



11 NOV 2016

CANBERRA

The Hon. Barnaby Joyce MP

**Deputy Prime Minister
Minister for Agriculture and Water Resources
Leader of The Nationals
Federal Member for New England**

Mr Rod Sims
Chairman
Australian Competition and Consumer Commission
23 Marcus Clarke Street
CANBERRA ACT 2061

Dear Mr Sims, *had,*

I am writing in relation to the ACCC's draft determination in response to an application to allow Council Solutions and Ors (A91520) to jointly tender, negotiate and contract for waste management services. My correspondence to you follows representations made to me by a number of interested parties who have expressed their concern regarding the intention to grant authorisation to Council Solutions to engage in conduct which might otherwise be in breach of the *Competition and Consumer Act 2010*.

I have been advised that, if approved, Council Solutions would issue a Request for Proposal for a new super waste management contract in Adelaide, encompassing what are now 20 separate contracts. The new super contract would be valued at around \$500 million, run for 10 years and be 200 times larger than the current median contract size and would service 37 per cent of the Adelaide waste management market. In circumstances where Council Solutions member councils are still to come on in future years and a large portion of the market is already locked out through other regional subsidiaries, there is substantial potential that only 11 per cent of the market will be open for individual tenders.

I have also been advised that of the previous 15 applications to the ACCC by councils across Australia seeking approval for collaborative waste management contracting, all but one of those that have been awarded were awarded to one prime contractor rather than a selection of contractors with different areas of expertise.

As you know, I have long advocated against anti-competitive behaviour in supply chains and I am concerned that this arrangement has the potential to significantly reduce competition in procuring a service.

Allowing conduct which encourages monopoly style arrangements in what is by all accounts a dynamic, competitive and innovative market would be deeply concerning. Many small to medium sized businesses that currently provide Adelaide rate payers with the high quality waste management services at competitive rates might potentially be locked out.

Council Solutions submits that the proposed conduct would result in extensive public benefits however on the evidence provided to me I am not convinced. I remain concerned that it may

substantially lessen competition in the market which would negatively impact small business and result in job losses.

I believe there is a persuasive case to support the position that the ACCC should proceed with considerable caution in considering whether to grant authorisation of this conduct without compelling evidence that it will not reduce competition in the market and result in an unacceptable concentration of market power with Council Solutions. I would urge you to give due consideration to these issues as part of your upcoming final determination.

Yours sincerely

A handwritten signature in black ink, appearing to read 'BJ', with a stylized flourish extending from the end.

Barnaby Joyce MP

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The Hon. Barnaby Joyce MP

Deputy Prime Minister
Minister for Agriculture and Water Resources
Leader of The Nationals
Federal Member for New England
PARLIAMENT HOUSE, CANBERRA ACT 2600



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Mr Rod Sims
Chairman
Australian Competition and Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601