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1 May 2019

Ms Jacqueline Downes
Partner
Allens

By email only

Dear Ms Downes

A.P. Eagers Limited's application for merger authorisation MA1000018 - Request for material to be excluded from the public register

I refer to AP Eagers' (**AP Eagers**) application for authorisation lodged with the Australian Competition and Consumer Commission (the **ACCC**) on 29 April 2019.

AP Eagers has requested that certain relevant documents and parts of documents be excluded from the ACCC's public register. In particular, AP Eagers has requested that the following be excluded:

- the confidential version of its application for merger authorisation;
- the confidential version of the independent expert report produced by RBB Economics, Annex 10.4;
- the annexures to the application identified as confidential in whole or in part on pages 3-5 of the application.

As you are aware, the ACCC is generally required under section 89 of the *Competition and Consumer Act 2010* (the **Act**) to place documents provided to it in relation to an application for merger authorisation on the ACCC's public register. The Act provides that a person submitting a document in relation to an application for merger authorisation may request that the document or parts thereof be excluded from the public register by reason of the nature of certain information contained in the document or part document.

As a person authorised to make a decision for and on behalf of the ACCC in relation to such a request, I advise that the material noted above will not be placed on the public register.

Material excluded from the public register will be managed in accordance with the guidance in paragraph 5.9 of the ACCC's *Merger Authorisation Guidelines*.

I note a number of paragraphs in relation to manufacturers setting KPIs and targets for dealers have been redacted from section 5.4 of the public version of the application for the reason that they are commercially sensitive. Where the ACCC decides to exclude material from the public register, this may limit the ACCC's ability to test that information which may, in turn, limit the weight which may be given to this information when assessing the

authorisation application or notification. In this light, I encourage AP Eagers to consider whether it wishes to provide public submissions summarising these points.

The ACCC will place on the public register the public version of the application and the annexures in the form provided by AP Eagers, along with a copy of this letter.

Should you have any queries in relation to this letter, please do not hesitate to contact Mandy Bendelstein on 02 9230 4037 or Theo Kelly on 02 6243 1179.

Yours sincerely



David Jones
General Manager
Adjudication