

# **Australian Competition & Consumer Commission**

## **PRE-DECISION CONFERENCE**

### **Minutes**

**application for authorisation number AA1000460**

**lodged by  
Budget Rent a Car Australia Pty Ltd;  
Kingmill Pty Ltd; WTH Pty Ltd;  
CLA Trading Pty Ltd;  
Hertz Australia Pty Limited**

**30 April 2020**

The information and submissions contained in this minute are not intended to be a verbatim record of the pre-decision conference but a summary of the matters raised. A copy of this document will be placed on the ACCC's public register.

# **Pre-Decision Conference: Application for authorisation AA1000460 lodged by a group of car rental operators at Cairns Airport**

30 April 2020  
Via Skype

## **Attendees**

### *Australian Competition and Consumer Commission*

Stephen Ridgeway, Commissioner  
Suzie Copley, A/g Executive General Manager  
Helen Anness A/g Deputy General Counsel  
Gavin Jones, Executive Director  
Danielle Staltari, Director  
Kaitlin Hanrahan, A/g Assistant Director

### *Cairns Airport Pty Ltd*

Norris Carter, Chief Executive  
Simon Uthmeyer, DLA Piper  
Kade Sheeley, DLA Piper

### *Applicants for authorisation*

Ayman Guirguis, K&L Gates  
Mei Gong, K&L Gates

## **Minutes of conference**

Conference commenced: 9.36 am

**Commissioner Stephen Ridgeway** outlined the purpose of the conference, and declared the pre-decision conference open.

**Commissioner Ridgeway** noted the authorisation applicants' recent request that this pre-decision conference be adjourned, given the current pressures facing the car rental companies during to the COVID-19 pandemic. Commissioner Ridgeway said that he was inclined to adjourn the conference.

**Commissioner Ridgeway** also noted the authorisation applicants' request that the statutory timeframe for the authorisation be extended in light of the impact of the COVID-19 pandemic. Commissioner Ridgeway said that the Commission would also consider the appropriateness of interim authorisation remaining in place. Commissioner Ridgeway said the Commission wanted to hear from the parties on these issues and proposed to give parties the opportunity to make written submissions by midday 6 May 2020.

**Commissioner Ridgeway** invited preliminary comments from the parties on these issues.

### **Simon Uthmeyer, DLA Piper, for Cairns Airport Pty Ltd**

- Expressed disappointment at the lateness of the request from the applicants for the conference to be adjourned.
- Stated that given the potential for ongoing prejudice to the position of Cairns Airport Pty Ltd (**CAPL**), the issue of interim authorisation needed to be resolved as soon as possible.

### **Norris Carter, Chief Executive, Cairns Airport Pty Ltd**

- Noted that airports had also been significantly affected by the COVID-19 pandemic.
- Reiterated disappointment with the lateness of the request for the conference to be adjourned.
- Explained that CAPL had, in response to current circumstances suspended their current tender process; that CAPL had offered to hold over existing contracts with each applicant and was currently involved in constructive discussions with each to try and reach a fair change to leases in response to the Government Code of Conduct for commercial tenancies.
- Expressed concern about a delay to the process for considering the application for authorisation and reiterated concern with the continuation of interim authorisation in the circumstances.
- Submitted that collective bargaining by the car rental companies was not necessary to achieve good outcomes for customers and efficient allocation of resources at Cairns airport.

**Commissioner Ridgeway** acknowledged CAPL's disappointment with the lateness of the request for adjournment and noted that he appreciated the inconvenience it had caused. Commissioner Ridgeway noted the exceptional circumstances and that such a late request would not normally be acceptable to the Commission.

**Ayman Guirguis, K&L Gates, for the authorisation applicants**

- Submitted that the lateness of the request was due to the circumstances generated by the COVID19 pandemic and that, but for those circumstances it would not have been contemplated. Mr Guirguis acknowledged the inconvenience the request had caused.
- Stated that notice of the PDC was provided on 16 April 2020. The applicants had only received the most recent submission by CAPL on 23 April 2020 a week ago, and it was a substantial document requiring resources to respond to. Mr Guirguis submitted that the applicants did not have the capacity to commit resources to doing so at the current time given the pressures associated with the current circumstances.
- Noted that the applicants had proposed to voluntarily cease conduct that would fall under the interim authorisation.

**Commissioner Ridgeway** stated that having heard from the parties he intended to adjourn the conference due to the exceptional circumstances as a result of the COVID-19 pandemic and the authorisation applicants not being in a position to properly participate in the conference.

Commissioner Ridgeway explained that the Commission would consider the request to extend the statutory timeframe for consideration of the application for authorisation and whether interim authorisation should remain in place. Commissioner Ridgeway said that written submissions on these issues need to be provided by midday Wednesday 6 May.

**Commissioner Ridgeway** stated that the conference will be adjourned and reconvened on a day and time to be determined.

Conference adjourned: 10:06am.