Our ref: 58418
Contact officer: Gavin Jones
Contact phone: 03 9290 1475

20 May 2016

Mr Paul Hughes
Partner
Herbert Smith Freehills

By email: paul.hughes@hsf.com

Dear Mr Hughes

Notification N98611 – Emirates One&Only Wolgan Valley Resort (Wolgan Valley)

I refer to the above listed notification, lodged with the Australian Competition and Consumer Commission (ACCC) on 6 October 2015. The ACCC has received submissions raising concerns about the notified conduct. The ACCC has decided to exclude these submissions from the public register at the request of the parties making the submissions.

The purpose of this letter is to provide Wolgan Valley with a summary of the issues raised in these submissions and allow them the opportunity to provide any further material or information they may wish in response to these issues.

The concerns raised are summarised as follows.

Public benefits

- The notified conduct will not enhance public safety by reducing logistical complexity in the air space above Wolgan Valley. The small volume of air traffic to and from the resort (and the surrounding area) and the experience of other helicopter operators means that the notified conduct is not necessary to ensure public safety. Prior to the notified arrangements commencing, when there were multiple operators providing transfers, there were no reported incidents.

- The notified conduct will not improve guest's experiences by establishing seamless coordinated services and reducing red tape. Absent the notified conduct a guest could contact their helicopter operator of choice and make a booking with the operator handling the arrangements from that point.

- Wolgan Valley has not described or quantified the costs saving they claim will result from the notified conduct. Given the small number of helicopter transfers each week these savings are likely to be negligible.

Public detriment

- The Wolgan Valley Resort is a unique resort as there is no other resort destination of its type or calibre in the Sydney and Blue Mountains areas. It is located around 50 kilometres from the other resorts noted in Wolgan Valley's submission in support of the notification and its local resort environment and the amenities and activities it offers are not available at any other Blue Mountains accommodation destination. The average room rate at Wolgan Valley is significantly higher than any other resort in the Blue Mountains region. The other resorts noted by Wolgan Valley are not substitutes for it. The notified conduct forecloses the opportunity for competing helicopter operators to provide services to this unique resort.

- The notified conduct removes customers' ability to negotiate price and other terms with the helicopter operator. They are forced to accept whatever terms Sydney Helitours offers. Customers right to choose their preferred operator is also removed. The submissions state that some customers who would prefer to use other operators are now being forced to use Sydney Helitours.

One of the submissions also states that on the weekend of February 13th and 14th a guest at Wolgan Valley resort wished to transfer to Sydney urgently. However, Sydney Helitours was unavailable and the guest was prevented by Wolgan Valley from arranging to be transferred by another operator.

Please provide a submission in response to the concerns raised by **Friday 3 June 2016**.

Please note that the concerns raised in submissions as outlined in this letter should not be taken to mean that the ACCC necessarily adopts these concerns. The ACCC will consider the concerns raised, and Wolgan Valley's response, before deciding what, if any, further action to take in relation to the notification.

This letter will be placed on the ACCC's public register. Should you have any questions in relation to this matter please contact Gavin Jones on 03 9290 1475 or at adjudication@accc.gov.au.

Yours sincerely

Baethan Mullen
A/g General Manager
Adjudication