (at least two of whom are competitors) for the purpose of preventing, restricting or limiting the supply of services to particular persons or classes of persons by all or any of the parties to the contract, arrangement or understanding.

In the context of collective bargaining, an exclusionary provision(s) may include contracts, arrangements or understandings (whether currently in existence or to be made or arrived at during the term of the notification) between collective bargaining participants to limit or restrict their dealings with the target including contracts arrangements or understandings to:

- (a) withhold the supply of goods or services from the target; or
- (b) refuse or decline to acquire the goods or services of the target;

whether such conduct was absolute, limited or subject to certain terms or conditions. This is sometimes referred to as a collective boycott.

11. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
12. The notification must be signed by a person authorised by the applicant to do so.

## Annexure 1

### Names and addresses of all persons on whose behalf the notification is lodged

Name of persons on whose behalf the notification is lodged	Address of party
<i>Kingmill Pty Ltd trading as Thrifty Car Rental</i>	52-60 Kent Road, Mascot, NSW, 2020
<i>WTH Pty Ltd trading as Avis Australia</i>	Level 2, 15 Bourke Rd, Mascot, NSW, 2020
<i>Budget Rent a Car Australia Pty Ltd</i>	Level 2, 15 Bourke Rd, Mascot, NSW, 2020
<i>CLA Trading Pty Ltd trading as Europcar</i>	157 Mickleham Rd, Tullamarine, VIC, 3043

## **Annexure 2**

### **Proof of consent of each party on whose behalf the notification is lodged**

Please see next page

**CONSENT FORM**

**Consent to be a party to the collective bargaining arrangement**

I [Ron Santiago]

of [157 Mickleham Road, Tullamarine VIC 3043]

on behalf of [Europcar]

on this day [30 April 2010]

consent to be a party to the collective bargaining arrangement notified to the Australian Competition and Consumer Commission by Hertz Australia Pty Ltd in respect of Westralia Airports Corporation Pty Ltd.

I on behalf of [Europcar] confirm that:

- we do expect to enter into one or more contracts with Westralia Airports Corporation Pty Ltd; and
- the total value of the transactions conducted with Westralia Airports Corporation Pty Ltd will not exceed \$3 million.

Signed for [CLA Trading Pty Ltd] by an authorised officer in the presence of



Signature of witness

SHARON MIDDLEING

Name of witness (print)



Signature of officer

RON SANTIAGO

Name of officer (print)

DIRECTOR

Office held

**CONSENT FORM**

**Consent to be a party to the collective bargaining arrangement**

I, George Johan Proos

of Level 2, 15 Bourke Rd., Mascot NSW, 2020

on behalf of W.T.H. Pty Ltd trading as Avis Australia

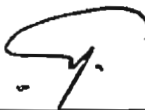
on this day 29<sup>th</sup> April 2010

consent to be a party to the collective bargaining arrangement notified to the Australian Competition and Consumer Commission by Hertz Australia Pty Ltd in respect of Westralia Airports Corporation Pty Ltd.

I on behalf of W.T.H. Pty Ltd confirm that:

- we do expect to enter into one or more contracts with Westralia Airports Corporation Pty Ltd; and
- the total value of the transactions conducted with Westralia Airports Corporation Pty Ltd will not exceed \$3 million.

Signed for W.T.H. Pty Ltd by an authorised officer in the presence of

  
\_\_\_\_\_  
Signature of officer ←

  
\_\_\_\_\_  
Signature of witness

← GEORGE JOHAN PROOS  
Name of officer (print)

CRESS JOHN DAWSON  
Name of witness (print)

MANAGING DIRECTOR  
Office held

**CONSENT FORM**

**Consent to be a party to the collective bargaining arrangement**

I, George Johan Proos

of Level 2, 15 Bourke Rd., Mascot NSW, 2020

on behalf of Budget Rent a Car Australia Pty Ltd.,


on this day 29<sup>th</sup> April 2010

consent to be a party to the collective bargaining arrangement notified to the Australian Competition and Consumer Commission by Hertz Australia Pty Ltd in respect of Westralia Airports Corporation Pty Ltd.

I on behalf of Budget Rent a Car Australia Pty Ltd., confirm that:

- we do expect to enter into one or more contracts with Westralia Airports Corporation Pty Ltd; and
- the total value of the transactions conducted with Westralia Airports Corporation Pty Ltd will not exceed \$3 million.

Signed for Budget Rent a Car Australia Pty Ltd., by an authorised officer in the presence of

  
\_\_\_\_\_  
Signature of officer ←

  
\_\_\_\_\_  
Signature of witness

← GEORGE JOHAN PROOS  
Name of officer (print)

**CRESS JOHN DAWSON**  
\_\_\_\_\_  
Name of witness (print)

MANAGING DIRECTOR  
Office held



**CONSENT FORM**

**Consent to be a party to the collective bargaining arrangement**

I, Bryn McGoldrick

of 54/7 Macquarie Street, SYDNEY NSW 2000

on behalf of Kingmill Pty Ltd T/A Thrifty Car Rental

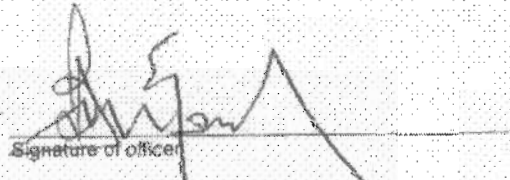
on this day 30<sup>th</sup> April 2010

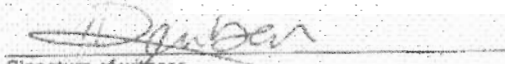
consent to be a party to the collective bargaining arrangement notified to the Australian Competition and Consumer Commission by Hertz Australia Pty Ltd in respect of Westralia Airports Corporation Pty Ltd.

I on behalf of Kingmill Pty Ltd T/A Thrifty Car Rental confirm that:

- we do expect to enter into one or more contracts with Westralia Airports Corporation Pty Ltd; and
- the total value of the transactions conducted with Westralia Airports Corporation Pty Ltd will not exceed \$3 million.

Signed for Kingmill Pty Ltd T/A Thrifty Car Rental by an authorised officer in the presence of

  
Signature of officer ←

  
Signature of witness ←

Bryn McGoldrick  
Name of officer (print) DIRECTOR ←

Kelly Reuben  
Name of witness (print)

Office held

## Annexure 3

### Supporting submission

#### 1. Background

- 1.1 Hertz, Thrifty, Avis, Budget and Europcar (**Parties**) operate car rental businesses at Perth Airport.
- 1.2 WAC is the operator of Perth Airport.
- 1.3 Perth Airport is the commercial airport located in Perth.
- 1.4 The Parties each have licence agreements with WAC for the purposes of operating their business at Perth Airport. These licenses are due to expire on 30 June 2010.
- 1.5 On 12 March 2010, WAC called for initial expressions of interest from each of the Parties in relation to their participation in a 'Request for Proposal' process to operate car rental businesses at Perth Airport.
- 1.6 Each of the Parties responded to that invitation by 18 March 2010, and WAC then issued such a Request for Proposal on 1 April 2010 (**RFP**), calling on each Party to lodge a proposal with WAC to operate an on-airport car rental licence at Perth Airport.
- 1.7 The RFP contains a 'Draft Car Rental Licence' (**Draft Licence**) which contains the commercial terms and conditions (including minimum fees) that WAC is proposing
- 1.8 The commencement date for the Draft Licence is 1 July 2010.
- 1.9 The costs and terms proposed in the Draft Licence are a significant departure from the current terms. WAC is seeking, at a minimum, significant fee increases for the licensing of the facilities and is calling on the Parties to offer an additional amount (premium bid) for facilities located in premium locations.
- 1.10 The parties to the collective bargaining notification wish to continue their operations at Perth Airport, but on commercially more favourable terms than the terms proposed by WAC.
- 1.11 Given WAC's status as effectively a monopoly provider of airport facility services at Perth Airport, the parties wish to appoint a third party representative to negotiate with WAC on their behalf.
- 1.12 Each party to the collective bargaining notification would enter separate agreements with WAC should the collective bargaining process prove fruitful.

## 2. Notified Conduct

- 2.1 The notified conduct is proposed to be the Parties collectively negotiating in relation to matters such as the price and terms at which they will acquire services from WAC.
- 2.2 The Parties wish to be beyond reproach in the proposed conduct of collective negotiations and to ensure that there is no basis for any argument that the conduct described in paragraph 2.1 may be construed as falling within the prohibition of making or giving effect to a cartel provision and/or making a contract or arrangement or arriving at an understanding that has the purpose or effect of substantially lessening competition. Accordingly, the Parties wish to notify the conduct under section 93AB of the TPA.

## 3. Competition issues

- 3.1 We submit on behalf of the Parties that the Commission should not serve an objection notice because the conduct in question:
- (a) will not adversely affect competition in any relevant market; and
  - (b) will result in public benefits and no identifiable public detriment.
- 3.2 The conduct notified by the Parties comprises the proposed *joint negotiation* by the Parties with WAC.
- 3.3 There is voluntary participation in the arrangements. Should one of the Parties choose to withdraw from the collective bargaining arrangement and negotiate individually with WAC they may do so at any time.
- 3.4 For the reasons set out below, Hertz submits that the proposed conduct will generate public benefits.

### *Relevant market*

- 3.5 We note that the Commission has previously not objected to a notification in relation to the joint negotiation by the Parties with the operators of Mackay Airport (**Mackay Airport Notification**)<sup>1</sup>. Consistent with the Commission's view in the Mackay Airport Notification, the Parties submit that the relevant market for the purpose of this collective bargaining notification is the supply of airport terminal space at Perth Airport to car rental companies.<sup>2</sup> This is because there is limited substitutability

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<sup>1</sup> ACCC Assessment, Collective Bargaining notification lodged by Hertz Australia Pty Limited, 7 December 2009, Notification no CB00138 (<http://www.accc.gov.au/content/trimFile.phtml?trimFileName=D09+193118.pdf&trimFileTitle=D09+193118.pdf&trimFileFromVersionId=908510>)

<sup>2</sup> Mackay Airport Notification, paragraph 3.7

between retail space and car parking space offered to car rental companies at Perth Airport and that available at other locations. Customers who rent cars at the airport generally want to pick the car up directly after arriving at the airport by plane and return the car directly before departing from the airport by plane.<sup>3</sup>

- 3.6 The other area of competition relevant to this notification is that for the provision of car rental services to customers at Perth Airport. Given the strong preference by customers to pick up and drop off vehicles at the airport, there is limited competitive constraint from car rental services located elsewhere and therefore the terms on which car rental companies acquire facilities from Perth Airport are likely to be reflected in the terms on which car rental services are offered to customers at the airport.<sup>4</sup>

#### ***Public benefits***

- 3.7 The notified conduct is pro-competitive and will generate a number of public benefits.
- 3.8 Collective bargaining will provide the Parties with a degree of bargaining power in their negotiations with Perth Airport that is likely to be reflected in more favourable terms and conditions being negotiated by the Parties. Given the competitive pressures at the retail level, any reduction in costs as a result of the proposed arrangements are likely to be passed on to consumers in the form of lower prices and/or improved levels of service or innovation.<sup>5</sup>
- 3.9 In the absence of collective bargaining, and in an economic climate where tourism revenues are soft, the Parties would be unable to absorb the significant cost increases sought by WAC. The Parties would be passing on the increased costs substantially or in their entirety to end consumers of rental car services.
- 3.10 WAC has considerable bargaining power in negotiating individually with the Parties. This is because while WAC is dependant on having car rental companies at Perth Airport, it is not dependent on any individual company agreeing to operate at the airport. Collective bargaining is a way of redressing this imbalance to enable the Parties to achieve more appropriate commercial outcomes.<sup>6</sup>

#### ***Public detriments***

- 3.11 Hertz believes that the notified conduct causes no identifiable detriment to the public.
- 3.12 The likely effect of the notified conduct on the prices of the services described in paragraph 3.5 will ultimately depend on the success of the negotiations conducted by the independent third party representative on behalf of the Parties. It is hoped that the product of the negotiations are prices at commercially realistic and reasonable levels.

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<sup>3</sup> Mackay Airport Notification, paragraph 3.5

<sup>4</sup> Mackay Airport Notification, paragraph 3.8

<sup>5</sup> Mackay Airport Notification, paragraphs 3.16 and 3.25

<sup>6</sup> Mackay Airport Notification, paragraphs 3.19 to 3.21

- 3.13 The collective negotiation by the Parties is only in relation to their acquisition of airport facility services. The collective negotiation in no way affects the Parties competing in the supply of their services or in any other market.
- 3.14 The bargaining group is restricted to the Parties, which limits any potential anti-competitive effect of the arrangement.<sup>7</sup>
- 3.15 Participation in the collective bargaining arrangement is voluntary – each of the Parties are free to negotiate with WAC individually and WAC is free to decide whether or not to participate in the proposed arrangements or to negotiate with the Parties individually.
- 3.16 The Parties' conduct will not involve collective boycott activity.

*Effect of competition in relevant markets*

- 3.17 Hertz does not believe that the proposed conduct will have any adverse affect on competition in any relevant market.
- 3.18 The proposed arrangements in no way impede the ability of Parties to individually negotiate their leases and licences with WAC and thereby tailor their terms as appropriate.
- 3.19 Hertz does not consider that the conduct will distort demand, create barriers to entry or otherwise harm competition in any market. Further information can be provided to the Commission, if requested.

**4. Conclusion**

- 4.1 For the reasons set out above, we submit that the Commission should not serve an objection notice in respect of the attached notification. This is because the notified conduct will cause no identifiable detriment and will generate public benefits.

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<sup>7</sup> Mackay Airport Notification, paragraph 3.38