

# Submission to the Australian Competition and Consumer Commission (ACCC)

## Restriction of Publication of Part Claimed

A.P. Eagers Limited application for merger authorisation MA1000018

Submission: Suttons

Date of submission: 24 May 2019

### *Background*

1. Suttons owns 16 different dealerships, with 14 located in Sydney and two heavy truck dealerships in Gosford and Newcastle. Suttons represents 23 different brands, comprising car and heavy truck dealerships, and had been operating for 76 years as a family business.

### *Newcastle and the Hunter Valley region*

2. Suttons considers there is a minimal number of consumers currently travelling from Newcastle and the Hunter Valley region to Sydney to buy a new car. However, if prices increased in the Newcastle, consumers would drive for a few hours to purchase a new car, or use the threat of switching to an alternative dealership in order to negotiate a larger discount.
3. The internet makes it easy for consumers to cross shop between dealerships in different areas. Suttons advertises its entire inventory online. It is common for a consumer to pull up online advertisements and prices during a negotiation.
4. Suttons considers that the new car retailing industry is very competitive and, as a result, the proposed acquisition would be unlikely to result in increased prices for new cars.
5. The manufacturer RRP is an offer to consumers and discounting is common. Dealerships can also use trade in value, changeover price and car finance payment options in order to make deals.
6. Consumers can easily negotiate with dealerships over the phone and online to make a deal, regardless of location. Dealerships may be willing to match lower discounts offered from other dealerships but it depends on the situation. Whether a dealer decides to match the offer will depend on the stock in store, the discount, whether a consumer is prepared to offer a deposit right away, and a number of other factors, so price matching is determined on a transaction by transaction basis. If a customer calls from Newcastle, however, dealers know that they will only have one chance to finalise a deal.
7. Dealerships are also prepared to make offers on trade in values over the phone, noting that these offers are subject to inspecting the cars. Customers can describe the vehicle including age, mileage and condition, and send photos to the dealership. Suttons also could also send out its valuer from the Newcastle truck dealership to inspect vehicles in the Hunter Valley region.
8. Although trade in values can be a means of ensuring a dealer makes a deal, the value of used cars is also quite subjective. What may be a profitable vehicle for one dealer may not be so for another, with reference to their used car stock on hand.

9. As dealerships' operations are primarily driven by their remuneration targets from the manufacturers, dealerships will make their best deal even if a customer is unlikely to return to the dealership for servicing because they live in another city. Consumers do not typically travel outside their local region to get their car serviced.

#### *Manufacturer Key Performance Indicators*

10. Suttons considers that the majority of a dealer's revenue from new cars is from meeting manufacturer KPIs, such as volume targets and other criteria. For the majority of brands, the majority of KPI-related revenue derived from volume KPIs.

11. [REDACTED]

#### *Broader effects of the proposed acquisition*

12. [REDACTED]

13. [REDACTED]

14. Suttons considers that the ACCC should seek assurance from manufacturers that dealers would be treated fairly to ensure competition was on a level playing field, as manufacturers may advantage AP Eagers if the acquisition was to proceed.
15. Suttons considers that the proposed acquisition was unlikely to affect representation on dealer councils, or increase AP Eagers' ability to dictate policies. Dealer councils are metropolitan and regional representatives, voted in by dealers to represent the interests of dealers in that area. While it was possible that dealer representatives on councils could have access to information about changes to manufacturers' policies earlier than other dealers, in practice, representatives do not sit on that information.
16. Suttons considers that it is unlikely that a combined AP Eagers-AHG could share sales between dealerships in order to ensure the group as a whole met manufacturer KPIs. This is because dealerships are run as independent, standalone entities: dealers within the group compete against each other for customers, and each dealership remunerated according to its performance and seeks to maximise its own revenue.
17. Suttons considers that the rationale behind the proposed acquisition was likely to be that AP Eagers considers that it can run AHG better than it can. The most important asset in the industry is people working as a group. Consumers choose to deal with one company over another based on the service received, and this culture starts from the top. AP Eagers may also be able to deliver cost savings post-acquisition.

#### *Fleet sales*

18. There are two ways that fleet customers procure vehicles:
  - Direct from the dealership, or

- Using a fleet management organisation, such as Leaseplan and McMillan Shakespeare.
19. Most fleet sales are through fleet management organisations who run tenders with dealerships to get the best price, and arrange the purchases. Their customers are generally larger customers. Customers may also negotiate directly with dealerships, which is more common for smaller customers. Customers can also enter into a novated lease.
  20. All dealers technically have the ability to offer fleet sales, however some dealers are more focused on retail as a business decision. Suttons considers that there is a high degree of competition in relation to fleet sales and insignificant margins.
  21. Although a combined AP Eagers-AHG would have a national presence which is possibly an advantage in negotiating national fleet sales, Suttons considers it is unlikely to affect competition. This is because dealers can supply to customers interstate as dealers will generally have arrangements with dealers in other cities to supply cars locally on their behalf.
  22. Even if a dealership had an arrangement with an AP Eagers or AHG dealer that was cancelled after the acquisition, there are plenty of other dealerships.

*Supply of commercial vehicles*

23. In relation to commercial vehicles (trucks and buses), manufacturers typically handle large customers such as Toll. Small and medium customers will generally seek quotes from dealerships or run tender processes.
24. Similar to fleet sales, Suttons does not consider that a national supplier would have an advantage over dealerships located in one area due to the arrangements that dealers have with one another. There is also a number of other dealerships not owned by AP Eagers or AHG to have arrangements with.

*Used car wholesaling*

25. When a car is traded in, dealers will make a decision to either retail the vehicle or sell to a wholesale customer via a myriad of options including an auction house, wholesaler, sole traders and others. This decision is typically made with reference to existing stock, age, mileage and vehicle type.
26. Online platforms have made it a lot easier for private sellers, and cars can be cheaper as GST is not applied to private transactions.
27. Suttons does not consider that the proposed acquisition would affect supply of used cars to wholesale customers as there are a large number of sources of supply, including other dealerships' trade in stock and the private market. Similarly, the proposed acquisition would not affect competition for used cars due to the number of different sources of supply.