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**Australian
Competition &
Consumer
Commission**

2 December 2015

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Ms Jo Daniels
Partner
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By email: jo.daniels@bakermckenzie.com; peter.dejonge@bakermckenzie.com

Dear Ms Daniels

ihail Pty Ltd application for authorisation (A91501) – further information request

Thank you for ihail's submission of 6 November 2015 in response to the Australian Competition and Consumer Commission's (ACCC) draft determination and for meeting with the ACCC on 27 November 2015 to discuss ihail's submission.

At the end of our meeting, ihail agreed to provide further information to the ACCC about its application. I am writing to confirm the information that the ACCC expects to receive from ihail, as well as request further information which would assist the ACCC's assessment of ihail's authorisation application.

The consultation process and the role of the ACCC

In assessing ihail's application for authorisation, the ACCC is required to assess the likely public benefits and detriments which result from the proposed arrangements. While it is not the role of the ACCC to be involved in redrafting or redesigning proposed conduct that it will ultimately be required to make an authorisation decision about, we would be happy to meet with ihail again to provide further assistance with its application and/or clarification about the authorisation process.

The ACCC released a draft determination on 12 October 2015 which proposed to deny authorisation to the ihail joint venture arrangements described in the original application. As outlined in its draft decision, the ACCC's concerns included:

- Competition between taxi networks and between taxi operators (see pages 26-32 of the draft determination):

The proposed arrangements are likely to reduce competition between taxi companies in supplying services to customers using the ihail app. As jobs are given to the first driver, regardless of network, differences in the price of fares or quality of service offered by taxi companies will have no bearing on the share of ihail fares they receive.

Being a joint venture between large taxi networks, ihail would have a larger network than any competing taxi booking app. Unless a customer has a preference for a particular taxi network, they are likely to use ihail over competing apps. If the ihail app became the dominant taxi booking app, it would potentially impact the viability of taxi

networks' own apps. This would further reduce competition between taxis on price and service.

- Competition between ihail and third party apps (see pages 32-33 of the draft determination):

By virtue of its ownership structure, as opposed to sustained competition between taxi booking apps, ihail is likely to have access to the largest taxi network in each region in which it operates. Network effects could result in ihail becoming the dominant taxi app in these areas, which would limit the ability of third party taxi booking apps to compete. It would also raise barriers to entry for new businesses seeking to provide taxi booking services.

- Competition between taxi payment processing providers (see pages 33-37 of the draft determination):

ihail passengers would only be able to use the in-app payment feature to pay fares, with all payments processed by Cabcharge. Other taxi payment processing providers will be foreclosed from providing services to ihail customers. If ihail becomes the dominant booking app this could significantly impact these providers' ability to compete to provide taxi payment processing services more generally (due to the reduced customer base available to them).

- Allowing customers to offer an additional payment when booking to incentivise priority payment (see pages 37-38 of the draft determination):

The ihail app would allow passengers to offer an upfront payment at the time of booking to encourage taxi drivers to accept their fare. This could adversely impact access to taxis for financially disadvantaged sections of the community. Interested parties are also concerned that this function may not comply with regulations governing maximum taxi fares in some jurisdictions.

The ACCC's draft determination highlighted that importantly, it is ihail's ownership structure that allows it to launch the app with a larger fleet of taxi's than individual taxi networks' apps, and that it would not gain this broader network advantage by being a better taxi booking app and competing with other apps. Its advantage in the market would be due to its ownership arrangements.

In response to the draft determination, on 6 November 2015 ihail proposed a number of changes to the arrangements for which it seeks authorisation.

The ACCC is currently conducting a public consultation process in relation to ihail's proposed changes (as outlined in ihail's latest submission). The deadline for interested parties to provide submissions to the ACCC is 8 December 2015.

Further information required

As discussed at the conclusion of our meeting, the ACCC would appreciate receiving the following information to assist its consideration of ihail's application:

1. A detailed and complete description of how the original model of the ihail app was proposed to operate. In your response, please include:

- i. How drivers affiliated with ihail's shareholder taxi networks (affiliated drivers) would be 'signed up' to use the ihail app.
 - ii. Would the ihail shareholder taxi networks require or encourage their drivers to 'sign up' to the app?
 - iii. How unaffiliated taxi drivers would be able to 'sign up' to use the ihail app.
 - iv. How taxi jobs would be dispatched for both affiliated drivers and unaffiliated drivers.
 - v. Any driver rating scheme proposed by ihail.
 - vi. What, if any, quality control standards ihail intends to impose on drivers participating in the ihail app, including details of processes for removing drivers from ihail, as relevant.
2. A detailed and complete description of how the revised ihail app (outlined in your submission of 6 November 2015) is proposed to operate. In your response, please include:
- i. How affiliated drivers would be 'signed up' to use the ihail app.
 - ii. Would the ihail shareholder taxi networks require or encourage their drivers to sign up to the app?
 - iii. How unaffiliated taxi drivers would be able to 'sign up' to use the ihail app.
 - iv. The steps involved for users to make their selection of a preferred taxi network, including whether there will be a default setting if a selection is not made, and whether multiple networks can be selected.
 - v. The steps involved for users to make their payment method selection, including whether there will be a default setting if the user does not select a payment method.
 - vii. How taxi jobs will be dispatched for both affiliated drivers and unaffiliated drivers.
 - vi. What, if any, quality control standards ihail intends to impose on networks and/or drivers participating in the ihail app, including details of processes for removing drivers from ihail, as relevant.

The ACCC would also appreciate if ihail could provide the following further information:

3. At page 7 of ihail's submission of 6 November 2015, it states that it expects the ihail app would have a 1 per cent market share in the early days of its operation.
 - i. Please explain how ihail calculated this market share figure.
 - ii. Please explain why ihail considers its structure of taxi network shareholders would not result in it becoming a dominant taxi booking app.
4. For each of ihail's shareholder taxi networks, including those networks operated by Cabcharge, please provide the current total number of affiliated taxis in each location of operation.

Next steps

The ACCC would appreciate it if you could provide this information by **Wednesday, 9 December 2015**. Please contact the ACCC if ihail considers this timeframe is too onerous.

Once we receive the further information from ihail, the ACCC would be happy to hold another meeting, perhaps in the week commencing 14 December 2015. Jaime Martin will be in contact shortly to arrange a suitable time.

In providing a response, please clearly identify any information that ihail wishes to have excluded from the public register and provide brief reasons for any exclusion sought.

This letter will be placed on the ACCC's public register.

If you wish to discuss any aspect of this matter, please contact Jaime Martin on (03) 9290 1477 (jaime.martin@accc.gov.au) or myself on (02) 6243 1266 (david.hatfield@acccc.gov.au).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'D Hatfield', is placed over a light blue rectangular background.

David Hatfield
Director
Adjudication