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24/06/2019

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Dear Mr Sheely

**Exclusive dealing notification N10000484 – ARAG Services Australia Pty Ltd –
No further action**

I refer to the notification lodged with the Australian Competition and Consumer Commission (the **ACCC**) by ARAG Services Australia Pty Ltd (**ARAG**). It has been allocated the registration number N10000484.

Commencement of legal protection

The protection from legal action provided by this notification commenced automatically when it was validly lodged with the ACCC on 29 April 2019.

While the legal protection is in force, you may engage in the conduct as described in the notification without the risk of breaching the exclusive dealing provisions of the *Competition and Consumer Act 2010* (Cth) (the **Act**).

The notified conduct

Under the notified conduct, ARAG proposes to offer legal expense insurance (**LEI**) underwritten by HDI Global Specialty SE to businesses, private individuals, and groups of individuals in Australia. These products cover policyholders against certain legal costs and expenses of legal action either brought against, or initiated by (provided a certain potential of success) the policyholder.

Cover under these products is subject to the requirement that the policyholder use an appointed legal advisor chosen by ARAG from a panel of law firms, and retained by the policyholder. ARAG has identified four firms that will make up its initial panel. ARAG may add or remove members of this panel at its discretion.

The terms and conditions of the policies will also allow ARAG to refuse to provide further legal costs and expenses associated with a claim where a policyholder refuses to settle a claim following advice from an appointed advisor to do so.

ACCC assessment

The ACCC can only remove the protection provided by a notification if it is satisfied that the notified conduct:

- has the purpose, effect or likely effect of substantially lessening competition, and
- in all the circumstances, will not result in likely public benefit which would outweigh the likely public detriment.

On the basis of the information that you have provided, the ACCC considers that the notified conduct is not likely to have the purpose, effect or likely effect of substantially lessening competition because:

- Businesses have the option of acquiring LEI products from alternative suppliers should they not be satisfied by ARAG's product. Legal costs and expenses cover is also available to consumers under broader liability products including employment practices, management liability, and home and contents insurance.
- Although there does not appear to be standalone LEI products currently offered to individuals, the notified conduct may provide an alternative means of accessing legal services which consumers may not be able to access but for this product.
- ARAG has an incentive to ensure panel firms are providing competitive and high quality legal services in order to generate and maintain demand for its insurance policies and to balance its interest in minimising its policyholders' legal expenses. Risk of replacement is likely to constrain panel firms from reducing the quality of their services, and retainer agreements specifying costs are likely to constrain panel firms from raising prices.
- The notified conduct is unlikely to affect the ability of lawyers to supply their services to consumers that do not hold ARAG LEI policies.

As such, the ACCC has decided to take no further action at the current time. The legal protection provided by the notification therefore continues unless or until the ACCC later revokes the notification or you withdraw the notification.

If circumstances change, or the ACCC receives further information, such that it is satisfied that the notified conduct has the purpose, effect or likely effect of substantially lessening competition and that the public benefits from the third line forcing conduct do not outweigh the public detriments, the ACCC may take steps to remove the legal protection by revoking the notification.

The notification and this letter will be placed on the ACCC's [exclusive dealing notifications public register](#).

Please contact Alex Reed on 02 6243 1364 or by email to adjudication@acc.gov.au if you have any questions about this matter.

Yours sincerely



Joanne Palisi
General Manager (A/g)
Adjudication