



Australian
Competition &
Consumer
Commission

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4 August 2014

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By email: Geoff.carter@minterellison.com; joanna.green@minterellison.com

Dear Mr Carter and Ms Green

**Tooltechnic Systems (Aust) Pty Ltd application for authorisation A91433 –
request for information**

I refer to the above application for authorisation lodged with the Australian Competition and Consumer Commission (the ACCC) on 20 June 2014.

To assist in its consideration of the matter, the ACCC is seeking further information from the Applicant, as outlined in the questions in Attachment A.

The ACCC requests a response to this letter by **15 August 2014**.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Mark Basile on (03) 9290 1855.

Yours sincerely

Darrell Channing
Director
Adjudication Branch

Attachment A

Information relating to the claimed inefficiencies

1. Please explain what effects Tooltechnic have observed during periods of discounting. (e.g. does wholesale demand from the discounter increase? Does wholesale demand from proximate premium stores decrease?).
2. To what degree has Tooltechnic observed products being sold with insufficient retail service? Is this consistent across the entire Tooltechnic product range?
3. Tooltechnic's supporting submission refers to a number of dealers who focus on undercutting other dealers. Please provide examples of instances where this has occurred.
4. Tooltechnic's supporting submission refers to a 'high risk' of free riding under the current distribution model. Please provide evidence where this has occurred in practice.
5. Tooltechnic's supporting submission refers to dealers ceasing to supply Tooltechnic products or reducing levels of service (page 12). Please provide evidence which demonstrates that this is a result of discounting by other dealers.
6. Why has discounting of Festool products persisted against Tooltechnic's wishes? What attempts has Tooltechnic made to stop discounting? Why have they failed?
7. Please explain why Tooltechnic continues to supply the "minority of dealers who 'under invest' or do not invest in the supply of retail services necessary to support the sale of Tooltechnic products" (as set out at page 12 of the supporting submission).
8. Please provide contact details (name, telephone number and email address) for the ten most recent dealers that have ceased stocking Festool products.

Information relating to the likely future with and without the proposed conduct

9. Please provide (in excel spreadsheet format):
 - a) Tooltechnic's current \$AUD Recommended Retail Prices for its products; and
 - b) Tooltechnic's proposed \$AUD Minimum Retail Prices for its products.
10. To what degree have dealers communicated to Tooltechnic that they would be willing to provide greater retail services if they did not have to match discounters?
11. Can Tooltechnic provide evidence of retailers who declined the opportunity to stock Festool products because margins on the products would not adequately compensate them for the cost of service?

Information relating to upstream market dynamics

12. Is Tooltechnic aware of other premium hardware manufacturers/distributors entering the Australian market in the past five years? Please specify which product segments (as outlined at pages 10 – 11 of Tooltechnic's supporting submission) this relates to.
13. Is Tooltechnic aware of other premium hardware manufacturers/distributors exiting the Australian market in the past five years? Please specify which product segments this relates to.
14. Is Tooltechnic aware of any parallel imports of Festool products? Please specify which product segments this relates to?

Information to clarify Tooltechnic's submission

15. Tooltechnic's supporting submission sets out estimates of market shares at Figure 6. Please provide the basis for these estimates. Please specify whether these estimates include DIY end users.
16. For the past three financial years please provide:
 - a) sales data disaggregated by dealer type;
 - b) sales data disaggregated by product segment; and
 - c) the percentage of sales that are system components, accessories and consumables.
17. For each product segment (as outlined at pages 10 – 11 of Tooltechnic's supporting submission) please indicate:
 - a) whether the system components, accessories and consumables in relation to each category are proprietary;
 - b) whether there are third party manufacturers of the system components, accessories and consumables for these products; and
 - c) Tooltechnic's estimates of its market share for the system components, accessories and consumables for each product segment.
18. Please provide total sales, and earnings before tax for the years 2005 – 2009.