

TOYOTA

TOYOTA MOTOR CORPORATION AUSTRALIA LIMITED

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Mr Tom Leuner
General Manager
Merger Investigations
Australian Competition & Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601

28 May 2019

BY EMAIL: APEagers-AHG-Mergers@acc.gov.au

Dear Mr Leuner

RE: A. P. Eagers' proposed acquisition of Automotive Holdings Group – Interested party consultation

We refer to your email dated 1 May 2019 attaching a list of issues and questions (the **Request**) on which the Australian Competition & Consumer Commission (the **ACCC**) is seeking submissions. We set out below the written submission of Toyota Motor Corporation Australia Limited (**Toyota Australia**).

Kindly note that unless otherwise defined herein, capitalised terms have the meaning attributed to them in the Request.

Responses to Questions 15 and 16 below have been provided by Toyota Finance Australia Limited (**Toyota Finance**) which is a related body corporate of Toyota Australia.

The questions in the Request have been set out in full in this response, together with Toyota Australia's responses to each. All answers set out below are correct as at the date of this response, to the best of Toyota Australia's knowledge and based on having made reasonable enquiries and searches of its records as set out in the response below.

1. Please provide a brief description of your business or organisation and the reasons for your interest in the proposed acquisition.

Toyota Australia was established in 1963 and is Australia's leading automotive company. We are now a sales and distribution operation however we previously manufactured vehicles in Australia for 54 years until 3 October 2017.

In January 2019, Toyota was crowned the market leader for the 16th year in a row after selling 217,061 vehicles in 2018. The HiLux was the best-selling vehicle in Australia for the third year in a row with a record 51,705 deliveries, an increase of 9.8 per cent.

Toyota was the only brand with market share in double figures at 18.8 per cent, an improvement of 0.6 points from 2017. Total industry sales exceeded 1.1 million for the seventh year in a row. Last year was the 14th year Toyota has sold more than 200,000 vehicles, the 16th year in a row it has led local sales and the 22nd occasion as market leader.

Across the brands, Toyota again led the market in 2018 with 18.8 per cent market share, followed by our closest competitors: Mazda (9.7 per cent), Hyundai (8.2 per cent), Mitsubishi (7.4 per cent) and Ford (6 per cent).

Toyota Australia has an expansive and vast dealer network that is comprised of 279 dealership sites across Australia. Toyota Australia is dedicated to ensuring best practice is exercised across our entire dealership network to deliver the best possible experience for our dealers, and our consumers (which we refer to as 'guests').

AP Eagers and AHG directly or indirectly control a number of dealerships which have franchise agreements with Toyota Australia.

In summary, Toyota Australia has an interest in the proposed acquisition due its position as market leader in the Australian automotive retailing industry, and the fact that AP Eagers and AHG control a number of dealerships that have franchise agreements with Toyota Australia.

Car retailing

2. Please describe how competition works in the automotive retailing industry. Are there any industry developments or trends that may impact or lead to changes in the existing dealership model for selling new cars?

The Australian automotive retailing industry is highly competitive.

Current developments and trends which may influence the industry include future technology and mobility services. Both areas are undergoing transformation with significant progress underway on autonomous and connected vehicles, and mobility services such as car sharing.

As automation and connected services proliferate there will likely be new entrants to the market that will impact the usership and ownership of vehicles. We expect that these entrants will have a very different business model to the traditional automotive model thus creating increased competitive tension in the market.

3. How far in both distance and time are consumers prepared to travel to purchase new cars, and how may this vary by the location of prospective buyers and dealers? What other factors can affect consumers' willingness to travel?

Toyota Australia has used survey data from 2018 calendar year sales to understand how far Toyota consumers have travelled to purchase a new vehicle. Excluding consumers who travelled more than 100 kilometres to purchase their new vehicle, the average distance is 14km for metropolitan consumers and 23km for non-metropolitan consumers.

4. How significant are AP Eagers and AHG as competitors in the industry, and in relation to each other? In your answer, please have regard to price and discounting, locations, brands, service and added inclusions.

As stated above, both AP Eagers and AHG directly or indirectly control a number of dealerships which have franchise agreements with Toyota Australia. However, Toyota Australia has implemented measures to ensure that there is healthy competition within the Toyota dealer network. One such measure is that any particular automotive retail group (**Dealer Group**), including AP Eagers and AHG, is precluded from holding a number of franchises that would inhibit such competition.

Toyota Australia does not have visibility of, and therefore cannot comment on, pricing and discounting offered by AP Eagers and AHG. Toyota Australia sets recommended retail prices (above which dealers should not sell vehicles) and also may invite dealers to participate in retail offers (nationally or regionally) however dealers are encouraged to compete on price and therefore discounting.

On the question of other brands and locations, Toyota Australia's key concern is to ensure that Toyota consumers have convenient access to dealers for their vehicle purchase, service and repair needs.

Further, the vast majority of dealerships have a service department at their key location (i.e. where there is also a new car showroom, a used vehicle display area and a parts department). Therefore, analysis of the competitive influence of AP Eagers and AHG by location / brands will inform market coverage as regards service in the above-mentioned areas. We also note the phenomenon of dealers opening service only points (i.e. with no new car show showroom or other dealership business units present).

Lastly, on the question of added inclusions, we have interpreted those terms to include: finance and insurance products (which will be addressed in response to Questions 15 and 16 below) and accessories and merchandise (which are not material income streams for a dealership or a Dealer Group based on the information available to Toyota Australia).

5. Please identify who you consider to be the key alternative car dealerships to those owned by AP Eagers and AHG in:

- a. Brisbane**
- b. Melbourne**
- c. the Newcastle/Hunter Valley region of NSW**
- d. Sydney, and**
- e. nationally.**

How do they compare to AP Eagers and AHG with regard to price and discounting, location, brands, service and added inclusions?

Toyota Australia is not in a position to identify the key alternative car dealerships to those owned by AP Eagers and AHG in the areas identified above, and nor is it in a position to comment on any aspect of their business as compared to AP Eagers and AHG. As mentioned above, Toyota Australia's key concern is to ensure that Toyota consumers have convenient access to dealers for their vehicle purchase, service and repair needs.

Toyota Australia manages its dealer network based on our 4 regional operations in the Northern, Eastern, Southern and Central areas of Australia. The Northern region roughly equates to the State of Queensland, the Eastern to New South Wales and the Australian Capital Territory, the Southern to Victoria and Tasmania and the Central to South Australia and the Northern Territory. Note that Western Australia is subject to an exclusive distribution arrangement with a third party which has its own network of independent franchisees. Therefore, high level performance is evaluated by Toyota Australia based on geographic areas which do not align to the geographic areas listed above by the Commission.

In any event, Toyota Australia has implemented measures to ensure that there is healthy competition within the Toyota dealer network also ensuring that no Dealer Group holds an unhealthy dominant position in the above regions.

Toyota Australia does not have visibility of and therefore cannot comment on pricing and discounting offered by AP Eagers and AHG. Toyota Australia sets recommended retail prices and also may invite dealers to participate in retail offers (nationally or regionally) however dealers are encouraged to compete on price and therefore discounting.

As mentioned above, the vast majority of dealerships have a service department at their key location (i.e. where there is also a new car showroom, a used vehicle display area and a parts department). Therefore, analysis of the competitive influence of AP Eagers and AHG by location / brands will inform market coverage as regards service in the above-mentioned areas. We also note the phenomenon of dealers opening service only points (i.e. with no new car show showroom or other dealership business units present).

Lastly, as mentioned above, on the question of added inclusions, we have interpreted those terms to include: finance and insurance products (which will be addressed in response to Questions 15 and 16 below) and accessories and merchandise (which are not material income streams for a dealership or a dealer group based on the information available to Toyota Australia).

6. Please provide details of what is involved in establishing a new car dealership, including the manufacturer requirements that need to be met, government licensing criteria, and any other costs and time involved. Are you aware of any recent examples of people attempting to establish new dealerships?

The details involved in the establishment of a new Toyota dealership will vary depending on a number of factors, including, by way of example but not limitation: the current status of the prime marketing area (**PMA**), the current status of the proposed dealership facilities (e.g. new build or redevelopment) and the decisions of the independent franchisee as communicated in their business plan.

While Toyota Australia does stipulate that certain requirements be met as part of the decision to grant or renew a franchise agreement, the bulk of the decisions and therefore the costs and time involved are decided by the dealer as an independent business operator.

Toyota Australia is not in the business of retailing new cars directly to consumers and therefore cannot advise on all government licensing criteria.

7. To what extent is there an advantage in having a network of dealerships at a local, state and/or national level?

Toyota Australia is not in a position to comment on the potential advantage of having a network of dealerships at a local, state and/or national level as we are not in the business of retailing new vehicles, services or parts directly to consumers.

However, as for many businesses, we assume that there are advantages to be found with the efficiencies / economies of scale that are theoretically achievable from having a network of retail points and support resources. Such efficiencies could lead to a reduction in the expense base of each individual operator within the group.

Lastly, in the event that a large Dealer Group is without close geographic competition then there could be a negative effect on the prices offered to consumers. This is one of the drivers for Toyota Australia implementing measures to ensure that there is healthy competition within the Toyota dealer network.

8. For fleet and government buyers, please describe your organisation's key purchasing considerations, and who you consider to be the suppliers capable of meeting your organisation's needs. Are you able to purchase direct from the car manufacturers?

This question is not applicable to Toyota Australia and therefore no response is provided.

Dealership agreements with car manufacturers

9. In what ways and to what extent do manufacturers influence competition between dealerships, including levels of discounting, promotions and/or added inclusions offered? Would this limit AP Eagers' ability to increase prices following the proposed acquisition?

Toyota Australia is not in a position to comment on the operations of other manufacturers and the extent to which they influence competition between dealerships.

As discussed, Toyota Australia sets recommended retail prices and may also invite dealers to participate in retail offers or promotions (nationally or regionally) which may involve added inclusions. However, dealers are encouraged to and indeed do compete on price and therefore discounting, promotions and added inclusions.

Toyota Australia expects the recommended retail price that it sets would continue to limit AP Eagers' ability to increase prices following completion of the proposed acquisition. However, Toyota Australia has no visibility of the prices ultimately offered to consumers by any dealer, including AP Eagers' dealerships, and therefore cannot otherwise comment on AP Eagers' ability to increase prices following completion of the proposed acquisition.

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10. For car manufacturers: please describe your key considerations in both awarding and renewing dealership agreements, including the importance of the following, and comment on whether the proposed acquisition would affect your future decisions about dealership agreements:

a. whether dealers have an existing network of dealerships locally, by state and/or nationally of yours and/or other manufacturers' brands

b. geographic coverage of your brand locally, by state and/or nationally, and

c. a dealer's demonstrated ability to represent your brand and meet KPIs.

Toyota Australia considers a number of factors when awarding and renewing dealer agreements including, but not limited to, automotive experience, previous experience within the Toyota network and the ability to represent the Toyota brand and meet quantitative and qualitative key performance indicators (**KPIs**).

As regards the question of whether the proposed acquisition would affect Toyota Australia's future decisions about dealership agreements, as discussed below, Toyota Australia has implemented measures to ensure that there is healthy competition within the Toyota dealer network and therefore we do not envisage that the proposed acquisition, if completed, will affect such decisions.

New car servicing and supply of parts

11. Do you consider that the proposed acquisition will affect competition for new car servicing? Why or why not?

Based on information available to the company, Toyota Australia does not have reason to believe that the proposed acquisition would have a material effect on competition for new car servicing.

12. How far are consumers generally prepared to travel to get their new cars serviced? How may this vary depending on any consumer entitlements to free or capped-price servicing and the age of the car?

As Toyota dealers operate as independent franchisees, Toyota Australia is unable to access or provide comprehensive data on how far consumers generally travel to get their new cars serviced however anecdotally we have observed the following:

- convenience is an important factor for Toyota Australia guests; and
- Toyota Australia has a capped-price servicing program known as the Toyota Service Advantage.

13. To what extent do you consider that independent mechanics compete with dealerships' authorised service centres for new car servicing?

Toyota Australia is not in a position to comment on the extent to which independent mechanics compete with dealerships' authorised service centres for new car servicing. This is because:

- a. Toyota dealers operate as independent franchisees and therefore Toyota Australia does not have all data relating to new car servicing by our dealers; and
- b. Toyota Australia is not privy to data relating to the operations of independent mechanics.

In light of the above it is difficult to calculate the overall size of the new car servicing market and therefore the relative share of the various operators.

Toyota Australia would like to highlight however that we make available to independent mechanics the technical information required to service new cars (with limited exclusions such as for security related items) on commercially 'fair and reasonable terms' in compliance with our industry's voluntary code of practice.

14. To what extent do you consider that the proposed acquisition will affect the availability and/or price of car parts used in servicing new vehicles?

Toyota Australia is not in a position to comment on whether the proposed acquisition will affect the availability and / or price of car parts used in servicing new vehicles.

Insurance and finance

15. Do you consider that the proposed acquisition will impact competition for the supply of insurance and finance to consumers buying cars? Why or why not?

[Response below provided by Toyota Finance Australia Ltd.]

Toyota Finance does not believe the proposed acquisition will affect competition for the supply of finance and insurance for the reasons set out below.

Finance

Following changes introduced by the Australian Securities and Investments Commission from 1 November 2018¹, motor dealers are no longer able to determine the interest rate for regulated consumer finance (prohibition of flex-based commissions).

¹ Refer ASIC Credit (Flexible Credit Cost Arrangements) Instrument 2017/780.

Toyota Finance now offers risk-based pricing to all its customers, for both regulated and unregulated finance.

Toyota Finance determines the interest rate for the finance contract and, all things being equal, a customer will receive the same interest rate irrespective of dealership.

The only discretions a dealer has in relation to finance are now:

1. the origination fee, which must be capped by financiers. This is a fee charged by a motor dealer to arrange the finance for a consumer; and
2. a constrained discretion to discount the interest rate offered to a customer by a maximum of 2%. This constrained discretion forms part of the Legislative Instrument and is designed to allow dealers to “meet the market”.

Insurance

The Australian car insurance industry is highly competitive, with more than 50 insurers competing for comprehensive motor vehicle insurance². IAG and Suncorp are the market share leaders with limited distribution through dealerships.

Further, Toyota Finance does not finance the purchase of comprehensive motor vehicle insurance.

Lastly, add-on insurance is likely to move to a deferred sales model³. This is likely to disrupt existing sales channels.

16. To what extent do consumers compare insurance and finance options direct from insurance agencies and financial institutions to those offered by the new car dealership?

[Response below provided by Toyota Finance Australia Ltd.]

“Indicatively, 90% of all car sales are arranged through finance, of which around 39% are financed through a dealership and around 61% are financed from other sources.”⁴

² Canstar, 2016.

³ Refer recommendations from the Productivity Commission and Royal Commission.

⁴ Banking Royal Commission, Background Paper 3, 2018.

Public benefits

In assessing the benefits that are likely to flow from the proposed acquisition, the ACCC may take into account anything of value to the community generally.

AP Eagers submits the proposed acquisition will deliver public benefits, including:

- ***Productive efficiencies, including through a diversified portfolio of motor vehicles, greater geographical portfolio diversification, more financial scale and a more flexible balance sheet.***
- ***Operational and corporate synergies.***
- ***Providing AHG shareholders with the opportunity to benefit from exposure to AP Eagers' proven management expertise and future growth strategy benefit from the greater scale and long-term prospects of a larger automotive business.***

17. To what extent do you consider that public benefits are likely to result from the proposed acquisition?

Toyota Australia is not in a position to comment on the potential public benefits that are likely to result from the proposed acquisition.

18. To the extent that the proposed acquisition would result in cost savings, do you consider they are likely to be passed on to consumers?

Toyota Australia assumes that one of the key objectives of the proposed acquisition is for the new entity to attain certain efficiencies or synergies which will potentially translate into cost savings.

These cost savings could put the post-acquisition entity in a better position to compete with future entrants to the automotive market which will likely have a different business model to the traditional automotive business model.

Lastly, Toyota Australia notes that the treatment of any cost savings as a result of the proposed acquisition is a matter for the shareholders and the Board of Directors of the post-acquisition entity (should the transaction be completed).

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Other information or competition issues

19. Please provide any additional information or comments, or identify other competition issues, that you consider relevant to the ACCC's consideration of the proposed acquisition under section 90(7) of the Act.

Toyota Australia has no additional information, comments or competition considerations to provide at this time.

Yours sincerely



Simone Zerial
General Counsel