

13 June 2014

Our reference
SNG.MDEA.7407934.00012

Email: adjudication@accg.gov.au

Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Dear Sir

**Toll Transport Pty Ltd t/as Toll Priority
Transport Workers Union of Australia – application for authorisation A91427**

We act for Toll Transport Pty Ltd, trading as Toll Priority (**Toll**) in respect of the application by Transport Workers' Union of Australia (**TWU**) for authorisation of a collective bargaining arrangement with Toll that was lodged with the Commission on 5 May 2014 (**Application**).

We note that the Commission does not appear to have forwarded to Toll a copy of the Application or the letter to interested parties which is posted on the Authorisations Register. However, we thank the Commission for granting our client an extension of time to respond to the Application.

The TWU has sought interim authorisation to commence collective bargaining while the Application is being assessed.

Our client opposes the TWU's request for interim authorisation for the following reasons:

- (a) TWU has not provided reasons in support of its request for interim authorisation nor addressed any of the factors identified in paragraph 8.5 of the Commission's *Authorisation Guidelines – June 2013* to enable the Commission to assess and decide whether to grant the interim authorisation;
- (b) in any event, there is no urgency in this Application as arrangements already exist between Toll and TWU members which govern the provision of freight services;
- (c) the denial of interim authorisation would not interfere with or disrupt business continuity with the existing arrangements that govern the relationship between Toll and the TWU members; and
- (d) the proposed conduct has the potential to be significantly anticompetitive, given that each of the owner driver members of TWU are independent contractors who compete with each other for the supply of their courier transport services to Toll.

Locked Bag 1
Royal Exchange NSW 1225
DX 170 Sydney
klgates.com

Level 31
1 O'Connell Street
Sydney NSW 2000
Australia
telephone: +61 2 9513 2300
facsimile: +61 2 9513 2399

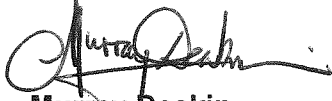
Partner
Murray Deakin
telephone: +61 2 9513 2335
murray.deakin@klgates.com

Contact
Sylvia Ng
telephone: +61 2 9513 2303
sylvia.ng@klgates.com

Please let us know of the outcome of the Commission's decision in respect of TWU's application for interim authorisation.

In the meantime, we are await further instructions from our client as to the substantive components of the Application.

Yours faithfully,



Murray Deakin
Partner